

# Retailers Should Beware Of Lawsuits Concerning Their Background Check Processes

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The employee notice requirements of the Fair Credit Reporting Act ("FCRA") at times seem like form over substance – but recent litigation underscores that, well, filling out the forms really does matter.

The craft supply retailer Michaels Stores, Inc. was sued with a proposed class action in January alleging that the company's background check notices to prospective employees are inadequate. The lawsuit specifically alleges that Michaels fails to supply employees with a separate document explaining that the company may obtain consumer reports on them, required by the FCRA and U.S. Federal Trade Commission regulations.

This lawsuit represents a trend of litigation against employers, retailers in particular, for violations of background check laws. Further, these lawsuits have been coming in the form of class actions which can result in large settlements if the allegations have a basis. Dollar General Corp. and Publix Super Markets Inc. recently agreed to pay nearly \$11 million to settle similar class actions and Whole Foods Market Group, Inc. has also been sued recently.

Employers large and small should take the time to analyze their background check procedures to ensure compliance with FCRA and related guidelines now to help avoid potentially large liabilities. It is one of those simple internal reviews that can save the company a lot of money and stress later.