

Preface

Seven years ago—almost to the day—we published the original edition of this book through the hard work of our hundreds of authors and editorial staff with the strong support of the Tort Trial and Insurance Practice Section of the American Bar Association. As National Editor, I was very proud to see how well the excellent contributions of everyone involved came together to become a go-to guide for judges, clients, and practitioners handling class actions. The next year, the U.S. Supreme Court decided *Wal-Mart Stores, Inc. v. Dukes*,¹ and since that time, has continued to decide a number of class action issues each year—involving everything from standards of proof to precertification expert witness challenges to class action waivers in arbitration to the tolling of limitations for putative classes.² And those decisions have had a trickle-down effect on the federal circuit and district courts, as well as the jurisprudence of the many states whose class action law parallels federal developments. As a result, it was time for a new edition of the guide.

We have added some new authors, a few new chapters, and a great deal of new information about class action developments throughout the country. Most of the chapters were substantially rewritten in light of the massive changes in the class action and multidistrict litigation landscape since 2010. Tracking recent decisions of the Supreme Court, we also included new chapters on the standing of class representatives (Chapter 13—*Spokeo*) and offers of judgment (Chapter 22—*Campbell-Ewald*). This edition includes an expanded chapter on multidistrict litigation (Chapter 14) and a new chapter on bellwether trials (Chapter 15). We have also added chapters focused on life insurance and annuities (Chapter 19.G) and food and beverage class actions (Chapter 19.I).

1. 564 U.S. 338, 351 (2011).

2. See, e.g., *AT&T Mobility LLC v. Concepcion*, 563 U.S. 333 (2011); *Comcast Corp. v. Behrend*, 133 S. Ct. 1426 (2013); *Amgen, Inc. v. Conn. Ret. Plans & Trust Funds*, 133 S. Ct. 1184 (2013); *Genesis HealthCare Corp. v. Symczyk*, 133 S. Ct. 1523 (2013); *Halliburton Co. v. Erica P. John Fund, Inc.*, 134 S. Ct. 2398 (2014); *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540 (2016); *Tyson Foods, Inc. v. Bouaphakeo*, 136 S. Ct. 1036 (2016); *Campbell-Ewald v. Gomez*, 137 S. Ct. 663 (2016); *Microsoft Corp. v. Baker*, 136 S. Ct. 890 (2016); *Cal. Pub. Emps.' Ret. Sys. v. ANZ Secs., Inc.*, 137 S. Ct. 2042 (2017).

Other developments in class action practice include the current draft of proposed changes to Federal Rule of Civil Procedure 23 by the Committee on Rules of Practice and Procedure, which have been subjected to public comment and if approved are anticipated to be effective December 2018.³ The proposed amendments are analyzed in various chapters of the guide, particularly Chapter 8 on settlements. And a bill introduced to Congress, titled “Fairness in Class Action Litigation Act of 2017,” proposes additional restrictions on the class action device, some of the most sweeping to date.⁴

I am especially gratified that so many of the original authors agreed to participate in the second edition—an overwhelming number of them shared their experiences and excellent work again in the second edition. And many asked for and delivered additional chapters as well—despite a very aggressive publishing schedule. Our stellar authors not only brought the content forward to current, but also took their chapters to a new level of excellence.

The Editorial Board—Jill Bowman, Tanya Pierce, and Joanne Geha Swanson—both contributed chapters and expertly and patiently enhanced the chapters of others and provided unfailing support for the entire project under very demanding deadlines. My assistants, Gina Verlander and Stacey Jett, endured untold hours revising and ensuring that we accurately managed all the versions of the 99 chapters—never losing their cool or their sunny dispositions—and I am forever indebted to them. I am also grateful to my three daughters, Jenny, Julia, and Delia, for their support and good senses of humor during the publishing of this book and its predecessors. They are my stars and muses.

I dedicate my work on this book to Dr. Sam Greer, my husband of 29 years. He has been incredibly supportive of both editions and the 2012 supplement and never once asked, “What were you thinking?” I simply could not have done any of it without him.

Marcy Hogan Greer, National Editor
Austin, Texas
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3. U.S. Courts, Proposed Amendments Published for Public Comment, www.uscourts.gov/rules-policies/proposed-amendments-published-public-comment.

4. H.R. 985, as passed by the House of Representatives in March 2017, is available at <https://www.congress.gov/115/bills/hr985/BILLS-115hr985rfs.pdf>.