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A Question that Shocks the Conscience: "And your ZIP code, sir?"

By [Michelle Mann](#)

If you are a retailer who has customers in California, you need to familiarize yourself with the California Supreme Court's decision in [Pineda v. Williams-Sonoma Stores Inc.](#) Essentially, any business policy that includes requesting and recording a consumer's ZIP code in connection with a retail credit card transaction with California residents should be revised immediately.

In *Pineda v. Williams-Sonoma Stores Inc.*, 2011 Cal. LEXIS 1355 (Feb. 10, 2011), the California Supreme Court considered whether a person's ZIP code constitutes "personal identification information" under the Song-Beverly Credit Card Act of 1971, Cal. Civ. Code §§ 1747 et seq. ("Credit Card Act"). Under the Credit Card Act, which was enacted to shield consumers from unfair business practices, businesses are prohibited from requiring consumers to provide "personal identification information" during credit card transactions and then storing that information (although the prohibition does not apply to transactions where the information is not written down or otherwise stored or recorded).

In this case, the plaintiff was required to provide her ZIP code to Williams-Sonoma in order to complete a credit card transaction. Her ZIP code was recorded and subsequently used to obtain her full address from a database (a consumer's address and phone number are, in fact, included in the Credit Card Act's definition of "personal identification information"). Williams-Sonoma then used the address obtained from the database to market products to the plaintiff and also sold the information to third parties.

The California Supreme Court held that "personal identification information, as that term is used in section 1747.08, includes a cardholder's ZIP code." The Supreme Court rejected the lower court's assertion that a ZIP code pertains to a group who live in a geographical area instead of an individual and, therefore, is not "personal identification information." The Court held instead that components of the address do constitute "personal identification information." The Court noted that a ZIP code (as well as other information that might pertain to a group larger than one consumer) constitutes information unnecessary to the transaction but that can be used to obtain the consumer's full address through reverse data mining.

Multiple class action lawsuits have been filed in California regarding the recording and use of consumer ZIP codes since the Supreme Court's decision. Many more will most assuredly follow. The penalty for violating the Credit Card Act is up to \$250 per violation for a first-time violation and up to \$1,000 for subsequent violations.

Jackson Walker L.L.P. attorneys are experienced in advising clients in relation to consumer data compliance issues and e-commerce strategies. Please contact our [data privacy and security team](#) if you need assistance in complying with rules applicable to online

presence, or you can contact:

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For more information on data privacy compliance for your business, we also recommend reviewing the following articles:

- [Recent Case Clarifies Payment Card Protection Requirements for Merchants](#)
- [Key Recent Technology Law Cases](#)

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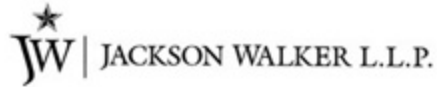
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