

Plaintiffs File Suits Alleging Gift Cards With Expiration Dates In Less Than 10-Point Font Violate California Law

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A number of class action lawsuits recently have been filed in California state court in San Diego County against a wide range of merchants as well as gift card issuers alleging, among other things, that the defendants have violated the California Civil Code by issuing gift cards that bear either an obscured expiration date, or an expiration date that is not as prominently displayed as is required under California state law. Section 1749.5 of the California Civil Code makes it unlawful to sell gift certificates or gift cards that contain an expiration date unless the expiration date appears in capital letters in at least 10-point font on the front of the gift card. So far retailers such as Saks, Staples, Borders, Visa, and American Express, among others, have been sued in separate class actions alleging violations of Section 1749.5, as well as the Business and Professions Code and the California Consumer Legal Remedies Act.

For example, in [Michaelson v. Staples, Inc.](#), Case No. 37-2009-00083487 (Cal. Super. Ct., San Diego Cty.), plaintiff alleges that an expiration date on a Staples gift card, mailed to the plaintiff as part of a promotion, was in less than 10-point font. Plaintiff alleges the card expired before he noticed the expiration date. In [Robert Loiseau v. Visa U.S.A. Inc.](#), Case No. 37-2009-00085443 (Cal. Super. Ct., San Diego Cty.), plaintiff alleges that a gift card, purchased for its face value, improperly contained an obscured expiration date, charged a processing fee, and required other allegedly unreasonable terms and conditions.

Gift cards are a tricky business when it comes to complying with the patchwork quilt of state-by-state regulations (as well as FTC oversight) over them. The permissibility of expiration dates, redemption in cash once a minimum balance has been reached, disclosures of terms and conditions, and escheatment of remaining balances are just some of the issues that businesses must confront and address. This new wave of lawsuits serves as a reminder to merchants and gift card issuers of the need to monitor state and federal regulations, as well as to periodically evaluate their gift card programs with counsel.