

## CLASS ACTION

Carlton Fields attorneys represent clients in class actions in a wide variety of subject areas including: consumer fraud, products liability, employment, insurance, securities, antitrust, toxic tort actions, actions alleging breaches of oil leases, construction contracts, real estate contracts. Below is a representative list of class actions handled by our attorneys.

### **Denials of Certification After Litigation** (in alphabetical order)

1. Adelson v. U.S. Legal Support, Inc., 439 Fed. Appx. 849, 2011 WL 3822001 (C.A.11 (Fla.)). We represented U.S. Legal Support, Inc. in this action involving claims that several Florida court reporting services violated the Florida Deceptive and Unfair Trade Practices Act by charging law firms and clients the same rate per page rate for word index pages as transcript pages. The judge assigned to the case had previously certified a FDUTPA class. In these cases, however, the court refused to certify the proposed class on predominance and adequacy grounds. The decision was affirmed on appeal.
2. In re Agricultural Chemicals Antitrust Litigation, United States District Court, Northern District of Florida. In this action we represented Zeneca, Inc. against alleged antitrust resale price maintenance claims. We were successful in defeating certification.
3. Ahlborg v. WCI Communities, Inc., United States District Court, Middle District of Florida. We represented Watermark Communities Inc. in this action seeking class certification of claims arising out of certain home closing costs. We were successful in obtaining a ruling from the Court that class certification was not proper.
4. Armbrister v. Roland International Corporation, United States District Court, Middle District of Florida. We represented the defendant in this real estate fraud case and obtained an order that class certification was not proper.
5. Ball v. Golf Hosts Inc., Pinellas County, Florida Circuit Court. We represented Starwood and its subsidiary Golf Hosts Inc. in a class action by Condominium unit owners seeking recession of certain rental pool lease agreements. Class action decertified and order affirmed by Florida's Second District Court of Appeal.
6. Blue v. Phillips Petroleum Company, United States District Court, Middle District of Florida. We represented the defendant in this antitrust case and obtained an order that class certification was not proper.

7. Bouchard v. Ryland Homes, 2007 WL 2460386 (Fla. Cir. Ct. (Orange County) 2007). We represented the defendant in this action brought by homeowners alleging defective construction and seeking certification of a statewide class of Ryland home buyers. After extensive briefing and a day-long hearing on class certification, the circuit court denied certification.

8. Boyce v. Honeywell, Inc., United States District Court, Middle District of Florida. Employment discrimination case. We were successful in defeating class certification.

9. Brannan v. Lennar Homes, Inc., Pinellas County, Florida Circuit Court. We represented the defendant and a class was not certified.

10. Corwin v. Lawyers Title Ins. Co., 276 F.R.D. 484 (E.D. Mich. 2011). We obtained denial of class certification in putative statewide consumer class action against title insurance underwriter alleging overcharging for title insurance premiums.

11. Engle v. R.J. Reynolds Tobacco Company, 672 So. 2d 39 (Fla. 3DCA 1996); 853 So. 2d 434 (Fla. 3DCA 2003); *app'd in part and quashed in part* 945 So. 2d 1246 (Fla. 2006). We represented R.J. Reynolds in one of the largest class action lawsuits ever filed. Certification of a nationwide class was reversed on appeal. Certification of a statewide class was reversed on appeal. The Supreme Court of Florida affirmed the prospective decertification of the class.

12. Execu-Tech v. Appleton Papers Inc., 743 So. 2d 19 (Fla. 4th DCA 1999). We represented a manufacturer of thermal fax paper against price fixing allegations. We were successful in defeating certification of the first indirect purchaser class attempted in Florida and in sustaining that decision on appeal. The court of appeal's opinion has been widely cited by other Florida courts and in scholarly literature.

13. In re: Florida Rebar Steel Cases, United States District Court, Middle District of Florida. We represented the defendant and the class was denied.

14. Ford Motor Company v. Magill, 698 So. 2d 1244 (Fla. 3d. DCA 1997). A putative class action was brought against an automotive manufacturer. Class certification was defeated, and the decision was affirmed on appeal in a reported opinion, which led to the virtual elimination of automotive class actions in Florida.

15. Franklin Square Homeowner's Association, Inc. v. Lennar Homes, Inc., Pinellas County, Florida Circuit. We represented the defendant and a class was not certified.

16. Gibbs Properties, Inc. v. CIGNA Corporation, 196 F.R.D. 430 (M.D. Fla. 2000). Statewide class action alleging illegal pricing of insurance policies. We served as Florida counsel, with substantial substantive involvement in all matters with national counsel, including argument at class certification hearing. Class certification was denied in a reported opinion.

17. Grimes v. Fairfield Resorts, Inc., 2007 WL 245128 (11<sup>th</sup> Cir. 2007). We represented Wyndham Vacation Ownership, Inc. f/k/a Fairfield, Inc., in this putative class action brought against the timeshare vacation resort company by two disgruntled timeshare owners. The plaintiffs allege that Fairfield, among other things, committed unfair trade practices in its relations with timeshare owners. The district court denied plaintiffs' motion for class certification, finding irreconcilable conflicts of interest within the putative class, and dismissed the case. The district court's rulings were affirmed on appeal.

18. Hines v. Philip Morris, 974 So. 2d 386, 2008 WL 134230 (Fla). We represented Philip Morris in an action brought under Florida Deceptive and Unfair Trade Practices Act alleging that the marketing of Light cigarettes was deceptive. Class certification was reversed on appeal. Motions for rehearing and rehearing en banc were denied.

19. Houser v. Wachovia Corporation, United States District Court, Middle District of Florida. Shareholders of an acquired bank sued Wachovia claiming that Wachovia withheld information that affected the value of the stock Wachovia was offering in the merger. We defeated class certification of all federal claims and obtained dismissal of all state claims as preempted by the federal securities laws.

20. Hoyte v. Stauffer, 2002 WL 31892830 (Florida Cir. Ct. (Pinellas County) Nov. 6, 2002). Plaintiffs sought to represent former workers at an industrial facility (subsequently declared a Superfund site) who claimed they were exposed to hazardous chemicals and who requested medical monitoring. In perhaps the first medical monitoring class action determination in Florida, the Circuit Court denied certification after a three-day evidentiary hearing in a comprehensive 111-page order.

21. Jester v. Toys "R" Us, Pinellas County, Florida Circuit Court. The class alleged that Toys "R" Us taxed coupon items which were allegedly not taxable. We were successful in defeating certification.

22. Jim Moore Insurance Agency, Inc. v. State Farm, 2003 WL 22097937 (S.D. Fla. 2003), aff'd, 147 Fed. Appx. 841 (11<sup>th</sup> Cir. 2005).. We represented State Farm in this action brought by agents concerning flood insurance policies. Class certification was denied.

23. Jones v. Bayer Corp., Miami-Dade County, Florida, Circuit Court. We represented a manufacturer of hemophilia treatment in this case. Persons with hemophilia alleged that the defendants' product gave class members HIV. The court orally announced that class certification would be denied. Subsequently, the case settled as part of a nationwide settlement.

24. Kearney v. Federal Deposit Insurance Corporation, United States District Court, Middle District of Florida. We represented the FDIC in opposing the class in this case. No class was certified.

25. Kettlety v. Prudential Property and Casualty Insurance Company, Florida 20th Judicial Circuit. Plaintiff brought a class action asserting illegal charges for installment premium payments under Florida law. We represented the defendant, and obtained dismissal of the case with prejudice before class certification.

26. In re Long Distance Telephone Litigation, United States District Court, Northern District of Alabama. Allegations involved consumer fraud by telephone "slamming." Our client was a billing and collections clearinghouse for long distance service providers. After an evidentiary hearing, the district court denied class certification from the bench.

27. Macula v. Lawyers Title Ins. Co., 264 F.R.D. 307 (N.D. Ohio 2009). Obtained denial of class certification in putative statewide consumer class action against title insurance underwriter alleging overcharging for title insurance premiums.

28. Menendez v. First Union Corporation, United States District Court, Middle District of Florida. Allegations involved securities fraud and RICO violation. We successfully defeated class certification, obtained summary judgment or partial summary judgment against the remaining claims of the individual plaintiffs, and enabled the defendants to settle what was left of the individual claims of three named class representatives for a modest sum.

29. Mills v. Stauffer Chemical Co., United States District Court, Middle District of Florida. A group of property owners who lived near a Superfund site sought to certify personal injury, property damage and medical monitoring classes. We were successful in defeating class certification.

30. Montgomery, Jr. v. The New Piper Aircraft, Inc., 209 F.R.D. 221 (S.D. Fla. 2002). We represented Textron/Lycoming in this Florida Deceptive and Unfair Trade Practices Act action in which the plaintiff alleged that the defendants made fraudulent misrepresentations regarding an airplane engine's maximum service time.



The magistrate judge's recommendation that certification be denied was approved by the District Court Judge in an important opinion clarifying the scope of class actions under FDUTPA.

31. Palmetto Enterprises, Inc. v. Owens Corning Tanks Corp., Miami-Dade County, Florida Circuit Court. In this case, the class alleged that Owens Corning's underground storage tanks leaked due to construction defects. Class certification was denied.

32. Pierce v. Commercial Warehouse, United States District Court, Middle District of Florida. We represented the defendant in this antitrust action, and no class was certified.

33. Sanchez v. Signal Holdings, United States District Court, Southern District of Florida. We represented defendants who provide insurance for cellular telephones. Plaintiffs allege claims under the Florida Deceptive and Unfair Trade Practices Act regarding the deductible charged on claims. Class certification was denied.

34. Smith v. Lawyers Title Ins. Corp., 2009 WL 514210 (E.D. Mich. Mar. 2, 2009). We obtained dismissal of putative multistate class action alleging violations of RESPA, unfair trade practices, and unjust enrichment based on alleged overcharging for title insurance.

35. In re: Templeton Securities Litigation, United States District Court, Southern District of Florida. Defense of allegations involving breach of fiduciary duties and violation of federal securities laws. The district court denied class certification in an unreported decision in June, 2001. Plaintiffs attempted to take an interlocutory appeal from that ruling to the Eleventh Circuit, and we successfully opposed review.

36. Vogel v. Lehigh Corporation, Lee County, Florida Circuit Court. We represented the defendant, and an order was entered with prejudice denying the class.

37. Wander v. Prudential Property and Casualty Insurance Company, Florida 20th Judicial Circuit. Plaintiff brought a class action asserting illegal charges for installment premium payments under Florida law. We represented the defendant, and obtained dismissal of the case with prejudice before class certification.

38. Wiles v. Tampa Board of Realtors, Inc., United States District Court, Middle District of Florida. We represented the defendant and were successful in defeating the proposed class.

39. Zylstra v. Safeway Stores, United States District Court, Middle District of Florida. We represented the defendant and obtained an order that certification was not proper.

### **Successful Settlements or Other Favorable Dispositions**

1. Acoma v. Crompton Corp., Pinellas County, Florida Circuit Court . We represent Crompton Corp., Uniroyal Chemical Co., Inc., and Uniroyal Chemical Company, Limited in an action alleging anti-trust violations concerning the sale of EPDM used in the manufacture of tires. Defendants' Motion to Dismiss the complaint was granted.

2. Addleman v. Ryland Homes, AAA. In a companion action to the Bouchard v. Ryland Homes case noted above, the arbitrator certified an "issue" class action in one of the first class action arbitration proceedings in the U.S. since such proceedings were authorized by the U.S. Supreme Court. The same judge who denied certification in Bouchard upheld the arbitrator's decision indicating that it believed it was bound to apply the extremely high standard of review applicable to typical arbitration awards. That decision is presently on appeal to the 5th DCA and presents several issues of first impression in Florida, including the extent to which a AAA arbitrator's class action decision is constrained by the parties' agreement incorporating that organization's class action rules and the appropriate standard of review for class action awards rendered in arbitration.

3. Altamonte Springs Imaging, L.C.. v. State Farm Mutual Auto. Ins. Co., 12 So. 3d 850 (Fla. 3d DCA 2009). Represented the largest automobile insurance carrier in Florida in defense of class action filed by provider of MRI services.

4. Aznar v. Cooperative De Seguros Multiples De Puerto Rico, United States District Court, Middle District of Florida. We represented defendant, a home insurer, in this putative consumer class action. The plaintiff contended that defendant failed to pay tax and overhead/profit on homeowner hurricane claims. The case was resolved on an individual basis. No class was certified.

5. Bachman v. The Equitable Life Assurance Society of the United States, United States District Court, Middle District of Florida. We represented the defendant and obtained a successful settlement of class claims prior to certification being decided.

6. Banner v. Wells Fargo Bank, N.A., Palm Beach County, Florida Circuit Court. We represented defendant in class action alleging that mortgage lender and its attorneys violated the Florida Consumer Collection Practices Act by charging fees and costs for mortgage reinstatements in excess of those actually incurred. The case settled on terms favorable to the client.

7. Barnes v. Florida Power Corp., Hernando County, Florida Circuit Court. This was a class action brought by a customer against an electric utility; the claim was that the electric utility had not paid the correct interest due on deposits held by the utility under applicable regulations. The plaintiff voluntarily dismissed with prejudice before class certification.

8. Barrow v. Exxon Corporation, United States District Court, Northern District of Florida. Class action similar to Kelly case brought by new plaintiffs and attorneys. Following aggressive attack on certifiability of putative class, result was agreed voluntary dismissal prior to certification hearing.

9. Bragg v. Bill Heard Chevrolet, 2007 WL 2781105 (11<sup>th</sup> Cir. 2007). The plaintiffs brought a putative class action seeking damages, equitable, and declaratory relief for alleged violations of (i) the Truth in Lending Act, and (ii) the Florida Motor Vehicle Retail Sales Finance Act and the Florida deceptive and Unfair Trade Practices Act. We represent the Defendant, Bill Heard Chevrolet. After a dismissal, appeal to the Eleventh Circuit, and published appellate opinion, we obtained a favorable class-wide settlement for our client, Bill Heard Chevrolet.

10. Beckford v. Toyota Motor Sales USA, Inc., Miami-Dade County, Florida Circuit Court. We represented Toyota Motor Sales USA and two related companies in a class action brought against numerous manufacturers of automobiles alleging a conspiracy to restrict the importation of automobiles from Canada into the United States.

11. Bentley v. City of Tallahassee, Leon County, Florida Circuit Court. This was a class action brought by more than 7,000 property owners against an electric utility alleging that the utility's easements did not authorize the use of the plaintiffs' lands for the installation and use of fiberoptic cables for general telecommunications purposes. A class settlement was approved by the circuit court but subsequently reversed by the First District Court of Appeal in Seven Hills, Inc. v. Bentley, 2003 WL 292110 (Fla. 1st DCA Feb. 12, 2003). Prior to the First District's mandate issuing, the case was relinquished to the circuit court. An amended final judgment was entered and the class settlement was preserved.

12. Best v. Special Data Processing Corporation, Pinellas County, Florida Circuit Court. This is a class action for alleged violations of the Florida Deceptive and Unfair Trade Practices Act ("FDUTPA") in connection with magazine sales. We represented the defendant and moved to dismiss the complaint and, later an amended complaint, because the plaintiffs lacked standing to bring their FDUTPA claims. The motion to dismiss was granted with prejudice and plaintiffs appealed. After the briefs were filed, but before oral argument, the case was settled.

13. Bd. of Trustees of the Carpenters & Millwrights of Houston, United States District Court, Middle District of Florida. We represented Eckerd Corporation in this partial filled prescription RICO and ERISA class action. The plaintiffs voluntarily dismissed their claims before certification was reached.

14. Brisson v. Ford Motor Co., 602 F. Supp. 2d 1227 (M.D. Fla. 2009), aff'd in part, rev'd in part, 2009 WL 3326264 (11<sup>th</sup> Cir. 2009). Defense of Ford in product liability class action.

15. Carney v. Wise Foods, Inc., United States District Court, Southern District of Florida. We represented defendant snack food manufacturer in a putative class action alleging that our client wrongfully terminated approximately 30 independent operators who sold and delivered product to defendant's customers. After the filing of several consecutive motions to dismiss, the court dismissed the complaint with prejudice. The plaintiff never moved to certify the class.

16. Carranza v. Mecca, United States District Court, Southern District of Florida. This was an action brought by farm workers against the farm labor contractor and farm owner alleging violations of various federal statutes concerning wages. We represented the farm owner and reached settlement.

17. Cherry v. AT&T Wireless Services, Inc., Manatee County, Florida Circuit Court. In this putative case action, plaintiff customers challenged their wireless telephone providers' contractual early termination fees as well as the fact that wireless telephones typically operate only on a single wireless network. We succeeded in obtaining an order compelling arbitration, which was upheld by the intermediate appellate court and the Florida Supreme Court in appeals handled by our firm.

18. In re Chinese-Manufactured Drywall Products Liability Litig., 626 F. Supp. 2d 1346 (J.P.M.L. June 15, 2009). We represented homebuilders in defense of multi-district product liability class actions alleging drywall installed in homes was defective.

19. Coastal Neurology, Inc. v. State Farm Mutual Auto. Ins. Co., 271 F.R.D. 538 (S.D. Fla. 2010). Represented the largest automobile insurance carrier in Florida in defense of class action filed by provider of MRI services.

20. Cohen v. Implant Innovations, Inc., 259 F.R.D. 617 (S.D. Fla. 2008). Represented manufacturer of dental implants in defense of product liability class action alleging that the implants were defective.



21. In re Motions to Certify Classes Against Court Reporting Firms for Charges Relating to Word Indices, 715 F. Supp. 2d 1265 (S.D. Fla. 2010). We represented one of the nation's largest court reporting services in defense of a FDUTPA consumer class action.

22. DWIFII v. State Farm Mutual Auto. Ins. Co., 2010 WL 5094242 (S.D. Fla. 2010). Represented the largest automobile insurance carrier in Florida in defense of class action filed by provider of MRI services.

23. Drayton v. Western Auto Supply Company, United States District Court, Middle District of Florida. We represented the defendants in this nationwide employment "pattern and practice" discrimination case. The class was certified by the district court and leave to appeal was granted by the Eleventh Circuit. On appeal, the Eleventh Circuit affirmed the class in part, but reduced its breadth and eliminated compensatory and punitive damage claims, thereby greatly reducing defendant's exposure. The case subsequently settled.

24. Eufaula Drugs, Inc. v. Tmesys, Inc., United States District Court, Middle District of Alabama. We represented defendant Tmesys, Inc. The plaintiff alleged Tmesys withheld contractual payments to plaintiff. The case settled on a class-wide basis with no money paid to the class.

25. Fidel v. Pearlman, United States District Court, Southern District of Florida. We represented a former executive of Unapix Entertainment, Inc. in an action for securities fraud brought by a shareholder. The District Court granted a Motion to Dismiss with Prejudice and the case was subsequently resolved.

26. Frisch v. Wells Fargo Bank, N.A. We represented the defendant, Wells Fargo Bank, and obtained dismissal of putative RESPA class action.

27. Fruchter v. Florida Progress Corporation, Pinellas County, Florida Circuit Court. We represented the defendants in this case brought to challenge the merger between CP&L and Florida Progress under the securities laws. The case was concluded without class certification. After attempting unsuccessfully to secure a settlement, the plaintiff voluntarily dismissed the suit.

28. In re: Fuel Oil Cases, United States District Court, Middle District of Florida. We represented the defendant utility and reached a settlement with the proposed class, before certification of any class, and successfully consummated the settlement and obtained a dismissal of the case.

29. Brenda Gallo v. Wise Foods, Inc., Miami-Dade County, Florida Circuit Court. We represented Wise Foods, a snack food manufacturer, in a putative class action alleging wrongful termination of an independent operator. We obtained a directed verdict in favor of Wise Foods after a one-week trial.

30. Gilchrist v. State Farm Mutual Automobile Insurance Company, 290 F.3d 1327 (11<sup>th</sup> Cir. 2004). The district court certified a class of 70 million policyholders in this automobile insurance antitrust action. The Eleventh Circuit reversed the certification and ordered the case dismissed pursuant to the McCurran-Ferguson doctrine.

31. Gomez v. Wells Fargo Bank, N.A., United States District Court, Southern District of Florida. We represented defendant Wells Fargo Bank and obtained dismissal of this putative RESPA class action.

32. Grenelefe Club Estates Homeowners Association, Inc. v. Sports Shinko (Florida) Co., Ltd., Polk County, Florida Circuit Court. In this homeowners association dispute we represented a developer and its board of directors in a suit brought by residents. The residents claimed that the developer failed to properly pay assessments and that the community's roads and clubhouse were improperly constructed. The case was settled.

33. Harris v. Lennar Homes, Inc., Hillsborough County, Florida Circuit Court. We represented the defendant. Plaintiffs' motion to certify a class was granted, but the case was thereafter settled on very favorable terms to the defendant.

34. Heretick v. Publix Super Markets, Inc., United States District Court, Middle District of Florida. Represented retail supermarket chain in consumer class action removed to federal court under the Class Action Fairness Act of 2005 and successfully defeated remand to state court.

35. Hersman v. Prudential Property and Casualty Insurance Company, Florida 11th Judicial Circuit. We represented the defendant in this action. The plaintiff sought to represent a class of policyholders, the members of which the plaintiff claimed to have been systematically denied benefits under casualty policies. Plaintiff sought a declaration that Florida's no-fault automobile insurance law for personal injury protection benefits is unconstitutional and a refund of premiums paid by class members to the defendant. The plaintiff voluntarily dismissed the complaint after we filed a motion to dismiss the amended complaint.

36. Hoving v. Lawyer's Title Ins. Co., 256 F.R.D. 55 (E.D. Mich. 2009). We represented a title insurer in defense of a series of class actions alleging overcharge of premiums on policies issued to mortgage lenders.

37. Insurance Management Solutions Group, Inc. Securities Litigation, United States District Court, Middle District of Florida. We represented a defendant, Venture Capital Corporation. The plaintiffs claimed that the defendants violated securities laws in connection with a public offering of shares of Insurance Management Solutions Group, Inc. A class was certified and the case was settled.

38. Kaliser v. Knoll Pharmaceutical Company, United States District Court, Southern District of Florida. We represented the defendant Knoll Pharmaceutical Company. The case settled.

39. Karol v. Micron Technology, Inc., United States District Court, Middle District of Florida. We represented the defendants in this class action. The plaintiffs alleged an international conspiracy among the defendants and co-conspirators with the purpose of fixing prices of memory chips or modules. The case was dismissed without prejudice.

40. Kelly v. Exxon Corporation, United States District Court, Northern District of Florida. Class action against various oil companies alleging underpayment of royalties. We represented the defendant and obtained a dismissal of the complaint along with a ruling by the court that class certification was likely not forthcoming.

41. Kings Ridge Community Ass'n v. Lennar Land Partners, Lake County, Florida Circuit Court. Representation of defendants in putative class action alleging that the developer violated a community declaration when it sold the community clubhouse and facilities fees to an investor, and conspired with the investor and others to keep the transaction a secret. The circuit court granted class certification and the case settled.

42. Kulle v. Verizon Communications, Inc., Sarasota County, Florida Circuit Court. We represented the defendant in a suit challenging its disclosures about its "call-block" service and alleging, among other things, claims under Florida's Deceptive and Unfair Trade Practices Act. The case settled on a non-class basis of favorable terms to our client.

43. Lendelow v. Jay Hill, Northern District of Illinois. This was a class action securities fraud claim against the officers and directors of a company and its closely-held subsidiary for an allegedly misleading press release concerning the acquisition of a subsidiary. We represented the president of the subsidiary corporation. The case settled.

44. Lewis v. Ford Motor Co., 263 F.R.D. 252 (W.D. Pa. 2009). Represented major automobile manufacturer in defense of product liability class action.

45. MRI Associates of St. Pete, Inc. v. State Farm Mutual Auto. Ins. Co., 2010 WL5184064 (M.D. Fla.).

Represented the State Farm in Florida in defense of class action filed by provider of MRI services.

46. Macula v. Lawyers Title Ins. Co., 272 F.R.D. 214 (N.D. Ohio 2011). Obtained order finding case moot and that court lacked subject-matter jurisdiction due to denial of class certification and Rule 68 offer of judgment for amount of named plaintiff's individual claim.

47. Mazza Block v. Morganti, Palm Beach County, Florida Circuit Court. We represented Morganti in this action brought by a subcontractor. We obtained dismissal of the class action portion of this action and ultimately dismissal of the entire action.

48. Mian v. American Utility Management, Broward County, Florida Circuit Court. We represented AUM in connection with a putative class action alleging improper utility billing at apartment complexes. After meeting with counsel for Plaintiffs, the case was voluntarily dismissed.

49. Morrone v. Toyota Motor Sales, U.S.A., Inc., Hillsborough County, Florida Circuit Court. We represented the defendants in a putative class action brought against Toyota Motor Corporation and Toyota Motor Sales concerning performance characteristics of Toyota vehicle. The case was settled and voluntarily dismissed prior to determination on class certification.

50. Newton v. Bell Atlantic Corporation, Hillsborough County, Florida Circuit Court. We represented the defendant in a suit challenging its rental telephone disclosures and charges and alleging, among other things, claims under Florida's Deceptive and Unfair Trade Practices Act. The case settled on a non-class basis of favorable terms to our client.

51. Martinez v. Mecca, United States District Court, Southern District of Florida. This was an action brought by Farm Workers against the Farm Labor Contractor and Farm Owner alleging violations of various federal statutes concerning wages. We represented the Farm Owner. Class certification was granted and the case was amicably resolved.

52. Medical Diagnostic Network, Inc. v. Prudential Property and Casualty Insurance Company, Miami-Dade County, Florida Circuit Court,. We represented the defendant in this action. The plaintiff sought to represent a class of policyholders, the members of which the plaintiff claimed to have had interest on medical benefits under casualty policies improperly withheld by the insurer. The plaintiff filed a voluntary dismissal after we filed a fee motion under section 57.105, Florida Statutes.



53. Moore v. Micro-Flo, Polk County, Florida Circuit Court. Toxic tort class action brought by property owners seeking medical monitoring and claiming diminution in property values due to actions of defendants on adjacent industrial Superfund Site. The case was settled on favorable terms prior to the filing of any motion for class certification.

54. Morales v. Attorneys' Title Insurance Fund, Inc., United States District Court, Southern District of Florida. We represented the defendant and the Court granted the defendant's motion to dismiss with prejudice before the motion for class certification was reached.

55. Morton's Market, Inc. v. Southland Corporation, United States District Court, Middle District of Florida. We represented defendant in this antitrust milk price fixing action. The case was settled on a class wide basis on favorable terms for our client.

56. Oce Printing Systems USA, Inc. v. Mailers Data Services, Inc., 760 So. 2d 1037 (Fla. 2d DCA 2000). Users, brokers, and independent service providers of ultra-high speed printers sued three sellers/servicers of those printers, including our client NCR, for antitrust violations. We successfully negotiated an extremely favorable settlement for NCR prior to certification of multiple classes.

57. Open MRI of Pinellas, Inc. v. American International Insurance Company; Open MRI of Pinellas, Inc. v. American International South Insurance Company; Ultra Open MRI Corporation v. Illinois National Insurance Co.; Ultra Open MRI Corporation v. New Hampshire Indemnity Company, Hillsborough County, Florida Circuit Court. We represented an AIG insurer in a series of class actions filed by medical service providers involving a novel issue of law under Florida's Personal Injury Protection statute. The case settled on a class-wide basis.

58. Perret v. Wyndham Vacation Resorts, Inc., et al., United States District Court, Southern District of Florida. We represented a large timeshare company in putative class action removed to federal court under the Class Action Fairness Act of 2005; successfully defeated remand to state court and obtained dismissal of FDUTPA and related claims.

59. In re Pinnacle Holdings Corp. Securities Litigation, United States District Court, Middle District of Florida. We represented PricewaterhouseCoopers which was added as a defendant in the 10b(5) count of this securities class action. A global settlement was reached with all defendants and PriceWaterhouseCoopers contributed a "cost of defense" settlement payment.

60. Prohias v. Astrazeneca Pharmaceuticals, L.P., Miami-Dade County, Florida Circuit Court. This was a putative class action alleging violation of Florida's Deceptive and Unfair Trade Practices Act in connection with the marketing of Nexium, one of the most prescribed pharmaceuticals in the world. We obtained a dismissal of the claim with prejudice.

61. Publix Super Markets, Inc. v. MW Marketing Services Corp. We represented the defendant and a settlement class was certified and successfully consummated.

62. Ray's Plumbing, Inc. v. Agrevo Environmental Health, United States District Court, Middle District of Florida. We represented the defendant Dow AgroSciences LLC. Plaintiff's motion for class certification was withdrawn.

63. Sala v. Starbucks, United States District Court, Middle District of Florida; Forson v. McDonald's Corp., United States District Court, Middle District of Florida. These companion cases, along with an identical state court case, involved claims by a purchaser of bottled water that a number of restaurants committed unfair trade practices by charging sales tax on the price of the water and thereby overcharged them. Plaintiffs sought class action status. We represented several restaurant chains (Brinker, owner of Chili's and Maggiano's, Bob Evans) as well as Barnes & Noble in these cases. The federal courts severed the defendants and dismissed the claims, and plaintiffs appealed. Ultimately the appeals were dismissed, with a fee award to our clients.

64. Samco Partners v. Emerson Electric, Palm Beach County, Florida Circuit Court. We represented Emerson Electric in connection with a putative class action arising from a merger and acquisition transaction. The action was resolved shortly after filing and received preliminary approval from the Circuit Court.

65. Samuels v. Victoria Select Insurance Company, Florida 4th Judicial Circuit. We represented the defendant in this action. The plaintiff sought to represent a class of policyholders, the members of which the plaintiff claimed to have been systematically overcharged for premiums under casualty policies. The plaintiff voluntarily dismissed the complaint for a nominal sum in settlement of the individual claim after we filed a motion to dismiss.

66. Spencer v. Wachovia, United States District Court, Southern District of Florida. We represented Wachovia Bank in a putative class action where plaintiff alleged Wachovia breached its fiduciary duties with regard to investments in her accounts. The District Court granted our Motion to Dismiss the class action claims with prejudice under SLUSA and allowed plaintiff to plead only individual claims. Plaintiff did not amend her complaint and the case was closed by the District Court.

67. Stincer v. University Community Hospital, Inc., Hillsborough County, Florida Circuit Court. We represented the defendant and were successful in forcing the plaintiff class representative to the point that she withdraws her complaint.

68. Taylor v. General Motors Corporation, 875 F.2d 816 (11th Cir. 1989). A putative class action was brought on behalf of purchasers of vehicles from eight manufacturers whose cars did not contain airbags. We obtained an opinion from the federal district court dismissing all class action allegations. That opinion was affirmed on appeal.

69. Taylor, Bean & Whitaker, Ltd., Inc. v. Staff Leasing, Inc., Marion County, Florida Circuit Court. We represented the defendant and the case was dismissed before the motion for class certification was reached.

70. Thomas v. Blue Cross & Blue Shield Association, United States District Court, Southern District of Florida. We represented Blue Cross & Blue Shield of Delaware in this high profile putative class action filed by medical providers against every Blue Cross entity in the nation. The plaintiffs sought to represent all medical doctors and allied health practitioners in America. They brought RICO claims, contending that the Blue Cross companies systematically conspired to delay, diminish, and deny their claims. The court ultimately granted the defendants' motion to dismiss after multiple briefs on class certification were filed.

71. Thomas Cattle Company v. Lextron, Inc., consolidated with Harrell H. Phillips, DVS, v. Lextron, Inc., United States District Court, Middle District of Florida. We represented the defendant and reached a class-wide settlement of the case before the class issue was resolved.

72. Thula v. Lawyers Title Insurance Corporation, Broward County, Florida Circuit Court. We represented a title insurance underwriter where a putative class of Florida consumers alleged that they were overcharged for title insurance premiums because lower "reissue rates" were not disclosed or provided to them. A class-wide settlement of the case was approved by the Court before the class certification issue was resolved.

73. Veal v. Crown Auto, 2007 WL 2700969 (M.D. Fla.). Defense of class action challenge to sales practices in connection with after-market products a customer may elect to purchase when buying a new or used car. Plaintiff contended that defendant engaged in deceptive and unfair trade practices with respect to the sale of a warranty program. A class was certified. The case settled on a class-wide basis.

74. Voiles v. Compuserve Interactive Services, Inc., Pinellas County, Florida Circuit Court. Florida Deceptive and Unfair Trade Practices Act action. This case settled on an individual basis. No class was certified.

75. Wagner v. TracFone, Southern District of Kentucky. We defended TracFone with respect to a class action lawsuit filed in Kentucky. Wagner claimed that TracFone phones charge for roaming in the areas in which the users should be not be charged for roaming, thereby debiting the balance on the TracFone debit card for usage. After extensive discovery, the parties reached a favorable settlement.

76. Weber v. State Farm, Miami-Dade County, Florida Circuit Court. Claim by insured asserting State Farm breached its insurance contracts and was negligent in paying no-fault benefits to “patient brokers” for MRI services.

77. Weiner v. BASF Corporation, United States District Court, Southern District of Florida. We represented the defendants BASF Corporation and Knoll Pharmaceutical Company. The case was settled.

78. Wheeler v. First Colony Life Ins., United States District Court, Middle District of Florida,. We represented the defendant in this insurance class action. The case was settled.

79. Woodall v. GE Financial Assurance Holdings, Inc., United States District Court, Middle District of Florida. We represented the defendants in this class action alleging breach of an insurance policy. The case was dismissed.

80. Yates v. Equity Residential, Palm Beach County, Florida Circuit Court. We represented the owners of apartment rental complexes throughout Florida in an action brought by tenants who alleged that improper charges were collected. Class certification was granted and affirmed on appeal. The case was resolved after trial on the merits.



### **REPRESENTATIVE ARTICLES**

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- David G. Leitch, Gary L. Sasso, and D. Matthew Allen, "Chapter on Litigating Class Actions," Successful Partnering Between Inside and Outside Counsel, multi-volume treatise, Thomson/West and Association of Corporate Counsel Treatise (2011 edition).
- D. Matthew Allen and Rebecca Shwayri, "The Supreme Court's Class Action Arbitration 'Do Over' in Stolt-Nielsen," Bloomberg Law Reports - Class Actions, Vol. 3, No. 7 (July 2010).
- Thomas A. Dye and Dean A. Morande, "Consumer Class Actions Brought under Rule 23(b)(3): Strategies for Defeating Class Certification," Class Actions Today (Fall 2008).
- Patrick T. Clendannan, Kevin M. McGinty, Joseph Ianno, D. Matthew Allen, and Mac R. McCoy, et al., "Chapter on Class Action Law," ABA Section of Business Law Annual Review of Developments in Business and Corporate Litigation (2008 ed.).
- Gary L. Sasso, "Class Actions – de Minimis Curat Lex?" Litigation (Summer 2005).
- Gary L. Sasso, "Defense of Federal Question Class Actions," PLI Manual on Class Actions (Summer 2004).
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- Gary L. Sasso, "Defending Securities Class Actions," Class Actions & Derivative Suits, Vol. 12, No. 3 (Winter 2003).
- Benjamine Reid and Chris S. Coutroulis, "Checkmate in Class Actions: Defensive Strategy in the Initial Move," Litigation Magazine, Vol. 28, No. 2 (Tactics Edition, Winter 2002).
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- Benjamine Reid and D. Matthew Allen, "Beating the Odds: Practical Advice on Winning the Class Certification Game by Litigation or Settlement," 2 Class Action Litigation Report (BNA) No. 1 at 34 (Jan. 12, 2002).
- Chris S. Coutroulis and D. Matthew Allen, "The Pass-On Problem In Indirect Purchaser Class Litigation," 44 The Antitrust Bulletin 179 (Spring 1999).
- D. Matthew Allen, "The Aftermath of Amchem" Corporate Counsel Newsletter (1999).