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IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR KING COUNTY

MARKELETTA WILSON, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

RENTGROW, INC., a Delaware corporation;
YARDI SYSTEMS, INC., a California
corporation,

Defendants.

NO. 13-2-15514-1 SEA

CLASS ACTION COMPLAINT

Plaintiff Markeletta Wilson, by and through her attorneys, brings this action on her own behalf and on behalf of all other similarly situated individuals and alleges as follows:

I. INTRODUCTION

1.1 Nature of Action. Plaintiff brings this action against Defendants RentGrow, Inc. and Yardi Systems, Inc. (collectively “Defendants”) for engaging in a systematic scheme of unfair and deceptive acts and practices in violation of the Washington Fair Credit Reporting Act, chapter 19.182 RCW, and the Washington Consumer Protection Act, chapter 19.86 RCW. Defendants are consumer reporting agencies that regularly violate RCW 19.182.040(1)(e) by willfully making consumer reports containing records of arrest, indictment, or conviction of an

1 adult for a crime that, from the date of disposition, release, or parole, antedates the report by
2 more than seven years. In addition, Defendants willfully fail to maintain reasonable procedures
3 designed to avoid violations of RCW 19.182.040.

4 **II. JURISDICTION AND VENUE**

5 2.1 This Court has jurisdiction over all causes of action asserted herein under RCW
6 2.08.010.

7 2.2 The Court has jurisdiction over Defendants pursuant to RCW 4.28.185 because
8 Defendants transacted business in the State of Washington.

9 2.3 Venue is proper in this Court pursuant to RCW 4.12.020(1) because Plaintiff
10 seeks to recover a monetary penalty imposed by RCW 19.182.150 and her cause of action arose
11 in King County, Washington. Venue is also proper in this Court pursuant to RCW 4.12.025(1)
12 because Defendants transact business in—and therefore reside in—King County, Washington.

13 2.4 This action is timely filed within the limits prescribed by all statutes of
14 limitations and repose.

15 **III. PARTIES**

16 3.1 Plaintiff Markeletta Wilson is a resident of King County, Washington. In July
17 2012, Plaintiff submitted an application to rent or lease a dwelling in King County. On July 21,
18 2012, in connection with the application, Defendants made a consumer report that contained
19 records of arrest, indictment, or conviction of Plaintiff for crimes that, from the date of
20 disposition, release, or parole, antedated the report by more than seven years.

21 3.2 Defendant RentGrow, Inc. (“RentGrow”) is a Delaware corporation. In
22 February 2010, RentGrow was purchased and thus acquired by Defendant Yardi Systems, Inc.
23 (“Yardi”). After being acquired by Yardi, RentGrow began doing business “RentGrow, Inc., A
24 Yardi Company.” RentGrow is now fully integrated with Yardi and, in conjunction with Yardi,
25 does business as “Yardi Resident Screening.” On July 21, 2012, RentGrow made a consumer
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1 report that contained records of arrest, indictment, or conviction of Plaintiff for crimes that,
2 from the date of disposition, release, or parole, antedated the report by more than seven years.

3 3.3 Defendant Yardi Systems, Inc. is a California corporation. In February 2010,
4 Yardi purchased and thus acquired RentGrow. After acquiring RentGrow, Yardi began doing
5 business “RentGrow, Inc., A Yardi Company.” Yardi is now fully integrated with RentGrow
6 and, in conjunction with RentGrow, does business as “Yardi Resident Screening.” On July 21,
7 2012, Yardi made a consumer report that contained records of arrest, indictment, or conviction
8 of Plaintiff for crimes that, from the date of disposition, release, or parole, antedated the report
9 by more than seven years.

10 3.4 Each Defendant committed the acts alleged in this complaint either personally or
11 through Defendant’s officers, directors, agents, employees, or representatives while actively
12 engaged in the management, direction, or control of the transactions giving rise to this
13 complaint.

14 **IV. SERVICE ON ATTORNEY GENERAL**

15 4.1 Counsel for Plaintiff have caused a copy of this initial pleading to be served on
16 the Attorney General of Washington in accordance with RCW 19.186.095.

17 **V. GENERAL FACTUAL ALLEGATIONS**

18 5.1 One in four Americans has a criminal history, and criminal history record
19 information is increasingly used to screen applicants for housing. Most housing providers
20 conduct background checks on prospective applicants, and many such housing providers reject
21 applicants on account of criminal history. These rejections disproportionately impact people of
22 color, who are arrested, charged, and convicted at higher rates than Caucasians, both
23 nationwide and in Washington state. In addition, criminal history older than seven years is not
24 an accurate predictor of an individual’s likelihood to commit future crime. Compilation and
25 commercial reporting of criminal history information older than seven years is an unfair
26 practice that undermines consumer confidentiality and privacy.

1 5.2 The Washington legislature has found and declared that “consumers have a vital
2 interest in establishing and maintaining creditworthiness.” RCW 19.182.005. In addition, the
3 legislature has found that “[u]nfair or inaccurate [credit] reports undermine both public and
4 creditor confidences in the reliability of credit granting systems.” *Id.* This includes unfair or
5 inaccurate credit reports that are used for making decisions regarding “the rental or leasing of
6 dwellings.” *Id.*

7 5.3 Defendants are in the business of providing property owners and managers with
8 comprehensive consumer reports on rental applicants. At the website
9 www.yardi.com/product/YardiResidentScreening.aspx, Defendants advertise that their
10 consumer reports are based on “the most reliable data available” and that this “eliminates
11 guesswork for renter background screening and credit checks” and “provides built-in control
12 and cost savings” to property owners and managers. When it comes to “[c]riminal screening,”
13 Defendants boast that their consumer reports are based on “the most accurate national, state,
14 and county databases.” Defendants assert that their “[a]dvanced criminal screening” services
15 allow property owners and managers to avoid “deciphering and interpreting lists of complex
16 criminal records.”

17 5.4 For monetary fees or dues, Defendants regularly engage in whole or in part in
18 the business of assembling or evaluating consumer credit information and other information on
19 consumers for the purpose of furnishing consumer reports to third parties. Defendants use
20 various means or facilities of commerce for the purpose of preparing or furnishing these
21 consumer reports.

22 5.5 The consumer reports that Defendants prepare and furnish are comprised of
23 written, oral, or other communication of information by Defendants bearing on the
24 creditworthiness, credit standing, credit capacity, character, general reputation, personal
25 characteristics, or mode of living of consumers.
26

1 5.6 The consumer reports that Defendants prepare and furnish are used or expected
2 to be used or collected in whole or in part for the purpose of serving as a factor in establishing
3 consumer eligibility for credit to be used primarily for personal, family, or household
4 purposes—namely, establishing consumer eligibility for rental housing.

5 5.7 The consumer reports that Defendants prepare and furnish are also used or
6 expected to be used or collected in whole or in part by persons that Defendants have reason to
7 believe either: (i) intend to use the information in connection with credit transactions involving
8 consumers on whom the information is to be furnished and involving the extension of credit to,
9 or review or collection of an account of, the consumer; (ii) intend to use the information in
10 connection with a determination of consumer eligibility for benefits granted by governmental
11 instrumentalities required by law to consider the financial responsibility or status of consumers;
12 or (iii) otherwise have a legitimate business need for the information in connection with
13 business transactions involving consumers.

14 5.8 Defendants have engaged in and continue to engage in a common course of
15 making consumer reports that contain prohibited information, including records of arrest,
16 indictment, or conviction of adults for crimes that, from the date of disposition, release, or
17 parole, antedate the respective reports by more than seven years.

18 5.9 By engaging in a common course of making consumer reports that contain
19 prohibited information, Defendants have willfully failed to comply with a requirement of the
20 Fair Creditor Reporting Act, chapter 19.182 RCW.

21 5.10 Defendants have engaged in and continue to engage in a common course of
22 failing to maintain reasonable procedures designed to avoid the disclosure of prohibited
23 information in consumer reports.

24 5.11 By engaging in a common course of failing to maintain reasonable procedures
25 designed to avoid the disclosure of prohibited information in consumer reports, Defendants
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1 have willfully failed to comply with a requirement of the Fair Creditor Reporting Act, chapter
2 19.182 RCW.

3 5.12 By the actions alleged above, Defendants have caused injury to Washington
4 consumers in their business or property.

5 5.13 In July 2012, Plaintiff applied for a residential apartment at a development in
6 Tukwila, Washington, managed by MG Properties Group (“MGPG”).

7 5.14 As part of its evaluation of Plaintiff’s application, MGPG paid Defendants to
8 make and provide a consumer report about Plaintiff.

9 5.15 On July 21, 2012, Defendants made a consumer report in relation to Plaintiff
10 that contained items of information about Plaintiff involving records of arrest, indictment, or
11 conviction of an adult for a crime that, from the date of disposition, release, or parole, antedated
12 the consumer report by more than seven years.

13 5.16 The consumer report that Defendants made in relation to Plaintiff indicated that
14 Plaintiff had convictions in 1989 and 1995 for drug-related criminal offenses. The report
15 indicated that the sentence date for the first conviction was July 14, 1989 and that the
16 maximum sentence for that conviction was 24 days. The report further indicated that the
17 sentence date for the second conviction was February 10, 1995 and that the maximum sentence
18 for that conviction was two months.

19 5.17 By including this information in the consumer report that they made in relation
20 to Plaintiff, Defendants violated RCW 19.182.040(1)(e).

21 5.18 The consumer report that Defendants made in relation to Plaintiff stated that the
22 “Offender Status” for Plaintiff’s criminal convictions is “Closed.”

23 5.19 The consumer report that Defendants made in relation to Plaintiff stated the
24 “Cause Status” for Plaintiff’s criminal convictions “Cannot be Determined.”

25 5.20 The consumer report that Defendants made in relation to Plaintiff stated the
26 “Supervision Type” for Plaintiff’s criminal convictions “Cannot be determined.”

1 6.2 Exclusions from Class. Excluded from the Class is any Washington resident
2 who was solely the subject of a consumer reports that Defendants issued in relation to a credit
3 transaction involving or reasonably expected to involve a principal amount of fifty thousand
4 dollars or more. Also excluded from the Class are Defendants, any entity in which Defendants
5 have a controlling interest or which has a controlling interest in Defendants, and Defendants'
6 legal representatives, assignees, and successors. Also excluded are the judge to whom this case
7 is assigned and any member of the judge's immediate family.

8 6.3 Numerosity. Plaintiff believes there are dozens if not hundreds of members in
9 the Class and that these members are geographically dispersed throughout Washington,
10 generally unsophisticated in legal matters and rights, and likely unable or reluctant to sue
11 individually. The members of the Class are so numerous that joinder of all members is
12 impracticable. Moreover, the disposition of the claims of the Class in a single action will
13 provide substantial benefits to all parties and the Court.

14 6.4 Commonality. There are numerous questions of law and fact common to
15 Plaintiff and members of the Class. These questions include, but are not limited to, the
16 following:

17 a. Whether Defendants have acted as consumer reporting agencies as
18 defined in RCW 19.182.010(5);

19 b. Whether Defendants have engaged in a common course of issuing
20 consumer reports about Washington consumers that include information prohibited by RCW
21 19.182.040;

22 c. Whether Defendants' common course of issuing consumer reports that
23 include prohibited information regarding Washington consumers has violated Washington's
24 Fair Credit Reporting Act, chapter 19.182 RCW;

25 d. Whether Defendants have engaged in a common course of failing to
26 maintain reasonable procedures designed to avoid violations of RCW 19.182.040;

1 e. Whether Defendants' common course of failing to maintain reasonable
2 procedures designed to avoid violations of RCW 19.182.040 has violated Washington's Fair
3 Credit Reporting Act, chapter 19.182 RCW;

4 f. Whether Defendants' have engaged in a common course of willfully
5 failing to comply with one or more requirements imposed by Washington's Fair Credit
6 Reporting Act, chapter 19.182 RCW;

7 g. Whether Plaintiff and Class members are each entitled to a monetary
8 penalty of one thousand dollars;

9 h. Whether Defendants' common courses of conduct constitute unfair or
10 deceptive acts or practices;

11 i. Whether Defendants' common courses of conduct occur in trade or
12 commerce;

13 j. Whether Defendants' common courses of conduct have an impact on the
14 public interest because they violate a statute that incorporates chapter 19.86 RCW, violate a
15 statute that contains a specific legislative declaration of public interest impact;

16 k. Whether Defendants' common courses of conduct have caused injury to
17 the business or property of Plaintiff and Class members; and

18 l. Whether injunctive relief is appropriate so as to protect Plaintiff,
19 members of the Class, and other Washington consumers from Defendants' common courses of
20 unlawful conduct.

21 6.5 Typicality. Plaintiff's claims are typical of the claims of the Class. Plaintiff's
22 claims, like the claims of the members of the Class, arise out of the same common practices of
23 conduct by Defendants and are based on the same legal and remedial theories.

24 6.6 Adequacy. Plaintiff will fairly and adequately protect the interests of the Class.
25 Plaintiff has retained competent and capable attorneys who are experienced trial lawyers with
26 significant experience in complex and class action litigation. Plaintiff and her counsel are

1 committed to prosecuting this action vigorously on behalf of the Class and have the financial
2 resources to do so. Neither Plaintiff nor her counsel have interests that are contrary to or that
3 conflict with those of the proposed Class.

4 6.7 Predominance. Defendants have engaged in a common course of unlawful and
5 wrongful conduct toward Plaintiff and members of the Class. The common issues arising from
6 this conduct that affect Plaintiff and members of the Class predominate over any individual
7 issues. Adjudication of these common issues in a single action has important and desirable
8 advantages of judicial economy.

9 6.8 Superiority. Plaintiff and Class members have suffered and will continue to
10 suffer harm and damages as a result of Defendants' unlawful and wrongful conduct. Absent a
11 class action, however, most Class members likely would find the cost of litigating their claims
12 prohibitive. Class treatment is superior to multiple individual suits or piecemeal litigation
13 because it conserves judicial resources, promotes consistency and efficiency of adjudication,
14 provides a forum for small claimants, and deters illegal activities. Plaintiff and her counsel are
15 unaware of any litigation that has already been commenced in Washington concerning
16 Defendants' unlawful and wrongful conduct. Litigation of the claims should occur in this
17 Court as all claims are brought under Washington law. There will be no significant difficulty
18 in the management of this case as a class action. The Class members are readily identifiable
19 from Defendants' records.

20 6.9 Appropriateness of Injunctive and Declaratory Relief. Defendants have acted on
21 grounds generally applicable to the Class, thereby making final injunctive relief or
22 corresponding declaratory relief appropriate with respect to the Class as a whole. Prosecution
23 of separate actions by individual members of the Class would create the risk of inconsistent or
24 varying adjudications with respect to individual members of the Class that would establish
25 incompatible standards of conduct for Defendants.
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1 **VII. FIRST CLAIM FOR RELIEF**
2 **(Statutory Damages for Violation of the Fair Credit Reporting Act,**
3 **Chapter 19.182 RCW)**

4 7.1 Plaintiff realleges, as if fully set forth herein, each and every allegation
5 contained in the preceding paragraphs of this complaint.

6 7.2 Pursuant to RCW 19.182.005, “[i]t is the policy of the state that credit reporting
7 agencies maintain accurate credit reports . . . and adopt reasonable procedures to promote
8 consumer confidentiality and the proper use of credit data in accordance with this chapter.”

9 7.3 Defendant RentGrow is a consumer reporting agency within the meaning of
10 RCW 19.182.010(5).

11 7.4 Defendant Yardi is a consumer reporting agency within the meaning of RCW
12 19.182.010(5).

13 7.5 By the actions alleged above, Defendants have engaged in a common course of
14 violating RCW 19.182.040(1)(e).

15 7.6 By the actions alleged above, Defendants have engaged in a common course of
16 willfully failing to comply with RCW 19.182.040(1)(e).

17 7.7 By the actions alleged above, Defendants have engaged in a common course of
18 violating RCW 19.182.060(1).

19 7.8 By the actions alleged above, Defendants have engaged in a common course of
20 willfully failing to comply with RCW 19.182.060(1).

21 7.9 As a result of Defendants’ unlawful actions, and pursuant to RCW 19.182.150,
22 each Plaintiff and Class member is entitled to a monetary penalty of one thousand dollars.

23 Plaintiff and the Class are also entitled to the costs of the action together with reasonable
24 attorneys’ fees. RCW 19.182.150.
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1 **VIII. SECOND CLAIM FOR RELIEF**
2 **(Injunctive Relief for Violation of the Consumer Protection Act,**
3 **Chapter 19.86 RCW)**

4 8.1 Plaintiff realleges, as if fully set forth herein, each and every allegation
5 contained in the preceding paragraphs of this complaint.

6 8.2 The Washington legislature has found that the practices covered by the Fair
7 Credit Reporting Act, chapter 19.182 RCW, are matters vitally affecting the public interest for
8 the purpose of applying the Consumer Protection Act, chapter 19.86 RCW.

9 8.3 Violations of the Fair Credit Reporting Act, chapter 19.182 RCW, are not
10 reasonable in relation to the development and preservation of business.

11 8.4 Defendants are “persons” within the meaning of RCW 19.86.010(1).

12 8.5 Defendants’ violations of the Fair Credit Reporting Act, chapter 19.182 RCW,
13 are unfair or deceptive acts and practices in trade or commerce.

14 8.6 By the actions alleged above, Defendants have violated RCW 19.86.020.

15 8.7 By the actions alleged above, Defendants have violated a statute (chapter 19.182
16 RCW) that incorporates chapter 19.86 RCW and have thus impacted the public interest.

17 8.8 By the actions alleged above, Defendants have violated a statute (chapter 19.182
18 RCW) that contains a specific legislative declaration of public interest impact and have thus
19 impacted the public interest.

20 8.9 By the actions alleged above, Defendants have injured persons other than
21 Plaintiff and have thus impacted the public interest.

22 8.10 Defendants’ common courses of unlawful conduct have had and continue to
23 have the capacity to injure other persons and have thus impacted the public interest.

24 8.11 By the actions alleged above, Defendants have injured Plaintiff and Class
25 members in their business or property.

26 8.12 Final injunctive relief is necessary to protect Plaintiff, members of the Class, and
other Washington consumers from Defendants’ common courses of unlawful conduct.

1 RESPECTFULLY SUBMITTED AND DATED this 3rd day of April, 2013.

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