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ZIP Codes Suits Keep Piling Up

More than 70 class actions are now pending against California retailers.

By Amy Yarbrough

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SAN FRANCISCO - The lawyer at the center of a high-profile consumer protection fight has slapped California retailers with nearly two dozen more lawsuits for collecting ZIP codes from customers who use credit cards.

Folsom-based attorney Gene J. Stonebarger filed all 21 class actions in San Francisco County Superior Court on Friday. The lawsuits target retailers including Bed, Bath & Beyond Inc., Wal-Mart Stores Inc., J.C. Penney Company Inc., The Gap Inc. and Urban Outfitters Inc.

Last month, in a case Stonebarger handled, the state Supreme Court ruled it is illegal for businesses to ask customers for their ZIP codes during credit card transactions because it violates the Song-Beverly Credit Card Act. While the law clearly prohibits retailers from asking customers for their phone numbers and addresses, the court ruled it also extends to ZIP codes because the codes can be used to glean private information. *Pineda v. Williams-Sonoma Stores Inc.*, 2011 DJDAR 2278.

"We filed these cases to protect the privacy rights of California consumers," Stonebarger said of the recent suits, noting that he chose San Francisco because it is a major shopping hub.

The other reason, Stonebarger said, is because of the court's complex litigation department, "and its smart judges who are able to efficiently handle their dockets."

Early this week, the pro-business Civil Justice Association of California issued a statement encouraging the Supreme Court to consider making its ruling apply only to future violations of *Pineda* and giving retailers time to correct their practices.

Not counting the lawsuits Stonebarger filed Friday, the CJAC put the number of the ZIP code cases at 78 as of Tuesday.

CJAC President Kim Stone said no one was harmed by the practice and that prior to the court's ruling, retailers weren't aware they were doing anything wrong. For that reason, she said, they shouldn't be penalized for past behavior.

"It just seems kind of like a major case of 'gotcha,'" Stone said.

But Stonebarger said the practice is harmful and pointed out that one of the companies he filed suit against Friday, which operates Marshalls and T.J. Maxx, had a security breach in 2007 during which 45 million credit card numbers were stolen. Having ZIP code information likely aided in the identity theft, he said.

Stone said that argument was a stretch.

"The fact that you can go back and sue someone now for something they did a month ago ... is kind of harsh," she said, "and unfair."

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