



# Background Checks - Buyer [Employer] Beware!

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As we recently reported at our annual employment law seminar and discussed in Did You Know...New Informal Guidance From EEOC & FTC On Background Checks, background checks are not only the focus of the EEOC and FTC, but also plaintiff class action attorneys. Underscoring this point is the recent putative class action filed against UBS Financial Services, Inc.

The Plaintiff alleges, on behalf of a class of potentially thousands of members, that UBS violates the Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq. (FCRA) by systematically (1) procuring consumer reports about current or prospective employees and, inter alia, deceptively embedding improper release language, in the consumer consent and disclosure document that UBS requires prospective and current employees to sign prior to ordering a background check; and (2) using employment background checks to make adverse employment decisions without providing the consumer job applicants who are the subjects of the background checks a copy of the report used, along with a summary of his or her rights. The plaintiff seeks, inter alia, class certification, punitive damages and statutory damages between \$100 to \$1,000 per violation per class member.

It is critical for employers to be knowledgeable about and compliant with federal, state and local laws/regulations regarding background checks to avoid being the target of such lawsuits.