

# **Fair Credit Reporting Act Continues to Fuel Class Action Litigation**

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The Fair Credit Reporting Act (FCRA) continues to cause issues for employers that run afoul of its provisions when reviewing consumer background reports as part of the hiring process. Most recently, a proposed class action was filed against Starbucks Corporation.

On September 20, 2017, plaintiff Kevin Wills filed a proposed class action in federal court in Georgia, alleging that Starbucks rejected job applicants after reviewing the applicants' respective consumer background reports without first providing them with a copy of their reports or notifying them of their rights, in violation of the FCRA. The plaintiff seeks to certify a nationwide class of Starbucks job applicants who were denied at least five days' notice of an adverse employment action based on their consumer background reports.

As a reminder, the FCRA requires employers to:

- Certify to job applicants that consumer background reports will be used for a “permissible purpose”;
- Provide written disclosure and receive written authorization from job applicants before obtaining consumer reports;
- Provide notice to job applicants, including a copy of the consumer background report relied upon and notice of the applicant's rights under the FCRA, before making any adverse employment decisions; and
- Provide job applicants, orally, in writing, or electronically, with an adverse action notice after making any adverse employment decisions based on a consumer background report.

In addition, state laws may restrict an employer's use of consumer background reports, especially credit reports, when making employment decisions.

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