

Update: California Supreme Court Agrees to Review Issue of Whether Collecting Customer Zip Codes and Reverse Data Mining for Additional Customer Information Violates California's Song-Beverly Credit Card Act

March 25, 2010

If you or your company collect zip codes in California as part of a loyalty program or otherwise, and reverse data mine for additional customer information, you should be aware that the [California Supreme Court recently granted a petition to review](#) the issue of whether a retailer violates California's Song-Beverly Credit Card Act if, in connection with a credit card transaction, it records a customer's zip code for the purpose of later using it and the customer's name to obtain the customer's address through a reverse search database.

The [Song-Beverly Credit Card Act](#) prohibits merchants that accept credit cards in transacting business from making requests that the cardholder provide "personal identification information" and from recording that information. (Cal. Civ Code § 1747.08, subd. (a)(2).) Under the Act, "personal identification information" means information concerning the cardholder, other than information set forth on the credit card, and including, but not limited to, the cardholder's address and telephone number. In [Party City Corp. v. Superior Court](#), 169 Cal.App.4th 497 (Cal. App. Ct. 2008) ([discussed previously on this blog](#)), the California Court of Appeals considered the language of the Act and the legislative history and concluded, as a matter of law, that a zip code is not "personal identification information" within the meaning of section 1747.08, subdivision (b) because a zip code is not facially individualized information. Last year, in [Pineda v. Williams-Sonoma Stores, Inc.](#), 100 Cal.Rptr.3d 458 (Cal. App. Ct. 2009), the California Court of Appeals followed *Party City* and affirmed the decision below that Williams-Sonoma did not violate the Act by requesting and recording the customer's zip code for the purpose of using it and the customer's name to obtain the customer's address through the use of reverse data mining. The Court of Appeals in *Pineda* also held that using a legally-obtained zip code to acquire and use an address that is public is not "a serious invasion of privacy," which is a necessary element of a privacy claim. Pineda failed to allege facts showing that her home address was not otherwise publicly available or that she undertook efforts to keep it private.

While the *Party City* and *Pineda* decisions provided clarity for companies in California that collect customer zip codes and then reverse data mine, the California Supreme Court's decision to review

this issue again creates uncertainty as to whether the practice is permissible. Stay tuned for future posts on any developments.