

Class Action

Wiley frequently is called upon to handle “bet the company” class actions, where our experience and expertise, together with our knowledge of the rules and procedures governing class action litigation, translates into inventive legal strategies and aggressive litigation. Through this approach, we are often able to defeat the threat of class action litigation for our clients in the initial stages of class certification. Most recently, we secured dismissal of all claims against client Molson Coors, as well as numerous other American manufacturers and distributors of alcoholic beverages, in four class actions and two subsequent appeals in the state and federal courts of Ohio, Colorado, Wisconsin, and the District of Columbia. The suits alleged that industry advertising was to blame for underage drinking. We currently represent the company in similar class actions pending across the country.

Selected representative matters include:

- In a pro bono case, filed on behalf of The Equal Rights Center, Wiley, in conjunction with the Washington Lawyers' Committee for Civil Rights and Urban Affairs, secured a multi-million-dollar tentative settlement of a class action lawsuit brought against MetroAccess, the curb-to-curb "paratransit" service provided by the Washington Metropolitan Area Transit Authority (WMATA) to people with disabilities, alleging that Metro had violated the Americans with Disabilities Act and the Rehabilitation Act by failing to provide adequate service to disabled customers.
- Obtained summary judgment in favor of Verizon Hawaii Inc. in a putative class action suit alleging that the company violated state consumer protection laws by misleading consumers about the costs and need for its Touch Calling service. The lawsuit sought tens of millions of dollars in retrospective damages and injunctive relief against the company. The Circuit Court found that both the filed-rate doctrine and the doctrine of primary jurisdiction barred plaintiffs' claims (*Balthazar v. Verizon Hawaii Inc.*, No. 03-01-0139 (Haw. Cir. Ct. July 30, 2004)).
- Defended Kaiser Gypsum and Kaiser Cement over a 12-year period in a series of nationwide and statewide class action lawsuits seeking damages for the presence of asbestos in buildings. These included the nationwide action on behalf of all schools and the similar nationwide action on behalf of all colleges and universities and statewide actions in Hawaii, West Virginia, and South Carolina. Mounted vigorous defenses and cases ultimately were dismissed without payment.
- Defended a major international airline that was sued by a class of passengers claiming that fares had been fixed in violation of the antitrust laws. The case was settled after class certification issues had been fully briefed. At that time, it was the largest "coupon" settlement ever—*i.e.*, the class members

received discount coupons for future travel instead of cash.

Recent cases in which we defeated class certification include:

- Defeated class certification in false advertising/consumer fraud class action in Illinois state courts on behalf of top-10 fast food franchisor. Case was not pursued by plaintiffs following appellate affirmance of denial of class certification.
- Successfully represented a global engineering and manufacturing company in defeating a proposed nationwide class action alleging that lead leaching from brass pumps had contaminated proposed class members' drinking water.
- Represented leading tobacco company in defending a proposed class action on behalf of all smokers in the District of Columbia and was selected co-liaison counsel. The court denied class certification twice.
- Defeated class certification in a Fair Debt Collection Practices Act case in the Northern District of Texas, in the first major class action certification decided following the Fifth Circuit Court of Appeals' decision in *Allison v. Citgo*. (*Sibley v. United Student Aid Funds*, Civ. No. 3:96-CV-0816-D (N.D. Tx. 1998)).