Foster Garvey

Class Action Litigation

Leveling the *odds*

We defend class action litigation. Our team has a proven track record of securing swift, favorable resolutions. From the outset, we take a strategic approach. We will continually evaluate opportunities to resolve disputes early through motion practice and effective alternative dispute resolution.

We have convinced class counsel to drop cases before or shortly after they have been filed. We have won dismissal motions to terminate or limit class action claims. Some cases have been dismissed with finality at the pleading stage, without plaintiffs conducting any discovery - no depositions, no document productions and no interrogatories. We have also prevented cases from being certified as class actions and prevailed on the merits in cases where a class has been certified.

We bring considerable, focused resources to bear on our class action representations, including our extensive knowledge of the local courts and our ability to handle high-profile, media-sensitive matters. Recognizing the burdens that litigation can impose, we ensure that our litigation strategy is consistent with our clients' overall business strategy and objectives, including negotiating resolutions either directly or through mediation procedures. We team with our insurance coverage practitioners to secure available defense and indemnity for class action claims.

We have represented a wide range of clients in class actions, including retailers, manufacturers, telecommunications companies, biotechnology firms, software developers, financial institutions, health care providers and government entities.

Representative Experience

- Defeated class action for damages and injunctive relief against a municipal airport operator based on claims for alleged inverse condemnation, nuisance and trespass caused by airport noise.
- Represented multiple financial institutions in national and state-wide putative class actions alleging breach of contract, unjust enrichment and Consumer Protection Act claims based on fees purportedly not authorized by loan documents. Resolutions include outright dismissals and negotiated settlements.
- Obtained dismissal with prejudice of eight consolidated federal securities class actions against a biotechnology company and its key executives involving allegations that the company made misleading statements about its quarterly results and revenue projections.
- Obtained summary judgment in the representation of an NFL team and an affiliate on claims that pre-game "pat-downs" of fans were unconstitutional searches.
- Representation of a wholesale retailer in a putative nationwide class action alleging that the retailer had failed to disclose key facts about certain "mail-in rebates" on products sold in the client's stores nationwide; achieved a favorable settlement without discovery.

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