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Container Store Accused Of Discriminating Against The Blind

By **Dani Meyer**

Law360, New York (July 20, 2015, 9:16 PM ET) -- The National Federation of the Blind launched a proposed class action Monday in Massachusetts federal court accusing The Container Store Inc. of discriminating against blind customers by failing to provide physical keypads for entering personal identification numbers at checkout counters.

The federation said The Container Store's touch pad point-of-sale devices prevent blind customers from independently entering credit and debit card PINs in violation of U.S. Department of Justice requirements that merchants provide a physical keypad or alternative accommodation for blind or visually impaired customers.

"Many blind persons, including plaintiffs, shop at The Container Store's numerous locations throughout the United States. They are entitled to the same privileges and advantages that are available to sighted customers — the ability to choose their payment method, and to obtain the benefits and discounts available to other customers without compromising their privacy," the federation said.

The complaint also accuses the retailer of discriminating against blind customers through its loyalty program, which requires customers to register each purchase by confirming their telephone number or email address on a screen.

"The information necessary to enroll in and receive benefits from The Container Store's loyalty program is private and confidential, and blind customers should not be forced to have to disclose this information publicly in order to get the same discounts and benefits as sighted customers," the federation said.

Timothy Elder, an attorney for the federation, told Law360 Monday that the federation decided to file the suit because the store wouldn't sit down and talk with them about reaching a solution for blind customers.

"Blind people want to be customers. We want to be able to spend our money at The Container Store, but we want the same privacy, confidentiality and access that everyone else has when entering confidential information," Elder said.

According to the complaint, the retailer allegedly created and distributed "accessibility overlays" for its touch screens without consulting the federation, resulting in overlays that create "the appearance of accessibility, without providing any real benefit to the blind."

The federation said the overlays fail to address its concerns about the store's loyalty program, which is especially worrisome since emails are frequently the target of attacks and the store's failure to allow blind customers to independently confirm their information like sighted customers creates an additional security risk.

Having just **settled a separate suit** accusing the retailer of violating Massachusetts law by asking for customers' ZIP codes in credit card transactions, the federation said The Container Store should be especially aware of the importance of protecting customers' personal information.

The complaint asks for a declaration that The Container Store is violating the Americans with Disabilities Act and a permanent injunction ordering the store to become fully accessible to the blind and visually impaired, as well as statutory damages and attorneys' fees.

Other retailers have been hit with similar suits accusing them of discriminating against blind customers with their point-of-sale devices, including most recently against Build-A-Bear Workshop Inc. **in May** and against PetSmart Inc. **in April**.

Representatives for The Container Store didn't immediately respond Monday to a request for comment.

The plaintiffs are represented by Jeremy Weltman of Kerstein Coren & Lichtenstein LLP, Jana Eisinger and Douglas W. Lambalot of Martinez Law Group PC, Scott C. LaBarre of LaBarre Law Offices PC and Timothy Elder of TRE Legal Practice LLC.

Counsel information for The Container Store wasn't available Monday.

The case is National Federation of the Blind et al. v. The Container Store Inc., case number 1:15-cv-12984, in the U.S. District Court for Massachusetts.

--Editing by Katherine Rautenberg.

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