

## CLASS ACTION LITIGATION

The cost of defending any type of lawsuit can place a financial strain on a company, but the expenses tied to class actions can be astronomical. In addition to the financial burden, class actions can disrupt a company's business operations and cause disastrous harm to its reputation.

Members of Armstrong Teasdale's Class Action Litigation practice area have deep experience successfully defending class actions in state and federal courts. Success is achieved in different ways, including through defeat of class certification, securing dismissal of the claims or negotiating favorable settlements. Our lawyers excel at handling all aspects of class action defense – from initial analysis and investigation to pleading challenges, pre-emptive motions to strike, discovery, and trial and/or appeal, when necessary.

Our seasoned litigators are experienced in substantive fields that touch on a gamut of industries such as agribusiness, construction, consumer goods and services, energy, environmental, financial services, higher education, insurance, manufacturing, real estate, retailing, telecommunications and transportation.

Key areas of practice include:

**Consumer Fraud:** Our team defends clients against a broad range of consumer class actions arising out of allegations of unfair, unlawful or fraudulent business practices, or false or deceptive advertising or labeling. Our lawyers have experience defending class action claims premised on federal statutes and regulations as well as state consumer protection statutes. We have also successfully assisted clients responding to consumer-focused actions and investigations brought by state attorneys general, district attorneys and other governmental agencies. We are also experienced in defending duplicative, overlapping class actions filed in multiple jurisdictions, often in both state and federal courts.

**Employment Discrimination/Wage and Hour Actions:** Our employment lawyers routinely defend clients in state and federal class actions alleging systemic and disparate impact employment discrimination. Our experience includes successfully defending both class actions asserted directly by employees and also class actions asserted by administrative agencies such as the Equal Employment Opportunity Commission (EEOC). In addition, we regularly defend clients in class and collective actions for unpaid wages under the Fair Labor Standards Act and similar state laws. Our lawyers have extensive experience advising clients about risk, devising successful defense strategies, and winning these cases in state and federal courts nationwide.

**Fair Credit Reporting Act (FCRA):** Our team defends employers and consumer reporting agencies in putative class actions under the federal FCRA. We have significant experience in attacking plaintiffs' standing in state or federal court to proceed with these claims as well as in strategies to transform such claims into individual arbitrations instead of class action proceedings in court.

**Insurance:** Our team has successfully advised and defended insurers in class actions involving a broad array of claims against carriers. We have deep insurance coverage experience with policy construction, which is a frequent focus in insurance class actions. In this area, we provide advice about both putative class claims directed at carriers and coverage issues that might arise with respect to class claims. Our lawyers also have experience with the more recent form of class actions addressing carriers' handling of consumers' personal information. Teaming with our privacy and data security lawyers, we can also successfully address putative class claims based on data carriers' breaches.

**The Internet of Things (IoT):** The universe of connected devices is growing exponentially, and with it comes new problems and new disputes, many of which push the frontiers of product liability law, privacy law, various regulatory systems and



cutting-edge cybersecurity. Drawing on the knowledge of Armstrong Teasdale's pre-eminent patent practice and a lawyer who is also a certified ethical hacker, our team is uniquely qualified to handle large class actions in this emerging field.

**Securities:** We represent and advise corporations and their officers and directors, as well as outside professionals, who have been sued in securities class action lawsuits. These claims often concern alleged violations of federal securities laws and/or breaches of fiduciary duty and are frequently filed in connection with mergers and acquisitions. Our lawyers have extensive experience dealing with federal and state securities laws, including those covering registration and reporting requirements, corporate governance, insider trading and option matters.

**Telephone Consumer Protection Act (TCPA):** Our team has successfully defended TCPA matters for clients in many states across the country. We handle TCPA class actions involving alleged violations stemming from marketing text messages, phone calls and faxes that are made and sent for business' marketing purposes. We also advise our clients as to how they can insulate themselves from liability under the TCPA while at the same time accomplishing their business objectives.

In addition, we have successfully resolved class action matters involving:

- Antitrust price fixing
- Consumer protection statutes
- Deceptive practices
- Employment discrimination
- ERISA and pension
- Fair credit reporting act claims
- Fair labor standards act claims
- False advertising claims
- Finance industry charges
- Franchisee claims
- Insurance and insurance sales practices
- Pharmaceutical product pricing cases
- Product liability
- Real estate brokers
- Retail pricing/merchandising
- RICO
- Shareholder class actions and derivative actions
- Telecommunications

## EXPERIENCE

### Denial for Class Certification

Won denial of a motion for class certification by a consumer against an internet service company for an alleged violation of a state's right to publicity act.

**Defended National Telephone Provider Against Unfair Trade Claims**

Defended through successful resolution of purported class action in Southern District of Florida against national telephone provider for claims of unfair and deceptive trade practices.

**Managed Consumer Class Action Lawsuits for Major Men's Retailer**

Managed multiple consumer class action lawsuits for major men's retailer. Obtained a dismissal of one lawsuit, and have motions to dismiss pending on two additional lawsuits.

**Successful Resolution of Class Actions and Administrative Actions Against Lenders and Loan Servicers**

Successfully resolved class actions, administrative actions and civil investigative demands brought by attorneys general and other governmental agencies against lenders and loan servicers in a variety of states including Illinois, Maryland, Massachusetts, New York and Washington.

**Successful Resolution of Securities Class Actions**

Successful resolution of securities class actions related to proposed acquisition asserting claims of breach of fiduciary duty by target corporation in acquisition.

**Dismissal of Class-Action Complaint**

Obtained dismissal of a four-count class-action complaint against an internet gaming company in U.S. District Court for the Northern District of Illinois.

**Successful Objection to Massive Class Counsel Fee Request**

On mega-settlement of antitrust action, obtained a judgment order reducing class counsel's fee award by eight-figures – notwithstanding our client's prior written agreement to the higher amount class counsel requested in fees.

**Appeal Affirms Dismissal of Class Action at the Outset**

Prevailed for our national client on a putative class action at the outset, executing a strategy to moot the named plaintiff's claims before the expense of class certification and merits proceedings even began. The dismissal with prejudice of plaintiff's claim was affirmed on appeal.

**Defense of Manufacturer in Antitrust and Consumer Fraud Class Actions**

Defended international engine manufacturer in U.S. and Canadian antitrust and consumer fraud class action lawsuits.

**Defense of Auto Supply Manufacturer in National Antitrust Class Actions**

Defended automotive filters manufacturer in national antitrust class action lawsuits.

**Compelled Arbitration in Putative Class Action Against Consumer Website**

Represented a consumer home services website in U.S. District Court for the Eastern District of Missouri against allegations by the plaintiff, on behalf of a putative Missouri class, of Telephone Consumer Protection Act violations. We successfully compelled arbitration of all claims pursuant to the arbitration provision in the website's terms of use.

**Significant Victory in Multimillion-Dollar National Class Action for Men's Retailer**

Secured a significant victory for a men's clothing retailer on a motion for summary judgment in U.S. District Court for the District of Maryland. The plaintiffs alleged that certain sales promotions were deceptive and sought certification of a California class, potentially exposing our client to hundreds of millions of dollars in damages. The Court dismissed the lawsuit finding that plaintiffs could not establish that the marketing campaign caused them damage. Earlier, the Court had dismissed requests to certify a nationwide class and a Maryland subclass for similar reasons.

**Dismissal of Claims in MMPA Class Action**

Defended client in consumer class action seeking to recover alleged damages in excess of \$5 million. Class asserted products sold by defendant were defective and that the defendant engaged in violations of the Missouri Merchandising Practices Act. Obtained dismissal of plaintiff's claims.

**Won Class Certification for Plaintiffs in Large IoT Liability Case Against Automotive Manufacturer**

Lead counsel for three certified plaintiffs' classes with an estimated 400,000 to 500,000 members, in a case alleging that various cars and trucks suffer from a series of cybersecurity defects that render the vehicles vulnerable to being hacked in a way that would allow hackers to remotely control the vehicles' operational and safety systems, including acceleration, braking, steering and ignition.

**Dismissal in Consumer Class Action Lawsuit for Sporting Goods Retailer**

Secured the dismissal of a consumer protection and class action lawsuit against a major sporting goods and outdoor equipment retailer filed in the U.S. District Court for the Western District of Missouri. The matter specifically involved claims of alleged violation of the Missouri Merchandising Practices Act, unjust enrichment, and violation of consumer protection laws in 21 other states. The plaintiff sought to represent a nationwide class of customers seeking millions of dollars in damages for alleged violations of various states consumer protection statutes. The court granted the client's motion to dismiss, and the plaintiff did not appeal or seek leave to amend.

**Representation in Class Action Involving Biometric Information Privacy Act**

Represented corporate client in employment- related class action involving the Illinois Biometric Information Privacy Act.

**Representation in Putative Class Action Alleging RICO Violations**

Represented corporate executives in putative class action cases across the country alleging violations of RICO statute in connection with fintech servicing relationships with banks and non-bank lenders.

**Secured Voluntary Dismissal of Consumer Class Action Against Major Clothing Retailer**

Secured the voluntary dismissal of a consumer class action filed against a major clothing retailer in the U.S. District Court for the District of New Jersey. The plaintiff alleged that our client's sales promotions violated New Jersey consumer regulations governing advertisements, potentially exposing our client to liability for millions of dollars in statutory damages. After an appellate decision in another case confirmed the strength of our motion to dismiss arguments, the plaintiff chose to voluntarily dismiss the lawsuit.

**Dismissal of Potential Multimillion-Dollar Class Action**

Obtained dismissal of a class action suit on appeal against our client over an alleged violation of the Fair Credit Reporting Act (FCRA). The decision helped the client avoid a potential liability of up to \$1,000 per violation (i.e., per applicant/employee) over the preceding five years, with total damages projected to be millions.

**Defense, Resolution of Class Action Lawsuits under Fair Credit Reporting Act**

Successfully defended and resolved a number of class action lawsuits against major corporations brought under the Fair Credit Reporting Act (FCRA) for alleged violations of the provisions of the FCRA applicable to employment background checks.

**Dismissal of \$1 Billion Class Action Claim**

Successfully defended the operator of a commercial website against a putative class action involving alleged interception of an online customer's personal information, including credit card information, and disclosure of that information to third parties without the customer's consent. The plaintiff argued that this information, which was stored in a browser file before being sent to the website, was not yet a communication to website and that the interception and transmission of that information via JavaScript commands was illegal under the Wiretap Act. The court agreed with the website operator's arguments and dismissed the action. Plaintiff's counsel was seeking over \$1 billion in damages, making this a significant victory.

**Major Victory in Class Action for Low-Income Lender**



Secured a major victory in a class action lawsuit for a low-income lender in Nevada and Arizona, which rendered vehicles inoperable if loan payments were not up-to-date.

**Obtained Dismissal of Class Action Alleging Various Lending and Consumer Protection Claims**

Obtained dismissal of a class action lawsuit filed in Maryland Federal Court making claims under the Federal Electronic Funds Transfer Act, Maryland Consumer Protection Act, Maryland Consumer Loan Law, Maryland Commercial Law regarding unlicensed lending, and Maryland Consumer Debt Collection Act.

**Obtained Dismissal of Class Action for Service Provider to Consumer Lender**

Obtained dismissal of a class action lawsuit in California Federal Court and compelled arbitration as to the remaining individual claims in a consumer protection action asserting claims under California and federal law.

**Favorable Result in FLSA Employee Misclassification Case**

Achieved a favorable trial result in the United States District Court for the Western District of Texas on behalf of a client accused of misclassifying a significant portion of its workforce as exempt from the overtime requirements of the Fair Labor Standards Act (FLSA) after several years of litigation.

**Partial Summary Judgment in FLSA Misclassification Action**

Obtained partial summary judgment on behalf of a client in a Fair Labor Standards Act (FLSA) misclassification collective action, reducing the potential scope of class and the client's potential exposure by over 90%.

**Obtained Dismissal in National Class Action**

Obtained dismissal of a national class action lawsuit filed in New Jersey Federal Court making claims under the Fair Debt Collection Practices Act.

**Obtained Dismissal of Consumer Class Action for Retailer in Illinois**

Obtained a dismissal of putative consumer class action alleging deceptive advertising in U.S. District Court for the Northern District of Illinois. The Court granted the client's motion to dismiss, and when the plaintiff sought appellate review, the Seventh Circuit unanimously affirmed.