

GREGORY W. STATMAN
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HAMILTON COUNTY, OH

2005 OCT 25 P 2 11

FILED

Alan J Statman (0012045)
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Statman, Harris, Siegel & Eyrich, LLC

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY OHIO

A0508978

PATRICIA A. KAHLE
2895 Observatory Avenue
Cincinnati, Ohio 45208

: CASE NO. _____

: JUDGE _____

:

Plaintiff

:

vs.

:

LITTON LOAN SERVICING, L.P.
4828 Loop Central Drive, Suite 600
Houston, TX 77081

: CLASS ACTION COMPLAINT
: AND JURY DEMAND

Agent for Service:
CSC-LAWYERS
INCORPORATING SERVICE
(CORPORATION SERVICE
COMPANY)
50 W. BROAD STREET
SUITE 1800
COLUMBUS, OHIO 43215

ORIG	COMP	PARTIES	SIGNATURES
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CLERKS FEES _____			TIC
SECURITY FOR COST _____			
DEPOSITED BY _____			38506
FILING CODE _____			H 770

:

Defendant.

:

Plaintiff, Patricia A Kahle, for her Class Action Complaint, on her behalf and on behalf of similarly situated individuals states as follows

BACKGROUND

1 This is a class action brought by Patricia A Kahle on her behalf and on behalf of all other similarly situated persons (the "Class") who have or had mortgage loans serviced by Litton Loan Servicing, L P ("Defendant"), and who had their financial records with information including their names, social security numbers, addresses of mortgaged properties and other



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records misappropriated and/or otherwise obtained by certain parties. As a result, Plaintiff and the Class will incur financial loss, including the cost of obtaining credit theft protection services to assure that the stolen information is not being used without authorization.

PARTIES, JURISDICTION, VENUE

2 Plaintiff realleges Paragraph 1 of this Class Action Complaint and incorporates by reference herein as if fully rewritten.

3 Plaintiff Patricia A. Kahle is and at all times mentioned herein, a citizen and resident of the County of Hamilton, State of Ohio. She had her mortgage loan for her residence at 2895 Observatory Avenue in the County of Hamilton, State of Ohio, serviced by the Defendant. Plaintiff was notified that a third party stole her personal financial information maintained by Defendant. A copy of the notice is attached hereto marked Exhibit A.

4 Litton Loan Servicing, L.P., is a limited partnership, with corporate headquarters in Houston, Texas and with a servicing office located in Atlanta, Georgia.

5. This Court has subject matter jurisdiction over Plaintiff's common law claims.

6 Venue is proper since Defendant conducted activity in this county given rise to the relief asserted herein and all or a part of the claims for relief arose in this county.

FACTS

7 Plaintiff realleges Paragraphs 1 through 6 of this Class Action Complaint and incorporates by reference herein as if fully rewritten.

8 When entering into the Plaintiff mortgage loan with The Provident Bank ("Provident") for her residence, Plaintiff was required to disclose her name, social security number, residence address and other personal information ("Plaintiff's Personal Information").

9 Defendant subsequently acquired Provident's loan servicing assets from Provident including the Plaintiff's mortgage loan with Provident

10 Plaintiffs' Personal Information as disclosed on her financial records were stored by the Defendant in an electronic data storage system

11 As part of the Defendant's acquisition, Plaintiff's Personal Information was transferred to Defendant

12 Plaintiff believed that the Plaintiff's Personal Information would remain secure with the Defendant, and that the Plaintiff's Personal Information would be used only for Defendant's legitimate business purposes

13 Without Plaintiff's knowledge or consent, Plaintiff's Personal Information kept by the Defendant was stolen, misappropriated and/or otherwise obtained by third persons as a result of a break-in at Defendant's Atlanta office which resulted in the theft of computer hardware

14. In effect, Plaintiff's identity, and that of the Class members, was stolen, and Defendant delayed in notifying the Plaintiff and the Class members of this theft

15 On information and belief, thousands of mortgage loan borrowers for which Defendant serviced their loans had their identity stolen

16. On information and belief, among the thousands of Defendant's customers who had their identity stolen were residents of Ohio

17 Plaintiff was notified by the Defendant to pay the cost of monitoring her credit but Defendant offered no assistance or reimbursement for the cost or loss related to the credit monitoring and/or the identity theft

18 It will be necessary to have credit monitoring for many years, at great expense to the Plaintiff, and as a direct result of the negligence of Defendant

19 Plaintiff has and will continue to suffer emotional distress over the theft of her identity and the possibility that unauthorized persons will use her information to her detriment

CLASS ALLEGATIONS

20. Plaintiff realleges Paragraphs 1 through 19 of this Class Action Complaint and incorporates by reference herein as if fully rewritten

21 Plaintiff also brings this action as a class action pursuant to Rule 23 of the Ohio Rules of Civil Procedure, on behalf of a Class. The Class consists of

All residents of the State of Ohio who have or had loans serviced by the Defendant and who had their Personal Information stolen, misappropriated and/or otherwise obtained from the computer data storage systems of Defendant for reasons unrelated to the business of the Defendant.

22 Excluded from the Class are the Defendant, any person or other entity employed by, related to, or affiliated with Defendant, the judge assigned to this case and his or her staff, and counsel of record for Plaintiff and Defendant

23 Plaintiff is a member of the Class she seeks to represent

24 On information and belief, the Class is believed to include at least four thousand persons with loans serviced by Defendant. As a result, joinder of all Class members in a single action is impracticable

25 On information and belief, the Class is believed to include at least four thousand persons with loans serviced by Defendant who are residents of the State of Ohio. As a result, joinder of all Class members in a single action is impracticable

26 There are important questions of law or fact common to the entire Class, including, but not limited to

- a Whether Defendant was negligent in its storage, retention, dissemination, and protection of Plaintiff's Personal Information and the members of the Class,

- b Whether Defendant systematically, intentionally and wrongfully failed to protect Plaintiff and the Personal Information of the Plaintiff and members of the Class;
- c Whether Defendant failed to adequately protect the privacy of the Plaintiff and the members of the Class,
- d. Whether Defendant breached its duty of confidentiality by failing to adequately protect the Personal Information of Plaintiff and the members of the Class,
- e Whether Defendant wrongfully put its own interests ahead of the interests of the members of the Class,
- f Whether Defendant defrauded Plaintiff and members of the Class;
- g Whether Defendant violated the Ohio Consumer Sales Practice Act;
- h Whether Defendant violated the Unauthorized Use of Computer Act

27 The important questions common to the members of the Class, including those identified in the previous paragraph, predominate over any questions unique to individual members of the Class

28 The claims of Plaintiff are typical of the claims of other members of the Class Like all members of the Class, Plaintiff was entitled to have her Personal Information protected by Defendant

29 There are no conflicts between the interests of Plaintiff and those of the Class, and on information and belief, there are no defenses unique to any of them

30 Plaintiff will fairly and adequately assert and protect the interests of the Class in that

- a Plaintiff is represented by experienced and able class action counsel;
- b. Plaintiff has no conflicts of interest with the other members of the Class, and
- c Defendant has acted or refused to act on grounds generally applicable to the Class thereby making final injunctive relief or corresponding declaratory relief appropriate with respect to the Class as a whole

31 A class action is superior to the other available methods for the fair and efficient adjudication of the controversy, in that

- a- The Class is not so large in size that there would be any difficulty in managing it,
- b The prosecution of separate actions by individual Class members would create a risk of inconsistent or varying adjudications and incompatible standards of conduct;
- c This Court is the appropriate forum for all of the claims of the Class because the conduct complained of herein occurred in, and was orchestrated and conducted in Ohio
- d This Court is the appropriate forum for all of the claims of the Class because the conduct complained of herein occurred in, and was orchestrated and conducted in Ohio, Defendant has served the citizens of Ohio through numerous locations throughout the State of Ohio, and the members of the Class are all located in this forum,
- e Many members of the Class may be unaware of the existence of their claims without the notice provided by a class action,

- f Given the complexities of the issues and expenses of litigation, the claims of many or most individual members of the Class may be too small, as a practical matter, to justify separate actions against the Defendant,
- g. On the other hand, the claims of the individual members of the Class are not so small that a class action would be unjustified in light of its expense and effort,
- h The Class is readily identifiable and Defendant can specify by computer records the name and address of all members of the Class.

32. A class action will conserve administrative and judicial resources by avoiding unnecessary multiplication of claims and litigation

CAUSES OF ACTION

COUNT I: NEGLIGENCE

33. Plaintiff realleges Paragraphs 1 through 32 of this Class Action Complaint and incorporates by reference herein as if fully rewritten

34. Defendant had a duty to Plaintiff and the members of the Class to protect and secure the confidentiality of Personal Information

35. Defendant failed to exercise reasonable care to prevent the stealing, misappropriating, and/or other obtaining Plaintiff's and members of the Class's Personal Information by third parties.

36 Defendant failed to exercise reasonable care in safeguarding the Plaintiff's and members of the Class's Personal Information by failing to encrypt the Personal Information

37 Defendant failed to exercise due care in implementing security measures which would have prevented the theft of the Personal Information

38. Defendant failed to reasonably notify the Plaintiff and the members of the Class timely of the theft

39. Defendant failed to monitor the credit of the Plaintiff and the members of the Class

40. As a result of these and other acts and omissions, Defendant breached its duties to the Plaintiff and the Class, as a direct and proximate result of this negligence Plaintiff and the members of the Class have and will continue to incur emotional distress, cost of credit monitoring and loss of identity

COUNT II: INVASION OF PRIVACY

41. Plaintiff realleges Paragraphs 1 through 40 of this Class Action Complaint and incorporates by reference herein as if fully rewritten

42. Plaintiff reasonably assumed that her Personal Information would be secure with Defendant, and would be used only for Defendant's legitimate business purposes. The Personal Information in Defendant's possession was private in nature, and not intended to be accessible to the public

43. Instead, Plaintiff's Personal Information was stolen, misappropriated and/or obtained by third persons

44. Defendant failed to encrypt the Personal Information such that the third parties could not misappropriate and effectively steal their identity

45. As a result of these and other acts and omissions, Defendant breached its duties to the Plaintiff and the Class, as a direct and proximate result of this negligence Plaintiff and the members of the Class have and will continue to incur emotional distress, cost of credit monitoring and loss of identity

COUNT III: BREACH OF DUTY OF CONFIDENTIALITY

46 Plaintiff realleges Paragraphs 1 through 45 of this Class Action Complaint and incorporates by reference herein as if fully rewritten.

47 Defendant's business relationship with the Plaintiff requires the Defendant to keep Plaintiff's Personal Information confidential

48. Instead, the Plaintiff's Personal Information was communicated to third persons without Plaintiff's knowledge or consent and Defendant failed to encrypt such Personal Information to protect its confidentiality

49 As a result of these and other acts and omissions, Defendant breached these duties to the Plaintiff and the Class

50 As a result of these and other acts and omissions, Defendant breached its duties to the Plaintiff and the Class, as a direct and proximate result of this negligence Plaintiff and the members of the Class have and will continue to incur emotional distress, cost of credit monitoring and loss of identity

COUNT IV: FRAUD

51 Plaintiff realleges Paragraphs 1 through 50 of this Class Action Complaint and incorporates by reference herein as if fully rewritten.

52 The Plaintiff was induced to give Personal Information to secure a real estate mortgage loan and because she thought the Personal Information would remain secure Plaintiff relied on the fact that her Personal Information would be private

53 Instead, the information held by the Defendant was stolen, misappropriated and/or otherwise obtained by third parties and the Defendant failed to protect the Personal Information by causing such Personal Information to be encrypted

54 As a result of these and other acts and omissions, Defendant breached its duties to the Plaintiff and the Class, as a direct and proximate result of this negligence Plaintiff and the members of the Class have and will continue to incur emotional distress, cost of credit monitoring and loss of identity

COUNT V: UNAUTHORIZED USE OF COMPUTER (ORC 2913.04)

55 Plaintiff realleges Paragraphs 1 through 54 of this Class Action Complaint and incorporates by reference herein as if fully rewritten

56 Defendant, by and through its employees, agents and servants, allowed access to its data system, computer systems, and computer networks to obtain the Personal Information of Plaintiff for non-business related purposes and without the knowledge or consent of Plaintiff in violation of ORC §2913 04

57 As a direct and proximate result of this violation, Plaintiff and the members of the Class have and will continue to incur emotional distress, cost of credit monitoring and loss of identity

COUNT VI: CONSUMER SALES PRACTICE ACT (ORC 1345)

58 Plaintiff realleges Paragraphs 1 through 57 of this Class Action Complaint and incorporates by reference herein as if fully rewritten

59 Defendant provided loan servicing to the consumer class with claims that the private information solicited for purposes of the loan would remain secure

60. Defendant allowed or permitted, by and through its agents, employees, and/or servants, access to its computerized data base, which is not open to the public allowing a third party access to this private information of the Plaintiff and the class

61 The foregoing acts and conduct of Defendant are deceptive in that it represented to the consumer class that such information would remain secure and/or that it had the technology or policies to secure such information when Defendant did not have such security measures, including but not limited to the failure to encrypt such information in the event that the information would fall into the hands of third parties in violation of Ohio Revised Code 1345.02

62 Such practice is deceptive and unconscionable in providing the Plaintiff and class members with a false sense of security that the private data is secure and would remain secure

63 As a direct and proximate result of Defendant's conduct, Plaintiff and the members of the Class have and will continue to incur emotional distress, cost of credit monitoring and loss of identity

RELIEF SOUGHT

WHEREFORE, Plaintiff and members of the Class respectfully request that this Court grant the following relief against defendant:

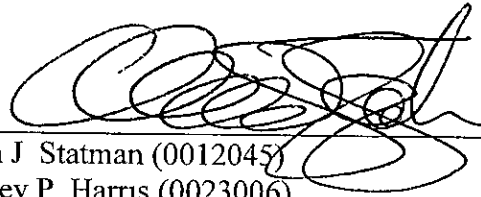
1) Enter an order pursuant to Rule 23 of the Ohio Rules of Civil Procedure permitting this action to be maintained as a class action on behalf of the Class as defined herein, appointing Plaintiff as the representative of the Class and Plaintiff's counsel as counsel for the Class,

2) Ordering Defendant to establish a credit monitoring program, at Defendant's expense, to ensure timely detection of any and all persons who attempt to use Plaintiff's Personal Information as a result of the careless and reckless conduct of Defendant,

3) Ordering Defendant to establish new security measures, policies, and procedures designed to protect the unauthorized disclosure of Personal Information of the Plaintiff and members of the Class,

- 4) Ordering that a Special Master be appointed to ensure that Defendant adequately enforce the above policy and procedures,
- 5) Awarding Plaintiff and members of the Class compensatory, and punitive damages, and restitution, in an amount to be proven at trial,
- 6) Awarding the Class its costs and expenses in this litigation, including, but not limited to, expert fees and reasonable attorneys' fees.

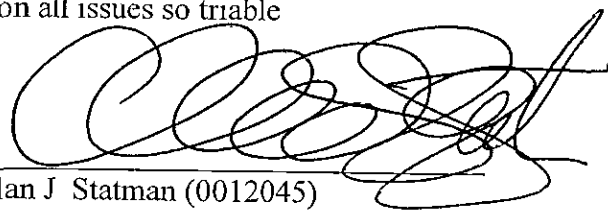
Respectfully Submitted,



Alan J Statman (0012045)
Jeffrey P Harris (0023006)
Colleen M Hegge (of Counsel) (0038506)
Statman, Harris, Siegel & Eyrich, LLC
255 East Fifth Street
2900 Chemed Center
Cincinnati, Ohio 45202
(513) 621-2666 / (513) 621-4896 – Fax
ajstatman@shselegal.com
jharris@shselegal.com
chegge@shselegal.com
Trial Attorneys for Plaintiff and Plaintiff Class

JURY DEMAND

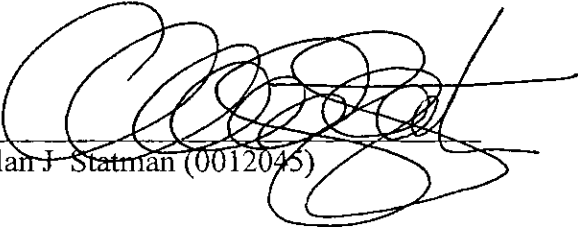
Plaintiff hereby requests a trial by jury on all issues so triable



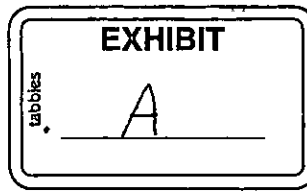
Alan J Statman (0012045)

INSTRUCTIONS FOR SERVICE

The Clerk of Courts is hereby summoned to serve the above Complaint to the Defendant listed in above-captioned litigation by certified mail, return receipt requested.



Alan J. Statman (0012045)



Cincinnati, OH 45208

[2]

Litton Loan#
Provident Loan# 0008186199

Dear Patricia A Kahle

In December 2004, Litton Loan Servicing LP ("Litton") acquired certain mortgage loan servicing assets from The Provident Bank, the previous servicer of your closed mortgage loan. As part of that acquisition, and in order to satisfy certain federal and state record keeping requirements, information relating to closed mortgage loans serviced by The Provident Bank was transferred to Litton

The purpose of this letter is to inform you of a recent break-in at Litton's Atlanta office, which resulted in the theft of several pieces of computer hardware. The stolen equipment contained the names and social security numbers of some borrowers, as well as the addresses of the mortgaged properties. While the information contained on the stolen equipment was password protected, a common method of protecting information against unauthorized access, password protection is by no means foolproof. Therefore, we encourage you to take the steps described below in the event a compromise occurred. We are working with local law enforcement agencies and have retained a private investigator to help us ascertain the source and extent of the security breach.

We wanted to inform you of this incident so that you may take the proper steps to protect yourself from the possibility of identity theft. We recommend that you place a fraud alert on your credit file. A fraud alert lets creditors know to contact you before opening new accounts or making changes to your existing accounts. You may contact the three credit bureaus at the numbers listed below to place a fraud alert on your credit file, automatically and free of charge. The credit bureau may investigate your fraud alert information, and Litton will provide the credit bureau any assistance necessary. Once the credit bureau confirms your information, the other credit bureaus are notified to place a fraud alert on your credit file.

~~Equifax (800) 525-6285~~
www.equifax.com

~~Experian (888) 397-3742~~
www.experian.com

~~TransUnion (800) 680-7289~~
www.transunion.com

If you find suspicious activity on your credit reports or have reason to believe your information is being misused, please contact your local law enforcement agencies and file a police report. It is also recommended that you obtain a copy of the police report, as many creditors want the information it contains to absolve you of the fraudulent debts. You may also file a complaint with the Federal Trade Commission ("FTC") at www.consumer.gov/idtheft or (877) ID-THEFT (438-4338). Your complaint will be added to the FTC's Identity Theft Data Clearinghouse, where it will be accessible to law enforcement agencies for their investigations.

Litton Loan Servicing LP takes the security and confidentiality of borrower information very seriously. We will continue our cooperation with the law enforcement agencies and our investigation into this matter. We sincerely regret any inconvenience or concern this incident may cause you. If you have any questions, please contact our special services hotline at (800) 324-1164 and a specially trained representative will assist you.

Sincerely,

Litton Loan Servicing LP