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## Barnes & Noble Hit With Suit Over PIN Pad Data Breach

By **Megan Stride**

Law360, Chicago (October 29, 2012, 6:14 PM ET) -- An Illinois consumer targeted Barnes & Noble Inc. with a putative class action Saturday over a security breach affecting PIN pad devices in 63 of its stores, alleging the chain bookseller failed to protect customers' credit and debit card information.

Plaintiff Elizabeth Nowak launched her suit just days after Barnes & Noble announced that a hacking operation it discovered back in September had impacted stores in New York, Pennsylvania, California, New Jersey, Connecticut, Florida, Illinois, Massachusetts and Rhode Island.

She alleges that Barnes & Noble breached its contractual obligations by failing to provide adequate data security and violated state consumer fraud laws by failing to adequately notify each of its affected customers about the breach in a timely manner.

As a result, the company has prevented customers from protecting themselves from the security incident's fallout, according to the suit, which said the hackers who orchestrated the data breach made unauthorized purchases using information they stole and have continued to exploit Barnes & Noble customers.

"Barnes & Noble grossly failed to comply with security standards and allowed their customers' financial information to be compromised, all in an effort to save money by cutting corners on security measures that could have prevented or mitigated the security breach that occurred," the complaint said.

A Barnes & Noble representative did not immediately respond to a request for comment Monday.

On Oct. 23, the company said it had detected tampering with one PIN pad device at each of the affected stores as part of what it called "a sophisticated criminal effort" to steal the financial information of customers who swiped their cards through the pads when making purchases.

Barnes & Noble said it had disconnected all PIN pads from its stores across the country by the end of the business day on Sept. 14 and had also notified federal law enforcement authorities of the issue.

In her suit, Nowak is also accusing the bookstore chain of failing to take responsibility for the alleged failures, saying it has not offered any credit monitoring or identity theft protection assistance to her or other customers or taken any affirmative steps to repair the damage stemming from its alleged misconduct.

The plaintiff is looking to represent a class of all U.S. residents who made an in-store purchase at a Barnes & Noble store using a debit or credit card that was swiped through a PIN pad at any time from Nov. 1, 2010, through the date she filed suit.

She is also looking to represent a class of people residing in a slew of states with similar consumer fraud laws who made such purchases.

Barnes & Noble is facing claims of breach of implied contract and violation of the consumer fraud laws of Illinois and other states.

The plaintiff is represented by Adam J. Levitt and Edmund S. Aronowitz of Wolf Haldenstein Adler Freeman & Herz LLC and Joseph J. Siprut, Aleksandra M. S. Vold and James Morris McClintick of Siprut PC.

Counsel information for Barnes & Noble was not immediately available.

The case is Nowak v. Barnes & Noble Inc., case number 1:12-cv-08617, in the U.S. District Court for the Northern District of Illinois.

--Additional reporting by Gavin Broady. Editing by Lindsay Naylor.

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