

The 33 Largest U.S. Class or Related Action Lawsuits

With each passing day, the financial press reports the filing of increasing numbers of class or related action lawsuits. In particular, accounting failures are seemingly the most numerous. Recently, we compiled information about the 33 most significant corporate class action cases¹ that had been settled either through agreement or litigation through 12-31-2002. A great deal can be learned about business risks from reviewing these cases. They cover a lot more territory than one might think. In order to gain a sense of the types, magnitude, parties, trends and related risks, we thought it might be interesting to see how they break down. Our findings are summarized in the following tables.



I. Breakdown by Industry Type:

Financial services	13	39%	Financial services groups including financial institutions, brokerage houses, investment bankers, insurance companies and mutual funds groups were the most frequent defendants.
Computer hardware, software and electronics	5	16%	Surprisingly, this industry category came up second on the list of most significant class claims. It seems that the associated speed to success and failure of this industry has created significant risks in this business. They also seem to be involved in a lot more confidentiality type litigation.
Consumer retail	3	9%	Consumer retail is the next most numerous in terms of claims, although not significant given the size of this industry. Retail, however remains a high risk circumstance.

¹ In assembling information about these claims we have to acknowledge that we may have missed some. The categories are broad and cover a lot of legal ground. For purposes of this analysis, however, we believe that missing a few will not significantly impair the informational interest of what is presented.

Entertainment	2	6%	
Tobacco	2	6%	As one might expect, the tobacco companies have been the subject of many class actions.
Health care	2	6%	Claims in this area appear to be increasing substantially.
Automobile and transportation	2	6%	
Professional services	2	6%	
Industrial manufacturing	1	3%	
Natural resources	1	3%	

II. How cases were resolved:

Cases that were settled outside of a courtroom	27	82%	While the general rule is that 95% of these cases get settled outside of the courtroom in mediations or arbitrations, the lower percentage in this case is probably indicative of the magnitude of what was at stake in the litigations. What can be gleaned from this is that the higher the amount at stake, the more likely it will go to trial.
Cases that went to a jury verdict	8	24%	

III. What parties brought the lawsuits (The number will not total 33 because in many cases different or multiple groups bring suit:



Shareholders or bondholders bringing suit	18	54%	The majority of these cases were shareholder class actions. They comprise the largest percentage of claims substantially because shareholders can suffer extraordinary losses in short periods of time. In addition, an entire cottage industry within the legal profession has grown up around bringing these kinds of
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SEC, FDIC, Justice Department, etc.	13	40%	The federal government has been an active plaintiff against large corporations. Companies are subject to the regulations of many different government agencies
Customers	6	18%	Interestingly, class actions are not limited to shareholders, customers can also be harmed in many circumstances.
Bankruptcy trustees	4	12%	Bankruptcy trustees have become much more active plaintiffs over the past decade. This percentage can expect to go up over time
The Company itself	3	9%	These kinds of claims are often brought by companies who believe that a former executive has misled them in some way.
Suppliers	1	3%	In at least one case, a major supplier ended up bringing suit against a company.

IV. The types and Nature of the Claims (Because of multiple claim circumstances, these percentages will exceed 100):

Accounting and financial fraud	21	64%	By far and away the largest category, accounting and financial fraud claims, particularly with respect to large claims, have proven the most numerous.
Product liability	5	16%	Product liability claims have proven to be extraordinarily expensive mistakes for companies to make. Many hit with large claims do not survive.
Manipulation of executive or related compensation	3	9%	The recent Tyco claims were not the first in this category.
Collusion and antitrust	3	9%	Even before the recent Microsoft case, some of the largest class cases have been driven by Federal Trade Commission concerns.
Loss of company personnel and trade secrets	2	6%	
Insider trading	3	9%	Even before Enron, an increasing amount of claims included derivative claims for insider trading.
Claims of minority shareholder manipulations	2	6%	This is typically a significant area of litigation in corporations.