

Class action adds 7-Eleven to list of retailers being sued for Cook County 'pop tax' collections

by Jonathan Bilyk | Aug. 10, 2017, 2:02am



Add 7-Eleven to the list of retailers now facing a class action lawsuit over the collection of Cook County's controversial so-called 'pop tax.'

On Aug. 9, lawyers Thomas Zimmerman, Sharon Harris, Matthew De Re, Nickolas Hagman and Maebetty Kirby, all of the Zimmerman Law Offices, of Chicago, filed suit in Cook County Circuit Court on behalf of named plaintiff Kelly Tarrant against 7-Eleven Corp.

The lawsuit alleges the convenience store chain improperly charged Tarrant, of Chicago, Cook County's

one-cent-per-ounce sweetened beverage tax, even though she filled her Super Big Gulp cup with unsweetened coffee. That purchase, the lawsuit asserts, should have been exempt from the tax. Instead, Tarrant was allegedly made to pay an additional 28 cents on her drink purchase.

According to the complaint, Tarrant was told by store employees and later by a manager that “the tax is programmed in the 7-Eleven Store Information System and that the system automatically charges the sweetened beverage tax to all beverages purchased in Gulp cups, regardless of whether the beverage is subject to the sweetened beverage tax.”

The lawsuit seeks to expand the action to include all others who may have been similarly charged the tax when they purchased an unsweetened beverage at a Cook County 7-Eleven store in the last seven days. The complaint estimates the number of additional plaintiffs could number in the “many thousands.”

The lawsuit asks the court to award the plaintiffs actual damages, plus attorney fees.

Zimmerman’s and Tarrant’s lawsuit is the third such class action lawsuit filed in the last five days against retailers over the collection of the tax. The tax took effect Aug. 2, about a month after the county had intended it to do so.

Other lawsuits have targeted Walgreens and local McDonald's franchisees.

However, collection and enforcement of the tax was delayed by about a month as a Cook County judge weighed a legal challenge launched by a group of Cook County grocers and the Illinois Retail Merchants Association trade group. Among other allegations, the retailers argued the ordinance enacting the tax was poorly written and would leave retailers exposed to class action lawsuits and other litigation over the collection of the tax.

The county and the judge, however, brushed aside those concerns, with the judge particularly calling such concerns "merely speculation."

In the wake of the rollout of the tax, some Cook County Board members have introduced new measures to repeal the tax. Those measures will be considered at the county board's September meeting.

Cook County Board President Toni Preckwinkle, who championed the tax and cast the tie-breaking vote to enact the ordinance establishing the tax, has estimated the tax could bring in as much as \$200 million in additional revenue for the county. As the fate of the pop tax hung in the balance in court in July, Preckwinkle laid off hundreds of county workers, saying the inability to collect nearly \$17 million from the pop tax forced the layoffs to make up for the purported budgetary shortfall.

The plaintiff's attorneys in the case are no strangers to such class action lawsuits. The Zimmerman Law Offices have brought numerous lawsuits targeting, among others: [online attorney directory Avvo](#), for allegedly misappropriating the personal information of lawyers listed on their site; [the makers of grated Parmesan cheese](#), for allegedly including cellulose in the cans marked "100 percent cheese;" [Peet's Coffee](#), for allegedly not pouring enough French press coffee into customers' cups; [United Airlines](#), for allegedly breaching a contract by placing customers and their checked bags on different aircraft; [the Illinois Lottery](#), for not paying winners amid the state's budget crisis; [Sears](#), for allegedly charging sales tax on purchases of digital television converter boxes bought with federal vouchers; and the [makers of Templeton Rye whiskey](#), for allegedly misleading customers into thinking their whiskey was made in the small town of Templeton, Iowa.

Zimmerman's website indicates the firm specializes in consumer fraud litigation and class actions, touting settlements of as much as \$62 million for a variety of consumer fraud cases involving skin cream, newspaper advertising, improperly charged cell phone fees and more.