

New Class Action Filed Against Equifax in Florida

Samantha Joseph, Daily Business Review

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Roger Slade and Rebecca Newman Casamayor with Haber Slade in Miami.

A class action filed in Florida against Atlanta-based Equifax Inc. points to a catch-22 that Equifax has since eliminated.

The company offered "free" credit monitoring and identity theft protection tools to consumers affected by the massive data breach, waiving its monthly \$19.95 fee.

But, there was a catch, according to the lawsuit pending in the U.S. District Court for the South District of Florida. In order to get these products to protect against potential fallout from the hack, clients had to surrender some of their legal rights by signing an arbitration provision and class action waiver.

"It's kind of like a hollow or empty offer," said plaintiffs attorney Roger Slade. "Obviously they knew what was coming down the pipe in the form of this and other lawsuits."

The Florida lawsuit follows similar court actions in Delaware, Atlanta, New York and other jurisdictions after the company's disclosure of a "cybersecurity incident" potentially affecting about 143 million people across the U.S.

Equifax is one of the largest U.S. consumer credit reporting agencies, with a database of Social Security numbers, addresses, birth dates, financial records and other personal information for millions of people. It sparked public outrage when news emerged of a six-week delay between the time it reportedly learned of the breach and when it disclosed that information on Sept. 7.

Attorneys working on behalf of potential victims across the nation filed class actions, likely headed for consolidation as multidistrict litigation in federal court in Atlanta.

The latest, from Florida, is by named plaintiffs Gregg Podalsky and Eileen Sue Samilow, who filed a six-count complaint Sept. 20. It seeks declaratory relief and accuses the firm of

negligence, violation of Florida's Deceptive Trade and Unfair Practices Act, willful violation of the Fair Credit Reporting Act and negligent violation of the Fair Credit Reporting Act.

Plaintiffs attorneys are **Slade, colleague Rebecca Newman Casamayor** and Boca Raton attorney Steven F. Samilow.

An Equifax spokesperson Friday said the company could not comment on pending litigation.

We "want to reassure consumers that we are remaining focused on helping them to navigate this situation and providing the best customer support possible," the company said in a statement. "We are listening to issues consumers have experienced and their suggestions, which are helping to further inform our actions as we continue to improve this process."

Equifax has also eliminated the legal clause in its terms of service that required users to agree to arbitration and forgo class actions.

"They retracted that mostly because it was likely unenforceable," said **Slade, of Haber Slade** in Miami. "It was a clever idea at the outset, but it was also a public relations nightmare."

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