

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

RODNEY PHATH,)	
)	
Plaintiff,)	CIVIL ACTION NO.:
)	
v.)	
)	
CENTRAL TRANSPORT)	
NORTH AMERICA, INC.,)	
)	<i>ELECTRONICALLY FILED</i>
Defendant.)	

COMPLAINT – CIVIL ACTION

Plaintiff, Rodney Phath, a resident of Philadelphia County, Pennsylvania, by and through his counsel, Weisberg Cummings, P.C., brings this civil action for damages against the above-named Defendant, Central Transport North America, Inc., and complains and alleges as follows:

JURISDICTION & VENUE

1. The jurisdiction of this District Court is conferred by 28 U.S.C. § 1332, in that there is complete diversity of citizenship between the parties, and the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.
2. Venue is proper in the Eastern District of Pennsylvania pursuant to 28 U.S.C. § 1391(a) because a substantial part of the events or omissions giving rise to these claims occurred in this Judicial District.

THE PARTIES

3. Plaintiff, Rodney Phath (hereinafter “Mr. Phath” or “Plaintiff”) is an adult individual residing in Philadelphia County, Pennsylvania.
4. Mr. Phath is a citizen of the Commonwealth of Pennsylvania.

5. Defendant, Central Transport North America, Inc. (hereinafter “Central Transport” or “Defendant”), is a Michigan corporation which maintains a facility located at 3215 Penn Avenue, Hatfield, Montgomery County, Pennsylvania 19440.

6. Central Transport is a citizen of the state of Michigan, with a home office address of 12225 Stephens Road, Warren, Michigan 48089.

BACKGROUND

7. In or about December 2023, Mr. Phath applied to work for Central Transport as a Truck Driver at Central Transport’s Hatfield, Pennsylvania facility.

8. Mr. Phath was well qualified for the position as he had a valid Commercial Driver’s License and adequate experience as a truck driver, and he had obtained his Transportation Worker Identification Credential (TWIC) card from the United States Transportation Administration, which is required by the Maritime Transportation Security Act for workers who need access to secure areas of the nation’s maritime facilities/vessels.

9. Central Transport constantly advertises for and hires drivers.

10. Mr. Phath also has a criminal background; notably, Plaintiff’s convictions were, at the time, approximately fifteen (15) years old.

11. Mr. Phath’s criminal background does not relate to his suitability for employment with Central Transport as a Truck Driver.

12. During the interview and hiring process with Central Transport, Mr. Phath was advised that the company would order a criminal background report.

13. At that time, Mr. Phath disclosed that he was convicted of armed robbery in 2008, for which he served six years in confinement and has had a clean record since.

14. Following this disclosure, Mr. Phath was immediately told that he would be denied employment on the basis of his criminal history.

15. Central Transport did not conduct any individualized assessment of Mr. Phath's suitability for employment, and it did not request any additional information to review the job relatedness of Mr. Phath's criminal record.

16. Central Transport used Mr. Phath's criminal history in determining not to hire him, but never notified Mr. Phath of this use in writing, as required by the Pennsylvania Criminal History Records Information Act 18 Pa. C.S. § 9101 *et seq.* ("CHRIA").

17. Furthermore, in refusing to hire Mr. Phath on the basis of his criminal history, Central Transport violated CHRIA, which prohibits employers from denying employment on the basis of an applicant's criminal history, where that criminal history is unrelated to the applicant's suitability for employment in the position for which he has applied.

COUNT II

Violations of CHRIA

18. All prior paragraphs are incorporated herein as if set forth fully below.

19. Section 9125(b) of CHRIA prohibits employers from denying employment on the basis of a criminal record other than for felony and misdemeanor convictions. 18 Pa.C.S. § 9125(b).

20. Section 9125(b) of CHRIA permits employers to consider an applicant's felony and misdemeanor convictions "**only** to the extent to which they relate to the applicant's suitability for employment in the position for which he has applied." 18 Pa.C.S. § 9125(b) (emphasis added).

21. At the time Central Transport denied Mr. Phath employment on the basis of his criminal history, Mr. Phath did not have any felony or misdemeanor convictions that would affect his suitability for employment in the position for which he had applied.

22. Because Central Transport denied Mr. Phath employment on the basis of his criminal history record information file under these circumstances, Central Transport violated CHRIA.

23. In considering Mr. Phath's criminal history record information file where his previous convictions did not relate to the position for which he had applied, Central Transport willfully violated CHRIA, 18 Pa.C.S. § 9125.

24. Furthermore, Section 9125(c) requires an employer to notify an applicant in writing if the decision not to hire the applicant is based in whole or in part on criminal history record information.

25. By failing to notify Mr. Phath in writing that its decision not to hire was based in whole or in part upon his criminal history, Central Transport willfully violated CHRIA, 18 Pa.C.S. § 9125.

WHEREFORE, Plaintiff, Rodney Phath, respectfully requests judgment against Defendant, Central Transport North America, Inc., with all damages available under Section 9125 of the Pennsylvania Criminal History Records Information Act, including actual and real damages, exemplary and punitive damages, reasonable costs of litigation, attorneys' fees, and any such other relief as this Honorable Court deems just and appropriate.

Respectfully submitted,

WEISBERG CUMMINGS, P.C.

February 15, 2024

Date

/s/ Larry A. Weisberg

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