

Contents

Preface	xv
About the Editors	xvii
About the Authors	xix
Foreword	lvii
PART I	
The Anatomy of a Class Action	1
CHAPTER 1	
Precertification	3
MARCY HOGAN GREER	
CHAPTER 2	
Ethical and Practical Issues of Communicating with Members of a Class	19
LEANE K. CAPPS CAITLIN J. MORGAN	
CHAPTER 3.A	
Class Definition	45
ELIZABETH CABRASER	
CHAPTER 3.B	
Numerosity, Commonality, and Typicality	57
RUTH A. BAHE-JACHNA	
CHAPTER 3.C	
Adequacy Requirements	69
JAMES M. TERRELL	
CHAPTER 3.D	
Nonmonetary Relief	77
S. AULT HOOTSELL III MELONIE S. WRIGHT	

CHAPTER 3.E Predominance and Superiority RAND P. NOLEN	85
CHAPTER 4 Class Certification Hearings and Decisions STEVEN F. GRIFFITH, JR.	93
CHAPTER 5 Interlocutory Appeals THEANE EVANGELIS BLAINE H. EVANSON BRADLEY J. HAMBURGER	105
CHAPTER 6 Discovery from Class Members BRADLEY S. WOLFF MYRECE R. JOHNSON	127
CHAPTER 7 Trials MICHAEL J. MUELLER JASON M. BEACH	143
CHAPTER 8 Settlements LINDA S. MULLENIX	177
CHAPTER 9 Attorneys' Fee Awards and Incentive Payments CLIFFORD H. WALSTON	241
CHAPTER 10 Claims Administration KIM SCHMIDT	255
PART II Special Issues	267
CHAPTER 11 The Class Action Fairness Act TANYA J. PIERCE	269

CHAPTER 12	
Mass Actions under the Class Action Fairness Act	315
JAMES L. BERNARD JONATHAN A. SAMPER	
CHAPTER 13	
Standing	349
KIRSTEN M. CASTAÑEDA ALEX WILSON ALBRIGHT	
CHAPTER 14	
Multidistrict Litigation	373
THOMAS GALLIGAN, JR. RICHARD J. ARSENAULT	
CHAPTER 15	
Bellwether Trials	403
JAIME L. DODGE ERIC D. HOLLAND RICHARD J. ARSENAULT	
CHAPTER 16	
<i>Daubert</i> Challenges in Class Certification	417
DANIEL M. McCLURE MATTHEW A. DEKOVICH	
CHAPTER 17	
Medical Monitoring Classes	429
CRISTINA C. LONGORIA	
CHAPTER 18	
Bankruptcy and Class Actions	445
VAN A. CATES	
CHAPTER 19.A	
Consumer Actions and Fraud/Reliance-Based Torts	455
JOSHUA D. LICHTMAN ERIC A. HERZOG STEPHANIE STROUP	
CHAPTER 19.B	
Antitrust	481
DARRYL ANDERSON LAYNE KRUSE	

CHAPTER 19.C Exposure Torts RICHARD W. MARK NETA LEVANON	491
CHAPTER 19.D Oil and Gas Royalty Classes MARK D. CHRISTIANSEN	509
CHAPTER 19.E Employment Cases SARAH BRITE EVANS KRISTEN BUSH	525
CHAPTER 19.F Property and Casualty Insurance RICHARD L. FENTON ALANNA G. CLAIR	539
CHAPTER 19.G Life Insurance and Annuities Class Actions ALAN S. GILBERT LAURA L. GEIST	563
CHAPTER 19.H Securities Class Actions HAROLD C. HIRSHMAN CAMILLE E. BENNETT YU "DERIK" RAO	575
CHAPTER 19.I Food and Beverage Class Actions KEVIN UNDERHILL AMIR NASSIHI READE BRAMER ELIZABETH LEE	597
CHAPTER 20 Statistical Sampling as a Basis for Extrapolating Liability and/or Damages MICHAEL J. MUELLER JASON M. BEACH	617

CHAPTER 21 Aggregation or Stacking of Penalties or Punitive Measures	641
CHRISTOPHER CHORBA TIMOTHY W. LOOSE	
CHAPTER 22 Offers of Judgment	667
RICK L. SHACKELFORD	
CHAPTER 23.A Quantifying Notice Results in Class Actions	693
KATHERINE KINSELLA SHANNON WHEATMAN	
CHAPTER 23.B The Plain Language Toolkit for Class Action Notice	701
SHANNON WHEATMAN KATHERINE KINSELLA	
CHAPTER 23.C Reality Check: The State of Media and Its Usage in Class Notice	711
MAUREEN GORMAN SHANNON WHEATMAN	
CHAPTER 24 Arbitration and Class Actions	723
LORRIE L. HARGROVE W. SCOTT SIMPSON THOMAS WERTH THAGARD III DANIEL S. WEBER	
CHAPTER 25 Class Action Waivers in Arbitration Provisions	749
SCOTT A. SCHUTTE THOMAS J. SULLIVAN PAUL D. WELLER EZRA D. CHURCH	
CHAPTER 26 Res Judicata and Collateral Estoppel Issues in Class Litigation	767
ANDREW S. TULUMELLO MEGAN B. KIERNAN	

CHAPTER 27	
Multistate Class Actions and Choice of Law	787
ANDREW S. TULUMELLO MEGAN B. KIERNAN	
CHAPTER 28	
U.S. Class Actions Involving Foreign Parties	803
ROBERT TED PARKER CHARLES F. RYSAVY	
CHAPTER 29	
Management Techniques and Devices for Segmenting Aggregate Litigation	843
EDWARD F. SHERMAN	
CHAPTER 30	
Creative Application of Rule 23(C)(4): How Issue Certification Interacts with the Requirements of Rule 23(B)(3)	875
CARI KATRICE DAWSON DAVID B. CARPENTER	
CHAPTER 31	
Modification and Decertification of Classes	897
J. BENJAMIN KING	
CHAPTER 32	
Other Due Process Challenges to the Class Device	905
THEANE EVANGELIS BLAINE H. EVANSON BRADLEY J. HAMBURGER	
CHAPTER 33	
Use of Special Masters in Connection with Class Proceedings	929
F. A. LITTLE, JR. ED GENTLE	
CHAPTER 34	
Ethical Issues in Class Action Settlements	941
ROBERT D. PHILLIPS JR. SAMUEL J. PARK	

PART III	
Jurisdictional Survey of Local Requirements Governing Class Actions	979
CHAPTER 35	
Alabama	981
KERMIT L. KENDRICK	
CHAPTER 36	
Alaska	987
KEVIN M. CUDDY ANDREW F. BEHREND SARAH R. LANGBERG	
CHAPTER 37	
Arizona	999
ROBERT B. CAREY AMY M. WILKINS JOHN M. DESTEFANO III	
CHAPTER 38	
Arkansas	1009
LYN PRUITT GRAHAM C. TALLEY	
CHAPTER 39	
California	1015
ROBERT D. PHILLIPS, JR. KATHY J. HUANG	
CHAPTER 40	
Colorado	1029
ROBERT B. CAREY JOHN M. DESTEFANO III	
CHAPTER 41	
Connecticut	1037
DAVID M. BIZAR	
CHAPTER 42	
Delaware	1045
DANIEL M. SILVER BENJAMIN A. SMYTH	

CHAPTER 43 District of Columbia JOHN M. SIMPSON	1051
CHAPTER 44 Florida G. CALVIN HAYES	1061
CHAPTER 45 Georgia LAURIE WEBB DANIEL GRANT EDWARD LAVELLE SCHNELL	1067
CHAPTER 46 Hawai'i LOUISE ING MICHELLE COMEAU	1079
CHAPTER 47 Idaho JAMES C. DALE	1085
CHAPTER 48 Illinois IAN H. FISHER JASON M. ROSENTHAL CHRISTINA T. HASSEL	1089
CHAPTER 49 Indiana DARREN A. CRAIG AMY S. WILSON	1101
CHAPTER 50 Iowa ANN BROWN	1105
CHAPTER 51 Kansas JAMES A. WALKER	1111

CHAPTER 52 Kentucky BARBARA B. EDELMAN BRETT R. NOLAN	1117
CHAPTER 53 Louisiana S. AULT HOOTSELL III CHRISTOPHER D. MORRIS	1121
CHAPTER 54 Maine DAVID W. BERTONI STACY O. STITHAM	1137
CHAPTER 55 Maryland SCOTT H. MARDER PHILLIP CHONG	1141
CHAPTER 56 Massachusetts DONALD R. FREDERICO KATHERINE S. KAYATTA	1163
CHAPTER 57 Michigan JOANNE GEHA SWANSON	1171
CHAPTER 58 Minnesota BENJAMIN W. HULSE	1189
CHAPTER 59 Mississippi JOHN A. (JACK) CRAWFORD, JR. HALEY F. GREGORY	1203
CHAPTER 60 Missouri ADAM E. MILLER	1207

CHAPTER 61 Montana ALLAN McGARVEY	1215
CHAPTER 62 Nebraska LEONARD W. ARAGON DANIEL J. KUROWSKI	1219
CHAPTER 63 Nevada ROBERT J. CALDWELL F. SHANE JACKSON	1223
CHAPTER 64 New Hampshire BRUCE W. FELMLY	1227
CHAPTER 65 New Jersey ROY A. COHEN STEVEN P. BENENSON MARC I. EIDA	1235
CHAPTER 66 New Mexico TIMOTHY C. HOLM	1245
CHAPTER 67 New York CHRISTOPHER G. KELLY	1251
CHAPTER 68 North Carolina MATT McGUIRE RYAN ETHRIDGE CAITLIN COUNTS	1261
CHAPTER 69 North Dakota MARK G. SCHROEDER	1271

CHAPTER 70 Ohio KELLY A. KOSEK JEFFREY A. BRAUER	1279
CHAPTER 71 Oklahoma MARK D. CHRISTIANSEN	1289
CHAPTER 72 Oregon TIMOTHY W. SNIDER BRAD S. DANIELS STEPHEN H. GALLOWAY	1297
CHAPTER 73 Pennsylvania ALLAN A. THOEN KYLE DOLINSKY	1313
CHAPTER 74 Rhode Island PATRICIA K. ROCHA NICOLE J. BENJAMIN	1329
CHAPTER 75 South Carolina JAMES D. MYRICK JOHN C. HAWK IV ASHLEY KUTZ KELLEY	1343
CHAPTER 76 South Dakota MARK G. SCHROEDER	1349
CHAPTER 77 Tennessee RANDALL D. NOEL DIANA M. COMES	1353
CHAPTER 78 Texas MICHAEL S. TRUESDALE	1361

CHAPTER 79	
Utah	1373
LEONARD W. ARAGON MOLLY A. BOOKER	
CHAPTER 80	
Vermont	1377
GARTH WOJTANOWICZ CATHERINE GANNON	
CHAPTER 81	
Virginia	1385
ROBERT L. HODGES BETHANY G. LUKITSCH MATTHEW J. REYNOLDS	
CHAPTER 82	
Washington	1393
JILL D. BOWMAN	
CHAPTER 83	
West Virginia	1403
MICHELLA KRAS RACHEL FREEMAN	
CHAPTER 84	
Wisconsin	1411
MARK G. SCHROEDER	
CHAPTER 85	
Wyoming	1419
MARK G. SCHROEDER	
Table of Cases	1423
Index	1559