

Retail Team

To: Our Clients and Friends

February 11, 2011

## Retailers Can't Ask for Zip Codes

### California Supreme Court rules that practice violates consumer privacy law

- Retailers may not legally ask a customer to provide a zip code in the course of a credit card transaction, the California Supreme Court ruled on Thursday. The decision reverses an earlier appellate court ruling that the practice does not violate state law.
- In a class action lawsuit against Williams-Sonoma, plaintiff Jessica Pineda alleged that the retailer violated her right to privacy under the California Constitution and violated the Song-Beverly Credit Card Act of 1971, which prohibits retailers from recording a customer's "personal identification information" in a credit card transaction. The Court of Appeal had earlier ruled that a customer's zip code is not personal information.

### Decision applies at retail stores and restaurants, but not to online transactions

- Pineda alleged that the retailer used customer zip codes to obtain the home addresses of "hundreds of thousands, if not millions" of customers and then used the data to market products to customers or sold the information to other businesses. It does not apply to online transactions, where such information is necessary for shipping purposes.
- The prohibition applies only to credit card transactions, and zip codes can be collected during cash purchases.

### Retailers should take immediate action to limit potential liability

- The statute provides for penalties of up to \$1,000 per violation. The Supreme Court held that this penalty is not overly burdensome, however, because the amount of any award is discretionary with the court and can be as little as pennies per violation.
- Retailers that ask customers for zip codes or other personal information at stores should stop, and should not sell the information or use it for direct marketing purposes.

If you have any questions or would like additional information on this topic, please do not hesitate to contact Marcy Bergman at (415) 675-3421 [Marcy.Bergman@bryancave.com](mailto:Marcy.Bergman@bryancave.com) or Merrit Jones at (415) 675-3435. You can also contact any member of our [Retail Group](#) to discuss further.

This Client Alert is published for the clients and friends of Bryan Cave LLP. Information contained herein is not to be considered as legal advice. This Client Alert may be construed as an advertisement or solicitation. © 2011 Bryan Cave LLP. All Rights Reserved.