

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JEANNE BYERS, on behalf of herself)
and all other similarly situated,)
)
Plaintiff,)
)
v.) 1:22-CV-607
)
ECL GROUP, LLC,)
)
Defendant.)

ORDER


After receiving notice from her eye care clinic that her personal information had been accessed by data thieves, the plaintiff Jeanne Byers noticed an increase in spam texts, calls, and emails. Believing the increase to be associated with the data breach and concerned about the potential future threat of identity theft, Ms. Byers brought this class action lawsuit against the defendant, ECL Group, LLC. ECL provides medical records platforms and patient management software to Ms. Byers' eye care clinic, and it was ECL's data that was breached.

In November 2022, this case was consolidated with four other similar cases brought against ECL for the purposes of discovery. *See* Doc. 18. ECL has filed motions to dismiss all five cases. The Court has denied its motion to dismiss plaintiff Detrina Solomon's complaint, *see Solomon v. ECL Group, LLC*, 22-CV-526, Doc. 31, and its motion to dismiss plaintiffs Kimberly Farley, Chad Forrester, and Kimberly Sandvig's consolidated complaint. *Farley v. Eye Care Leaders Holdings, LLC*, 22-CV-468, Doc.

46. The Court has reviewed the briefing associated with ECL's motion to dismiss Ms. Byers' complaint, filed on the consolidated docket at 22-CV-468, Docs. 42–45, as well as the complaint itself. *Byers v. ECL Group, LLC*, 22-CV-607, Doc. 1. For the reasons set out in the Court's order in *Solomon v. ECL Group, LLC*, 22-CV-526, Doc. 31, the Court is satisfied that Ms. Byers' has met the minimal standard of plausibility for her negligence, negligence *per se*, Chapter 75, and declaratory judgment claims, and any weaknesses of those claims will be better evaluated on a factual record.

It is **ORDERED** that the defendant's motion to dismiss, filed on the consolidated docket at 22-CV-468, Doc. 42, is **DENIED**.

This the 1st day of February, 2023.


UNITED STATES DISTRICT JUDGE