The 2013 Carlton Fields Class Action Survey

Best Practices in Reducing Cost and Managing Risk in Class Action Litigation

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Introduction

Class action lawsuits across practice areas continue to affect companies operating in a wide range of industries, and corporate legal departments are devising better and more innovative matter management and cost control tools to combat them.

To provide the latest in class action best practices and trends, with a focus on managing risk and controlling costs, Carlton Fields is pleased to share its second annual class action report, which presents quantitative data and information on how corporate legal departments identify and manage class action risk and cost. The report offers findings on topics as vital as risk mitigation tools, the impact of recent case law, and cost control approaches, including increased use of alternative fee arrangements. Its findings result from a thorough survey process that involved detailed interviews with general counsel or senior legal officers of more than 360 companies of all sizes and business types on the subject of class action exposure and management. By documenting how companies perceive, monitor, and control their class action matters, we hope to identify evolving best practices across corporations and industries.

We trust you will find the 2013 Carlton Fields Class Action Survey a valuable source of information that helps your legal department effectively and efficiently manage these prevalent—and costly—lawsuits.

Executive Summary

Across industries, corporate counsel reported they spent $2.1 billion annually on class action lawsuits in 2012. This reflects a modest decline from $2.2 billion in 2011. On average, companies managed 5.1 class actions in 2012, representing a 16 percent increase from 2011, when that number was 4.4. In both years, just 1.6 of the matters managed were new, indicating that ongoing matters are taking longer to resolve.

The nature and type of class actions is evolving. Since 2011, there has been an increase of more than 50 percent in spending on high risk/bet-the-company class actions relative to other types. In 2012, these matters represented 10 percent of annual class action spending, up from 6 percent in 2011. During the same time period, spending on the middle rung of risk classifications ("complex class actions") also increased, from 51 percent to 55 percent. Correspondingly, annual spending on routine class actions dropped from 43 percent in 2011 to 35 percent in 2012.

Consumer fraud and labor and employment matters account for more than 50 percent of all class actions, making them the most prevalent. Securities matters dropped from 13 percent of all class actions in 2011, to 10 percent in 2012.

In 2013, corporate counsel expect an onslaught of new consumer fraud class actions related to data security, wireless and other untested technologies, and food safety and labeling. Additionally, 9 percent of companies are newly on the watch for health care class actions, and 6 percent are concerned with class actions related to environmental issues.

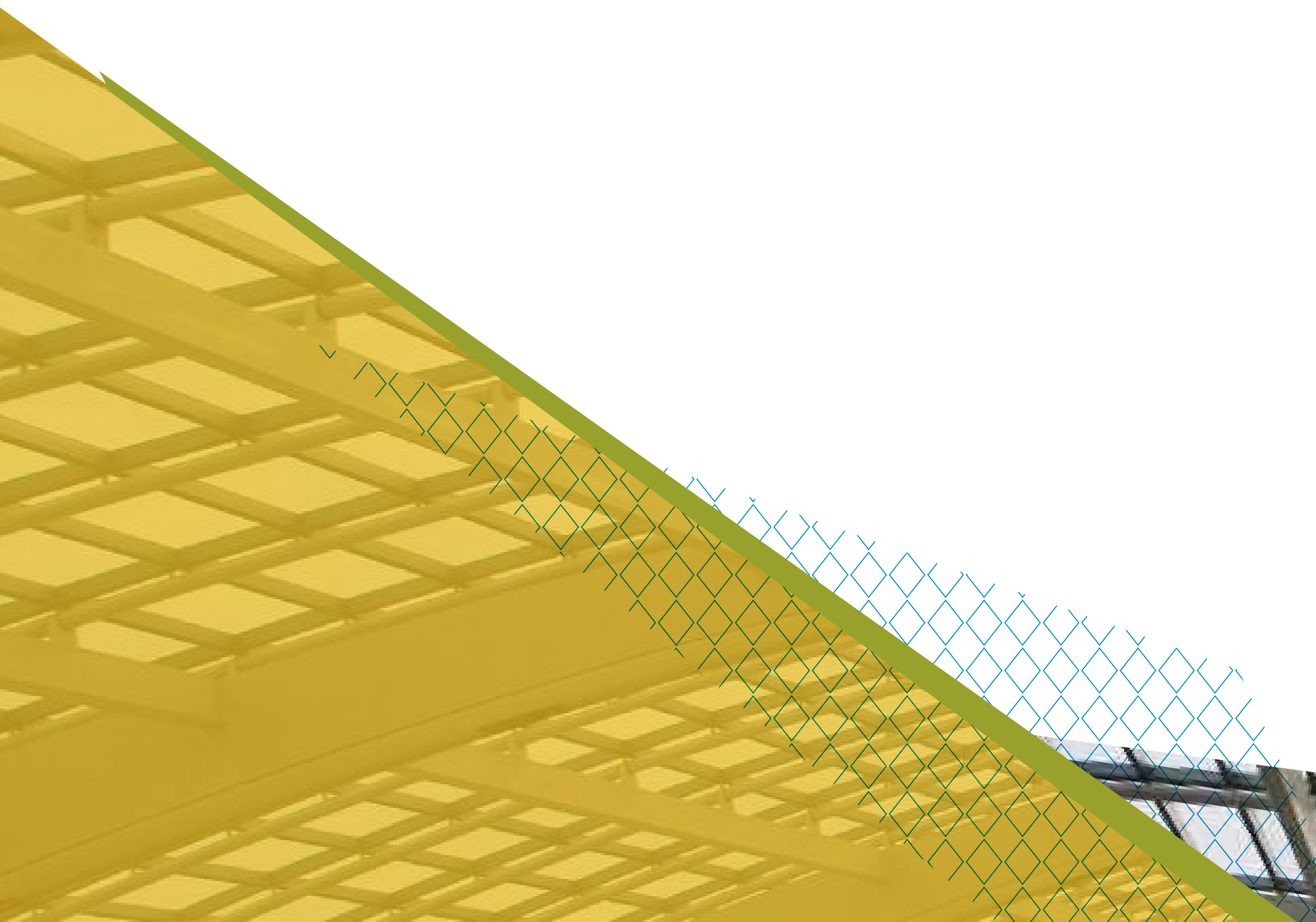
On average, companies dedicate three in-house attorneys and three non-attorneys to class actions. In 2012, in-house legal departments added, on average, one full time employee to their class action management teams. This is consistent with the trend toward building more sophisticated, targeted internal legal resources.

Still, outside law firm spending makes up 90 percent of class action costs. Corporate counsel are consolidating the firms they use to defend class actions. On average, they decreased the number of law firms used for these matters from 4.6 in 2011, to 3 in 2012. Consolidation in the class action realm is driven by the opportunity to realize added value, the prevalence of related lawsuits, and the

benefits of concentrated knowledge and insights.

The use of alternative fee arrangements continues to rise. Nearly one-third of companies rely on these arrangements, a 35 percent increase from 2011. Another 17 percent plan to adopt them in 2013, representing a more than 50 percent increase from 2012. Fixed fees are the predominant type of AFA used, as they were in 2011, and are chosen by nearly two-thirds, or 63 percent, of companies that use AFAs.

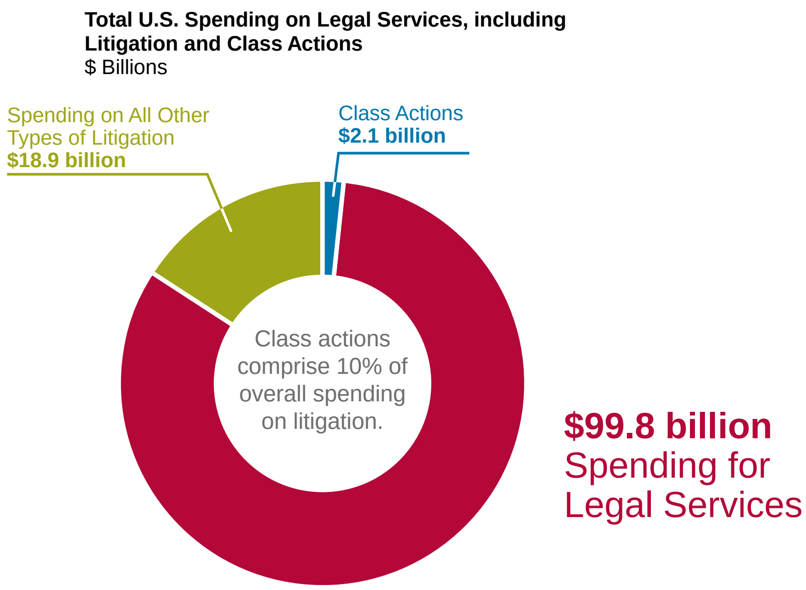
Early case assessment, new settlement strategies, and in-sourcing are driving per class action savings. Companies spent $671,100 annually per class action during 2012, a 14 percent decline from 2011, when they spent $776,500. Substantial cost savings are generated by using rigorous case assessment and modeling to calculate financial exposure. Companies that employ this strategy spend 38 percent less per class action and 42 percent less on outside counsel than companies that do not rigorously assess financial exposure.



Class Action Spending in Perspective

Companies in the United States spend an annual total of $99.8 billion on all legal services. Ten percent of this sum, or $18.9 billion, is spent on litigation. Approximately 10 percent of all litigation spending, or $2.1 billion, goes toward class actions.

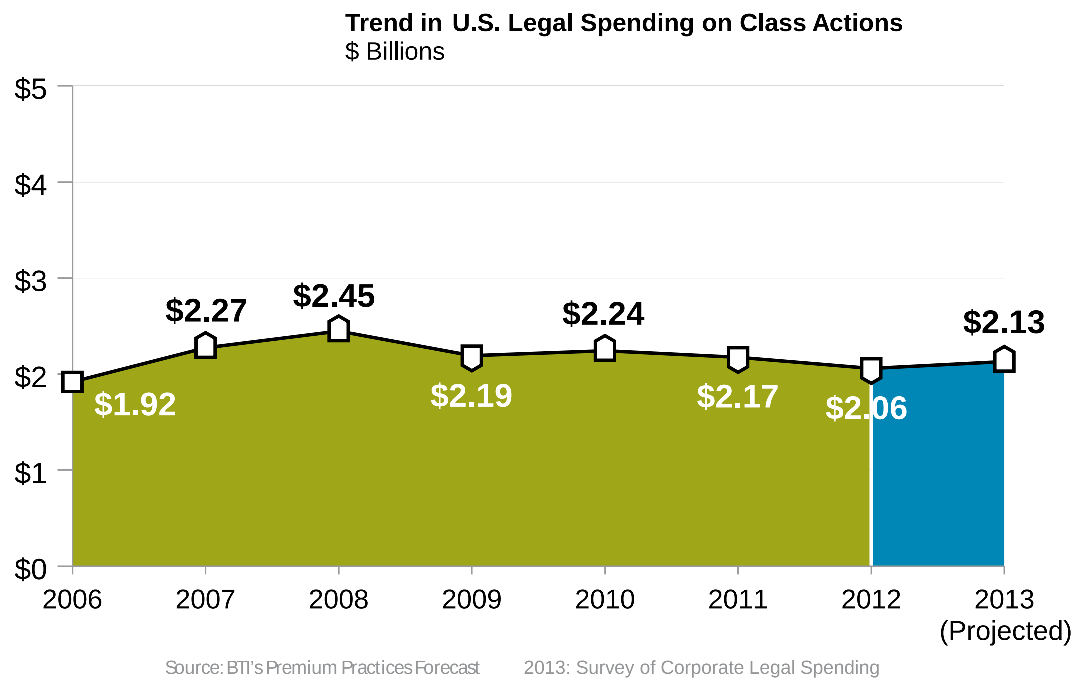
U.S. Spending Totals $2.1 Billion Annually On Class Actions



Source: BTI's Premium Practices Forecast 2013: Survey of Corporate Legal Spending

Nationally, spending on class actions declined modestly in 2012, from $2.17 billion to $2.06 billion. However, annual spending is expected to climb slightly, to $2.13 billion, in 2013. A growing number of high-risk and complex matters is expected to drive this increase.

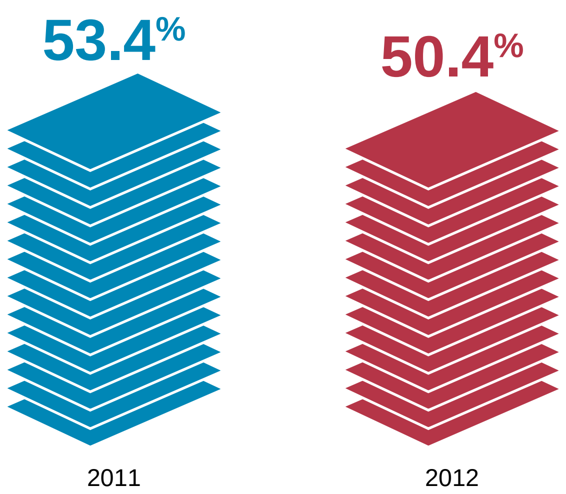
Summary of Trends in Class Action Spending



Wide Range of Practice Areas Affected

Fifty percent of major companies have class actions pending, down slightly from 53 percent in 2011.

50% of Major Companies Currently Face Class Action Lawsuits



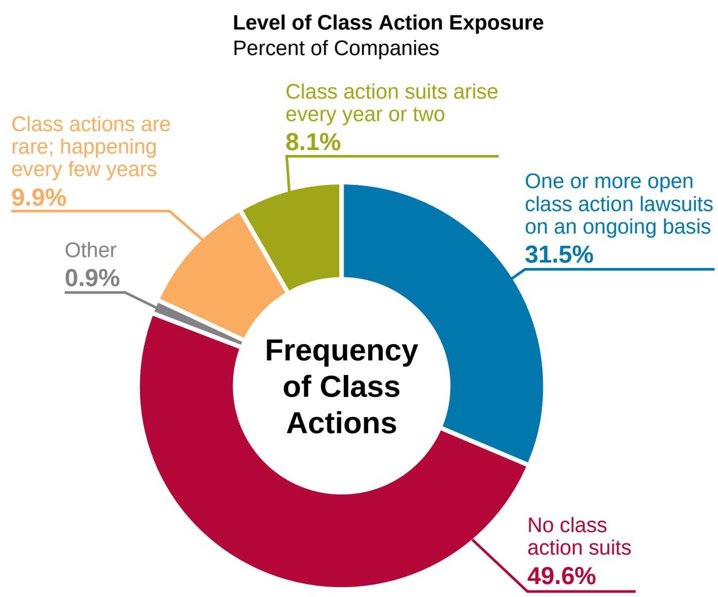
Percent of companies with class actions pending

Source: BTI's Premium Practices Forecast 2013: Survey of Corporate Legal Spending

Thirty-two percent reported that they confront class actions on an ongoing basis, 8 percent said they have them “every year or two,” and 10 percent said class actions were rare, occurring “every few years.”

Companies With Class Action Matters

- Almost 40% of companies have class actions every year or two
  - Most of these (31%) have ongoing class actions on a regular basis
- 10% manage class actions every few years

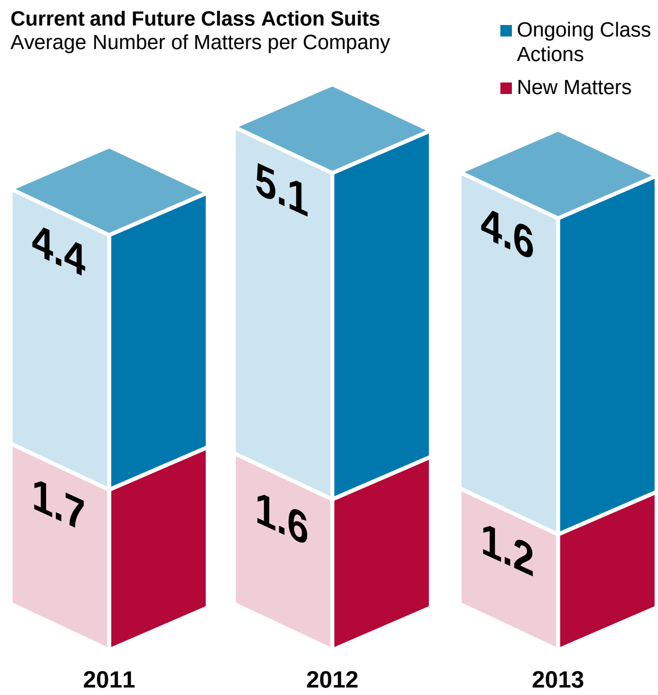


On average, companies had 5.1 class actions in 2012, representing a 16 percent increase from 2011, when that number was 4.4. Looking to 2013, the number of class actions managed is expected to dip slightly to 4.6 per company.

Of the 5.1 class actions that companies defended in 2012, just 1.6 were new matters. This represents virtually no change since 2011, when the number of new matters managed was 1.7. The increase in total number of lawsuits from 2011 to 2012 indicates that ongoing matters are taking longer to resolve.

Corporate Counsel Average 5.1 Class Actions in 2012, Expect Fewer in 2013

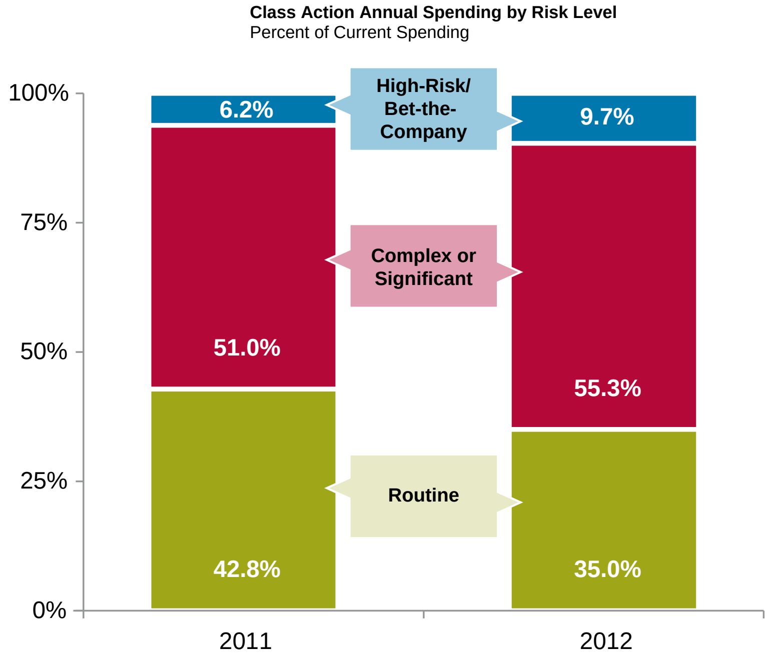
- Average of 5.1 matters in 2012 is increase of 15.9% over 2011
- Number of new matters in 2012 virtually the same as 2011
- Overall increase in number of suits indicates longer time-to-resolution
- For companies managing class actions on a regular basis, caseloads can soar to 60+ matters.



Since 2011, there has been an increase of more than 50 percent in class action spending on high risk class actions relative to other types. In 2012, these matters represented 10 percent of annual class action spending, up from 6 percent in 2011, which is more than a 65 percent increase. During the same time period, spending on complex class actions also increased, from 51 percent to 55 percent. Correspondingly, annual spending on routine matters dropped from 43 percent in 2011 to 35 percent in 2012.

Corporate Counsel See Rise in High Risk Matters, Decline in Routine Matters

- Compared to 2011, marked rise of more than 50% in spending on high risk class actions relative to other types
- Spending on complex class actions also increased from 51% to more than 55%



Consumer fraud and labor and employment matters account for more than 50 percent of all class actions, making them the most prevalent. They are followed by matters arising in the following practice areas: securities (10 percent), product liability (9 percent), antitrust (7 percent), and intellectual property (1 percent).

Though less common, securities and antitrust class actions are more costly. Combined, they account for 21 percent of annual class action spending. Spending on securities class actions is at a 30 percent premium.

Consumer Fraud and Labor Most Common, Securities Cases Most Expensive

- Consumer Fraud and Labor & Employment account for more than 50% of matters
- Securities and Antitrust class actions are more costly
  - Securities garner over 30% premium

Class Action Matters and Annual Spending Breakdown by Type
Percent of Matters and Spending

Practice	Matters	Spending
Consumer Fraud	25.8%	26.3%
Labor & Employment	25.1%	23.7%
Securities	9.8%	12.8%
Product Liability	8.7%	8.7%
Antitrust	7.3%	8.1%
IP	1.1%	0.9%
Other	22.2%	19.5%

>50%

The percentage of consumer fraud class actions has increased, from 24 percent of all class actions in 2011, to 26 percent in 2012. The percentage of antitrust class actions has increased, from 6 percent of all class actions in 2011, to 7 percent in 2012. These increases are attributed to:

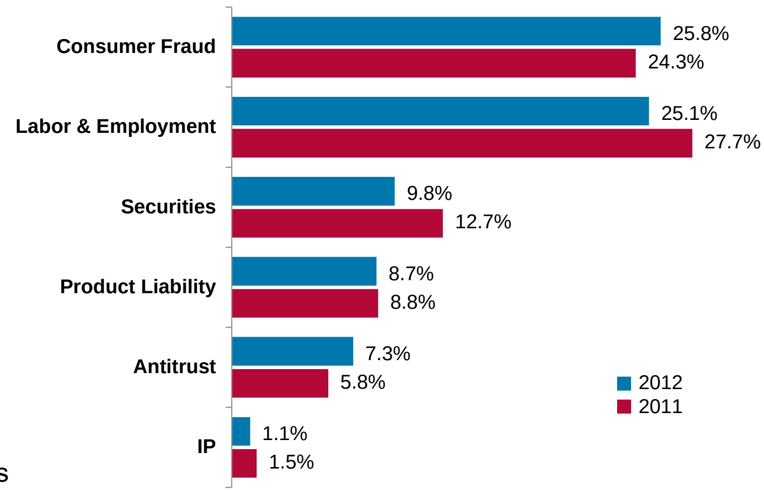
- Heightened awareness of food labeling
- Increased communication among consumers
- Increased scrutiny of off-label marketing and sales practices
- Targeting of financial services in the wake of mergers, meltdowns, and bailouts

Conversely, securities matters have dropped from 13 percent of all class actions in 2011, to 10 percent in 2012. This decline reflects waning suits tied to the financial crisis and mortgage-backed securities.

Consumer Fraud and Antitrust Class Actions Up, Labor & Employment and Securities Down

- Why An Increase In Consumer Fraud & Antitrust?
  - Heightened awareness of food labeling
  - Rise in communication among consumers
  - Increased scrutiny of off-label marketing and sales practices
  - Targeting of financial services in the wake of mergers, meltdowns, and bailouts
- Why A Decrease In Securities-Related Matters?
  - Suits tied to financial crisis and mortgage-backed securities drying up

Class Action Matters Breakdown by Type
Percent of Matters



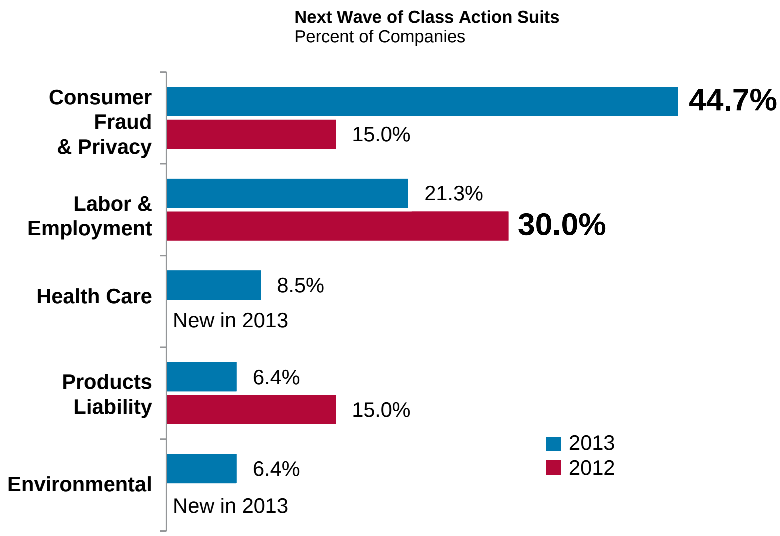
Note: Chart does not add up to 100%. Excludes responses under 1%.

In 2013, corporate counsel expect an onslaught of new consumer fraud class actions related to data security, wireless and other untested technologies, and food safety and labeling. In 2012, just 15 percent of companies anticipated a rush of consumer fraud and privacy class actions. That percentage shot up to 45 for 2013. Additionally, 9 percent of companies are newly on the watch for health care class actions, and 6 percent are concerned with class actions related to environmental issues.

Labor and employment matters, on the other hand, are expected to dwindle as wage and hour suits become less common. In 2012, 30 percent of companies viewed them as a growing trend. That percentage dropped to 21 for 2013.

Corporate Counsel Perceptions of Next Wave Emphasize Areas Different From 2011

- In-House Legal Leaders Anticipate Onslaught of New Consumer Fraud Class Actions
  - Data security
  - Wireless and other "untested" technologies
  - Food safety and labeling
- Labor & Employment Issues Dwindling
  - Wage & Hour suits less common
- Health Care and Environmental Class Actions Growing Area To Watch



Note: Chart does not add up to 100%. Excludes responses under 6%.

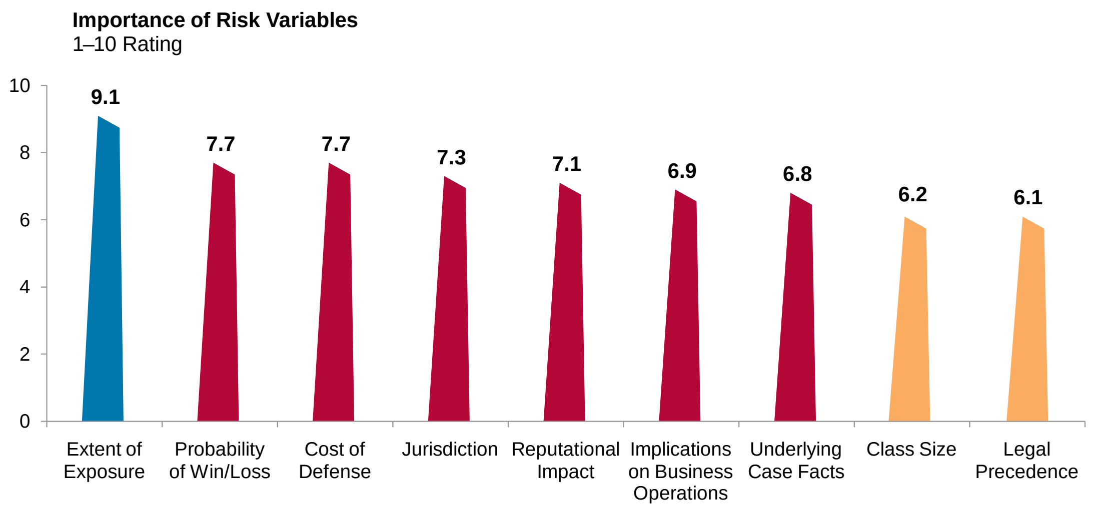
The Wish List: What Corporate Counsel Want to Know About Class Actions

Note: Chart does not add up to 100%. Excludes responses under 5%

Best Practices to Manage Class Actions: Risk Management

Companies defending class actions face a variety of risks. When asked to assign importance to these risks on a scale of 1-to-10, corporate counsel gave the highest ranking, 9.1, to extent of exposure. They viewed the probability of win/loss and the cost of defense as the next-most important concerns, assigning each a 7.7. These were followed by jurisdiction (7.3), reputational impact (7.1), implications on business operations (6.9), underlying case facts (6.8), class size (6.2), and legal precedence (6.1). While class size and setting legal precedent were deemed least critical to assessing risk, both factor into calculating the extent of exposure, which was ranked the No. 1 determinant standing alone.

Extent of Exposure Ranked Most Important Variable in Evaluating Risk



Direct Feedback: Obesrvations on Risk

"It's expensive. Even before you get to the merits of the cases, it is expensive."

—Senior Managing Counsel
Leading Construction Materials Company

"Legal fees; paying not only mine but the other side's as well."

—Executive Vice President, General Counsel, and Secretary
Multinational Hospitality Company

"The multitude of plaintiffs in a class action has a multiplier effect on damages and attorneys' fees."

—Assistant General Counsel
Industry-Leading Chemical Company

"Possibility of enormous awards and reputational risk."

—Chief Counsel, Problem Asset Management
Fortune 500 Banking and Financial Services Giant

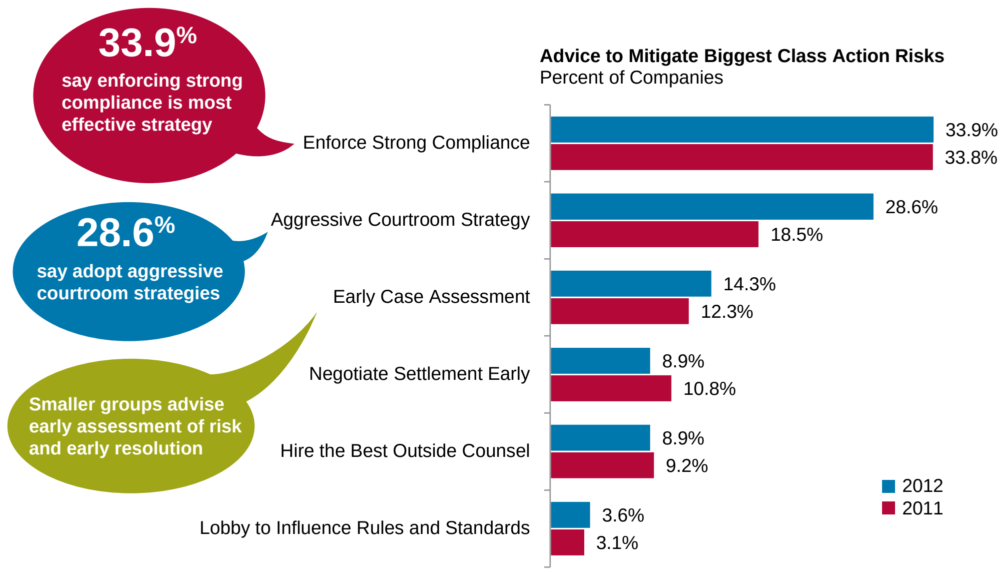
"Complaints that would change the fundamental way we do business—our sales practices in particular."

—Vice President, Legal
Multinational Hospitality Company

"How to fid, access, store, and manage the huge volume of data needed to defend the suits without affecting day-to-day operations."

—Corporate Counsel
Regional Banking and Financial Services Company

Advice to Mitigate Leading Risks



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Thirty-four percent of companies say strong compliance is the most effective class action lawsuit risk mitigation strategy. The second-most popular tactic is to adopt aggressive courtroom strategies, an approach favored by 29 percent of companies (up from 19 percent in 2011). These were followed by early case assessment (14 percent), negotiating settlement early and hiring the best outside counsel (tied at 9 percent), and lobbying to influence rules and standards (4 percent).

> "Assess the case early but be willing to defend in the long run to minimize costs of settlement and lower risk of future litigation in the long term."
>
> *—Corporate Attorney, Litigation*
> *Nationally Recognized Food Products Company*

> "Do not cut costs on legal talent. The stakes are too high to be out-lawyered."
>
> *—Senior Counsel*
> *Global Consumer Goods Manufacturer*

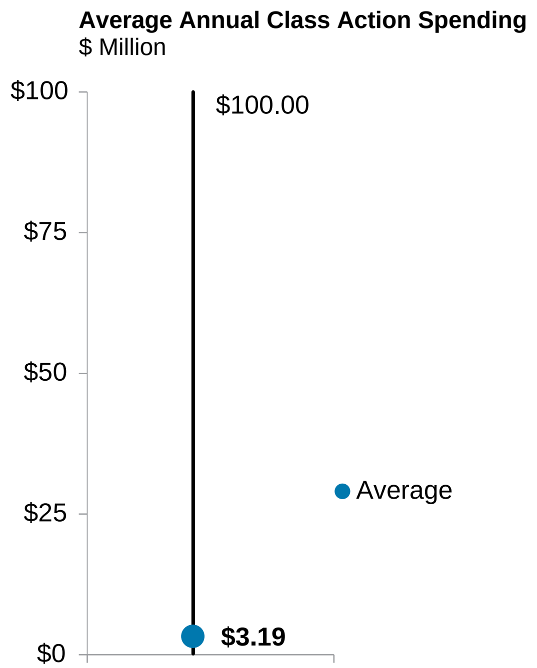
> "A passionate defense by outside counsel who care, and their ability to partner effectively with in-house counsel, make a tremendous difference with the overall cost of class action lawsuits."
>
> *—Associate General Counsel*
> *Fortune 1000 Professional Services Firm*

Best Practices to Manage Class Actions: Cost Control

Annually, per company spending on class actions averages $3.19 million. Across companies, however, spending varies widely. Organizations that regularly manage complex class actions may spend $100 million a year. On the other end of the spectrum, some companies spend an average of just $180,000 annually.

Annual Company Spending On Class Actions Varies Greatly

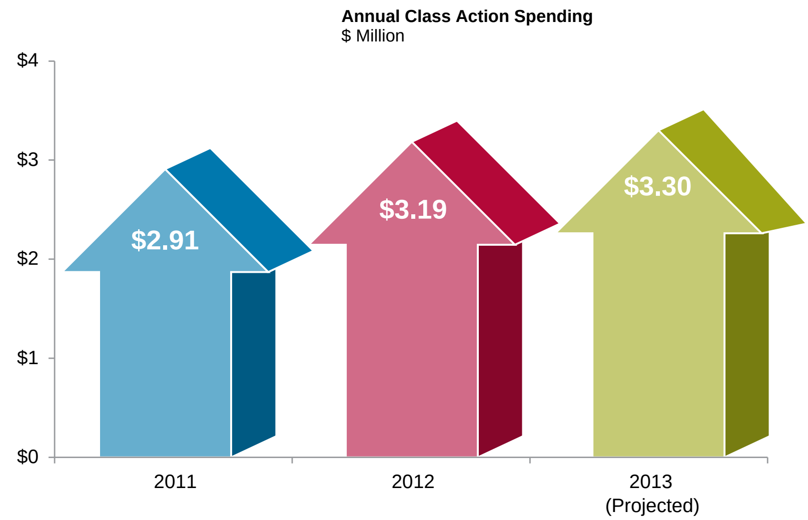
- Per company cost averages $3.19 million annually
- Organizations regularly managing complex class actions may spend more than $100 million annually



Aggregate spending on class actions increased 10 percent from 2011 to 2012, by nearly $300,000. One in three companies expect their 2013 class action spending to increase in 2013, with the average spend being $3.3 million, up from $3.19 million in 2012.

Aggregate Spending On Class Actions Increases by Nearly $300k

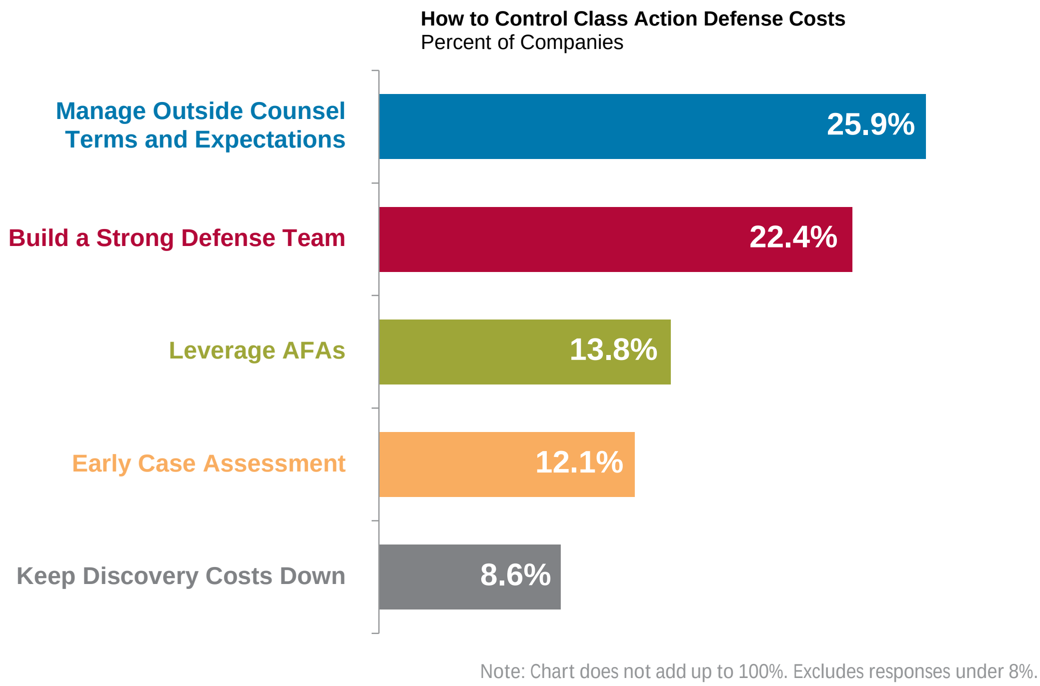
- Companies report spending 9.6% more than last year on class actions
- 1 in 3 companies with current class actions anticipate rise in 2013



Measures to Control Costs

- Require budget estimates
- Establish communications protocols
- Trim roster to streamline and strengthen law firm ties
- Build a strong defense team (preferably a long-term relationship)
- Pursue AFAs
- Get the right legal strategists
- Manage law firms and third-party vendors
- Select and train the right in-house talent
- Monitor and manage discovery

Corporate Counsel Recommendations for Controlling Class Action Costs



To control class action defense costs, corporate counsel recommend managing outside counsel proactively (26 percent), building a strong defense team (22 percent), leveraging AFAs (14 percent), undertaking early case assessment (12 percent), and keeping discovery costs down to the extent possible (9 percent).

On average, companies dedicate three in-house attorneys and three non-attorneys to class actions. In 2012, in-house legal departments added, on average, one full time employee to their class action management teams. This is consistent with the trend toward building more sophisticated, targeted internal legal resources in an effort to control costs and handle class actions more efficiently.

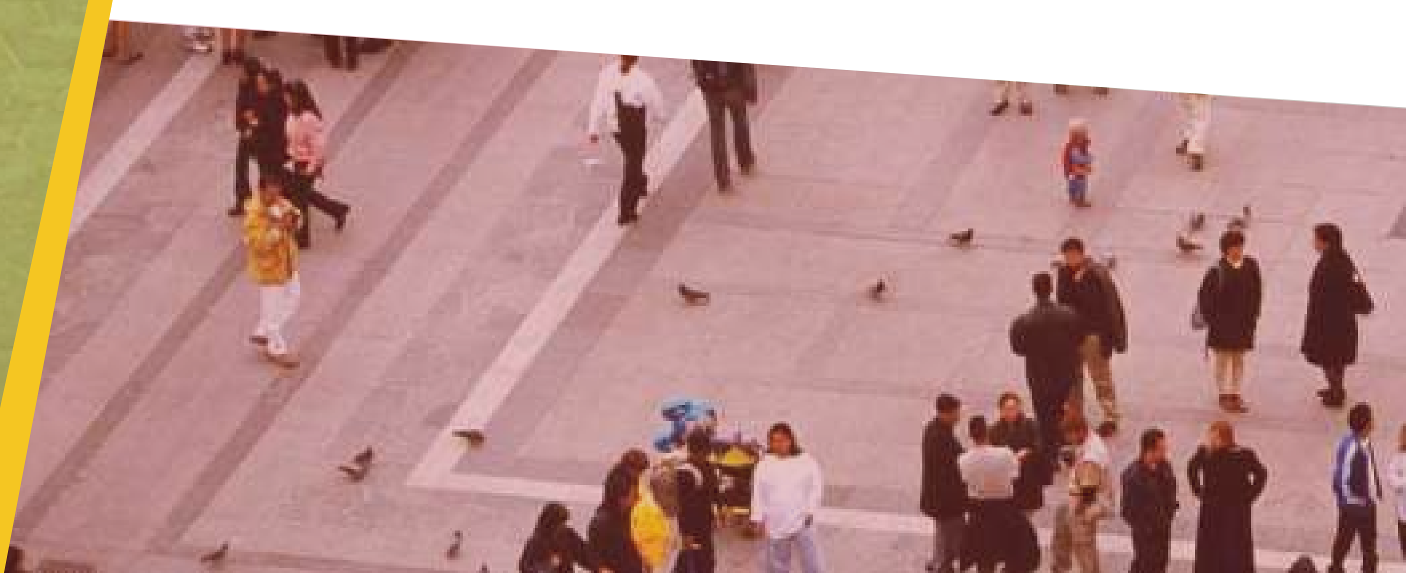
Companies Dedicate 3 In-House Attorneys and 3 Non-Attorneys to Class Action

- In-house legal departments, on average, added 1 FTE to class action management team in 2012
- Increase is in line with trends to build more sophisticated, targeted internal legal resources

Individuals and Attorneys Dedicated to Class Actions
Number of People

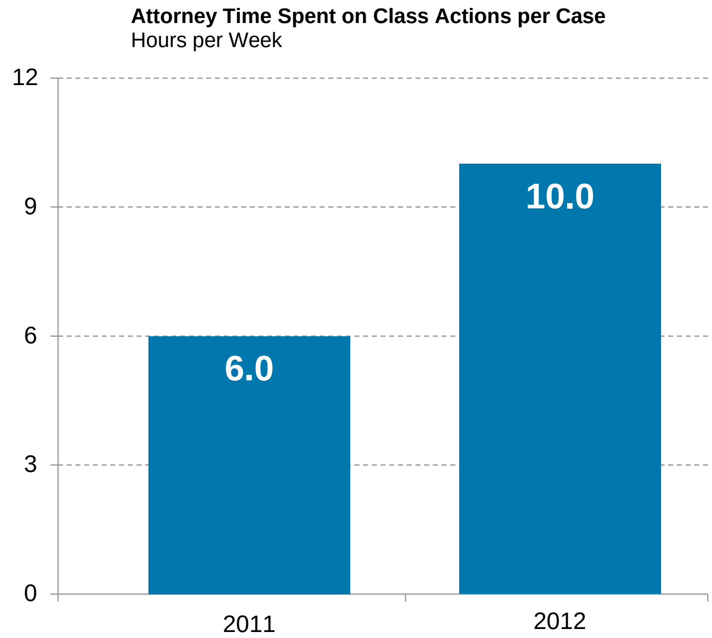
	All Individuals	Attorneys
Average	6	3
Median	4	2

Legal departments average 10 hours per week, and more than 500 hours annually on a single class action matter. This represents an increase over 2011, when in-house attorneys reported spending six hours per week per class action. These rising in-house hours help balance the cost implications of the 16 percent upsurge in the average number of class actions being handled in 2012 compared to 2011. Corporate counsel are relying more heavily on internal resources in an effort to drive value, reduce risk, and adopt an increasingly pragmatic approach.



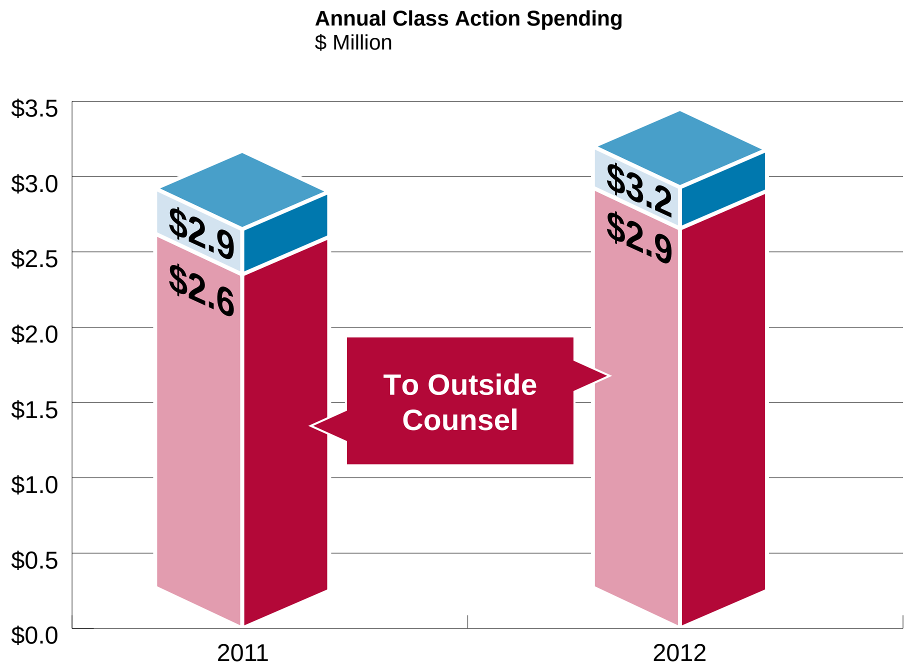
Legal Departments Average 10 Hours per Week and More Than 500 Hours Annually on a Single Class Action Matter

- In-house attorney time dedicated to each class action jumped from 6 to 10 hrs/wk
  - Increased in-house hours help temper cost implications of 15.9% increase in average number of class actions
- Corporate counsel rely more heavily on internal resources in effort to drive value, reduce risk, and adopt an increasingly pragmatic approach to litigation



Outside law firm spending makes up 90 percent of class action costs, a percentage comparable to the findings of last year's survey. In 2012, companies spent on average a total of $3.2 million on class actions, with $2.9 million of that going to outside counsel. In 2011, those numbers were $2.9 million and $2.6 million, respectively.

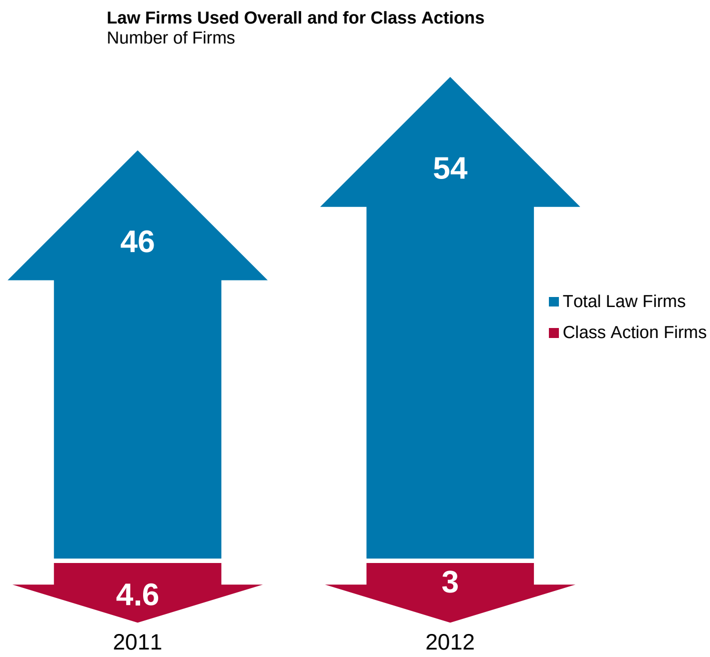
Outside Law Firm Spending Makes Up 90% of Class Action Costs



Although the percentage of outside counsel spend is comparable to that of 2011, corporate counsel report they are consolidating the number of firms they use to defend class actions. On average, they decreased the number of law firms used to handle class actions from 4.6 in 2011, to 3 in 2012. This reduction runs counter to the trend they reported of expanding their law firm rosters for all matters generally. The consolidation of law firms in the class action arena is driven by the opportunity to realize added value. Law firms that are consistently and significantly involved in defending class actions offer concentrated knowledge and insights and proven strategies in defending these actions.

Corporate Counsel Consolidating Firms Used for Class Actions

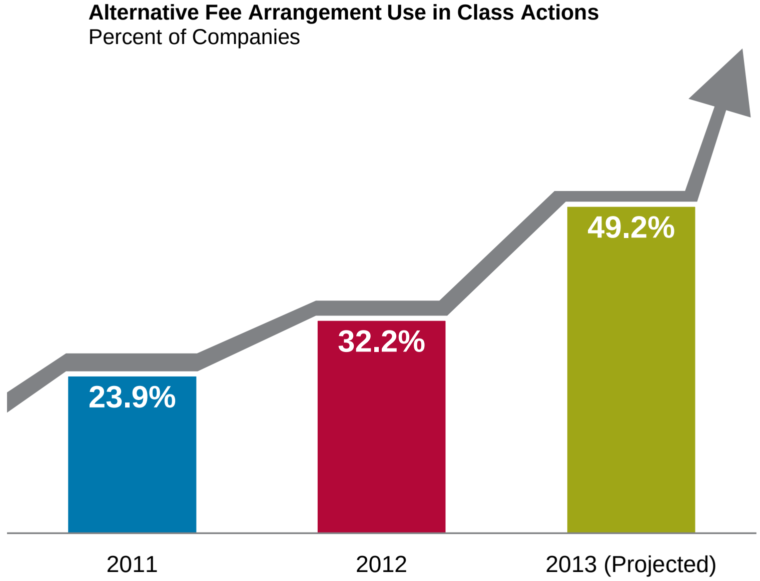
- In-house counsel decreased number of law firms used, on average, to handle class actions from 4.6 in 2011 to 3 in 2012
- This contrasts with the general trend of expanding law firm rosters (from 46 to 54 firms)
- Drivers for consolidation:
  - Increased value
  - Often related suits
  - Concentration of knowledge and insights



The use of alternative fee arrangements (AFAs), continues to rise. Nearly one-third of companies rely on them, a 35 percent increase from 2011. Another 17 percent plan to adopt AFAs in 2013, representing a more than 50 percent increase from 2012. AFAs have the perceived advantages of adding predictability, mitigating cost run-ups, and delivering cost savings.

AFA Use Continues to Rise

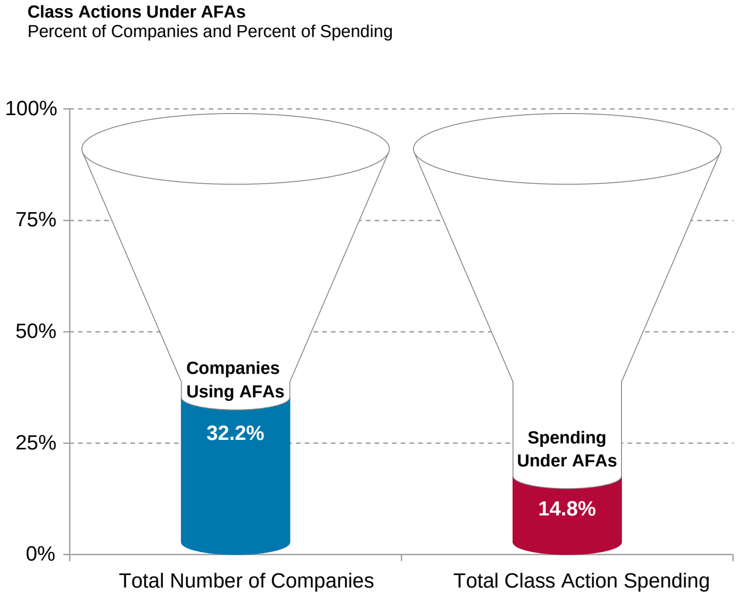
- Nearly 1/3 of companies rely on AFAs (a 35% increase from 2011)
- Another 17% plan to adopt AFAs in the coming year, a more than 50% increase
- Perceived advantages of AFAs:
  - Add predictability
  - Mitigate cost run-ups
  - Deliver cost savings



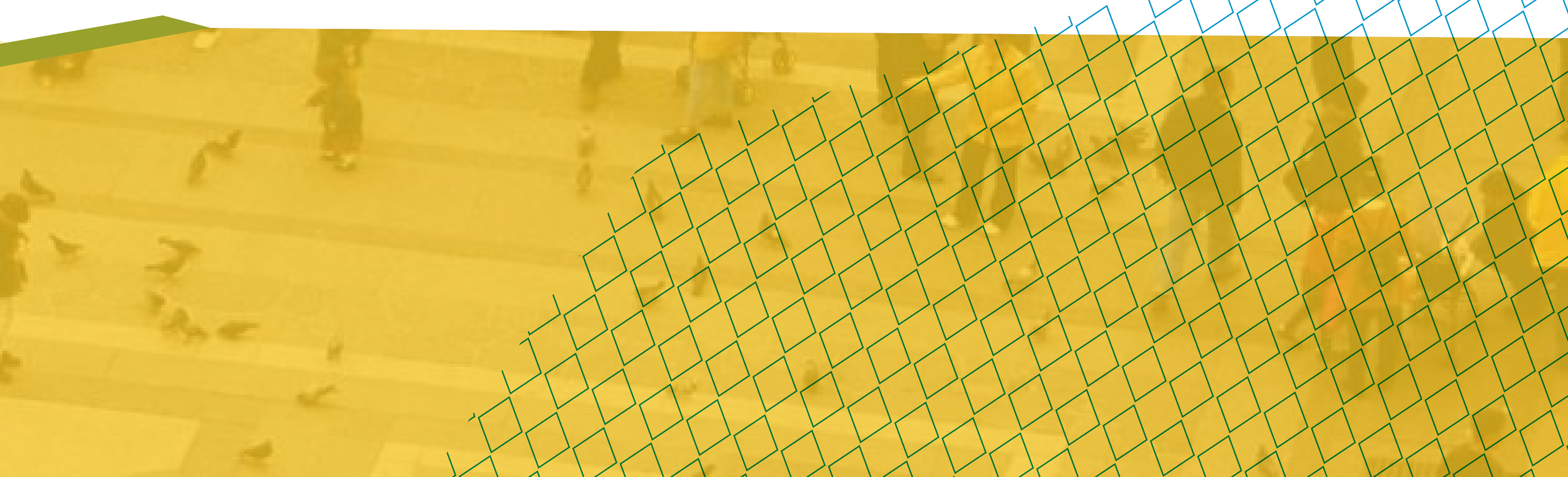
Although 32 percent of companies use AFAs in class actions, only 15 percent of all class action spending takes place under an AFA arrangement, indicating that AFAs tend to be used more on smaller, more routine class actions than on more complex or high risk matters.

Class Actions Under AFAs

- 32.2% of companies use AFAs in class actions and funnel 46.1% of their class action budgets through them
- 14.8% of all class action spending is under an AFA

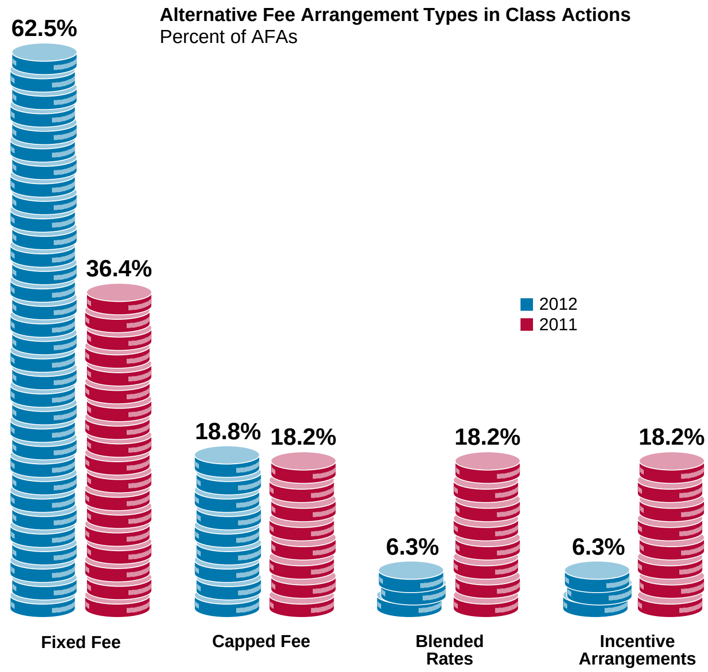


As in 2011, fixed fees are the predominant type of AFA. Nearly two-thirds, or 63 percent, of companies that use AFAs identified fixed fees as the type they prefer. This percentage is up significantly from 2011, when 36 percent of companies reported using fixed fees in their class actions. Fixed fees are followed in popularity by capped fees (19 percent), and blended rates and incentive arrangements (tied at 6 percent). The major advantage of fixed fees is that they offer a clear understanding of defense costs.



Fixed Fees Still the Predominant AFA Type

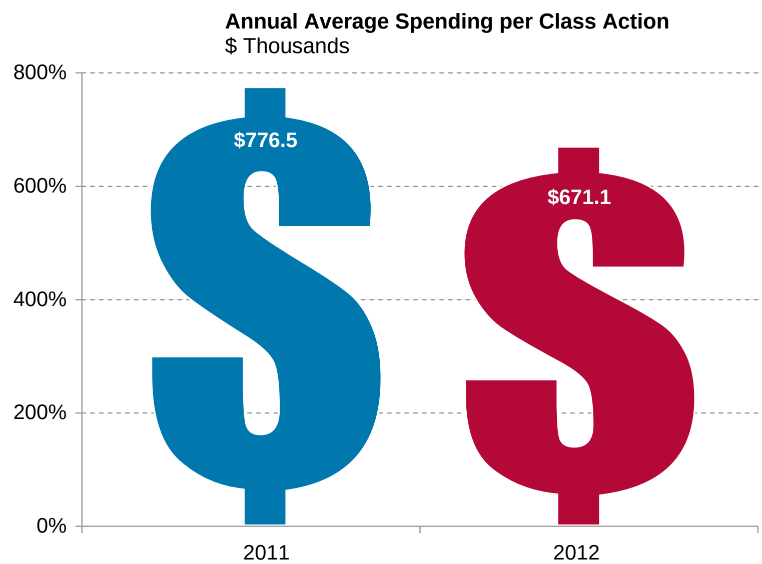
- Nearly 2/3 of companies using AFAs choose fixed fee arrangements
  - Surged over other AFAs in 2012
  - Major advantage: offers clear understanding of the cost of defense



Note: Chart does not add up to 100%. Excludes responses under 6%.

Companies Spending $100k Less Per Class Action This Year

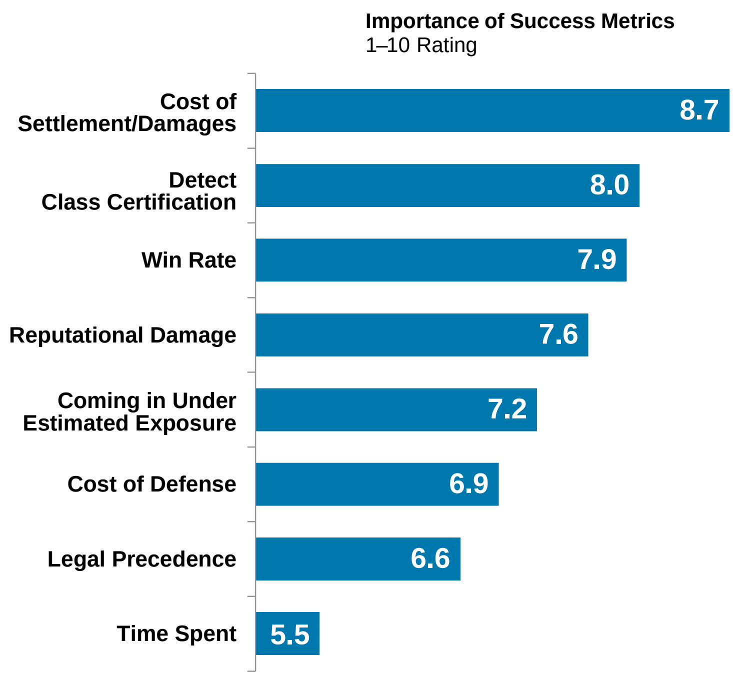
- Per suit spending dropped 13.6% from 2011 to 2012
- Consistent with last year's survey where corporate counsel targeted 16.8% decline
- Drivers for savings:
  - Early case assessment
  - New settlement strategies
  - In-sourcing



In 2012, companies reported spending on average $671,100 annually on each class action, approximately $100,000 less than the annual per class action average reported in 2011 ($776,500). This represents a 14 percent drop, which is consistent with the findings of last year's survey reporting that corporate counsel planned to reduce per class action spending by 17 percent. Early case assessment, new settlement strategies, and in-sourcing are driving these savings.

Cost of Settlement Or Damages is Top Success Metric, Win Rate Comes in Third

- The cost of settlement or damages tops other metrics of success
- Defeating class certification also important
- Winning is less critical than containing financial liability

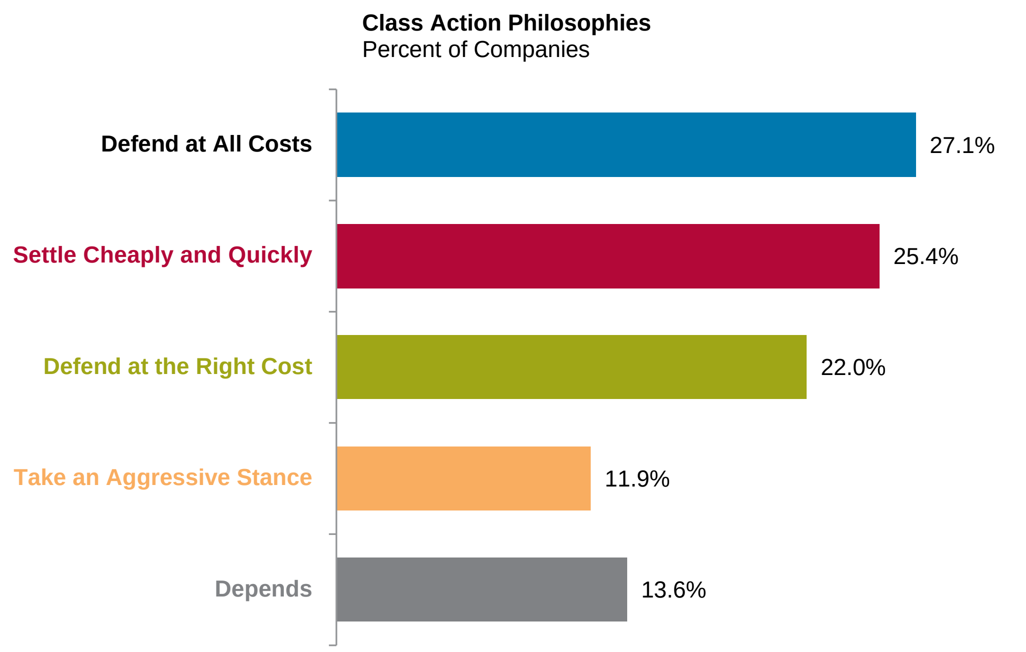


On a scale of 1-to-10, companies measure success using the following metrics: the cost of settlement or damages (8.7), defeating class certification (8.0), winning on the merits (7.9), avoiding reputational damage (7.6), coming in under estimated exposure (7.2), cost of defense (6.9), setting legal precedent (6.6), and time spent

Best Practices to Manage Class Actions: Philosophies for Defense and Resolution

Companies embrace the following widely varying philosophies in their approaches to class action defense: defend at all costs (27 percent), settle cheaply and quickly (25 percent), defend at the right cost (22 percent), or take an aggressive stance (12 percent). An additional 14 percent said the company's approach depends on the matter.

Widely Varying Philosophies Drive Different Approaches to Class Action Defense



Direct Feedback: The Aggressive Litigation Philosophy

"We don't roll over and pay even nuisance suits if they don't have legal merit."

—General Counsel
Fortune 100 Banking Giant

"Defend at all costs. Don't settle a class action or you'll get at least 10-15 more of them. If you defeat a class action, you'll get fewer of them."

—Senior Vice President and Deputy Chief Legal Officer
Fortune 500 Financial Services Leader

"By using this approach you protect your product and brand."

—Product Litigation Attorney
Well Known Building Materials Manufacturer

"Fight tooth and nail to defeat certification."

—Chief Counsel, Credit
Well Known National Bank

"Most of our efforts go to defeating certification."

—Vice President, Litigation, Regulatory, and Compliance
Fortune 100 Grocery Retail Chain

Direct Feedback: The Moderate Philosophy

"Defend aggressively but know when to try to settle and mitigate the risk."

—Senior Counsel
Leading Aerospace and Defense Company

"My philosophy is careful analysis of exposure followed by appropriate resolution or vigorous defense."

—Senior Director, Associate General Counsel, Global Branded IT Litigation Global Pharmaceuticals Giant

"For a significant case, aggressively defend. Devote more resources and time. For one with less impact to business we would devote a bit less attention to it."

—Senior Managing Counsel
Large Construction Products Company

"Quick and cheap resolution."

—Chief Litigation Counsel
Leading Medical Device Company

"Expend the least amount of money possible, period."

—Deputy General Counsel
Leading Pharmaceutical Maker

"This approach, I believe, puts our shareholders first."

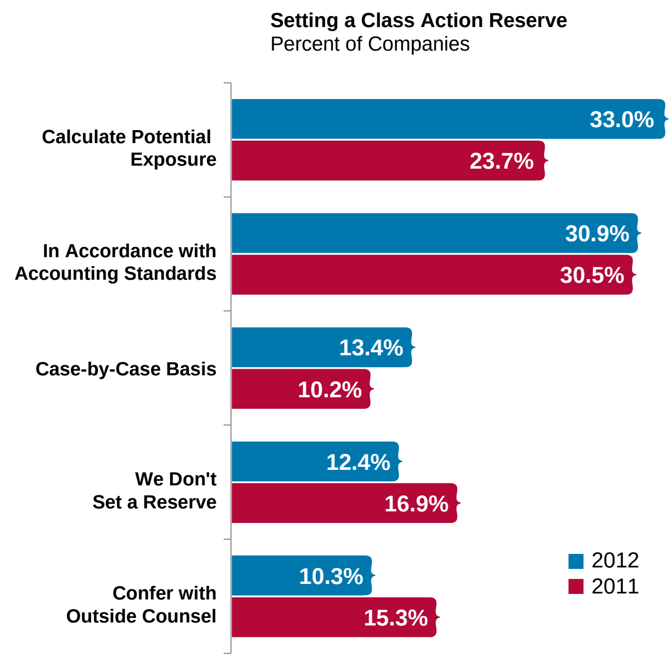
—Associate General Counsel
Nationally Recognized Staffing Service Pioneer

Best Practices to Manage Class Actions: Setting the Reserve

Strategies for setting class action reserves vary. Thirty-three percent of companies rely on rigorous assessment and modeling to calculate potential financial exposure. They are followed by the 31 percent that set the reserve in accordance with accounting standards. Others report setting the reserve on a case-by-case basis without identifying the method they use (13 percent) or by conferring with outside counsel (10 percent). Twelve percent choose not to set a reserve for potential liability. Corporate counsel who invest additional hours to calculate financial exposure spend that time conducting predictive risk modeling, modeling financial exposure using a varied set of assumptions, adjusting the model as new information becomes available, managing internal and external resources to maintain targeted objectives, and proactively tracking major legal developments. These efforts, as part of setting a case reserve, allow corporate counsel to get a better handle on a case early on and to develop an appropriate strategy and approach to litigating it consistent with a well-developed strategy and set of objectives.

Strategies for Setting Reserves Vary

- 33% rely on rigorous assessment and modeling to calculate potential financial exposure
- More than 30% set the reserve “in accordance with accounting standards”
- 12.4% opt not to set a reserve for potential liability



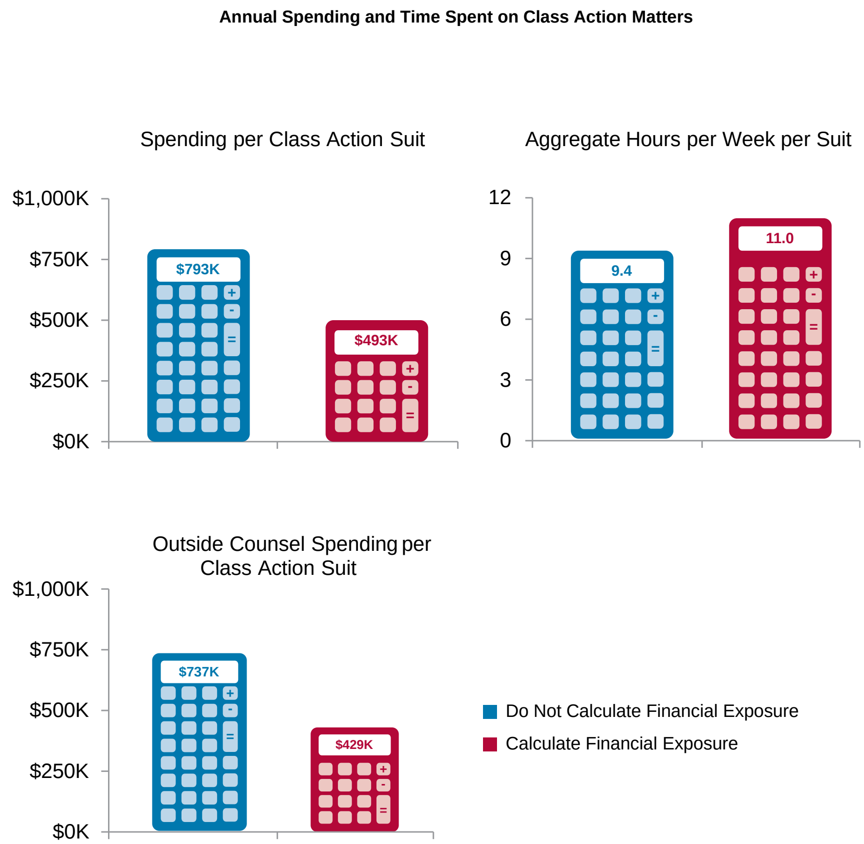
Using rigorous assessment and modeling to calculate financial exposure correlates with substantial cost savings. Companies that employ this strategy and up spending 38 percent less per class action and 42 percent less on outside counsel than companies that do not conduct a rigorous assessment.

Companies Calculating Potential Financial Exposure 3 Times More Likely to Rely on Formal, Systematic Approach

- 1 in 3 reap rewards of calculating potential financial exposure through formal, systematic methods
  - Conduct research
  - Use experience-based modeling
  - Create decision trees
- Companies using potential financial exposure calculations more likely to be handling multiple class actions
  - 3 in 4 organizations using this approach to setting the reserve have multiple active class action suits
- Developing the knowledge and skills in-house to perform financial exposure calculations can help avoid over reliance on outside consultants

Calculating Financial Exposure Based on Rigorous Assessment and Modeling Generates Substantial Cost Savings

- Spending per class action is lower by $300k (37.8%)
- Spending on outside counsel per suit is lower by 41.8%
- Investment of in-house legal departments is higher by 1.6 hours per week for each class action

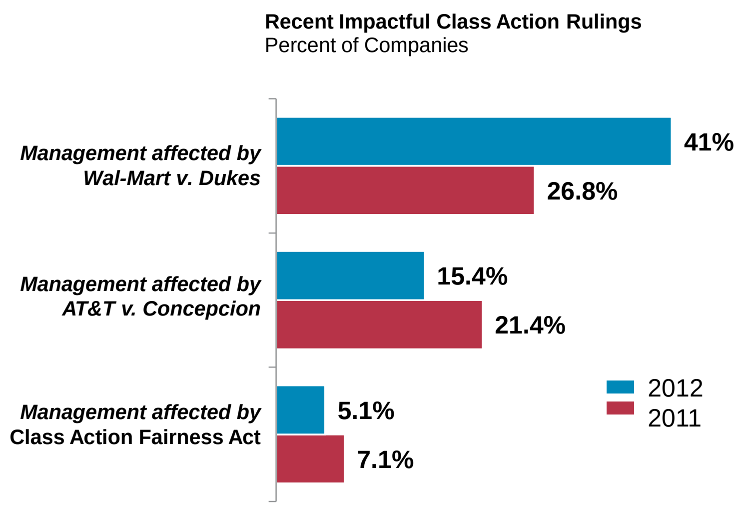


Impact of Recent Class Action Rulings

Two 2011 Supreme Court cases, *Wal-Mart v. Dukes* and *AT&T v. Concepcion*, continue to impact class action management. The *Wal-Mart* case placed an increased burden on plaintiffs' counsel to produce evidence supporting certification, creating a new impetus to defend vigorously against class certification. The *AT&T* case resulted in an increased likelihood that an arbitration clause will preclude a class action. In 2012, 41 percent of companies reported that *Wal-Mart* affected their management of these matters, and 15 percent said that *AT&T* affected their class action management. In response to these Supreme Court rulings, 54 percent of companies have changed the way they handle class actions. Specifically, this majority is more aggressively fighting class certification, amending contracts to include arbitration clauses and adjusting risk assessment factors and models.

Wal-Mart and *AT&T* Impact Class Action Management

- *Wal-Mart v. Dukes*:
  - Increased onus on plaintiffs' counsel to produce evidence supporting certification
- *AT&T v. Concepcion*
  - Increased likelihood of arbitration clause precluding class action

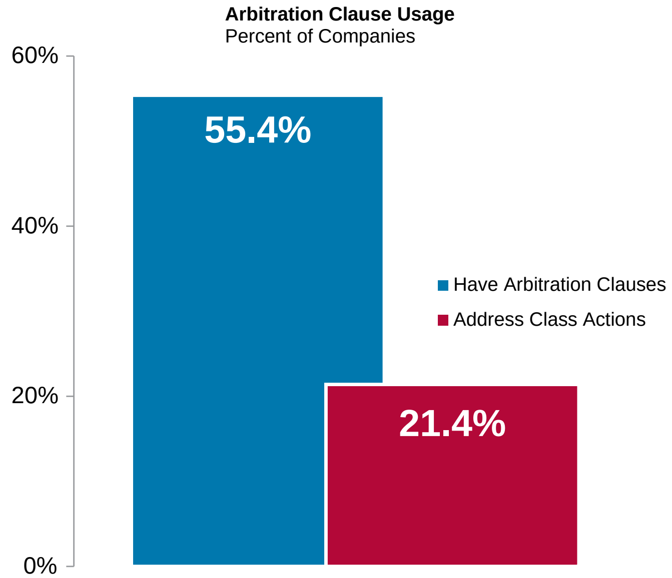


Note: Chart does not add up to 100%. Excludes responses under 5%.

It is noteworthy that while 55 percent of companies routinely include arbitration clauses in their contracts, just 21 percent of those address class actions in these clauses (most by explicitly precluding them). These clauses offer another source of risk management.

After *AT&T*, Arbitration Clauses Offer Another Source of Risk Management

- 55.4% report routinely including arbitration clauses in contracts
- 21.4% address class actions in these clauses, with most explicitly precluding class actions in arbitration



Methodology and Research

The 2013 Carlton Fields Class Action Survey results were compiled from 368 standardized, in-depth interviews with general counsel, chief legal officers, and direct reports to general counsel. Consistent with the approach used last year, to control for bias and assure objectivity, Carlton Fields retained an independent consulting firm to select the companies and conduct the interviews, which lasted 42 minutes, on average. The consulting firm provided only aggregate data to Carlton Fields. All individual responses and company names were kept confidential and excluded from the survey results.

Survey participants' companies had average annual revenues of $13.1 billion and median annual revenues of $3.8 billion. The surveyed companies operate in more than 25 industries, including banking/financial services, consumer goods, energy, high tech, insurance, manufacturing, and retail trade.

About Carlton Fields

Carlton Fields has litigated and counseled clients in hundreds of class actions for more than 30 years. These cases present unique challenges due to their different rules, enhanced scope, and higher stakes. The firm understands the potential impacts, costs, and risks associated with class actions, and is a leader in developing legal approaches and strategies for handling class action litigation.

If you would like to learn more about the survey and how these results impact you, or to discuss the Carlton Fields class action practice, please contact **Chris S. Coutroulis**, Chair of the firm's Litigation Council, at ccoutroulis@carltonfields.com or 813.229.4301.

To obtain additional copies of this report, visit www.ClassActionSurvey.com.

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