

California Supreme Court: “Requesting and Recording a Cardholder’s ZIP Code” Violated State Law

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On February 10, 2011, in Pineda v. Williams-Sonoma Stores, Inc., the California Supreme Court reversed the Fourth District Appellate Court, holding that the definition of “personal identification information” in California’s Song-Beverly Credit Card Act of 1971 includes a customer’s ZIP code. The Court concluded that the word “address” in California Civil Code section 1747.08 “should be construed as encompassing not only a complete address, but also its components.”

In *Pineda v. Williams-Sonoma Stores, Inc.*, the California Supreme Court considered whether California’s Song-Beverly Credit Card Act of 1971, Civil Code sections 1747, *et seq.* (the “Act”), and, in particular, Section 1747.08, is violated when a business requests and records a customer’s ZIP code during a credit card transaction. Section 1747.08 prohibits requesting, or requiring as a condition to accepting a credit card as payment for goods or services, the cardholder to write any “personal identification information” upon the credit card transaction form or otherwise, or to provide personal identification information which is written or otherwise recorded. The statute defines “personal identification information,” to include “information concerning the cardholder, other than information set forth on the credit card, and including, but not limited to, the cardholder’s address and telephone number.”

The Fourth District Court of Appeal, in *Pineda v. Williams-Sonoma Stores, Inc.*, 178 Cal. App. 4th 714 (2009), confirmed that Williams-Sonoma’s collection of its customer’s credit card information as well as the customer’s ZIP code at the point-of-sale was not prohibited by Section 1747.08. The Court of Appeal followed its earlier decision in *Party City Corp. v. Superior Court*, 169 Cal. App. 4th 497 (2008), that as a matter of law a ZIP code is not personal identification information under the Act because it is “not facially individualized information.”

The California Supreme Court, however, disagreed, finding several problems with the Court of Appeal’s reasoning. The Court, in consideration of the statute’s plain language, intent and legislative history, held

that “a ZIP code constitutes ‘personal identification information’ as that phrase is used in section 1747.08.” The Court confirmed that the word “address” in the statute should be construed as encompassing not only a complete address, but also its components, and concluded that “requesting and recording a cardholder’s ZIP code, without more, violates the Credit Card Act.” It reversed and remanded the matter to the Court of Appeal for further proceedings and, in addition, disapproved of *Party City Corp. v. Superior Court*, 169 Cal.App.4th 497 (2008), to the extent it is inconsistent with its opinion.

The Court further rejected Williams-Sonoma’s contention that defining “personal identification information” to include a cardholder’s ZIP code is unconstitutionally vague, requiring only prospective application. In its view, Section 1747.08 provides “constitutionally adequate notice of proscribed conduct.” The Court rejected the notion that reliance on a single decision by an inferior court could justify departure from retrospective operation. As a result, the decision may be applicable to credit card transactions occurring before February 10, 2011.

If you have any questions about the content of this alert, please contact the Pillsbury attorney with whom you regularly work, or the authors of this alert.

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