

# Record Class Action Caseloads, Impacts of COVID-19 Among Findings in 2022 Class Action Survey

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Carlton Fields is pleased to share its [11th annual Class Action Survey](#), which provides an overview of important issues and practices related to class action matters and management. This annual publication reports on historical trends captured since the inception of the survey and includes information related to emerging issues in class action litigation.

Class action spending has increased for seven consecutive years, and it is expected to continue to rise in 2022. Companies with class actions are seeing increases in the number of class actions they face at a given time. The current portfolio reveals the highest number of both ongoing matters and total matters since the inception of this survey 11 years ago.

The 2022 Carlton Fields Class Action Survey is based on interviews with general counsel or senior legal officers at more than 400 Fortune 1000 and other large companies across a variety of industries. They shared their thoughts about class action exposure and best practices for class action management.

## **Defense Spending on Class Actions Heads Up for the Seventh Straight Year — Hits New Record**

Companies are spending more upfront, face record caseloads, and are keeping in-house attorneys at the same levels as last year. This translates into increased spending to assess and defend class action matters.

## **Labor and Employment Tops All Class Actions Companies Face**

COVID-19 is seen as causing increased labor and employment claims — especially wage and hour, discrimination, and workplace safety claims.

## **Labor and Employment, Consumer Fraud, and Data Privacy Expected to Lead Next Wave of Class Actions**

Companies expect more labor-related claims along with data privacy claims to lead the next wave of class actions. The two are related as work-from-home and hybrid work environments increase the chances of the unauthorized release of data.

## **Consumer Fraud Claims Expected to Soar**

Companies' increasing use of social media to make statements is becoming a magnet for plaintiffs' counsel to allege false claims. The audiences for such claims are wide and the plaintiffs' bar is aggressive, with statements regarding environmental, social, and governance (ESG) issues drawing particular attention. Pharmaceutical and supplement manufacturers increasingly are attracting new claims.

## **Class Action Caseload at Each Company to Hit a Record High in 2022**

The typical large company can anticipate a 27% increase in class action caseload in 2022.

## **Number of In-House Attorneys Managing Class Actions Is Down One Attorney Since 2018**

Most companies are keeping in-house staffing levels unchanged from 2020, which is one attorney lower than our 2018 survey.

## **Companies Plan to Increase Reliance on Outside Counsel**

The increased caseload, variability of issues between cases, and unpredictable staffing needs find in-house counsel increasingly relying on outside counsel to defend class actions.

## **Fewer AFAs Being Used**

More companies are opting for hourly rates to move through their caseload after years of experimentation with alternative fee arrangements (AFAs).

## **Trusted Outside Counsel, Early Case Assessment Equal Powerful Cost Reduction Tools**

Companies point to trust in outside counsel to do the right thing for companies as the most effective cost management tool. This is followed closely by early case assessment, which is especially valuable when performed by trusted outside counsel.

## **Bet-the-Company Matters on the Decline**

The number of companies facing bet-the-company matters dropped substantially to less than 5%. While the class actions these companies face may be complex, they are now less likely to be perceived as critical to the balance sheet or the stock price.

The full report is available to download at <https://classactionsurvey.com/>.

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