

**IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO**

STATE OF OHIO, <i>ex rel.</i>)	CASE NO.:
DAVE YOST,)	
ATTORNEY GENERAL)	
30 East Broad Street)	JUDGE:
State Office Tower – 14 th Floor)	
Columbus, Ohio 43215)	
)	
Plaintiff,)	<u>COMPLAINT FOR</u>
)	<u>DECLARATORY JUDGMENT,</u>
v.)	<u>INJUNCTIVE RELIEF, CIVIL</u>
)	<u>PENALTIES AND COSTS</u>
)	
EQUIFAX INC.)	
1550 Peachtree Street, N.W.)	
Atlanta, Georgia 30309)	
)	
Defendant.)	

COMPLAINT

Plaintiff, State of Ohio, by and through the Attorney General of Ohio, Dave Yost and his Consumer Protection Section brings this action to enjoin Defendant Equifax Inc. (“Defendant” or “Equifax”) from engaging in unfair or deceptive acts or practices in violation of the Consumer Sales Practices Act, R.C. 1345.01 et seq. and states as follows:

PARTIES

1. Plaintiff is the State of Ohio, by and through the Attorney General of Ohio, Dave Yost and his Consumer Protection Section.

2. Defendant Equifax Inc. is a Georgia company, with executive offices located at 1550 Peachtree Street, N.W., Atlanta, Georgia, 30309.

JURISDICTION AND VENUE

3. Plaintiff, State of Ohio, by and through the Attorney General of Ohio, Dave Yost and his Consumer Protection Section, having reasonable cause to believe that violations of

Ohio's consumer laws have occurred, brings this action in the public interest and on behalf of the State of Ohio under the authority vested in him pursuant to R.C. 1345.07 of the Consumer Sales Practices Act.

4. The actions of Defendant, hereinafter described, have occurred in the State of Ohio, County of Franklin and various other counties, and as set forth below, are in violation of the Consumer Sales Practices Act, R.C. 1345.01 et seq.

5. Equifax is a "supplier" as that term is defined in R.C. 1345.01(C) as Equifax was, at all times relevant herein, engaged in the business of effecting "consumer transactions" by compiling consumers' sensitive personal information, offering that information for sale in various forms, including credit reports, and accepting payment for the information., in the State of Ohio for purposes that were primarily for personal, family or household use within the meaning specified in R.C. 1345.01(A) and (D).

6. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the Consumer Sales Practices Act.

7. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(C), in that some of the transactions complained of herein and out of which this action arose, occurred in Franklin County.

BACKGROUND

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

9. 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.

10. 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.

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

12. 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.

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

14. 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.

15. 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 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.

16. 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.

17. 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

18. 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.

19. 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.

20. 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.

21. 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 total of approximately 148 million U.S. consumers affected by the breach. Within that total, approximately 5.3 million of those consumers are Ohio 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.

22. 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.

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

24. 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

COUNT ONE

UNFAIR OR DECEPTIVE CONSUMER SALES PRACTICES

25. The Plaintiff incorporates paragraphs 1 through 24 as if fully set forth herein.

26. The Defendant's practices, as set forth above, constitute unfair or deceptive acts or practices in the sale and offering for sale of consumer services in violation of R.C. 1345.02(A).

27. Defendant, while engaged in trade or commerce, committed a deceptive act or practice in violation of R.C. 1345.02(A) by representing, expressly or by implication, that defendant takes reasonable steps to protect consumers' personal information in its possession when, in fact, it suffered a data breach.

28. Defendant, while engaged in trade or commerce, committed an unfair or deceptive act or practice in violation of R.C. 1345.02(A) by failing to take reasonable steps to protect consumers' sensitive personal information, resulting in a security breach that affected as many as 148 million Americans, including as many as 5.32 million Ohio residents.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

1. Adjudge and decree that the Defendant has engaged in acts or practices in violation of the Consumer Sales Practices Act., R. C. 1345.01 *et seq.*, as previously set forth.
2. Permanently enjoin and restrain the Defendant from engaging in unfair or deceptive consumer sales practices set forth herein and from violating the Consumer Sales Practices Act.
3. Adjudge and decree that the Defendant is liable to the State for the reasonable costs and

expenses of the investigation and prosecution of the Defendant's actions.

5. Assess, fine and impose upon the Defendant a civil penalty pursuant to R. C. 1345.07(D) of Twenty-Five Thousand Dollars (\$25,000.00) for each unfair or deceptive act or practice alleged herein.
6. Order that all costs in this cause be taxed against the Defendant.
7. Grant Plaintiff such other and further relief as this Court deems just, equitable and appropriate.

Respectfully Submitted,

DAVE YOST
Attorney General

/s/ Michael S. Ziegler
MICHAEL S. ZIEGLER (0042206)
MELISSA SZOZDA SMITH (0083551)
Assistant Attorneys General
Consumer Protection Section
30 East Broad Street, 14th Floor
Columbus, Ohio 43215-3428
614/644-9618
866/404-4121 (facsimile)
Michael.Ziegler@OhioAttorneyGeneral.gov
Melissa.S.Smith@OhioAttorneyGeneral.gov

Counsel for Plaintiff