

Class Action

Our Class Action Practice Group has been on the cutting edge of issues relating to multiparty and multidistrict cases and taken lead roles in matters involving a wide array of claims, such as product liability, consumer fraud, aviation, securities fraud, antitrust, employment, financial services, and insurance.

Our team's perspectives allow us to see issues from all sides, giving our clients a strategic advantage before, during and after trial.

An effective defense against a class action lawsuit requires early strategic evaluation of the claims and defenses to minimize the client's exposure to risk. Our team has repeatedly and successfully litigated the propriety of class certification and resolved class actions early in the litigation, saving our clients time and money.

In addition to a strong defense team, we have an exceptional group of attorneys experienced in pursuing class action claims on behalf of our clients. Our attorneys understand the strategic choices plaintiffs' counsel make in important situations. We evaluate potential opportunities to maximize recovery and counsel clients on whether they should opt out of the class and file a separate action or remain part of the class and, if there is a settlement or recovery, how to respond.

In class actions, clients rely on Schnader's extensive trial experience, as well as our excellent brief writing and negotiation skills. Ever mindful of our client's business objectives and resources, we prepare every case with the goal of winning at trial. Our experience on both sides of the class action bar enables us to make smarter decisions and advocate most effectively on behalf of all of our clients.

Specific examples of recent class action cases include the following:

- Schnader represents three railroads - Consolidated Rail Corp., Norfolk Southern Corp., and CSX Transportation, Inc. - that were sued in several putative class actions filed on behalf of residents and businesses in Gloucester County, New Jersey. The plaintiffs allegedly suffered economic loss after a train passing over a bridge derailed and released vinyl chloride vapor into the atmosphere. Efforts to remand the cases were defeated, so they will remain in federal court, allowing the parties to litigate the class certification issues in the context of the Third Circuit's standards.
- Schnader represented Rohm and Haas (now Dow Chemical) when it was sued in dozens of cases in Pennsylvania state and federal courts, based on complaints that plaintiffs and/or their decedents were harmed as a result of exposure to chemicals originating from two Rohm and Haas facilities. Among the cases was a class action filed in the Eastern District of Pennsylvania on behalf of virtually all the residents of a town near one of the plants seeking medical monitoring and damages for diminution of property value. Schnader persuaded the district court to deny class certification on the grounds that there were too many individual differences among the putative class members to satisfy Rule 23. In August 2011, the Third Circuit issued a precedent-setting decision affirming this finding. After rehearing was denied, the plaintiffs voluntarily dismissed the case with prejudice.
- Schnader attorneys were counsel for the defendant in *Pichler v. UNITE*, a class action alleging violations of the Drivers' Privacy Protection Act. After obtaining summary judgment for the defendant on both the plaintiffs' claims for multiple awards of the statutorily provided damages and the plaintiffs' claims for punitive damages, these attorneys negotiated a class action settlement agreement that reduced the class to less than two-thirds of the class members initially identified. Because the settlement agreement involved a "claims made" settlement, the client's liability was limited to the statutory damages claims of those individuals who filed claims and could demonstrate that they were class members.
- Schnader represented the defendant in *Bloodworth v. TBF Financial, Inc.*, a class action complaint asserting that defendant's efforts to collect credit card debt did not comply with the requirements of the Fair Debt Collection Practices Act. We filed a motion to dismiss. Before the motion was decided, the parties attended a scheduled mediation at which the case settled for a nominal amount.
- In *Hagan v. Rogers*, Schnader obtained the reversal of the dismissal of plaintiff inmates' action against detention facility officials for failure to address the threat of a contagious skin disease, and obtained vacatur of the trial court's decision not to certify action as a class action.
- Schnader attorneys represented CertainTeed Corporation, a manufacturer of building products, in connection with approximately two dozen class actions filed in diverse federal courts on behalf of homeowners who complained about deteriorating roofing shingles. The company's primary defense was that plaintiffs' remedies were limited to those afforded under the applicable warranties. After limited discovery, a "claims-made settlement" was negotiated that, in its simplest terms, enhances the warranty coverage applicable to the shingles. Because CertainTeed sold a small percentage of its shingles in Canada, the settlement class was international in scope and, after the settlement was approved in the U.S. court, Schnader attorneys worked with Canadian attorneys to

obtain approval of the agreement from a Canadian court. Currently, Schnader is assisting with CertainTeed's ongoing administration of the settlement, which will continue as long as the underlying warranties are enforceable.

- Schnader attorneys served as co-lead counsel in multidistrict antitrust litigation alleging price fixing and international market allocation in the pressure-sensitive label stock industry. Schnader attorneys coordinated discovery from multiple parties, involving millions of pages of documents and worked closely with economists to develop models to assess damages arising from the alleged conduct. As a result of these efforts, our clients obtained settlement payments representing a substantial portion of their potential damages.
- Schnader attorneys represented several pension and investment funds in claims relating to the sale of securities issued by AOL/Time Warner. The clients pursued their claims in Pennsylvania state court as individual claims, rather than as absent class members in the federal class action suit; and as a result, they achieved a more favorable monetary outcome than had they stayed in the class.
- Schnader represents a class of former TWA pilots in the lawsuit against their union, the Airline Pilots Association, arising from American Airline's 2001 acquisition of TWA. The pilots alleged that the union breached its duty of fair representation in connection with the transaction, resulting in unfair seniority integration. After a six-week jury trial in federal court, Schnader lawyers obtained a jury verdict against the union on liability and causation.

Contacts

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