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BLOGS

Class Actions

District Court Decertifies Class of Former 7-Eleven Franchisees

A federal district court in the Southern District of California recently decertified a class of former 7-Eleven franchisees seeking to recover federal excise tax refunds issued to 7-Eleven. *Grayson v. 7-Eleven, Inc.*, 2011 U.S. Dist. LEXIS 62211 (S.D. Cal. June 10, 2011). The parties had stipulated to the certification of a class of former 7-Eleven franchisees who sold prepaid long distance telephone cards that were subject to a three percent federal excise tax, who terminated their franchise agreements, and to whom 7-Eleven refused to pay any portion of its excise tax refund. After the parties filed summary judgment motions, the court asked why it should not decertify the nationwide class when the parties both contended that the claims could be decided solely under California law.

The court noted its appreciation for the “parties’ desire to resolve their Rule 56 motions on a class-wide basis to promote efficiency and judicial economy,” but ultimately ordered decertification. The court held that the class did not meet the cohesion or requirement requirements under the applicable rule. The court stated that because a class cannot be cohesive if the states’ laws governing the class are notably different, it was not convinced that California law could be applied to the nationwide class members’ claims. The court further held that a nationwide class action that involves claims requiring the application of multiple state laws implicates Rule 23(b)(3)’s predominance requirement, yet plaintiffs failed to offer “any analysis of state law variations regarding their claims to establish this case could be managed in a practical manner.” The court further rejected the parties’ request to certify a sub-class.