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VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

COMMONWEALTH OF VIRGINIA,)
 EX REL. MARK R. HERRING,)
 ATTORNEY GENERAL,)
)
 Plaintiff,)
)
 v.)
)
 EQUIFAX INC.,)
 a Georgia corporation,)
)
 Defendant.)

CIVIL ACTION NO. CL19-3691-6

COMPLAINT

COMES NOW the Plaintiff, Commonwealth of Virginia, by, through, and at the relation of the Attorney General, Mark R. Herring, bringing this action complaining of Defendant Equifax Inc. (“Equifax” or “Defendant”) for violations of the Virginia Consumer Protection Act (“VCPA”), Virginia Code §§ 59.1-196 through 59.1-207, and states as follows:

JURISDICTION AND VENUE

1. This action is brought for and on behalf of the Commonwealth of Virginia, by Mark R. Herring, Attorney General of the Commonwealth of Virginia, pursuant to the provisions of the VCPA, and his common law authority as Attorney General to represent the people of the Commonwealth of Virginia.

2. Venue is preferred in this Court pursuant to Virginia Code § 8.01-261(15)(c) because some or all of the acts to be enjoined are, or were, being done in the City of Richmond. Venue is permissible in this Court pursuant to Virginia Code §§ 8.01-262(2), (3) and (4) because

Defendant has a registered office and has appointed an agent to receive process in the City of Richmond, because Defendant regularly conducts substantial business activity in the City of Richmond, and because portions of the cause of action arose in the City of Richmond.

3. The Circuit Court of the City of Richmond has authority to entertain this action and to grant the relief requested herein pursuant to Virginia Code §§ 8.01-620, 17.1-513, 59.1-203, 59.1-205, and 59.1-206.

THE PARTIES

4. Plaintiff, Commonwealth of Virginia, by, through, and at the relation of the Attorney General, Mark R. Herring, is charged, *inter alia*, with the enforcement of the VCPA and Virginia's breach of personal information notification statute, Virginia Code § 18.2-186.6.

5. Defendant is a Georgia corporation with its principal place of business at 1550 Peachtree Street NE, Atlanta, Georgia 30309. Defendant is registered with the Virginia State Corporation Commission as an active foreign corporation, effective on September 17, 1915.

FACTS

6. Equifax was founded in 1899 and is known as the oldest of the three largest American consumer credit reporting agencies.

7. Equifax, per its company profile, is a global information solutions company that uses unique data, innovative analytics, technology, and industry expertise to power organizations and individuals around the world by transforming knowledge into insights that help make more informed business and personal decisions.

8. Anyone who has conducted a financial transaction within the last few decades, such as an apartment rental, home purchase, car purchase, opening a credit card account,

remodeling their home, or borrowing money for higher education, likely has a credit report with Equifax and other consumer reporting agencies.

9. Equifax collects, organizes, assimilates, and analyzes sensitive personal information on more than 820 million consumers and more than 91 million businesses worldwide.

10. Consumers in modern society do not choose to have Equifax compile sensitive personal information about them and sell it to potential credit grantors and others who legally are permitted to view this information.

11. Equifax's databases include employee data contributed from more than 7,100 employers.

12. Equifax markets and sells consumer credit and insurance reports and analytics to business customers, including, but not limited to: retailers, healthcare organizations and providers, insurance firms, government agencies, public utility providers, credit unions, and banks and finance companies.

13. Consumer credit reports provide detailed information specific to a consumers' life, including but not limited to:

- Personal Information, such as: name, date of birth, current and past addresses, name of current and past employers, and Social Security number;
- Credit History, such as information regarding each account that a consumer has opened with a credit card company, bank or other creditor in the last few years; this includes information such as: date of account opening and closing, credit limit or loan amount, monthly balance as of each statement date, monthly payment history, and whether payments were made on time;

- Credit Inquiry Information, which includes a record of anytime a consumer's credit report is viewed by another party, such as a lender, credit card company, service provider, landlord, or insurer;
- Public Records, including bankruptcies, tax liens, and civil judgments; and
- Personal Statement, also known as the section which allows a consumer to explain any potential disparaging information contained within his or her file.

14. In the late 1990s, Equifax began offering services and tools to the consumer sector consisting of credit monitoring and identity theft monitoring and prevention products.

15. Equifax represents, via its website, that it takes reasonable steps to protect the security of consumers' personal information and uses technical, administrative, and physical security measures that comply with applicable federal and state laws.

Breach Announcement and Response

16. Equifax announced September 7, 2017, that it had been breached due to a vulnerability affecting Equifax's network security infrastructure. Specifically, Equifax was using an open-source software called "Apache Struts" on its website. On March 8, 2017, Equifax was alerted that "Apache Struts" had a vulnerability that would allow remote attackers to execute commands and that Equifax should apply an available patch to fix the vulnerability. Equifax failed to apply the available fixes throughout its operating network.

17. As a result of Equifax's failure to address the Apache Struts vulnerability throughout its network, intruders were able to access Equifax's Network. Once they were inside Equifax's network, the intruder(s) took advantage of additional security failures by Equifax to move through Equifax's network, access databases containing consumers' personal information, and take that information out of Equifax's network.

18. Although it appears that the vulnerability was exploited in March 2017, the intruder(s) had access to the personal information at issue from May 13, 2017 through July 30, 2017.

19. On September 7, 2017, Equifax announced its data breach to the public disclosing that the data breach affects approximately 143 million U.S. consumers. Equifax subsequently revised that number to a total of approximately 148 million U.S. consumers affected by the breach. With that total, approximately 4,142,243 are Virginia residents. The information that was compromised in the data breach included the Social Security numbers, birth dates and addresses of all of the affected consumers, as well as in some instances driver's license numbers, credit card numbers and certain credit dispute documents.

20. Equifax offered to all, regardless of whether impacted by the breach, free enrollment in one year of TrustedID Premier monitoring services, which consist of: credit monitoring services, copies to enrollees of their Equifax credit report, an Equifax credit report lock, Social Security number monitoring, and \$1 million of identity theft insurance.

21. Equifax subsequently extended credit monitoring for another year for affected consumers.

22. The data breach has caused substantial harm to consumers by publicly exposing their most sensitive personal data, which has substantially increased the threat of identity theft. This harm includes both economic and non-economic damages that consumers will sustain or have sustained by having to purchase products and services to protect their identities, including credit freezes and credit monitoring, as well as inconvenience and lost wages, by having to take steps to either protect their identities or, in cases where consumers' identities have already been compromised, having to restore their identities.

CAUSE OF ACTION

23. The Plaintiff incorporates paragraphs 1 through 22 as if fully set forth herein.

24. The Defendant is or was during all relevant times a “supplier” of “goods” and/or “services” in connection with “consumer transactions” as those terms are defined in § 59.1-198 of the VCPA.

25. The Defendant’s false and misleading statements to consumers regarding its data protection practices have had the capacity, tendency or effect of deceiving or misleading consumers and constitute violations of § 59.1-200(A)(14) of the VCPA.

26. The Defendant’s failure to adequately inform consumers regarding its data protection practices constitutes a failure to state material facts, the omission of which has deceived or tended to deceive consumers, as set forth above, and constitutes violations of § 59.1-200(A)(14) of the VCPA.

27. The Defendant has willfully, knowingly, and deliberately engaged in the acts and practices described in this Complaint in violation of the VCPA.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff respectfully requests this Court to:

A. Permanently enjoin Equifax from violating Virginia Code § 59.1-200(A)(14), pursuant to Virginia Code § 59.1-203;

B. Grant judgment against Equifax and award to the Commonwealth all sums necessary to restore to any consumers the money or property acquired from them by Equifax in connection with its violations of § 59.1-200(A)(14) of the VCPA, pursuant to Virginia Code § 59.1-205;

C. Grant judgment against Equifax and award to the Commonwealth civil penalties of up to \$2,500 per willful violation of § 59.1-200(A)(14) of the VCPA, pursuant to Virginia Code § 59.1-206(A);

D. Grant judgment against Equifax and award to the Commonwealth its costs, reasonable expenses incurred in investigating and preparing the case up to \$1,000.00 per violation of § 59.1-200(A)(14) of the VCPA, and its attorneys' fees, pursuant to Virginia Code § 59.1-206(C); and



E. Order such other and further relief as may be deemed proper and just.

COMMONWEALTH OF VIRGINIA,
EX REL. MARK R. HERRING,
ATTORNEY GENERAL

By:


Stephen John Sovinsky

By:


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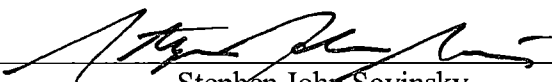
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CERTIFICATE OF SERVICE

I, Stephen John Sovinsky, certify that on July 22, 2019, a true copy of the foregoing
Complaint was mailed via first class mail to:

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