

CONSUMER FRAUD, RICO, AND UNFAIR BUSINESS AND SALES PRACTICES

OVERVIEW

BCLP defends a full range of consumer fraud, RICO, and unfair business and sales practices class actions. More than 60 percent of the class claims we defend entail some aspect of consumer protection, most citing one or more state consumer protection statutes. We have briefed the consumer protection laws of all 50 states on numerous occasions and have defended claims under all of them.

Many, if not most, class actions against product manufacturers are brought under these state consumer protection statutes and allege that the manufacturer failed to disclose one or more purported "defects" that render the products worthless, or worth less than was paid to purchase them. These cases often involve hundreds of thousands or millions of products with correspondingly massive financial risk. Strategies for defending non-disclosure claims against product manufacturers are constantly evolving, and BCLP has been at the forefront of many of these strategies for clients like Merck, Ford, Whirlpool, Evenflo, Volvo, Mercedes-Benz, and others.

Our lawyers, including a number designated as Fellows of the American College of Trial Lawyers, as *Super Lawyers* and among *The Best Lawyers in America*, defend consumer fraud class actions every day for some of the country's largest corporations. We have substantial experience in proceedings before the Judicial Panel on Multidistrict Litigation. We have successfully defeated class certification in hundreds of would-be class actions in both state and federal courts. Where we have not defeated class certification, we have tried and won class action trials before judges and juries. In fact, we believe that anticipating the possibility of a class trial is in many respects the best approach to an effective defense.

MEET THE TEAM



Lori Van Auken

Counsel, New York

lori.vanauken@bclplaw.com

[+1 212 541 2053](tel:+12125412053)

RELATED PRACTICE AREAS

- Class Actions
- Business & Commercial Disputes
- Mass Torts & Product Liability

EXPERIENCE

Some of our engagements:

- As national counsel to **H&R Block**, we have defended dozens of class actions attacking the client's Refund Anticipation Loans, its Peace of Mind and Express IRA products.
- As counsel to **Ford** and **Mercedes-Benz**, we defend class actions every day attacking vehicles the clients manufacture for different allegedly "undisclosed defects."
- As counsel to national financial institutions, we defend clients every day in class actions attacking their retail lending practices.

Some of our results:

- *Margolis v. U-Haul International*, 2011 U.S. Dist. LEXIS 117443 (D.D.C. October 12, 2011) (dismissing consumer protection act claim for failure to state a claim and rejecting Plaintiff's attempt to pursue action on a representative basis)

- *CLN Props., Inc. v. Republic Servs., Inc.*, 2010 U.S. Dist. LEXIS 135953 (D. Ariz. Dec. 13, 2010) (denying certification of a class of residents of 39 states alleging that fuel and environmental fees were deceptive and improper)
- *Fincher v. Prudential Prop. & Cas. Ins. Co.*, 2010 WL 1544361 (10th Cir. Apr. 20, 2010) (affirming summary judgment and denial of certification regarding claims that auto policy did not conform with Colorado no-fault statute)
- *Robinson v. American Honda Motor Co.*, 551 F.3d 218 (4th Cir. 2009) (affirming Rule 12 dismissal of proposed nationwide class action)
- *In re 2005 United States Grand Prix Litig.*, 489 F.3d 316 (7th Cir. 2007) (affirming Rule 12 dismissal of all claims on behalf of proposed nationwide class)
- *Rollins, Inc. v. Warren*, 653 S.E.2d 794 (Ga. Ct. App. 2007) (reversing certification of statewide class action for alleged consumer fraud involving termite control service contracts)
- *State ex rel. Koster v. Portfolio Recovery Assocs.* (St. Louis City Cir. Ct., Mo.) (dismissing claims brought by the Missouri Attorney General under the Missouri Merchandising Practices Act relating to allegedly wrongful collection activities).
- *Thiedemann v. Mercedes-Benz USA, LLC*, 183 N.J. 234 (2005) (seminal New Jersey decision on ascertainable loss in consumer fraud actions—affirmed summary judgment in favor of Mercedes-Benz)
- *St. Clair County & City of Centreville v. Ford Motor Co.*, (St. Clair County, Ill. Cir. Ct. 2004) (six-week jury trial resulting in defense verdict against certified Illinois class)
- *Maitland v. Ford Motor Co.*, 816 N.E.2d 1061 (Ohio 2004) (affirming dismissal of claims under the Ohio Consumer Sales Practices Act relating to consumer arbitrations)

RELATED INSIGHTS

Awards

Jun 03, 2021

The Best Lawyers in the United Kingdom 2022

News

Nov 18, 2020

Paris Compliance Team Ranked Excellent by ‘Décideurs’

Competition and consumer watchdog in Singapore published guidelines on price transparency

The Competition and Consumer Commission of Singapore published the Guidelines on Price Transparency (the “Guidelines”) on 7 September 2020. This Guidelines aim to provide greater clarity and guidance to businesses on the interpretation and effects of the Consumer Protection (Fair Trading) Act (Cap. 52A) (“CPFTA”) on various pricing practices. The Guidelines will come into force on 1 November 2020.