



HOSPITALITY ALERT

CALIFORNIA SUPREME COURT RULES THAT RETAILERS VIOLATE STATE LAW WHEN THEY ASK FOR AND RECORD CUSTOMERS' ZIP CODES

On February 10, 2011, the California Supreme Court ruled in *Pineda v. Williams-Sonoma Stores, Inc.*, S178241, that a customer's ZIP code is "personal identification information" under California's Song-Beverly Credit Card Act¹ of 1971. Therefore, retailers in California cannot ask a customer to provide a ZIP code at purchase without violating California law.

The Court's Ruling

The fundamental question before the California Supreme Court was whether a customer's ZIP code was "personal identification information" under Civil Code Section 1747.08. The Fourth District Court of Appeal ruled that it was not because a ZIP code is not "facially individualized information." In reaching this decision, the Court of Appeal relied on *Party City Corp. v. Superior Court*, 169 Cal. App. 4th 497 (2008).

The California Supreme Court disagreed, however. According to the California Supreme Court, the word "address" in Section 1747.08 encompasses not only a complete address, but also its components. Since the customer's ZIP code is a component of his or her full address, the California Supreme Court ruled that "requesting and recording a cardholder's ZIP code, without more, violates the [Beverly-Song Act]."

The California Supreme Court then remanded the case back to the Court of Appeal for further proceedings. In addition, the California Supreme Court explicitly disapproved of the *Party City Corp.* precedent insofar as it is inconsistent with the present decision.

Impact on California Retailers

As a result of *Pineda*, California retailers who are still asking for ZIP codes or other "personal identification information" from customers at the time of purchase should immediately stop requesting and/or recording that information.

Interestingly, in *Pineda*, the California Supreme Court rejected Williams-Sonoma's attempts to limit the Court's decision to prospective application only. In other words, Williams-Sonoma wanted the decision to apply only to credit card transactions that occurred after February 10, 2011. The California Supreme Court flatly rejected that argument and stated that the "usual rule" of retrospective application should apply in this case. Therefore, the *Pineda* decision - and any liability that attaches to retailers as a result - may be applicable to credit card transactions that occurred even before February 10, 2011.

Stay tuned! We'll know more once the Court of Appeal gets the case back and makes its ruling consistent with the *Pineda* decision.

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¹ Cal. Civ. Code §1747 et seq.

