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Sipple v. City of Hayward

Court of Appeal, Second District, Division 2, California - April 8, 2014 - Cal.Rptr.3d - 2014 WL 1371796

For a number of years, individuals throughout California were improperly charged taxes for internet access by their internet service provider, New Cingular Wireless PCS LLC (New Cingular), prompting various customers to file putative class action lawsuits. The lawsuits eventually settled, with New Cingular agreeing to seek refunds of the taxes from the cities and counties to which the taxes were remitted. After refund claims were denied, New Cingular brought this action against the cities and counties. The Superior Court sustained demurrer without leave to amend. Provider appealed.

The Court of Appeal held that:

- Local "refund first" ordinances were preempted by Government Claims Act;
- Provider had standing to present claims to cities and counties for tax refunds on behalf of provider's customers; and
- Provider had standing to file suit for tax refunds on behalf of provider's customers.

To the extent that local "refund first" ordinances prohibiting service suppliers from filing tax refund claims on behalf of their customers without first refunding disputed taxes from their own funds to the customers established a precondition to filing a claim, the ordinances were preempted by the Government Claims Act.

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