

LITIGATION – Class Actions

Creating a Path to the Right Class Action Outcome

No matter your objective in defending against a class action, our attorneys have the experience to guide you to the right strategy and a successful outcome. We can defend a claim by obtaining dismissal, by defeating or limiting certification, by obtaining a favorable pre-trial settlement, or in trial and on appeal. We're aggressive, meticulous, efficient, and practical.

How We Can Help You

Our class action litigators handle cases in state and federal courts across the country in matters that involve insurance, healthcare, securities, financial services, consumer claims, product liability, employment and ERISA issues, and more. We'll assemble the appropriate team, including attorneys who focus specifically on the procedural aspects of class action cases, along with experienced paralegals and project assistants to help you achieve your objectives while keeping expenses at a minimum. And because of our experience and track record, we are often asked to serve as national coordinating counsel in defending large multi-state or multi-district class actions.

Managing the Motions

When defending your class case, there are many judgments to be made, along with the resulting motions. We can guide you on whether:

- There is an option for transfer to a preferred venue or location
- The possibility for removal to federal court exists
- A stay of discovery may be attainable
- The case can be dismissed at the responsive pleading stage
- The proposed class representative has standing
- Procedural or administrative prerequisites have been met
- Substantive allegations are timely
- The complaint states a claim upon which relief can be granted
- A summary judgment motion is likely to succeed on the named plaintiff's claims before class certification and class discovery

Class Certification

If you're the defendant in a class action, the primary goal may be to defeat class certification or reduce the size of the class. Defeating class certification often can lead to a defense judgment or a favorable settlement. But sometimes it may be to your advantage not to oppose class certification. Why? Because sometimes the cost of conducting discovery and litigating one class action with multiple plaintiffs may be less than litigating numerous single-plaintiff cases across jurisdictions. In that case, it may make sense

to let the case go forward, in a manner in which we control the direction of matter. Also, only through the class action process can a client reach a settlement that will bind the maximum number of potential litigants.

Managing Discovery and E-discovery

In the course of discovery, we have the ability to respond to extensive discovery requests, including by using technology to manage large-scale document productions. The location, preservation and disclosure of electronically stored information (ESI) have become a central focus in litigation, and our e-discovery team will work closely with you to develop responsible, reasonable and defensible plans to address these issues. We can work with you to navigate e-discovery issues even before litigation is anticipated, threatened or pending. We not only understand the technology involved, but also the applicable law. We also frequently write and speak on e-discovery issues throughout the country.

Taking the Case to Trial

Most class actions are resolved at the class certification stage, either upon dispositive motion or settled after determination of the class. However, because of our attorneys' long trial experience, they won't be coerced into settlement by the threat of a jury trial. We conduct witness preparation, document preparation, depositions, and other pretrial administration, not just with an eye toward class non-certification or summary judgment, but also with the full intention of winning at trial or, if needed, upon appeal.

Our lawyers are recognized as members of the *American College of Trial Lawyers, the International Academy of Trial Lawyers, and rated Tier 1 National U.S. News and World Report Best Law Firms.*

ADVANCING OUR CLIENTS' GOALS

Failure to Demonstrate Actual Loss in a Nation-wide Class Action

When a consumer failed to take advantage of the manufacturer's limited warranty after the product malfunctioned during the warranty period, a nation-wide putative consumer fraud class action was filed against our client, a large specialty coffee company. Our attorneys succeeded in obtaining dismissal based on the plaintiff's failure to demonstrate an actual loss.

A Precedential Reversal in an Auto Industry Class Action

In a precedential Third Circuit decision, the court recognized that "ascertainability" of class membership is inherent in Rule 23 certification analysis, and delineated the limits of applying a "presumption of causation" in consumer-fraud matters. The result was a reversal of class certification granted by a district court in a case against our client, a well-known automobile manufacturer.

Scoring a Success for a Credit Scoring Company

We obtained complete dismissal when our client, a credit scoring company, faced a class action alleging violation of the Sherman Antitrust Act.

Defeating Certification in a Securities Fraud Class Action

Defending financial institutions – including banks and securities companies – against class actions has long been an important part of our class action practice. Among our many successes was defeating class certification in a state-wide action asserting claims of securities fraud by a regional bank in switching elderly and other at-risk bank clients from one investment product into another more risky one.

Defending \$1 Billion in Class Action Claims Against a Healthcare Client

Our team defended one of the nation's largest integrated healthcare/health insurance delivery systems and an affiliate in multiple class actions related to their profits or gains. We argued that the claims – totaling in excess of \$1 billion – are barred by both doctrine and state law.