



California Corporate & Securities Law

ZIP Code Case Underscores The Perils Of Collecting “Personal Identification Information” In California

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In February 1991, I wrote a brief article for the [South Orange County Chamber of Commerce](#) with the catchy title of “New Statutes Affect Business, Protect Consumer’s Privacy”. In the article, I discussed two new laws. One of those laws added § 1747.8 to the California Civil Code to prohibit businesses from requiring “personal identification information” in credit card transactions.

Although the statute has been amended and renumbered as Civil Code § 1747.08, the basic prohibition remains. In the ensuing years, the scope of what constitutes “personal identification information” has been unsettled. Now, two decades later, the California Supreme Court has ruled on the issue.

In *Pineda v. Williams–Sonoma Stores, Inc.*, 178 Cal. App. 4th 714 (2009), a consumer made a purchase with a credit card in one of the defendant’s stores. She alleged the cashier asked for her ZIP code number, which the plaintiff agreed to provide. The plaintiff thereafter filed a putative class action alleging that the defendant had violated Civil Code § 1747.08. Both the trial court and the Court of Appeal agreed with the defendant’s view that a consumer’s ZIP code number does not constitute “personal identification information”. The Supreme Court, however, disagreed in a unanimous decision, saying “[i]n light of the statute’s plain language, protective purpose, and legislative history, we conclude a ZIP code constitutes ‘personal identification information’ as that phrase is used in section 1747.08”.

Clearly, the defendant’s interpretation was reasonable – as evidenced by the fact that one trial court judge and three Court of Appeal justices agreed with the defendant. Moreover, two other Court of Appeal justices had previously reached the same conclusion as the defendant. *Party City Corp. v. Superior Court*, 169 Cal. App. 4th 497 (2008) (Justice Huffman wrote the *Party City* opinion and concurred in the *Pineda* opinion).

Thus, it seems unreasonable, inequitable and altogether unfair that the defendant should face the possibility of significant penalties when reasonable and thoughtful jurists have come to opposite conclusions. The statute sets a maximum penalty of \$250 for the first violation and \$1,000 for each subsequent violation. The Supreme Court points out that these are not fixed penalties. Thus, we’ll have to see what the trial court decides.

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