

# Class Action Defense

## Successfully Defeating Class Actions



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### Class Action Practice

We have one of the most successful class action defense practices in the United States. *U.S. News & World Report* named King & Spalding “Law Firm of the Year” in Mass Tort Litigation / Class Action for its 2015 Best Law Firms survey. In the past seven years, we have represented clients in more than 250 class actions, the vast majority of which have been dismissed or effectively resolved at a relatively early stage in the litigation and on terms favorable to our clients. These actions have been throughout the country, including in some of the nation’s most dangerous jurisdictions for class action defendants. While we typically push for early dismissal or resolution through aggressive motion practice, we also have the will and ability to litigate cases as long as necessary—we are one of the few firms with actual experience trying class actions to verdict in the courtroom. Our litigation skills have won us many honors, including being named a *Law360* “Class Action Practice Group of the Year” two out of the last six years.

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### Representative Clients

- Home Depot
- Equifax
- The Coca-Cola Company
- AGL Resources
- Progressive Insurance

We have deep experience representing clients who face disproportionate numbers of class actions and who thus are especially sophisticated in selecting their outside counsel. For example, we are long-time national counsel for Home Depot and Equifax in all of their class actions nationwide, and we have represented The Coca-Cola Company and Progressive Insurance in a number of class actions around the country over the last few years. But we are also adept at handling class actions for clients who face class litigation less frequently, including a case currently pending against AGL Resources under Illinois’s dangerous Consumer Fraud Act.

King & Spalding has twice received the *Law360* “Class Action Group of the Year” Award since 2010.

### Our Approach

While our primary objective is to defeat class action claims in the early stages of litigation, we are respected by the plaintiffs’ bar as willing and able to go the distance in taking class action lawsuits through trial, judgment, and appeals. In fact, King & Spalding is one of only a handful of firms that has tried several certified class actions to verdict. In *Engle v. Liggett Group*, for example, we served as lead trial and appellate counsel for Brown & Williamson in the biggest class action ever tried to a jury verdict. We also served as appellate counsel in the ensuing appeal in which the Florida Supreme Court decertified the class and overturned the majority of the jury’s “class wide” findings, including the record punitive damage award. *See Engle*, 945 So.2d 1246 (Fla. 2006). And just last year, we were within weeks of trying a nationwide class action for our client Bass Pro Outdoor World in federal court in Missouri.



## Representative Experience

### Winning Dismissal of Nationwide Class Action Against Equifax

Last month, we obtained dismissal with prejudice of a purported nationwide class action against Equifax in the Northern District of Georgia. The case was filed by one of the nation's pre-eminent class action plaintiffs' firms, Lief Cabraser, and one of the most prominent plaintiffs' firms in Atlanta, Doffermyre Shields Canfield & Knowles. The case is now on appeal.

### Litigating—and Defeating—Class Claims Under Deceptive Trade Practices Acts

- We are currently representing clients, including Kimberly-Clark, AGL Resources, and Mercedes-Benz USA, in high-stakes purported class actions in numerous challenging jurisdictions—such as Cook County, Illinois and the Central District of California—in which plaintiffs assert claims under state deceptive trade practices acts.
- In the last three years, we have either defeated class certification or won pleading-stage dismissals in five cases around the country alleging deceptive trade practices claims against affiliates of The Progressive Corporation.
- Just last year, we defeated class certification in a deceptive trade practices case against The Home Depot pending in the Middle District of Florida. In 2014, we obtained a precedential opinion from the Ninth Circuit Court of Appeals affirming summary judgment for The Home Depot in another case asserting deceptive trade practices claims in federal court in California.

### Coming to the Brink of Trial in Nationwide Class Action Against Nation's Leading Outdoor Retailer

Last year, we came within weeks of trying a nationwide class action against our client, Bass Pro Outdoor World and Tracker Marine, in a nationwide class action in the United States District Court for the Western District of Missouri, alleging that defendants engaged in deceptive trade practices and the unauthorized practice of law. We were engaged after a nationwide class was certified in federal court, and successfully removed the three-year-old case to federal court. We then doggedly litigated class certification issues for over three more years, resulting in (among other things) dismissal of the plaintiffs' MMPA claim and substantial winnowing of the certified class. The case is currently on appeal to the Eighth Circuit, where we continue to seek decertification of the class.

### Defeating Class Certification Of Dealer Claims Against Indian Automobile Manufacturer

King & Spalding defended Mahindra & Mahindra Ltd. in a putative nationwide class action in federal court in Atlanta, in which automobile dealers asserted claims for fraud, negligent misrepresentation, promissory estoppel, and violations of various state and federal automobile dealer laws arising out of the expiration of an agreement between Mahindra and its former U.S.-based distributor. After discovery and briefing, the court denied the Plaintiffs' motion for class certification.

## Contacts

David L. Balsler

+1 404 572 2782

dbalsler@kslaw.com