

## Class Action Litigation

In an ever-changing regulatory landscape, businesses and institutions are increasingly at risk for class-action litigation. Class actions are often both high-profile and time and resource intensive. Successful outcomes depend on legal counsel who not only understand the unique challenges of class action litigation but have the experience and resources to defend against these matters. Our litigators have extensive experience representing clients in putative class action lawsuits. We quickly engage through an early case evaluation process to craft a tailored and efficient defense strategy.

Representing clients in federal and state courts nationwide, our team works to find the right solution for our clients whether it's prevailing at trial, getting a case dismissed, defeating class certification or reaching a favorable settlement. With significant lead trial counsel experience, we've successfully resolved myriad class action claims under state and federal antitrust laws and deceptive trade practices acts, state and federal fair debt collection practices and credit reporting acts, the Telephone Consumer Protection Act, California's Proposition 65, the Magnuson-Moss Warranty Act, and the Fair Labor Standards Act. We have particular experience in the mortgage and student loan servicing, for-profit education, credit card and ancillary services, food and cosmetics, sporting goods, and telecommunications industries.

### **Representative Matters**

- Obtained dismissal on behalf of major oil and gas company in class action dispute in which the plaintiffs sought tens of millions of dollars in damages based on alleged underpayments of royalties.
- Successfully resolved major class action lawsuit against law firm for alleged violations of the Fair Debt Collection Practices Act on favorable class notice and payment terms.
- Defended California company in multiple lawsuits related to alleged officer sexual harassment and retaliation claims.
- Represented hospitality company in defense of California based class action wage and hour case related to alleged failure to properly provide meal breaks and rest breaks.
- Defended and successfully resolved product liability litigation on behalf of agriculture product manufacturer.
- Designed and conducted due diligence on behalf of venture capital fund that specializes in the educational fin tech space. Also advised client on compliance with state and federal consumer protection laws and regulations.
- Successfully represented natural food company in threatened class action matter involving claims of a "slack-fill" violation in a pre-litigation dispute alleging that more than 10 of the company's products had more than double the amount permitted of un-useable space.
- Successfully represented one of the largest health insurance companies in the country in a lawsuit alleging violations of the Sherman Act and Colorado Antitrust Act. Asserted counterclaims under the Sherman Act, Colorado Antitrust Act, Colorado Consumer Protection Act, and ERISA, in addition to various tort claims.
- Successfully represented an industry leading company and its commerce chain in state wide class action alleging violation of Prop. 65.
- Obtained summary judgment in favor of defendant loan servicer on all claims in action brought by borrower for alleged violations of the Telephone Consumer Protection Act and the Fair Debt Collection Practices Act in connection with serving of loans.
- Represented international electronics company in assessing exposure for violations of Prop. 65.
- Represented cosmetic company in successful pre-litigation settlement of threatened nationwide class action regarding misleading branding of products.
- Defended company in "Made in the USA" class action litigation.
- Counsel to investment management client in defending state and federal class action lawsuits brought by

music festival ticket purchasers and vendors seeking damages for alleged breaches of contract, unjust enrichment, and deceptive trade practices in connection with the cancellation of the event.

- Successfully resolved on an individual basis, a threatened class action against cosmetic company involving alleged false marketing materials, violations of FTC standards, representations required FDA approval and violation of the Consumer Legal Remedies Act.
- Successfully resolved a class action lawsuit for defendant in which the alleged violations included violations of the California Unfair Competition Law and the Consumer Legal Remedies Act for alleged false and deceptive advertising related to the printed and online advertising of a particular personal care product.
- Represented a law firm in defense of a federal class action alleging claims under the federal Fair Debt Collection Practices Act.
- Successfully represented international company in Prop. 65 class action involving multiple beauty industry related products.
- Represent national loan servicing company in multiple loan related matters including FDCPA, FCRA, and other potential nationwide class actions.
- Represented client in putative class action lawsuit regarding disputed foreclosure practices and alleged violations of the Colorado Consumer Protection Act, the Fair Debt Collection Practices Act, and the Colorado Antitrust Act.
- Defended international beauty product company in state wide class action matter involving allegations that marketing representations required FDA approval and violated the Consumer Legal Remedies Act.
- Successfully resolved a class action lawsuit for defendant in which the alleged violations included violations of the California Unfair Competition Law and the Consumer Legal Remedies Act for alleged false and deceptive advertising related to the printed and online advertising of a particular personal care product.
- Defended national company in multiple TCPA class actions, including obtaining dismissal pre-litigation based upon affirmative showing of compliance.
- Represented client in litigation in disputed foreclosure action, asserting claims of breach of contract, violations of the Colorado Consumer Protection Act, the Fair Debt Collection Practices Act, intentional infliction of emotional distress, and civil conspiracy.
- Co-counsel with Skadden Arps and Proskauer Rose on a series of copyright infringement actions in multiple jurisdictions on issues of first impression for class actions of un-registered marks.
- First chair jury trial counsel for the defense of the largest insurer in the country regarding experimental artificial disc implants where plaintiffs were seeking in excess of \$25 million. Won a mistrial in the second week of a three-week trial.
- Lead counsel representing a manufacturer in a breach of contract and warranties claims against a multi-billion dollar manufacturing corporation. Successfully removed and transferred case to foreign jurisdiction under § 1404 principles, leading to positive settlement.
- Defending Clark County, Nevada and McCarran International Airport in a proposed class action alleging that the common-use self-service kiosks discriminate against the blind. Successfully obtained a stay of all discovery pending resolution of the County's Motion to Dismiss.
- Represented client in connection with class action employment claims brought before the OFCCP and the EEOC and in federal district court and obtained dismissal of these claims in all venues.
- Served as Nevada counsel to a New York Stock Exchange-listed corporation defending more than a dozen putative class actions in Nevada to enjoin the corporation's acquisition of a Nasdaq-listed corporation, a transaction valued at over \$360M. A key issue in the case was the appropriate legal standard for the duties owed by corporate directors of a Nevada corporation when confronted with a potential change of control, such as the sale of the corporation. Specifically, on a motion for preliminary injunction, the lead Nevada court addressed whether the directors of a Nevada corporation are subject to the legal standard established

in the Delaware case *Revlon, Inc. v. MacAndrews & Forbes Holdings, Inc.*, 506 A.2d 173 (Del. 1986) and its progeny. After extensive, expedited briefing and oral argument, the court denied plaintiffs' motion for preliminary injunction, rejected application of the Revlon standard and held instead that the codification of the business judgment rule set forth in NRS 78.138 was applicable in the case. The acquisition closed shortly thereafter.

- Successfully and efficiently represented international personal care product company in a California Proposition 65 class action lawsuit alleging that upon application, the particular cosmetic product released a previously bound chemical, which required a Proposition 65 warning.
- Represented assembly company in product liability, unfair business practices, negligence, breach of warranty, equitable estoppel and waiver case involving the assembly of bicycles in big box stores.
- Successfully defended a nutritional supplement company and its officers in Colorado and New York Attorney General's Consumer Protection and Deceptive Trade Practices investigations and related civil litigation.
- Prevented class certification and successfully defended a large commercial client against allegations that it violated a deceptive trade practices act.
- Successfully defended a public construction company and its directors in a class action litigation challenging a going-private transaction.
- Successfully represented interests of private property owners in Santa Barbara regarding proposal by an organization to paint blue waves across 68 city streets depicting a potential flood zone, which would have devalued hundreds of homes and businesses.
- Brownstein served as lead counsel for Qwest Communications in *Bell Atlantic v. Twombly*, a consumer class action antitrust case.
- Defended a public company charged with securities fraud by the United States Securities and Exchange Commission and in a class action brought by shareholders.

#### Meet The Team

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