

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

- On January 28th, Michaels Stores, Inc. (Michaels) was named in a putative class action lawsuit alleging the clothing retailer violated the Fair Credit reporting Act (FCRA) by failing to provide adequate notice of its use of background checks for prospective employees. According to the complaint, plaintiff applied for a position with Michaels and argues that the retailer failed to adequately notify the plaintiff that the company would procure a credit report on her. The FCRA requires that companies make this disclosure “clear and conspicuous.” “Defendant’s FCRA disclosure and authorization are embedded within an online employment application which appears as one long continuous Web page that applicants fill out, and which contains a liability release, among reams of other extraneous information,” the complaint says. “For these reasons, among others, defendant’s disclosure form violates the law.” The plaintiff seeks to represent a class of individuals who have applied for a job with Michaels during the previous two years.
(*Castro v. Michaels Stores Inc.*, No. 3:15-cv-00276 (N.D. Tex., Jan. 28, 2015).)
- On January 25th, a federal district court tentatively ruled that The Walt Disney Co. (Disney) cannot avoid a putative class action lawsuit alleging violations of the FCRA by using criminal background checks to make employment decisions without providing copies to prospective employees. The plaintiff alleges that Disney did not allow him to correct inaccurate information on background check forms involving a 1998 battery conviction. The conviction was later expunged, but not according to the documents Disney received. As a result, the plaintiff alleges Disney made an adverse employment decision based on the inaccurate information and did not hire plaintiff. Disney argued that the decision was not based on the conviction and that the position was only filled by another applicant prior to a decision on plaintiff’s application, thus, no “adverse action” was made in violation of the law. The court rejected Disney’s argument, stating that there is a “triable issue of fact.”
(*Roger L. Culberson II v. The Walt Disney Co.*, No. BC526351 (Cal. Super., Jan. 25, 2015).)

Corporate Headquarters
CARCO Group, Inc.
5000 Corporate Court, Suite 203
Holtsville, NY 11742
Main Telephone Number: 631-862-9300
CARCO Toll-Free Number: 800-969-2272
Fax (Inspection Services Division): 631-862-0380
Fax (Research Division): 631-584-7094
FAX 631/584-0095

Fayetteville Office
CARCO Group, Inc.
1030 Lillington Hwy
Spring Lake, NC 28390
910-497-0081
877-867-2359
Fax: 910-497-0162
sales@carcogroup.com

Palm Beach Gardens Office
4440 PGA Blvd. Suite 306
Palm Beach Gardens, FL 33410
561-249-7300
877-347-7711
Fax: 800-663-0874
sales@carcogroup.com

Tulsa Office
4500 S 129TH EAST AVE, SUITE 127
Tulsa, OK 74134-5801
918-640-6863
800-848-3397
Fax: 918-591-2854
sales@carcogroup.com

Tustin Office
17821 E 17th Street, Suite 160
Tustin, CA 92780
714-547-6541
CA License # 24087
sales@carcogroup.com



www.carcogroup.com

- On January 22nd, U.S. Representative Stephen Lynch (D-MA) introduced H.R. 490, “*To provide for a strategic plan to reform and improve the security clearance and background investigation processes of the Federal Government, and for other purposes.*” The bill would “require the President, within six months of the bill’s enactment, to submit a strategic plan to the appropriate congressional committees to improve security clearance and background investigation activities carried out by the Federal Government.” The bill specifies the plan should:
 - Establish evaluation or monitoring practices of individuals with security clearances;
 - Ensure that the background for each individual is monitored regularly;
 - Improve procedures to promote information sharing between agencies; and
 - Enhance information sharing between state and local law enforcement.The bill states that the plan should be implemented no later than one year after the president submits it to the appropriate committee.
<https://www.congress.gov/114/bills/hr490/BILLS-114hr490ih.pdf>

- On January 20th, Whole Foods Market Group, Inc. (Whole Foods) argued that a former employee’s complaint alleging that the grocery chain violated the FCRA requirements on employment background checks is “blatantly false,” requiring the case to be dismissed. The plaintiff’s complaint alleges that Whole Foods fails to provide proper consumer report disclosure documentation to prospective employees during the application process. Whole Foods filed a motion to dismiss, arguing that the claims are false and that Whole Foods, in fact, provided disclosure forms that complied with the FCRA and offered copies of its disclosure release form as evidence. “Whole Foods’ Disclosure Statement...fully complies with all of the foregoing FCRA disclosure requirements,” Whole Foods said in its motion to dismiss. “And, by way of his signature, plaintiff signified receipt of this disclosure statement on March 11, 2011.”
(*Colin Speer v. Whole Foods Group Market, Inc.*, No. 8:14-cv-03035 (M.D. Fla., Jan. 20, 2015).)

- On January 16th, U.S. Senator John Hoeven (R-ND) introduced S. 184, “*The Native American Children’s Safety Act.*” The bill would amend the Indian Child Protection and Family Violence Prevention Act to require background checks before foster care placements are ordered in tribal court proceedings. Specifically, the bill states that “no

Corporate Headquarters
CARCO Group, Inc.
5000 Corporate Court, Suite 203
Holtsville, NY 11742
Main Telephone Number: 631-862-9300
CARCO Toll-Free Number: 800-969-2272
Fax (Inspection Services Division): 631-862-0380
Fax (Research Division): 631-584-7094
FAX 631/584-0095

Fayetteville Office
CARCO Group, Inc.
1030 Lillington Hwy
Spring Lake, NC 28390
910-497-0081
877-867-2359
Fax: 910-497-0162
sales@carcogroup.com

Palm Beach Gardens Office
4440 PGA Blvd. Suite 306
Palm Beach Gardens, FL 33410
561-249-7300
877-347-7711
Fax: 800-663-0874
sales@carcogroup.com

Tulsa Office
4500 S 129TH EAST AVE, SUITE 127
Tulsa, OK 74134-5801
918-640-6863
800-848-3397
Fax: 918-591-2854
sales@carcogroup.com

Tustin Office
17821 E 17th Street, Suite 160
Tustin, CA 92780
714-547-6541
CA License # 24087
sales@carcogroup.com



www.carcogroup.com

foster care placement shall be finally approved and no foster care license shall be issued until the tribal social services agency—(i) completes a criminal records check of each covered individual who resides in the household or is employed at the institution in which the foster care placement will be made.” Relevant background check information includes fingerprint-based checks of national crime data bases and any abuse registries maintained by the Indian tribe.

<https://www.congress.gov/114/bills/s184/BILLS-114s184is.pdf>

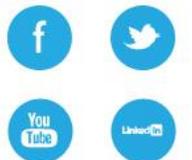
Corporate Headquarters
CARCO Group, Inc.
5000 Corporate Court, Suite 203
Holtsville, NY 11742
Main Telephone Number: 631-862-9300
CARCO Toll-Free Number: 800-969-2272
Fax (Inspection Services Division): 631-862-0380
Fax (Research Division): 631-584-7094
FAX 631/584-0095

Fayetteville Office
CARCO Group, Inc.
1030 Lillington Hwy
Spring Lake, NC 28390
910-497-0081
877-867-2359
Fax: 910-497-0162
sales@carcogroup.com

Palm Beach Gardens Office
4440 PGA Blvd. Suite 306
Palm Beach Gardens, FL 33410
561-249-7300
877-347-7711
Fax: 800-663-0874
sales@carcogroup.com

Tulsa Office
4500 S 129TH EAST AVE, SUITE 127
Tulsa, OK 74134-5801
918-640-6863
800-848-3397
Fax: 918-591-2854
sales@carcogroup.com

Tustin Office
17821 E 17th Street, Suite 160
Tustin, CA 92780
714-547-6541
CA License # 24087
sales@carcogroup.com



www.carcogroup.com