

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

STEPHANIE HOFFMANN,

Plaintiff,

-against-

Index No.

COMPLAINT

GOLDBERG SEGALLA, LLP,

Defendant.

Plaintiff, STEPHANIE HOFFMANN, by her attorneys BLAU LEONARD LAW GROUP, LLC alleges of her own knowledge and conduct and upon information and belief as to all other matters, as follows:

PRELIMINARY STATEMENT

1. Plaintiff brings this action to recover monetary damages for pecuniary loss and emotional distress proximately resulting from Defendant's [a] negligent failure to safeguard her confidential Private Information; [b] permitting unauthorized access to Plaintiff's confidential Private Information by unknown third parties and [c] failing to provide Plaintiff with any redress for the Data Breach.

PARTIES

2. Plaintiff, STEPHANIE HOFFMANN, is a citizen and resident of Old Greenwich, CT.
3. Defendant, GOLDBERG SEGALLA, LLP is a limited liability partnership created under the laws of the State of New York, with its principal place of business located in Buffalo, New York, and with offices maintained at 711 3rd Avenue, New York, NY 10017.

FACTUAL ALLEGATIONS

4. Goldberg Segalla is a national civil litigation law firm with over 400 lawyers in more than 20 offices located in 11 U.S. states. As of 2019, Goldberg Segalla ["Attorneys"], was the 112th largest law firm headquartered in the U.S. by attorney headcount, according to the National Law Journal's NLJ 500.
5. In *Hoffmann v. Major Model Management, Inc.* Civil Case No.1:20-cv-06941 [S.D.N.Y.] Plaintiff commenced a putative Class Action to recover monetary damages for sustained loss and pecuniary injury resulting from the compromise and unauthorized access to class member's confidential personal information, consisting of disclosure of their place of birth, date of birth, nationality, permanent address, cell number, email address, social security number, signature, passport numbers and actual copies of social security number cards and passports.
6. Attorneys represent defendant in the Class Action.
7. In the Class Action, Attorneys electronically filed public court documents on Pacer.
8. In the Class Action, on December 3, 2020, in support of a motion to dismiss the Amended Complaint, Attorneys filed a Model Management Agreement as an unredacted exhibit (ECF No. 16-6).
9. Exhibit ECF No. 16-6 contained unredacted personal information of Ms. Hoffmann, including her social security number, date of birth, a photo depiction of her passport, a photo depiction of her social security card, her residential addresses, her email address and telephone numbers.
10. On the date of filing of the unredacted exhibit, Plaintiff's counsel notified Attorneys of the material breach of Ms. Hoffmann's confidential personal information and privacy.

11. On December 3, 2020, the court granted Attorney's motion to permanently seal the unredacted exhibit (ECF No. 16-6).
12. Attorneys replaced that exhibit with one that only redacted the first six digits of the plaintiff's social security number, and the month and day of her birthday. (ECF No. 19-6).
13. The motion that included the subject exhibit has been noted on the SDNY docket as "FILING ERROR – DEFICIENT DOCKET ENTRY."
14. On January 26, 2021, Attorneys refiled the Motion to Dismiss at ECF No. 23, and a redacted subject exhibit as ECF No. 26-2.
15. The new version ECF26-2 failed to redact the entirety of the Plaintiff's birthdate, the entirety of her social security number, the home addresses, the telephone numbers, the photo depiction of her passport and the passport number.
16. Unredacted exhibit (ECF No. 16-6) has never been sealed. It has remained in its original form as an accessible public document from December 3, 2020 until at least January 29, 2021.
17. From December 3, 2020 until at least January 29, 2021, the general public had full accessibility to all of Ms. Hoffmann's personal Private Information.
18. From December 3, 2020 to until at least January 29, 2021, Attorneys failed to notify Plaintiff of the data breach.
19. As a direct and proximate result of Attorneys' conduct, Plaintiff has been placed at an imminent, immediate, and continuing increased risk of harm from fraud and identity theft.
20. Third party credit institutions and prospective employers have reported to Plaintiff that her social security number is being used for fraudulent criminal activity.
21. The value of Personal Information is a valued commodity and financial asset:

Corporate America's increasing dependence on the electronic use of personally identifiable information ("PII") necessitates a reexamination and expansion of the traditional conception of

corporate assets. PII is now a commodity that companies trade and sell. As technological development increases, aspects of day-to-day business involving PII are performed electronically in a more cost effective and efficient manner. PII, which companies obtain at little cost, has quantifiable value that is rapidly reaching a level comparable to the value of traditional financial assets.

<https://scholarship.richmond.edu/jolt/vol15/iss4/2>

22. Plaintiff has been damaged by the compromise of her Private Information in the data breach.

23. Plaintiff 's Private Information was compromised as a direct and proximate result of the Attorney's data breach.

24. As a direct and proximate result of Attorney's conduct, Plaintiff has been placed at an imminent, immediate, and continuing increased risk of harm from fraud and identity theft.

25. As a direct and proximate result of Attorney's conduct, Plaintiff has been forced to expend time dealing with the effects of the data breach.

26. Plaintiff faces substantial risk of out-of-pocket fraud losses such as loans opened in her name, medical services billed in her name, tax return fraud, utility bills opened in her name, credit card fraud, and similar identity theft.

27. Plaintiff faces substantial risk of being targeted for future phishing, data intrusion, and other illegal schemes based on her Private Information as potential fraudsters could use that information to more effectively target such schemes to Plaintiff.

28. Plaintiff may also incur out-of-pocket costs for protective measures such as credit monitoring fees, credit report fees, credit freeze fees, and similar costs directly or indirectly related to the data breach.

29. There may be a substantial time lag, measured in years, between when harm occurs versus when it is discovered and also between when Private Information and/or financial information is stolen and when it is used.

30. According to the U.S. Government Accountability Office, which conducted a study regarding data breaches:

[L]aw enforcement officials told us that in some cases, stolen data may be held for up to a year or more before being used to commit identity theft. Further, once stolen data have been sold or posted on the Web, fraudulent use of that information may continue for years. As a result, studies that attempt to measure the harm resulting from data breaches cannot necessarily rule out all future harm. . See GAO Report, at p. 29.

31. Reimbursing an identity theft victim for a financial loss due to fraud does not make that individual whole again. On the contrary, identity theft victims must spend numerous hours and their own money repairing the impact to their credit. After conducting a study, the Department of Justice’s Bureau of Justice Statistics (“BJS”) found that identity theft victims “reported spending an average of about 7 hours clearing up the issues” and resolving the consequences of fraud in 2014. Victims of Identity Theft, 2014 (Sept. 2015) available at:

<http://www.bjs.gov/content/pub/pdf/vit14.pdf>

32. Plaintiff now faces years of constant surveillance of her financial and personal records, monitoring, and loss of rights. Plaintiff is incurring and will continue to incur such damages in addition to any fraudulent use of her PII.

33. The FTC recommends that identity theft victims take several steps to protect their personal and financial information after a data breach, including contacting one of the credit bureaus to place a fraud alert (consider an extended fraud alert that lasts for seven years if someone steals their identity), reviewing their credit reports, contacting companies to remove fraudulent charges from their accounts, placing a credit freeze on their credit, and correcting their credit reports. <https://www.identitytheft.gov/Steps>.

FIRST CAUSE OF ACTION
[NEGLIGENCE]

34. Plaintiff incorporates the above allegations as if fully alleged herein.

35. The repetitive wrongful/negligent acts and conduct of Attorneys in filing unredacted PII as publicly accessible documents violated Federal Rules of Civil Procedure 5.2, which provides, in pertinent part, as follows:

(a) Redacted Filings. Unless the court orders otherwise, in an electronic or paper filing with the court that contains an individual's social-security number, taxpayer-identification number, or birth date, the name of an individual known to be a minor, or a financial-account number, a party or nonparty making the filing may include only:

- (1) the last four digits of the social-security number and taxpayer-identification number.
- (2) the year of the individual's birth

36. The repetitive wrongful/negligent acts and conduct of Attorneys in filing unredacted PII as publicly accessible documents violated The Individual Rules of Practice of Hon. Laura Taylor Swain, the Presiding Judge in the subject Class action.

36. Section 5[b][i] of Judge Swain's Individual Rules of Practice provide, in pertinent part that sensitive information and information requiring caution [such as home address] must not be included in any document filed with the Court unless such inclusion is necessary and relevant to the case.

37. Attorneys were negligent and showed a reckless disregard of Plaintiff's rights to privacy by failing to perform redactions of Plaintiff's home address, passport number and telephone numbers, before making public court filing of documents containing this PII.

38. As Officers of the Court, Attorneys owed a duty to Plaintiff to exercise reasonable care in obtaining, retaining, deleting, securing, and protecting her Private Information from being compromised, lost, stolen, accessed, or misused by unauthorized persons.

39. Attorneys were in a position to ensure that its internal office systems and protocols were sufficient to protect against the foreseeable risk of harm to Plaintiff if her Private Information was compromised, lost, stolen, accessed, or misused by unauthorized persons.

40. Attorneys breached its common law duties and was negligent by failing to use reasonable measures to protect Plaintiff 's Private Information

41. Attorney's had a common law duty to prevent foreseeable harm to others. This duty existed because Plaintiff was a foreseeable and probable victim of its inadequate security practices in protecting her Private Information.

42. It was clearly foreseeable that Plaintiff would be harmed by the failure to protect her personal information, because the value of Personal Information is a known and valued commodity and financial asset that criminals use it for nefarious purposes.

43. As a proximate result of Attorney's negligent omissions and commissions as set forth above, Plaintiff has sustained actual and ascertainable injury, damages and pecuniary loss.

44. Plaintiff's injuries include: costs stemming from the use of her PII and the diminution in its value as a result of the Data Breach; costs associated with the detection and prevention of identity theft, including purchasing credit monitoring and identity theft protection services; costs related to the loss of use of and access to her funds; adverse effects on her credit; costs associated with time spent and the loss of productivity from addressing the actual and future consequences of the data breach.

45. Plaintiff is entitled to compensatory and consequential damages suffered as a proximate result of the Attorney's negligent omissions and commissions.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in her favor and against Defendant, as follows:

- A. For an award of actual damages, compensatory damages, statutory damages, and statutory penalties, in an amount to be determined.
- B. For an award of punitive damages.
- C. For an award of costs of suit and attorneys' fees, as allowable by law; and
- D. Such other and further relief as this court may deem just and proper.

Dated: Huntington, New York
May 24, 2021

BLAU, LEONARD LAW GROUP, LLC

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