

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE**

ERIN KNIGHTS, individually and as
a representative of the class,

Civil Action No.

Plaintiff,

**COMPLAINT – CLASS ACTION
(JURY TRIAL DEMANDED)**

v.

PUBLIX SUPER MARKETS, INC.

Defendant.

Erin Knights (“Plaintiff”), by and through her attorneys, on behalf of herself and the class set forth below, brings the following Class Action Complaint against Publix Super Markets, Inc. (“Defendant” or “Publix”).

PRELIMINARY STATEMENT

1. This putative class action is brought pursuant to the Fair Credit Reporting Act (“FCRA”) against a large supermarket chain. Defendant routinely violated the FCRA’s core protections by procuring background checks on employees and job applicants without providing a “stand alone” disclosure that a background check would be procured.

2. Recognizing that people’s jobs depend on the accuracy of consumer reports, Congress has chosen to regulate the procurement, use and content of such background checks through the FCRA. 15 U.S.C. § 1681.

3. The FCRA contains several provisions which pertain specifically to the use of consumer reports for employment purposes. In light of the potentially determinative role that consumer reports can play regarding an applicant’s employment prospects, employers are

required to ensure that all applicants are aware of the employer's intention to procure a background check.

4. Specifically, an employer or prospective employer cannot “procure, 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.” 15 U.S.C. § 1681b(b)(2)(A)(i) (emphasis added).

5. The disclosure requirements are important because they enable consumers to control and correct the information that is being disseminated about them by third parties.

6. Consumers have a statutory right to both obtain a copy of their consumer reports and to have errors in their reports corrected. *See* 15 U.S.C. §§ 1681g, 1681i. In order to enable consumers to exercise those rights, it is critical that consumers are aware that a report is going to be procured so that, if they choose, they can request a copy of the report to proactively ensure that it does not contain any errors.

7. Defendant has willfully and systematically violated 15 U.S.C. § 1681b(b)(2)(A)(i) by procuring consumer reports on Plaintiff and other putative class members for employment purposes, without first making proper disclosures in the format required by the FCRA.

8. Defendant's “Background Check Authorization” plainly does not comply with the FCRA's disclosure provisions. *Exhibit 1*.

9. The Background Check Authorization is not a stand-alone disclosure within the meaning of the FCRA because it includes extraneous information about the following, *inter alia*:

(a) A purported release of liability for Defendant, its employees, its authorized agents and representatives; and

(b) Statements that applicants will not be eligible for employment if they do not consent. *Ex. 1.*

10. Defendant's decision to turn a document that is supposed to serve as a *notice* of a consumer's rights into a document which purports to serve as a *waiver* of those same legal rights is conclusive evidence of the willfulness of Defendant's violation of the FCRA.

11. Based on Defendant's conduct, Plaintiff asserts FCRA claims on behalf of herself and the class defined below. On behalf of herself and the class, Plaintiff seeks statutory damages, punitive damages, attorneys' fees, litigation costs, and all other available relief.

PARTIES

12. Individual and representative Plaintiff Erin Knights is a resident of Gallatin, Tennessee.

13. Defendant Publix Super Markets, Inc. is a chain of supermarkets that has locations throughout Florida, Georgia, Alabama, South Carolina, and Tennessee. It is one of the "10 largest-volume supermarket chains in the United States" and has a "[c]urrent employee count of more than 165,000." *Exhibit 2.*

JURISDICTION AND VENUE

14. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 because this action involves a federal question.

15. Venue is proper in this District because Plaintiff resides here, applied for employment here, and because Defendant does business here.

ALLEGATIONS RELATING TO PLAINTIFF KNIGHTS

16. In early 2013, Plaintiff applied for a job with Defendant through an electronic application kiosk located at a store in Hendersonville, Tennessee.

17. The kiosk consisted, essentially, of a computerized interface. Plaintiff was guided through a series of computer screens and asked to enter information about herself into the computerized interface through a keyboard. Part of the application process also consisted of a quiz wherein Plaintiff was required to answer certain questions about how she might respond to certain situations at Publix.

18. One of the screens contained a purported “background check authorization.”

19. A copy of the text which appeared on that screen is attached hereto as Exhibit 1. Plaintiff pressed on the button at the bottom of the screen to indicate “I Consent.”

20. No other screens or documents involved in Plaintiff’s kiosk application pertained to Defendant’s background check process.

21. As noted *supra*, neither the background check authorization screen nor any other screen involved in Defendant’s kiosk job application complied with the FCRA requirement that an entity procuring a consumer report for employment purposes disclose that fact in a document that *consists solely of the disclosure*.

22. Instead, Defendant’s background check authorization screen contained extraneous information which blatantly violated the “stand alone disclosure” requirement, and undercut the very purpose of the requirement in the first instance.

23. Specifically, the authorization screen contained a liability release which stated “I release Publix Super Markets, Inc., its employees, its authorized agents and representatives from

any liability in connection with any decisions made concerning my employment based on information reported.” *Exhibit 1*.

24. Despite its failure to provide Plaintiff with the required stand-alone disclosure, Defendant subsequently requested that its outside consumer reporting agency, American Background Information Services, Inc. (“ABI”), provide it with a consumer report on Plaintiff.

25. On or about June 4, 2013, ABI furnished the consumer report attached hereto as Exhibit 3 to Defendant.

26. Defendant willfully violated 15 U.S.C. § 1681b(b)(2)(A)(i) by procuring a consumer report on Plaintiff for employment purposes without first providing Plaintiff a clear and conspicuous written disclosure, in a document consisting *solely of the disclosure*, that a consumer report may be obtained for employment purposes.

ALLEGATIONS RELATING TO DEFENDANT’S BUSINESS PRACTICES

27. Defendant conducts background checks on job applicants as part of its standard screening process.

28. Defendant does not perform these background checks in-house. Rather, Defendant relies on outside consumer reporting agencies to obtain this information and report it to Defendant. These reports constitute “consumer reports” for purposes of the FCRA.

29. Defendant uses ABI as its consumer reporting agency. ABI was acquired by Sterling Infosystems, Inc. in 2010.

30. For monetary fees, ABI regularly engages in whole or in part in the practice of assembling or evaluating consumer information for the purposes of furnishing consumer reports, i.e., ABI is a “consumer reporting agency” within the meaning of the FCRA. ABI specializes in providing employment background check reports containing, among other types of information,

criminal history information, to its clients including employers and prospective employers.

Exhibit 4.

31. The FCRA requires that, prior to procuring consumer reports, employers must certify to the consumer reporting agency that they will comply with the FCRA's stand-alone disclosure requirements. *See* 15 U.S.C. § 1681b(b).

32. In accordance with ABI's standard procedures, ABI required Defendant to certify that it would comply with the stand-alone disclosure provisions of the FCRA.

33. Defendant did, in fact, certify to ABI that it would comply with the stand-alone disclosure provisions of the FCRA

34. ABI offers its clients FCRA compliance seminars taught by Richard I. Greenberg, a partner at the employment law firm of Jackson Lewis LLP, and Joe Rotondo, the Vice President of Regulatory Compliance at Sterling Infosystems, Inc. *See Exhibit 5 at 19-21.* In its seminars, ABI warns clients to "Be Careful Of Extraneous Information On Stand-Alone Disclosure[.]" *Id. at 21, ¶ 1.* ABI also warns its client that "A Separate Stand-Alone Disclosure Is Mandated." *Id. at 20, ¶ 2.*

35. Despite the representations it made to, and the instructions it received from, ABI, Defendant inserted a liability release and other information into its Background Check Authorization.

36. Defendant's practices violate a fundamental protection afforded to employees under the FCRA, are contrary to the unambiguous language of the statute and are counter to longstanding judicial and regulatory guidance. *See Exhibit 6, (Hauxwell, 1998) ("[T]he [disclosure] form should not contain any extraneous information ... The inclusion of such a*

waiver in a disclosure form will violate Section 604(b)(2)(A)¹ of the FCRA, which requires that a disclosure consist ‘solely’ of the disclosure that a consumer report may be obtained for employment purposes.”).

37. By systematically inserting a liability release and other extraneous information into Plaintiff’s and other class members’ disclosures, Defendant willfully violated 15 U.S.C. § 1681b(b)(2)(A)(i).

CLASS ACTION ALLEGATIONS

38. Plaintiff asserts her claim on behalf of the class defined as follows:

All individuals who:

1. applied to Publix through an application kiosk;
2. whose electronic kiosk-based application included a purported liability release regarding consumer reports like that in Exhibit 1; and,
3. on whom Publix procured a background checks for employment purposes in the period beginning two years prior to the filing of the Complaint and continuing through the date the class list is prepared.

39. Numerosity: The class is so numerous that joinder of all class members is impracticable. Defendant regularly uses its disclosure to procure consumer reports on job applicants. Thousands of Defendant’s prospective and existing employees satisfy the class definition.

40. Typicality: Plaintiff’s claims are typical of the members of the class. Defendant typically uses an identical disclosure to procure consumer reports on prospective and existing employees. The FCRA violations suffered by Plaintiff are typical of those suffered by

¹ This section of the FCRA is currently located in the U.S. Code at 15 U.S.C. § 1681b(b)(2)(A). The text remains the same as it was when the guidance was issued.

other class members, and Defendant treated Plaintiff consistent with other class members in accordance with its standard practices.

41. Adequacy: Plaintiff will fairly and adequately protect the interests of the class and has retained counsel experienced in complex class action litigation.

42. Commonality: Common questions of law and fact exist as to all members of the class and predominate over any questions solely affecting individual members of the class, including but not limited to:

- (a) Whether Defendant procured consumer reports on prospective and existing employees;
- (b) Whether Defendant violated the FCRA by procuring such consumer reports without a FCRA-compliant disclosure;
- (c) Whether Defendant's FCRA violations were willful;
- (d) The proper measure of statutory damages; and
- (e) The proper measure of punitive damages.

43. Class certification is appropriate under Fed. R. Civ. P. 23(b)(3) because questions of law and fact common to the class predominate over any questions affecting only individual members of the class, and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation. Defendant's conduct described in this Complaint stems from common and uniform policies and practices, resulting in common violations of the FCRA. Class certification will also preclude the need for unduly duplicative litigation that might result in inconsistent judgments concerning Defendant's practices. Moreover, management of this action as a class action will not present any likely difficulties. In the interests of justice and

judicial efficiency, it would be desirable to concentrate the litigation of all class members' claims in a single forum.

44. Plaintiff intends to send notice to all members of the class to the extent required by Fed. R. Civ. P. 23. The names and addresses of the class members are available from Defendant's records.

CLAIM FOR RELIEF
Procuring Consumer Reports without First Making Proper Disclosures
15 U.S.C. § 1681b(b)(2)(A)(i)

45. Defendant procured consumer reports, as defined by the FCRA, on Plaintiff and all class members. These reports were procured for employment purposes without first providing Plaintiff or any class member a clear and conspicuous disclosure made in writing, in a document consisting solely of the disclosure, that a consumer report may be obtained for employment purposes in violation of 15 U.S.C. § 1681b(b)(2)(A)(i).

46. The foregoing violations were willful. Defendant acted in deliberate or reckless disregard of its obligations and the rights of Plaintiff and other class members under 15 U.S.C. § 1681b(b)(2)(A)(i). Defendant's willful conduct is reflected by, *inter alia*, the following:

- (a) The FCRA was enacted in 1970; Defendant, which was founded in 1930, has had over 40 years to become compliant;
- (b) Defendant's conduct is inconsistent with the FTC's longstanding regulatory guidance, judicial interpretation, and the plain language of the statute;
- (c) Defendant knew or had reason to know from its communications with ABI that Defendant's conduct violated the FCRA;

- (d) Defendant certified to ABI that it would comply with the disclosure requirements of the FCRA;
- (e) Defendant repeatedly and routinely uses the disclosure it used with Plaintiff to procure consumer reports;
- (f) Defendant's inclusion of a liability release clearly implies awareness by Defendant that it could be held liable for improperly procuring a consumer report;
- (g) Despite the pellucid statutory text and there being a depth of guidance, Defendant systematically procured consumer reports without first disclosing in writing to the consumer *in a document that consists solely of the disclosure*, that a consumer report may be obtained for employment purposes; and
- (h) By adopting such a policy, Defendant voluntarily ran a risk of violating the law substantially greater than the risk associated with a reading that was merely careless.

47. Plaintiff and the class are entitled to statutory damages of not less than \$100 and not more than \$1,000 for each and every one of these violations, pursuant to 15 U.S.C. § 1681n(a)(1)(A).

48. Plaintiff and the class are entitled to such amount of punitive damages as the Court may allow pursuant to 15 U.S.C. § 1681n(a)(2).

49. Plaintiff and the class are further entitled to recover their costs and attorneys' fees, pursuant to 15 U.S.C. § 1681n(a)(3).

PRAYER FOR RELIEF

50. WHEREFORE, Plaintiff, on behalf of herself and the class, prays for relief as follows:

- (a) Determining that this action may proceed as a class action under Rule 23(b)(3) of the Federal Rules of Civil Procedure;
 - (b) Designating Plaintiff as Class Representative and designating Plaintiff's Counsel as counsel for the class;
 - (c) Issuing proper notice to the class at Defendant's expense;
 - (d) Declaring that Defendant committed multiple, separate violations of the FCRA;
 - (e) Declaring that Defendant acted willfully, in deliberate or reckless disregard of Plaintiff's and class members' rights and Defendant's obligations under the FCRA;
 - (f) Awarding statutory and punitive damages as provided by the FCRA;
 - (g) Awarding reasonable attorneys' fees and costs as provided by the FCRA;
- and
- (h) Granting other and further relief, in law or equity, as this Court may deem appropriate and just.

DEMAND FOR JURY TRIAL

51. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff and the class demand a trial by jury.

Date: March 12, 2014



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ATTORNEYS FOR PLAINTIFF

Exhibit 1

Background Check Authorization

You are hereby advised that, for purposes of employment, Publix Super Markets, Inc. may obtain a report concerning your criminal history. This may be considered a "consumer report", as defined by the Fair Credit Reporting Act (FCRA).

Please select the "I Consent" button indicating that you have read the Statement of Consent, and that you understand its contents. If you select the "I Do Not Consent" button, Publix will not further consider you for employment.

Upon request, the Customer Service counter will provide a paper copy of this Background Check Authorization, at no charge.

Statement of Consent

I hereby authorize Publix Super Markets, Inc. to order criminal background reports for purposes of initial and continued employment. I understand that the information may be obtained from courts of law, law enforcement agencies, other agencies or any other public record. I authorize all persons who have information relevant to my criminal background (if any) to disclose such to Publix Super Markets, Inc. I release Publix Super Markets Inc., its employees, its authorized agents and representatives from any liability in connection with any decisions made concerning my employment based on information reported.

Please check here to receive a copy of the Background Report. (CA, OK, and MN residents only.)

Consent

Do Not Consent

Background Check Authorization

You are hereby advised that, for purposes of employment, Publix Super Markets, Inc. may obtain a report concerning your criminal history. This may be considered a "consumer report", as defined by the Fair Credit Reporting Act (FCRA).

Please select the "I Consent" button indicating that you have read the Statement of Consent, and that you understand its contents. If you select the "I Do Not Consent" button, Publix will not further consider you for employment.

Upon request, the Customer Service counter will provide a paper copy of this Background Check Authorization, at no charge.

This authorization will remain valid unless withdrawn using the procedure described below. I further understand that I have a right to make a written request to Publix's Associate Relations department, P.O. box 407, Lakeland, FL 33802-0407, within a reasonable period of time, for a complete and accurate disclosure of the nature and scope of the investigation requested, for a written summary of my rights under the FCRA, to withdraw my consent and/or request a copy of my report. In the event that I withdraw my consent, I realize I will not be eligible for employment.

Please check here to receive a copy of the Background Report. (CA, OK, and MN residents only.)

Consent

Do Not Consent

Background Check Authorization

You are hereby advised that, for purposes of employment, Publix Super Markets, Inc. may obtain a report concerning your criminal history. This may be considered a "consumer report", as defined by the Fair Credit Reporting Act (FCRA).

Please select the "I Consent" button indicating that you have read the Statement of Consent, and that you understand its contents. If you select the "I Do Not Consent" button, Publix will not further consider you for employment.

Upon request, the Customer Service counter will provide a paper copy of this Background Check Authorization, at no charge.

withdraw my consent and/or request a copy of my report. In the event that I withdraw my consent, I realize I will not be eligible for employment.

I further agree that should I accept an offer of employment, the company may need to update this information or conduct subsequent investigations from time to time during my employment and I expressly authorize such acts. (Not applicable for CA residents.)

Please check here to receive a copy of the Background Report. (CA, OK, and MN residents only.)

Consent

Do Not Consent

Exhibit 2

Welcome to Publix!



You've come to the right place for shopping pleasure online. Choose your store and your entire experience will be customized just for you, from saving grocery lists for easy shopping to saving menus for events, creating your own box of go-to recipes to managing cooking school classes, and more. Make the most of your publix.com today—just enter your z

 

ABOUT PUBLIX

- ▶ **Company Overview**
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 - ▶ [Facts & Figures](#)
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General Information

- Founded by the late George W. Jenkins in 1930 in Winter Haven, Fla.
- Largest employee-owned supermarket chain in the United States
- One of the 10 largest-volume supermarket chains in the United States
- 2012 retail sales of \$27.5 billion
- Current employee count of more than 165,500

Company Recognition

Store Locations

- 1,077 supermarkets in:
- Florida - 757
 - Georgia - 181
 - Alabama - 55
 - South Carolina - 48
 - Tennessee - 36

Distribution Centers

- Boynton Beach, FL
- Miami, FL
- Deerfield Beach, FL
- Orlando, FL
- Jacksonville, FL
- Sarasota, FL
- Lake and, FL
- Lawrenceville, GA

Manufacturing Facilities

- Atlanta, GA - Bakery Plant
- Deerfield Beach, FL - Dairy Plant, Fresh Foods
- Jacksonville, FL - Fresh Foods
- Lake and, FL - Bakery Plant, Dairy Plant, Deli Kitchen, Fresh Foods, and Printing Services
- Lawrenceville, GA - Dairy Plant

Company Overview

Our Consumer Relations department is eager to assist with any questions, problems or comments you may have. You can [Contact Us](#) via e-mail, phone or regular mail.

News Releases

Store events, company announcements, new products - all of Publix's most recent activities are detailed in our [News Releases](#).

New Store Openings

Publix is always adding [new stores](#). Learn about our latest openings and the services they provide.

- STORES**
- Find a Publix
 - Publix Pharmacy
 - Publix GreenWise Market
 - Publix Liquors
 - Publix Sabor

- SAVE HERE**
- Weekly Ads
 - Coupons
 - Publix Brand
 - Savings Made Easy

- PRODUCTS**
- Featured Products
 - At Season's Peak
 - Publix Bakery Selections
 - Publix Deli Selections
 - Meat, Seafood, & Produce
 - Publix GreenWise Market
 - Nutrition Information
 - Recalls

- SERVICES**
- Prescription Refill
 - Prescription Transfer
 - Free Medications
 - Health Screenings
 - Publix Gift Cards
 - Aprons Event Planning
 - Aprons Recipes
 - Special Item Requests

- CORPORATE**
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 - Publix Purchasing
 - Careers
 - Contact Us

Go mobile!

We've got all the on-the-go solutions you're looking for right here.

Exhibit 3



Confidential

Final Report

Publix / Full

Account: 58Z2609

Case #: 13-303449

Location Number

Date Created:

May 30, 2013

Interim Report Sent:

Final Report Sent:

Jun 4, 2013

Subject: Knights, Erin E

Social Security Number: ██████████-0829

Address as reported by subject:

Redacted ██████████, Gallatin, Tennessee Redacted ██████████
 United States Of America t d

Crime Guard:

Erin E Knights

Fulfilled

No Information Found

Erin E Moreno

Fulfilled

No Information Found

Social Locator

██████████-0829

Fulfilled

See Criminal History Research

Criminal History and Other Report Details:

Knights, Erin E

U.S. National Sex Offender Registry, Fulfilled

No Record Found

Sex Offender Registry

National

Source: Application

Sumner, Tennessee

Fulfilled

No Record Found

United States Of America

Source: Application

Moreno, Erin E

Sumner, Tennessee

Fulfilled

No Record Found

United States Of America

Source: Social Locator

Risk Scoring

CRIMINAL HISTORY AND OTHER REPORT DETAILS

Subject: Knights, Erin E

Case #: 13-303449

Social Security Number: [REDACTED]-0829

<u>Jurisdictions Searched:</u>	<u>Court Names:</u>	<u>Results:</u>
Knights, Erin E		
U.S. National Sex Offender Registry, Sex Offender Registry National	U. S. Department Of Justice	No Record Found
Sumner, Tennessee United States Of America	Circuit And General Sessions Court	No Record Found
Moreno, Erin E		
Sumner, Tennessee United States Of America	Circuit And General Sessions Court	No Record Found

A Summary of Your Rights Under the Fair Credit Reporting Act

The federal Fair Credit Reporting Act (FCRA) promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies. There are many types of consumer reporting agencies, including credit bureaus and specialty agencies (such as agencies that sell information about check writing histories, medical records and rental history records). Here is a summary of your major rights under the FCRA. For more information, including information about additional rights, go to www.ftc.gov/credit or write to: Consumer Response Center, Room 130-A, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

- **You must be told if information in your file has been used against you.** Anyone who uses a credit report or another type of consumer report to deny your application for credit, insurance, or employment – or to take another adverse action against you – must tell you, and must give you the name, address, and phone number of the agency that provided the information.
- **You have the right to know what is in your file.** You may request and obtain all the information about you in the files of a consumer-reporting agency (your 'file disclosure'). You will be required to provide proper identification, which may include your Social Security number. In many cases, the disclosure will be free. You are entitled to a free file disclosure if:
 - A person has taken adverse action against you because of information in your credit report;
 - You are the victim of identity theft and place a fraud alert in your file;
 - Your file contains inaccurate information as a result of fraud;
 - You are on public assistance;
 - You are unemployed but expect to apply for employment within 60 days.
- In addition, by September 2005, all consumers will be entitled to one free disclosure every twelve (12) months upon request from each nationwide credit bureau and from nationwide specialty consumer reporting agencies. See www.ftc.gov/credit for additional information.
- **You have the right to ask for a credit score.** Credit scores are numerical summaries of your credit-worthiness based on information from credit bureaus. You may request a credit score from consumer reporting agencies that create scores or distribute scores used in residential real property loans, but you will have to pay for it. In some mortgage transactions, you will receive credit score information for free from the mortgage lender.
- **You have the right to dispute incomplete or inaccurate information.** If you identify information in your file that is incomplete or inaccurate, and report it to the consumer-reporting agency, the agency must investigate unless your dispute is frivolous. See <http://www.ftc.gov/credit> for an explanation of dispute procedures.
- **Consumer reporting agencies must correct or delete inaccurate, incomplete, or unverifiable information.** Inaccurate, incomplete or unverifiable information must be removed or corrected, usually within thirty (30) days. However, a consumer reporting agency may continue to report information it has verified as accurate.
- **Consumer reporting agencies may not report outdated negative information.** In most cases, a consumer reporting agency may not report negative information that is more than seven (7) years old, or bankruptcies that are more than ten (10) years old.
- **Access to your file is limited.** A consumer-reporting agency may provide information about you only to people who have a valid need; usually to consider an application with a creditor, insurer, employer, landlord, or other business. The FCRA specifies those with a valid need for access.
- **You must give your consent for reports to be provided to employers.** A consumer reporting agency may not give out information about you to your employer, or a potential employer, without your written consent given to the employer. Written consent generally is not required in the trucking industry. For more information, go to <http://www.ftc.gov/credit>.
- **You may limit 'prescreened' offers of credit and insurance you get based on information in your credit report.** Unsolicited 'prescreened' offers for credit and insurance must include a toll-free phone number you can call if you choose to remove your name and address from the lists these offers are based on. You may opt-out with the nationwide credit bureaus at (888) 5-OPTOUT (888-567-8688).
- **You may seek damages from violators.** If a consumer reporting agency, or in some cases, a user of consumer reports or a furnisher of information to a consumer reporting agency violates the FCRA, you may be able to sue in state or federal court.
- **Identity theft victims and active duty military personnel have additional rights.** For more information, visit www.ftc.gov/credit.

States may enforce the FCRA, and many states have their own consumer reporting laws. In some cases, you may have more rights under state law. For more information, contact your state or local consumer protection agency or your state Attorney General. Federal enforcers are:

FOR QUESTIONS OR CONCERNS REGARDING:	PLEASE CONTACT:
Consumer reporting agencies, creditors and others not listed below	Federal Trade Commission Consumer Response Center- FCRA Washington, DC 20580 * 877-382-4357
National banks, federal branches/agencies of foreign banks (word "National" or initials "N.A." appear in or after bank's name)	Office of the Comptroller of the Currency Compliance Management, Mail Stop 6-6 Washington, DC 20219 * 800-613-6743
Federal Reserve System member banks (except national banks, and federal branches/agencies of foreign banks)	Federal Reserve Board Division of Consumer & Community Affairs Washington, DC 20551 * 202-452-3693
Savings associations and federally chartered savings banks (word "Federal" or initials "F.S.B." appear in federal institution's name)	Office of Thrift Supervision Consumer Complaints Washington, DC 20552 * 800-842-6929
Federal credit unions (words "Federal Credit Union" appear in institution's name)	National Credit Union Administration 1775 Duke Street Alexandria, VA 22314 * 703-519-4600
State chartered banks that are not members of the Federal Reserve System	Federal Deposit Insurance Corporation Consumer Response Center, 2345 Grand Avenue, Suite 100 Kansas City, MO 64108-2638 * 877-275-3342
Air, surface, or rail common carriers regulated by former Civil Aeronautics Board or Interstate Commerce Commission	Department of Transportation Office of Financial Management Washington, DC 20590 * 202-366-1306
Activities subject to the Packers and Stockyards Act, 1921	Department of Agriculture Office of Deputy Administrator - GIPSA Washington, DC 20250 * 202-720-7051

Image HRXML Application

Account Number : 58Z2609

General Information

Social Security Number : **Redacted** Date of Birth : **Redacted**
Gender : 0

	<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<u>Last Used</u>
Current Name :	erin	e	knights		

Custom Fields

Packages

Retail Stores

Criminal Convictions

Addresses

Current Address : Street : **Redacted**
City : gallatin State : tn
Zip : **Reda** Country : US

Drivers License

Professional License

Personal References

Professional References



Sterling Testing Systems

Results for Order # 16359591 Client: Staff Management

SUBJECT PROFILE

NAME MORENO, ERIN E.

SSN ###-##-0829

CURRENT ADDRESS **Redacted**

GALLATIN, TN **Reda**

DOB **R**

PREVIOUS ADDRESS

PHONE **Redacted**

###-0829 Office 0780

RESULTS STATUS

Service

Finding

CRIMINAL

Clear

California Applicants/Employees Only: The report does not guarantee the accuracy or truthfulness of the information as to the subject of the investigation, but only that it is accurately copied from public records, and information generated as a result of identity theft, including evidence of criminal activity, may be inaccurately associated with the consumer who is the subject of the report. An investigative consumer reporting agency shall provide a consumer seeking to obtain a copy of a report or making a request to review a file, a written notice in simple, plain English and Spanish setting forth the terms and conditions of his or her right to receive all disclosures, as provided in Section 1786.26.

Sólo para los Solicitantes/Empleados de California: En el informe no se garantiza la exactitud o veracidad de la información en cuanto al tema de la investigación, sino sólo que se ha copiado exactamente de los registros públicos, y la información generada como resultado del robo de identidad, incluyendo las pruebas de una actividad delictiva, podría estar incorrectamente asociada con el consumidor que sea el sujeto del informe. Una agencia investigadora de informes de crédito deberá suministrarle a un consumidor que trate de obtener una copia de un informe o solicite revisar un archivo una notificación por escrito en inglés y español lisos y llanos, en la que se establezcan los términos y las condiciones de su derecho a recibir toda la información, como se dispone en la Sección 1786.26.

Pursuant to Minn. Stat. Ann. § 332.70(4): The report may include information that has been expunged, sealed, or has otherwise become inaccessible to the public since the date it was collected.

Results pertaining to the subject's potential criminal background results are only included in the report if there is an exact match between the full name and date of birth provided by the subject and the court record. To ensure the integrity of our results, the criminal information reported appears exactly as it is received from each search. However, if the same information is revealed in numerous criminal background searches, it is only listed once in the report to assist the client in interpreting the findings.

As sex offender, office of foreign asset control and federal criminal offender databases may only list names, information is provided only if there is a complete name match between the subject and the entry in the government records.

Department of motor vehicle records are provided only if there is an exact match between the license number provided by the subject and the agency record.

Credit reports are provided by the credit bureau based on 2 matching criteria among name, address and social security number.



Sterling Testing Systems

Results for Order # 16359591 Client: Staff Management

NAME MORENO, ERIN E.

SSN ###-##-0829

To the extent criminal background results are duplicative of findings from non-criminal background checks, such as a sex offender hit, the results are duplicated in the report. Accordingly, a thorough review of the complete report is required to ensure that the company properly recognizes duplicative results.

The purpose of Social Security Trace/Address Locator Report is to locate jurisdictions for purposes of expanding the scope of the criminal background check. The Social Security number provided by the applicant is not checked against the Social Security Administration database since the Social Security Administration database generally is not accessible for pre-employment screening purposes. In determining whether a number appears to be validly issued, SSN protocols are applied but please note that due to the randomization of the issuance of social security numbers, any conclusion regarding whether the number is valid may not be accurate for recently issued numbers.

This report or portions of this report may have been rated or scored pursuant to criteria provided by the client. The rating is merely to ease the reviewer(s) review of the report and does not indicate that any disqualification decision has been made. Regardless of ratings, absent any statutory provision mandating an employment action, an individualized analysis should be performed.

As it may not be permissible or recommended to use certain information contained in this report for employment decision, it is advisable to consult with counsel prior to making any adverse hiring decisions. By requesting and accepting this report, client confirms it is acting in compliance with its end user certification.

CRIMINAL RESULTS

REPORT

THE CRIMINAL INFORMATION REPORTED IN THIS REPORT APPEARS EXACTLY AS IT IS RECEIVED FROM THE LOCAL JURISDICTIONS AND MAY CONTAIN INFORMATION THAT MAY BE PROHIBITED FOR USE IN MAKING HIRING DECISIONS. THEREFORE, IT IS ADVISABLE TO CONSULT YOUR CORPORATE COUNSEL PRIOR TO MAKING ANY ADVERSE HIRING DECISIONS.

STATUS	CLOSED	OPEN DATE/TIME	Oct 11 2011 10:17PM	CLOSE DATE/TIME	Oct 11 2011 10:49PM
<i>COUNTY MIDDLE DISTRICT ZIP 37066 STATE TN CITY</i>					
No criminal convictions found.					
STATUS	CLOSED	OPEN DATE/TIME	Oct 11 2011 10:17PM	CLOSE DATE/TIME	Oct 13 2011 3:28AM
<i>COUNTY SUMNER ZIP 37066 STATE TN CITY</i>					
No criminal convictions found.					
STATUS	CLOSED	OPEN DATE/TIME	Oct 11 2011 10:17PM	CLOSE DATE/TIME	Oct 11 2011 10:20PM
<i>COUNTY CATAWBA ZIP 28601 STATE NC CITY</i>					
No criminal convictions found.					
STATUS	CLOSED	OPEN DATE/TIME	Oct 11 2011 10:17PM	CLOSE DATE/TIME	Oct 11 2011 10:49PM
<i>COUNTY WESTERN DISTRICT ZIP 28601 STATE NC CITY</i>					



Sterling Testing Systems

Results for Order # 16359591 Client: Staff Management

NAME MORENO, ERIN E.

SSN ###-##-0829

CRIMINAL RESULTS

REPORT

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No criminal convictions found.

STATUS CLOSED OPEN DATE/TIME Oct 11 2011 10:17PM CLOSE DATE/TIME Oct 11 2011 10:49PM

COUNTY MIDDLE DISTRICT ZIP 33707 STATE FL CITY

No criminal convictions found.

STATUS CLOSED OPEN DATE/TIME Oct 11 2011 10:17PM CLOSE DATE/TIME Oct 11 2011 10:44PM

COUNTY PINELLAS ZIP 33707 STATE FL CITY

No criminal convictions found.



Sterling Testing Systems

Results for Order # 16359309 Client: Staff Management

SUBJECT PROFILE

NAME KNIGHTS, ERIN E.

SSN ###-##-0829

CURRENT ADDRESS Redacted

GALLATIN, TN Red

DOB Redacted

PREVIOUS ADDRESS

PHONE Redacted

-0829 Office 0780

RESULTS STATUS

Service

Finding

CRIMINAL

Clear

SSTRACE

Alert

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Sterling Testing Systems

Results for Order # 16359309 Client: Staff Management

NAME KNIGHTS, ERIN E.

SSN ###-##-0829

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CRIMINAL RESULTS REPORT

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STATUS CLOSED OPEN DATE/TIME Oct 11 2011 8:43PM CLOSE DATE/TIME Oct 13 2011 3:28AM

COUNTY SUMNER ZIP 37066 STATE TN CITY GALLATIN

No criminal convictions found.

STATUS CLOSED OPEN DATE/TIME Oct 11 2011 8:43PM CLOSE DATE/TIME Oct 12 2011 12:47AM

COUNTY PINELLAS ZIP 33707 STATE FL CITY SAINT PETERSBURG

No criminal convictions found.

STATUS CLOSED OPEN DATE/TIME Oct 11 2011 8:43PM CLOSE DATE/TIME Oct 11 2011 9:50PM

COUNTY NATIONWIDE ZIP NW000 STATE NW CITY NATIONWIDE

* THE INFORMATION IN THIS REPORT IS THE RESULT OF A DATABASE SEARCH AND *
* HAS NOT BEEN OBTAINED THROUGH STERLING TESTING SYSTEM'S STANDARD *
* CRIMINAL BACKGROUND RESEARCH METHODS. *

No criminal convictions found.



Sterling Testing Systems

Results for Order # 16359309 Client: Staff Management

NAME KNIGHTS, ERIN E.

SSN ###-##-0829

CRIMINAL RESULTS

REPORT

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STATUS CLOSED OPEN DATE/TIME Oct 11 2011 8:44PM CLOSE DATE/TIME Oct 11 2011 10:32PM

COUNTY MIDDLE DISTRICT ZIP STATE TN CITY

No criminal convictions found.

STATUS CLOSED OPEN DATE/TIME Oct 11 2011 8:44PM CLOSE DATE/TIME Oct 11 2011 10:32PM

COUNTY MIDDLE DISTRICT ZIP STATE FL CITY

No criminal convictions found.

STATUS CLOSED OPEN DATE/TIME Oct 11 2011 8:44PM CLOSE DATE/TIME Oct 11 2011 9:52PM

COUNTY CATAWBA ZIP 28601 STATE NC CITY

No criminal convictions found.

STATUS CLOSED OPEN DATE/TIME Oct 11 2011 8:44PM CLOSE DATE/TIME Oct 11 2011 10:31PM

COUNTY WESTERN DISTRICT ZIP STATE NC CITY

No criminal convictions found.

STATUS CLOSED OPEN DATE/TIME Oct 11 2011 10:18PM CLOSE DATE/TIME Oct 13 2011 10:28AM

COUNTY MAIDEN ALIAS ZIP STATE 00 CITY

NO CRIMINAL CONVICTION FOUND.

16359591 - ERIN MORENO



Sterling Testing Systems

Results for Order # 16359309 Client: Staff Management

NAME KNIGHTS, ERIN E.

SSN ###-##-0829

SSTRACE RESULTS

REPORT

STATUS CLOSED OPEN DATE/TIME Oct 11 2011 8:43PM CLOSE DATE/TIME Oct 11 2011 10:18PM

***** Social Security Trace *****
* * * * *

GENERATED: 10/11/2011 08:44:15 PM
TRANSACTION ID:27175592R2226365

1.	NAME ERIN E KNIGHTS	DOB Redacted
	SSN VALID STATE ISSUED ###-##-0829 YES FLORIDA	DATE ISSUED 01/01/1987
	ADDRESS Redacted GALLATIN, TN Redacted	FROM TO 05/2009 09/2011
	COUNTY: SUMNER	
	Redacted	02/2002 04/2011
	SAINT PETERSBURG, FL Redacted	
	COUNTY: PINELLAS	
	Redacted SAINT PETERSBURG, FL Redac	12/2010 03/2011
	COUNTY: PINELLAS	
	Redacted	08/2007 05/2009
	HENDERSONVILLE, TN Redacted	
	COUNTY: SUMNER	
	Redacted HENDERSONVILLE, TN Redacted	11/2006 08/2008
	COUNTY: SUMNER	
	Redacted PINELLAS PARK, FL Redacted	10/2005 12/2007
	COUNTY: PINELLAS	
	Re HICKORY, NC Redacted	07/2000 12/2007
	COUNTY: CATAWBA	
	Redacted TAMPA, FL Redacted	07/2002 11/2002
	COUNTY: HILLSBOROUGH	
	Redacted	11/1996 08/1999
	SAINT PETERSBURG, FL Redacted	
	COUNTY: PINELLAS	
	Redacted	04/1999 05/1999
	ST PETE BEACH, FL Redacted	
	COUNTY: PINELLAS	
2.	NAME ERIV E HKNIGHTS	DOB Redacted
	SSN VALID STATE ISSUED ###-##-0829 YES FLORIDA	DATE ISSUED 01/01/1987



Sterling Testing Systems
Results for Order # 16359309 Client: Staff Management

NAME KNIGHTS, ERIN E.

SSN ###-##-0829

SSTRACE RESULTS

REPORT

ADDRESS	FROM	TO
Redacted GALLATIN, TN Redacted COUNTY: SUMNER	05/2009	04/2011
Redacted SAINT PETERSBURG, FL Redac COUNTY: PINELLAS	12/2010	12/2010
Redacted HENDERSONVILLE, TN Redacted COUNTY: SUMNER	08/2007	10/2008
Redacted SAINT PETERSBURG, FL Redacted COUNTY: PINELLAS	07/2002	08/2007
Redacted PINELLAS PARK, FL Redacted COUNTY: PINELLAS	10/2005	10/2005
Redacted TAMPA, FL Redacted COUNTY: HILLSBOROUGH	07/2002	11/2002
Redacted SEMINOLE, FL Redacted COUNTY: PINELLAS	07/2001	06/2002
Redacted SAINT PETERSBURG, FL Redacted COUNTY: PINELLAS	02/2002	02/2002
Redacted HICKORY, NC Redacted COUNTY: CATAWBA	09/2000	09/2000
Redacted SAINT PETERSBURG, FL Redacted COUNTY: PINELLAS	05/1997	08/1999
Redacted ST PETE BEACH, FL Redacted COUNTY: PINELLAS	05/1999	05/1999

3. NAME ERIN MORENO DOB **Redacted**

SSN ###-##-0829	VALID YES	STATE ISSUED FLORIDA	DATE ISSUED 01/01/1987
-----------------	-----------	----------------------	------------------------

ADDRESS	FROM	TO
Redacted GALLATIN, TN Redacted COUNTY: SUMNER	05/2009	04/2011
Redacted SAINT PETERSBURG, FL Redac COUNTY: PINELLAS	12/2010	12/2010
Redacted HENDERSONVILLE, TN Redacted COUNTY: SUMNER	08/2007	10/2008
Redacted SAINT PETERSBURG, FL Redacted	07/2002	08/2007



Sterling Testing Systems

Results for Order # 16359309 Client: Staff Management

NAME KNIGHTS, ERINE.

SSN ###-##-0829

SSTRACE RESULTS

REPORT

COUNTY: PINELLAS

Redacted **Re** PINELLAS PARK, FL **Redacted** 10/2005 10/2005
COUNTY: PINELLAS

Redacted TAMPA, FL **Redacted** 07/2002 11/2002
COUNTY: HILLSBOROUGH

Redacted SEMINOLE, FL **Redacted** 06/2002
COUNTY: PINELLAS

Redacted 02/2002 02/2002
SAINT PETERSBURG, FL **Redacted**
COUNTY: PINELLAS

Redacted HICKORY, NC **Redacted** 09/2000 12/2001
COUNTY: CATAWBA

Redacted 08/1999
SAINT PETERSBURG, FL **Redacted**
COUNTY: PINELLAS

Redacted 05/1999
ST PETE BEACH, FL **Redacted**
COUNTY: PINELLAS

4. NAME ERIN ELIZABETH KNIGHTS DOB **Redacted**
 SSN ###-##-0829 VALID STATE ISSUED DATE ISSUED
 YES FLORIDA 01/01/1987

ADDRESS FROM TO
Redacted 07/2002 08/2007
 SAINT PETERSBURG, FL **Redacted**
 COUNTY: PINELLAS

Redacted SEMINOLE, FL **Redacted** 01/2002 09/2002
 COUNTY: PINELLAS

5. NAME ERIN KNIGHTS DOB **Redacted**
 SSN ###-##-0829 VALID STATE ISSUED DATE ISSUED
 YES FLORIDA 01/01/1987

ADDRESS FROM TO
Redacted CLAREMONT, NC **Redacted** 03/2000 03/2000
 COUNTY: CATAWBA

Redacted 08/1998 01/1999
 SAINT PETERSBURG, FL **Redac**
 COUNTY: PINELLAS

Red HICKORY, NC **Redac** 09/1997 01/1999
 COUNTY: CATAWBA



Sterling Testing Systems

Results for Order # 16359309 Client: Staff Management

NAME KNIGHTS, ERIN E.

SSN ###-##-0829

SSTRACE RESULTS

REPORT

Redacted SAINT PETERSBURG, FL **Redac** 08/1998 08/1998
COUNTY: PINELLAS

NAME

6. ERIN E KNIGHTS

SSN VALID STATE ISSUED DATE ISSUED
###-##-0829 YES FLORIDA 01/01/1987

ADDRESS

Redacted ST PETE BEACH, FL **Redacted** FROM TO
COUNTY: PINELLAS 02/1994

NAME

7. ERIN MORENO

SSN VALID STATE ISSUED DATE ISSUED
###-##-0829 YES FLORIDA 01/01/1987

ADDRESS

Redacted ST PETE BEACH, FL **Redacted** FROM TO
COUNTY: PINELLAS

END-USER IS NOTIFIED THAT FOR LEGAL AND PRACTICAL REASONS INFORMATION
OBTAINED THROUGH A SOCIAL SECURITY NUMBER TRACE SHOULD BE USED ONLY TO
VERIFY THE INFORMATION PROVIDED BY THE CONSUMER ON HIS/HER EMPLOYMENT
APPLICATION. INFORMATION OBTAINED THROUGH A SOCIAL SECURITY NUMBER TRACE
SHOULD NOT BE USED ALONE OR IN CONJUNCTION WITH ANY OTHER INFORMATION TO
MAKE AN EMPLOYMENT DECISION.

END OF NETWORK TRACE

PLEASE NOTE THAT THE RESULT OF THE SOCIAL SECURITY TRACE SEARCH YIELDED THE
FOLLOWING NAMES IN ADDITION TO THE NAME ORIGINALLY ENTERED FOR THE APPLICANT:

ERIV E HKNIGHTS - NAME DOES NOT MATCH. (SEE #2 ABOVE)
ERIN MORENO - LAST NAME DOES NOT MATCH. (SEE #3 ABOVE)
ERIN MORENO - LAST NAME DOES NOT MATCH. (SEE #7 ABOVE)

IF OTHER SEARCHES ARE REQUIRED, PLEASE CONTACT OUR CLIENT SERVICES
DEPARTMENT AT CLIENTSERVICES@STERLINGINFOSYSTEMS.COM.

NOTE: AN ADDITIONAL CHARGE MAY APPLY FOR EACH ADDITIONAL NAME.

Exhibit 4



[Home](#) > [About Us](#)

Employee Testimonials

Careers

FAQs

For a quarter of a century, American Background has provided comprehensive, innovative employment screening and verification services that enhance the safety, security and efficiency of the workplace. As one of the pioneers in corporate security and risk mitigation, American Background has experienced continuous growth over the years with an exponential demand for services accompanying the 21st century.

While the employment screening industry has matured in its approach to complex challenges, some providers still deliver simple data instead of useful information. American Background excels at providing comprehensive service packages. We integrate into our clients' workflow to provide effective solutions without increasing employers' workloads. In addition, our service packages support compliance in all 50 states, and with all FCRA and federal reporting standards, as well as international laws according to the proper choice of law.

Sterling Infosystems, Inc., a leading provider of employment and background screening services, announced that it has acquired Screening International, LLC from Intersections Inc. (Nasdaq: INTX) a leading providing of consumer and corporate identity risk management services.

Sterling Infosystems, Inc. is a leading New York-based technology firm providing employment and student screening services, corporate due diligence and background investigation services, occupational health services, and employment related business tax consulting services in the United States and 200 countries around the world. More than 7,500 companies trust Sterling to provide them with high quality, reliable data on which they base hiring, continued employment and admission decisions. With offices in most major cities in the U.S., Sterling's clients range from leading Fortune 500 firms to small and medium sized businesses. Sterling's industry-leading CourtDirect technology allows it to provide services faster, better and more cost effectively than other providers.

[Learn More](#)

As one of the veterans in the UK screening industry Sterling Infosystems, Ltd., sister company to American Background, provides comprehensive, innovative pre-employment screening and verification services that enhance the safety, security and efficiency of the workplace. Sterling Infosystems, Ltd. excels at delivering international employment screening services by combining the most advanced platform designed to significantly improve the global screening process, in depth compliance knowledge, and a highly experienced staff with a diverse range of language capabilities.

[Learn More](#)

Exhibit 5

A Primer on the FCRA & Related State Law Compliance: Can We Disqualify?



Presented by:

Richard I. Greenberg
Jackson Lewis LLP
212-545-4000

Joseph Rotondo
Sterling InfoSystems, Inc.
212-736-5100

Overview of Seminar

- ▶▶ When Are The FCRA and Related State Laws Applicable?
 - ▶ Why Sterling Must Do Certain Things
 - End User Agreement/Reporting Limitations
 - ▶ What Employers Must Do
 - Consent, Pre-Adverse and Adverse Action
 - Practical Considerations
- ▶▶ Disqualification of Applicants and Employees
 - ▶ Federal and State Prohibitions/Best Practices
 - ▶ Importance of Employment Application

Overview of Seminar

- ▶▶ Recordkeeping And Retention
- ▶▶ Federal Trade Commission Activity (FTC)
 - ▶ New Data Furnisher Regulations
 - ▶ Proposed New Summary of Rights
- ▶▶ Resources
- ▶▶ Questions – use e-mail during presentation; use phone line during question and answer period

Vital Point to Recognize

- ▶▶ The FCRA and State Laws Provide Guidance Solely As To Process Issues
- ▶▶ Federal (To Some Extent) and State Laws Govern Disqualification Issues.
- ▶▶ Many Unsettled Issues

The Background Check Process and Governing Laws

▶▶ FCRA- Fair Credit Reporting Act

- ▶ CRA – Consumer Reporting Agency (Sterling)
- ▶ End User – Employer (Sterling Client)

▶▶ Applicable State Laws

- ▶ Less than Half the States have mini-FCRA Laws

The Background Check Process and Governing Laws

- ▶▶ FCRA Applies To All Information Provided By A CRA
 - ▶ Consistent with Legislative Purpose – Ensuring Entities That Compile Information From Various Sources Provide Only Fair And Accurate Information
- ▶▶ Two Types Of Checks - **consumer reports** and **investigative consumer reports**.

The Background Check Process and Governing Laws

▶▶ Consumer Reports

- ▶ Reports Containing Information Solely Culled From Databases Or Public Records

▶▶ Investigative Consumer Reports

- ▶ Reports Which Also Include Information Based On Personal Interviews
- ▶ This Includes Reference Checking If Sterling Asks About Performance/Basis Of Separation, etc. – *Standard Practice*

The Background Check Process and Governing Laws

- ▶▶ Limitations On When A CRA Can Provide Information To An End User
- ▶▶ Limitations On The Information That A CRA Can Provide To An End User
- ▶▶ Specific Procedures End Users Must Follow As Mandated By FCRA and State Laws

Limitations On When A CRA Can Provide Information

▶▶ Must Be For Permissible Purpose

§ 604. Permissible purposes of consumer reports [15 U.S.C. § 1681b]

(a) In general. Subject to subsection (c), any consumer reporting agency may furnish a consumer report under the following circumstances and no other:

(1) In response to the order of a court having jurisdiction to issue such an order, or a subpoena issued in connection with proceedings before a Federal grand jury.

(2) In accordance with the written instructions of the consumer to whom it relates.

(3) To a person which it has reason to believe

(A) intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer; or

(B) intends to use the information for employment purposes; or

(C) intends to use the information in connection with the underwriting of insurance involving the consumer; or

(D) intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or

(E) intends to use the information, as a potential investor or servicer, or current insurer, in connection with a valuation of, or an assessment of the credit or prepayment risks associated with, an existing credit obligation; or

(F) otherwise has a legitimate business need for the information

(i) in connection with a business transaction that is initiated by the consumer; or

(ii) to review an account to determine whether the consumer continues to meet the terms of the account.

(4) In response to a request by the head of a State or local child support enforcement agency (or a State or local government official authorized by the head of such an agency), if the person making the request certifies to the consumer reporting agency that

(A) the consumer report is needed for the purpose of establishing an individual's capacity to make child support payments or determining the appropriate level of such payments;

(B) the paternity of the consumer for the child to which the obligation relates has been established or acknowledged by the consumer in accordance with State laws under which the obligation arises (if required by those laws);

(C) the person has provided at least 10 days' prior notice to the consumer whose report is requested, by certified or registered mail to the last known address of the consumer, that the report will be requested; and

(D) the consumer report will be kept confidential, will be used solely for a purpose described in subparagraph (A), and will not be used in connection with any other civil, administrative, or criminal proceeding, or for any other purpose.

Limitations On When A CRA Can Provide Information

▶▶ Includes Employment Purposes

- ▶ Based On Guidance From Federal Trade Commission (FTC), Employment Purposes Includes Retention Of Independent Contractors/Consultants And Volunteers
- ▶ Accordingly, FCRA Applies To Such Checks
- ▶ Absent This Interpretation, CRA Arguably Not Permitted To Provide Report For This Purpose

Limitations On When A CRA Can Provide Information

(b) Conditions for furnishing and using consumer reports for employment purposes.

(1) Certification from user. A consumer reporting agency may furnish a consumer report for employment purposes only if

(A) the person who obtains such report from the agency certifies to the agency that

(i) the person has complies with paragraph (2) with respect to the consumer report, and the person will comply with paragraph (3) with respect to the consumer report if paragraph (3) becomes applicable; and

(ii) information from the consumer report will not be used in violation of any applicable Federal or State equal opportunity law or regulation; and

(B) the consumer reporting agency provides with the report, or has previously provided, a summary of the consumer's rights under this title, as prescribed by Federal Trade Commission under section 609(c)(3) [§ 1681g].

Limitations on When a CRA Can Provide Information

- ▶▶ Certification Of Compliance From End User
 - ▶ End User Certification
 - ▶ Notice To Users

Limitations On Information A CRA Can Provide

§ 605. Requirements relating to information contained in consumer reports [15 U.S.C. § 1681c]

(a) Information excluded from consumer reports. Except as authorized under subsection (b) of this section, no consumer reporting agency may make any consumer report containing any of the following items of information:

- (1) Cases under title 11 [United States Code] or under the Bankruptcy Act that, from the date of entry of the order for relief or the date of adjudication, as the case may be, antedate the report by more than 10 years.
- (2) Civil suits, civil judgments, and records of arrest that from date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.
- (3) Paid tax liens which, from date of payment, antedate the report by more than seven years.
- (4) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.⁽¹⁾
- (5) Any other adverse item of information, other than records of convictions of crimes which antedates the report by more than seven years**

(b) Exempted cases. The provisions of subsection (a) of this section are not applicable in the case of any consumer credit report to be used in connection with

- (1) a credit transaction involving, or which may reasonably be expected to involve, a principal amount of \$150,000 or more;
- (2) the underwriting of life insurance involving, or which may reasonably be expected to involve, a face amount of \$150,000 or more; or
- (3) the employment of any individual at an annual salary which equals, or which may reasonably be expected to equal \$75,000, or more.**

Limitations On Information A CRA Can Provide

- ▶▶ Certain State Laws Impose Additional Information And Temporal Limitations On The Information A CRA Can Provide
 - ▶ Sex Offender Reporting Limitations
 - ▶ Restrictions On Reporting Older Convictions
 - ▶ Restrictions On Reporting Arrests
- ▶ Temporal Limitations Generally Do Not Apply To Educational Verifications

Limitations On Information A CRA Can Provide

- ▶▶ Sterling Has An Obligation To Provide The Most Up To Date Accurate Information
- ▶▶ If Nationwide Database Is Used, If Such Database Is Not Up To Date, Must Advise Subject Via Letter That Information That May Not Be Up To Date Is Included In Report

Limitations On Information A CRA Can Provide

▶▶ Multi-State Issues

▶ No Clear Answers

Specific Procedures End Users Must Follow

▶▶ Consent and Disclosure

▶▶ Pre-Adverse Action

▶▶ Adverse Action

Consent And Disclosure

(2) Disclosure to consumer.

(A) In general. 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--

(i) 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; and

(ii) 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.

Consent And Disclosure For Consumer Reports

- ▶▶ Consent Can Be Accomplished Via A Signed Employment Application, Etc
- ▶▶ However, A Separate Stand-Alone Disclosure Is Mandated
- ▶▶ Since A Separate Stand-Alone Disclosure Is Mandated, To Best Demonstrate Consent, A Signed Stand-Alone Consent and Disclosure Is Recommended
- ▶▶ Practically, A Separate Document Also Is Logical Due To The Need To Obtain Additional Information Such As Date of Birth

Consent And Disclosure For Consumer Reports

- ▶▶ Be Careful Of Extraneous Information On Stand-Alone Disclosure
- ▶▶ Remember Statutory Goal – To Ensure Individuals Understand A Report Is Being Obtained

Consent And Disclosure For Investigative Consumer Reports

- ▶▶ Statute Provides That Consent Form Must Contain A Box For The Consenting Individual To Check If He/She Wants Further Information Regarding The Scope Of The Report And/Or A Copy Of The Summary of Rights
- ▶▶ If The Box Is Checked, The Company Or Sterling Must Forward A Letter To The Individual Setting Forth The Scope Of The Check
- ▶▶ Distribution Of Summary of Consumer Rights With Consent In All Instances Is A Best Practice

Consent And Disclosure - State Law Issues – i.e.,

- ▶▶ California- All Reports Generally Analogous to Investigative Consumer Reports
 - ▶ Specific Language As To Specific Subjects Of Requested Report And Right to Obtain Copy Of Report Specifically Required
- ▶▶ Minnesota- Check the Box Feature
- ▶▶ Oklahoma- Check the Box Feature
- ▶▶ Others

Sterling's Model Form

- ▶▶ Sterling's Model Form Is Intended To Cover Both Types Of Reports While Easing Employer Obligations
- ▶▶ And To Allow One National Form
- ▶▶ Summary Of Rights Provided With Consent
- ▶▶ Scope Of Checks Expressed To All
- ▶▶ State Law Caveats

Consent And Disclosure - Additional Issues

▶▶ Continuing Consent

▶ Permissible Under FCRA With Consumer Reports

- Recommend Obtaining New Consent With Rehired Employees

▶ Not Recommended For Investigative Consumer Reports Due To Practical Compliance Issues

▶ Strongly Not Recommended In California For Any Reports Due To Statutory Language, Practical Compliance Issues And Pro-employee Nature Of California Law

Consent And Disclosure - Additional Issues

▶▶ Electronic Consent

▶ FTC Opinion Letters Indicate Compliance with Consent Requirement will Depend on Situation

- Electronic Signature
- Other Manifestation of Consent – Hitting Enter, etc.

Consent And Disclosure - Consideration/Fact Act

- ▶▶ Generally Can Make Signing Consent Form a Condition Of Employment/Continued Employment
- ▶▶ FACT Act
 - ▶ Exception To Consent Requirement
 - ▶ Scope Is Unclear

▶▶ If the Report Does Not Reveal Any Disqualifying Information, There are No Additional Obligations Except for **Ensuring** that ...

▶ Individuals in Certain States who Requested a Copy of the Report are Provided With a Copy of the Report.

▶▶ If the Report Reveals Disqualifying Information, There are Two More Steps to the Process

Pre-Adverse Action

(3) Conditions on use for adverse actions.

(A) In general. Except as provided in subparagraph (B), in using a consumer report for **employment purposes**, before taking any adverse action based in whole or in part on the report, the person intending to take such adverse action shall provide to the consumer to whom the report relates--

(i) a copy of the report; and

(ii) a description in writing of the rights of the consumer under this title, as prescribed by the

Federal Trade Commission under section 609(c)(3).

Pre-Adverse Action

▶▶ Notice Sent Along With

- ▶ Summary of Rights
- ▶ Copy of Report

▶▶ Best Practice Is For The Notice To Set Forth Basis For Disqualification

- ▶ Will Discuss Importance Of Employment Application In A Moment

Pre-Adverse Action - State Law Issues

▶▶ Certain States Have State Specific Summary Of Rights Which Must Be Sent

- ▶ Massachusetts
- ▶ New Jersey
- ▶ Washington

Pre-Adverse Action - Additional Issue

▶▶ Broad Definition of Adverse Action

▶ Arguably includes Denial for Consideration for Promotion, **Denial of Assignment** or Other Employment Benefit

Pre-Adverse Action - Application

- ▶▶ Opportunity Must Be Provided to Contest Accuracy
 - ▶ FTC Guidance Indicates 5 Days But Does Not Elaborate

Pre-Adverse Action - Application

- ▶▶ If the Individual Does Not Contest the Accuracy of the Report Within 5 Days or Does Contest the Information But is Unable to Present Corrected Information to Sterling or the Client in a Timely Manner, the Client May Take Adverse Action.

- ▶▶ If an Employee Timely Contests the Accuracy of the Disqualifying Information in the Report, We Recommend the Client Provide the Individual With another 5-10 Days to Clarify the Information with Sterling. However, There is Not a Per Se Required Period.

Pre-Adverse Action - Application

- ▶▶ This is Not an Opportunity for the Individual to Argue that the Client Should Change its Decision – It is Solely to Challenge the Accuracy of the Information on Which the Client Already has Based its Conditional Decision

Pre-Adverse Action - Current Employees

- ▶▶ Can Start Work Subject To Results Of Report
- ▶▶ Can Suspend During Pre-Adverse Action Period
 - ▶ Suspension Can Be Unpaid for Non-Exempt Employees Under Wage And Hour Laws
 - ▶ Potential Issue with Partial Week Unpaid Suspension of Exempt Employee Under Wage and Hour Laws
 - ▶ But Does Punishing With Loss Of Pay During Pre-Adverse Action Period Violate The FCRA?

Adverse Action

§ 615. Requirements on users of consumer reports [15 U.S.C. § 1681m]

(a) Duties of users taking adverse actions on the basis of information contained in consumer reports. If any person takes any adverse action with respect to any consumer that is based in whole or in part on any information contained in a consumer report, the person shall

(1) provide oral, written, or electronic notice of the adverse action to the consumer;

(2) provide to the consumer orally, in writing, or electronically

(A) the name, address, and telephone number of the consumer reporting agency (including a toll-free telephone number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis) that furnished the report to the person; and

(B) a statement that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the consumer the specific reasons why the adverse action was taken; and

(3) provide to the consumer an oral, written, or electronic notice of the consumer's right

(A) to obtain, under section 612 [§ 1681j], a free copy of a consumer report on the consumer from the consumer reporting agency referred to in paragraph (2), which notice shall include an indication of the 60-day period under that section for obtaining such a copy; and

(B) to dispute, under section 611 [§ 1681i], with a consumer reporting agency the accuracy or completeness of any information in a consumer report furnished by the agency.

Adverse Action

- ▶▶ Notice Sent with Another Copy of Summary of Rights

Disqualification of Applicants and Employees

- ▶▶ Can Disqualify Based on Information in Report Even if the Information was not Requested on the Employment Application or During the Job Interview
- ▶▶ Generally, Disqualification Decisions Should Be Based on Individualized Analysis of Job-Related Issues Raised by the Report
 - ▶ Practical concerns due to client requests – many concerns ameliorated if other work is available

Types of Checks - Criminal

- ▶▶ In Regard to Criminal Searches, be Careful of State Limitations on Use of...
 - ▶ Convictions
 - ▶ Arrests
 - ▶ Pending Arrests
 - ▶ Non-Criminal Offenses

NEW EEOC FOCUS – DISPARATE IMPACT – must not have per se disqualification policies

Types of Checks - Criminal

- ▶▶ Again, Recommendation Is To Ensure Job-Relatedness as well as, of course, compliance with any state mandate.
- ▶▶ Issue Avoided If Employment Application Has Lawful Inquiry Regarding Criminal Background And Individual Misrepresented or Omitted Information.
 - ▶ Except In Hawaii And Massachusetts

Types of Checks - Credit

- ▶▶ Again, EEOC And Disparate Impact.
- ▶▶ State Law Limitations – Illinois, Hawaii, Oregon and Washington
 - ▶ California Legislation On Governor’s Desk
 - ▶ Related Disclosure Obligations In Certain Instances

Types of Checks - Credit

- ▶▶ Again, Recommendation Is To Ensure Job-Relatedness as well as, of course, compliance with any state mandate.

Additional Issues – Recordkeeping

- For Those Not Hired- Master File
- For Those Hired- Either Master File Or Personnel File
- Master Best If Many Have Access to Personnel File
- Control Dissemination Of Electronic Copies

Additional Issues - Retention

SEC. 156 STATUTE OF LIMINATIONS

Section 618 of the Fair Credit Reporting Act (15 U.S.C. 1681p) is amended to read as follows:

Sec. 618. Jurisdiction of courts; limitation of actions

“An Action to enforce any liability created under this title may be brought in any appropriate United States district court, without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than the earlier of

- (1) 2 years after the date of discovery by the plaintiff of violation that is the basis for such liability; or
- (2) 5 years after the date on which the violation that is the basis for such liability occurs.”

FTC Action

▶▶ Data Furnisher Regulations

- ▶ Must Ensure Accurate Information Is Provided To CRA's
- ▶ Internal Policy Requirement
- ▶ Obligation To Address Disputes
- ▶ Definite Issue For Companies That Use Third Parties To Provide Responses To Reference

FTC Action

- ▶▶ Proposed Revisions To Summary of Rights and Other Summaries – *Sterling Will Monitor*

Resources

- ▶▶ Sterling And Jackson Lewis Strive To Assist.
 - ▶ Resource Library
 - ▶ Your Sterling Representative
 - ▶ Sterling's Compliance Department
 - ▶ The Sterling/Jackson Lewis Helpline

THANK YOU FOR YOUR TIME

- ▶▶ We Hope The Program Was Informative.
- ▶▶ Speak To You In December For The Final Program Of The Year

Legal Update 2010

- ▶▶ Questions

THE MATERIAL CONTAINED IN THIS PRESENTATION WAS PREPARED BY THE LAW FIRM OF JACKSON LEWIS LLP FOR THE ATTENDEES' OWN REFERENCE IN CONNECTION WITH THIS SEMINAR. SINCE THE MATERIAL AND RELATED DISCUSSIONS ARE INFORMATIONAL AND EDUCATIONAL IN NATURE AND REPRESENT THE SPEAKER'S OWN VIEWS, ATTENDEES SHOULD CONSULT WITH COUNSEL BEFORE TAKING ANY ACTIONS AND SHOULD NOT CONSIDER THESE MATERIALS OR RELATED DISCUSSIONS TO BE LEGAL OR OTHER ADVICE. PROFESSIONAL ADVICE SHOULD BE OBTAINED BEFORE ATTEMPTING TO ADDRESS ANY LEGAL SITUATION OR PROBLEM.

Exhibit 6



Federal Trade Commission
Protecting America's Consumers

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Bureau of Consumer Protection

June 12, 1998

Richard W. Hauxwell, CEO
Accufax Div., Southwest
P.O. Box 35563
Tulsa, OK 74153-0563

Dear Mr. Hauxwell:

Re: Sections 604 and 606 of the Fair Credit Reporting Act

This is in response to your letter asking for clarification of sections 604 and 606 of the Fair Credit Reporting Act ("FCRA"). You note that your company is a consumer reporting agency and that you are asking these questions on behalf of your clients. Your questions are addressed below in the order in which you presented them.

1. Is it safe for us to assume, based on your opinion letter to Mr. Richard Steer, that we can combine the disclosure and release form, which includes applicant identifiers, in one form such as the enclosed sample?

Section 604(b) of the FCRA requires any employer who intends to obtain a consumer report for employment purposes to disclose this to the applicant or employee (in a document that consists solely of the disclosure) and to obtain the applicant or employee's written permission. As noted in the letter you cited (Steer, 10/21/97), it is our position that the disclosure notice and the authorization may be combined. If they are combined, identifying information (such as date of birth, Social Security number, driver's license number, and current and former addresses) may be included in the form. However, the form should not contain any extraneous information.

While we believe that you may combine the disclosure and authorization (and include identifying information) as you have in the draft form that you included with your letter, we note that your draft disclosure includes a waiver by the consumer of his or her rights under the FCRA. The inclusion of such a waiver in a disclosure form will violate Section 604(b)(2)(A) of the FCRA, which requires that a disclosure consist "solely" of the disclosure that a consumer report may be obtained for employment purposes. Moreover, it is a general principle of law that benefits provided to citizens by federal statute generally may not be waived by private agreement unless Congress intended such a result. *Brooklyn Savings Bank v. O'Neill*, 324 U.S. 697 (1945). We note that no authorization for a waiver is contained in the FCRA; nor does the legislative history show that Congress intended that consumers should be able to sign away their legal rights under the Act.⁽¹⁾ Accordingly, employers and other users of information covered by the FCRA may not require consumers to waive their rights under the law.

2. Our members would also like further clarification with regard to Section 606 as to when a Summary of Rights should be provided to the applicant. The language of the law is confusing.

Section 606 of the FCRA mandates that specific procedures be followed when an investigative consumer report is requested by an employer or other user who has a permissible purpose to obtain the report. First, Section 606(a)(1)(A) requires any person procuring an investigative consumer report to disclose this fact to the affected consumer not later than three days after the date on which the report was first requested. Second, Section 606(a)(1)(B) requires that the disclosure include a statement of the consumer's right to obtain additional information and a copy of the summary of consumer rights prescribed by the Commission. Finally, Section 606(b) sets out the information that must be disclosed when the consumer requests a disclosure pursuant to Section 606(a)(1)(B).

The issue that you raise concerns exactly at what point the Commission's summary of rights must be sent. The language of Section 606(a)(1)(B) is not entirely clear in mandating that the disclosure "includes a statement informing the consumer of his right to request the additional disclosures provided for under subsection (b) of this section [the nature and scope of the inves-

tigation] and the written summary of the rights of the consumer prepared pursuant to section 609(c)." As you can see, the reference to the summary of rights comes after a reference to sub-part 606(b), but in a general discussion of the content of the sub-part 606(a)(1)(A) notice.

There are two possible interpretations of this ambiguous language: (1) that Congress intended for the summary to be sent with the initial Section 606(a)(1)(A) notice (that an investigative consumer report has been or may be procured); or (2) that Congress intended that the summary be provided with the subsequent Section 606(b) disclosure of the "nature and scope" of the investigation. The Commission's "Notice to Users of Consumer Reports: Obligations of Users Under the FCRA,"(2) states that the summary of rights should be provided with the Section 606(a) notice that an investigative consumer report has been or may be obtained. However, because the statutory language may be interpreted to require that the summary be sent with the subsequent Section 606(b) disclosure, it is unlikely that the Commission's staff would recommend any enforcement action if the notice is sent with the Section 606(b) notice instead of the Section 606(a) notice.

3. We would like your opinion regarding end-user organizations which procure criminal and other public record information for employment purposes directly from a federal, state, or county record repository. Would the government repository (agency) providing the information directly to the end-user organization ... requesting the information be considered a consumer reporting agency and subject to the same laws as a privately held consumer reporting agency?

In general, information that is obtained by an employer directly from a federal, state or county record repository is not a "consumer report" because the repository (such as a courthouse or a state law enforcement agency) is not normally a "consumer reporting agency" and is itself not covered by the FCRA. The attached staff letters (Copples, 6/10/98; Goeke, 6/9/98) discuss this issue in more detail. Therefore, an employer who obtains information directly from a public record source is not subject to the FCRA as to that information. However, because of the fact that information in public record sources may be inaccurate or incomplete, we believe that employers who use this type of information should voluntarily disclose to consumers the nature and substance of any public record information that they rely upon in taking any adverse action. If the information is, in fact, inaccurate or incomplete, the consumer may then take steps to correct the problem.

I hope that this information is helpful to you. The views that are expressed above are those of the Commission's staff and not the views of the Commission itself.

Sincerely,

William Haynes
Attorney
Division of Credit Practices

1. The FCRA is part of the Consumer Credit Protection Act, 15 U.S.C. § 1601. We note that the Truth In Lending Act, which is Subchapter I of the Consumer Credit Protection Act, does permit consumers to waive certain rights.
2. The Commission's notice may be found at 16 C.F.R. § 601, Appendix C (1997).

Last Modified: Friday, June 24, 2011

CIVIL COVER SHEET

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS ERIN KNIGHTS, individually and as a representative of the class,</p> <p>(b) County of Residence of First Listed Plaintiff <u>Sumner</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) See attachment.</p>	<p>DEFENDANTS PUBLIX SUPER MARKETS, INC.,</p> <p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known) _____</p>
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<p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;"></td> <td style="width: 10%; text-align: center;">PTF</td> <td style="width: 10%; text-align: center;">DEF</td> <td style="width: 40%;"></td> <td style="width: 10%; text-align: center;">PTF</td> <td style="width: 10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

<p>CONTRACT</p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p>	<p>TORTS</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Personal Injury - Med. Malpractice</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p>PERSONAL PROPERTY</p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p>FORFEITURE/PENALTY</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p>LABOR</p> <p><input type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Mgmt. Relations</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 751 Family and Medical Leave Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act</p> <p>IMMIGRATION</p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition)</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p>	<p>BANKRUPTCY</p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>PROPERTY RIGHTS</p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p>SOCIAL SECURITY</p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p>FEDERAL TAX SUITS</p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609</p>	<p>OTHER STATUTES</p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input checked="" type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>	
<p>REAL PROPERTY</p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent Lease & Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p>	<p>CIVIL RIGHTS</p> <p><input type="checkbox"/> 440 Other Civil Rights</p> <p><input type="checkbox"/> 441 Voting</p> <p><input type="checkbox"/> 442 Employment</p> <p><input type="checkbox"/> 443 Housing/ Accommodations</p> <p><input type="checkbox"/> 445 Amer. w/Disabilities - Employment</p> <p><input type="checkbox"/> 446 Amer. w/Disabilities - Other</p> <p><input type="checkbox"/> 448 Education</p>	<p>PRISONER PETITIONS</p> <p><input type="checkbox"/> 510 Motions to Vacate Sentence</p> <p>Habeas Corpus:</p> <p><input type="checkbox"/> 530 General</p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus & Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Condition</p> <p><input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement</p>			

V. ORIGIN *(Place an "X" in One Box Only)*

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district *(specify)* 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity):*
15 U.S.C. § 1681, et. seq.

Brief description of cause:
Violations of the Fair Credit Reporting Act.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY *(See instructions):*

JUDGE _____ DOCKET NUMBER _____

DATE 3/12/14 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

ATTACHMENT TO CIVIL COVER SHEET

Section I(c) – Attorneys for Plaintiff (Firm Name, Address, and Telephone Number):

-Douglas B. Janney III, Law Office of Douglas B. Janney III, 2002 Richard Jones Road, Suite B-200, Nashville, TN 37215, Telephone: 615-742-5900

-NICHOLS KASTER, PLLP, 4600 IDS Center, 80 South 8th Street, Minneapolis, MN 55402, Telephone: 612-256-3200

-HARDIN & HUGHES, LLP, 2121 14th Street, Tuscaloosa, AL 35401, Telephone: 205-344-6690

-FRIED & BONDER, LLC, White Provision, Suite 305, 1170 Howell Mill Rd, NW, Atlanta, GA 30318, Telephone: 404-995-8808

UNITED STATES DISTRICT COURT

for the

Middle District of Tennessee

ERIN KNIGHTS, individually and as a representative of the class,

Plaintiff

v.

PUBLIX SUPER MARKETS, INC.,

Defendant

Civil Action No.

3 14 0720

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Publix Super Markets, Inc., c/o Corporate Creations Network, Inc., 205 Powell Pl, Brentwood, TN 37027

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Douglas B. Janney III, 2002 Richard Jones Road, Suite B-200, Nashville, TN 37215; E. Michelle Drake and Joseph Hashmall, Nichols Kaster, PLLP, 80 S 8th St, Ste 4600, Minneapolis, MN 55402; David Hughes, Hardin & Hughes, LLP, 2121 14th St, Tuscaloosa, AL 35401; C. Andrew Head, Fried & Bonder, LLC, White Provision, Ste 305, 1170 Howell Mill Rd, NW, Atlanta, GA 30318

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

KEITH THROCKMORTON

MAR 12 2014

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: