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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, MERCER COUNTY
DOCKET NO. MER-C-_____ -20

GURBIR S. GREWAL, Attorney
General of the State of New
Jersey, and PAUL R. RODRÍGUEZ,
Acting Director of the New
Jersey Division of Consumer
Affairs,

Plaintiffs,

v.

CHS/COMMUNITY HEALTH SYSTEMS
INC., a Delaware corporation,
and CHSPSC, LLC, formerly
COMMUNITY HEALTH SYSTEMS
PROFESSIONAL SERVICES
CORPORATION, a Delaware
corporation,

Defendants.

CIVIL ACTION

COMPLAINT

Plaintiffs Gurbir S. Grewal, Attorney General of the State of New Jersey ("Attorney General"), with offices located at 124 Halsey Street, Fifth Floor, Newark, New Jersey 07102, and Paul R. Rodríguez, Acting Director of the New Jersey Division of Consumer Affairs ("Director"), with offices located at 124 Halsey Street,

Seventh Floor, Newark, New Jersey 07102, (collectively, "Plaintiffs"), by way of this Complaint state:

PARTIES AND JURISDICTION

1. The Attorney General is charged with the responsibility of enforcing the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 to -226 ("CFA"). The Director is charged with the responsibility of administering the CFA on behalf of the Attorney General.

2. Defendant CHS/Community Health Systems, Inc. ("CHS/CHSI") is a Delaware publicly traded company with its principal place of business at 4000 Meridian Blvd., Franklin, Tennessee 37067-6325, and is the parent company of Defendant CHSPSC, LLC.

3. Defendant CHSPSC, LLC ("CHSPSC") is a Delaware limited liability company that provides management and professional services to various hospitals and other healthcare providers affiliated with CHS/CHSI. Its principal place of business is 4000 Meridian Blvd., Franklin, Tennessee 37067.

4. Defendants CHS/CHSI and CHSPSC (collectively, "Defendants") were at all relevant times engaged in business in the State of New Jersey ("New Jersey").

5. Plaintiffs and Defendants (collectively, the "Parties") admit jurisdiction of this Court over the subject matter and over the Parties for purpose of the Final Consent Judgment. The Court retains jurisdiction for the purpose of enabling the Parties to

apply for such further orders and relief as may be necessary for the construction, modification, enforcement, execution or satisfaction of the Final Consent Judgment.

6. The Attorney General and Director bring this action pursuant to their authority under the CFA.

7. Pursuant to Rule 4:3-2, venue is proper in Mercer County because Defendants, at all relevant times, have transacted business in the State of New Jersey, including, but not limited to Mercer County.

BACKGROUND

8. Defendants are headquartered at 4000 Meridian Boulevard in Franklin, Tennessee. CHSPSC provides services, including management, consultation, and information technology services, for hospitals and other affiliates of CHS/CHSI. CHS/CHSI is one of the largest publicly-traded hospital companies in the United States and a leading operator of general acute-care hospitals in non-urban and mid-size markets throughout the country.

9. Prior to the breach, Defendants owned, leased, or operated 206 affiliated hospitals in 29 states, and these affiliates offered a broad range of health care services including inpatient and surgical services, outpatient treatment, and skilled nursing care.

DISCLOSURE OF BREACH AND RESPONSE

10. In August 2014, Defendants publicly disclosed that in the preceding month, CHSPSC had confirmed that its computer network had been accessed by intruders, first in April and again in June of 2014.

11. Defendants further disclosed that they believed the intruders had used malware to gain access to the company's security systems and had successfully copied and transferred data, including the personal information of approximately 4.5 million patients that was on CHSPSC's systems. After additional investigation, Defendants disclosed that the total number of patients whose personal information was accessed was approximately 6.1 million. The data taken related to patients of some of Defendants' affiliated physician practices and clinics and included patients' names, addresses, birthdates, social security numbers, and in some cases telephone numbers as well as the names of employers or guarantors. However, to the best of Defendants' knowledge, no credit card information or medical or clinical information was taken.

12. Defendants also provided notice of the breach to government regulators and mailed notification letters to all affected patients informing them about the data breach. In these letters, Defendants offered affected patients the opportunity to enroll in free identity theft protection and credit monitoring

services. Defendants also established a toll-free number and web site where affected patients could obtain additional information including how to access these services.

STATEMENT OF FACTS

13. In the regular course of business, Defendants collect and maintain the personal information of individuals including individual names, addresses, dates of birth, and social security numbers.

14. Defendants also create, receive, use, and maintain electronic Protected Health Information subject to the requirements of the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health ("HITECH") Act, 42 U.S.C. § 1302(a), and the Department of Health and Human Services Regulations, 45 C.F.R. § 160 et seq. (collectively, "HIPAA"). HIPAA and its Rules require the implementation of appropriate administrative, physical, and technical safeguards to ensure the confidentiality, integrity, and security of electronic PHI. See 45 C.F.R. Part 160 and Subparts A and C of Part 164.

15. Through its various policies, including a Privacy Policy and website Terms of Use, Defendants disclosed to consumers that they collected personal information, and generally explained what information was collected and the purpose for which it was collected and used, and the circumstances in which such information

might be disclosed. Defendants also provided patients with the Notice of Privacy Protections as required by the HIPAA Privacy Rule.

16. In their disclosures to consumers, Defendants represented that they protected personal information, specifically that they treated the "technical side of security seriously [and] stored personal information . . . on a secure server in a way that maximizes security and confidentiality," and employed security measures to protect information from unauthorized disclosure through various means such as encryption.

COUNT I

VIOLATION OF THE CFA BY DEFENDANTS

(MISREPRESENTATION)

17. Plaintiffs re-allege and incorporate by reference each and every preceding paragraph of this Complaint.

18. The CFA, N.J.S.A. 56:8-2, prohibits:

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise

19. The CFA defines "merchandise" as including "any objects, wares, goods, commodities, services or anything offered, directly or indirectly to the public for sale." N.J.S.A. 56:8-1(c).

20. At all relevant times, Defendants have engaged in the advertisement, offer for sale and/or sale of merchandise within the meaning of N.J.S.A. 56:8-1(c), specifically their health care services.

21. Plaintiffs allege that Defendants have, in the course of offering or advertising their health care services to residents of New Jersey, engaged in false, misleading, or deceptive acts or practices in violation of the CFA, N.J.S.A. 56:8-2.

22. More specifically, Plaintiffs allege that, contrary to their representations to consumers, Defendants:

- a. Failed to implement and maintain reasonable security practices to protect consumers' personal information that they collected and maintained;
- b. Failed to store personal information in a way that maximized its security and confidentiality; and
- c. Permitted the disclosure of Protected Health Information in a manner inconsistent with the requirements of HIPAA and its rules.

COUNT II

VIOLATION OF THE CFA BY DEFENDANTS

(UNCONSCIONABLE COMMERCIAL PRACTICES)

23. The State of New Jersey re-alleges and incorporates by reference each and every preceding paragraph of this Complaint.

24. The State of New Jersey alleges that Defendants' conduct as described above constituted a violation of the CFA, in that Defendants failed to implement and maintain reasonable procedures, including taking any appropriate corrective action, 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.

PRAYER FOR RELIEF

WHEREFORE, based on the foregoing allegations, Plaintiffs respectfully request that the Court enter judgment against Defendants:

A. Finding that Defendants violated the CFA by engaging in the unlawful acts and practices alleged herein;

B. Enjoining Defendants from engaging in the deceptive acts and practices alleged herein;


C. Requiring Defendants to pay the maximum statutory civil penalties for each and every violation of the CFA, in accordance with N.J.S.A. 56:8-13;

E. Granting Plaintiffs any other equitable relief that the Court considers appropriate to prevent any additional harm to victims of identity theft or to prevent any further violations of the CFA;

G. Requiring Defendants to pay all costs and fees, including attorneys' fees, for the use of the State of New Jersey, as authorized by the CFA, N.J.S.A. 56:8-11 and 56:8-19; and

H. Granting such other relief as the interests of justice may require.

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: 
Zachary N. Klein
Deputy Attorney General

Dated: October 8, 2020
Newark, New Jersey

RULE 4:5-1 CERTIFICATION

I certify to the best of my information and belief, the matter in controversy in this action involving the aforementioned violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 to -226, is not the subject of any other action pending in any other court of this State.

I further certify, to the best of my information and belief, that the matter in controversy in this action is not the subject of a pending arbitration proceeding in this State, nor is any other action or arbitration proceeding contemplated. I certify that there is no other party who should be joined in this action at this time.

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: _____




Zachary N. Klein
Deputy Attorney General

Dated: October 8, 2020
Newark, New Jersey

RULE 1:38-7(c) CERTIFICATION OF COMPLIANCE

I certify that confidential personal identifiers have been redacted from documents now submitted to the Court, and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: 
Zachary N. Klein
Deputy Attorney General

Dated: October 8, 2020
Newark, New Jersey

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Zachary N. Klein, Deputy Attorney General, is hereby designated as trial counsel on behalf of the Plaintiffs.

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: 
Zachary N. Klein
Deputy Attorney General

Dated: October 8, 2020
Newark, New Jersey