

## Class Action Defense

Knowing that class action suits can significantly impact a company's operations and possibly its reputation, Downey Brand's litigators work with clients throughout California to resolve these complicated cases as quickly and efficiently as possible.

Our attorneys have defended and successfully resolved numerous complicated class actions for clients in cases alleging deceptive trade practices and advertising acts, violation of unfair competition and unfair business practices laws, negligence and product liability claims, and other consumer protection statutes. We represent clients in many industries including manufacturing, high tech, banking and financial services, shopping center, retail and consumer goods, healthcare, and construction sectors. Many of the cases we handle involve California Business & Professions Code Section 17200 claims (California's "Unfair Competition Law") and the California Consumer Legal Remedies Act, as well as common law claims based on fraud, negligent misrepresentation and failure to disclose, false and deceptive advertising, and product failure.

While there is no one-size-fits-all approach to class action defense, based on our extensive experience we have developed a number of successful strategies for defending clients against class claims at all stages of the case. We believe that early case assessment is critical. Thus, our lawyers work with our clients from inception to assess the case and determine the best strategies to pursue given the case's unique circumstances. This often means that we vigorously defend our clients from the outset of the case. We have been successful at having putative class claims dismissed on motion, before substantive discovery starts, and have also defeated motions for class certification—thereby reducing the potential exposure on a case from many millions of dollars to a negligible amount. At other times, our early case assessment leads our clients to explore settlement. We have been successful in structuring creative settlements of complex class claims—settlements which received the required court approval while also minimizing the economic impact on our clients.

### Selected Experience

- Currently representing large California credit union in defense of putative class action challenging debit card overdraft practices. Litigation is on-going.
- Successfully defended large window manufacturer in nationwide class action asserting violations of the Magnusson-Moss Act and state unfair business practices claims. Downey Brand's successful motion for judgment on the pleadings resulted in judgment in favor of client on the merits.
- Represented computer parts distributor in nationwide consumer class action involving claims of unfair competition and fraud. As part of the strategy Downey Brand developed for attacking the lawsuit at the pleadings stage, prior to discovery and significant legal costs, Downey Brand obtained disqualification of class action counsel, which ultimately resulted in dismissal of all class allegations against client.
- Represented Fortune 500 national dialysis provider in a state-wide wage and hour class action for unpaid overtime, missed rest and meal breaks, penalties and unfair business practices. Downey Brand aggressively worked to analyze the facts and defenses early in the case, which strongly positioned client at mediation, resulting in favorable settlement of claims involving putative class of more than 700 current and

former employees.

- Represented large regional food processing company in arbitration on two separate class claims, one for violation of California's Unfair Competition Law based on allegations that client engaged in practices designed to drive down crop prices, and one for conversion based on allegations that client failed to pay money owed under grower contracts. Downey Brand obtained an order decertifying the class on the Unfair Competition Law claim, and successfully defended client at the arbitration on the conversion class claim, obtaining a complete defense verdict as well as substantial award of attorney's fees against the class representative.
- Represented national retailer in class action involving up to 1,000 former and current employees. Downey Brand successfully opposed motion for class certification which resulted in nominal settlement with representative plaintiffs.
- Litigation and appellate counsel for shopping center owner in defense of class action suit filed by group of tenants for fraud, unfair and deceptive business practices, and breach of contract. Downey Brand defeated plaintiff's motion for class certification, based on plaintiff's failure to demonstrate common issues of fact or law, which was upheld on appeal based on Downey Brand's briefing.
- Counsel for national fireplace manufacturer in two personal injury class actions asserting strict products liability and negligence claims based on failure to warn of dangerous and defective product. Downey Brand obtained settlement on terms favorable to client following mediation (details cannot be provided per confidentially agreement).