

Olive Garden Settles Credit Card Data Exposure Suit

Claim alleged restaurant printed too many numbers on receipts

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Olive Garden has settled a suit alleging that it printed the last six digits of customers' credit card numbers on receipts, in violation of federal law.

The popular Italian-themed restaurant chain is the latest to be snagged by violations of the Fair and Accurate Credit Transactions Act (FACTA), which mandates that retailers print no more than the last five digits of any credit card on receipts. The law, passed in 2003 as an amendment to the Fair Credit Reporting Act (FCRA), is meant to limit identity theft. It includes a number of provisions including allowing consumers to place alerts on their credit history if they think their identity has been stolen, and requiring secure disposal of consumer information.

"This requirement to truncate the credit-card numbers was widely publicized and was well known for years and the merchants had three years to comply before the law went into effect," said attorney Thomas Zimmerman, whose firm Zimmerman Law Offices of Chicago handled the matter. "We don't know why the Olive Garden failed to comply."

The law was passed in November 2003, but did not become effective until 2006.

Failure to comply with FACTA has spelled trouble for several other organizations. As reported by Consumer Affairs earlier this year, a suit against vendors Mexican Specialty Foods and Rave Motion Pictures is proceeding in the Eleventh Circuit. There, the court rejected an argument by the defendants that the statute's language is unconstitutionally vague. The defendants' contention was based on the law's provision allowing plaintiffs to collect between \$100 and \$1,000 for willful violations, which they said provided no guidelines for the amount awarded. The court noted that the damages were limited within a \$900 range, and that the statute was thus sufficiently specific.

Lawsuits have also been filed against other high-profile companies, including Costco, Ikea, Victoria's Secret, Bath & Body Works, California Pizza Kitchen, In-n-Out Burger, Limited, and Harry & David. California courts have been especially inundated with suits; 100 actions have already been filed within the state's federal court system alleging FACTA violations.

In a statement, Olive Garden said that it "takes its guests' data and its legal obligations very seriously" and said that the six-digit slips were provided only to the consumer whose credit card was used. "Unfortunately, this mistake initially went unnoticed, but the problem was promptly remedied when it was brought to our attention. There is no indication that anyone has been harmed in any way by this error."

The settlement covers any consumer who ate at Olive Garden between Dec. 4, 2006 and Aug. 10, 2007 and paid with a debit or credit card. Zimmerman said that several thousand individuals have already filed vouchers, apparently unwilling to pass up \$9 worth of bruschetta or calamari.

Lead plaintiff Mary Dudzienski is applying for an incentive award — one paid to a class representative in a class action suit — of \$2,500. Darden Restaurants of Orlando, which owns Olive Garden, has also agreed to pay \$5,000 to charity, which, while a nice gesture, is not likely to put much of a dent in a company that reports \$6.7 billion in annual sales and is the world's largest restaurant company.