

THE TRUTH ABOUT CLASS ACTIONS

CLASS ACTIONS DON'T PROVIDE MUCH BENEFIT TO CONSUMERS



According to a study conducted by the U.S. Consumer Financial Protection Bureau:

87% of class actions result in no consumer benefit at all.

These cases were either dismissed by the court or settled with the named plaintiff only.

A consumer who gets relief in a class action receives on average only **\$32**

The average "recovery" for a class action lawyer is **\$1 million**

WHY CLASS ACTIONS DON'T SERVE AS A DETERRENCE



- Class actions that survive a motion to dismiss and class certification are virtually always settled.
- There is no reason to believe that settled cases are necessarily meritorious.
- According to one study, $\frac{1}{4}$ of settled class actions provide injunctive relief and there is no determination that this relief actually prevents illegal conduct.
- Many class action lawyers predominately file "copycat" or "coattail" lawsuits that follow on the heels of government investigations.
- Government enforcers do not have a financial incentive and bring cases for the public good, while trial lawyers can be motivated by lucrative settlements.

GLOBAL EXAMPLES OF PROBLEMS WITH CLASS ACTIONS & THIRD PARTY LITIGATION FUNDING (TPLF)



In a class action against Subway alleging that its "Footlong" sandwiches were not really 12 inches long, the class members received nothing, while the plaintiffs' lawyers got more than **\$500,000 in fees**.

A class action alleging the Metropolitan Museum of Art misled patrons about whether its "recommended" prices of admission were mandatory ended in a settlement requiring the use of the word "suggested" on signs and ticket kiosks. The attorneys pocketed **\$350,000 in attorneys fees**.



In a 2016 lawsuit, a **\$5 million award** was split by the attorneys and Sydney-based LCM Litigation Funding, while the 300 laid-off factory workers they purported to represent received **nothing**.



The UK consumer class action against MasterCard was backed by a litigation funder and based on an EU-enforcement decision against the company. The £40 million funding agreement showed the funders stood to make at least £135 in return and as much as **£1 billion** (with the size of their payment to increase, the lower the claimant take-up rate).

EU CONSUMERS SUPPORT COLLECTIVE ACTION SAFEGUARDS



85% of EU consumers support the introduction of safeguards for collection action lawsuits.*

Nearly **80%** of consumers feel it is important that collective action safeguards are made consistent across the EU.*

Just **5%** of consumers believe that TPLF will ensure that collective action cases operate in consumer's best interests.*

SUGGESTED EU SAFEGUARDS



COLLECTIVE REDRESS

1. Implementing stringent class certification standards
2. Preserving the loser pays principle
3. Favoring opt-in over opt-out mechanisms
4. Promoting strict standing requirements
5. Mandating closure for defendants
6. Restricting contingency fees and regulating TPLF for collective actions
7. Banning punitive damages
8. Curbing jurisdictional overreach/ forum shopping

THIRD PARTY FUNDING

1. Implementing licensing through a government agency
2. Requiring capital adequacy
3. Ensuring that claimants, not funders, control management of the case
4. Requiring that funders act in the best interest of claimants
5. Banning law firms from owning funders and vice versa
6. Imposing costs liability
7. Promoting transparency
8. Placing limits on recovery