

## NJ Class Suits Over E-Commerce Disclaimers Causing Stir

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Edward J. Fanning, Jr.

Companies engaged in e-commerce in New Jersey are being hit with class action suits claiming their terms of service violate a state consumer protection law enacted when Ronald Reagan was president—and the litigation is causing concern in the business community.

Toys R Us, Victoria's Secret and J.Crew are among the retailers that have found themselves the targets of suits in the District of New Jersey claiming violations of the Truth in Consumer Contract, Warranty and Notice Act, N.J.S.A. 56:12-14. The suits claim that the terms and conditions that apply to online transactions on the defendants' websites violate the statute, which was enacted in 1981 to protect consumers from one-sided consumer contract terms.

The vague wording and broad scope of the TCCWNA makes it a concern to businesses that have disclaimers and warranty limitations in their websites' terms and conditions, according to Edward Fanning of McCarter & English in Newark, who said he has been active fielding inquiries from clients about the law.

Plaintiffs lawyers assert that, unlike claims brought under the New Jersey Consumer Fraud Act, a claim under the TCCWNA doesn't require a showing of ascertainable loss by the claimant, Fanning said.