

Class Actions

Individual plaintiffs and their lawyers frequently seek to aggregate their claims with others to sue a target business as a group to challenge some perceived wrong. Whether the perceived wrong relates to a business's product, policy or practice, a class action presents high-stakes and sometimes bet-the-company exposure that cannot be taken lightly.

An effective defense of a class action requires careful management of each stage of the case. The battle often begins with testing the legitimacy of the complaint through motion practice. If the case survives, the battle turns to class discovery in which a representative plaintiff inevitably seeks to dig deep into a business's paper and electronic archives to find support for their claim. If not managed carefully, class discovery can quickly turn into a time and resource-sapping morass. Class discovery often includes depositions of experts retained by the parties to produce reports in support of and in opposition to class certification. Extensive briefing of the class issues follows and culminates in the class certification hearing, where most class actions are effectively won or lost. If the class is certified, the battle continues through potential dispositive motions, trial and appeal. When appropriate, a business may consider a class-wide settlement along the way to prevent endless litigation and to place a reasonable cap on potential liabilities.

Class actions thus require the experienced and steady hand of lawyers who not only understand the underlying substantive areas of law, but also the many procedural challenges unique to class actions. For over 40 years, our lawyers have successfully defended businesses in class actions throughout the country in such varied and diverse areas of the law as:

- ADA compliance
- antitrust
- banking
- insurance
- consumer liability
- electronic payment processing
- Fair Debt Collection Practices Act (FDCPA)
- securities
- toxic torts
- wage and hour

PRACTICE CONTACTS

Edward M. Koch, Partner
215.864.6319
koche@whiteandwilliams.com

David J. Creagan, Partner
215.864.7032
creagand@whiteandwilliams.com

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REPRESENTATIVE MATTERS

Obtained summary judgment, and defeated class certification, on behalf of an event security company in Maryland class action consisting of hundreds of young female dancers who were spied upon by a convention center public safety officer who inappropriately used the facility's surveillance cameras to view and record the dancers' dressing area

Defeated certification in putative class action alleging misclassification of Pennsylvania independent contractors

Successfully defeated class action of consumers suing a California law firm for alleged violations of the Fair Debt Collections Practices Act

Prevailed on motion to compel individual arbitrations in case involving truck drivers, on the grounds that arbitration agreement and class action waiver were enforceable under the New Jersey Arbitration Act, even if the Federal Arbitration Act was found not to apply

Secured favorable class action settlement on behalf of automobile insurer for the alleged failure to pay interest on overdue personal injury protection benefits

Obtained dismissal of class action plaintiffs' wage claims arising more than 2 years prior to the filing of the complaint, on the grounds that the New Jersey Wage Theft Act's expansion of the New Jersey Wage and Hour Law's limitations period from 2 years to 6 years does not operate retroactively

Obtained dismissal of class action plaintiff's claims for liquidated damages under the New Jersey Wage and Hour Law and New Jersey Wage Payment Law, arising prior to the enactment of the New Jersey Wage Theft Act, in August 2019, on the grounds that the amendment does not operate retroactively

Obtained defense verdict on behalf of a chemical manufacturer for residents' alleged exposure to PCBs from a Pennsylvania railyard

Defeated class certification of medical providers who alleged consistent underpayment of charges against Philadelphia prison system administrator

Obtained dismissal of class action plaintiffs' New York Labor Law sect. 193 claims for alleged unlawful deductions, and unreimbursed business expenses

Defeated class certification of consumers who alleged improper substitution of polymer burial containers for concrete burial containers against national funeral home product company

Obtained dismissal of class action plaintiff's New Jersey Wage and Hour Law and New Jersey Wage Payment Law claims, because Plaintiff never worked in New Jersey

Awarded summary judgment claims of class of New Jersey automobile insurance policyholders who sought to reform their uninsured/underinsured motorists coverage due to an alleged defect in issuing and renewing coverage

Awarded summary judgment on behalf of a chemical manufacturer of a \$4 billion class of all Massachusetts school districts having buildings with elevated airborne PCB levels

Defeated class certification of a class of inmates at the Worcester County Jail who had been shot by correctional officers with client's "less-than-lethal" crowd control weapon

Secured dismissal of a securities class action complaint against a financial services company alleging violations of the 1933 Securities Act and the Securities Exchange Act

Defeated class certification of a worldwide class of marine engine owners in a \$50 million breach-of-warranty class action

Negotiated favorable settlement of claims of an 85,000 member class seeking compensation for property damage and medical monitoring related to manufacture of Agent Orange

Obtained dismissal of a statewide class against a national title insurance company

Obtained dismissal of class action plaintiffs' unreimbursed business expense claims under the Pennsylvania Wage Payment and Collection Law

Defeated class certification of class of nursing home residents who sued nursing home for alleged substandard care related to inadequate staffing and wound care

Negotiated a favorable settlement with SEC for a banking client charged with alleged violations of Section 17(a) of the Securities Act of 1933

Obtained summary judgment on behalf of a chemical manufacturer of a national property damage class action on behalf of all schools that have florescent light fixtures containing PCB ballasts

Obtained dismissal of a statewide class action alleging overcharges against one of the largest pharmacy benefits managers

Assisted clients with implementation of arbitration program with class action waivers to mitigate risk

Negotiated favorable settlement on behalf of automobile insurer of class of New Jersey automobile insurance policyholders who sought to reform their personal injury protection coverage due to an alleged defect in issuing and renewing coverage

Secured favorable class settlement in favor of a biopharmaceutical company sued for securities fraud

Secured a class action jury verdict in a vertical price-fixing case

Secured favorable results for the City of New York in complex class action lawsuits challenging the provision of various types of public benefits to class members

Defended against securities fraud class actions brought against companies including leading bio-pharma company, mid-sized software firm and regional financial institution

Represented individual directors, officers and employees subject to subpoenas in SEC investigations

PUBLICATIONS

Key Takeaways – Coverage College 2024

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