

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, CO 80202</p> <hr/> <p>STATE OF COLORADO, ex rel. PHILIP J. WEISER, ATTORNEY GENERAL</p> <p>Plaintiff,</p> <p>v.</p> <p>EQUIFAX INC., a corporation</p> <p>Defendants.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>PHILIP J. WEISER, Attorney General JAY B. SIMONSON, 24077* First Assistant Attorney General MARK T. BAILEY, 36861* Senior Assistant Attorney General Ralph L. Carr Judicial Center 1300 Broadway, 10<sup>th</sup> Floor Denver, CO 80203 Telephone: (720) 508-6000 FAX: (720) 508-6040 *Counsel of Record</p>	<p>Case No.</p> <p>Div.:</p>
<p><b>COMPLAINT</b></p>	

Plaintiff, the State of Colorado, upon relation of Philip J. Weiser, Attorney General for the State of Colorado (“Plaintiff”), states and alleges as follows:

**INTRODUCTION**

1. This is an action brought by the State of Colorado pursuant to the Colorado Consumer Protection Act, §§ 6-1-101 *et seq.*, C.R.S. (2019) (“CCPA”), to enjoin and restrain Defendants from engaging in certain unlawful deceptive trade practices, for restitution to injured consumers, for statutorily mandated civil penalties, for disgorgement, and other relief as provided in the CCPA.

**PUBLIC INTEREST**

2. The Colorado Attorney General believes this action to be in the public interest of the citizens of the State of Colorado and brings this lawsuit pursuant to the CCPA.

### **JURISDICTION AND VENUE**

3. This action is brought for and on behalf of the State of Colorado, by Philip J. Weiser, Attorney General of the State of Colorado, pursuant to the provisions of the CCPA, and his common law authority as Attorney General to represent the State of Colorado.

4. Venue for this action properly lies in the City and County of Denver pursuant to C.R.S. § 6-1-103 and C.R.C.P. 98 because Defendant transacts business in the City and County of Denver or some of the transactions upon which this action is based occurred in City and County of Denver.

5. This court has jurisdiction over the Defendants pursuant to matter pursuant to C.R.S. §§ 6-1-103 and 6-1-110 because the Defendants have transacted business within the Colorado at all times relevant to this complaint.

### **THE PARTIES**

6. This matter is a civil law enforcement action by the State of Colorado, *ex rel.* Philip J. Weiser, under the CCPA.

7. Defendant is a Georgia corporation with its principal place of business at 1550 Peachtree Street NE, Atlanta, Georgia 30309. Defendant is registered with the Colorado Secretary of State as an active foreign corporation, effective on April 15, 1998.

### **TRADE AND COMMERCE**

8. Equifax was at all times relevant hereto engaged in trade and commerce in the State of Colorado by compiling consumers' sensitive personal information, offering that information for sale in various forms, including credit reports, and accepting payment for the information.

### **BACKGROUND**

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

10. 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.

11. 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.

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

13. 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.

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

15. 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.

16. 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 on 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 any time 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.

17. 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.

18. 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**

19. On September 7, 2017, Equifax announced 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.

20. 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.

21. 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.

22. 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 2,553,175 are Colorado 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.

23. Equifax offered to all of its customers, regardless of whether they were 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.

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

25. 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.

#### **FIRST CLAIM FOR RELIEF**

(Knowingly makes a false representation as to the characteristics, ingredients, uses, benefits, alterations, or quantities of goods, food, services, or property or a false representation as to the sponsorship, approval, status, affiliation, or connection of a person therewith in violation of C.R.S. § 6-1-105(1)(e))

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

27. Through the conduct described in this Complaint and in the course of its business, vocation or occupation, Defendant has knowingly made false representations to consumers regarding its data protection practices.

#### **SECOND CLAIM FOR RELIEF**

(Fails to disclose material information concerning goods, services, or property which information was known at the time of an advertisement or sale if such failure to disclose such information was intended to induce the consumer to enter into a transaction, in violation of C.R.S. § 6-1-105(u))

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

29. Through the conduct described in this Complaint and in the course of its business, vocation or occupation, Defendant has failed to disclose information concerning its data protection practices which information was known at the time of Defendant's advertisement, and Defendants failed to disclose such information with the intent to induce the consumer to enter into a transaction.

**THIRD CLAIM FOR RELIEF**

(Knowingly or recklessly engages in any unfair, unconscionable, deceptive, deliberately misleading, false, or fraudulent act or practice, in violation of C.R.S. § 6-1-105(1)(nnn))

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

31. Through the conduct described in this Complaint and in the course of its business, vocation or occupation, Defendant has knowingly and recklessly engaged in unfair, unconscionable, deceptive, deliberately misleading, false, and fraudulent acts and practices.

**RELIEF REQUESTED**

WHEREFORE, the Plaintiff respectfully requests that the Court enter an Order and Judgment:

- A. An order that Defendant's conduct violates the Colorado Consumer Protection Act, including C.R.S. § 6-1-105(1)(e), (u), and (nnn).
- B. A judgment pursuant to C.R.S. § 6-1-110(1) against Defendant to completely compensate or restore to the original position of any person injured by means of Defendant's deceptive practices;
- C. An order pursuant to C.R.S. § 6-1-110(1) requiring Defendant to disgorge all unjust proceeds derived from its deceptive practices to prevent unjust enrichment;
- D. An order pursuant to C.R.S. § 6-1-110(1) for an injunction or other orders or judgments relating to Defendant's deceptive practices;
- E. An order pursuant to C.R.S. § 6-1-112(1)(a) for civil penalties payable to the general fund of this state;
- F. An order pursuant to C.R.S. § 6-1-113(4) requiring Defendant to pay the costs and attorney fees incurred by the Attorney General;

- G. An order pursuant to C.R.S. § 6-1-716(4) to address violations of this section and for other relief that may be appropriate to ensure compliance with this section or to recover direct economic damages resulting from a violation.
- H. Any such further relief as this Court may deem just and proper to effectuate the purposes of the Colorado Consumer Protection Act.

Respectfully submitted this 22nd day of July, 2019.

PHILP J. WEISER  
Attorney General

*s/ Mark T. Bailey*  
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MARK T. BAILEY, 36861\*  
Senior Assistant Attorney General  
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**Plaintiff's Address**

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