

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**

AMY CHRISTINA, an individual,  
on her own behalf and on behalf of all  
others similarly situated,  
Plaintiffs,

Civil Action:

JUDGE:

Versus

MAG:

TARGET CORPORATION OF  
MINNESOTA AND TARGET  
CORPORATE SERVICES, INC.; AND DOES 1-10

**DEMAND FOR  
JURY TRIAL**

Defendants.

**CLASS ACTION COMPLAINT**

Plaintiff Amy Christina ("Plaintiff") brings this class action against Defendants Target Corporation of Minnesota and Target Corporate Services, Inc., Minnesota Corporations and Does 1-10 (collectively, "Defendants") on behalf of herself and all others similarly situated to obtain damages, restitution and injunctive relief for the Class, as defined, below from Defendants. Plaintiff makes the following allegations upon information and belief, except as to her own actions, the investigation of his counsel and the facts that are a matter of public record:

**PARTIES**

27. Plaintiff is an individual who resides in this Judicial District.
28. Defendant TARGET CORPORATION OF MINNESOTA is a Minnesota Corporation headquartered in Minneapolis, Minnesota, and is licensed to do and is doing business in this judicial district.

29. Defendant TARGET CORPORATE SERVICES, INC. is a Minnesota Corporation headquartered in Minneapolis, Minnesota, and is licensed to do and is doing business in this judicial district.

### **JURISDICTION AND VENUE**

30. This Court has original jurisdiction pursuant to 28 U.S.C. § 1332 (d)(2). In the aggregate, Plaintiff's claims and the claims of the other members of the Class exceed \$5,000,000 exclusive of interest and costs, and there are numerous class members who are citizens of states other than Defendants' state of citizenship, which is Minnesota.
31. This Court has personal jurisdiction over Defendants because Defendants are authorized to do business in the State of Louisiana, and operates stores within this Judicial District.
32. Venue is proper in this Court pursuant to 28 U.S.C § 1391 because many of the actions and transactions give rise to this action in the District and because Defendants are subject to personal jurisdiction in this District.

### **GENERAL ALLEGATIONS**

33. Defendants represent the second-largest discount retailer in the United States and as of 2013, is ranked 36<sup>th</sup> on the Fortune 500 list of top US Companies, by revenue. Millions of Americans regularly shop at Target Stores.
34. Plaintiff is a regular shopper at Target stores, and used her credit/debit card at a Target Store in this Judicial District between November 27 and December 15, 2013, including to buy Christmas-related goods for her family during the holiday season.

35. The data breach affected approximately 40 million credit and debit cards swiped in U.S. Target Stores between November 27 and December 15, 2013.
36. News of the Data Breach was first published by a blogger (Brian Krebs of <http://krebsecurity.com/>) on or about December 18, 2013, before TARGET made any attempt whatsoever to notify affected customers.
37. As widely reported by multiple news services on December 19, 2013: "Investigators believe the data was obtained via software installed on machines that customers use to swipe magnetic strips on their cards when paying for merchandise at Target stores." <http://www.cbsnews.com/news/target-confirms-massive-credit-debit-card-data-breach/>.
38. "The type of data stolen- also known as 'track data'- allows crooks to create counterfeit cards by encoding the information onto any card with a magnetic stripe." <http://krebsonsecurity.com/>.
39. The thieves may also have accessed PIN numbers for affected customers' debit cards, allowing the thieves to withdraw money from those customers' bank accounts. (*Id.*)
40. Thieves could not have accessed this information and installed the software on TARGET's point-of-sale machines but for DEFENDANTS' negligence.
41. Defendants failed to implement and maintain reasonable security procedures and practices appropriate to the nature and scope of the information compromised in the data breach.

42. As this news broke, TARGET finally released a statement concerning the data breach, but not one designed to notify affected customers directly. Rather, TARGET posted a statement on its corporate website (not on the shopping site regularly accessed by customers) on December 19, 2013, confirming "that the information involved in this incident included customer name, credit or debit card number, and the card's expiration date and CVV (the three-digit security code)." <https://corporate.target.com/discover/article/Important-Notice-Unauthorized-access-to-payment-ca>.
43. In its December 19 statement concerning the data breach, Target also claimed to "have identified and resolved the issue," conveying a false sense of security to affected customers. (*Id.*)
44. On information and belief, Plaintiffs identifying and financial information was disclosed in the data breach.
45. The ramifications of Defendants' failure to keep class members' data secure are severe.
46. The information Defendants lost, including Plaintiffs' identifying information and other financial information, is "as good as gold" to identity thieves, in the words of the Federal Trade Commission ("FTC"). FTC, *About Identity Theft*, available at <http://www.ftc.gov/bcp/edu/microsites/idtheft/consumers/about-identity-theft.html> (visited March 23, 2011 ). Identity theft occurs when someone uses another's personal identifying information, such as that person's name, address, credit card number, credit card expiration dates, and other information, without permission, to commit fraud or other crimes. *Id.* The

FTC estimates that as many as 9 million Americans have their identities stolen each year. *Id.*

47. Identity thieves can use identifying data to open new financial accounts and incur charges in another person's name, take out loans in another person's name, incur charges on existing accounts, or clone ATM, debit, and/or credit cards. *Id.*
48. Identity thieves can use personal information such as that pertaining to the Class, which Defendants failed to keep secure to perpetrate a variety of crimes that do not cause financial loss, but nonetheless harm the victims. For instance, identity thieves may commit various types of government fraud such as: immigration fraud; obtaining a driver's license or identification card in the victim's name.
49. In addition, identity thieves may get medical services using the Plaintiffs' lost information or commit any number of other frauds, such as obtaining a job, procuring housing, or even giving false information to police during an arrest.
50. Annual monetary losses from identity theft are in the billions of dollars.

According to a Presidential Report on identity theft produced in 2008:

In addition to the losses that result when identity thieves fraudulently open accounts or misuse existing accounts, ... individual victims often suffer indirect financial costs, including the costs incurred in both civil litigation initiated by creditors and in overcoming the many obstacles they face in obtaining or retaining credit. Victims of non-financial identity theft, for example, health-related or criminal record fraud, face other types of harm and frustration.

In addition to out-of-pocket expenses that can reach thousands of dollars for the victims of new account identity theft, and the emotional toll identity theft can take, some victims have to spend what can be a

considerable amount of time to repair the damage caused by the identity thieves. Victims of new account identity theft, for example, must correct fraudulent information in their credit reports and monitor their reports for future inaccuracies, close existing bank accounts and open new ones, and dispute charges with individual creditors.

*The President's Identity Theft Task Force Report* at p.21 (Oct. 21, 2008), available at <<http://www.idtheft.gov/reports/StrategicPlan.pdf>>.

51. According to the U.S. Government Accountability Office (“GAO”), which conducted a study regarding data breaches:

[L]aw enforcement officials told us that in some cases, stolen data may be held for up to a year or more before being used to commit identity theft. Further, once stolen data have been sold or posted on the Web, fraudulent use of that information may continue for years. As a result, studies that attempt to measure the harm resulting from data breaches cannot necessarily rule out all future harm.

GAO, *Report to Congressional Requesters*, at p.33 (June 2007), available at <http://www.gao.gov/new.items/d07737.pdf>>.

26. Plaintiff and the Class she seeks to represent now face years of constant surveillance of their financial and personal records, monitoring, and loss of rights.

### **CLASS ACTION ALLEGATIONS**

27. Plaintiff brings this action on her own behalf, and on behalf of all other persons similarly situated (“the Class”). The class that Plaintiffs seek to represent is:

All persons who used credit or debit cards at Target Corporation stores in Louisiana and whose personal and/or financial information was breached during the period from on or about November 27 to on or about December 15, 2013. Excluded from the Class are Defendants; officers, directors, and employees of Defendants; any entity in which Defendants have a controlling interest; the affiliates, legal representatives, attorneys, heirs, and assigns of the Defendants.

28. The members of the Class are so numerous that the joinder of all members is impractical. While the exact number of Class members is unknown to Plaintiff at this time, based on information and belief, it is in the millions.
29. There is a well-defined community of interest among the members of the Class because common questions of law and fact predominate, Plaintiffs claims are typical of the members of the Class, and Plaintiff can fairly and adequately represent the interests of the Class.
30. This action satisfies the requirements of Federal Rule of Civil Procedure 23(b)(3) because it involves questions of law and fact common to the member of the Class that predominate over any questions affecting only individual members, including, but not limited to:
  1. Whether Defendants unlawfully used, maintained, lost or disclosed Class members' personal and/or financial information;
  2. Whether TARGET unreasonably delayed in notifying affected customers of the data breach;
  3. Whether Defendants failed to implement and maintain reasonable security procedures and practices appropriate to the nature and scope of the information compromised in the data breach.
  4. Whether Defendants' conduct was negligent;
  5. Whether Defendants acted willfully and/or with oppression, fraud, or malice;
  6. Whether Defendants' conduct constituted Intrusion;

7. Whether Defendants' conduct constituted Public Disclosure of Private Facts;
  8. Whether Defendants' conduct constituted Misappropriation of Likeness and Identity;
  9. Whether Defendants' conduct violated Class members' Constitutional Right to Privacy;
  10. Whether Defendants' conduct constituted Bailment;
  11. Whether Defendants' conduct constituted Conversion;
  12. Whether Plaintiffs and the Class are entitled to damages, civil penalties, punitive damages, and/or injunctive relief.
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31. Plaintiff's claims are typical of those of other Class members because Plaintiffs information, like that of every other class member, was misused and/or disclosed by Defendants.
  32. Plaintiff will fairly and accurately represent the interests of the Class.
  33. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class, which would establish incompatible standards of conduct for Defendants and would lead to repetitive adjudication of common questions of law and fact. Accordingly, class treatment is superior to any other method for adjudicating the controversy. Plaintiff knows of no difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a class action under Rule 23 (b)(3).



34. Damages for any individual class member are likely insufficient to justify the cost of individual litigation, so that in the absence of class treatment, Defendants' violations of law inflicting substantial damages in the aggregate would go un-remedied without certification of the Class.
35. Defendants have acted or refused to act on grounds that apply generally to the class, as alleged above, and certification is proper under Rule 23(b)(2).

**Invasion of Privacy- Intrusion, Public Disclosure of Private Facts,  
Misappropriation of Likeness and Identity, and the Louisiana  
Constitutional Right to Privacy (Art. 1 § 5)  
(Against All Defendants)**

36. Plaintiffs incorporate the substantive allegations contained in all previous paragraphs as if fully set forth herein.
37. Plaintiff had a reasonable expectation of privacy in the Private Information Defendants mishandled.
38. By failing to keep Plaintiff's Private Information safe, and by misusing and/or disclosing said information to unauthorized parties for unauthorized use, Defendants invaded Plaintiff's privacy by:
  - a. intruding into Plaintiff's private affairs in a manner that would be highly offensive to a reasonable person;
  - b. publicizing private facts about Plaintiff, which is highly offensive to a reasonable person;
  - c. using and appropriating Plaintiff's identity without Plaintiffs' consent;

d. violating Plaintiffs right to privacy through the improper use of Plaintiffs Private Information properly obtained for a specific purpose for another purpose, or the disclosure of it to some third party.

39. Defendants knew, or acted with reckless disregard of the fact that, a reasonable person in Plaintiff's position would consider Defendants' actions highly offensive.
40. Defendants invaded Plaintiff's right to privacy and intruded into Plaintiff's private affairs by misusing and/or disclosing Plaintiff's Private Information without her informed, voluntary, affirmative and clear consent.
41. As a proximate result of such misuse and disclosures, Plaintiff's reasonable expectations of privacy in her Private Information was unduly frustrated and thwarted. Defendants' conduct amounted to a serious invasion of Plaintiff's protected privacy interests.
42. In failing to protect Plaintiff's Private Information, and in misusing and/or disclosing Plaintiff's Private Information, Defendants have acted with malice and oppression and in conscious disregard of Plaintiff's and the Class members' rights to have such information kept confidential and private. Plaintiff, therefore, seeks an award of punitive damages on behalf of the Class.

NEGLIGENCE

43. Plaintiff incorporates the substantive allegations contained in all previous paragraphs as if fully set forth herein.
44. Defendants came into possession of Plaintiff's Private Information and had a duty to exercise reasonable care in safeguarding and protecting such information from being compromised, lost, stolen, misused, and/or disclosed to unauthorized parties.
45. Defendants had a duty to timely disclose that Plaintiff's Private Information within its possession had been compromised.
46. Defendants had a duty to have procedures in place to detect and prevent the loss or unauthorized dissemination of Plaintiff's Private Information.
47. Defendants, through their actions and/or omissions, unlawfully breached their duty to Plaintiff by failing to exercise reasonable care in protecting and safeguarding Plaintiff's Private Information within Defendants' possession.
48. Defendants, through their actions and/or omissions, unlawfully breached their duty to timely disclose to the Plaintiff and the Class members the fact that their Private Information within their possession had been compromised.
49. Defendants' negligent and wrongful breach of their duties owed to Plaintiff and the Class proximately caused Plaintiff and Class members' Private Information to be compromised.
50. Plaintiff seeks the award of actual damages on behalf of the Class.

**BAILMENT**

51. Plaintiff incorporates the substantive allegations contained in all previous paragraphs as if fully set forth herein.
52. Plaintiff and the Class members delivered and entrusted their Private Information to Defendants for the sole purpose of receiving services from Defendants.
53. During the time of bailment, Defendants owed Plaintiff and the Class members a duty to safeguard this information properly and maintain reasonable security procedures to protect such information. Defendants breached this duty.
54. As a result of these breaches of duty, Plaintiff and the Class members have suffered harm.
55. Plaintiff seeks actual damages on behalf of the Class.

**CONVERSION**

56. Plaintiff incorporates the substantive allegations contained in all previous paragraphs as if fully set forth herein.
57. Plaintiff and Class members were the owners and possessors of their Private Information. As the result of Defendants' wrongful conduct, Defendants have interfered with the Plaintiffs and Class Members' rights to possess and control such property, to which they had a superior right of possession and control at the time of conversion.

58. As a direct and proximate result of Defendants' conduct, Plaintiff and the Class members suffered injury, damage, loss or harm and therefore seek compensatory damages.
59. In converting Plaintiffs Private Information, Defendants have acted with malice, oppression and in conscious disregard of the Plaintiff and Class members' rights. Plaintiff, therefore, seeks an award of punitive damages on behalf of the Class.
60. Plaintiff and the Class members did not consent to Defendants' mishandling and loss of their Private Information.

**PRAYER FOR RELIEF**

WHEREFORE Plaintiff prays for judgment as follows:

- A. For an Order certifying this action as a class action and appointing Plaintiff and their Counsel to represent the Class;
- B. For equitable relief enjoining Defendants from engaging in the wrongful conduct complained of herein pertaining to the misuse and/or disclosure of Plaintiff's and Class members' Private Information, and from refusing to issue prompt, complete and accurate disclosures to the Plaintiff and Class members;
- C. For equitable relief requiring restitution and disgorgement of the revenues wrongfully retained as a result of Defendants' wrongful conduct;
- D. For an award of actual damages, compensatory damages, statutory damages, and statutory penalties, in an amount to be determined;

- E. For an award of punitive damages;
- F. For an award of costs of suit and attorneys' fees, as allowable by law; and
- G. Such other and further relief as this court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury trial of their claims to the extent authorized by law.

Dated: January 8, 2014



/s/ Camilo K. Salas, III.  
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