

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

JAMARQUIS ETHERIDGE,

Plaintiff

v.

AT&T, INC. AND AT&T MOBILITY, LLC

Defendants.

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CASE NO.

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Jamarquis Etheridge (“Etheridge”) is an individual and citizen of the State of Texas, by and through his counsel, Richard E. Brown of Richard E. Brown Attorney at Law, PC, complains and alleges based on his personal knowledge with respect to his own acts and on information and belief with respect to all other matters as follows:

I. INTRODUCTION

1. Plaintiff Etheridge is a current wireless telephone customer of Defendants AT&T, Inc., and AT&T Mobility, LLC (collectively referred to as “AT&T” or “Defendant”). This is an action for damages and remedies for violations of, *inter alia*, the Federal communications Act, 47 U.S.C. § 201, arising in part from AT&T's failure to provide reasonable and appropriate security to maintain the security of and prevent unauthorized access to Plaintiff Etheridge's wireless account.

2. On or about September 10, 2020 AT&T improperly allowed wrongdoers access to Plaintiff Etheridge's wireless account and, without his authorization. AT&T was unable to contain this security breach until the next day, enabling wrongdoers to drain Plaintiff Etheridge's cryptocurrency exchange account.

3. As a result of this breach of security, Plaintiff Etheridge's exchange account was subjected to unauthorized transfers; he was deprived of his use of his cell phone number and required to expend time, energy, and expense to address and resolve this financial disruption and mitigate the consequences; and he also suffered consequent emotion distress.

II. JURISDICTION AND VENUE

4. This Court has jurisdiction over this matter under 28 U.S.C. §§ 1331 and 1367 on the grounds of federal question jurisdiction and supplemental jurisdiction over the state law claims because all the claims are derived from a common nucleus of operative facts and are such that Plaintiff would ordinarily be expected to try them in one action.

5. Venue is proper in this Court under 28 U.S.C. § 1391(b)(2) and (c). A substantial part of the events or omissions giving rise to this Complaint occurred in this District. AT&T is also headquartered and has its principal place of business in this District. Wireless services subject of this Complaint were entered into in part in this District. AT&T has received compensation as a result of its acts and practices in this District.

6. The Court has jurisdiction over the lawsuit under 28 U.S.C. §1332(a)(1) because Plaintiff and Defendants are citizens of different U.S. states, and the amount in controversy exceeds \$75,000, excluding interest and costs.

7. Unless this Court permanently restrains and enjoins AT&T, AT&T will continue to engage in the acts and practices alleged in this Complaint.

8. Venue is proper in the Southern District of Texas.

III. PARTIES

9. Plaintiff Etheridge is an individual and a resident of Harris County, Texas. Since in or about 2009 Plaintiff Etheridge has been an account holder and subscriber with AT&T. Plaintiff Etheridge entered into the contract with AT&T in Harris County, Texas.

10. Defendant AT&T, Inc. is a Delaware corporation doing business in Texas and may be served with process by serving its Registered Agent, CT Corporation System at 1999 Bryan St., Ste. 900, Dallas, Texas 75201-3136 or wherever it may be found.

11. Defendant AT&T Mobility, LLC. is a Delaware limited liability company doing business in Texas and may be served with process by serving its Registered Agent, CT Corporation System at 1999 Bryan St., Ste. 900, Dallas, Texas 75201-3136 or wherever it may be found.

12. Plaintiff reserves the right to move the Court to convert and certify this action as a class action on behalf of the yet undefined class of individuals residing within Texas and/or elsewhere who were subjected to the same circumstances set forth here.

PRELIMINARY STATEMENT

13. This action brought by Plaintiff Etheridge, an AT&T customer who lost hundreds of thousands of dollars in an incident of a rapidly-emerging identity theft crime: “SIM swapping” or “SIM hijacking”.

14. A subscriber identity module, widely known as a “SIM card,” stores user data in phones on the Global System for Mobile (GSM) network – the radio network used by AT&T to provide cellular telephone service to its subscribers.

15. SIM cards are principally used to authenticate cellphone subscriptions; as without a SIM card, GSM phones are not able to connect to AT&T’s telecommunications network.

16. Not only is a SIM card vital to using a phone on the AT&T network, the SIM card also holds immeasurable value as a tool to identify the user of the phone – a power that can be corrupted to steal property and the identity of that user.

17. AT&T’s Code of Business Conduct specifically promises that AT&T will “protect the privacy of our customers’ communication” because “[n]ot only do our customers demand

this, but the law requires it. Maintaining the confidentiality of communication with AT&T's duties and obligations under the Federal Communications Act of 1934 and the pertinent implementing regulations.

18. Moreover, AT&T was well aware of the pervasive harm posed by SIM swapping, as AT&T has issued public advisories warning customers of the "industry-wide" threat and assuring those customers that AT&T was exercising adequate measures to prevent authorized SIM swapping from happening to its accountholders.

19. Notwithstanding AT&T's knowledge of the prevalence of SIM swapping and its assurance that it was actively protecting its customers, those measures did not adequately protect Plaintiff Etheridge from the harm he suffered.

20. As a result of AT&T's failures if not active participation in SIM swap theft that was inflicted upon him, Plaintiff Etheridge has had over 159.8 ETHEREUM Tokens of assets stolen from him.

21. Plaintiff Etheridge seeks compensatory and equitable relief restoring to him 159.8 ETHEREUM Tokens that were illegally taken from him as a result of AT&T's conduct and as alleged herein.

22. Since in or about 2009, Plaintiff Etheridge has been an accountholder and subscriber with AT&T.

OTHER LIABLE PERSONS/ENTITIES

23. In addition to the entity set forth as Defendants herein, there are likely other parties who may well be liable to Plaintiff Etheridge, but respecting whom Plaintiff Etheridge currently lacks specific facts to permit him to name such person or persons as a party-respondent. By not

naming such persons or entities at this time, Plaintiff Etheridge is not waiving the right to amend this pleading to add such parties, should the facts warrant adding such parties.

IV. FACTS

24. AT&T markets and sells wireless telephone service through standardized wireless service plans at various retail locations, online sales, and over the telephone. In connection with its wireless services, AT&T maintains wireless accounts enabling its customers to have access to information about the services they purchase from AT&T.

25. It is widely recognized that mishandling of customer wireless accounts can facilitate identify theft, related consumer harms, including the theft of third parties of consumers, including Plaintiff Etheridge.

26. Among other things, AT&T's sales and marking materials state "we have implemented various policies and measures to *ensure* that our interactions are with you or those you authorize to interact with us on your behalf – and not with others pretending to be you or claiming a right to access your information."¹

27. AT&T's sales and marking materials further state that, unless AT&T can verify the caller's identity through certain personal information or a PIN if requested by customer, AT&T's policy is not to release any account specific information.

28. Despite these statements and other similar statements, AT&T failed to provide reasonable and appropriate security to prevent unauthorized access to customer accounts. Under AT&T's procedures, an unauthorized person, including AT&T's own agents and employees acting without the customer's permission, can be authenticated and then access and make changes to all the information the legitimate customer could access and make changes to if the customers were so authorized. As set forth in this Complaint, AT&T also fails to disclose or

¹¹ Emphasis added.

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