

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF FAIRFAX

COMMONWEALTH OF VIRGINIA,)	
<i>EX REL. MARK R. HERRING,</i>)	
ATTORNEY GENERAL,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. _____
)	
THE NEIMAN MARCUS GROUP LLC,)	
a Delaware limited liability company,)	
)	
Defendant.)	
)	

COMPLAINT

The Plaintiff, Commonwealth of Virginia (the “Commonwealth” or the “Plaintiff”), by, through, and at the relation of the Attorney General, Mark R. Herring, brings this action against the Defendant, The Neiman Marcus Group LLC (“Neiman Marcus” or the “Defendant”), pursuant to the Virginia Consumer Protection Act (“VCPA”), Virginia Code §§ 59.1-196 through 59.1-207. The Commonwealth prays that this Court grant the relief requested in this Complaint and states the following in support thereof:

JURISDICTION AND VENUE

1. The Circuit Court of the County of Fairfax 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, and 59.1-206.

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 County of Fairfax. Venue is permissible in this Court pursuant to Virginia Code §§ 8.01-262(3) and (4) because

Defendant regularly conducts substantial business activity in the County of Fairfax, and portions of the cause of action arose in the County of Fairfax.

3. The Defendant transacted business in Virginia through several stores in the Commonwealth, including in the County of Fairfax. In addition, the Defendant marketed and advertised goods or services through media disseminated throughout Virginia.

4. At all relevant times, the Defendant has purposefully availed itself of this forum.

5. The Defendant has agreed to execute an Assurance of Voluntary Compliance that is acceptable to the Plaintiff in accordance with § 59.1-202 of the VCPA.

PARTIES

6. The Plaintiff is the Commonwealth of Virginia, by, through, and at the relation of Mark R. Herring, Attorney General of Virginia.

7. The Defendant, Neiman Marcus, is a limited liability company organized under the laws of the State of Delaware, with its principal place of business in Dallas, Texas. Neiman Marcus was issued a Certificate of Authority to Transact Business in Virginia by the Virginia State Corporation Commission on November 25, 2013.

FACTS

8. Neiman Marcus is a department store which advertises and sells clothing, shoes, handbags, jewelry and other related items throughout the United States and in Virginia.

9. On January 10, 2014, Neiman Marcus publicly announced a data breach of hundreds of thousands of its customers' information.

10. The intrusion affected approximately 350,000 customer payment card accounts.

11. Neiman Marcus obtained consumer information through transactions with consumers. The Commonwealth has reason to believe that this information was inadequately

safeguarded by the company. Upon information and belief, the company failed to provide protections and an information security program which would be expected by a reasonable consumer, including by failing to adequately monitor access to its network including transfer of data, and failing to have controls in place to detect and stop malware in its system.

CAUSE OF ACTION – VIRGINIA CONSUMER PROTECTION ACT

12. The Plaintiff realleges and incorporates herein by reference the matters set forth in Paragraphs 1 through 11 above.

13. 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.


14. Upon information and belief, Neiman Marcus failed to provide adequate protections for consumer information and knowingly did not disclose to consumers that its security safeguards and procedures for consumer information were inadequate.

15. The Plaintiff alleges that the aforesaid acts and practices of the Defendant constitute a violation of § 59.1-200(A)(14) of the VCPA.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, Commonwealth of Virginia, respectfully requests this Court enter its Order Approving and Adopting the Assurance of Voluntary Compliance filed simultaneously herewith.

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

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CERTIFICATE OF SERVICE

I, Stephen John Sovinsky, certify that on January 9, 2019, a true copy of the foregoing
Complaint was mailed via first class mail to:

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