
Single Bite at the Class Action Certification Apple

BY SCOTT BYERS

In *In re Baycol Products Litigation*, the Eighth Circuit affirmed the lower court's decision enjoining state court plaintiffs from attempting to certify a class after a multidistrict court denied class certification on the same issues in a separate case. In the original case, plaintiff initiated a proposed class action in state court, which was removed to federal court and subsequently transferred to a multidistrict court, seeking refunds for economic loss caused by Baycol, a prescription medication, in violation of the West Virginia Consumer Credit and Protection Act. Other individuals attempted to represent a similar class with similar allegations in West Virginia state court. After denying a nationwide class, the MDL district court denied certification of the original plaintiff's West Virginia class determining that individual issues of fact did not predominate. After the deadline to appeal passed, plaintiffs in the other action moved for certification of a class in state court. The district court granted defendant's motion to enjoin such plaintiffs from relitigating the previous decision in state court. The plaintiffs appealed the injunction.

The Eighth Circuit determined that if collateral estoppel would bar the plaintiffs from seeking certification of an economic class in state court then the injunction was proper. Following West Virginia's collateral estoppel requirements, the court determined that the analysis under Federal Rule 23 was the same as that under West Virginia's Rule 23. Further, it found that there was a final adjudication on the merits, that the state court plaintiffs were in privity with the party to the prior action, and that they had a full and fair opportunity to litigate the issue in the prior action. Finally, the court stated that there was no due process violation because the plaintiffs could still bring individual claims in state court.



*Plaintiffs can't try
class certification again*

Defenses, State-Law Variations Defeat Class Certification

BY KIM FREEDMAN

In *Sacred Heart Health Systems, Inc. v. Humana Military Healthcare Services, Inc.*, the Eleventh Circuit held that the district court abused its discretion in certifying a class under Federal Rule 23(b)(3). Several hospitals filed a class action alleging that Humana systematically underpaid them for medical services rendered to veterans under a federal program, thereby breaching their individual network provider agreements. The lower court certified a class of approximately 260 hospitals in six states. The Eleventh Circuit granted review under Rule 23(f) and reversed the class certification order because the prerequisites of Rule 23(b)(3) had not been met. The court based its decision on three primary reasons.

First, the court held that wide variations in the material contract terms “overwhelmed” questions of law or fact common to the class and were “fatal” to class certification. Second, the court recognized that Humana’s defenses of waiver and ratification, and the considerable variation in state law under which extrinsic evidence relating to these defenses would have to be analyzed, required a “serious analysis of the variations in applicable state law” and a “rigorous analysis” by the district court. Because the plaintiffs failed to provide the necessary analysis of such variations, the district court abused its discretion by granting certification. Finally, the court noted that the lack of predominance belied a finding that a class action was superior to other methods of fairly and efficiently adjudicating the controversy.