

## CLASS ACTIONS AND MASS TORTS

### OVERVIEW

Class Action and Mass Tort & Product Liability are core practices at BCLP. For decades, we've defended thousands of public and private companies in high-stakes and bet-the-company litigation in state and federal courts throughout the United States. Mounting a successful defense to a nationwide class action or mass tort suit requires a diverse blend of skills, knowledge and experience, as well as exceptional talent for courtroom advocacy. We design our litigation teams to leverage subject matter knowledge with the practical skills necessary to manage every facet of complex litigation, including overseeing e-discovery, supervising industrial, scientific and economic experts, and coordinating a global litigation strategy to defeat class certification and win at trial on the merits.

Unlike many large law firms, we boast a full bench of partners with true jury trial experience. Our litigation practice grew out of decades of successfully trying high-profile matters in well-known judicial hellholes. Our litigators are battle-tested and have the proven ability to successfully represent corporate defendants in complex cases in front of a jury. For this reason, we are one of just a few law firms that have defended multiple certified class actions to verdict before a jury – and won. Our litigation bench includes fellows of the American College of Trial Lawyers, Chambers-recognized trial lawyers and class action litigators, and some of the leading female trial lawyers in the nation.

As a relationship-based firm, we value our clients' long-term success. Achieving a major courtroom victory is only one piece of the puzzle. Therefore, when we defend a class action or mass tort suit, we invest in learning and understanding the unique features of our clients' businesses. Most importantly, we invest in learning how our legal defense can foster the client's broader strategic goals. Our driving question, in any litigation, is to understand what constitutes a true "win" for our client, and then tailor our strategy accordingly.

### One Firm / Team Focus

We purposefully structured our practice group to combine BCLP's leading class action and mass tort lawyers into a single practice group. We have dedicated teams with extensive experience for the following sectors:

## CLASS ACTIONS

- Antitrust
- Consumer Fraud
- Data Privacy, Telecommunications & Collections
- Employment Class and Collective Actions
- ERISA and ESOP
- UK & EU Class Actions
- Financial Services
- Food, Ag & Nutrition
- Insurance
- MDL/NCC
- Shareholder Securities and M&A
- Pharmaceutical and Medical Devices
- Sports
- Toxic Tort

## MASS TORTS AND PRODUCT LIABILITY

- Catastrophic Accident
- Consumer Products
- Food, Agriculture & Nutrition
- MDL/NCC
- Pharmaceutical and Medical Devices
- Toxic Tort

Our clients understand that product liability and mass tort litigation frequently lead to related class action litigation. Many of our clients operate in industries where frequent targeting by plaintiffs' firms is an unfortunate cost of doing business. Other BCLP clients are first-time litigation targets who call on us when they find themselves in an unexpected crisis. Although every litigation presents

distinct challenges, our experience has shown us that our defense of mass tort and class action cases for our clients frequently require overlapping legal and practical skills. By combining lawyers within these practice areas, we leverage our litigators' subject matter experience, their institutional knowledge of clients and industries, and their understanding of major litigation trends. This cohesion benefits existing and new clients by promoting a more complete perspective for every new lawsuit.

**We are a truly global platform.** Our firm is intentionally structured as one firm to ensure we deploy the right team – regardless of geography – to achieve our clients' objectives. We have a dedicated global team continuing BCLP's dominance in this field by handling some of the first class and mass actions in Europe. We believe our keen sense of teamwork is a key to our successful handling of complex cases for our sophisticated and demanding clients.

We are recognized as a leader in class action and mass tort litigation in the United States. As described by Chambers USA, BCLP "acts for major clients in high-profile personal injury and insurance cases, including concussion lawsuits, as well as significant product liability matters," and BCLP is "especially adept in the finance, manufacturing, pharmaceutical and sport sectors." We were recognized by BTI as one of the 10 most feared law firms in litigation. Our clients consistently appreciate the strength of our client-focused, results-first approach to litigation:

"The firm is very responsive, very pragmatic and the customer service is outstanding; they always deliver."

– Chambers USA

"It is a great team; the attorneys complement each other's expertise. They manage the teams well and they know what talent to bring in."

– Chambers USA

"They are very responsive, insightful and good at laying out the consequences of particular courses of action."

– Chambers USA

"The team is very good tactically - they are able to map the chessboard out in advance and know where to pivot when necessary."

– Chambers UK

## MEET THE TEAM



### **Christopher J. Schmidt**

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## EXPERIENCE

We regularly lead multidistrict litigation (MDL) and serve as national coordinating counsel (NCC) for clients in industries ranging from consumer products (Evenflo) to pharmaceuticals (Merck) to concussion litigation in collegiate and professional sports (NCAA). For more information, [see our dedicated MDL/NCC team](#). Based on this wealth of experience, client-oriented approach to litigation and track record of courtroom success, our clients call on us to defend them in their most important and highly visible litigation matters:

- Leading industrial clients rely on us for their defense of mass tort and class actions, including defending a large multinational client in mass tort litigation, defending a large multinational manufacturing client in class actions and catastrophic injuries, defending Republic Services in class actions, defending PerkinElmer in toxic tort litigation, and defending Energizer against consumer class actions.
- Financial institutions turn to us to defend consumer class actions alleging violations of state consumer fraud statutes and to navigate class actions based on a complex mix of federal statutes and regulations from FCRA to RESPA.
- Transportation clients rely on us for major catastrophic injury litigation, including train derailments, airplane crashes, trucking accidents and automotive-related product liability claims.

- Our sports clients include all of the clubs in the National Hockey League, the NCAA and major universities, who rely on our team to defend class action and mass tort litigation involving concussion/CTE litigation and antitrust claims.
- Our medical device and pharmaceutical clients, including Merck and Mallinckrodt, have relied on us for a wide array of pharmaceutical and medical device litigation, including service as national coordinating counsel for MDLs, lead trial counsel in bellwether jury trials and defending consumer fraud class actions.
- We represent leading energy companies, including Valero Energy and Peabody Coal, in a wide array of matters, such as class actions and complex toxic tort claims.
- We represent tech and data companies in data privacy class actions, data breaches and other actions alleging misuse of consumer data, including FCRA, TCPA, BIPA.
- We represent publicly traded companies in deal-related M&A and securities class action litigation, and our dedicated securities and M&A class action team has defeated these claims for decades.

## RELATED INSIGHTS

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### **After PACCAR: a new approach to funding collective proceedings in the CAT**

In the first certification decision since the UK Supreme Court's judgment in PACCAR, the CAT has held that a litigation funding agreement (LFA) revised in light of PACCAR was not a damages-based agreement (DBA) and it was therefore enforceable for the purposes of opt-out collective proceedings in the CAT. In its decision, the CAT found that it was permissible to include a provision in the LFA whereby the funder would be paid a percentage of awarded damages "only to the extent enforceable and permitted by applicable law". In this blog, we consider the implications for litigation funding and collective proceedings in the CAT, both as a result of this decision and the government's proposed amendment (Clause 126) to the Digital Markets, Competition and Consumers Bill.

Insights

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## **Mass and Class Actions: A Guide to U.S. Securities Fraud, Mergers & Acquisitions, and Mass Torts Litigation**

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Sep 14, 2023

## **Raising the stakes in activist shareholder claims**

The High Court has ordered that ClientEarth pay Shell's costs in connection with all aspects of ClientEarth's unsuccessful application for permission to continue a derivative claim against Shell and its directors. This is a departure from the default position in derivative proceedings. Usually, the company will not be awarded any costs incurred in making submissions in opposition to, or attending any hearing of, a shareholder's application at the permission stage. This judgment therefore raises the stakes for activist shareholders who are considering bringing a derivative claim.