

Labor and Employment Alert: Fair Credit Reporting Act – Attention to Detail Matters

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A federal district court in Virginia last week tentatively approved a \$4 million settlement between Dollar General and a nationwide class of job applicants to settle a proposed class action claiming that the company did not properly notify more than 100,000 job applicants since 2007 that they would be screened by background checks. The plaintiffs alleged that Dollar General violated the Fair Credit Reporting Act (FCRA) by failing to comply with the notice requirements of the FCRA when conducting background checks, making adverse employment decisions based on the reports received in those background checks, and failing to provide applicants with an opportunity to correct mistakes in those reports prior to denying jobs to applicants.

Based on the allegations in the complaint filed in this case, it appears that the company was making an attempt to comply with the FCRA, but may not have been complying with all of the specific requirements of the FLSA. For example, there were allegations that the company was using an outdated FCRA summary of rights notice. There were also allegations that applicants were not receiving a copy of the consumer report until after the hiring decision was made, which deprived the applicants of the opportunity to contest mistakes in their reports.

This settlement serves as a reminder to all employers to review their FCRA compliance. Among the issues employers should consider when reviewing FCRA compliance are:

- Are we sending out all notices required by the FCRA?
- Are we doing so in a timely manner per the FCRA?
- Are our forms up to date and compliant with all FCRA requirements?

If you need any assistance in determining whether your FCRA forms and procedures are up to date and comply with FCRA requirements, please contact your Vorys lawyer.