

1 24. When Plaintiff looked at her Trans Union, Experian and Equifax credit reports,
2 she could see only financial history of a person other than her.

3 25. Plaintiff also saw the other Jennifer Nelson's address and other personal
4 information.

5 26. Plaintiff felt completely powerless, as her creditworthiness appeared to be
6 completely dictated by the acts and omissions of a complete stranger.

7 27. Plaintiff reported the (then) apparent fraud and identity theft to the Prescott
8 Valley Police Department. After investigation, the Police Department were able to locate and
9 contact the person who used Plaintiff's Kohl's card.

10 28. Plaintiff then learned this was *not* the result of an identity theft, but an error by
11 Capital One and Kohl's, who issued Plaintiff's credit card to another person with the same
12 name but different social security number, date of birth and address.

13 29. Plaintiff was shocked that such large financial institutions would issue a credit
14 card to another individual with a different social security number and birthday and report the
15 incorrect identity and personal identifying information to the major consumer reporting
16 agencies.

17 30. Kohl's failure to maintain Plaintiff's information properly and mistakenly
18 associating Plaintiff's account information with another proposed Kohl's customer caused
19 Plaintiff to devote substantial time over the next several weeks to rectifying the situation.

20 31. Plaintiff devoted countless hours dealing with the fallout of Defendants' reckless
21 failure to exercise oversight. Plaintiff spent hours speaking with Kohl's, Capital One, Trans
22 Union, Equifax, Experian and her local police department, as well as the Social Security
23 Administration (to assure the federal government's records were not also misattributed).
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25

COUNT II
KOHL'S VIOLATED THE
WISCONSIN CONSUMER ACT W.S.A. 421.101 *et seq.*
(Plaintiff v Kohl's)

38. Plaintiff incorporates the foregoing paragraphs as though the same were set forth at length herein.

39. At all times pertinent hereto, Kohl's was a "person" as that term is defined by 15 U.S.C. § 1681a(b).

40. Pursuant to section 421.102 (2)(b), (C) and (d) Kohl's is liable for negligently violating the WCA by failing to protect Plaintiff against unfair, deceptive, false, misleading and unconscionable practices. More specifically Kohl's engaged in the following conduct:

(a) Associated Plaintiff's personal account and sensitive information with another person due to failure to verify such sensitive information;

(b) Failed to investigate the cause of unsuccessful delivery of Plaintiff's Kohl's card; and

(c) Furnished false information relating to Plaintiff to consumer reporting agencies.

41. Kohl's conduct was a direct and proximate cause, as well as a substantial factor, in causing the serious injuries, damages and harm to the Plaintiff that are outlined more fully above, and as a result, Kohl's is liable to compensate Plaintiff for the full amount of statutory, actual and punitive damages, along with attorneys' fees and costs, as well as such other relief, permitted by law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, JENNIFER NELSON respectfully prays for judgment as follows:

- 1 a. All actual damages suffered pursuant to 15 U.S.C. § 1681 *et seq.* and W.S.A.
2 421.101 *et seq.*
3 b. Treble damages pursuant to W.S.A. 421.101 *et seq.*
4 c. Statutory damages of \$1,000.00 per violation of the FCRA pursuant to 15 U.S.C.
5 § 1681n;
6 d. Punitive damages pursuant to 15 U.S.C. § 1681n(a);
7 e. All reasonable attorneys' fees, witness fees, court costs and other litigation costs,
8 pursuant to 15 U.S.C. § 1681n; and W.S.A. 421.101 *et seq.*; and
9 f. Any other relief deemed fair and proper by this Honorable Court.

10 **DEMAND FOR JURY TRIAL**

11 PLEASE TAKE NOTICE that Plaintiff, JENNIFER NELSON, demands a jury trial in
12 this case.

13
14 Respectfully submitted,

15 Kimmel & Silverman, P.C.

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17 Dated: November 21, 2023

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