WILLENKEN WILSON LOH & DELGADO LLP

\ Class Action Against Ticketmaster Dismissed

Fall 2015

In December 2013, plaintiffs Lucy Mirando and Salpi Keshishian filed a putative class action against Ticketmaster, LLC alleging violations of the Song-Beverly Credit Card Act, California Civil Code section 1747.08 et seq. (the "Act"). Plaintiffs alleged Ticketmaster acquired their personally identifying information ("PII") in violation of the Act in connection with the online purchase of tickets intended to be picked up at "Will Call."

Willenken began its defense by picking off Keshshian as a plaintiff, presenting Plaintiffs' counsel with evidence showing the futility of Keshishian's claim. Her claim was voluntarily dismissed. Plaintiffs thereafter added another plaintiff, Francine Belle. Likewise, Willenken convinced Plaintiffs' counsel that her claim was futile and should be voluntarily dismissed.

Willenken then moved on behalf of Ticketmaster to compel arbitration of the claim of the remaining plaintiff, Mirando. Ticketmaster argued Mirando had agreed to arbitrate her claim because, in a transaction subsequent to the one at issue in the case, she assented to Ticketmaster's online Terms of Use, which contained an arbitration provision.

Plaintiff argued vigorously that the arbitration provision did not bind her because the Terms of Use in effect at the time of the subject transaction contained neither an arbitration provision nor a class action waiver, and Ticketmaster should not be permitted to rely upon terms allegedly unilaterally added to the Terms of Use after the subject transaction. Additionally, Plaintiff argued because the arbitration provision named only Ticketmaster's parent company, Live Nation, which was not defined to include Ticketmaster, Ticketmaster should not be permitted to enforce the arbitration provision, in any event.

After court-ordered supplemental briefing and two hard-fought hearings on the motion, Willenken's arguments carried the day, and the Court granted Ticketmaster's motion and dismissed the putative class action.