Class Action & Complex Litigation

Class actions and complex litigation cases are a far cry from traditional lawsuits. These more complicated and multifaceted matters require representation from highly specialized litigators – litigators like those that make up M&R's Class Action & Complex Litigation Practice Group.

There's no substitute for three things our extraordinary class action and complex litigation lawyers bring to the table: vast courtroom experience, a long record of success defending high exposure cases, and in-depth subject matter knowledge that stems from the firm's industry-focused approach to law. These attributes, coupled with incomparable preparation and defense strategies that are equal parts hard-hitting and innovative, explain M&R's exceptional national reputation in class action and multi-district cases.

Protecting our clients' business interests and achieving their short- and long-term goals – whether that means an early resolution at the pleading stage, a jury verdict, or an outcome in between – drives our representation. That being said, the firm's class action and complex litigators are renowned for their collective ability to secure early claims dismissals, defeat class certification, and significantly reduce client exposure by negotiating favorable settlements. And when the prompt resolution of a lawsuit is elusive or otherwise impossible, our practice group attorneys navigate the trial and appeals processes confidently and, most often, successfully. To wit, over the past decade, we have been on the right side of scores of class action cases with billions of dollars and entire businesses at stake.

REPRESENTATIVE MATTERS

**Advertising:** Conducted an internal audit that led to an extraordinarily favorable settlement of a false advertising class action filed against a California-based nutritional supplement company by plaintiffs alleging that the results of the company's supplements were not as advertised in print or on television.

**Automotive:** Represented a leading automobile manufacturer in a multi-party consumer action. Successfully obtained a denial of class certification and then dismissal of the remaining claims by way of summary judgment.

**California Invasion of Privacy Act (CIPA):** Successfully defended a leading credit card processor in two “bet-the-company” class actions alleging usury and violation of the California Invasion of Privacy Act (CIPA). Obtained dismissal of the class action usury class claims at the pleading stage by demonstrating the enforceability of a class action waiver. Then, the trial court issued an order striking the remaining class action allegations, which transformed a multi-million dollar action into an $18,000 case – a ruling that was affirmed on appeal.

**Copyright:** Prosecuted a copyright infringement action on behalf of a popular game manufacturer against a counterfeiting ring comprised of local and China-based corporate and individual defendants that sold knock-off products here and abroad. Secured a stipulated judgment against all defendants that required payment of the maximum statutory damages allowable under the law for willful copyright infringement. Also obtained a permanent injunction against the future sale of counterfeit products.

**Discrimination:** Successfully defended a Fortune 100 company in a national origin and gender discrimination class action alleging discrimination against minorities and women with respect to all aspects of their employment, including recruiting, testing, hiring, promotions and compensation.

**Insurance Rates:** Jointly and successfully defended a class action involving allegations regarding improper automobile insurance rates. A demurrer was sustained without leave to amend at the trial court level, a decision that was unsuccessfully appealed. The published opinion is frequently cited to support an insurer's defense of litigation challenging the viability of premiums charged.

**Misclassification:** Successfully defended a large insurance company sued for approximately $600 million because its distribution channel (brokers) was allegedly comprised of de-facto agents. After lengthy litigation, the plaintiffs' attempt to certify the class was defeated, and the class representative was declared “inadequate” and removed. Plaintiffs then voluntarily dismissed the case. Subsequently, defended 10 other similar class actions.
**Product Liability**: Represented a leading automobile manufacturer in a milestone products liability case establishing that the principles of comparative fault apply to products liability claims.

**Securities**: Successfully defended a pharmaceutical company and its directors and officers in a SEC investigation and federal class action securities case brought by shareholders in the wake of disappointing results of a Phase III clinical trial for the company’s leading drug candidate. Hard-fought litigation resulted in a favorable settlement of the case, paid entirely from insurance proceeds with no financial contribution from any defendant. The SEC investigation was also resolved without enforcement activity.

**Telephone Consumer Protection Act (TCPA)**: Successfully defended a national insurance brokerage in a class action alleging that the recording of customer telephone calls without proper disclosures was a violation of Telephone Consumer Protection Act (TCPA). The brokerage faced billions of dollars in damages in light of applicable statutory damages of $5,000 per call and a total of approximately 600,000 alleged calls. Case was dismissed based upon novel argument establishing that the legislative intent of the TCPA was to protect against “industrial espionage.”

**Telephone Consumer Protection Act (TCPA)**: Obtained a complete dismissal without prejudice in a putative class action lawsuit brought under the TCPA against an agency specializing in the placement of automobile and home insurance. The plaintiff alleged that he received a marketing call from the agency despite having placed his number on a do-not-call registry, yet the agency was adamant that it did not make the call, nor did it authorize any third party to do so. Ultimately, the case was voluntarily dismissed in the wake of a Local Rule 7-3 meet and confer conference, during which the filing of a Rule 12(b)(6) motion to dismiss for failure to state a claim was threatened.

**Unfair Competition**: Successfully defended a class action brought by multiple plaintiffs against a nationwide retailer of consumer electronics for alleged violations of the California Unfair Competition Law (UCL) and Consumers Legal Remedies Act (CLRA). The CLRA claim – based upon allegations that the retailer violated the law by printing “Not Redeemable for Cash” on the back of its gift cards – was deemed to be without merit, and class certification was thereafter defeated on multiple grounds.

**Wage & Hour**: Represented a prominent insurance brokerage that was held liable for violating California’s wage and hour overtime laws and faced a $42 million judgment. Convinced a federal court that that judgment should be reduced to $1.2 million because plaintiffs’ counsel misapplied relevant employment laws concerning the expansion of a “class” – this after intense litigation that hinged upon an analysis of legislative intent. On appeal, the Ninth Circuit upheld the lower court’s ruling.

**Wage & Hour**: Successfully defended a metal supply company facing a putative wage and hour class action lawsuit brought by a former employee. Compelled the plaintiff to accept mediation, during which it was demonstrated that, should the case go to trial, it would likely be limited in scope to meal and rest breaks (with no liability on the other claims alleged). Consequently, the matter was settled the case for pennies on the dollar, which settlement encompassed 265 current and former employees.

**AREAS OF EXPERTISE**

**Advertising & Marketing**
We routinely defend against class action claims involving alleged violations of state and federal deceptive trade practices and false advertising claims.

**Consumer Finance & Lending Practices**
The firm handles bank and lending litigation, including multijurisdictional consumer class actions, individual consumer and commercial cases, matters pending in bankruptcy and probate courts and investigations and enforcement actions by state Attorneys General and state and federal regulators.
Consumer Protection & Products Liability

Our experience extends to defending class actions asserting claims under the Telephone Consumer Protection Act and the Fair and Accurate Credit Transactions Act, among other consumer protection statutes. Likewise, we represent clients in cases relating to defective products, breach of warranty and ancillary consumer fraud issues.

Data Breach

We represent companies in class actions stemming from the inadvertent disclosure of customer or proprietary data to unauthorized third parties.

Insurance

M&R’s class action litigators are particularly well versed in insurance-related matters, and frequently represent clients in complex, multi-party coverage, rate and rate filing, claims adjustment and regulatory compliance cases.

Labor & Employment

The firm defends management in a range of employment class actions (e.g., wage and hour) as well as high-stakes adverse treatment and adverse impact discrimination cases involving race, gender, age, and disability issues, and hiring, promotions, discipline, harassment, and discharge claims.

Securities

M&R’s Class Action & Complex Litigation Practice Group includes securities litigators who represent issuers, underwriters, advisors, auditors, officers and directors in cases alleging violations of federal and state securities laws, rules and regulations.