



TRENDS IN CLASS ACTIONS, MASS TORTS & MDLs

DEC. 8, 2017

For more information about these topics, please contact Phil Calabrese or Caroline Gentry. You may also read more on our website at www.porterwright.com/class_action_trends



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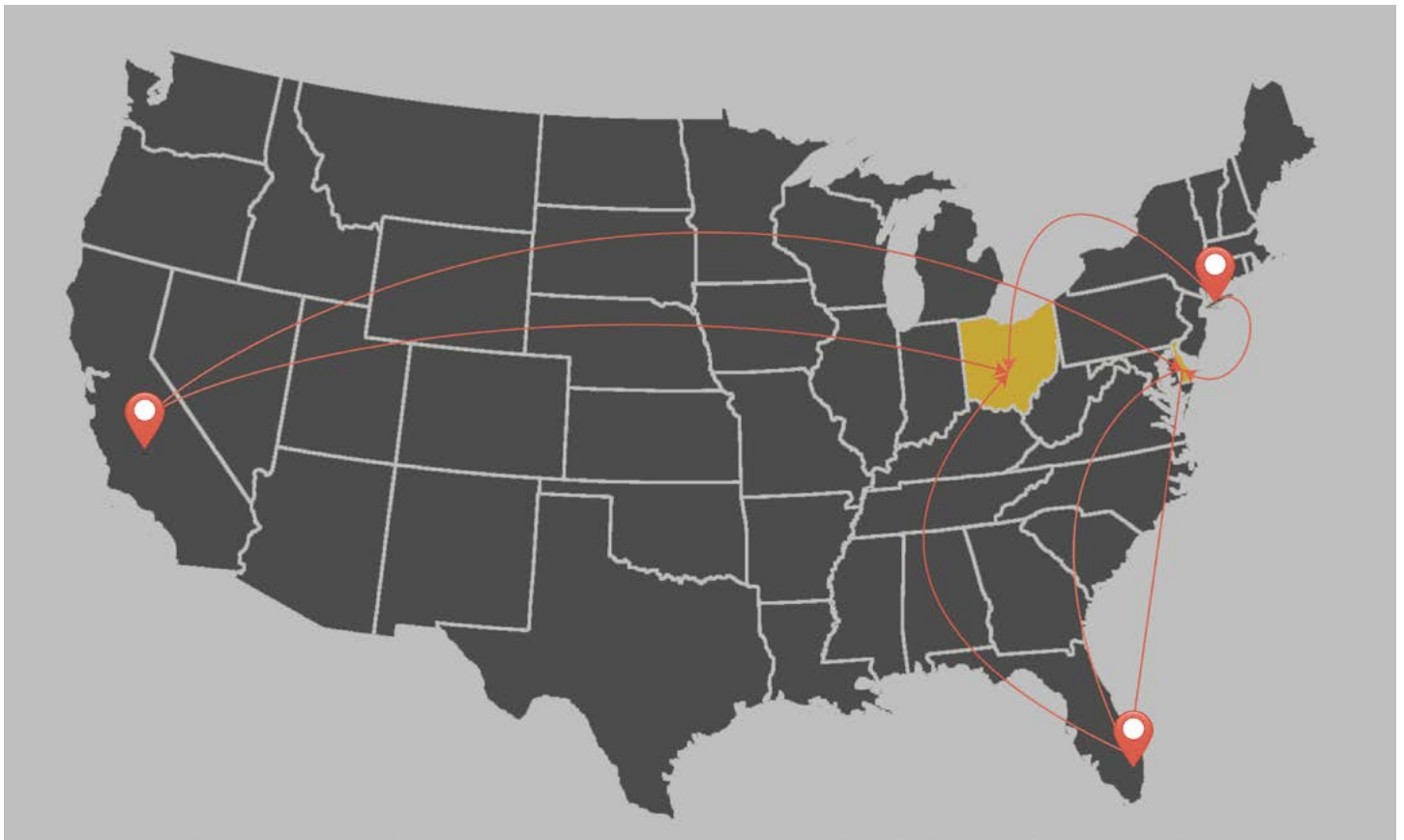
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CLASS ACTION FORUMS TODAY AND TOMORROW

Everyone knows that many class actions are filed in California. But the Southern District of Florida (Miami) and the Eastern District of New York (Brooklyn) are popular, too. Together, these three forums typically account for one-third of all class action filings in the federal courts.

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LEGISLATIVE CHANGES

Class arbitration waivers

Congress and the Supreme Court may take action on class action waivers, which bar the consumer or employee from participating in a class action.

Other class action changes

Congress is considering the Fairness in Class Action Litigation Act (H.R. 985) and Amendments to Rule 23.

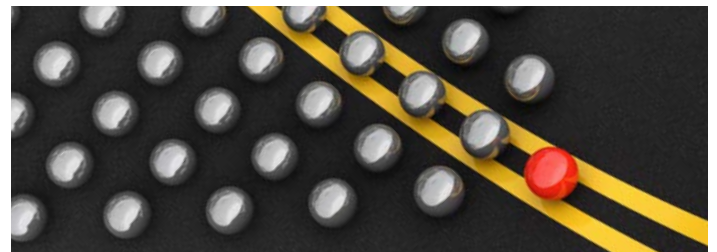
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PRODUCT LABELING

Is your product marketed and labeled as “green,” “natural” or “smart?” Can you prove that it is? Marketing claims remain a prime target for class action litigation.

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COPYCAT LITIGATION

How do you react when you see class action litigation against a competitor? Perhaps it's a warning to prepare for the class action about to be filed against you.

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BY THE NUMBERS

Consumer class actions take the top spot, followed by labor class actions

In the first three quarters of 2017, nearly half of all class actions filed in federal court were consumer class actions that fall into the categories of banking/financial (1258), products/sales (1131) and contract/insurance (357).

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ADA COMPLIANCE

Are your website and mobile apps ADA compliant?
Do you want to find out in class action litigation?

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DATA BREACH

Tired of all those data breach seminars? Well, data breach class actions are real. But the threat may not be quite what you think.

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SETTLEMENT "RACKETS"

Reversal of Subway's foot-long class action settlement will lead to greater scrutiny of settlements and benefits to class members in particular.

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ANTITRUST

Add government regulators and antitrust class action litigation in the U.S. to the risks German automakers are facing.

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SECURITIES

2017 saw a record number of securities class actions filed in the federal courts—more than 730 to date. A number of factors that may be here to stay explain this increase.

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MDL UPDATE: ON THE PANEL

At the end of the third quarter, there are more than 225 multidistrict litigation (MDLs) pending in federal courts around the country. These MDLs include nearly 125,000 pending individual civil actions—comprising roughly one-third of all civil case filings in the federal courts. This year, the judicial panel on multidistrict litigation centralized 23 MDLs. Of these, 14 were product liability cases, three involved data breach and three challenged various sales practices. The panel declined to centralize cases related to 36 motions to create an MDL.

One potential MDL in particular warrants mention. Presently pending before the panel are motions to centralize pending litigation against manufacturers and distributors of opioids. At least 100 cases are pending around the country asserting different causes of action against different defendants brought by diverse groups of plaintiffs that include individuals, health insurers, and state and local governments. In addition to opioid manufacturers, distributors and others in the supply chain, some of the suits name doctors and pharmacies as defendants. The panel heard arguments on centralizing this litigation on Nov. 30, 2017, and should issue a ruling shortly. Whether these cases proceed through a single MDL proceeding or separately, look for significant developments in this litigation in 2018 that will have major effects on the development of the law and on business throughout the country.

MASS TORTS

Beyond opioids, data breach and asbestos, lawsuits claiming damages from use of talcum powder continue to grow. These cases allege that use of talcum powder on female infants causes ovarian cancer. Juries have returned defense verdicts and verdicts for plaintiffs ranging from \$50 million to \$100 million, and as high as \$417 million. Appellate courts are starting to overturn the verdicts, but these jury verdicts have continued new case filings, which now exceed 5,000 cases nationally.

In the coming year, look for growth in mass torts alleging water contamination following the drinking water crisis in Flint, Michigan, claims involving drugs and devices such as hip replacements and certain diabetes medications and innovation in claims relating to human trafficking.

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