

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, CO 80202	DATE FILED: March 11, 2021 10:44 AM FILING ID: 7BFE0D86BC693 CASE NUMBER: 2021CV30835
STATE OF COLORADO, <i>ex rel</i> PHILIP J. WEISER, ATTORNEY GENERAL, Plaintiff v. RETRIEVAL-MASTERS CREDITORS BUREAU, INC., A NEW YORK CORPORATION, D/B/A AMERICAN MEDICAL COLLECTION AGENCY Defendant	^ COURT USE ONLY ^
PHILIP J. WEISER, Attorney General MARK T. BAILEY, *36861 Senior Assistant Attorney General II CHELSEA A. KELLEHER, 55041* Assistant Attorney General Fellow Ralph L. Carr Colorado Judicial Center 1300 Broadway, Floor Denver, CO 80203 Telephone: 720-508-6000 E-Mail: chelsea.kelleher@coag.gov *Counsel of Record	Case No. Div.:
COMPLAINT	

Plaintiff, the State of Colorado, upon relation of Philip J. Weiser, Attorney General for the State of Colorado (“Plaintiff”), by and through undersigned counsel, brings this action against Retrieval-Masters Creditors Bureau, Inc. d/b/a American Medical Collection Agency for violations of the Colorado Consumer Protection Act (“CCPA”).

PARTIES

1. Plaintiff the State of Colorado, acting by and through its Attorney

General Philip J. Weiser, brings this enforcement action in the public interest alleging violations of C.R.S. sections 6-1-105(kkk), 6-1-713.5, and 6-1-716 as detailed below in connection with a data breach disclosed by Defendant in June 2019.

2. Defendant Retrieval-Masters Creditors Bureau, Inc., d/b/a American Medical Collection Agency, is a New York corporation with a current principal place of business at 200 Pemberwick Rd., Greenwich, CT 06831 and a previous principal place of business at 4 Westchester Plaza, Suite 110, Elmsford, NY 10523.

PUBLIC INTEREST

3. Plaintiff State of Colorado has reason to believe Defendant has engaged in and will continue to engage in the unlawful practices described below. Therefore, Plaintiff has reason to believe that Defendant has caused and will cause adverse effects to business enterprises which lawfully conduct trade and commerce in this State. Further, one of the principal purposes of the Personal Information Protection and Security Breach Notification laws pursuant to which this action is filed is to protect consumers from identity theft, in part by requiring businesses to implement and maintain reasonable safeguards to protect the personal information of consumers from unlawful use or disclosure.

4. Therefore, the State of Colorado has reason to believe that this action is in the public interest.

JURISDICTION & VENUE

5. This enforcement action is brought by the Attorney General of Colorado, in the name of the State of Colorado and in the public interest, pursuant to the

authority granted by C.R.S. sections 6-1-103 and 6-1-110.

6. Venue of this suit lies in Colorado pursuant to C.R.S section 6-1-103 and C.R.C.P. 98 because Defendant has done business in such jurisdiction as more specifically alleged below.

TRADE & COMMERCE

7. Defendant has, at all times described below, engaged in conduct which constitutes trade and commerce in the State of Colorado, in that Defendant is a company that collects personal debt including that of Colorado residents.

ACTS OF AGENTS

8. Whenever in this Petition it is alleged that Defendant did any act, it is meant that:

- A. Defendant performed or participated in the act; or
- B. Defendant's officers, affiliates, subsidiaries, divisions, agents, or employees performed or participated in the act on behalf of and under the authority of the Defendant.

BACKGROUND AND STATEMENT OF FACTS

9. Defendant Retrieval-Masters Creditors Bureau, Inc., is a debt collection agency. Defendant collected medical debts on behalf of healthcare providers under the name American Medical Collection Agency ("AMCA") from consumers across the country, including residents of Colorado.

10. In June 2019, Defendant publicly disclosed that between August 1, 2018 and March 30, 2019, an unauthorized user had gained access to Defendant's internal

system (hereafter “Data Breach”).

11. Defendant further disclosed that the intruder had gained access to records with the personal information of approximately twenty million individuals from whom Defendant was attempting to collect payment on behalf of medical providers. The information included names, dates of birth, social security numbers, financial information, and medical information.

12. On or about June 6, 2019, Defendant began mailing notice of the Data Breach to over seven million affected consumers. These notices included an offer to affected individuals of consumer credit monitoring for two years.

13. In the regular course of its business, Defendant collected and maintained the personal information of individuals located in Colorado and throughout the country, to include dates of birth, social security numbers, financial information, and medical information (hereafter “PI”).

14. Defendant’s conduct in collecting and maintaining PI was subject to the requirements of the Personal Information Protection law, which requires that a business implement and maintain reasonable procedures to protect from unlawful use or disclosure any personal information collected or maintained by the business in the regular course of business, including information that identifies an individual and relates to the provision of health care to the individual, and was further subject to the requirements of the federal Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and its implementing regulations. *See* 45 CFR Parts 160 and 164.15.

15. Defendant represented on its website that it was compliant with all applicable Federal and State laws. It also accepted payments by credit card, thus directly and indirectly representing that it was compliant with the Payment Card Industry Data Security Standard (“PCI DSS”), which is a set of security standards designed to ensure that all companies that accept, process, store, or transmit credit card information maintain a secure environment to safeguard such information throughout the transaction process.

16. Defendant engaged in trade and commerce and did business in the State of Colorado including by acting as a Business Associate, as defined by HIPAA, and collecting debts in this state on behalf of medical providers.

FIRST CLAIM FOR RELIEF

Defendant failed to protect personal identifying information in violation of C.R.S. §6-1-713.5.

17. The State of Colorado alleges that Defendant’s conduct as described above violated C.R.S. section 6-1-713.5 which requires businesses that maintain, own, or license PI of an individual residing in the state to implement and maintain reasonable security procedures and practices appropriate to the nature of the PI and the nature and size of the business and its operations.

18. During its regular course of business, Defendant collected the names, dates of birth, social security numbers, financial information including credit card information, and medical information of twenty million people including Colorado residents.

19. The nature of Defendant’s business and PI it collected required

Defendant to implement and maintain appropriate security practices, including the requirements of HIPAA and its implementing regulations.

20. Defendant failed to implement and maintain reasonable security procedures and practices appropriate to the nature of the PI Defendant collected in violation of C.R.S. section 6-1-713.5.

SECOND CLAIM FOR RELIEF

Defendant failed to provide notice of the data breach in accordance with C.R.S. §6-1-716.

21. The State of Colorado alleges that Defendant's conduct as described above violated C.R.S. section 6-1-716, which requires a business that maintains, owns, or licenses computerized data that includes the PI of a resident of Colorado to give notice no later than thirty days after determination of a breach to affected Colorado residents unless the business's investigation determines that the misuse of PI has not occurred and is not reasonably likely to occur.

22. In June 2019, Defendant publicly disclosed that between August 1, 2018 and March 30, 2019 Defendant experienced a Data Breach.

23. On or about June 6, 2019, Defendant began mailing notice of the Data Breach to over seven million affected consumers.

24. Defendant violated C.R.S. section 6-1-716 when it failed to provide timely notice of the Data Breach to affected Colorado residents.

THIRD CLAIM FOR RELIEF

Defendant knowingly or recklessly engaged in unfair, unconscionable, deceptive, deliberately misleading, false, or fraudulent act or practice in violation of C.R.S. § 6-1-105(kkk).

25. The State of Colorado re-alleges and incorporates by reference each and every preceding paragraph of this petition.

26. The State of Colorado further alleges that Defendant has, in the conduct of trade or commerce, engaged in false, misleading, unfair or deceptive acts or practices in violation of the CCPA. More specifically, Plaintiff alleges that contrary to its representations, Defendant failed to comply with requirements to safeguard the personal information of consumers, including the requirements of HIPAA and its implementing regulations.

27. The C.R.S. 6-1-716 requires businesses that maintain, own, or license PI of an individual residing in the state to implement and maintain reasonable security procedures and practices appropriate to the nature of the PI and the nature and size of the business and its operations.

28. In the regular course of its business, Defendant collected and maintained the PI of individuals located in Colorado and throughout the country, to include dates of birth, social security numbers, financial information, and medical information.

29. Defendant represented on its website that it was compliant with all applicable Federal and State laws.

30. Defendant accepted payments by credit card, thus directly and indirectly representing that it was compliant with the PCI DSS.

31. Defendant is subject to HIPAA requirements as a Business Associate because it collects medical debts of Colorado residents from medical providers.

32. Contrary to its express representations and business practices, Defendant failed to maintain reasonable security measures to protect the PI it collected in violation of C.R.S. section 6-1-105(kkk).

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for judgment against Defendants and the following relief:

- A. An Order that Defendants conduct violates the Colorado Consumer Protection Act, including sections 6-1-105(kkk), 6-1-713.5 and 6-1-716.
- 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 of not more than twenty thousand dollars for each such violation of any provision of the Colorado Consumer Protection Act with respect to each consumer

or transaction involved;

- F. An order pursuant to C.R.S. § 6-1-112(1)(c) for civil penalties payable to the general fund of this state of not more than fifty thousand dollars for each violation of any provision of the Colorado Consumer Protection Act with respect to each elderly person;
- G. 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;
- H. 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.
- I. 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 11th day of March 2021.

PHILIP J. WEISER
Attorney General

s/ Chelsea A. Kelleher
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