

Stanford Facing FCRA Class Action (Again)

Article By:

Womble Bond Dickinson (US), LLP

Stanford University is facing a new FCRA class action with, potentially, over a thousand class members. And it's not the first time Stanford has faced these claims.

According to the class action complaint in *Richards v. Leland Stanford Junior University et al*, Theresa Richard applied and was hired to work as a dining hall worker at Stanford University. During the application process, Ms. Richard completed Stanford's standard application form, which permitted Stanford to obtain a consumer report on the Ms. Richard's background. The clause in question provided:

I authorize a thorough investigation of my prior employment, education background, criminal record and, where applicable to a position, credit check and/or driving record. I agree to cooperate in such an investigation, to execute any consent forms required in connection with those investigations, and release from [sic] all liability and responsibility all persons or entities requesting or supplying such information. I understand that employment is conditional based on investigation results.

Ms. Richard's class action complaint alleges that Stanford both failed to make a proper disclosure and failed to get proper authorization under the Fair Credit Reporting Act. Specifically, Ms. Richard cites to 15 U.S.C. § 1681b(b)(2)(A)(i) and (ii), which provides:

Except as provided in subparagraph (B), a person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer, unless—

- a clear and conspicuous disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes;
- the consumer has authorized in writing (which authorization may be made on the document referred to in clause (i)) the procurement of the report by that person.

15 U.S.C. § 1681b(b)(2)(A)(i). The complaint seeks statutory damages of up to \$1,000 per violation, punitive damages, attorney's fees and costs. Stanford's exposure here may be significant: Ms. Richard's claims assert potentially thousands of violations of the Fair Credit Reporting Act and more than one thousand class members.

Notably, this isn't the first time that Stanford has faced FCRA claims for the disclosures in their application forms. In 2015, Stanford faced precisely the same claims from another employee.

In *Lagos v. Leland Stanford Junior Univ.*, the plaintiff brought a class action complaint, asserting the same FCRA claims as Ms. Richards. Lagos survived a motion to dismiss in that case. No. 5:15-CV-04524-PSG, 2015 WL 7878129, at *2 (N.D. Cal. Dec. 4, 2015). Ms. Richard's Complaint purports to bring the class action on behalf of herself and all individuals for whom a consumer report was procured by Stanford for employment purposes dating back to August 16, 2015 – the same month Lagos filed his class action Complaint against Stanford.

Stay tuned.

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