Memorandum

TO: [Redacted]
FROM: Leigh Blomgren, Women and Justice Fellow, Avon Global Center for Women and Justice
CC: Elizabeth Brundige, Executive Director, Avon Global Center for Women and Justice
DATE: July 20, 2012
RE: Class Action Litigation in the United States

Introduction

This memorandum responds to your request for information regarding class action lawsuits in the United States. The memorandum introduces class actions as a procedural device, highlights the importance of Rule 23 of the Federal Rules of Civil Procedure, outlines the most common types of class action lawsuits in the United States, discusses the pros and cons of using class action litigation, and briefly considers the practicality of utilizing the U.S. model of class action litigation in India.

Overview of Class Actions in the United States

A class action is a procedural device that permits one or more plaintiffs to file and prosecute a lawsuit on behalf of a larger group, or “class” of individuals with similar legal claims.\(^1\) A plaintiff, or small group of named plaintiffs, submits a lawsuit representing a larger group of plaintiffs (which may include several thousands of individuals).\(^2\) The class action is a useful procedural litigation device that permits a small number of class representatives to litigate on behalf of many absent class members and legally bind the entire class through a single lawsuit.\(^3\) The class action serves as an exception to the due process principle that “one is not bound by a judgment in personam in a litigation in which he has not been made a party by service of process,” so long as the procedural rules regulating class actions afford absent class member sufficient protection.\(^4\) Class actions in the United States are not a new concept;

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\(^1\) Class Action: An Overview, Legal Information Institute (LII), available at [http://www.law.cornell.edu/wex/class_action](http://www.law.cornell.edu/wex/class_action).


\(^3\) Class Action: An Overview, supra note 1.

group litigation has been possible since the mid-19th century. The modern form of class actions in the United States arose in 1938 with the adoption of Rule 23 of the Federal Rules of Civil Procedure (FRCP) and was further developed by the 1966 amendments. Class actions are only allowed in civil cases and in the United States may be brought in federal or state court.

In the United States, plaintiffs’ lawyers in class action suits are paid a contingency fee based on a percentage of the plaintiff’s settlement or trial reward, rather than an hourly wage. If the plaintiff’s case does not succeed, the attorney receives no compensation. While there is risk involved, this fee arrangement gives attorneys a strong incentive to take on class action cases and to work on behalf of their client to achieve the best possible outcome. This arrangement shifts the economic risk of success (or lack of success) in class action suits from the plaintiff to the plaintiff’s attorney. A contingency fee, thus, can be viewed as a loan from the lawyer, who is better able to assess the value of the lawsuit than an external lender such as a bank, to the plaintiff.

Rule 23

Rule 23 of the FRCP and its state law counterparts set forth the procedural requirements for class action lawsuits. Rule 23 serves two primary purposes: it identifies the conditions under which class action litigation is appropriate, and it aims to ensure that class actions are litigated in a manner consistent with the Constitutional guarantee of due process by protecting the rights of absent class members. Subdivision (a) of Rule 23 identifies four prerequisites for maintaining a class action, and subdivision (b) of Rule 23 sets forth four situations in which a class action is an appropriate litigation device. A proposed class must meet all the requirements of Rule 23(a) and fit into one of the categories of Rule 23(b) in order to be certified by the court as a class.

Rule 23(a) requires the court make the following findings: (1) the number of class members renders it impracticable to join them in the action; (2) the class members’ claims share common questions of law or fact; (3) the claims or defenses of the proposed class representatives are typical of those for the rest of the class; and (4) the proposed class representatives will adequately protect the interests of the entire class. The implication of Rule 23(b) is that there are cases that satisfy the criteria of Rule 23(a)

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6 The Federal Rules of Civil Procedure (FRCP) govern civil procedure for civil lawsuits in United States federal courts.
7 *Id.*
8 Pace, *supra* note 5, at 2.
10 *Id.*
12 See *Appendix A* for the full text of Rule 23.
13 Each state in the U.S. has its own rules of civil procedure, which are generally the same as the FRCP.
16 *Id.* at § 1:2.
17 *Class Action: An Overview*, *supra* note 1.
but do not satisfy the requirements for class certification.\textsuperscript{18} An additional criterion must be met.\textsuperscript{19} Although Rule 23(b) has three denominated sections, it actually identifies four situations in which class action litigation is appropriate – two of these are included in Rule 23(b)(1) (subparts (A) and (B), and the other two are set forth in Rule 23(b)(2) and 23(b)(3). The four types of class action cases under Rule 23(b) share the common feature that each aims to address a particular shortcoming that arises when only individual litigation is allowed.\textsuperscript{20}

The first situation, Rule 23(b)(1)(A), exists where separate litigation might adversely affect members of the class or the defendant due to inconsistent standards of conduct imposed in piecemeal litigation.\textsuperscript{21} This category is somewhat obscure and rarely utilized.\textsuperscript{22} The second situation, Rule 23(b)(1)(B), sets forth mandatory class action in situations where multiple suits might “impair or impede” the class members (usually plaintiffs) from protecting their various interests.\textsuperscript{23} The third category, Rule 23(b)(2), authorizes a class action when a party has taken or refused to take action with respect to a class, and final injunctive relief or corresponding declaratory relief is appropriate with respect to the class as a whole.\textsuperscript{24} This category is typically used in civil rights cases and other actions not primarily seeking money damages.\textsuperscript{25} In the fourth scenario, Rule 23(b)(3), a class action is available where questions common to the class predominate over questions peculiar to each plaintiff, and a class action is superior to other proceedings as a means of resolving the controversy among the parties.\textsuperscript{26} This is the most common category for money damage cases, especially small-claims class actions.\textsuperscript{27} For this fourth variety of class action only, Rule 23 permits individual members of the class to opt out of litigation if they do not wish to be bound by the results of the class action.\textsuperscript{28}

In the cases that fall within Rule 23(b)(3) seeking monetary relief, unnamed plaintiffs are not required to be part of the class. They may choose to litigate their legal claims separately, or not at all. After certification of a class, notification is sent to the unnamed plaintiffs to inform them of the lawsuit, at which point they are given the opportunity to opt-out of the class.\textsuperscript{29} For those who choose to opt-out, the class action litigation will not impact their legal rights, and thus, the final resolution of the class action, whether by settlement or judgment, is not binding upon them.\textsuperscript{30} By the same token, non-members of the

\textsuperscript{18} Rubenstein, supra note 15, at § 1:3.
\textsuperscript{19} Id.
\textsuperscript{20} Id.
\textsuperscript{21} Stephen C. Yeazell, From Medieval Group Litigation to the Modern Class Action (New Haven: Yale University Press, 1987).
\textsuperscript{22} Rubenstein, supra note 15, at § 1:3. A good example of a Rule 23(b)(1)(A) class action is an action challenging voter registration procedures; if it is not conducted as a class action, one court may order that plaintiff be allowed to vote, while another court may hold that a similarly situated plaintiff is not eligible, leaving the registrar of voters in a quandary as to a third similarly situated person.
\textsuperscript{23} Yeazell, supra note 21.
\textsuperscript{24} Rubenstein, supra note 15, at § 1:3.
\textsuperscript{25} Id.
\textsuperscript{26} Class Action: An Overview, supra note 1.
\textsuperscript{27} Rubenstein, supra note 15, at § 1:3.
\textsuperscript{28} Pace, supra note 5, at 11.
\textsuperscript{30} Class Actions, supra note 2.
class are not entitled to any recovery awarded to the class.\textsuperscript{31} Those who opt-out may, however, bring their own separate lawsuit(s) asserting their own legal claims.\textsuperscript{32}

**Common Types of Class Action Litigation**

Class action litigation is widely employed in mass tort cases where numerous plaintiffs are seriously injured or killed as the result of a single defendant’s (usually the manufacturer of a dangerous product) negligence or failure to recognize hazards that could cause injury.\textsuperscript{33} Comprehensive definitions for the most common types of class action lawsuit are available in Appendix B, attached hereto. In the mid-1970s, thousands of women brought suit against the manufacturer of the Dalkon Shield, an intrauterine contraceptive device linked to numerous health problems, including sterility.\textsuperscript{34} A class action suit was also employed against the manufacturer of the herbicide Agent Orange, a highly toxic defoliant that was used during the Vietnam War and has been linked to cancer and birth defects in Vietnam era veterans and their families.\textsuperscript{35} In mid-1995, two major class action suits on behalf of millions of smokers were instituted against several tobacco companies.\textsuperscript{36} The plaintiffs alleged that the tobacco companies concealed their knowledge of the addictive nature of nicotine and the harmful effects of smoking.\textsuperscript{37} Asbestos insulation class action suits are another prominent example of mass tort cases.\textsuperscript{38}

Class action suits have also often been a vehicle for social and economic reform. They have figured prominently in civil-rights litigation, and they have helped to remedy discrimination based on race and gender, and also to address inequalities in education, housing, and voting rights laws. Brown v. Board of Education, the Supreme Court decision striking down segregated schools, was brought as a class action lawsuit.\textsuperscript{39} Class action litigation is also used to promote consumer protection. It is regularly used in corporate securities and antitrust cases and to contest consumer fraud, price fixing, and other commercial abuses.\textsuperscript{40} Class action lawsuits are also used for claims related to services, such as phone, banking, cable television, and other consumer services.\textsuperscript{41}

**Benefits of Class Action Litigations**

Class action litigation allows courts to manage lawsuits that would otherwise be unmanageable if each class member were required to be joined in the lawsuit as a named plaintiff.\textsuperscript{42} Class actions, however, do more than address the situation of “too many plaintiffs” to litigate a case manageably: “The justifications that led to the development of the class action include the protection of the defendant from inconsistent obligations, the protection of the interests of absentees, the provision of a convenient and

\textsuperscript{31} Id.

\textsuperscript{32} Id.


\textsuperscript{34} Yeazell, supra note 21.

\textsuperscript{35} Pace, supra note 5, at 14.


\textsuperscript{37} Id.

\textsuperscript{38} Yeazell, supra note 21.


\textsuperscript{40} Pace, supra note 5, at 21-22.

\textsuperscript{41} Id.

\textsuperscript{42} See Hansberry v. Lee, supra note 4.
economical means for disposing of similar lawsuits, and the facilitation of the spreading of litigation costs among numerous litigants with similar claims.”\(^4\)\(^3\) Moreover, “the class action device saves the resources of both the courts and the parties by permitting an issue potentially affecting every class member to be litigated in an economical fashion.”\(^4\)\(^4\) Litigation is costly, and class actions allow people who would not be able to bring an individual action to pool their resources in order to litigate and seek justice. Furthermore, class actions can equalize the difference in power between large entities with sufficient economic means and individuals lacking substantial resources. As a group, individuals gain a more powerful adversarial posture and amplify their ability to litigate, negotiate, and settle disputes.\(^4\)\(^5\)

Additionally, class actions can be used for the promotion of public policy. The purpose behind bringing a class action lawsuit may be to deliberately change the behavior of a group of which the defendant is a member. For example, *Landeros v. Flood* was a groundbreaking case where class action litigation was used to purposely change the behavior of doctors and encourage them to report suspected child abuse. Doctors who did not comply would face the threat of civil action for damages in tort proximately flowing from the failure to report the suspected injuries. Before this class action, many physicians were reluctant to report cases of apparent child abuse, even despite existing law that required it.\(^4\)\(^6\) Another example of a class action suit promoting public policy is seen in *Brown v. Board of Education*, where a public interest lawyer, Thurgood Marshall, used the legal system as a tool for social change in the height of the civil rights movement.\(^4\)\(^7\)

Class actions take on a significant public interest role in aggregating plaintiff claims and forcing non-compliant defendants to shift behavior to conform to the law’s requirements. Hence, the public is protected, and honest competitors of non-compliant businesses also benefit.\(^4\)\(^8\) For example, class actions seeking injunctive relief have successfully addressed systemic deficiencies in government programs and institutions that individual actions were unable to remedy due to limited resources.\(^4\)\(^9\) Class action cases spark discussion – in court and in public debate – about the goal of particular laws and if such laws achieve those aims. Class actions help uncover competing goals of the law, such as compensation and deterrence, and the outcome of a given class action can be viewed as part of an ongoing conversation between society, the judiciary, and the legislature about the success and future development of a given law.\(^5\)\(^0\)

**Critiques of Class Action Litigation**

The class action litigation device does not go without criticism. While the size of a class provides strength to its members, it also limits their choices and options. Unnamed plaintiffs (those who chose not

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\(^4\)\(^5\) Class Actions, supra note 2.
\(^4\)\(^6\) See Landeros v. Flood, 17 Cal. 3d 399, 131 Cal. Rptr. 69, 551 P.2d 389 (1976).
\(^4\)\(^9\) Sidney S. Rosdeitcher, Supreme Court’s Term and Class Actions: Impact on Public Interest Litigation and Access to Justice, Brennan Center for Justice (2001), available at http://www.brennancenter.org/content/resource/supreme_courts_term_and_class_actions_impact_on_public_interest_litigation_.
to opt-out), have very little control over the case.\(^{51}\) For example, the named plaintiffs can accept a settlement that is binding on all class members, irrespective of whether unnamed class members prefer the case to be determined by a verdict after a full trial.\(^{52}\) The complexity of class action cases makes them difficult and expensive to litigate, thus necessitating greater time and resources of the attorneys and the court.\(^{53}\) Opponents of class action lawsuits also criticize the procedure for increasing the burden on the courts by creating more incentive to bring superfluous lawsuits.\(^{54}\) Moreover, class action litigation increases the incentive for a defendant to settle out of court, even in meritless cases, because of the frequently exorbitant legal costs of proceeding to trial.\(^{55}\)

Other criticized features of class action litigation are the self-appointment of class representatives, the procedure by which one is a class member unless he or she affirmatively “opts out,” the vague standards for determining whether there is adequate cohesiveness between class members, the role of lawyers, given the strong incentives for attorney’s fees and entrepreneurial litigation that may result in a class action lawyer taking on cases out of self-interest rather than to pursue legal justice or advocating on behalf of plaintiffs’ rights, and confusing notices that prevent class members from being able to fully understand and effectively exercise their rights.\(^{56}\)

**Class Action Litigation in India**

Today, despite criticisms of the class actions model in the United States, twenty-two countries have adopted some form of class actions, and six more countries have adopted some type of consolidated group proceeding instead of, or in addition to, class actions.\(^{57}\) Very few countries, however, have adopted the full “American-style” class action mechanism, and in most other countries that have some form of a class action regime, there has been relatively little use of the procedure.\(^{58}\) There are various reasons for the limited use of class actions, but one principal factor is that, in most jurisdictions, the legal regime prohibits or limits conditional or contingent fee arrangements, provides no mechanism for cost sharing among members of an opt-out class, and requires fee shifting.\(^{59}\)

The civil procedure law in India permits the combination of suits that relate to the same cause of action.\(^{60}\) The difference between the use of class actions in India and the United States lies in the

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\(^{51}\) *Class Actions, supra* note 2.

\(^{52}\) *Id.*

\(^{53}\) *Id.*


\(^{55}\) *Id.*


\(^{59}\) *Id.* at 309.

economics – the incentives that prompt class actions in the U.S. do not exist in India. As with many countries, Indian rules of legal practice do not permit lawyers to charge contingency fees. In many cases, it is not sensible for plaintiffs to initiate a class action lawsuit since there is no guarantee of recovery nor is there certainly of obtaining a net benefit from the suit. Furthermore, India tends to follow the British model whereby courts can award costs in favor of the successful party, to be paid by the losing party. Accordingly, if the plaintiffs lose in a class action suit they may have to bear the costs of the defendant. Because of the legal financing regime in India, it is not possible to have an “American-style” market-based class action mechanism.

\[61 \text{ Id.} \]
\[62 \text{ Id.} \]
\[63 \text{ Id.} \]
Appendix A


Rule 23. Class Actions

(a) Prerequisites. One or more members of a class may sue or be sued as representative parties on behalf of all members only if:

1. the class is so numerous that joinder of all members is impracticable;
2. there are questions of law or fact common to the class;
3. the claims or defenses of the representative parties are typical of the claims or defenses of the class; and
4. the representative parties will fairly and adequately protect the interests of the class.

(b) Types of Class Actions. A class action may be maintained if Rule 23(a) is satisfied and if:

1. prosecuting separate actions by or against individual class members would create a risk of:
   
   A. inconsistent or varying adjudications with respect to individual class members that would establish incompatible standards of conduct for the party opposing the class; or
   
   B. adjudications with respect to individual class members that, as a practical matter, would be dispositive of the interests of the other members not parties to the individual adjudications or would substantially impair or impede their ability to protect their interests;

2. the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole; or

3. the court finds that the questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy. The matters pertinent to these findings include:
   
   A. the class members’ interests in individually controlling the prosecution or defense of separate actions;
   
   B. the extent and nature of any litigation concerning the controversy already begun by or against class members;
   
   C. the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and
   
   D. the likely difficulties in managing a class action.

(c) Certification Order; Notice to Class Members; Judgment; Issues Classes; Subclasses.

1. Certification Order.

   A. Time to Issue. At an early practicable time after a person sues or is sued as a class representative, the court must determine by order whether to certify the action as a class action.

   B. Defining the Class; Appointing Class Counsel. An order that certifies a class action must define the class and the class claims, issues, or defenses, and must appoint class counsel under Rule 23(g).

   C. Altering or Amending the Order. An order that grants or denies class certification may be altered or amended before final judgment.

2. Notice.
(A) For (b)(1) or (b)(2) Classes. For any class certified under Rule 23(b)(1) or (b)(2), the court may direct appropriate notice to the class.

(B) For (b)(3) Classes. For any class certified under Rule 23(b)(3), the court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice must clearly and concisely state in plain, easily understood language:

(i) the nature of the action;
(ii) the definition of the class certified;
(iii) the class claims, issues, or defenses;
(iv) that a class member may enter an appearance through an attorney if the member so desires;
(v) that the court will exclude from the class any member who requests exclusion;
(vi) the time and manner for requesting exclusion; and
(vii) the binding effect of a class judgment on members under Rule 23(c)(3).

(3) Judgment. Whether or not favorable to the class, the judgment in a class action must:

(A) for any class certified under Rule 23(b)(1) or (b)(2), include and describe those whom the court finds to be class members; and

(B) for any class certified under Rule 23(b)(3), include and specify or describe those to whom the Rule 23(c)(2) notice was directed, who have not requested exclusion, and whom the court finds to be class members.

(4) Particular Issues. When appropriate, an action may be brought or maintained as a class action with respect to particular issues.

(5) Subclasses. When appropriate, a class may be divided into subclasses that are each treated as a class under this rule.

d) Conducting the Action.

(1) In General. In conducting an action under this rule, the court may issue orders that:

(A) determine the course of proceedings or prescribe measures to prevent undue repetition or complication in presenting evidence or argument;

(B) require—to protect class members and fairly conduct the action—giving appropriate notice to some or all class members of:

(i) any step in the action;

(ii) the proposed extent of the judgment; or

(iii) the members’ opportunity to signify whether they consider the representation fair and adequate, to intervene and present claims or defenses, or to otherwise come into the action;

(C) impose conditions on the representative parties or on intervenors;

(D) require that the pleadings be amended to eliminate allegations about representation of absent persons and that the action proceed accordingly; or

(E) deal with similar procedural matters.
(2) Combining and Amending Orders. An order under Rule 23(d)(1) may be altered or amended from time to time and may be combined with an order under Rule 16.

(e) Settlement, Voluntary Dismissal, or Compromise. The claims, issues, or defenses of a certified class may be settled, voluntarily dismissed, or compromised only with the court's approval. The following procedures apply to a proposed settlement, voluntary dismissal, or compromise:

1. The court must direct notice in a reasonable manner to all class members who would be bound by the proposal.

2. If the proposal would bind class members, the court may approve it only after a hearing and on finding that it is fair, reasonable, and adequate.

3. The parties seeking approval must file a statement identifying any agreement made in connection with the proposal.

4. If the class action was previously certified under Rule 23(b)(3), the court may refuse to approve a settlement unless it affords a new opportunity to request exclusion to individual class members who had an earlier opportunity to request exclusion but did not do so.

5. Any class member may object to the proposal if it requires court approval under this subdivision (e); the objection may be withdrawn only with the court's approval.

(f) Appeals. A court of appeals may permit an appeal from an order granting or denying class-action certification under this rule if a petition for permission to appeal is filed with the circuit clerk within 14 days after the order is entered. An appeal does not stay proceedings in the district court unless the district judge or the court of appeals so orders.

(g) Class Counsel.

1. Appointing Class Counsel. Unless a statute provides otherwise, a court that certifies a class must appoint class counsel. In appointing class counsel, the court:

   A) must consider:

   i. the work counsel has done in identifying or investigating potential claims in the action;

   ii. counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action;

   iii. counsel's knowledge of the applicable law; and

   iv. the resources that counsel will commit to representing the class;

   B) may consider any other matter pertinent to counsel's ability to fairly and adequately represent the interests of the class;

   C) may order potential class counsel to provide information on any subject pertinent to the appointment and to propose terms for attorney's fees and nontaxable costs;

   D) may include in the appointing order provisions about the award of attorney's fees or nontaxable costs under Rule 23(h); and

   E) may make further orders in connection with the appointment.

2. Standard for Appointing Class Counsel. When one applicant seeks appointment as class counsel, the court may appoint that applicant only if the applicant is adequate under Rule 23(g)(1) and (4). If more than one adequate applicant seeks appointment, the court must appoint the applicant best able to represent the interests of the class.

3. Interim Counsel. The court may designate interim counsel to act on behalf of a putative class before determining whether to certify the action as a class action.
(4) Duty of Class Counsel. Class counsel must fairly and adequately represent the interests of the class.

(h) Attorney’s Fees and Nontaxable Costs. In a certified class action, the court may award reasonable attorney’s fees and nontaxable costs that are authorized by law or by the parties’ agreement. The following procedures apply:

(1) A claim for an award must be made by motion under Rule 54(d)(2), subject to the provisions of this subdivision (h), at a time the court sets. Notice of the motion must be served on all parties and, for motions by class counsel, directed to class members in a reasonable manner.

(2) A class member, or a party from whom payment is sought, may object to the motion.

(3) The court may hold a hearing and must find the facts and state its legal conclusions under Rule 52(a).

(4) The court may refer issues related to the amount of the award to a special master or a magistrate judge, as provided in Rule 54(d)(2)(D).
## Types of Class Actions are Varied and Diverse

### Antitrust Claims
Antitrust actions are typically brought when consumers suffer financial losses because products and services are illegally overpriced. This overpricing can occur due to companies fixing prices at artificial levels to secure higher profits and/or to force out competition, forming agreements that allocate markets or customers among competitors to eliminate or reduce competition and through bid rigging.

### Consumer Actions
Consumer class actions are generally brought when consumers are injured by a company’s systematic and illegal practices. Examples include illegal charges on bills, illegal penalties for late-payments, and failure to comply with consumer protection laws.

### Consumer Product Claims
Legal actions are often brought about because of defective products that cause harm or injury to large numbers of individuals due to faulty labeling, design defects or defective manufacturing. It is the responsibility of the manufacturer, designer, distributor, or retailer to ensure that the product does not cause harm and they can be held liable.

### Breach of Warranty
Warranties on personal items, appliances, automotives and many other consumer products exist to protect consumers regardless of whether the product specifically states the coverage. When this assurance is false or the quality is misstated class action lawsuits are often brought against the liable party.

### Employment Claims
Employment class action lawsuits are typically brought on behalf of employees of a large company for claims ranging from systematic workplace discrimination, illegal hiring and promotion practices, wrongful termination policies and practices, unpaid unemployment benefits and unpaid overtime.

### Employee Benefits
These class actions by employees of a single employer generally address violations of Employee Retirement Income Security Act (ERISA) and involve discriminatory practices or violations in employers plan design. In some cases company health plan benefit payments violate discrimination laws.

### Insurance Claims
Insurance companies that misrepresent policies, do not pay valid claims, deny coverage to classes of individuals, fail to make prompt investigations or payments are all vulnerable to class action lawsuits.

### Medical Devices
Medical devices that malfunction cause serious injury or death and the manufacturers of these devices are liable to the group of people and their families who suffer because of the defect of the device.

### Product Liability/Personal Injury
Product liability and personal injury class action lawsuits are generally brought when a defective product, unreasonably dangerous product, unsafe environments or negligent practices kill or seriously harm and injure people.

### Pharmaceutical Litigation
Pharmaceutical liability claims of prescription and over-the-counter medications are brought when drugs that are intended to help people causes side effects, injuries, serious harm or sometimes death in a large group of people. This can occur because clinical trials were not large enough to determine increased risks, when drugs are prescribed to the wrong patients or when drugs are regularly co-prescribed with other drugs and cause adverse reactions.

### Pharmaceuticals Class Actions
Securities class actions are typically brought on behalf of a group of investors who have been injured as a result of a company’s improper conduct, such as misstating earnings, concealing or misrepresenting risks, or otherwise engaging in activity detrimental to the company. Other securities actions are brought as direct result of a financial advisor or broker’s, or group of advisors, repeated misrepresentation, negligence, dishonesty or fraud.

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**Appendix B**