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Supreme Court Case No.:

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

COORDINATION PROCEEDING SPECIAL TITLE (RULE 3.550)

FIRST STUDENT, INC. CASES

After a Decision by the Court of Appeal, Second Appellate District

Case No. B256075

PETITION FOR REVIEW

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CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

The following entities or persons have either (1) an ownership interest of 10 percent or more in the party or parties filing this certificate (Cal. Rules of Court, rule 8.208(e)(1)), or (2) a financial or other interest in the outcome of the proceeding that the justices should consider in determining whether to disqualify themselves (Cal. Rules of Court, rule 8.208(e)(2)):

	Name of Interested Entity or Person	Nature of Interest
1.	First Student, Inc./First Transit, Inc.	Petitioners
2.	FirstGroup PLC, FGA America, Inc.	Petitioners' Parent Companies.

Dated: September 21, 2015

RONALD A. PETERS
BENJAMIN A. EMMERT
LITTLER MENDELSON
Attorneys for Defendants and Appellees
FIRST STUDENT, INC. and FIRST TRANSIT, INC.

I. PETITION FOR REVIEW

To the Honorable Chief Justice Tani Cantil-Sakauye and the Honorable Associate Justices of the Supreme Court of California:

First Student, Inc. and First Transit, Inc. (collectively referred to as "First") hereby respectfully petition this Court for review of a published decision of the California Court of Appeal, Second Appellate District, filed August 12, 2015, that reversed the trial court's order granting First's motion for summary judgment as to Plaintiff Eileen Connor's causes of action based on an alleged violation of California's Investigative Consumer Reporting Agencies Act ("ICRRA"). Cal. Civ. Code §§ 1786.1 *et seq.* A true and correct copy of this decision is attached hereto as Exhibit A.

The Second District's decision has created an actual conflict between it and the Fourth Appellate District on a commonly reoccurring important point of law – whether the ICRAA is unconstitutionally vague as applied to consumer reports that are simultaneously subject to the separate and distinct statute, California's Consumer Credit Reporting Agencies Act ("CCRAA") result of its 1998 amendment that expanded the ICRAA's scope and reach. Compare *Connor v. First Student, Inc.* (2d Dist. 2015) 239 Cal.App.4th 526, 538-539 with *Ortiz v. Lyon Management Group, Inc.* (4th Dist. 2007) 157 Cal.App.4th 604, 619.

The Fourth Appellate District in *Ortiz* held the ICRAA's 1998 amendments caused it to be unconstitutionally vague and unenforceable as to the consumer reports at issue in this case because it "fail[ed] to provide adequate notice to persons who compile or request [consumer reports] that may contain information" simultaneously subject to the CCRAA and the ICRAA. *Ortiz,* 157 Cal.App.4th at 619. In reversing the trial court's grant of summary judgment in favor of First, the Second Appellate District in *Connor* disagreed with the *Ortiz'* Court's reasoning finding ICRAA was not unconstitutionally vague as applied to the subject consumer reports because it believed there were "no 'positive repugnancy' between the two laws." *Connor,* 239 Cal.App.4th at 538.

This conflict between the Second and Fourth Appellate Districts has created significant uncertainty how other Appellant Courts in California, as well as Federal Courts applying California law, will decide the same issue. See *Auto Equity Sales, Inc. v. Superior Court (Hesenflow)* (1962) 57 Cal.2d 450.

Additionally, in ruling the way they did, the Second Appellate District failed to consider what effect the breadth of the 1998 amendment to ICRAA would have on the ICRAA's express exclusion of reports containing information pertaining to a "consumer's credit record". In fact, by ruling the ICRAA overlaps with the CCRAA but is not unconstitutionally vague, the Second Appellate District essentially eviscerated the CCRAA. This is because every modern credit report, after 1998, regardless of its purpose, would necessarily contain information subject to ICRAA and therefore, according to the Second Appellate District, would require compliance with the ICRAA's overlapping but wholly different provisions. The Second Appellate District's decision could therefore fundamentally change the way California's credit and financial institutions do business in a way that is at odds with the express intentions of both the CCRAA and the ICRAA. This could have dire consequences for California.

Accordingly, review should be granted to resolve this conflict and secure uniformity of decision and settle this important question of law.

II. ISSUE PRESENTED FOR REVIEW

1. Whether the Second Appellant District correctly concluded that, contrary to the Fourth Appellant District's conclusion on the same issue, the California Legislature's 1998 amendment to the ICRAA, as applied in this action, provided adequate notice that it and not the CCRAA applied to the consumer reports regarding Ms. Connor.

III. HOW THE CASE PRESENTS A GROUND FOR REVIEW

California Rule of Court 8.500(a) states, in pertinent part, "[a] party may file a petition in the Supreme Court for review of any decision of the Court of

Appeal." The California Supreme Court may also grant review of a Court of Appeal decision "[w]hen necessary to secure uniformity of decision or to settle an important question of law." Cal. Rule of Ct. 8.500(b)(1).

Review is appropriate in this action to secure uniformity between California's Appellate Courts on an important question of law - whether California's ICRAA is unconstitutionally vague as applied to consumer reports obtained by employers on applicants, prospective employees, and employees used for the purpose of evaluating an individual for employment, promotion, reassignment, or retention as an employee when the same reports are also simultaneously subject to the CCRAA .

As a result of the Second Appellate District published decision in this action, that the ICRAA is not unconstitutionally vague and does not unconstitutionally overlap with the CCRAA, there exists an actual conflict between Second Appellate District and the Fourth Appellate District on this important matter. Specifically, in *Ortiz v. Lyon Management Group, Inc.* (2007) 157 Cal.App.4th 604 and *Trujillo v. First American Registry, Inc.* (2007) 157 Cal.App.4th 628, the Fourth Appellant District held "[t]he 1998 amendment rendered the ICRAA unconstitutional" to the extent it covers consumer reports that are concurrently subject to the CCRAA. *Ortiz*, 157 Cal.App.4th at 619; *Trujillo,* 157 Cal.App.4th at 640. Federal Courts that have considered this same issue have all followed *Ortiz* and *Trujillo*. See *Roe v. LexisNexis Risk Solutions, Inc.* (C.D. Cal. 2013) 2013 U.S. Dist. LEXIS 88936,*14-18; *Moran v. The Screening Pros.* (C.D. Cal. 2012) 2012 U.S. Dist. LEXIS 158598,*15-22.

In this action, the Second Appellate District disagreed with the Fourth Appellant District's reasoning and held the ICRAA is not unconstitutionally vague notwithstanding the fact it does not provide notice that a party requesting a consumer report that is covered by, and in compliance with the CCRAA's requirements, can be subject to the ICRAA's $10,000 penalty if

he/she/it fails to also comply with the ICRAA's separate and distinct more stringent requirements. *Connor*, 239 Cal.App.4th at 530.

IV. THIS PETITION FOR REVIEW IS PROPER AND TIMELY

On August 12, 2015, the Appellate Court filed its opinion granting Ms. Connor's appeal and reversing the trial court's order granting First's motion for summary judgment. The Appellate Court's opinion became final on September 11, 2015. Cal. R. Ct. 8.264(b)(1). The deadline for any party to petition this Court for review is September 21, 2015. Cal. R. Ct. 8.500(e)(1). First's Petition is filed on or before September 21, 2015, and is therefore timely.

V. BACKGROUND CONTEXT NECESSARY TO EXPLAIN HOW CASE PRESENTS A GROUND FOR REVIEW

A. Introduction

Ms. Connor is one of approximately 1400 individuals who filed this mass action against Defendant First. Ms. Connor, and each one of the other similarly situated plaintiffs, allege First violated California's ICRAA when it procured or caused to be prepared a consumer report on her without obtaining her express written consent as required by California's ICRAA. Ms. Connor, as well as each of the other plaintiffs in this action, seek recovery of the ICRAA's $10,000 penalty for each alleged violation of the ICRAA.

B. The Parties

1. First Student, Inc./First Transit, Inc.

First is a subsidiary of FirstGroup America, which is a subsidiary of FirstGroup PLC. First is a leader in providing safe, reliable, and cost-effective transportation services to school districts throughout the United States and Canada. (JA, Vol. I, p. 37.) First provides its services through a fleet of over 54,000 buses that serve approximately 6 million student riders each day. Because First provides transportation services for our most precious cargo, our children, it places a profound emphasis on making sure its services are conducted as safely as

humanly possible. It does this by, *inter alia*, conducting background checks on all of its drivers and others who have contact with its riders to ensure they are properly qualified to safely perform their job duties.

2. HireRight Solutions, Inc.

HireRight Solutions is a consumer reporting agency. (JA, Vol. I, pp. 37-38.) Ms. Connor claims HireRight Solutions is consumer reporting agency that prepared the subject background checks on her. (*Id.*)

3. Eileen Connor.

Plaintiff Eileen Connor is a former First employee on who First requested HireRight Solutions prepare the subject background reports. (JA, Vol. I, pp. 162-163.)

C. FirstGroup PLC, Acquires Laidlaw International, Inc.

In October 2007, FirstGroup PLC acquired Laidlaw Transit (another transportation company) through a stock purchase agreement. (JA, Vol. I, p. 37.) As a result, certain employees who had been employed by Laidlaw became employees of First. (JA, Vol. I, pp. 37-38.) To confirm these Laidlaw employees were properly qualified to work in positions in which they would have contact with First's student passengers, First ordered background reports on these individuals from HireRight Solutions. (*Id.*)

D. First Requests HireRight Solutions Perform Background Checks On Certain Former Laidlaw Employees Including Appellant.

Beginning in late October 2007, and in conjunction with its efforts to transition the former Laidlaw employees to First and confirm they were properly qualified to work with children, First sent each Laidlaw employee a package of documents called a "Safety Pack." (JA, Vol. I, p. 166.) As pertinent to this action, the Safety Pack included a written notice/disclosure/authorization ("Notice") allowing First to procure or cause to be prepared a consumer report(s)

and/or an "investigative consumer report(s)" on the individual. (JA, Vol. I, pp. 37.) The Notice stated, in pertinent part:

> In connection with your employment or application for employment (including contract for services), an investigative consumer report and consumer reports, which may contain public record information, may be requested from USIS [HireRight Solutions]. . . . These reports may include the following types of information: names and dates of previous employers, reason for termination of employment, work experience, accident, academic history, professional credentials, drugs/alcohol use, information relating to your character, general reputation, educational background, or any other information about you which may reflect upon your potential for employment gathered from any individual, organization, entity, agency, or other source which may have knowledge concerning any such items of information. Such reports may contain public record information concerning your driving record, workers' compensation claims, criminal records, etc., from federal, state and other agencies which maintain such records; as well as information from USIS [i.e. HireRight Solutions] concerning previous driving records requests made by others from such state agencies.

(JA, Vol. V, pp. 1072-1073.)

E. Ms. Connor's Employment With Laidlaw/First.

Ms. Connor started working for Laidlaw in about 2000 as a school bus driver's aide. (JA, Vol. I, pp. 185-186, 187-189.) After First acquired Laidlaw in October 2007, it sent her the Safety Pack, which included the Notice. (*Id.* at p. 166.) After it did, First requested HireRight Solutions prepare a background report on her. This report was prepared by using electronic databases and was based on publically available information and did not contain any information obtained from personal interviews. (JA, Vol. I, pp. 198-206; JA, Vol. II, pp. 951-952.)

Ms. Connor worked as a school bus driver for First until March 2009. (JA, Vol. I, pp. 189-190.) By March 2009, she had been involved in a number of traffic accidents and First contemplated terminating her employment. (*Id.*) Rather than fire her, First allowed Ms. Connor to return to work as a driver's aide. (*Id.*) In connection with returning to work in this position, Ms. Connor was required to fill out an employment application and execute a new Notice. (*Id.*) She filled out these documents on March 16, 2009 (the employment application) and March 18, 2009 (the Notice). (JA, Vol. I, pp. 208-213.)

On March 18, 2009, and in connection with Ms. Connor returning to work as a driver's aide, First requested HireRight Solutions prepare a new background report on her. (JA, Vol. I, pp. 215-228.) As with her initial background report, this report was prepared by using electronic databases and was based on publically available information and contained no information from personal interviews or from non-public sources. (JA, Vol. IV, pp. 951-952.)

First requested HireRight Solutions perform a new background check on Ms. Connor First requested HireRight Solutions perform a new background check on her on June 1, 2010. (JA, Vol. I, pp. 232-244.) While not required, Ms. Connor signed another Notice in conjunction with this background report. (JA, Vol. I, p. 230.) Again, as with Ms. Connor's prior background reports, this report was prepared by using electronic databases and did not contain any information obtained from non-public sources. (JA, Vol. VI, pp. 951-952.) It is undisputed that she passed the background check and suffered no adverse employment action from First as a result of any information contained in the report. (JA, Vol. I, p. 162.)

F. Statutory History Of The CCRAA And ICRAA Underlying The Parties Dispute.

In 1970, California's Legislature enacted legislation regulating the consumer credit reporting industry, the Consumer Credit Reporting Act (former Civ. Code § 1785.1 et seq.) Stats. 1970, c. 1348, p. 2512, § 1, repealed by Stats.

1975, c. 1271, 0.3377, § 2. The Consumer Credit Reporting Act governed "credit rating reports" it defined to include a report regarding a consumer's "credit record, credit standing, or capacity."

Later the same year, Congress passed the federal Fair Credit Reporting Act ("FCRA") (15 U.S.C. § 1681 et seq.). The FCRA broadly defined the term "consumer report" to include information bearing on an individual's "credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living." 15 U.S.C. § 1681a(d). The FCRA also differentiated between consumer reports containing information obtained by "personal interviews" (defined by the FCRA as "investigative consumer reports") and consumer reports that did not contain such personal interview information. (*Id.* at § 1681a(e)).

In 1975, California's Legislature repealed the Consumer Credit Reporting Act and separately passed two new separate and distinct laws: the CCRAA and the ICRAA. Stats. 1975, c, 1271, p. 3369, § 1 ("CCRAA"); Stats 1975, c. 1272, p. 3378, § 1 ("ICRAA"). The structure of the CCRAA and the ICRAA varied considerably from the structure of the FCRA, and reflected the Legislature's intent to establish two separate and independent statutes governing consumer reports regulating only those reports specifically falling within their specific spheres. (*Id.*)

Indeed, while the CCRAA and ICRAA both allowed the preparation and use of consumer reports falling under their respective jurisdictions for "employment purposes," which they both defined as "for the purpose of evaluating a consumer for employment, promotion, reassignment, or retention as an employee," they specifically differentiated between the types of consumer reports subject to their respective provisions by the manner in which the information in the report was obtained. Compare Cal. Civ. Code §§ 1785.3(c), (f), with Cal. Civ. Code §§ 1786.2(c), (f), Stats 1998, c. 988, § 1.

The CCRAA generally applied to all consumer reports, unless they were specifically covered by the ICRAA. Compare Cal. Civ. Code § 1785.3(c) with Cal. Civ. Code § 1786.2(c), Stats 1998, c. 988, § 1. As enacted by Assembly Bill 600, the CCRAA defined a consumer report falling under its provisions, i.e. a "consumer credit report," as one containing any "information bearing on a consumer's credit worthiness, credit standing, or credit capacity." Hist. and Statutory Notes, Civ. Code § 1785.3(c); see also Cal. Civ. Code § 1785.3(c). Significantly, the CCRAA excluded from its coverage consumer reports that were covered by the ICRAA. It did so by excluding consumer reports:

> Containing information solely on a consumer's character, general reputation, personal characteristics, or mode of living which is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on, or others with whom he is acquainted or who may have knowledge concerning those items of information.

Cal. Civ. Code § 1785.3(c).

The ICRAA on the other hand, as originally enacted, was much more limited in scope. It only applied to consumer reports it called "investigative consumer report[s]," which it defined as one "in which the information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews." Cal. Civ. Code § 1786.2(c), Stats 1998, c. 988, § 1.

As the foregoing shows, the ICRAA defined consumer reports falling under its jurisdiction as being those that were specifically excluded from the CCRAA. Compare Cal. Civ. Code § 1785.3(c), with Cal. Civ. Code § 1786.2(c), Stats 1998, c. 988, § 1. In other words, when enacted, the CCRAA covered all consumer reports, including consumer reports containing information "on a consumer's character, general reputation, personal characteristics, or mode of living" so long as the information was not obtained through personal

interviews, while the ICRAA covered consumer reports containing information on a consumer's character obtained through such personal interviews. (*Id.*) This bright line distinction existed until the Legislature amended the ICRAA in 1998.

G. The California Appellant Court Second District's Decision In Cisneros v. *U.D. Registry, Inc.* (1995) 39 Cal.App.4th 548.

In 1995, California's Court of Appeal, Second District, issued the decision in *Cisneros v. U.D. Registry, Inc.* (1995) 39 Cal.App.4th 548. The *Cisneros* Court interpreted the ICRAA's "personal interview" requirement as meaning, and being limited to, situations where information in an investigative consumer report is obtained from direct communication between two or more persons – *i.e.* "in person interviews" - and did not apply to information gathered in other ways, such as from written surveys or reports. (*Id.* at 569).

The *Cisneros* plaintiffs alleged the defendant, a company that collected and sold information to landlords regarding potential renters, violated the ICRAA by sending forms to a potential renter's former landlord asking the landlords to report the manner in which a tenant's tenancy ended. (*Id.* at 567). The Court held the defendant's conduct did not violate the ICRAA because its reports were "not 'investigative consumer reports' because the information [in the report] is not obtained through 'personal interviews'" as the ICRAA requires. (*Id.* at 569). Rather, the information was obtained from the forms, which the prior landlord filled out based on their own personal observations - not on "personal interviews." (*Id.* at 567-569).

H. California's Legislature's 1998 Amendments To The ICRAA.

In 1998, California's Legislature amended the ICRAA by revising its definition of an "investigative consumer report." Stats. 1998, c. 998 (S.B. 1454), § 1. It also amended the penalty available for a proven violation. (*Id.*) The amendment changed the ICRAA's definition of an "investigative consumer report" as being one "whose information is "obtained through personal interviews" to being one whose information is "obtained through any means." See Hist. and

Statutory Notes, Civ. Code § 1786.2(c). The amended definition, which was in place at the time period relevant to this action and today, states:

> The term "investigative consumer report" means a consumer report in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through any means.

Cal. Civ. Code § 1786.2(c).

Significantly, the Legislature made no corresponding amendments to the CCRAA. Indeed, the CCRAA today still applies to all consumer reports except those:

> Containing information solely on a consumer's character, general reputation, personal characteristics, or mode of living, which is obtained through personal interviews . . . .

Cal. Civ. Code § 1785.3(c)(5).

I. Procedural Requirements To Request A Consumer Report Under The CCRAA And The ICRAA And Penalties For A Proven Violation.

While the CCRAA and the ICRAA both authorize an employer to obtain a consumer report for "employment purposes," the CCRAA and the ICRAA impose significantly different procedural requirements to do so and provide significantly different penalties for a proven violation.

During the time period relevant to this action, the CCRAA required the requesting party:

1. Inform "the person [in writing] that a report will be used";
2. State "the source of the report"; and
3. Give the subject of the report a form "contain[ing] a box that the person may check off to receive a copy of the [] report."

See Cal. Civ. Code § 1785.20.5(a), Historical and Statutory Notes, Stats.2011, c. 724.

The ICRAA however, requires the requesting party:

1. Provide the subject of the report a written disclosure:
   a. Stating an investigative consumer report may be obtained;
   b. Identifying the permissible purpose of the report;
   c. Stating the report may include information on the consumer's character, general reputation, personal characteristics, and mode of living;
   d. Identifying the name, address, and telephone number of the investigative consumer reporting agency preparing the report; and
   e. Notifying the consumer in writing of the nature and scope of the investigation requested, including a summary of the provisions of California Civil Code section 1786.22; and
2. The Consumer authorizes the preparation and procurement of the report in writing.

Cal. Civ. Code § 1786.16(a).

The CCRAA and the ICRAA also provide significantly different penalties for a proven violation of their provisions. The CCRAA authorizes an aggrieved party to recover:

- In the case of a negligent violation, actual damages, including court costs, loss of wages, attorneys' fees and, when applicable, pain and suffering; or

- In the case of a willful violation, actual damages incurred as set forth above and punitive damages of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000) for each violation as the court deems proper.

Cal. Civ. Code § 1785.31.

The ICRAA states an aggrieved party may recover:

> • Any actual damages sustained by the consumer or ten thousand dollars ($10,000), whichever sum is greater, plus their attorneys' fees and court costs; as well as punitive damages if the defendant's conduct is established to be grossly negligent or willful.

Cal. Civ. Code §§ 1786.50(a), (b).

It is against this backdrop that Appellant's action against First is brought.

J. Ms. Connor's Lawsuit.

As states above, Ms. Connor is one of appropriately 1400 plaintiffs in this mass action. At the time First filed its motion for summary judgment, Ms. Connor's operative complaint was the Consolidated Fourth Amended Complaint ("CFAC"). The CFAC asserted four causes of action against First for alleged violations of the ICRAA (the First, Second, Sixth, and Seventh Causes of Action). (JA, Vol. I, pp. 34-90.) Each of these causes of action was premised on the same allegations, that First procured or caused to be prepared "investigative consumer reports," as defined in the ICRAA, on her without providing her the requisite disclosures and/or obtaining her written consent. (*Id.* at pp. 36-39.) The only distinction between the causes of action is that the First and Sixth Causes of Action allege Appellant suffered some unidentified emotional distress damages and the Second and Seventh Causes of Action do not. (*Id.* at pp. 41-53.)

K. First's Motion For Summary Judgment

On August 5, 2013, First filed its motion for summary judgment as to Ms. Connor's ICRAA claims. First's motion argued that California's ICRAA was unconstitutionally vague as applied to Ms. Connor's subject consumer reports because its 1998 amendment caused it to unconstitutionally overlap with the separate and distinct statute, the CCRAA pursuant to *Ortiz v. Lyon Management Group, Inc.* (2007) 157 Cal.App.4th 604 and *Trujillo v. First American Registry,*

Inc. (2007) 157 Cal.App.4th 628 and the federal courts that have considered this issue. See *Roe v. LexisNexis Risk Solutions, Inc.* (C.D. Cal. 2013) 2013 U.S. Dist. LEXIS 88936,*14-18; *Moran v. The Screening Pros.* (C.D. Cal. 2012) 2012 U.S. Dist. LEXIS 158598,*15-22.

On December 18, 2013, the trial court granted First's motion finding:

> Pursuant to the holdings in *Ortiz v. Lyon Management Group, Inc.* (2007) 157 Cal.App.4th 604 and *Trujillo v. First American Registry, Inc.* (2007) 157 Cal.App.4th 628, the ICRAA is unconstitutionally vague and unenforceable as applied to Plaintiff's claims against First Student, Inc. and First Transit Inc.
> (JA, Vol. X, p. 2298.)

The trial court based its decision on the fact that Ms. Connor produced no evidence "[t]he background reports that First Student, Inc. procured and/or caused to be prepared on Plaintiff [contained] information obtained through personal interviews." (*Id.* at p. 2298:24-27.) Accordingly, the trial court correctly found Appellant's subject background reports were simultaneously subject to both the CCRAA and the ICRAA. (*Id.*) Because the CCRAA and the ICRAA contain different procedural requirements before a consumer report can be requested and contain significantly different penalties for a proven violation of their provisions, the trial court correctly found their simultaneous coverage caused the ICRAA to be unconstitutionally vague and unenforceable as applied to this action as a matter of law under *Ortiz,* 157 Cal.App.4th at 604 and *Trujillo,* 157 Cal.App.4th at 628.

L. Mr. Connor's Appeal Of The Trial Court's Decision.

Ms. Connor appealed the trial court's granting First's motion for summary judgment on May 7, 2014, to California's Second Appellate District.

M. The Second Appellate District Grant's Ms. Connor's Appeal Reversing The Trial Court's Grant Of First's Motion For Summary Judgment Because It Believed The 1998 Amendment To The ICRAA Did Not Rendered It Unconstitutionally Vague.

On August 12, 2015, the Second District issued its decision on Ms. Connor's appeal holding that, contrary to the Fourth Appellate District in *Ortiz* and *Trujillo*, the ICRAA was not unconstitutionally vague and did not unconstitutionally overlap with the CCRAA. The *Connor* Court reached this conclusion because, unlike the *Ortiz* and *Trujillo* Courts that found the ICRAA and the CCRAA were meant to be separate and distinct statutes that applied to different types of consumer reports and therefore an individual or entity needed to only comply with the one governing the consumer report they procured or caused to be prepared, the *Connor* Court held an individual or entity was not prevented from complying with both statutes at the same time. In other words, unlike the *Ortiz* and *Trujillo* Courts that sought to continue to give effect to the Legislature's express differentiation between the two statutes, the Second District essentially held the ICRAA's 1998 amendment caused it to swallow the CCRAA in all but certain limited specifically enumerated situations. Accordingly, in the Second District's view, a defendant can be held liable for violating the ICRAA even though it engaged in perfectly legal conduct that was specifically authorized by the CCRAA.

N. Review Is Necessary To Secure Uniformity Of Decisions Across California's Appellate Courts And To Settle An Important And Reoccurring Question Of Law.

As stated above, review is proper in this action to resolve the conflict between California's Second and Fourth Appellate Districts as well as to resolve the conflict between the Second Appellate District and the federal district court's that have considered the constitutionally of the post-1998 ICRAA in the context of consumer reports procured or caused to be prepared for employment purposes.