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Appellate Victory Puts an End to Sales Tax Class Action Litigation in California

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Over the past four years in California alone, consumers have brought more than eighty class actions alleging that retailers collected sales taxes on exempt items. Yesterday, the California Court of Appeal dealt what should be a fatal blow to these class action claims. In *Loeffler v. Target Corp.*, the Second District Court of Appeal held that the California Constitution and state laws preclude consumers from asserting civil class action claims against retailers based on the alleged improper collection of state sales tax. Although numerous trial courts throughout California had previously allowed this type of claim to go forward, the ruling in *Loeffler* ends this practice.

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In *Loeffler*, the plaintiffs alleged that Target improperly collected sales tax reimbursement from them when they purchased hot coffee “to go.” Plaintiffs filed a putative class action lawsuit against Target asserting claims for unfair business practices, violation of the California Legal Remedies Act and the tax regulations, and various torts. Target sought dismissal of the case on the ground that the California Constitution and state law provide limited methods for seeking tax refunds and that consumer claims against the retailer were precluded. The trial court agreed with this argument.

In affirming the trial court’s order, the Court of Appeal confirmed that consumers have no private right of action against a retailer for the return of sales tax that the retailer allegedly improperly collected from them. Instead, the California Constitution requires that any challenge to the collection of sales tax must comply with the tax refund procedures set forth by the legislature, which do not authorize civil actions against retailers who collect the tax. The Court of Appeal further stated that a plaintiff cannot circumvent the statutory scheme for sales tax refunds by characterizing what is effectively a sales tax refund claim as some other statutory or common law claim.

In addition to barring a consumer from pursuing a claim against a retailer for return of the allegedly improperly collected tax, the Court of Appeal confirmed that the Constitution also precludes a consumer from seeking an injunction prohibiting a retailer from collecting allegedly improper sales tax from its customers. Because an injunction against the collection of sales tax by a retailer is “effectively an

injunction against the collection of sales tax by the state,” it is therefore barred by the Constitution.

The Court noted that the only remedy provided by the legislature to consumers who pay excess sales tax to retailers is to obtain a refund from the retailer after the Board of Equalization has made a determination that excess sales tax was collected and has refunded such excess to the retailer.

The Court of Appeal's decision in *Loeffler* is a victory not just for Target, but also for retailers throughout California, as the decision will be relied upon by trial courts as a basis for dismissing sales tax class action litigation currently pending against many other retailers in California.

Morrison & Foerster lawyers [David McDowell](#) and [Samantha Goodman](#) represented Target Corporation in this matter. They have also represented more than a dozen other national retailers in similar sales tax class actions. [Miriam Vogel](#), who joined the firm late last year after serving 18 years as a Justice on the California Court of Appeal, argued the case on appeal.