

I Class Action Litigation

Class actions and other multiplaintiff litigation can cause irreparable damage to a company's brand and reputation. We are committed to helping our clients address these challenges, protecting their reputations and all that their businesses have achieved.

Our nationally recognized Class Action Litigation group works to develop the most effective, appropriate, and timely strategies to defend these cases—whether that means defeating class certification, pursuing a settlement with favorable terms, or taking a case to trial. With deep experience in the life sciences, hospitality, telecommunications, and utility industries, we craft expedient solutions, often using the applicable regulatory regime to limit the client's exposure to the public. We are particularly adept at defending against class actions alleging claims under consumer protection, securities, and environmental laws, and have prevented class certification or secured orders decertifying classes in the early stages of these types of litigation.

Our lawyers are sought after for their skills in synthesizing sprawling claims and addressing complex, high-stakes cases in an efficient and cost-effective manner. We utilize state-of-the-art legal project management systems and develop alternative fee arrangements when it is in our clients' best interests to do so.

Our lawyers also work to shape this evolving area of the law by appearing as counsel for amicus curiae in appellate matters of particular importance. We represent as amici such public interest organizations as the United States Chamber of Commerce and the New Jersey Civil Justice Institute.

EXPERIENCE

- > Currently representing several startup technology companies that sell goods and services over the internet that have been accused of deceptive sales practices under the California Automatic Renewal Law, the California Unfair Competition Law, and New York General Business Law sections 349 and 350.
- > Defending investor-owned utilities against class action claims arising from widespread blackouts. Defeated certification of a class suing a Massachusetts utility for power outages caused by an ice storm in a matter litigated to that state's highest appellate court. Defeated certification of a class of more than 1 million customers suing a utility for Hurricane Sandy outages. In another case that sought damages on behalf of 150,000 customers who lost power when an electric utility implemented rolling blackouts, won the first-ever decertification of a class action pending in New Jersey state court, as well as a decision dismissing a classwide damages model that established new law on the admissibility of such models.
- > Defeated class actions against the pharmaceutical and life sciences industries. In a key decision from the Third Circuit Court of Appeals, secured dismissal of civil RICO, consumer fraud, and other claims brought by a putative class of third-party payors, in which the plaintiffs alleged injury from the defendant's supposed marketing of oncology drugs for "off-label" indications. Also defend branded pharmaceutical companies in "pay for delay" class actions by third-party payors arising out of patent litigation settlements. In a case against a leading sunscreen manufacturer, employed the monograph system of the Federal Food, Drug, and Cosmetic Act to secure dismissal of consumer fraud claims. Secured dismissal of consumer fraud claims against a leading manufacturer of animal health products accused of hiding safety risks of a spot-on pesticide, and then resolved the remaining claims on a non-class basis.
- > Represent telecommunications carriers in class litigation. Defeated certification of a class of real estate developers suing a large telecommunications company claiming they had been improperly charged for expenses involved in relocating infrastructure in order to accommodate their developments. In another case involving claims of deceptive sales of inside wire maintenance plans, defeated certification of consumer fraud claims and then settled antitrust claims for corrective disclosure to the class. In another case, achieved a nationwide settlement of claims that a carrier charged unlawful early termination fees, which ended lengthy litigation in California.
- > Won dismissal with prejudice of a TCCWNA class action pending in federal court against a nationwide home security monitoring vendor, where the plaintiff claimed that the form contract used by the defendant violated the Door-to-Door Retail Installment Sales Act and other statutes.
- > Won dismissal of parallel TCCWNA class actions against car dealers challenging the order forms used for vehicle leases and sale, where the plaintiff contended that the phrase "unless prohibited by law" violated the TCCWNA and entitled all lessees and purchasers to statutory penalty damages.
- > Represented a nationwide self-storage company in a TCCWNA class action that challenged its form of lease agreement, contending that the form of agreement violates the Self-Storage Act, the Bankruptcy Code, and other authority.
- > Won dismissal of TCCWNA claims against a telecommunications carrier challenging its terms of agreement for provision of certain kinds of services to business customers.
- > Appeared as counsel for amicus curiae for the United States Chamber of Commerce and New Jersey Civil Justice Institute in trial court and appellate matters regarding the scope of TCCWNA liability and the certification of classes under TCCWNA.
- > Defended a large pharmaceutical company in a mass tort proceeding involving over 500 environmental tort suits, consolidated in the state and federal courts of New Jersey, alleging personal injury, wrongful death, property damage, and medical monitoring arising from claims that a historic manufacturing plant released toxic substances into the surrounding community.
- > Represented a client in a putative state class action involving property damage allegedly suffered by area homeowners as a result of environmental discharges from the company's facility.

- > Represented a client in a putative class action filed on behalf of more than 1,000 individuals in which the plaintiffs alleged that they contracted cancer and other illnesses, and incurred property damage, as a result of releases of chemical contaminants from two manufacturing plants.
- > Represented a global pharmaceutical company as co-counsel in a shareholder derivative action relating to alleged breaches of fiduciary duty by certain senior officers and directors in connection with alleged failures to disclose how certain manufacturing difficulties might affect FDA approval of a new pharmaceutical product.
- > Represented a pharmaceutical company as co-counsel in the defense of parallel securities fraud and shareholder derivative claims arising out of the clinical trial of one of the company's flagship products.
- > Represented a leading accounting firm as co-counsel in a matter involving federal securities and common law claims arising from an alleged failure to discover alleged fraudulent practices while serving as the independent auditor.
- > Represented an Ivy League university in a prominent derivative litigation that raised a number of issues of first impression involving donor intent, academic freedom, and the fiduciary duties of directors of a supporting charitable corporation.
- > Served as counsel to the special committee of the board of directors of a leading pharmaceutical company in connection with claims asserted in various shareholder demand letters and derivative complaints. Pursuant to those shareholder demands, investigated claims regarding alleged off-label promotion of pharmaceuticals and alleged violations of the FDA's Current Good Manufacturing Practice regulations, which in turn led to numerous product recalls.
- > Represented a global pharmaceutical company as co-counsel in a shareholder derivative action relating to alleged breaches of fiduciary duty by certain senior officers and directors in connection with alleged failures to disclose how certain manufacturing difficulties might affect the approval of a new pharmaceutical product.
- > Represented a special litigation committee of the board of directors of a nationwide provider of financial guarantee insurance in connection with shareholder derivative litigation in federal and state courts that alleged wrongdoing regarding the issuance of financial guarantees on structured products.
- > Represented the officers and directors of a public company and successfully opposed a derivative action brought in federal and state courts in New York in connection with alleged accounting irregularities. After we filed motions on behalf of the special litigation committee to terminate both actions, the federal and state plaintiffs withdrew their complaints.

HONORS & AWARDS

- > **Chambers USA: America's Leading Lawyers for Business: Ranked in Band 1 in New Jersey for Commercial Litigation**
- > **BTI Consulting Group: BTI Litigation Outlook 2019: BTI Consulting Group: BTI Litigation Outlook (2019)**
Honor Roll in Commercial Litigation