



## **BACKGROUND CHECK? KNOW YOUR RIGHTS.**

If you've been the subject of a background check, know that the employer requesting the check must follow certain steps before taking an adverse action against you based on your report. With some exceptions, the Fair Credit Reporting Act (FCRA) dictates what employers must do to legally conduct a background check on you, or to fire or to decline to hire you based on information in your background report.

### **BEFORE CONDUCTING A BACKGROUND CHECK**

To legally obtain a background check, an employer must get your consent. The employer must also clearly and conspicuously disclose any intention to obtain an *investigative* consumer report (i.e., a report about your character, reputation, personal characteristics or lifestyle) and must inform you of your right to know the nature and scope of such a report. In either case, the employer's request for authorization must be in writing and separate from any other documents (with the exception of the background check authorization itself). Further, the employer must inform you that the information obtained may be used to make employment decisions about you.

Before conducting a background check, the employer must also provide you with documentation about your rights under the FCRA. Next, the employer must certify to the reporting agency that they complied with FCRA requirements related to disclosure and authorization and that the information will not be used for illegal discrimination. If the background check will include medical information (worker's compensation history, for

example), the information requested must be relevant, and the employer is bound by strict non-disclosure requirements.

### **BEFORE TAKING ADVERSE ACTION BASED ON BACKGROUND REPORT**

Before taking any adverse action against you based on information in your background report, the employer must provide you with a notice of the adverse action, a copy of the background report, and a summary of your rights under FCRA, along with sufficient time for you to review and dispute the reported information. If the employer skips the steps required by FCRA, you should talk with an attorney to determine whether your rights have been violated.

### **AFTER TAKING ADVERSE ACTION BASED ON BACKGROUND REPORT**

After an employer takes an adverse action against you as a result of your background report, the employer must provide you with contact information for the reporting agency, including name, address, and phone number. The employer must make it clear that the reporting agency is not responsible for the adverse action and is not in possession of any information about why the adverse action was taken. The employer must also inform you of your right to obtain the information reported if you request it from the reporting agency within 60 days. Finally, the employer must inform you about your right to dispute any inaccurate or incomplete information with the reporting agency. If the employer skips any of these steps after taking an adverse action against you, you should consult with an attorney who has experience with FCRA claims and Federal Trade Commission complaints.