



2014 Survey Of Class Action Cases In Virginia: The Statistics

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BY: ROBERT D. PERROW & TURNER A. BROUGHTON

In Virginia, class action lawsuits are not permitted in state court^[1] This limitation, however, does not mean that companies doing business in Virginia are not defending class action lawsuits in Virginia. If a class action involves a federal statute or there is a complete diversity of citizenship between the parties, then a federal court will have jurisdiction to decide the case.

This article addresses the new class action cases filed in 2014. Future articles will address the results of recent cases.

A survey of the federal class action cases filed in Virginia in 2014 reveals that companies doing business in Virginia are defending a wide variety of cases seeking to establish class actions. Most of the cases filed in 2014, however, fall within two broad categories of alleged violations of federal labor and consumer protection statutes.

Number and Types of 2014 Class Action Cases

Seventy-nine (79) class action lawsuits were filed in Virginia federal courts in 2014. These cases were filed against companies in a variety of different industries such as manufacturers, retail companies, financial institutions, consumer reporting agencies, insurers and debt collectors.

The types of cases and the number of each type of case are as follows:

20

Violation of federal consumer protection statutes

31

Violation of the Fair Labor Standards Act ("FLSA")



The most frequent claims made involve a dispute over the amount of wages owed workers under the FLSA (37%). Many businesses in a variety of different industries and some local governments are being challenged as to their compliance with the federal wage and hour laws. There is no concentration of these cases in any particular industry.

The second highest number of class actions (25%) have been filed on behalf of consumers. These cases most often allege violations of the Fair Credit Reporting Act, the Fair Debt Collection Practices Act ("FDCPA") or the Telephone Consumer Protection Act ("TCPA"). One case alleges a violation of Federal Housing Administration ("FHA") regulations governing FHA insured mortgages. Some of these cases combine individual claims with claims on behalf of a class of similarly situated consumers. The class claims focus on technical violations of the statutes or regulations and seek relatively small statutory damages for a large number of consumers. The defendants involved in these cases are financial institutions, consumer reporting agencies and debt collectors.

Observations

- Approximately 96% (76) of all class action lawsuits cases filed in 2014 were filed in the federal courts located in the Eastern District of Virginia (Alexandria, Richmond, Norfolk or Newport News).
- In 2014 only three (3) class action lawsuits were filed in the Western District of Virginia (Abingdon, Big Stone Gap, Charlottesville, Danville, Harrisonburg, Lynchburg, or Roanoke). All three cases were filed in Roanoke.
- Eighty percent (80%) of the class action lawsuits alleging a violation of a federal consumer protection statute were filed in the Richmond Division of the Eastern District of Virginia. The other consumer protection cases were filed in Alexandria. This is a clear indication that counsel representing consumers clearly favor bringing consumer class actions before the federal judges located in Richmond.
- Approximately 94% (29) of the FLSA class action cases were filed in federal courts located in the Eastern District of Virginia; however, these cases were filed in a variety of different venues (Alexandria, Richmond, Norfolk and Newport News). Unlike the consumer protection cases, there does not appear to be a bias toward any particular federal court in the Eastern District of Virginia for FLSA cases.

Conclusion

Companies doing business in Virginia are not immune from class actions even though Virginia is not considered a "class action state." Such cases are costly to defend, and knowledge of the issues confronting other businesses can be used to avoid involvement in such litigation. We monitor Virginia class action litigation. Our focus is on issues of importance to companies doing business in Virginia that may be subject to class action lawsuits. We will address these issues in future articles.

[1] Currently, there are no Virginia procedural rules or statutes permitting the institution of class actions in Virginia state courts. Instances of any lawsuit akin to a “class action” in a Virginia state court have been rare, are limited to matters in equity and occurred over 100 years ago. *Class actions in Virginia state court? Or is it just Bull?* The Journal of the Virginia Trial Lawyers Association, Vol. 2, No. 4 (2012).

Related People

- Turner A. Broughton – 804.420.6926 – tbroughton@williamsmullen.com
- Robert D. Perrow – 804.420.6446 – bperrow@williamsmullen.com

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