

# Class Action

Our team mission is to prevent the plaintiff's bar from abusing the class action procedure. The class action device was intended as an exception to the usual rule that litigation is conducted by named individual parties. The class action procedure was never designed to enlarge and modify substantive rights. Our class action team serves as defense counsel for a wide range of clients, from *Fortune* 500 companies to sole proprietorships, in cases filed across the nation in more than twenty-five different states. For each matter, we provide a litigation plan tailored to meet client objectives in a cost effective manner. When feasible, we prepare motions to limit the scope of the issues presented and to curtail the cost of discovery. We are experienced in all phases of class action litigation, including dismissal, denial of certification, summary judgment, decertification, jury verdict and appeal.

## Class Action Experience

Using a multidisciplinary approach, we have defended hundreds of class actions alleging a wide range of legal theories, including the following types of alleged violations or infractions:

- Biometric (BIPA)
- Data Breach/Privacy
- False Advertising
- Mass Tort
- Labor & Employment
- Breach of Fiduciary Duty
- Fair Debt Collection Practices Act (FDCPA)
- Telephone Consumer Protection Act (TCPA)
- Web Tracking
- Genetic Information Privacy Act (GIPA)
- Antitrust

Additionally, our class action attorneys have defended over 40 class action lawsuits within the labor and employment industry, including matters involving the Fair Labor Standards Act (FLSA), the Fair Credit Reporting Act (FCRA), various state wage and hour laws, background check practices, discrimination and wrongful discharge, and ERISA employee benefit claims.

## PROFESSIONALS

Eric L. Samore  
Partner

Molly A. Arranz  
Partner

Heather A. Bailey  
Partner

Ronald Balfour  
Partner

Albert M. Bower  
Of Counsel

Michael M. Chang  
Associate

John R. Hayes  
Partner

Michael F. Hughes  
Partner

Debra A. Mastrian  
Partner

John Ochoa  
Partner

Jeffrey A. Risch  
Partner

Sofia Valdivia  
Associate

Erin A. Walsh  
Partner

Sara Zorich  
Partner

## Experience

### Biometric Information Privacy Act (BIPA)

Successfully Defended an Illinois Manufacturer Against the Illinois Biometric Information Privacy Act Claims

Successfully Defeated Motion to Remand BIPA Suit

Obtained Voluntary Dismissal After Filing Motion to Strike Damages

### Arbitration

Successfully Compelled Arbitration of Consumer Dispute

Successfully Obtained Stay of Discrimination Dispute Pending Arbitration

### Certification

Successfully Moved to Strike the Claims of Non-Illinois residents from a Federal Class Action

Defeated a Class Certification in a Case Involving More than 1 Million Prerecorded Calls

Achieved a Significant Victory Raising the Adequacy Bar for Certification

### Consumer Fraud

Represented a Cosmetics Manufacturer that was Accused of Consumer Fraud

Won a Motion to Dismiss for Claims Based on the Illinois Condominium Property Act and Illinois Consumer Fraud Act

Induced a Plaintiff to Voluntarily Dismiss a Claim Shortly After Filing a Motion to Dismiss a Claim for Consumer Fraud

Successfully Defended a Medical Service Provider Against Wisconsin Consumer Act Claims in Wisconsin State Court

Defeated a Class Action Alleging a Subsidiary of an International Food Manufacturer Misrepresented its Snack Bar as "All Natural"

Motion to Dismiss Granted in Case Alleging Fees for Copies of Deposition Transcripts Were in Violation of Illinois Consumer Protection Act

Represented a Fast Food Franchisee Against Claims of Misleading Consumers

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Successfully Defeated Class Allegations Against a Subsidiary of an International Food Manufacturer

Aggressive Litigation Strategy Resulted in Striking of Class Allegations at Outset of Case

## COVID-19

Defeated Motion for Preliminary Injunction and Obtained Summary Judgment

## Cybersecurity & Data Privacy

Defended a Hospital from a Class Action Arising from a Data Breach

Won a Ruling Affirming the Dismissal of a Lawsuit Against a National Testing Agency Accused of Selling Personal Identifiable Information

Secured Dismissal of a Technology Company in an Alleged Breach of Personal Data

## Discrimination

Class Action Team Defeats Class Allegations in Housing Discrimination Case

Defended a Major Nonprofit Organization Against Claims of Discrimination Against Individuals with Disabilities

Secured Dismissal of a Class Action Lawsuit Based Upon Claims Against a Private Medicaid Administrator

## Fair Credit Reporting Act (FCRA)

Obtained Summary Judgment on Behalf of a Leading Transportation Service in a National Class Action Based on Allegations of the Fair Credit Reporting Act

Defended an Employer from a Class Action Alleging Improper Background Checks

## Fair Debt Collection Practices Act (FDCPA)

Defended a National Medical Device Company in a Consumer Class Action

Obtained Dismissal of Putative Class Action Lawsuit Alleging Improper Collection Tactics

Obtained Dismissal of FDCPA Claims at Outset of Litigation

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### Fair Labor Standards Act (FLSA)

Obtained Denial of Motion for Class Certification in a Wage and Hour Class Action Lawsuit Brought By Home Health Care Workers

Successfully Obtained a Denial of Motion for Class Certification in a Contentious Wage and Hour Class Action Lawsuit for Major Health Care Group

Successfully Defended a Security Employer in a Nationwide Wage and Hour Class and Collective Actions

Defended a Homecare and Hospice Company in Wisconsin Against a Class Action Lawsuit Claim for Unpaid Wages

### Fiduciary Duty

Obtained Dismissal of a Putative Investor Class Alleging a Breach of Fiduciary Duty

### Financial Institutions

Obtained Dismissal of a Putative Class Action Brought Against an Indiana Financial Institution Challenging its Assessment of Bank Fees

### Landlord/Tenant

Successfully Defeated Class Certification in Two Landlord Tenant Class Actions

### Limitations

Persuaded the Eleventh Circuit that the Statute of Limitations for Class Allegations Was Not Tolloed by the Previous Lawsuit Against the Same Defendant

### Mass Tort

Defeated Class Certification on Grounds that Individual Fact Questions Predominated in a Mass Tort Lawsuit

Represented More than 20 Universities in the NCAA Football MDL Alleging the Defendants Concealed the Dangers Associated with Concussions

### Parent/Subsidiary

Successfully Moved to Dismiss a Parent Corporation Alleged to have Violated the Telephone Consumer Protection Act

Represented a Jewelry Company, its Parent Corporation, and Two of its Individual Shareholders Accused of Consumer Fraud

### Telephone Consumer Protection Act (TCPA)

Devised an Unconventional Strategy in 2010 of Filing the First Petition Before the FCC Seeking Relief from the Solicited Fax Rule

Successfully Achieved an Appeal Before the Illinois Appellate Court Holding that the Defendant Who Hired the Fax Broadcaster was Not Liable for TCPA Violations

Won a Motion for Summary Judgment in a Telephone Consumer Protection Act Case in a Federal Court in Florida

Obtained a Defense Verdict in Favor of a Small Company its Corporate Representative Accused of Violating the Telephone Consumer Protection Act

Successfully Defended Auto Dealership Against Class Action Lawsuit

Defeated Class Certification of Tens of Thousands of Putative Class Members Based Upon Lack of Common Questions of Fact and Law

Negotiated a Favorable Class-Wide Settlement Prior to Litigation for a Client Facing Claims under the Mobile Home and Tenant Rights Act

Defeated a Motion to Remand and Won Summary Judgment In a Class Action Lawsuit Alleging Apartment Complex was Uninhabitable

Developed a Texting Program for an Insurance Company for the Launch of a New Marketing Campaign

### Firm News

Subscribe to Amundsen Davis's Litigation Nation Podcast for the latest legal updates!

Firm News, May 21, 2024

Amundsen Davis Attorneys Included in the 2024 Illinois Super Lawyers and Rising Stars List

Firm News, January 25, 2024

Amundsen Davis Named in the 2024 Edition of Best Law Firms®

Firm News, November 2, 2023

91 Amundsen Davis Attorneys Recognized by Best Lawyers® in 2024 in America

Firm News, August 17, 2023

## Class Action

Amundsen Davis Attorneys Included in the 2023 Illinois Super Lawyers and Rising Stars List

Firm News, *Amundsen Davis*, January 23, 2023

U.S. News & World Report – Best Lawyers® “Best Law Firms” 2023

Firm News, November 3, 2022

41 Amundsen Davis Attorneys Recognized by *Best Lawyers in America*© 2023

Firm News, August 18, 2022

Heather Bailey Recognized as a Top Author of 2021 by JD Supra for Employer Liability Issues

Firm News, *Automatic Merchandiser*, June 20, 2022

30 Amundsen Davis Attorneys Included on 2022 Illinois Super Lawyers and Rising Stars Lists

January 28, 2022

Amundsen Davis Welcomes Sofia Valdivia to Class Action, Data Privacy & Security, and Commercial Transportation Practice Groups

November 10, 2021

U.S. News & World Report – Best Lawyers® “Best Law Firms” 2022

November 4, 2021

34 Amundsen Davis Attorneys Recognized by *Best Lawyers in America*© 2022

August 19, 2021

Amundsen Davis Promotes Two to Partner

February 22, 2021

U.S. News & World Report – Best Lawyers® “Best Law Firms” 2021

November 5, 2020

Amundsen Davis Promotes Three to Partner

February 24, 2020

U.S. News & World Report – Best Lawyers® “Best Law Firms” 2020

November 1, 2019

Amundsen Davis Promotes Six Attorneys to Partner

February 26, 2019

U.S. News & World Report – Best Lawyers® “Best Law Firms” 2019

November 1, 2018

## Class Action

## In the Media

John Ochoa Interviewed by *Cook County Record* on Genetic Information Privacy Act (GIPA)

Media Mention, *Cook County Record*, October 12, 2023

Ill. Judge Gives Final OK To \$800K Deal Over Drug Faxes – *Law360* Article Mentions Eric Samore and John Ochoa

Media Mention, *Law360*, October 4, 2021

Molly Arranz Quoted in the *Cook County Record* on Facebook Settlement of Biometric Class Actions

Media Mention, *Cook County Record*, February 5, 2020

TD Ameritrade Ducks Class Action Over Investment Strategy

Media Mention, *Law360*, May 14, 2019

Cirque Du Soleil Wins TCPA Decert, After China Agritech – *Law 360* Article Mentions Eric Samore, Molly Arranz, Ronald Balfour and Albert Bower

Media Mention, *Law360*, August 3, 2018

Tattoo Removal Co. Mostly Escapes False Ad Class Action - *Law360* Mentions Eric Samore

Media Mention, *Law360*, January 16, 2018

Citing *Spokeo*, Judge Blocks TCPA Class Against Pet Insurer - *Law360* Mentions Eric Samore, Molly Arranz, John Ochoa

Media Mention, *Law360*, August 17, 2017

Cirque Wants Stay, Group Wants Cert. In Junk Fax Fight - *Law360* article mentions Eric Samore and Molly Arranz

Media Mention, *Law360*, December 17, 2015

Students Not Hurt By Sold Test Info, 7th Circ. Says - *Law360* Article Mentions Eric Samore and Michael Resis

Media Mention, *Law360*, November 19, 2015

Earlier Suit Didn't Pause Clock For TCPA Suit, 11th Circ. Says - *Law360* Article Mentions Amundsen Davis

Media Mention, *Law360*, August 3, 2015

*Chicago Daily Law Bulletin* Highlights Significant Victory in *Uesco Industries v. Poolman of Wisconsin*

Media Mention, August 19, 2013

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## Alerts

The Genetic Information Privacy Act Could Bring the Next Wave of Class Actions in Illinois

Article, *Amundsen Davis Class Action Alert*, March 15, 2023

Another Data Collection Tool Leads to Privacy Class Actions

Article, *Amundsen Davis Cybersecurity & Data Privacy Alert*, March 9, 2023

Use It or Lose It: Supreme Court Says Arbitration Clauses Can Be Waived Inadvertently

Article, *Amundsen Davis Class Action Alert*, July 12, 2022

Hold the Phones: State-level Telemarketing Laws In Effect

Article, *Amundsen Davis Class Action Alert*, June 23, 2022

New FDCPA Rules Are Now in Effect: Is Your Company Compliant?

Article, *Amundsen Davis Class Action Alert*, December 21, 2021

TransUnion Hollows Out Class Members Who Have Not Suffered a Concrete Injury

Article, *Amundsen Davis Class Action Alert*, July 1, 2021

Pre-judgment Interest Law Takes Effect July 1, 2021

*Amundsen Davis Alert*, June 2, 2021

New FDCPA Guidance Means Collectors May be in Your DMs in the Near Future

*Amundsen Davis Class Action Alert*, May 28, 2021

Data Collection Class Actions on the Rise: Consider Your Privacy Compliance

*Amundsen Davis Data Privacy & Security Alert*, February 24, 2021

BIPA: The Ongoing Threat of Employee Class Actions and Recent Developments

*Amundsen Davis Data Privacy & Security Alert*, October 9, 2020

U.S. Supreme Court Decision Leaves Uncertainty for Navigating TCPA Landmines

*Amundsen Davis Class Action Alert*, July 16, 2019

Reassigned Number Database Will Protect Against TCPA Liability For “Wrong Number” Calls

*Amundsen Davis Class Action Alert*, January 9, 2019

Hang Up and Try Again: D.C. Court of Appeals Rejects the FCC’s TCPA Rules

*Amundsen Davis Class Action Alert*, March 20, 2018

DC Circuit Invalidates FCC Fax Rule Effectively Closing the Door to TCPA Class Actions Based on Alleged Violations

*Amundsen Davis Class Action Alert*, April 7, 2017

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The Seventh Circuit Smacks Down "No Harm" Class Action  
*Amundsen Davis Class Action Alert*, January 2017

Concrete or Not So Concrete: That is the Question  
*Amundsen Davis Class Action Alert*, May 18, 2016

Holster That Offer: Supreme Court Denies Company's Attempt to Pick-off Lead Plaintiff in a Class Action  
*Amundsen Davis Class Action Alert*, March 7, 2016

## Events

A New Era: Prejudgment Interest in Illinois  
Event, Amundsen Davis, Webcast, June 16, 2021

BIPA: The Ongoing Threat of Employee Class Actions and Recent Developments  
Illinois Manufacturers' Association, Webcast, November 5, 2020

BIPA: The Ongoing Threat of Employee Class Actions and Recent Developments  
Event, Amundsen Davis, Webcast, October 29, 2020

Independent Contractor Classification: What to Do and Not Do  
Lorman, Webcast, August 20, 2020

The Inevitable Class Action: Preparing for, Defending and Recovering from  
Potential, Company Calamity  
Association of Corporate Counsel, Chicago, IL, November 2, 2016

Direct Marketing  
Illinois Chamber of Commerce, Webinar, April 20, 2016

## Published Works

COVID-19 and University Closures - What Institutions Can Expect as Students File  
Class Actions Against Them  
*The Defense Research Institution's Commercial Litigation Committee Newsletter*, June  
2, 2020

Employment-Related Class Action Waivers Are Now Enforceable...But What Does  
That Mean for Operators?  
*InTouch Magazine - NAMA*, Summer 2018

No Harm, No Foul...No Case  
*USLAW Magazine*, Fall 2016

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## Blog Posts

Protecting Your Cannabis Business from the Trappings of the Telephone Consumer Protection Act  
*Cannabis Business Legal News*, August 18, 2021

7th Circuit Allows USERRA Class Action to Proceed  
*Labor & Employment Law Update*, March 11, 2021

BIPA: The Ongoing Threat of Employee Class Actions and Recent Developments  
*Labor & Employment Law Update*, October 9, 2020

Facebook Agrees to \$550 Million Settlement in BIPA Class Action  
*Labor & Employment Law Update*, February 4, 2020

Facebook Facing Massive Class Action Trial: Ninth Circuit Rules BIPA Class Action Can Proceed  
*Labor & Employment Law Update*, August 12, 2019

Gig Workers: An Evolving Trend or a Class Action Waiting to Happen?  
*Labor & Employment Law Update*, June 4, 2019

Supreme Court Rules Class Action Waivers Enforceable Ending Uncertainty for Employers  
*Labor & Employment Law Update*, May 21, 2018

Illinois Employer Faces Class Action for Using Fingerprints to Track Attendance  
*Labor & Employment Law Update*, October 5, 2017

U.S. Supreme Court to Address Legality of Class Action Waivers in Arbitration Agreements  
*Labor & Employment Law Update*, January 17, 2017

Employee Background Checks: Ripe for Class Action Lawsuits  
*Labor & Employment Law Update*, May 6, 2016

The U.S. Supreme Court Ruling Paves Way for Wage and Hour Plaintiffs to Win Class Action Cases  
*Labor & Employment Law Update*, March 24, 2016

Stay Tuned: Apple and California District Court Await U.S. Supreme Court "In the Line of Work" Ruling  
*Labor & Employment Law Update*, June 4, 2014

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