

Class Action, Mass Tort & Multi-District Litigation

Plunkett Cooney's attorneys have achieved numerous victories on behalf of their clients by defeating class certification, obtaining dismissal of putative class representatives' claims, and favorably resolving high exposure class action, mass tort, and multi-district litigation.

Our attorneys understand that defending these costly and often high profile cases can strain corporate resources and harm even the strongest brands. Plunkett Cooney has the expertise to effectively and efficiently handle high-stakes lawsuits from start to finish, and the firm has successfully defended class actions, mass torts, and multi-district litigation for decades.

The Class Certification Battleground

Plunkett Cooney's lawyers know the importance of the class certification battleground. Through their aggressive motion and pre-trial practices, our attorneys have built an impressive track record of defending and defeating class certification. Whether in state or federal courts, our lawyers know the legal defenses that are available, and they have successfully argued that certification should be denied whenever rigorous scrutiny reveals certification criteria have not been satisfied.

The Michigan Supreme Court's opinion in *Henry* is the leading Michigan case addressing class certification requirements, and Plunkett Cooney's lawyers are not only familiar with it but helped to shape the strategy and arguments presented to the Michigan Supreme Court at its inception. Armed with this knowledge and abundant experience with uncovering the facts needed to attack certification, Plunkett Cooney's lawyers are particularly adept at aggressively urging a court to honor its obligation to engage in the "rigorous analysis" required under the Federal Rules of Civil Procedure and the analogous analysis required in Michigan courts.

Plunkett Cooney's lawyers have been invited to participate in the invitation-only Duke Law School sessions creating best practices for class actions and best practices for MDLs offering input into the development of Duke Law School publications on these topics. They have also participated in Federal Civil Rules Advisory Committee hearings and reform efforts involving federal rules governing class actions and MDLs. This provides a rare depth of understanding that helps to inform our lawyers as they work with clients to develop a strategy for the defense of class and MDL litigation.

Plunkett Cooney's lawyers are also familiar with the use of standing and other threshold requirements to suit in order to defeat class certification. For example, in *Spokeo v. Robins*, 578 U.S. 330, 136 S. Ct. 1540, 194 L.Ed.2d 635 (2016), Plunkett Cooney authored an amicus brief successfully urging the Supreme Court to require a determination that consumers in a putative class action under the Fair

Credit Reporting Act must show injury-in-fact to establish standing in order to pursue a class action.

Spokeo provides a powerful tool to use to defeat certification in some cases at the outset. In addition, Plunkett Cooney's lawyers were involved in the briefing that led to these requirements at the U.S. Supreme Court.

A Litigation Firm with Broad Experience in Aggregate Litigation

As a leading litigation firm in the Midwest, Plunkett Cooney is proud of its collective experience in the area of class action defense. Our attorneys have successfully handled class actions, mass torts, and multi-district litigation in numerous areas. They also routinely serve as local counsel in national class action disputes.

Plunkett Cooney's lawyers offer a strategic approach, working collaboratively with clients to plan how best to respond potential class actions, including the development of strategies for potentially avoiding or limiting suit. From the outset, through the certification process, to notice, and trial or settlement approval procedures, Plunkett Cooney's lawyers can help limit your exposure and achieve a positive outcome.

Following are just a few of the firm's recent results in this area of practice:

- *Paul Melton and Lynn Melton, on Behalf of Themselves and All Others Similarly Situated, Plaintiffs, vs Belle Tire Distributors, Inc., d/b/a Belle Tire, Belle Tire Franchise Corporation and Belle Tire Industries, Inc.* Wayne County Circuit Court, Michigan, 16-009952-CZ (Jan. 2018) (represented regional automotive retailer and obtained denial of class certification in action alleging consumer fraud and quasi-contract claims on behalf of purportedly 220,000 putative class members seeking in excess of \$135,000,000.00 for sales of tires for four-wheel drive and all-wheel drive vehicles)
- *Arden et al v. One North Main Condominium Association et al*, Washtenaw County Circuit Court, Michigan, 16-728-CH (Feb. 2018) (represented property manager and individual officers and directors of association of a large mixed commercial-residential building in putative and derivative class action and obtained full dismissal of all class claims)
- *David Smith v. Erickson Retirement Communities et al.* Wayne County Circuit Court, Michigan, Case No. 16-004191-CK (Jan. 2017) (represented management company of senior care facility and obtained summary judgment in dispute pertaining to refundability of entrance deposits based on claims of fraud, misrepresentation, and violation of Michigan's Living Care Disclosure Act)
- *McFarlin et al v. Dittrich, et al*, Case No. 16-CV-12536 (USDC EDMI) (August 2017) (successfully quashed subpoena on behalf of large franchisee of international pizza chain, avoiding putative class action where certification was granted against other franchisees)
- *Sheehan v. Star Ins. Co.*, 664 F. App'x 514 (6th Cir. 2016) (obtained dismissal of putative class action arising out of administration of worker's compensation insurance claims)

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- *Badeen et al v. PAR, Inc. et al*, Wayne County Circuit Court, Michigan, Case No. 10-004053-CZ (represented national lenders and obtained dismissal of all class allegations for violations of Michigan Occupational Code arising out of practices for repossession of financed motor vehicles)
- *Green v. Liberty Ins. Corp.*, No. 15-10434, 2016 WL 1259110, at *5 (E.D. Mich. Mar. 30, 2016) (obtained dismissal of all class allegations on the pleadings in matter alleging company-wide unlawful practice of denial of insurance benefits, fraud, breach of contract and misrepresentation)
- *Henry v. Dow Chemical*, 484 Mich. 483, 772 N.W.2d 301 (2009) Plunkett Cooney represented DRI – The Voice of the Defense Bar and the Michigan Defense Trial Counsel (MDTC) in an amicus brief in the Michigan Supreme Court successfully urging reversal of the class certification of dioxin contamination claims arising out of the alleged contamination of the Tittabawassee River on the basis that the lower courts failed to apply rigorous analysis to the certification requirements.