Hollingsworth LLP
Litigation Matters.®

Class Action Defense

We embrace the challenge to take on, often before they can be formed, and aggressively defeat class actions in both state and federal court litigation.

**Our attorneys have extensive experience in defeating class certification in state and federal court litigation. We employ an aggressive strategy of turning class action claims against plaintiffs by forcing them to substantiate their claims in support of the necessary class certification elements. Rather than becoming an in terrorem weapon for plaintiffs, class action claims force plaintiffs into significant up-front expenditures before they can get an opportunity for full merits discovery against our clients. In some cases, plaintiffs have voluntarily abandoned class certification claims rather than investing resources into a likely losing effort.**

In cases where plaintiffs have persisted in class action allegations against our clients, they have been unsuccessful. Some of our more notable client successes include:

- An early victory for Novartis Pharmaceuticals Corporation in the *In re Aredia and Zometa Prods. Liab. Litig*. multidistrict litigation, was our success in defeating plaintiffs' motion for certification of a nationwide $19 billion medical monitoring class and obtaining summary judgment on all claims brought by the putative class representatives.
- Forcing plaintiffs to prove exposure is another path to victory. In *Johnson v. American International Industries*, we won summary judgment for firm client Avon Products, Inc., by forcing plaintiffs to present detailed expert and technical evidence to show that the talc they used in fact contained asbestos, as they claimed. Though they were permitted to brief the issue extensively—even correcting errors and filling in gaps in prior briefing—the plaintiffs could not meet their burden of proof, and all claims were dismissed.
- We convinced a state court judge not to certify a class action involving alleged defective gas furnace and boiler high temperature plastic vents, which allegedly could lead to carbon monoxide, because a Consumer Product Safety Commission (CPSC) product recall program provided was a superior remedy to affected consumers.
- We took the leading role in successfully defeating a class certification effort brought on behalf of former German, U.S., and NATO country radar operators/technicians exposed to military radars over forty years. The court's ruling rejecting class certification largely destroyed plaintiffs' litigation leverage over the defense contractor defendants.
- We have successfully defended our clients in asbestos property damage class actions involving primary and secondary schools, public universities, and owners of buildings leased to the federal government.

- Representing a company in an asbestos-related bankruptcy reorganization proceeding, we successfully defeated a class action of property damage claimants and obtaining exclusion of plaintiffs' experts under *Daubert* scientific reliability standards.
- Similarly, we have defeated class certification efforts in cases involving alleged environmental contamination, including separate claims brought against our clients Stauffer Chemical Company and ITT in state and federal courts in Florida. For Stauffer Chemical Company, a putative class of former phosphorus plant workers alleged work place exposure to a variety of hazardous substances and sought a court-supervised fund for a medical monitoring program designed to detect future injuries. Following a four-day evidentiary hearing in Florida state court, we obtained a favorable ruling rejecting class certification. For ITT, a major class action asserted property damage claims arising from alleged solvent contamination of potable water supplies. On the eve of class certification hearings, the case favorably settled based on the strategy of enlarging the settlement class to preclude future filings.

In addition to our defense of putative class actions, our attorneys have been heavily involved in the defense of other types of serial and mass litigation, including federal multidistrict litigation and state law equivalents, as also featured in the Toxic Torts & Products Liability, and Pharmaceutical Products practice descriptions.