

News and Legislation Relating to Employment and Background Checks

Federal News and Legislation:

Background Checks

- On June 9th, a federal district court denied Uber Technologies, Inc.'s (Uber) attempt to send to arbitration two putative class actions alleging that the ridesharing company violated the Fair Credit Reporting Act (FCRA) by conducting background checks on prospective drivers without their consent. Uber, in its motion to compel arbitration argued that the plaintiffs signed employment contracts containing arbitration provisions. However, the court denied Uber's motion to compel arbitration, ruling that the arbitration provisions in the 2013 and 2014 employment contracts were unenforceable, in part, because the arbitration provisions within the employment contract were not easily identifiable. Specifically, the court stated that, "[d]rivers' opt-out right under the 2013 agreement was illusory because the opt-out provision was buried in the contract," adding that, "[t]he opt-out provision was printed on the second-to-last page of the 2013 agreement, and was not in any way set off from the small and densely packed text surrounding it."
(*Abdul Kadir Mohamed v. Uber Technologies, Inc. et al.*, No. 3:14-cv-05200 (N.D. Cal., June 9, 2015).)
(*Ronald Gillette v. Uber Technologies et al.*, No. 3:14-cv-05241 (N.D. Cal., June 9, 2015).)
- On June 9th, a plaintiff filed a putative class action against Avis Budget Car Rental LLC (Avis) for allegedly violating the Fair Credit Reporting Act (FCRA) by using consumer reports to make employment decisions without providing the prospective employee sufficient notification. The plaintiff argues that Avis denied her application for employment in 2013 based on a background check finding that she got a \$40 ticket for drinking an alcoholic beverage in a vehicle 28 years earlier. According to the plaintiff, she was not notified that Avis would conduct a background check, nor was she offered an opportunity to dispute the accuracy of the background check.
(*Fuller v. Avis Budget Car Rental LLC et al.*, No. 2:15-cv-03856 (D.N.J., June 9, 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 June 9th, a plaintiff filed a putative class action against The Hertz Corp. (Hertz) for allegedly violating the FCRA by failing to properly warn applicants that they would obtain a consumer report on the individual during the hiring process. According to the complaint, the plaintiff was denied employment at Hertz after conducting an improper background check on him. The complaint alleges that Hertz “systemically” violates the FCRA by failing to notify prospective employees in writing that the company will conduct background checks, including requesting a consumer report. According to the plaintiff, “[d]espite defendants’ awareness of their legal obligations, defendants have acted consciously in breaching their known duties and depriving plaintiff and other job applicants of their rights under the FCRA.”
(Lee v. The Hertz Corporation et al., No. 3:15-cv-02545 (N.D. Cal., June 9, 2015).)
- On June 1st, the U.S. House passed by voice vote HR 1168, 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.” The Senate version, S. 184, passed in the Senate without amendment by unanimous consent. Specifically, the bill would require that, prior to a foster care placement or approval of a foster care license, the tribal social services agency:
 - Complete 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; and
 - Conclude that each covered individual...meets such [background check] standards as the Indian tribe shall establish.

The bill would require that such standards must include, among other things:

- Fingerprint-based checks of national crime information databases;
- Checks on any abuse registries by the Indian tribe; and
- Checks in any child abuse and neglect registry maintained by the State in which the covered individual resides.

(House Bill: <http://www.gpo.gov/fdsys/pkg/BILLS-114hr1168rh/pdf/BILLS-114hr1168rh.pdf>. Senate Bill: <http://www.gpo.gov/fdsys/pkg/BILLS-114s184es/pdf/BILLS-114s184es.pdf>).

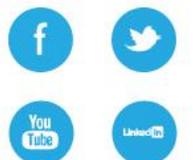
Corporate Headquarters
CARCO Group, Inc.
5000 Corporate Court, Suite 203
Holtsville, NY 11742
Main Telephone Number: 631-862-9300
CARCO Toll-Free Number: 800-969-2272
Fax (Inspection Services Division): 631-862-0380
Fax (Research Division): 631-584-7094
FAX 631/584-0095

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