

## **LAW REVIEW**

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### **MERCHANTS CAN'T ASK FOR CREDIT CARD USER INFORMATION**

**(Multiple Choice Format)**

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Today's case is to illustrate what information merchants can ask of credit card users when purchasing merchandise by credit card.

In the old days credit card users sometimes had to provide name, rank, serial number, telephone, address, first born's name and bank account numbers. No más.

#### **AutoZone**

Dave Absher, our plaintiff, had his gas siphoned by thieves, so using a credit card he purchased a locking gas cap from an AutoZone store. A tank of gas can cost as much as a used car these days.

Dave, took the gas cap to his car, but discovered it did not fit. Within minutes he returned to the store for a refund, presented his purchase receipt, the gas cap and his credit card to show the clerk. The clerk required him to fill out a return voucher form with name, telephone number and signature. Dave initially refused to provide his telephone number (he had recently been the victim of identity theft), but finally did so. Life is good right?

## QuickSuit

Get this. *Two weeks* after Dave returned the gas cap to the AutoZone store, he filed a class action lawsuit naming four different AutoZone entities, seeking damages for having to give the clerk his telephone number.

Dave is: (1) a lawyer, (2) a scam artist, (3) needs a life, (4) likes lawyers and needs money, or (5) is a “highly principled” individual providing a service for all of us consumers? I go with number 1.

## Credit Card Law

Dave alleged that AutoZone violated the California Civil Code, which severely limits the information that merchants may request of credit card users.

Merchants may not do any of the following (choose four): (1) request or require the cardholder to provide personal identification information like address, telephone number or driver’s license number, (2) request the cardholder to write any personal identification information down for the merchant, (3) utilize for any credit card transaction a credit card form which contains preprinted spaces for filling in personal identification information of the cardholder, or (4) punch the shopper in the nose for being obnoxious. 4 is incorrect.

The credit card law has four exceptions—when personal information may be asked: (1) the card is used as a deposit, (2) cash advance transactions, (3) if the merchant is contractually or legally obligated to provide the personal information to complete the transaction (whatever that means), (4) information is required for special purposes like shipping, delivery, servicing or installation, or (5) the merchant wants to ask the shopper out. 5 is the wrong answer.

Merchants may require credit card customers to provide photo identification, but may not write down any information from the photo ID. Merchants may write down the credit card customer's driver's license number if the customer pays for the transaction with an account number, but doesn't make the credit card available.

Violators are subject to a fine of up to \$250 for the first violation, which the merchant can avoid if he/she can prove that the violation was not intentional and resulted from a bonafide error, notwithstanding use of reasonable credit card procedures.

So that's the law of personal information—when credit cards are used for payment.

Overall—credit cards are: (1) better than money, (2) a slippery slope, (3) fun until the bill arrives, (4) corporate America's way of controlling the masses, or (5) all of the above.

### Legal Argument

Plaintiff Dave's argument was that the phrase "any credit card transaction" in the code includes refunds and exchanges, which would prevent AutoZone from requesting his telephone number to make a refund or exchange.

AutoZone countered that under "the plain language of the code" (which is what lawyers always say), refunds and exchanges are an exemption, thus AutoZone could ask for Dave's telephone number.

AutoZone's rationale was if needed the personal information (select three): (1) to verify that the return transaction was bonafide, (2) to prevent employees from stealing, (3) because merchants sometimes have a legitimate need to

contact the customer who made the return, or (4) to cause customers like Dave to go off the deep end. Correct answer: 1-3.

### Ruling

In the end the Court of Appeal upheld the credit card law prohibiting merchants from asking for personal information from credit cardholders except under the four narrow exceptions. In the case of an exchange or refund the law does not apply, and if requested the consumer must provide personal information like a telephone number. Plaintiff Dave's quickdraw class action goes nowhere. Judgment for AutoZone.

### Readers Choice

Your initial thought on our new multiple choice *Law Review* format is: (1) I didn't even notice, (2) it's no worse than usual, (3) it was too easy, or (4) you suck Porter.

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