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Class Action Lawsuits Filed Against J. Crew and Build-A-Bear on Behalf of Blind Customers Nationwide

PR Newswire

DENVER, Aug. 19, 2015

DENVER, Aug. 19, 2015 /PRNewswire/ -- J.Crew Group, Inc., a national clothing retailer, and Build-A-Bear Workshop, Inc., a retailer of children's stuffed animals, were sued in separate class action lawsuits last week in the Southern District of New York (Case No. 15-cv-06337) and the District of Colorado, (Case No. 15-cv-01724), respectively, alleging the companies discriminate against their blind customers.

The lawsuits, brought by the Martinez Law Group, P.C., on behalf of the Colorado Cross-Disability Coalition, a nonprofit disability rights advocacy organization, the National Federation of the Blind, the nation's leading advocate for the rights of the blind, and seven individual named Plaintiffs who reside in New York, Colorado, Texas, and California, allege violations of Title III of the Americans with Disabilities Act (ADA) as well as various state laws, based on the merchants' failure to provide accessible point-of-sale devices (POS Devices) that enable blind customers to securely enter their private PIN codes when making a purchase.

Both merchants have been sued repeatedly by blind customers over the last two years for their failure to provide accessible POS Devices. Despite numerous prior lawsuits, the merchants continued, for years, to delay making the necessary changes required to make their POS Devices accessible to the blind. As alleged in each Complaint, the unnecessary and avoidable delay by both merchants in complying with the law is surprising given that the retailers operate extensively in California, which has since 2010 required that every merchant operating in California provide tactile keypads at every POS terminal.

In addition, the Department of Justice (DOJ) filed a statement in a Florida court more than a year ago that made clear the DOJ's position that merchants are required under the ADA to provide blind customers an accessible auxiliary aid to input their debit or credit card PINs.

"Unfortunately, merchants like J.Crew and Build-A-Bear have not taken their obligations under the ADA seriously, and they have failed to make accessibility a priority for their organizations," said Kevin Williams, Legal Program Director for CCDC. "These merchants have the attitude that they can address accessibility issues on their own delayed timeframe, and by eventually getting around to doing so, they will avoid any liability. That is simply not the case. We hope these lawsuits will send the message to merchants that when they flagrantly disregard the law, as J. Crew and Build-A-Bear have done, they do so at their own peril."

In addition to seeking declaratory and injunctive relief, the class action lawsuits seek statutory damages on a classwide basis for blind customers in New York, Colorado, Texas, and California. Each of the state laws at issue provide for minimum statutory damages for violations of their respective statutes that closely follow the ADA.

Plaintiffs are represented in these lawsuits by Jana Eisinger of the Martinez Law Group, P.C., a law firm that specializes in complex litigation

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and class actions, with offices in Denver and New York City; Scott LaBarre of LaBarre Law Offices, P.C., in Denver; Kevin Williams of the Colorado Cross-Disability Coalition Legal Program; and in the J.Crew action, Plaintiffs are also represented by Azra Z. Mehdi, of the Mehdi Firm, P.C in San Francisco, California.

Last month, the NFB filed suit against The Container Store in Massachusetts, for its failure to provide accessible POS Devices, and because the in-store electronic devices on which customers can enroll in The Container Store's loyalty program cannot be independently used by blind customers. Enrollment in The Container Store's in-store loyalty program can only be accomplished through visual touchscreen devices, forcing blind customers to disclose their confidential information to store personnel in order to obtain the program's benefits. The NFB and CCDC also previously filed suit against PetSmart, Inc. in Colorado for its failure to provide accessible POS Devices.

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