

News and Legislation Relating to Employment and Background Checks

Federal News and Legislation:

E-Verify

- On October 6th, U.S. Citizenship and Immigration Services (USCIS) announced the launch of myE-Verify, a website for employees to create and maintain personal accounts to access features for identity protection. myE-Verify will utilize Self Check to verify identities in creating an account, and utilize Self Lock to allow users to “lock” their Social Security numbers. Initially, USCIS will provide myE-Verify to individuals in Arizona, Idaho, Colorado, Mississippi, Virginia, and the District of Columbia. At a later date, it will “roll out myE-Verify across the country with plans for additional features focused on employees and job seekers.” USCIS Director León Rodríguez stated, “myE-Verify signifies a significant step forward for added transparency, features, and identity protection.” Separately, on October 7th, USCIS announced that, as of January 1, 2015, it will dispose of E-Verify records more than 10 years old.

<http://www.uscis.gov/news/new-e-verify-service-combats-fraud-protects-identity-educates-workers>

<http://www.immigrationcomplianceinsights.com/2014/10/09/e-verify-record-disposal-employers-save-your-historic-records/>

Employment & Labor Practices

- On October 9th, a proposed class action was filed in a federal district court in California against LinkedIn Corp. for allegedly violating the Fair Credit Reporting Act (FCRA) through its “Trust References” function. The function allows prospective employers to pay a fee to access reference reports, which the class defines as a consumer report covered by the FCRA, for those employment applicants who maintain LinkedIn profiles. The class alleges that the “Trusted References” function does not require the requesting entity to certify that it will use the report lawfully under federal and state employment law and provide other certifications under the FCRA. The class also alleges, among other things, that LinkedIn failed to verify that recipients would use the report exclusively for permissible purposes and, further, “failed to follow any reasonable procedures to assure maximum possible accuracy of the information in the Reference Reports that it

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prepared.” The proposed class includes all LinkedIn users for whom a reference report was generated, and a subclass includes all members who applied for employment through a LinkedIn posting for employment.

(*Sweet, et al. v. LinkedIn* (N.D. Cal., Oct. 9, 2014).)

Background Checks

- On October 8th, the Consumer Financial Protection Bureau (CFPB) held a forum on access to checking accounts. The forum explored the role of credit reporting agencies in consumers’ application for a checking account as well as data used in a decision to open an account. The CFPB specified a particular interest in, among other things, increasing the accuracy of data furnished to and reported by consumer reporting agencies, including “specialty consumer reporting agencies,” as well as improving institutions’ ability to inform consumers of their right to know their account histories and correct any inaccuracies. CFPB Director Richard Cordray stated at the event, “In their screening for risk, banks and credit unions often rely on reports from...specialty consumer reporting agencies that also operate nationwide,” which “primarily collect and provide specific types of information on a consumer’s history, such as medical payments, tenancy, employment, or insurance claims.” Cordray stated an interest in three areas:
 - The accuracy of information in such reports;
 - Consumers’ ability to access such reports and to dispute any incorrect information; and
 - The use of such reports.

<http://www.consumerfinance.gov/newsroom/director-richard-cordray-remarks-at-the-cfpb-forum-on-checking-account-access/>

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