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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | [customerservice@law360.com](mailto:customerservice@law360.com)

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## Vendini Pays \$3M To End Customers' Data-Breach Action

By **Beth Winegarner**

Law360, San Francisco (October 03, 2014, 6:31 PM ET) -- A California judge on Friday gave final approval to Vendini Inc.'s \$3 million settlement in a class action accusing the ticket seller of compromising customer information when its servers were breached in 2013, including close to \$1 million in attorneys' fees to plaintiffs' counsel.

Santa Clara Superior Court Judge Peter Kirwan noted in his tentative ruling that the plaintiffs, Vendini customers who claim their information may have been at risk, faced an uphill battle given the fact that the ticket seller had adopted industry standard security protocols and had not made any agreements with customers regarding the use of their information.

"Balanced against this reality is the \$3 million settlement fund, which is not insubstantial," Judge Kirwan said. "The court finds that the settlement amount, balanced against the strength of plaintiffs' claims, is facially reasonable and fair."

Under the deal, Vendini will pay \$3 million into a settlement fund for the class. Plaintiffs' attorneys with Counselone PC will receive 30 percent of the pot plus up to \$25,000 in costs. Lead plaintiffs Lanie Lim and John Lewert will receive \$2,500 each, and class members may make claims for unreimbursed identity theft losses for up to \$3,000 or for unreimbursed expenses of up to \$1,000, according to the ruling.

Judge Kirwan adopted his tentative ruling approving the settlement Friday.

Lim and Lewert sued Vendini in January, seeking to represent a class of customers whose data was involved in the security breach. They received notice from Vendini in May of 2013 that the company's databases had been hacked in April by a third party who may have been able to access customers' personal information, including names, mailing address, email addresses, phone numbers, credit cards and expiration dates, court documents said.

They accused Vendini of failing to implement and maintain policies and procedures that would protect customer data or to detect and prevent hackers from accessing it, according to the tentative ruling. The plaintiffs claimed they lost time and expenses dealing with the aftermath of the breach and suffered anxiety and fear of identity theft and fraud.

Their lawsuit accused Vendini of false advertising under California law, violating the Consumer Legal Remedies Act, breach of contract, invasion of privacy and violating the Stored Communications Act and the Computer Fraud And Abuse Act, court documents said.

The parties soon entered settlement talks, which included Vendini's insurer, St. Paul Fire &

Marine Insurance Co., which **sued the ticket seller** not long after the breach. St. Paul asked a California federal court to declare \$7 million in liability insurance off-limits to Vendini because it was facing the impending class action in state court. U.S. District Judge Susan Illston stayed St. Paul's case in March pending the outcome of settlement talks, court records show.

Representatives for the parties didn't respond to requests for comment on the settlement Friday.

The plaintiffs are represented by Justin Kachadoorian and Anthony J. Orshansky of Counselone PC and by Joseph Siprut of Siprut PC.

Vendini is represented by Nancy Harris of Orrick Herrington & Sutcliffe LLP.

The case is Lim, et al. v. Vendini, Inc., case number 1-14-cv-259897, in the Superior Court of California, County of Santa Clara.

--Additional reporting by Andrew Scurria. Editing by John Quinn.

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