SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

NATIONAL ASSOCIATION OF CONSUMER ADVOCATES, 1215 17th Street NW, 5th Floor, Washington, DC 20036, Plaintiff, v. RENTGROW, INC., 400 Fifth Avenue, Suite 120, Waltham, MA 02451, and YARDI SYSTEMS, INC., 430 South Fairview Avenue, Santa Barbara, CA 93117, Defendants.	2024-CAB-006253 **COMPLAINT** <u>DEMAND FOR JURY TRIAL</u>

INTRODUCTION

1.   RentGrow, Inc., a wholly owned subsidiary of Yardi Systems, Inc. (collectively, "RentGrow" or "Defendants") provides tenant screening services (the "Service") to landlords, property managers, and other housing providers throughout the District of Columbia. Potential tenants throughout the District are often dependent on the reports generated by RentGrow's Service before they are allowed to lease an apartment. In particular, since 2018, RentGrow has contracted with the D.C. Housing Authority ("DCHA") to provide its Service to landlords participating in the District's Housing Choice Voucher Program ("HCVP"). The HCVP "helps low- and moderate-income residents find and afford housing by providing vouchers to allow participants to pay rent in privately owned properties around the city."[1] Thus, a potential tenant's eligibility for housing under the HCVP is often dependent on data that RentGrow provides in its

---

[1] *Government of the District of Columbia,* Housing DC Resident Resources, https://housing.dc.gov/page/housing-dc-resident-resources (last visited Oct. 1, 2024).

reports, and RentGrow's Service is critical for individuals who need affordable housing in the District.

2.	In reality, RentGrow's Service generates reports based improperly on inaccurate and/or biased information, which negatively impacts individuals in the District who need a RentGrow report to obtain housing. Examples of this information include unvetted public records of court proceedings, which may involve individuals unrelated to the prospective tenant; unvetted criminal and eviction records that reflect racially biased policing and historical redlining practices;[2] and other negative items that, while accurate, are more than seven years old and should have been removed from such reports under the Fair Credit Reporting Act ("FCRA"), 15 U.S.C.S. § 1681 *et seq.*[3] Additionally, RentGrow has failed to implement standard artificial intelligence ("AI") risk management practices to mitigate known risks of errors and biases in its Service, yet it continues to market its Service and related appeals process as effective means for evaluating rental applicants under FCRA and "all other applicable laws and regulations."[4]

3.	Consumers are protected from the dissemination of inaccurate information in credit reports and the failure of credit reporting agencies to maintain accurate records by the FCRA. The District of Columbia Consumer Protection Procedures Act ("CPPA") incorporates these consumer

---

[2] Redlining is "a discriminatory practice that consists of the systematic denial of services such as mortgages, insurance loans, and other financial services to residents of certain areas, based on their race or ethnicity," and is a major factor of "race-based housing patterns" which the Fair Housing Act sought to end. *Redlining*, Cornell Law School, Legal Information Inst., https://www.law.cornell.edu/wex/redlining (last visited Oct. 1, 2024).

[3] *See Learn,* RentGrow, https://www.rentgrow.com/learn-now/#1489618308563-a366a28d-0f7b (last visited Oct. 1, 2024).

[4] Contract between D.C. Housing Authority and RentGrow, Inc. (2018), https://perma.cc/QDD7-QHXM [hereafter "DCHA RentGrow Contract"]; *see also Assisted Housing: National and Local-Picture of Subsidized Households*, U.S. Dep't of Hous. & Urb. Dev. (2020), https://www.huduser.gov/portal/datasets/assthsg.html (showing that over 90% of D.C. Housing Choice Vouchers are used by Black residents).

protections[5] and provides for their enforcement by a nonprofit organization when consumers in the District have been wronged, as here.

4.   Plaintiff National Association of Consumer Advocates, Inc. ("NACA" or "Plaintiff") is a nonprofit advocacy organization committed to representing consumers' interests. NACA brings this suit to enforce the CPPA in light of RentGrow's failure to follow the law and the resulting harm that has affected and still affects District of Columbia consumers.

JURISDICTION AND VENUE

5.   By filing this lawsuit, Plaintiff NACA consents to this Court's personal jurisdiction over the organization.

6.   This Court has personal jurisdiction over Defendants because Defendants have purposefully directed their conduct to the District, including their relationship with DCHA, and have availed themselves to the benefits and protections of District of Columbia law.

7.   Defendants' trade practices occur within the District. The Service is used in the District by D.C. housing providers, and D.C. consumers depend on Defendants' reports to obtain housing.

8.   This Court has subject matter jurisdiction over this action under the CPPA, D.C. Code § 28-3901, *et seq*.

---

[5] *See* D.C. Code § 28-3901(d) (incorporating Federal Trade Commission interpretations of "unfair or deceptive trade practice"); 15 U.S.C. § 1681s (explicitly identifying FCRA violations as unfair or deceptive trade practices under the Federal Trade Commission Act, 15 U.S.C. § 41 *et seq.*).

PARTIES

9.   The National Association of Consumer Advocates, Inc. is a nonprofit public interest organization. NACA is organized under the laws of the Commonwealth of Massachusetts and registered as a foreign corporation with the District of Columbia. NACA's principal place of business is in Washington, D.C.

10.   NACA is a national nonprofit association of attorneys, law professors, law students, and consumer advocates committed to representing consumers' interests. NACA's primary focus is the protection and representation of consumers. NACA serves as a voice for consumers in the ongoing struggle to curb unfair or abusive business practices that harm consumers. NACA has been instrumental in advocating against consumer abuses both federally and locally in the District.

11.   NACA's robust history of consumer advocacy demonstrates a sufficient nexus with the interest of the consumers represented in this case. NACA specifically advocates for the protection of consumer rights in the improper use and dissemination of inaccurate consumer reports.

12.   NACA brings this suit to enforce the CPPA in light of RentGrow's failure to comply with the law and the resulting harm that has affected District of Columbia consumers. This is not a class action, and no class certification will be sought.

13.   Defendant RentGrow, Inc. is incorporated in Delaware and headquartered in Massachusetts.

14.   Defendant Yardi Systems, Inc. is incorporated and headquartered in California.

15.   RentGrow, Inc. is "a wholly owned subsidiary of Yardi Systems, Inc."[6]

16.   Defendants provide rental screening services throughout the United States, including in the District of Columbia.

17.   Defendants' Service is utilized by the DCHA.

18.   Defendants have a contract with the DCHA regarding the Service.

19.   Through its unfair trade practices, Defendants have caused harm to the general public of the District of Columbia, including consumers who are subject to the Service.

FACT ALLEGATIONS

I.   RentGrow's Service collects and provides inaccurate data to District landlords.

20.   Throughout the last decade, the ubiquity of background screening reports has grown to the point that District consumers' ability—rightly or wrongly—to obtain a job, qualify for a mortgage, get credit or insurance, or find and be approved for an apartment to rent are completely dependent on the information collated and shared in these third-party created documents. Because of the outsized importance of these reports, local, state and national governments have passed consumer protection laws that govern their use and dissemination and require creators and purveyor of these reports to ensure their "maximum possible accuracy."[7]

21.   In recent years, providers of these screening services have come to depend on AI and Automated Decision-Making ("ADM") systems to produce their reports. ADM systems refer to any "tool, software, system, process, function, program, method, model, and/or formula

---

[6] *Resident Screening Client Notification*, Yardi (July 19, 2017), https://www.yardi.com/news/resident-screening-client-notification/.

[7] *See* 15 U.S.C. § 1681e(b) (incorporated into CPPA via definition of "unfair or deceptive trade practice," *see* D.C. Code § 28-3901(d)).

designed with or using computation to automate, analyze, aid, augment, and/or replace government decisions, judgments, and/or policy implementation."[8]

22.   Creators and users of AI and ADM systems have long known the accuracy and bias risks that improper data inputs can have on ADM system outputs, and several industry development and use standards have emerged to mitigate these risks.[9] These industry standards dictate that any merchant that uses ADM systems should take reasonable steps to ensure the accuracy of its input data, implement procedures sufficient to correct inaccuracies in outputs, and implement procedures sufficient to prevent perpetuating or exacerbating existing biases within outputs.

23.   RentGrow is one of the largest providers of resident screening services in the District. Their Service is advertised to and used extensively by landlords and property managers and owners in the private rental marketplace,[10] and pursuant to an August 2018 contract with DCHA,[11] by landlords and property managers and owners evaluating low-income consumers' eligibility[12] for safe and affordable housing under the District's HCVP program.

---

[8] Rashida Richardson, *Defining and Demystifying Automated Decision Systems*, 81 Md. L. Rev. 785, 795 (2022), https://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=3930&context=mlr.

[9] *See generally* Shalanda D. Young, *Advancing Governance, Innovation, and Risk Management for Agency Use of Artificial Intelligence*, Exec. Office of the President Office of Mgmt. & Budget (Mar. 28, 2024), https://www.whitehouse.gov/wp-content/uploads/2024/03/M-24-10-Advancing-Governance-Innovation-and-Risk-Management-for-Agency-Use-of-Artificial-Intelligence.pdf; Exec. Order No. 14,110, 88 Fed. Reg. 75,191 (Nov. 1, 2023); *Artificial Intelligence Risk Management Framework (AI RMF 1.0)*, Nat'l Inst. of Standards & Tech. U.S. Dep't of Commerce (Jan. 2023), https://nvlpubs.nist.gov/nistpubs/ai/NIST.AI.100-1.pdf; *Blueprint for an AI Bill of Rights: Making Automated Systems Work for the American People*, White House Office of Sci. and Tech. Policy (Oct. 2022), https://www.whitehouse.gov/wp-content/uploads/2022/10/Blueprint-for-an-AI-Bill-of-Rights.pdf; *Recommendation of the Council on Artificial Intelligence*, OECD Legal Instruments (May 21, 2019), https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0449.

[10] *Learn*, RentGrow, https://www.rentgrow.com/learn-now/ (last visited Oct. 1, 2024).

[11] *See* DCHA RentGrow Contract, *supra* note 4.

[12] Thomas McBrien et al., Elec. Privacy Info. Center ("EPIC"), *Screened & Scored in the District of Columbia* 27 (Nov. 2022), https://epic.org/wp-content/uploads/2022/11/EPIC-Screened-in-DC-Report.pdf.

24.   In providing its Service, RentGrow compiles data from third parties rather than collecting it directly. For example, RentGrow purchases credit data from vendors such as Experian, Equifax, and TransUnion, and utilizes public records compiled by companies like LexisNexis.[13]

25.   These companies' information is notoriously inaccurate having reported error rates in their consumer data of not less than 13 percent, affecting more than 10 million people.[14] The most common forms of these errors are conflating data from multiple unrelated people within one consumer profile;[15] duplicate data entries; and out-of-date credit, housing, and/or other data.[16]

26.   An example of RentGrow's misplaced reliance and dependence on inaccurate and error filled third-party information is their admission, in prior litigation, that it mainly sources its information from TransUnion Background Data Solutions ("TUBDS").[17] A RentGrow "corporate representative" has testified that it relies completely "on TUBDS to uphold their obligations and believes TUBDS is reliable [and] [i]t does not know the identities of the third-party vendors that TUBDS uses to obtain information [or] TUBDS' reliability. [] Unless a consumer submits a dispute, RentGrow has no way to know whether something was potentially inaccurate."[18]

---

[13] *See* DCHA RentGrow Contract, *supra* note 4, at 1.

[14] *See* Lisa L. Gill, *Credit Report Error Complaints Surge. Here's Why You Should Check Yours*, Consumer Reps. (Feb. 15, 2024), https://www.consumerreports.org/money/credit-scores-reports/credit-report-error-complaints-surge-check-your-report-a1194343465/.

[15] Errors of this type disproportionately impact minority communities due to common naming conventions. For example, 40 percent of Latinx people in the District are of Salvadoran descent, where "Juan" and "Hernandez" are two of the most common names. There are more than 100 people in the District alone with the name Juan Hernandez. *See* McBrien, *supra* note 12, at 8–9, 48; America Counts Staff, *Hispanic Surnames Rise in Popularity*, Census Bureau (Aug. 9, 2017), https://perma.cc/7MXW-Z5QR.

[16] Gill, *supra* note 14.

[17] *McIntyre v. RentGrow, Inc.*, No. 18-cv-12141, 2021 U.S. Dist. LEXIS 157939, at *3 (D. Mass. July 16, 2021).

[18] *Grant v. RentGrow, Inc.*, No. SA-21-CV-1172-JKP, 2023 U.S. Dist. LEXIS 158173, at *50-51 (W.D. Tex. Sep. 6, 2023)

27.   This reliance is particularly troubling considering that TUBDS has "face[d] tens of millions of dollars in penalties for violating tenants' rights" "by reporting inaccurate and incomplete information on prospective tenants to [] landlords."[19] Further, the specific conduct that TUBDS was accused of—"using false, incomplete or unverified information to generate [a] proprietary 'risk score' metric"—has been criticized for having an adverse impact on communities of color.[20]

28.   RentGrow does not adequately inquire about the quality or limitations of the datasets it receives from third parties. Nor does it adequately remedy any inaccuracies, omissions, and biases it identifies within those datasets. Nor does it adequately engage the landlords, property managers, and other clients to whom it offers its products and services about appropriate usage of its Service, or the tenant screening reports it produces. Nor does RentGrow adequately mitigate the impact of inaccuracies, errors, and biases within its Service made apparent through readily noticeable trends in actual usage by landlords. Nor does an actual human being usually review third-party vendor information gathered by RentGrow's algorithm for "any inconsistent or nonreportable information."[21]

29.   In creating its Service, through the gathering and compiling of this third-party information as well as the automatic processing of such information into tenant screening reports and recommendations, RentGrow uses AI and ADM systems.

---

[19] *TransUnion Faces Big Fine As Regulators Heed NCRC Call For Fairness In Tenant Screening*, Nat'l Community Reinvestment Coalition (Oct. 16, 2023), https://www.ncrc.org/transunion-faces-big-fine-as-regulators-heed-ncrc-call-for-fairness-in-tenant-screening/.
[20] *Id*.
[21] *Grant v. RentGrow, Inc*., *supra* note 18 at *51–52. "[o]nly in 'rare instances' does a human actually review 'the record…for any inconsistent or nonreportable information.'"

30.   Despite knowing the accuracy and bias risks that improper data inputs can have on ADM system outputs, RentGrow has failed to adequately validate the outputs of its Service or to test the Service for accuracy and bias risks—processes that could correct inaccuracies and biases in RentGrow's input data and generated tenant screening reports—and fails to adequately mitigate risk despite the profound impact its Service has on the lives of D.C.'s most vulnerable residents, in contravention of leading standards issued for the use and development of ADM systems like RentGrow's Service,[22] as well as procedural requirements under the FCRA as incorporated within the CPPA.[23]

31.   In part because of this failure, RentGrow has not met its legal obligation under the FCRA to establish or "follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates."[24]

32.   Because of RentGrow's use of knowingly flawed third-party information and its failure to implement industry standard procedures to evaluate its data inputs and ADM systems for inaccuracies and errors, RentGrow's Service generates reports and recommendations that are fundamentally inaccurate.[25]

II.   RentGrow provides biased data to District landlords.

33.   Beyond the inaccurate tenant screening reports generated by RentGrow's Service, ADM systems like those used by RentGrow also perpetuate racial biases. For example, many of

---

[22] *See generally supra* note 9.
[23] *See* 15 U.S.C. §§ 1681e(b), 1681i, 1681s; D.C. Code § 28-3901(d).
[24] *See* 15 U.S.C. § 1681e(b).
[25] The First Circuit, considering a FCRA claim, found the evidence of reasonableness of RentGrow's procedures was at least a question of fact for a jury to determine. *See McIntyre v. RentGrow, Inc.*, 34 F.4th 87, 99 (1st Cir. 2022). Plaintiff does not concede that the First Circuit was correct in its finding about recklessness.

the sources of data that automated tenant screening systems rely on—family criminal records, poor rental payment histories, eviction records, and even address histories—reflect racially discriminatory trends in policing practices, discriminatory housing and eviction practices, and historical redlining practices, thereby perpetuating racial biases within seemingly objective tenant screening reports.[26]

34.   RentGrow's Service is no exception. Per RentGrow's own admission, it compiles information that has been shown to reflect racial bias and provides that information to property owners and managers through tenant screening reports.[27]

35.   Further, upon information and belief, RentGrow fails to remove, correct, or adequately update important data about applicants that is or has become biased, inaccurate, or outdated (*e.g.*, convictions data older than seven years or eviction filings that were subsequently dismissed).

36.   Many types of data used by RentGrow, including names, criminal backgrounds, and housing records, have been linked to racially biased algorithmic outputs due to historical redlining practices and racial disparities in policing. For example, criminal background data reflects systemic biases in the justice system, as evidenced by Bureau of Justice Statistics data

---

[26] *See* Lydia X.Z. Brown, *Tenant Screening Algorithms Enable Racial and Disability Discrimination at Scale, and Contribute to Broader Patterns of Injustice*, Ctr. for Democracy & Tech. (July 17, 2021), https://perma.cc/L4ST-6C8D; Brian J. McCabe & Eva Rosen, *Eviction in Washington D.C.: Racial and Geographic Disparities in Housing Instability* 7, 22 (2020), https://perma.cc/4DWW-VMDC; Safiya Noble, *Algorithms of Oppression: How Search Engines Reinforce Racism*, at 1 (2018) (ebook), https://safiyaunoble.com/wp-content/uploads/2020/09/Algorithms_Oppression_Introduction_Intro.pdf (describing the problem through the lens of "technological redlining").

[27] *See, e.g.*, *Grant v. RentGrow, Inc.*, *supra* note 18, at *2, 50-52.

showing that "the imprisonment rate of black males (1,446 per 100,000 black male U.S. residents) was 5.7 times that of white males (253 per 100,000 white male U.S. residents)" in 2019.[28]

37.   Eviction filing data found in RentGrow's Service reports reflect longstanding and systemic discrimination. A Federal Reserve Bank of Atlanta study found that in Georgia, neighborhood racial composition—particularly the percentage of Black residents—significantly affects eviction filing rates, even after controlling for housing and landlord characteristics. If algorithms penalize applicants from high-eviction neighborhoods, they may perpetuate this pattern, essentially recreating redlining in digital form.[29]

38.   Employment data found in RentGrow's Service reports reflect longstanding and systemic discrimination. Historical data about employment in the District of Columbia are likely heavily racially biased,[30] as the District consistently has a higher disparity than even the national average.[31] Historical data on denied unemployment claims are also likely to be racially biased.[32]

39.   Finally, the Consumer Financial Protection Bureau ("CFPB") has noted that name clustering can result in disparate impacts for individuals from cultures that have higher incidences

---

[28] E. Ann Carson, Ph.D., *Prisoners in 2019*, U.S. Dep't of Justice (Oct. 2020), https://bjs.ojp.gov/content/pub/pdf/p19.pdf; *cf. Regarding Racial Disparities in the United States Criminal Justice System*, The Sentencing Project (Mar. 2018), http://arks.princeton.edu/ark:/88435/dsp01db78tg10c ("African Americans are more likely than white Americans to be arrested; once arrested, they are more likely to be convicted; and once convicted, and they are more likely to experience lengthy prison sentences. African-American adults are 5.9 times as likely to be incarcerated than whites and Hispanics are 3.1 times as likely.").

[29] Carl Romer et al., *The coming eviction crisis will hit Black communities the hardest*, Brookings (Aug. 2, 2021), https://www.brookings.edu/articles/the-coming-eviction-crisis-will-hit-black-communities-the-hardest/.

[30] Marta Lachowska et al., U.S. Dep't of Labor, *Gender, Race, and Denied Claims for Unemployment Insurance: The Role of the Employer* (2022), https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/DeniedUIClaims-20230215-508.pdf.

[31] Amanda Michelle Gomez, *D.C.'s Black-White Unemployment Gap is the Worst in the Nation*, DCist (Aug. 10, 2023), https://dcist.com/story/23/08/10/dc-black-white-unemployment-gap-ward-7-8; Kyle K. Moore, *State Unemployment by Race and Ethnicity*, Econ. Pol'y Inst. (Aug. 2024), https://www.epi.org/indicators/state-unemployment-race-ethnicity/.

[32] Marta Lachowska et al., *supra* note 30.

of common names: "The risk of mismatching from name-only matching is likely to be greater for Hispanic, Asian, and Black individuals because there is less last-name diversity in those populations than among the non-Hispanic white population."[33]

40. Beyond the inherent racial bias found in unfiltered data produced by ADM systems like those in RentGrow's Service, the use of this information leads to additional discrimination against District consumers based on their "source of income."

41. For reference, the District prohibits housing discrimination on the basis of "source of income." *See* D.C. Code § 2–1402.21(a).

42. As discussed previously, per RentGrow's contract with the DCHA, RentGrow is the exclusive provider of tenant screening for the District's HCVP Program.[34]

43. District consumers fortunate enough to obtain a housing voucher and then attempt to use it to find a safe and affordable home are subjected to RentGrow's tenant screening Service, which uses ill-fitting factors targeting an applicant's ability to pay rent, such as existing debt and account balances, as reasons to reject an applicant even when all or part of an applicant's rent will be paid by the District via housing vouchers.

44. RentGrow's failure to remove data from its Service report that directly correlate with a consumer's eligibility for the HCVP results in discrimination based on their source of income.

[33] Rohit Chopra, *Statement Regarding the Advisory Opinion to Curb False Identity Matching*, CFPB (Nov. 4, 2021), https://www.consumerfinance.gov/about-us/newsroom/statement-regarding-the-advisory-opinion-to-curb-false-identity-matching/.

[34]*See* DCHA RentGrow Contract, *supra* note 4.

III.   RentGrow provides misleading and inaccurate information about its Service.

45.   On its public website, RentGrow states that it "prepares tenant screening reports for property owners and managers who use the information to make ***informed*** decisions about rental applications."[35]

46.   In contracting documents with the DCHA, however, RentGrow has affirmatively stated that it "does not guarantee the effectiveness of [tenant screening] selection policies or the accuracy of any . . . information delivered by way of [RentGrow's] Services or in a Tenant Screening Report."[36]

47.   Without adequate processes in place to confirm the accuracy of information provided via its Service or processes to correct any inaccuracies or biases within its tenant screening reports, RentGrow cannot truthfully claim that its tenant screening reports enable property owners and managers to make informed decisions about rental applicants.

48.   RentGrow warrants that it will provide its services in "a professional, good, workmanlike manner consistent with industry standards."[37] It also warrants that it will comply "with all laws directly applicable to RentGrow's performance of [its agreement with DCHA],"[38]

---

[35] *Request*, RentGrow, https://www.rentgrow.com/request-now/ (last visited Oct. 1, 2024) (emphasis added).
[36] DCHA RentGrow Contract, *supra* note 4, at 2.
[37] Screening Services Activation Agreement between RentGrow and DCHA, at Section 7(a)(i) (July 26, 2016), https://epic.org/wp-content/uploads/2022/09/EPIC-21-03-25-DC-DCHA-FOIA-20210821-Production-RentGrow-Agreement26A.pdf.
[38] *Id*. at Section 7(a)(ii).

and admits, its Service must comply with the FCRA, 15 U.S.C. § 1681 *et seq.*,[39] which requires

RentGrow to maintain certain accuracy and data correction procedures.[40]

49.   RentGrow expressly certifies its compliance with all FCRA obligations in a

standard contract schedule it incorporates into contracts, including contracts in the District.[41] The

contract schedule, labeled "Schedule C: Required Supplemental Terms and Conditions," is hosted

on its website and includes several required terms surrounding RentGrow's use and provision of

data from TransUnion, Equifax, Experian, LexisNexis, and the Contemporary Information

Corporation ("CIC").[42]

50.   Despite its admission that it relies wholly on third-party data brokers to verify and

correct screening data, in its contracts in D.C. and elsewhere, RentGrow has an express obligation

to maintain a "defined audit program" to monitor access to and use of consumer data.[43]

51.   On information and belief, RentGrow does not maintain or use a defined audit

program.

52.   RentGrow is relying on inaccurate information and insufficient auditing and

correction practices to market and generate its automated tenant screening reports, thereby

---

[39] *See What are my rights under the Fair Credit Reporting Act ("FCRA")?*, RentGrow, https://www.rentgrow.com/learn-now/#1489618308563-a366a28d-0f7b (last visited Oct. 1, 2024). Plaintiff does not bring this action based on violation of the FCRA; instead, Plaintiff alleges that RentGrow's failure to implement reasonable auditing and correction procedures, as well as its misrepresentation of compliance with requirements ***with which one reasonably expect the service to comply***, are violations of D.C. Code § 28-3904. Additionally, Defendants assure FCRA compliance in bids it submits to other cities. *See, e.g.*, *ScreeningWorks Pro Proposal*, Yardi (Jan. 20, 2022), https://epic.org/wp-content/uploads/2024/08/EPIC-24-08-6-IL-CHA-FOIA-240806-Rentgrow-proposal.pdf.

[40] *See, e.g.*, 15 U.S.C. §§ 1681e(b), 1681i.

[41] DCHA RentGrow Contract, *supra* note 4, at 9; *see also Schedule C: Required Supplemental Terms and Conditions*, Yardi, https://resources.yardi.com/documents/us-screening-schedule-c/ (last visited Aug. 9, 2024).

[42] *See Schedule C: Required Supplemental Terms and Conditions, id.*

[43] DCHA RentGrow Contract, *supra* note 4, at 9; *see also Schedule C: Required Supplemental Terms and Conditions*, *supra* note 41, at 6.

misrepresenting its offerings with the end result of making inaccurate or biased tenancy determinations that profoundly affect the lives of D.C. residents who have no choice when the Service is used to judge them.

IV.   RentGrow's Service causes enormous harm to D.C. Consumers.

53.   Due to the chronically inaccurate and biased data within RentGrow's tenant screening reports and recommendations, tenancy decisions relying on RentGrow's Service are unfair to District consumers seeking housing. False or incomplete tenant screening reports can directly impact whether District residents receive housing and on what terms.

54.   RentGrow claims to afford consumers an opportunity to review reports for "accuracy and completeness" and to offer an adequate mechanism for correcting inaccurate information when the aforementioned mistakes occur.

55.   This mechanism is an online form on RentGrow's website.[44]

56.   Despite this purported opportunity to participate in disputing information (of which many consumers are unaware, if they even know RentGrow is involved in the negative housing decisions affecting them), District consumers continue to be denied housing opportunities because of inaccuracies in RentGrow's reports.

57.   RentGrow's dispute process, when utilized, takes up to 30 days,[45] meaning consumers waiting on limited housing opportunities are put in an immensely stressful situation, waiting for RentGrow to make corrections while potentially losing housing opportunities in the

---

[44] *Dispute*, RentGrow, https://www.rentgrow.com/dispute-now/ (last visited Oct. 1, 2024).
[45] *If I submit a dispute, how long will it take?*, RentGrow, https://www.rentgrow.com/learn-now/#1489617231578-b2caac70-bf27 (last visited Oct. 1, 2024).

meantime.[46] This issue has been compounded in recent years, where demand for housing has exceeded supply in many cities,[47] including Washington, D.C., where "inventory shortages keep home prices elevated."[48] Consumers are, therefore, at risk of losing out on housing opportunities due to inaccurate reports.

58.   Upon information and belief, even if a consumer successfully disputes information in RentGrow's tenant screening reports, RentGrow does not vet third-party information collected after a dispute for any inaccuracies raised within the dispute. A consumer dispute submitted through RentGrow's website will not correct inaccuracies present within the third-party data sources that RentGrow uses. Therefore, any corrected inaccuracies in RentGrow's tenant screening reports may reemerge within future reports even after a successful consumer dispute.[49]

59.   This cumbersome and untimely consumer dispute process places an undue burden on consumers—who have likely already experienced a denial while in need of immediate housing—to identify inaccuracies or omissions within RentGrow's insufficiently maintained consumer dossiers and await any corrections.

60.   Further, District consumers—particularly HCVP participants—are very likely to be unable to rent a safe and affordable home until their inaccurate tenant screening report is corrected.

---

[46] "The duration for apartment application processing can vary based on several factors, but most applications take between 1 and 3 business days on average." Nichole Stohler, *Navigating the Rental Application Approval Process*, Azibo (Oct. 6, 2023), https://www.azibo.com/blog/rental-application-approval-process.

[47] Apartment List Research Team, *Apartment List National Rent Report*, Apartment List (June 26, 2024), https://www.apartmentlist.com/research/national-rent-data.

[48] Josh Patoka et al*., Washington, D.C. Housing Market: What's Happening In 2023?*, Forbes (July 12, 2023), https://www.forbes.com/advisor/mortgages/real-estate/washington-dc-housing-market/.

[49] Credit bureaus and data brokers regularly collect, trade, or resell consumer data between themselves, meaning that inaccuracies tend to propagate across datasets; consumers need to regularly remove or correct information across these data sources to prevent inaccuracies from reemerging. *See* Yael Graeuer, *How to Delete Your Information from People-Search Sites*, Consumer Reps. (Sept. 14, 2021), https://www.consumerreports.org/electronics/personal-information/how-to-delete-your-information-from-people-search-sites-a6926856917/.

61.   This negative impact is compounded by the fact that there is no easy way to correct

inaccuracies before denials occur, which increases both the duration of the harm to D.C. consumers

and the resources demanded of D.C. consumers to fix a problem created by RentGrow's offerings.

STATUTORY FRAMEWORK
The District's Consumer Protection Procedures Act

62.   This action is brought under the CPPA, D.C. Code § 28-3901, *et seq*.

63.   The CPPA makes it a violation for "any person" to, *inter alia*:

Represent that goods or services have a source, sponsorship, approval, certification, accessories, characteristics, ingredients, uses, benefits, or quantities that they do not have;

Represent that goods or services are of a particular standard, quality, grade, style, or model, if in fact they are of another;

Misrepresent as to a material fact which has a tendency to mislead;

Fail to state a material fact if such failure tends to mislead;

Use innuendo or ambiguity as to a material fact, which has a tendency to mislead;

Advertise or offer goods or services without the intent to sell them or without the intent to sell them as advertised or offered; or
violate any provision of Chapter 46 of this title.

D.C. Code §§ 28-3904(a), (d), (e), (f), (f-1), (h), (z-1).

64.   Regarding D.C. Code § 28-3904(z-1), Chapter 46 of the CPPA states, in part:

A consumer credit service organization shall not:

(3)   Make any statement or counsel or advise a consumer to make any statement regarding the consumer's creditworthiness, credit standing, or credit capacity that the consumer credit service organization knows or reasonably should have known is false or misleading to the following:

(A)   A credit reporting agency;

17

(B)   A person who has extended credit to a consumer; or

(C)   A person to whom a consumer is applying for an extension of credit.

D.C. Code § 28-4603(3).

65.   A violation of the CPPA may occur regardless of "whether or not any consumer is in fact misled, deceived or damaged thereby." *Id*. § 28-3904.

66.   The CPPA "establishes an enforceable right to truthful information from merchants about consumer goods and services that are or would be purchased, leased, or received in the District of Columbia." *Id*. § 28-3901(c). The statute "shall be construed and applied liberally to promote its purpose." *Id.*

67.   The purposes of the CPPA are to "assure that a just mechanism exists to remedy all improper trade practices and deter the continuing use of such practices" and to "promote, through effective enforcement, fair business practices throughout the community." *Id*. § 28-3901(b).

68.   As a public interest organization, Plaintiff NACA may act on behalf of the general public and bring any action that an individual consumer would be entitled to bring:

> [A] public interest organization may, on behalf of the interests of a consumer or a class of consumers, bring an action seeking relief from the use by any person of a trade practice in violation of a law of the District if the consumer or class could bring an action under subparagraph (A) of this paragraph for relief from such use by such person of such trade practice.

Id. § 28-3905(k)(1)(D)(i). Subparagraph (A) provides: "A consumer may bring an action seeking relief from the use of a trade practice in violation of a law of the District," and pursuant to § 28-3901(c), placing misinformation into the D.C. marketplace is a trade practice in violation of the

CPPA. Accordingly, Plaintiff has standing to challenge RentGrow's unfair trade practices in the District.

69.   A public interest organization may act on behalf of the interests of consumers, *i.e.*, the general public of the District of Columbia, so long as the organization has "sufficient nexus to the interests involved of the consumer or class to adequately represent those interests." *Id*. § 28-3905(k)(1)(D)(ii). As set forth in this Complaint, *see supra* ¶¶ 9-12, NACA is an organization dedicated to consumer advocacy. NACA, thus, has a sufficient nexus to D.C. consumers to adequately represent their interests.

70.   In 2018, the CPPA was amended to change "unlawful trade practices" to "unfair or deceptive trade practices" and emphasized that the Federal Trade Commission's ("FTC" or "Commission") and federal courts' interpretations of these terms in the FTC Act should be given due consideration and weight. D.C. Code § 28-3901(d).

71.   In 1980, the FTC issued a Policy Statement on Unfairness, defining an unfair trade practice as one resulting in a substantial injury to the consumer that is not outweighed by countervailing benefits to consumers or competition and that is not reasonably avoidable by the consumer.[50]

72.   In 2000, a former Commissioner noted that unfairness may occur where there is not privity between parties, and often involves practices that prey upon particularly vulnerable

---

[50] Michael Pertschuk et al., *FTC Policy Statement on Unfairness*, Fed. Trade Comm'n (1980), https://www.ftc.gov/legal-library/browse/ftc-policy-statement-unfairness.

consumers, and that the flexibility and adaptability of unfairness make it suitable to keep pace with changes in technology.[51]

73.   Since then, the FTC has said repeatedly that new technologies such as AI are not exempt from its rules and can constitute an unfair trade practice.[52]

74.   In April 2020, the Commission noted that a business should make sure that its AI models are validated and revalidated to ensure that they work as intended, and do not illegally discriminate.[53]

75.   In April 2021, the FTC noted that bias was an unfair outcome, and that selling or using biased algorithms could constitute an unfair or deceptive practice. This could include using a data set that is missing information from particular populations or using data that may yield unfair or inequitable results. This could also include exaggerating what an algorithm can do or whether it can deliver fair or unbiased results. In sum, if the AI model does more harm than good, its use is likely unfair.[54]

76.   In April 2023, as part of a Joint Statement on Enforcement Efforts Against Discrimination and Bias in Automated Systems, the FTC referenced an earlier report outlining

---

[51] Thomas B. Leary, Fed. Trade Comm'n, *Unfairness and the Internet* (2000), https://www.ftc.gov/news-events/news/speeches/unfairness-internet.

[52] *AI Companies: Uphold Your Privacy and Confidentiality Commitments*, FTC (Jan. 9, 2024), https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2024/01/ai-companies-uphold-your-privacy-confidentiality-commitments; *In Comment Submitted to U.S. Copyright Office, FTC Raises AI-related Competition and Consumer Protection Issues, Stressing That It Will Use Its Authority to Protect Competition and Consumers in AI Markets*, FTC (Nov. 7, 2023), https://www.ftc.gov/news-events/news/press-releases/2023/11/InCommentSubmittedtoUSCopyrightOfficeFTCRaisesAIrelatedCompetitionandConsumerProtectionIssuesStressingThatItWillUseItsAuthoritytoProtectCompetitionandConsumersinAIMarkets; *FTC Chair Khan and Officials from DOJ, CFPB and EEOC Release Joint Statement on AI*, FTC (Apr. 25, 2023), https://www.ftc.gov/news-events/news/press-releases/2023/04/ftc-chair-khan-officials-doj-cfpb-eeoc-release-joint-statement-ai.

[53] Andrew Smith, *Using Artificial Intelligence and Algorithms*, FTC (Apr. 8, 2020), https://www.ftc.gov/business-guidance/blog/2020/04/using-artificial-intelligence-algorithms.

[54] Elisa Jillson, *Aiming for truth, fairness, and equity in your company's use of AI*, FTC (Apr. 19, 2021), https://www.ftc.gov/business-guidance/blog/2021/04/aiming-truth-fairness-equity-your-companys-use-ai.

inaccuracy, bias, discrimination, and reliance on increasingly invasive forms of commercial surveillance in AI tools as potential deceptive or unfair practices. The FTC also stated that it may be a violation of the FTC Act to make claims about AI that are not substantiated or deploy AI before taking steps to assess or mitigate risks.[55] It also notes that developers do not always account for the contexts in which private or public entities will use their automated systems.[56]

77.   In December 2023, FTC Commissioner Bedoya noted in a statement regarding a recent decision, that the FTC has a "baseline for what a comprehensive algorithmic fairness program should look like." Bedoya stated, "Section 5 of the FTC Act requires companies using technology to automate important decisions about people's lives . . . to take reasonable measures to identify and prevent foreseeable harms."[57] He noted that it "hurts people invisibly and at scale . . .. Algorithmic unfairness hurts people who are already hurting"—*i.e.*, those hurt by patterns of discrimination.[58]

78.   Earlier this year, the FTC brought an enforcement action against the Rite Aid drugstore chain for its use of an algorithm known to discriminate based on protected characteristics, such as race and gender.[59]

---

[55] Lina M. Khan, *Joint Statement on Enforcement Efforts Against Discrimination and Bias in Automated Systems*, FTC (Apr. 25, 2023), at 2-3, https://www.ftc.gov/system/files/ftc_gov/pdf/EEOC-CRT-FTC-CFPB-AI-Joint-Statement%28final%29.pdf.

[56] *Id*. at 3.

[57] Alvaro Bedoya, *Statement of Commissioner Alvaro M. Bedoya on FTC v. Rite Aid Corporation*, FTC, at 4 (Dec. 19, 2023), https://www.ftc.gov/system/files/ftc_gov/pdf/2023190_commissioner_bedoya_riteaid_statement.pdf.

[58] *Id*. at 5.

[59] *FTC v. Rite Aid Corp.*, FTC (2024), https://www.ftc.gov/legal-library/browse/cases-proceedings/2023190-rite-aid-corporation-ftc-v.

79.   Discriminatory conduct that may violate The D.C. Human Rights Act, D.C. Code §§ 2-1401.01 – 2-1431.08 (the "DC HRA") is indicative of unfair practices that violate the DC CPPA.

80.   The District's Office of the Attorney General has brought multiple cases alleging that discriminatory conduct violates the DC CPPA, some of which also include violations of the DC HRA.[60]

81.   The Superior Court has found that discriminatory consumer practices can violate the CPPA as a matter of law.[61]

82.   This is not a class action, or an action brought on behalf of any specific consumer, but an action brought by NACA on behalf of the general public, *i.e.*, D.C. consumers generally, to put an end to ongoing conduct in violation of the CPPA. No class certification will be requested.

83.   This action does not seek damages. Instead, NACA seeks to end the unlawful conduct directed at D.C. consumers, *i.e.*, RentGrow's use of the Service to provide information that may be inaccurate, to the unfair detriment of District consumers seeking housing.

84.   Remedies available under the CPPA include "[a]n injunction against the use of the unlawful trade practice." *Id*. § 28-3905(k)(2)(D)–(F).

85.   NACA also seeks declaratory relief in the form of an order holding RentGrow's conduct to be unlawful in violation of the CPPA, and its attorneys' fees and costs incurred in bringing this action.

---

[60] *See, e.g.*, *District of Columbia v. Daro Realty, LLC*, No. 2020 CA 001015 B (D.C. Super. Ct.) (Williams, J.); *District of Columbia v. Curtis Investment Grp, Inc.* No. 2019 CA 004144 B (D.C. Super. Ct.) (Williams, J.); *District of Columbia v. Evolve, LLC*, No. 2018 CA 008262 B (D.C. Super. Ct.) (Pasichow, J.); *District of Columbia v. UDR, Inc.*, No. 2024-CAB-000635 (D.C. Super. Ct.) (Ross, J.).
[61] *See District of Columbia v. Evolve, LLC*, supra.

CAUSE OF ACTION
Violation of the Consumer Protection Procedures Act, D.C. Code §§ 28-3901–13.

86. Plaintiff incorporates by reference all the allegations of the preceding paragraphs of this Complaint.

87. The purpose of the CPPA is to "establish[] an enforceable right to truthful information from merchants about consumer goods and services that are or would be purchased, leased, or received in the District of Columbia." D.C. Code § 28-3901(c).

88. "It shall be a violation of this chapter for any person to engage in an unfair or deceptive trade practice, whether or not any consumer is in fact misled, deceived, or damaged." D.C. Code § 28-4904.

89. Plaintiff is a nonprofit, public interest organization that brings these claims on behalf of the general public of D.C. consumers. *See* D.C. Code § 28-3905(k)(1)(D).

90. Through § 28-3905(k)(1)(D), the CPPA explicitly allows for public interest standing and allows a public interest organization to stand in the shoes of consumers to seek relief from any violation of the CPPA.

91. Defendants are, collectively, a "person" and a "merchant" that provides "services" within the meaning of the CPPA. *See* D.C. Code § 28-3901(a)(1), (3), (7).

92. As alleged in this Complaint, Defendants commit unfair or deceptive trade practices affecting consumers within the District. RentGrow represents the Service as reliable for making critical housing decisions and suggests that consumers affected by inaccuracies have a reasonable accessible means to mount challenges to reports.

23

93. In truth, RentGrow knows that the Service is not reliable for making critical housing decisions, but instead prone to inaccuracies and biases. Despite notice of these issues, RentGrow has failed to implement sufficient testing, auditing, evaluation, or other quality control procedures to mitigate the risks of inaccuracies or biases within its Service—procedures that are standard under leading AI and ADM risk management standards and required under the FCRA.

94. In truth, RentGrow knows that, even if consumers know of inaccuracies in their ADM-generated tenant screening reports, those consumers—particularly HCVP participants—lack reasonably accessible means to mount challenges to those reports.

95. Thus, Defendants have violated the CPPA by "represent[ing] that goods . . . have a source . . . [or] characteristics . . . that they do not have"; "represent[ing] that goods . . . are of a particular standard, quality, grade, style, or model, if in fact they are of another"; "misrepresent[ing] as to a material fact which has a tendency to mislead"; "fail[ing] to state a material fact if such failure tends to mislead"; "us[ing] innuendo or ambiguity as to a material fact, which has a tendency to mislead"; "advertis[ing] . . . goods . . . without the intent to sell them as advertised;" "violat[ing] any provision of Chapter 46 of [the CPPA];" and/or otherwise "engag[ing] in an unfair or deceptive trade practice." D.C. Code § 28-3904(a), (d), (e), (f), (f-1), (h), (z-1).

96. The FTC has noted specifically that the use of AI and ADM systems which discriminate based on protected classes—whether via inputs or outcomes—is prohibited under its own unfair or deceptive acts or practices authority, the FTC Act, even if the AI or ADM system at issue does not explicitly use protected characteristics in its decision-making processes.

97.   The FTC recommends rigorous testing of algorithms to prevent these disparate impacts.

98.   The DC HRA prohibits discrimination on the basis of actual or perceived protected characteristics that results in limiting or refusing to provide any program, service or benefit. Discriminatory consumer practices constitute violations of the DC CPPA.

99.   The generally high error rate of the data incorporated into RentGrow's ADM systems, combined with the biased nature of the error rates from those data sources, raises significant concerns about discriminatory outcomes. These not only harm individual consumers but also risk perpetuating systemic inequalities in access to government and other services.

100.   The discriminatory inputs and outcomes of RentGrow's Service constitute a violation of the DC CPPA.

101.   The adverse impact RentGrow's inaccuracies has on groups protected under the DC HRA constitute an "unfair" practice.

102.   RentGrow's representations about respecting consumer's FCRA rights despite engaging in conduct the FTC has said violated FCRA constitute a "deceptive" practice.

JURY TRIAL DEMAND

103.   NACA hereby demands a trial by jury.

PRAYER FOR RELIEF

Wherefore, Plaintiff NACA prays for judgment against Defendants and requests the following relief:

A.   A declaration that Defendants' conduct is in violation of the CPPA;

B.   An order enjoining Defendants' conduct found to be in violation of the CPPA; and

C.   An order granting NACA's costs and disbursements, including reasonable attorneys' fees and expert fees, and prejudgment interest at the maximum rate allowable by law.

DATED: October 1, 2024

RICHMAN LAW & POLICY

_____
Kim E. Richman (D.C. Bar No. 1022978)
1 Bridge Street, Suite 83
Irvington, NY 10533
T: (914) 693-2018
krichman@richmanlawpolicy.com

**ELECTRONIC PRIVACY
INFORMATION CENTER**

_____
John Davisson (D.C. Bar No. 1531914)
1519 New Hampshire Avenue NW
Washington, DC 20036
T: (202) 483-1140
davisson@epic.org