

# Morrison & Foerster Client Alert.

September 1, 2011

## California Court Finds That Song-Beverly Credit Card Act Does Not Apply to Online Transactions

By Purvi G. Patel and Megan T. Low

Following the California Supreme Court's decision in *Pineda v. Williams-Sonoma Stores, Inc.*,<sup>1</sup> more than 200 lawsuits have been filed against retailers doing business in California. These cases have been brought under the Song-Beverly Credit Card Act of 1971 (the "Act"), which prohibits businesses from requesting cardholders to provide "personal identification information" during credit card transactions and then recording that information.<sup>2</sup> Although the lawsuits have primarily been directed against brick-and-mortar retailers, several online retailers, including Amazon.com, PayPal, Craigslist, StubHub, and Ticketmaster have also been sued. This has raised significant questions about whether the Act extends to online transactions. Fortunately, the San Francisco Superior Court has offered some good news for online retailers.

On August 24, 2011, the San Francisco Superior Court dismissed a Song-Beverly Act lawsuit against Craigslist, finding that the Act "on its face does not apply to online transactions" and that "the applicable case law, legislative intent and public policy indicate that such transactions are not, and should not be, encompassed by [the Act]."<sup>3</sup>

This order breathes new life into a federal district court case decided before *Pineda* — *Saulic v. Symantec Corporation* — that also concluded online transactions were outside the scope of the Act.<sup>4</sup> After *Pineda*, however, it was unclear whether California courts would come to the same conclusion as the

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<sup>1</sup> The *Pineda* case found that a retailer who requests and records a customer's ZIP code during a credit card transaction violates the Act. *Pineda v. Williams-Sonoma Stores, Inc.*, 246 P.3d 612, 614 (Cal. 2011). Please see [here](#) for additional background about the Song-Beverly Act and *Pineda* decision.

<sup>2</sup> Cal. Civ. Code § 1747.08(a).

<sup>3</sup> *Gonor v. Craigslist, Inc.*, No. CGC-11-511332.

<sup>4</sup> *Saulic v. Symantec Corp.*, 596 F. Supp. 2d 1323 (C.D. Cal. 2009). Before the *Craigslist* order, *Saulic* was the only case addressing whether online transactions were covered by the Act.

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federal district court in *Saulic*. Although the *Craigslist* order quells some of the doubts regarding the viability of *Saulic*'s conclusion in a post-*Pineda* world, there are a number of other cases pending in California state and federal courts that involve online transactions, leaving the issue far from settled.

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