Seventh Circuit Hands Win to Merchants in Data Breach Case

The number of cases involving consumer data breaches is rapidly growing, points out **Ehren M. Fournier** in a post on the website of **Schoenberg Finkel Newman & Rosenberg LLC**. Data breaches inflict additional costs on financial institutions, leading those institutions to turn to litigation to recoup their losses from merchants.

Fournier discusses a recent case in which the United States Court of Appeals for the Seventh Circuit Court dealt a significant blow to attempts by financial institutions to bring negligence claims against merchants for failing to adequately safeguard their customers' data:

> In 2012, hackers infiltrated Schnuck Markets, a large Midwestern grocery chain, and stole the data of about 2.4 million credit and debit cards. Financial losses from the unauthorized purchases and cash withdrawals made with the stolen data reached into the millions. Because federal law requires the consumers' banks to indemnify the consumers for losses incurred as a result of fraudulent activity, four banks brought a class action lawsuit against Schnucks to recover their losses. The plaintiff banks had no direct contract with Schnucks, and instead resorted to common-law negligence/tort claims, common-law contractual claims, and several claims under Illinois statutes. The Seventh Circuit affirmed the lower court's decision to dismiss all claims, and its decision on the economic loss doctrine bears some discussion. The federal appellate court anticipated that the high courts of both Illinois and Missouri would reject imposing tort liability under these circumstances.

Read the article.