

Can AI Applicant Screening Trigger FCRA Obligations? Lessons for Employers From the Eightfold AI Lawsuit

Labor & Employment Law Update

By John Hayes on January 30, 2026

This week, consumer advocate lawyers filed a nationwide class action lawsuit against a California-based tech company, Eightfold AI, in California state court.

In a new approach to going after the use of AI in employment decisions, the two named plaintiffs and the proposed class allege Eightfold violated the Fair Credit Reporting Act ("FCRA") by not giving job applicants notice of the use of AI in the application process nor giving them a chance to dispute any errors.

This lawsuit has potentially far reaching impact on *any* employer that uses Alto screen and rank applicants—not just Eightfold

How Eightfold AI Is Used in Applicant Screening

According to the lawsuit, Eightfold is used across the country and globe by numerous companies (many Fortune 500) to screen job applicants. When an applicant submits a resume for a job, Eightfold allegedly scrapes vast amounts of personal data of an applicant and runs it through a proprietary model to score and rank candidates based on their supposed "likelihood of success" in the role, according to the lawsuit.

Eightfold's talent profiles of applicants evaluate their skills and the employers' needs, then scores the applicants. This score also includes personality descriptions and predicts their future titles and companies, according to the lawsuit. The lawsuit also alleges that the score of an individual applicant predicts the match between a candidate profile and a job position, and then lists, by ranking, the potential candidates.

The lawsuit further alleges Eightfold collects personal data, such as social media profiles, location data, internet and device activity, cookies, and other tracking, to create a profile about the candidate's behavior, attitudes, intelligence, aptitudes, and other characteristics that applicants never included in their job application.

Plaintiffs Claim AI Use in Applicant Screening Violates FCRA

As most employers know (or should know), running credit reports on applicants—or really running any type of consumer report on an applicant—can trigger the notice requirements of FCRA. The requirements are very specific and allow for the individual to dispute the report and point out any errors. Plaintiffs in this case accuse Eightfold of failing to provide this notice to job applicants that are subject to its software.

Key Takeaways: Why This Lawsuit Matters to Employers Using AI Hiring Tools

For now, the lawsuit is only against the AI company, not the employers using the software. But it can easily be foreseen that companies using the software will be drawn into this battle as well. FCRA requires the companies that rely on a consumer report in employment decisions, even done by a third-party vendor, must provide the notice to the employee or applicant affected. Should this type of AI applicant screening be found to fall under FCRA, employers using this software may be required to give the notice and opportunity to dispute to its job applicants.

AI continues to be both a boon and a major headache for employers. As can be seen in this case, the plaintiffs' bar will always try to seek out novel and "creative" ways to bring class action lawsuits against companies. For now, there is no requirement under FCRA, and no court has interpreted it as such, to provide notice to job applicants that AI was used in job applicant screening. But that future may not be far off. Employers would be wise to review any AI use in applicant screening with their vendor to determine how applicants are screened and what information is being mined.

Employers should also be on notice that at some point in the not too distant future, the use of AI in applicant screening may need to be disclosed to each and every applicant, which on its face would be a herculean task. Amundsen Davis will continue to monitor the situation, including this case, and will provide future updates as available.

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