

*****PRESS CONFERENCE FRIDAY, JULY 15, 2016 AT 11AM AT
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**PRESS RELEASE: Class Action Lawsuit Filed Against State of Florida and
Top Retailers to Eliminate the “Tampon Tax” Imposed on Women**

The sales tax on tampons and sanitary pads, products used exclusively by women, violates Florida law and discriminates against women in violation of the Equal Protection Clauses of the United States and Florida Constitutions.

TALLAHASSEE, FLORIDA –Tallahassee law firm, Barrett, Fasig & Brooks, along with co-counsel, filed suit, *Wendell v Florida Department of Revenue, et al.*, Wednesday, July 6, 2016 in the Circuit Court, Second Judicial Circuit challenging Florida’s “Tampon Tax.” The complaint alleges the sales tax charged on tampons and sanitary pads – products bought and used exclusively by women – is discriminatory and unconstitutional.

The Plaintiff, Carlee Wendell, brought suit on behalf of all women who have paid sales tax on tampons and pads in Florida. She is seeking an order enjoining the defendants from charging and collecting a sales tax on tampons and sanitary pads and an order directing the state and/or retail defendants to refund to the plaintiff and class members the unlawful and unconstitutional sales tax they have improperly paid over the past three years.

Ms. Wendell is represented by Dana Brooks Cooper and E. Rose Kasweck of Barrett, Fasig & Brooks in Tallahassee, Florida; Bryan S. Gowdy, Rebecca Bowen Creed, Jessie L. Harrell, and Meredith A. Ross, of Creed & Gowdy in Jacksonville, Florida; and Jeffrey Kalieel and Sophia Goren of Tycko & Zavareei LLP in Washington, D.C.

Tallahassee lawyer Dana Brooks Cooper commented, “The Tampon Tax is patently discriminatory against women and it's wrong. Women should not be forced to pay sales tax on a product that is necessary not only for their health, but for public health and safety as well. This burden is particularly offensive when products used primarily by men, such as Rogaine, are tax-free.”

The State of Florida does not tax most medical items, including common household remedies. Florida does, however, tax tampons and pads, common household remedies that are necessary for women’s health and used exclusively by women. Household remedies that are used by both sexes and which serve a similarly absorbent function, such as bandages and gauze, are not taxed.

The President-Elect of the American Medical Association, David O. Barbe M.D., has stated that “Feminine hygiene products are essential for women’s health, and taxes on them are a regressive penalty.” The Food and Drug Administration (FDA) classifies tampons and pads as “medical devices.” And yet, despite these guidelines, the State Defendants have excluded tampons and pads from the list of nontaxable medical items.

There is neither a rational basis, nor any substantial relation to an important state interest, to support the State Defendants' decision to tax tampons and sanitary pads, used exclusively by women, but not tax other common household remedies also used by men.

“The Tampon Tax is the product of outdated thinking,” said Sophia Goren, one of the lawyers challenging Florida’s Tampon Tax.

The State Defendants’ decision to charge and collect sales tax on tampons and pads violates the Equal Protection Clauses of the Florida and United States Constitutions because it denies women equal protection under the law by treating them differently and subjecting them to an unfair tax. It is discriminatory, irrational, arbitrary, and bears no substantial relationship to any legitimate state objective. Furthermore, thus far, public records requests to the State produced no records supporting the State’s decision to classify tampons as non-exempt.

The Retail Defendants included in the suit are the top five retailers of feminine hygiene products in Florida, and the Florida Administrative Code requires consumers to seek refunds of unlawful taxes from the seller and not the State. Once those refunds are made, the retailers may seek reimbursement from the State.

The State Defendants should be ordered to follow the law and to refund, via the Retail Defendants, the millions of illegally collected taxes paid by women in Florida. Find out more at www.tallahasseepersonalinjury.com or tzlegal.com

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