

Blog Entry: Lyft Obtains Dismissal Of FCRA Class Action

OCTOBER 27, 2016

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Source: *Array*

Lyft, the ride-sharing service, recently obtained dismissal of a putative class alleging that it violated the Fair Credit Reporting Act (“FCRA”) when obtaining background checks on its drivers. See *Nokchan v. Lyft, Inc.*, No. 15-cv-03008 (N.D. Cal. Oct. 5, 2016). The plaintiff, Michael Nokchan, was a driver for Lyft. Nokchan alleged that Lyft violated the FCRA by failing to provide him a disclosure of his rights to request his credit and background report when he applied to become a driver.

Lyft moved to dismiss the Complaint on the grounds that, even if there was a technical violation of the statute, Nokchan did not suffer any type of harm as required by the U.S. Supreme Court’s 2016 decision in *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540 (2016). The district court agreed, holding:

[B]ased on the allegations in the complaint, Nokchan was hired by Lyft after he successfully completed its background investigation and he continues to work for Lyft. Under these circumstances, the Court can find no real harm, or a threat of such harm, that gives Nokchan standing under Article III to pursue his claims in federal court. Rather, the facts alleged in this case appear to be similar to the example offered in Spokeo, where the Court opined that failure to provide the required notice to users of the consumer information provided would not be sufficient to meet Article III’s injury-in-fact requirement.

The district court rejected Nokchan’s claim that his privacy was invaded because the supposed FCRA disclosures were absent, and rejected the claim that Nokchan had suffered “informational injury” because Lyft had procured his credit and background information without providing the required FCRA disclosures.

Accordingly, the district court concluded that, absent some concrete injury, it lacked jurisdiction over Nokchan’s claim and dismissed the case without prejudice (though allowing its refiling in state court).