

News and Legislation Relating to Employment and Background Checks**Federal News and Legislation:****Background Checks**

- On November 26th, two employment agencies were sued in a proposed class action alleging that they violated the Fair Credit Reporting Act (FCRA) by using background checks on job applicants to make hiring decisions without providing applicants with copies of the background check reports before taking adverse action against the applicants. The complaint specifies that the Plaintiff was working at UnitedHealthcare, Inc. through Aerotek, Inc. (Aerotek), one of the two employment agencies Plaintiff interviewed with, when he received notice from Aerotek that his employment contract had been terminated based on his criminal history which the plaintiff alleges contained inaccurate information. “Specifically, the report contained two felonies and three misdemeanors, in addition to numerous items of personal information, which belong to at least two other unrelated persons,” the complaint alleges. According to the complaint, the Plaintiff never received notice from the employment agencies that they intended to take adverse action against him based on a consumer report and, thus, violated the FCRA.
(*Mitchell v. Aerotek, Inc., et al.*, No. 1:14-cv-03691 (D. Md., Nov. 26, 2014).)
- On November 24th, an Uber driver filed a class action lawsuit against Uber Technologies, Inc. (Uber) alleging violations of the FCRA, the Massachusetts Consumer Credit Reporting Act, and the California Consumer Credit Reporting Act by using background checks without applicants’ knowledge or authorization to make hiring decisions. The Plaintiff argues he had been working for Uber for approximately one month when he received an email from Uber’s employment screening agency stating that his employment contract had been terminated because of information obtained through a consumer reporting agency. The complaint emphasized that the information concerned a “minor criminal record...stem[ming] from [Plaintiff’s] seven children receiving much-needed Medicaid benefits.” The complaint alleged, “[i]n direct violation of the FCRA [and state laws], whenever adverse action is taken against an applicant on the basis of information disclosed on a consumer report, the defendants fail to afford the applicants the procedural safeguards mandated by law...including by failing to provide pre-adverse action notices and a reasonable opportunity to dispute information in such reports before taking adverse action.”
(*Mohamed v. Uber Technologies, Inc., et al.*, No. 3:14-cv-05200 (N.D. Cal., Nov. 24, 2014).)

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