

ANOTHER CHAT BOX SUIT: Smart & Final Caught in CIPA Lawsuit!

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Let's start with the allegations.

The plaintiff, Anne Heiting alleges that she visited Smart and Final's website smartandfinal.com and utilized the chat box feature.

While using the chat box feature, Heiting alleges Smart and Final did not inform her that a third-party vendor, Zendesk, was recording and commoditizing her communications.

More specifically, Heiting alleges that Smart and Final embedded a code, iFrame, which intercepts the inquiries the consumers believe are being directly sent to Smart and Final and diverts them to Zendesk.com.

Once Zendesk gains access to the user's information, it stores it for its own purposes.

Based on these alleged violations, Heiting sued Smart and Final for violations of CIPA, section 631(a) and California's unauthorized access to computer data act, section 502(e).

Since this case was just filed, the case is at its nascent stage. It will be interesting to see how this case progresses. Thankfully, this case is not a putative class action because as you folks know the potential liability under CIPA is enormous!

Folks we've said it all summer and we'll say it again... the use of chat boxes on your website is dangerous! Especially if you are utilizing a third-party vendor to facilitate the communications. Consent is a MUST.

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