

# Class Actions

## Overview

Carlton Fields' class action practice team of more than 70 lawyers handles complex class actions throughout the country, at every state and federal court level, including the U.S. Supreme Court. We have defended hundreds of high-exposure class actions across a range of substantive areas, including financial services, insurance, consumer fraud, health care, real estate, antitrust, securities, product liability, toxic tort, telecommunications, tax, construction, and employment. We are familiar with virtually every issue class actions present, including the standards for class certification and strategies for defeating it, challenges to standing, jurisdiction and venue, removal, dismissal, summary judgment, arbitration, settlement administration, MDL proceedings, and joinder of parties. In the past 3 years, our lawyers have handled more than 100 active class action matters.

Our firm also has a deep understanding of the legal doctrines and laws that have particular impact on the financial services and insurance industries, including the filed-rate and form doctrines, primary jurisdiction, the McCarran-Ferguson Act, the Private Securities Litigation Reform Act, and the Securities Litigation Uniform Standards Act. Additionally, we regularly litigate removal and settlement issues related to the Class Action Fairness Act.

### Early Case Assessment

The early evaluation of class action litigation is critical to efficient case planning as well as risk management. Our class action attorneys work closely with our clients to assess not only the strengths and weaknesses of the case but also to craft a litigation plan to reduce exposure and identify a set of shared objectives.

### Tailored Strategies

For some clients, a vigorous challenge to class certification is critical. Others prefer strategic settlement. Still others wish us to try their cases and, if necessary, pursue appeals. In each situation, we help clients achieve their business objectives and litigation goals.

### Case Management

We are frequently retained to manage or coordinate a client's overall institutional response to multiple jurisdiction, parallel class actions, or multidistrict litigation. The skills of our class action team are supplemented by our firsthand knowledge of the risks peculiar to various jurisdictions and our significant experience in selecting and teaming with local trial counsel as appropriate.

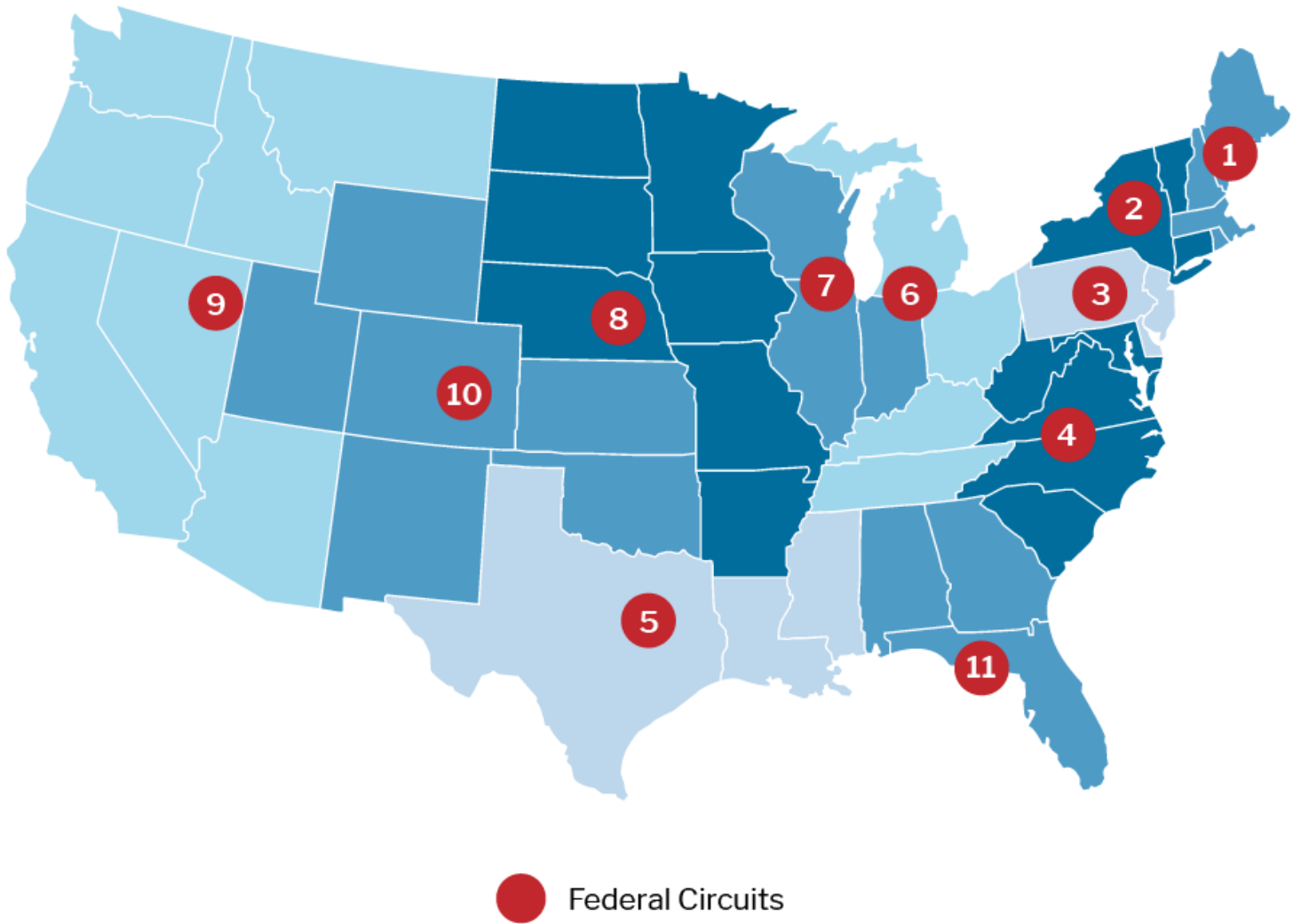
### Firmwide Resources

Our national class action defense practice team works closely with firm colleagues who focus on particular issues that arise in class action lawsuit defense. For example, they collaborate with our e-discovery team to formulate cutting-edge strategies that address the growing challenges raised by electronically stored information. They also receive crucial support from the firm's appellate lawyers, who work alongside them before and during trial to develop the best possible record and, if necessary, to prevail on appeal.

### Thought Leadership

- The firm conducts and publishes an annual national [Class Action Survey](#), which details best practices for reducing class action costs and managing their risks. The survey draws on more than 300 in-depth interviews each year with general counsel and senior legal officers at leading companies of every size.
- Our class action lawyers contribute frequent posts to our blog, [Classified](#), which features case summaries and links to class action-related news.
- We write and speak often on class action defense issues and trends, and have presented to clients and counsel across North America.

## Nationwide Experience



## Experience in every circuit, at every level

Carlton Fields has litigated and counseled clients in hundreds of class actions for more than 30 years in federal and state courts across the nation.

Review a list below of some of the cases we have handled in the U.S. Supreme Court, the U.S. court of appeals in every circuit, and numerous U.S. district courts, as well as in state supreme and intermediate appellate courts.

## Eleventh Circuit – Alabama, Florida, Georgia

### **Mann v. Unum Life Insurance Company of America, 139 So. 3d 895 (Fla. 2d DCA 2014)**

- Putative Class Action: CAFA Removal Amount In Controversy.

### **Higgins v. Commonwealth Land Title Insurance Co., No. 04-365-CA (Fla. Cir. Ct. Apr. 21, 2014)**

- Summary judgment in favor of title insurer and against certified class of refinancing borrowers who alleged they had been overcharged by not being provided reissue rates for title insurance.

### **Castellanos v. Citizens Property Insurance Corp., No. 06-27811 CA 01 (Fla. Cir. Ct. June 14, 2017)**

- Order granting summary judgment in favor of insurer against certified class of condominium unit owners and against cross-plaintiff property developer; court finds that claims for “constructive total loss” were barred by the insurance policy’s Ordinance and Law exclusion and by failure to demonstrate compliance with city ordinance that purportedly required demolition of building.

### **911 Dry Solutions v. Citizens Property Insurance Corp., No. CACE-17-021727 (Fla. Cir. Ct. 2017)**

- Challenge to policy limits for mitigation of non-hurricane water damage.

### **Stoll v. Musculoskeletal Institute, No. 8:20-cv-01798 (M.D. Fla. Feb. 18, 2021)**

- Granting motion to stay data breach class action pending the Supreme Court's resolution of TransUnion v. Ramirez.

### **Diaz v. Deutsche Bank National Trust Co., No. 1:14-cv-22583, 2014 WL 4351411 (S.D. Fla. Sept. 2, 2014)**

- Obtained dismissal with prejudice of entire seven count class action complaint seeking to quiet title to over 50,000 properties and void over 50,000 valid notes and mortgages.

### **Decastro v. Small Planet Foods, Inc., No. 9:14-cv-80033 (S.D. Fla. 2014)**

### **In re Takata Airbag Products Liability Litigation, No. 1:15-md-02599 (S.D. Fla. 2015)**

- Putative class actions for economic damages and personal injuries arising from allegedly defective airbags.



### **Gelfound v. MetLife Insurance Company of Connecticut, 313 F.R.D. 674 (S.D. Fla. 2016)**

- Obtained order denying plaintiff's motion for class certification of putative nationwide class action for breach of contract against insurer in action challenging premiums charged for a long-term care insurance policy rider.

### **Downing v. Fidelity National Title Insurance Co., No. 3:16-cv-00119 (N.D. Ga. Sept. 14, 2017)**

- Putative class action against six title insurers alleging unlawful conspiracy to defraud purchasers of title insurance in Georgia by scheming to eliminate discounts from published premiums dismissed with prejudice because, inter alia, alleged misrepresentations of law are not actionable, and even if actionable, were not proximate cause of alleged injury to plaintiff.

### **In re Knology, Inc., No. 12-cv-0564, 2015 WL 9666753 (Ga. Sup. Ct. Dec. 3, 2015)**

- Order denying plaintiff's motion for national class certification in case filed by former shareholders involving alleged breaches of fiduciary duty in connection with corporate merger.

### **Salcedo v. Hanna, 936 F.3d 1162 (11th Cir. Aug. 28, 2019)**

- Defense of an entity sued under the TCPA in a putative class action for sending a single unwanted text message. In a landmark decision, the Eleventh Circuit held that the plaintiff failed to allege a concrete injury sufficient to confer Article III standing, creating a circuit split on the issue.

## **Tenth Circuit – Oklahoma, Kansas, New Mexico, Colorado, Wyoming, Utah**

### **Weller v. HSBC Finance Corp., 187 F. Supp. 3d 1263 (D. Colo. 2016)**

- Enforcing class action settlement against a class member attempting to relitigate claims related to lender-placed flood insurance in a Mississippi action, and enjoined the settlement class member from further pursuing released claims in the Mississippi action.

## **Ninth Circuit – Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Washington**

### **Howisey v. Transamerica Life Insurance Co., No. C17-00009 RSM (W.D. Wash. Nov. 30, 2017)**

- Order granting final summary judgment for insurer in class action involving long term care insurance claims, and the application of "Nursing Home Benefits" provisions and related Washington regulations under a long term care insurance policy.

**Logan v. Union Security Insurance Co., No. 2:14-cv-01174, 2015 WL 3745047 (C.D. Cal. Mar. 31, 2015)**

- Motion to dismiss granted in significant part in putative class action involving insurer's claims practices and interpretation of policy language in life and accidental death policies.

**Rashid v. Einstein Noah Restaurant Group, Inc., No. CGC-13-534629 (Cal. Super. Ct. 2014)**

- Class action complaint alleging failure to reimburse for automobile mileage incurred while making bank deposit and a claim for penalties for the purported failure to reimburse under California's Private Attorneys General Act of 2004 on behalf of herself and other similarly-affected employees.

## **Eighth Circuit – Minnesota, Iowa, North Dakota, South Dakota, Nebraska, Missouri, Arkansas**

**McCaffree Financial Corp. v. Principal Life Insurance Co., 811 F.3d 998 (8th Cir. 2016)**

- Representing industry group as amicus curiae in support of district court's grant of motion to dismiss in ERISA class action litigation involving allegedly excessive management fees charged by 401(k) retirement plan service provider.

## **Seventh Circuit – Illinois, Indiana, Wisconsin**

**Leimkuehler v. American United Life Insurance Co., 713 F.3d 905 (7th Cir. 2013)**

- Represented industry group as amicus curiae in support of prevailing party in appeal from district court's grant of summary judgment in ERISA class action involving alleged "revenue sharing" fees.

**Cohen v. American Security Insurance Co., 735 F.3d 601 (7th Cir. 2013)**

- Affirming dismissal of putative national class action alleging fraud and breach of contract regarding lender-placed insurance.

## **Sixth Circuit – Kentucky, Michigan, Ohio, Tennessee**

### **Gooch v. Life Investors Insurance Company of America, 672 F.3d 402 (6th Cir. 2012)**

- Vacating certification of national class alleging breach of contract and the implied duty of good faith and fair dealing, bad faith, and violation of state consumer protection act, finding prior class settlement was entitled to preclusive effect.

### **Corwin v. Lawyers Title Insurance Co., 276 F.R.D. 484 (E.D. Mich. 2011)**

- Denial of class certification in putative statewide consumer class action against title insurance underwriter alleging overcharging for title insurance premiums.

## **Fifth Circuit – Mississippi, Louisiana, Texas**

### **Hunter v. Transamerica Life Ins. Co., 498 F. App'x 430 (5th Cir. 2012)**

- Affirming dismissal of national class action collaterally attacking prior class action settlement.

### **Kocurek v. CUNA Mutual Insurance Society, No. 08-581 (W.D. Tex. 2012)**

- Certification proceeding stayed in putative class action alleging fraud and deceptive trade practices in connection with credit life policy. Action initially dismissed; reinstated after appeal to Fifth Circuit Court of Appeals and settled on an individual basis.

## **Fourth Circuit – Maryland, North Carolina, South Carolina, Virginia, West Virginia**

### **Stevens v. Camping World Holdings, Inc., No. 5:17-cv-00416 (E.D.N.C. 2017)**

- Following motion to dismiss, plaintiff voluntarily dismiss putative class action alleging that obligor had a policy of providing incomplete refunds following the cancellation of vehicle service agreements.

## **Third Circuit – Pennsylvania, New Jersey, Delaware, Virgin Islands**

### **Lauren v. PNC Bank, N.A., 296 F.R.D. 389 (W.D. Pa. 2014)**

- Motion to dismiss granted in putative nationwide class action against hazard insurer alleging unjust enrichment and challenging certain practices related to lender-placed insurance.

**Alberton v. Commonwealth Land Title Insurance Co., 299 F.R.D. 109 (E.D. Pa. 2014)**

- Decertification of statewide class action for unfair trade practices based on alleged overcharging for title insurance premiums.

**Francese v. American Modern Insurance Group, Inc., No. 2:17-cv-02246 (D.N.J. Apr. 16, 2019)**

- Obtaining dismissal of class action brought against lender placed insurers and mortgage loan servicers alleging "illegal kickbacks" of premium charges and misappropriation of insurance proceeds based on the "filed rate" doctrine and mortgagor's lack of standing to pursue policy benefits.

## Second Circuit – Connecticut, New York, Vermont

**In re Tremont Securities Law, State Law & Insurance Litigation, 699 F. App'x 8 (2d Cir. 2017)**

- Represented private placement variable life insurer in its capacity as a financial institution class member in a nationwide class action settlement relating to alleged losses attributable to Madoff "feeder fund" investments.

**Miller v. Wells Fargo Bank, N.A., 994 F. Supp. 2d 542 (S.D.N.Y. 2014)**

- Motion to dismiss granted for insurer in putative class action alleging, inter alia, breach of contract and violations of RICO and state consumer protection statutes in connection with placement of lender-placed insurance.

**Fleisher v. Phoenix Life Insurance Co., No. 18 F. Supp. 3d 456 (S.D.N.Y. 2014)**

- Class action challenging insurer's cost of insurance rate adjustment, granting defendant's motion for summary judgment as to breach of contract claims alleging impermissible basis for rate adjustment.

## First Circuit – Maine, Massachusetts, New Hampshire, Rhode Island, Puerto Rico

**Kolbe v. BAC Home Loans Servicing, LP, 738 F. 3d 432 (1st Cir. 2013)**

- Represented amicus curiae in case that affirmed in part the dismissal of a putative class action alleging breach of contract and breach of the implied covenant of good faith and fair dealing regarding lender-placed insurance practices.

## Merrimon v. Unum Life Insurance Company of America, 758 F.3d 46 (1st Cir. 2014)

- Represented industry group as amicus curiae in support of defendant-appellant/cross-appellee in successful appeal from district court's fiduciary liability ruling and class-wide monetary award in ERISA class action involving a group life insurer's use of retained asset accounts to pay life insurance benefits.

## Insights

05.03.2024

2024 Carlton Fields Class Action Survey Results

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04.01.2024

Labor and Employment Class Actions Increase by 10%

*Thomson Reuters*

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03.14.2024

For Now, Generative AI Is Risky for Class Action Counsel

*Law360*

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03.11.2024

Digital Collusion or Warp-Speed Competition Evaluating the Agreement Element in the Algorithmic Pricing Antitrust Cases

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02.23.2024

Classified Monthly A Roundup of Class Action Decisions From Federal Appellate Courts January 2024

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01.24.2024

California Courts Lack Authority to Strike PAGA Claims on Manageability Grounds, but Due Process Could Be a Ticket Out

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01.22.2024

Classified Monthly A Roundup of Class Action Decisions From Federal Appellate Courts

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08.30.2023

Rough Waters in the Expert “Hot Tub” – Court Throws Class Expert Overboard in Google Play Store Litigation

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07.12.2023

11th Circuit Stands Alone in Barring All Class Incentive Awards

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07.10.2023

Class Action Survey: Companies Report Big Drop in COVID-19 Class Actions

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07.07.2023

The Lack of Actual Injury Defense: The Landscape Since TransUnion

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06.26.2023

Class Action Survey: What Strategies Are Most Effective at Reducing Cost and Managing Risk in Class Action Litigation?

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06.22.2023

Class Action Survey: Is AFA Use in Class Actions Increasing, Decreasing, or the Same as Last Year?

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06.20.2023

Mark Cuban’s Cryptocurrency Conundrum: The Road to Filing Sanctions

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06.12.2023

Class Action Survey: Corporate Counsel Reveal Their Thoughts on Class Action Waivers

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06.05.2023

Class Action Survey: Class Action Settlements Reach Record Low

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05.30.2023

Class Action Survey: Baseless Claims a Common Concern for Corporate Counsel

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05.24.2023

It's 3 AM: Do You Know What Your Website Is Doing? Tips for Reducing Regulatory and Litigation Risk Stemming From Website Technologies

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05.22.2023

Class Action Survey: Companies Report "Sweet Spot" for Class Action Panels

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05.15.2023

Class Action Survey: Companies Perceive Consumer Fraud Class Actions as Posing the Biggest Risk

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05.08.2023

Class Action Survey: What Types of Class Action Matters Are Most Prevalent? Two Types Have Driven the Bulk of Class Action Spending Over the Last Five Years

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04.27.2023

Class Action Survey: Did Class Action Defense Spending in 2022 Continue Its Upward Trend?

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04.26.2023

Companies See Big Rise in Labor & Employment Class Actions and Defense Spending

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04.15.2023

2023 Carlton Fields Class Action Survey Review - Class Action Trends and Best Practices

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01.24.2023

Website Data Practices Fueling Privacy Class Actions: Six Tips for Reducing Risk

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10.11.2022

Proposed Cryptocurrency Class Action Goes Forward in Florida With Defendant's Help

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09.15.2022

Classified: The Class Action Blog Podcast - Eleventh Circuit Stands on Principle in TCPA Settlement Case

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08.04.2022

Fitting a Square Plaintiff Into a Circle Class? No Can Do Says Florida Federal Court

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07.27.2022

District Court Asks Sixth Circuit to Review Two-Step FLSA Collective Certification Test

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07.18.2022

Eleventh Circuit Addresses Potential Conflict Between FDCPA and TILA, Holds That Debt Collector Must Comply With Both

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07.08.2022

“Right to Repair” Class Actions Against John Deere Obtain a Centralized Forum

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06.23.2022

Eleventh Circuit Affirms Class Certification and Settlement in “Factually Peculiar” In re Checking Account Overdraft Litigation Saga

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06.17.2022

PAGA Claims Sent Down the River: Supreme Court Gives California Employers Major Victory in Viking Cruises Arbitration Case

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05.16.2022

Companies Report Rise in Labor and Employment Class Actions: Will the Trend Continue Through 2022?

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05.11.2022

The Latest on Cy Pres: As Gorilla Monsoon Said... Close Only Counts in Horseshoes and Hand Grenades

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05.02.2022

COVID-19 Class Action Heat Map Shows More Than 2,800 Pandemic-Related Putative Class Actions

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04.25.2022

\$91M in AAA Filing Fees? Another Lesson in Being Intentional in Drafting Class Action Waivers in Arbitration Agreements

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04.23.2022

Seeking Clarity on Medical Privacy in Fla. Class Actions

*Law360*

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03.17.2022

2022 Carlton Fields Class Action Survey Review - Class Action Trends and Best Practices

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## Related Capabilities

### Practices

- Appellate & Trial Support
- Banking, Commercial, and Consumer Finance
- Consumer Finance
- Construction
- Construction Litigation
- Cybersecurity and Privacy
- International Privacy Compliance
- Education

### Industries

- Banking, Commercial, and Consumer Finance
- Construction
- Life, Annuity, and Retirement Solutions
- Property & Casualty Insurance
- Real Estate
- Securities & Investment Companies
- Technology
- Telecommunications

- Energy and Utilities
- Life, Annuity, and Retirement Litigation
- Sales Practices – Market Conduct Litigation
- Reinsurance
- Title Insurance
- Labor & Employment
- Discrimination
- Litigation and Trials
- Mass Tort and Product Liability
- Pharmaceuticals and Medical Devices
- Real Estate
- Real Property Litigation
- Securities Litigation and Enforcement
- Technology
- AdTech
- Telecommunications
- Telecom: Litigation and Arbitration
- Telecom: Transactions
- Telephone Consumer Protection Act