

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

A FEDERAL COURT AUTHORIZED THIS NOTICE

**Your rights and options – and the deadlines by which to exercise them – are explained in this Notice.
Please read this Notice carefully in its entirety.**

- You are receiving this Notice because you have been identified as a class member in a class action lawsuit entitled *Benjamin McKey v. Tenantreports.com, LLC*, No. 2:22-cv-01908-GJP, which claims that Tenantreports.com, LLC violated the Fair Credit Reporting Act (“FCRA”). As used in this Notice, “TRC” collectively refers to Xactus, LLC, in its capacity as successor in interest to certain assets of Tenantreports.com, LLC, and Tenantreports.com, LLC.
- The lawsuit alleges that TRC violated the FCRA by reporting criminal non-conviction information in background reports where that information predated the date of the report by more than seven years. TRC denies Plaintiff’s allegations and denies that TRC is liable to Plaintiff or any of the putative Settlement Class Members.
- The parties have reached a proposed Settlement in the lawsuit. The Settlement has not been approved by the Court yet. This Notice explains your options.
- If you do nothing, you will receive a cash payment that is estimated to be at least \$75, although the amount will vary as explained herein.
- You have the right to submit a Claim Form for an additional payment if you experienced additional harm as a result of TRC issuing a background report that contained at least one adverse non-conviction record that predated the date the report was issued by seven years or more. Examples of qualifying harms include, but are not limited to, denial of a rental or delay in your application.
- You have the right to opt-out of the proposed Settlement or to object to it.
- Whether you act or not, your legal rights are affected by the proposed Settlement.

| YOUR LEGAL RIGHTS AND OPTIONS IN THIS PROPOSED SETTLEMENT | | |
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| Your Rights and Options | What to Do | Deadline to Do It |
| Do Nothing | You are not required to take any action to receive the benefits of the proposed Settlement. If the proposed Settlement is finally approved and you do not opt-out, then you will receive an estimated payment of \$75, although the amount will vary as explained herein. You will be bound by the Court’s final judgment and the release of claims in the Settlement Agreement. | None |
| Submit a Claim Form | Submit a form to the Settlement Administrator for an additional payment from the Settlement. For more information, please read Section 5 below. | Postmarked on or before December 5, 2023 |
| Opt-Out of the Settlement | Write to the Settlement Administrator stating that you do not wish to participate in the proposed Settlement. See Section 7 below. If you validly opt-out, you will not receive any monetary payments from the Settlement. | Postmarked on or before February 12, 2024 |
| Object to the Settlement | Write to the Settlement Administrator about why you do not like the proposed Settlement. For more information regarding objecting, please read Section 10 below. | Postmarked on or before December 5, 2023 |

1. Does this Notice apply to me?

If, from April 8, 2020 to April 9, 2023, you were the subject of a background report prepared by the Tenantreports.com line of business that included at least one criminal non-conviction record, based on the Parties' review of TRC's records, that predated the date the report was issued by seven years or more, then you are included in this Settlement as a "Settlement Class Member."

This Notice informs you about the proposed Settlement and your rights. Before any final judgment is entered, the Court will have a hearing to decide whether to approve the proposed Settlement. The proposed Settlement will be only finally approved after any objections or appeals are resolved. If the proposed Settlement is finally approved, then you will benefit from the relief provided by the proposed Settlement. Once the proposed Settlement is final, you will also be bound by the release and other provisions of the proposed Settlement.

This Notice is only a summary of the proposed Settlement. More details about the proposed Settlement, the date when appeals are no longer allowed and the Settlement is final, deadlines for certain actions, and your options are available in a longer document called the Settlement Agreement. You can get a copy of the Settlement Agreement by visiting www.McKeySettlement.com.

The class action lawsuit is known as *Benjamin McKey v. Tenantreports.com, LLC*, No. 2:22-cv-01908-GJP, and is pending in the United States District Court for the Eastern District of Pennsylvania, with Judge Gerald J. Pappert presiding. The individual who sued is called the Plaintiff; the company that he sued is called the Defendant. The Plaintiff is Benjamin McKey. The Defendant is Tenantreports.com, LLC and Xactus, LLC, in its capacity as successor in interest to certain assets of Tenantreports.com, LLC.

2. What is this lawsuit about?

The lawsuit alleges that TRC violated the FCRA by providing background reports that included at least one record of a criminal non-conviction that predated the date the report was issued by seven years or more. TRC denies Plaintiff's allegations and denies that TRC is liable to Plaintiff or any of the putative Settlement Class Members. TRC has asserted many defenses, including that certain reports may not qualify as consumer reports under the FCRA. The Court has not decided whether either side is right or wrong. Instead, both sides agreed to the Settlement to resolve the case and provide benefits to the class.

The Named Plaintiff here, Benjamin McKey, filed this case as a proposed class action. When the parties reached this proposed Settlement, the Court had not decided whether the case could be a class action. As part of the proposed Settlement, the Court certified a tentative class action for settlement purposes only, under Rule 23. If the proposed Settlement is not finally approved, then the Court may later determine if the case may proceed as a class action.

3. How do I know if I am part of the proposed Settlement?

The Court has decided that everyone who fits the following description is a Settlement Class Member:

All persons residing in the United States of America (including its territories and Puerto Rico) who: (1) were the subject of a background report prepared by the TenantReports.com line of business between April 8, 2020 and April 9, 2023; (2) where the report contained at least one record of a criminal non-conviction, based on the Parties' review of Defendant's records, that predated the date the report was issued by seven years or more.

The individuals to whom this Notice was sent have been identified as Settlement Class Members based on the business records maintained by TRC and further manual review of additional information.

4. What benefits does the proposed Settlement provide?

The proposed Settlement benefits include both monetary (money) and injunctive (practice changes) relief. An injunction occurs when a court orders a person to do or not to do something. In particular, the Settlement provides for the following benefits.

The Settlement establishes a Settlement Fund that contains \$877,800 for payments to Class Members. The Settlement Fund provides for payments to Settlement Class Members as follows:

All Settlement Class Members will receive a portion of the Settlement Fund divided equally between all Settlement Class Members. Class Counsel estimates that the amount of those payments would be approximately \$75. However, the final amount of the payment may be more or less. The final payment amount for this portion of the Settlement will be determined based on how many people submit Claims for an additional payment, as well as on the amount awarded by the Court for settlement administration costs, attorneys' fees and expenses, and a class representative service payment.

A Settlement Class Member can also receive an additional payment from the Settlement Fund by taking the following action:

Each Settlement Class Member who alleges he or she experienced harm as a result of TRC, during the class period, issuing a consumer report that contained at least one adverse non-conviction record that predated the date the report was issued by seven years or more, can submit a Claim Form for payment. The Claim Form requires a claimant to attest that he or she suffered harm as a result of the conduct referenced above. Individuals who submit a valid Claim Form will receive an additional payment.

The proposed Settlement also provides that TRC will agree to make changes to its practice, which are described in the Consent Injunctive Relief Order that is available on the Settlement website.

No Class Members will have to pay or buy anything to benefit from the relief provided by the Settlement Agreement.

5. How do I submit a Claim Form to receive an additional payment from the Claims Fund?

If you suffered additional harm due to TRC, during the class period, issuing a consumer report that contained at least one adverse non-conviction record that predated the date the report was issued by seven years or more, please complete the Claim Form and mail it to McKey v. Tenantreports.com, c/o Settlement Administrator, P.O. Box 16, West Point, PA 19486. Your Claim Form must be postmarked by December 5, 2023. You may also submit a Claim Form at the Settlement website, www.McKeySettlement.com.

The kind of "harm" that qualifies for an additional cash payment is any harm beyond the invasion of privacy you may have felt when outdated information is included on a report. Examples of harm that would qualify include, but are not limited to, being denied a rental, or having your rental application delayed as a result of the consumer report including outdated adverse non-conviction information.

6. How does the proposed Settlement affect my rights?

In general terms, if the proposed Settlement is finally approved by the Court, then you will be giving up the right to file a lawsuit against TRC or related companies for certain claims regarding the inclusion of a record of a criminal non-conviction on a TRC background report where that record predated the date of the report by more than seven years. Specifically, you will be giving up the right to bring any claims resulting from, arising out of, or regarding the inclusion of a criminal non-conviction record that appeared on a TRC background report that predated the date of the report by more than seven years during the class period. You will be giving up all such claims whether or not you know about them.

The precise terms of the dismissal and release are explained in the Settlement Agreement, which you can view on the Settlement website, www.McKeySettlement.com.

Unless you opt-out of the Settlement, the Court's order will apply to you even if you object to the Settlement or have any other claim, lawsuit, or proceeding pending against TRC. If you have any questions about the release, then you should visit www.McKeySettlement.com for more information or consult with a lawyer. See Section 8 below for more information regarding your options in seeking legal advice concerning the Settlement.

7. Can I choose not to be in the proposed Settlement?

Yes. You have the opportunity to opt-out of the Settlement by submitting a written Request for Exclusion to McKey v. Tenantreports.com, c/o Settlement Administrator, P.O. Box 16, West Point, PA 19486, postmarked by February 12, 2024. To be valid, a Request for Exclusion must be personally signed and must include: (i) your name, address and telephone number; (ii) and a statement substantially to the effect that: "I request to be excluded from the Settlement Class in *Benjamin McKey v. Tenantreports.com, LLC*." Notwithstanding the foregoing, no person within the Settlement Class may submit a Request for Exclusion for any other person in the Settlement Class. If a Settlement Class Member submits both a Request for Exclusion and a Claim Form, the Claim Form shall take precedence and the individual shall *not* be deemed to have validly excluded himself or herself from the Settlement.

If you timely submit a valid Request for Exclusion, you will exclude yourself from the Settlement Class. You will not receive the benefits of the Settlement and you will not be bound by further orders or judgments in the Litigation, subject to Court approval. You will preserve your ability to independently pursue, at your own expense, any individual claims that you claim to have against TRC. No person who has opted out of the Settlement may object to any part of the Settlement Agreement.

8. Do I have a lawyer in this case?

Yes. The Court approved the following individuals to represent you and other Class Members:

- E. Michelle Drake and Joe Hashmall of Berger Montague PC. You may contact Class Counsel at 1229 Tyler Street, Suite 205, Minneapolis, MN 55413. If you have questions about the Settlement or this Notice, you may also call (612) 594-5999 or email TRCSettlementCounsel@bm.net.

The Court has appointed these lawyers as Class Counsel. You will not be personally charged for these lawyers. You may hire your own attorney, if you so choose, but you will be personally responsible for your attorney's fees and expenses.

9. How will the lawyers be paid? What will the Class Representative receive?

The attorneys representing the class have handled this case on a contingency basis. To date, they have not been paid anything for their work. Class Counsel will request that the Court award attorneys' fees and expenses for the time and effort they have spent on this case. The amount that will be requested by Class Counsel as attorneys' fees will be no greater than \$292,600 plus reasonable out-of-pocket expenses and a Named Plaintiff service award for the Named Plaintiff of up to \$7,500. Class Counsel will file a motion for their attorneys' fees and expenses on or before November 20, 2023.

Any approved amount of attorneys' fees and expenses or Named Plaintiff service awards will be paid from the Settlement Fund, and no Class Member will owe or pay anything directly for the attorneys' fees and expenses of Class Counsel.

10. How do I tell the Court if I do not agree with the proposed Settlement?

If you are a Settlement Class Member, then you can object to the proposed Settlement if you do not like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views.

To object to this Settlement Agreement, you must send your objection in writing to the Settlement Administrator by mailing it to McKey v. Tenantreports.com, c/o Settlement Administrator, P.O. Box 16, West Point, PA 19486, postmarked by December 5, 2023. The objection must include the following: (1) your full name, address and current telephone number; (2) the name and telephone number of your counsel, if you are represented by an attorney and if counsel intends to submit a request for fees, and all factual and legal support for that request; (3) all objections and the basis for any such objections stated with specificity, including a statement as to whether the objection applies only to the objector, to a specific subset of the class, or to the entire class; (4) the identity of any witnesses you may call to testify; (5) a listing of all exhibits you intend to introduce into evidence at the Final Approval Hearing, if any, as well as true and correct copies of all exhibits; and (6) a statement of whether you intend to appear at the Final Approval Hearing, either with or without counsel. If you fail to timely serve a written objection, you shall not be permitted to object to the approval of the Settlement or Settlement Agreement and shall be foreclosed from seeking any review of the Settlement or the terms of the Settlement Agreement by appeal or other means.

You will not be permitted to object to the Settlement or the Settlement Agreement if you decide to exclude yourself from the Settlement.

11. When and where will the Court decide whether to finally approve the proposed Settlement?

The Court will hold a Final Approval Hearing on February 27, 2024 at 10:00 a.m., before Judge Gerald J. Pappert, in Courtroom 11-A of the United States District Court for the Eastern District of Pennsylvania at 601 Market Street, Philadelphia, PA 19106.

At this hearing, the Court will consider whether the proposed Settlement is fair, reasonable, and adequate. The Court will consider all timely and proper objections. You do not have to attend the hearing.

The Court will also decide how much to award Class Counsel and the Named Plaintiff. After the hearing, the Court will decide whether to finally approve the proposed Settlement.

The Court may change the date of the Final Approval Hearing or elect to hold the hearing via videoconference or teleconference without further notice to the Class. You should check the website, www.McKeySettlement.com, regularly to check on the hearing date, the court-approval process, and the Effective Date.

12. How do I get more information?

This Notice is only a summary of the proposed Settlement. More details about the proposed Settlement, the date when appeals are no longer allowed and the Settlement is final, deadlines for certain actions, and your options are available in a longer document called the Settlement Agreement. You can get a copy of the Settlement Agreement by visiting www.McKeySettlement.com. The website also contains answers to common questions about the proposed Settlement. In addition, some of the key documents in the case will be posted on the website. You can also write or call Class Counsel at the contact information listed above.

Please do not address questions about the Settlement or the litigation to the clerk of Court or to the Judge. They are not permitted to answer your questions.