

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
FORT LAUDERDALE DIVISION**

**MARIO MORALES,  
on behalf of himself and on behalf of  
all others similarly situated,**

**Plaintiff,**

**v.**

**Case No. :**

**PUBLIX SUPER MARKETS, INC.,**

**Defendant.**

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**CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff, MARIO MORALES (“Plaintiff”), files the following Class Action Complaint as against Defendant, PUBLIX SUPER MARKETS, INC. (“Defendant” or “Publix”), under the Fair Credit Reporting Act of 1970, as amended (“FCRA”), 15 U.S.C. § 1681 *et seq.*

**PRELIMINARY STATEMENT**

1. Defendant operates a large national supermarket chain.
2. Defendant routinely obtains and uses information in consumer reports to conduct background checks on prospective and existing employees, and frequently relies on such information, in whole or in part, as a basis for adverse employment action, such as termination, reduction of hours, change in position, failure to hire, and failure to promote.
3. While the use of consumer report information for employment purposes is not per se unlawful, it is subject to strict disclosure and authorization requirements under the FCRA.
4. Defendant willfully violated these requirements in systematic violation of Plaintiff’s rights and the rights of other putative class members. Specifically, Defendant violated 15 U.S.C. § 1681b(b)(3)(A) of the Fair Credit Reporting Act (“FCRA”) by taking adverse

employment action against Plaintiff and other putative class members based on undisclosed consumer report information without first providing Plaintiff and other affected class members with a copy of the pertinent consumer report, and without first providing them a reasonable opportunity to respond to the information in the report and discuss it with Defendant.

5. Based on the foregoing violations, Plaintiff asserts FCRA claims against Defendant on behalf of a putative Class consisting of Defendant's employees and prospective employees. In Count I Plaintiff asserts a FCRA claim under 15 U.S.C. § 1681b(b)(3)(A) on behalf of an "Adverse Action Class" consisting of:

**All Publix employees and job applicants in the United States against whom adverse employment action was taken, based, in whole or in part, on information contained in a consumer report obtained within five years of the filing of this complaint through the date of final judgment in this action, who were not provided the proper pre-adverse notice as required by the FCRA.**

6. On behalf of himself and the Putative Classes, Plaintiff seeks statutory damages, costs and attorneys' fees, equitable relief, and other appropriate relief under the FCRA.

7. The Named Plaintiff also seeks damages in the form of back pay to which he is entitled under the FCRA.

### **THE PARTIES**

8. Individual and representative Plaintiff Mario Morales is a former applicant/employee of Defendant, and is a member of the Putative Class defined herein.

9. Defendant is authorized to do business and doing business in the State of Florida, including within this Court's jurisdiction.

10. Notably, Publix is a repeat FCRA offender having just settled a \$6 million dollar FCRA case for failing to provide the proper FCRA disclosures. That case was styled *Knight v. Publix Super Markets, Inc.*, Case No.: :14-cv-00720, a class action which received final approval

in the United States District Court for the Middle District of Tennessee on November 12, 2014. Thus, in terms of FCRA compliance, Publix should have and still should be on “high alert” having just paid out millions of dollars on a very similar claim arising under the same law (albeit a different sub-section), making its FCRA violations particularly willful here.

### **JURISDICTION AND VENUE**

11. This is a class action for damages in excess of \$15,000, exclusive of interest, fees, and costs, for violations of the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*

12. Venue is proper in Miami-Dade County, Florida, because all of the events giving rise to these claims arose in this County.

### **ALLEGATIONS REGARDING DEFENDANT’S BUSINESS PRACTICES**

#### ***Background Checks and Failure to Provide and Pre and Post Adverse Notice***

13. Defendant conducts background checks on many of its job applicants as part of a standard screening process which constitute “consumer reports” under the FCRA. In addition, Defendant also conducts background checks on existing employees from time to time during the course of their employment.

14. Defendant does not perform these background checks in-house. Rather, Defendant relies on outside consumer reporting firms, like “Sterling Talen Solutions” in this case, to obtain this information and report it.

15. Such reports constitute “consumer reports” for purposes of the FCRA.

16. The FCRA provides that “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 . . . a copy of the report[.]” 15 U.S.C. § 1681b(b)(3)(A)(i).

17. Defendant typically does not provide job applicants or employees with a copy of their consumer reports when it takes adverse action against them based on the information in such reports. By way of example, Plaintiff's employment was terminated due to information obtained by Defendant contained in the consumer report.

18. This practice violates one of the most fundamental protections afforded to employees under the FCRA, and also runs counter to longstanding regulatory guidance. (“[15 U.S.C. § 1681b(b)(3)(A)] requires that all employers who use consumer reports provide a copy of the report to the affected consumer before any adverse action is taken. Employers must comply with this provision even where the information contained in the report (such as a criminal record) would automatically disqualify the individual from employment or lead to an adverse employment action. Indeed, this is precisely the situation where it is important that the consumer be informed of the negative information....”)

19. By failing to provide Plaintiff and other Putative Class members with copies of their consumer reports prior to taking adverse employment action against them based on such reports, Defendant willfully disregarded this regulatory guidance and the plain language of the statute in violation of 15 U.S.C. §§ 1681b(b)(3)(A).

#### **ALLEGATIONS SPECIFIC TO PLAINTIFF**

20. 15 U.S.C. § 1681b(b)(3)(A) is designed to allow people to explain to employers extenuating circumstance when people make; mistakes that, hopefully do not haunt them forever.

21. Here, Plaintiff admitted at his initial screening at a Publix warehouse that he had a criminal record. The conversation was recorded and should be in Publix's possession.

22. Plaintiff admitted and explained during his initial screen what had happened to him (he was in the wrong place at the wrong time and, ultimately, admitted he was convicted of felonies).

23. Nonetheless, despite his admissions, the woman conducting the interview over the phone continued the interview and asked him if he had any convictions within the last 12 months. He stated no, his convictions dated back approximately 6+ years ago and he had turned his life around. Defendant then hired Plaintiff and he started work the very next day in the meat department at one its Miami stores. This was in early November of 2016.

24. Plaintiff began to excel at his job, and was, at times, running the meat department unsupervised because of his hard work and dedication.

25. On November 9, 2016, Publix requested from Sterling a copy of Plaintiff's background check, i.e., his consumer report. The report was completed by Sterling on November 10, 2016.

26. Despite the fact that the report was complete and showed his felony convictions, Publix continued to allow Plaintiff to work in the meat department.

27. Then, in late November of 2016, without the benefit of the mandatory pre-adverse notice as required by the FCRA, Plaintiff was fired immediately right around Thanksgiving. In violation of 15 U.S.C. § 1681b(b)(3)(A), rather than giving Plaintiff a to explain his background, Defendant fired Plaintiff immediately. He was given no pre-adverse notice as required by the FCRA.

28. This was particularly harmful to Plaintiff because he had given up other job opportunities to work for Publix, causing him to lose income that was critical for his family—especially around the Christmas Holiday season.

29. In fact, as indicated by his work schedule, it was not until *after* he was fired did Publix provide to Plaintiff with a copy of the FCRA-mandated “pre-adverse” notice from Sterling dated December 2, 2016 (keeping in mind that at this point he had been fired for several days already). Then, seven days later, long after he had already been terminated, Plaintiff finally received the FCRA required “adverse action” notice, informing him that he was terminated effective December 9, 2016. Simply put, Publix’s timeline of Plaintiff’s termination violates 15 U.S.C. § 1681b(b)(3)(A).

30. In doing so, Defendant violated 15 U.S.C. § 1681b(b)(3)(A) by taking adverse employment action against Plaintiff and other putative class members, based on undisclosed consumer report information without first providing Plaintiff and other affected class members with a copy of the pertinent consumer report, and without providing them a reasonable opportunity to respond to the information in the report and discuss it with Defendant.

31. The FCRA requires employers to provide notice at three different periods: (1) before an employer requests and/or procures a consumer report, it must provide notice to the employee in a “stand-alone” document and must also receive written authorization from the employee (referred to as “Disclosure and Authorization”); (2) once an employer obtains a consumer report, before an employer can take adverse action against the employee it must first provide the employee with a copy of the report and provide a description of their rights under the FCRA (referred to as “Pre-Adverse Action Notice”); and (3) once an employer takes adverse action, it must notify the employee that (i) it is taking adverse action based on the information in the consumer report, (ii) the name, address, and telephone number of the consumer reporting agency that furnished the report to the person, (iii) 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, (iv) notice of the consumer's rights to obtain...a free copy of the consumer report on the consumer from the consumer reporting agency...[within] the 60-day period, and (v) notice of the consumer's right to dispute...with a consumer reporting agency the accuracy or completeness of any information in a consumer report furnished by the agency (referred to "Post-Adverse Action Notice"). See 15 U.S.C. § 1681b and § 1681m.

32. The FCRA required Defendant to provide Plaintiff with a copy of his consumer report and a summary of his rights before taking any adverse action based in whole or in part on the report. See § 1681b(b)(3). When it did not do so, Defendant failed to provide Plaintiff with the type of information the statute required be disclosed. And, under Supreme Court precedent expressly reaffirmed in *Spokeo*, see slip op. at 10, Plaintiff thus suffer[ed] an injury in fact. The Court reiterated that in *Public Citizen* in which it previously held that "when the plaintiff fails to obtain information which must be publicly disclosed pursuant to a statute," the plaintiff does suffer an injury in fact. 524 U.S. at 21. That is, the deprivation of information that Plaintiff suffered—constitutes a sufficiently distinct injury to provide standing to sue. *Public Citizen*, 491 U.S. at 449. He suffered back pay damages as a result. He also gave up other job opportunities and a chance to earn income from those jobs.

33. Defendant's process for failing to properly provide pre and post adverse is ripe for class treatment as "bb3" classes, like the one identified here, are commonly certified by courts throughout the country. For example, the undersigned was recently involved in a bb3 class against a major retailer in the Northern District of North Carolina with thousands of members, and the facts were fairly similar to those here: applicants were never given a chance to explain information contained in their reports before Defendant made the decision to either not hire, or to fire them,

altogether. This is a classic example of a § 1681b(b)(3), making this case and Defendant's business practices ripe for class treatment.

### **CLASS ACTION ALLEGATIONS**

34. **Numerosity:** The Classes are so numerous that joinder of all members is impracticable. At this time, Plaintiff does not know the exact size of the Class. Based on information and belief, the Class is comprised of at least hundreds (it not more) of members and is geographically dispersed throughout the country as to render joinder of all Class Members impracticable. The names and addresses of the Class members are identifiable through documents maintained by the Defendant, and the Class members may be notified of the pendency of this action by published and/or mailed notices.

35. **Typicality:** Plaintiff's claims are typical of the other Class Members' claims. As described above, Defendant uses common practices and automated systems in committing the conduct that Plaintiff alleges damaged him and the Class. On behalf of the putative Plaintiff seeks only statutory and punitive damages for their class-wide claims, while the Named Plaintiff seeks and is entitled to back pay. Defendant uniformly breached the FCRA by engaging in the conduct described above, and these violations had the same effect on each member of the Classes.

36. **Adequacy:** Plaintiff will fairly and adequately protect the interests of the Putative Classes, and has retained counsel experienced in complex class action litigation.

37. **Commonality:** Common questions of law and fact exist as to all members of each Class. Without limitation, the total focus of the litigation will be Defendant's uniform conduct and procedures, whether Defendant provided the required notices, when it did so, and whether Defendant acted willfully in its failure to design and implement procedures to assure compliant delivery and/or timing of these notices. Even the appropriate amount of uniform statutory under



15 U.S.C. § 1681n is a common question for members of each of the Classes.

38. This case is maintainable as a class action because prosecution of actions by or against individual members of the Putative Class would result in inconsistent or varying adjudications and create the risk of incompatible standards of conduct for Defendant. Further, adjudication of each individual Class member's claim as separate action would potentially be dispositive of the interest of other individuals not a party to such action, impeding their ability to protect their interests.

39. This case is also maintainable as a class action because Defendant has acted or refused to act on grounds that apply generally to the Putative Class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the Class as a whole.

40. Class certification is also appropriate because questions of law and fact common to the Putative Class predominate over any questions affecting only individual members of the Putative 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. Members of the Putative Class do not have an interest in pursuing separate actions against Defendant, as the amount of each Class member's individual claims is small compared to the expense and burden of individual prosecution. Class certification also will obviate 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 Putative Class members' claims in a single action brought in a single forum.

41. Plaintiff intends to send notice to all members of the Putative Classes to the extent

required. The names and addresses of the Putative Class members are available from Defendant's records.

**FIRST CLAIM FOR RELIEF**  
**Failure to Provide Copy of Consumer Report in Violation of FCRA**  
**15 U.S.C. § 1681b(b)(3)(A)**

42. Defendant used a "consumer report," as defined by the FCRA, to take adverse employment action against Plaintiff and other members of the Adverse Action Class.

43. Defendant violated the FCRA by failing to provide Plaintiff and other Adverse Action Class members with a copy of the consumer report that may have been used to take adverse employment action against them. *See* 15 U.S.C. § 1681b(b)(3)(A).

44. The foregoing violations were willful. At the time Defendant violated 15 U.S.C. § 1681b(b)(3) Defendant knew that before taking adverse employment action against Plaintiff and other putative class members based on consumer report information it was required to first provide a copy of the pertinent consumer report and a reasonable opportunity to respond to the information in the report. Besides the plain language of the FCRA itself on pre-adverse notice requirements, at that time a plethora of authority existed at the time that Defendant either knew about or should have known about. *See e.g., Kelchner v. Sycamore Manor Health Ctr.*, 305 F. Supp. 2d 429, 436 (M.D. Pa. 2004) *aff'd*, 135 F. App'x 499 (3d Cir. 2005); *Singleton v. Domino's Pizza, LLC*, No. 2012 WL 245965 (D. Md. Jan. 25, 2012); *Reardon v. Closetmaid Corp.*, No. 2:08-cv-1730, 2013 WL 6231606 (W.D.Pa. Dec. 2, 2013).

45. Defendant's willful conduct is also reflected by, among other things, the following facts:

- a. Defendant had just settled a \$6 million dollar FCRA lawsuit brought under 15 U.S.C. § 1681b(b)(2);

- b. Defendant is a large corporation with access to legal advice through its own general counsel's office and outside employment counsel, and there is no contemporaneous evidence that it determined that its conduct was lawful;
  - c. Defendant voluntarily ran a risk of violating the law substantially greater than the risk associated with a reading that was merely careless.
  - d. Defendant is a large corporation with access to legal advice through its own general counsel's office and outside employment counsel, and there is no contemporaneous evidence that it determined that its conduct was lawful;
  - e. Defendant knew or had reason to know that its conduct was inconsistent with published FTC guidance interpreting the FCRA and the plain language of the statute; and
  - f. Defendant voluntarily ran a risk of violating the law substantially greater than the risk associated with a reading that was merely careless.
46. Alternatively, and at a minimum, Defendant's actions were negligent.

**PRAYER FOR RELIEF**

47. **WHEREFORE**, Plaintiff, on behalf of himself and the Putative Class, prays for relief as follows:

- A. Determining that this action may proceed as a class action;
- B. Designating Plaintiff as class representative and designating Plaintiff's counsel as counsel for the Putative Classes;
- C. Issuing proper notice to the Putative Classes at Defendant's expense;
- D. Declaring that Defendant committed violations of the FCRA;
- E. Declaring that Defendant acted willfully in deliberate or reckless disregard of Plaintiff's rights and its obligations under the FCRA;
- F. Awarding statutory damages as provided by the FCRA, including
- G. Actual damage in the form of lost pay;
- H. Punitive damages;

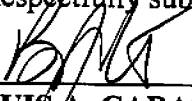
- I. Awarding reasonable attorneys' fees and costs as provided by the FCRA; and
- J. Granting other and further relief, in law or equity, as this Court may deem appropriate and just.

**DEMAND FOR JURY TRIAL**

Plaintiff and the Putative Class demand a trial by jury for all issues so triable.

Dated this 8<sup>th</sup> day of February, 2017.

Respectfully submitted,

  
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*/s/Chad A. Justice*

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JS 44 (Rev. 11/15)

### CIVIL COVER SHEET

The JS 44 civil cover sheet 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><b>I. (a) PLAINTIFFS</b> MARIO MORALES</p> <p>(b) County of Residence of First Listed Plaintiff <u>Miami-Dade</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) Brandon J. Hill, Wenzel Fenton Cabassa, P.A., 1110 N. Florida Ave., Ste. 300, Tampa, FL 33602 813-224-0431</p>	<p><b>DEFENDANTS</b> PUBLIX SUPER MAKRETS, 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><b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> <td style="width:47%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></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>		<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>	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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**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

<p><b>CONTRACTS</b></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 &amp; Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes 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><b>PERSONAL INJURY</b></p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel &amp; 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 - Medical Malpractice</p>	<p><b>PERSONAL INJURY</b></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><b>PERSONAL PROPERTY</b></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><b>FORFEITURE/PENALTY</b></p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p>	<p><b>BANKRUPTCY</b></p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p>	<p><b>OTHER STATUTES</b></p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))</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 checked="" 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 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><b>REAL ESTATE</b></p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent Lease &amp; 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><b>CIVIL RIGHTS</b></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><b>PRISONER PETITIONS</b></p> <p><b>Habeas Corpus:</b></p> <p><input type="checkbox"/> 463 Alien Detainee</p> <p><input type="checkbox"/> 510 Motions to Vacate Sentence</p> <p><input type="checkbox"/> 530 General</p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><b>Other:</b></p> <p><input type="checkbox"/> 540 Mandamus &amp; 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>	<p><b>LABOR</b></p> <p><input type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Management 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 Employee Retirement Income Security Act</p>	<p><b>PROPERTY RIGHTS</b></p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p>	<p><b>SOCIAL SECURITY</b></p> <p><input type="checkbox"/> 861 HIA (1395f)</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><b>FEDERAL TAX SUITS</b></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><b>IMMIGRATION</b></p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</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 Recopened     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):  
Fair Credit Reporting Act

Brief description of cause:  
Violation of the FCRA

**VII. REQUESTED IN COMPLAINT:**     CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.    DEMAND \$ \_\_\_\_\_    CHECK YES only if demanded in complaint: JURY DEMAND:  Yes     No

**VIII. RELATED CASE(S) IF ANY** (See instructions):    JUDGE \_\_\_\_\_    DOCKET NUMBER \_\_\_\_\_

DATE 2/8/17    SIGNATURE OF ATTORNEY OF RECORD [Signature]

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_    AMOUNT \_\_\_\_\_    APPLYING IFP \_\_\_\_\_    JUDGE \_\_\_\_\_    MAG. JUDGE \_\_\_\_\_

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the
Southern District of Florida

MARIO MORALES, on behalf of himself and on
behalf of all others similarly situated,

Plaintiff(s)

v.

PUBLIX SUPER MARKETS, INC.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) PUBLIX SUPER MARKETS, INC.
c/o JOHN A. ATTAWAY, JR.
3300 PUBLIX CORPORATE PKWY
LAKELAND, FL 33811

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: BRANDON J. HILL
WENZEL FENTON CABASSA, P.A.
1110 N. FLORIDA AVE.
SUITE 300
TAMPA, FL 33602

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

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

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:

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Publix Pegged with Class Action Over FCRA Problems](#)

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