

Overview

Step toe & Johnson's Securities Litigation Team is experienced in all aspects of securities litigation, including defending class actions and complex securities litigation matters before courts and arbitration panels across North America. Our securities litigators regularly defend large and small public and private companies, their directors, officers, employees, underwriters, and affiliates in virtually every kind of securities claim possible. Our clients are financial institutions, investment banks, underwriters, accounting firms, insurance companies, professional advisers, venture funds, majority shareholders, broker-dealers, exchanges, hedge funds, lenders, energy sector companies, and health care organizations.

Securities litigation is a highly specialized area of practice involving the application of complex securities laws. Cases are often high stakes, involve sensitive matters, and can result in substantial damage awards and negative publicity. Our team is knowledgeable and adept at assessing financial risk to companies and other stakeholders in defending these types of claims and work closely with our client's in-house team from the outset to map out a proactive strategy, and path forward to mitigate liability.

Whether a large or small class action, we emphasize lean and strategic staffing. Our national practice structure enables us to draw on the valuable experience of attorneys firmwide and provides the flexibility and capacity to assemble a large litigation team when necessary to achieve optimal results. Regardless of the size of the case, our lead attorneys engage in all critical aspects of the case and take a lead role in tactical decisions. We understand that businesses need skilled litigators and experienced counsel to work with them after the resolution of a class action to implement necessary changes to help prevent future litigation.

Representative Experience

Class action defense raises a special set of strategic and tactical considerations. Our team has the experience to help our clients navigate them. We have successfully defended class actions and complex securities matters in more than 45 states in federal and state courts, as well as internationally. Our experience includes:

In re Williams Securities Litigation (WCG Subclass), Case No. 02-cv-72 (N.D. Okla.)

Buyers of securities issued by a corporation engaged in the fiber optic cable business brought a nationwide securities fraud class action against the corporation and its auditor under Section 10(b), claiming failure to disclose undervaluation of key assets. The plaintiffs sought damages of nearly \$3 billion. The district court granted summary judgment for the defendants, holding that the plaintiffs' evidence was insufficient

as a matter of law to establish loss causation. The U.S. Court of Appeals for the Tenth Circuit affirmed. In re Williams Sec. Litig., 496 F. Supp. 2d 1195 (N.D. Okla. 2007), aff'd sub nom. In re Williams Sec. litigation-WCG Subclass, 558 F.3d 1130 (10th Cir. 2009).

Ho v. Duoyuan Global Water, Case No. 10-cv-7233 (S.D.N.Y.)

This case was a nationwide securities class action in which counsel represented issuer Duoyuan Global Water, a China-based company listed on the New York Stock Exchange. Following the partial dismissal of the plaintiffs' claims, the defendants successfully settled the remaining claims. *Ho v. Duoyuan Global Water, Inc.*, 887 F. Supp. 2d 547 (S.D.N.Y. 2012).

Perry v. Duoyuan Printing, Inc., Case No 10-cv-7235 (S.D.N.Y.)

The plaintiffs brought securities fraud claims against Duoyuan Printing (DYP) and its officers, directors, and underwriters. The defendants successfully settled the plaintiffs' securities fraud claims. Following settlement of the plaintiffs' class claims, the defendants defeated a cross-claim by the underwriters for contractual indemnity. In an issue of first impression, the District Court held that, where underwriters settle securities fraud claims (rather than defeating them on the merits), public policy prohibits indemnification. The underwriters subsequently accepted a walk-away settlement in exchange for the defendants' support of their motion to vacate. *Perry v. Duoyuan Printing, Inc.*, 232 F. Supp. 3d 589 (S.D.N.Y. 2017), opinion vacated in aid of settlement.

Schmitz v. Diao, Case No. 11-cv-157 (D. Wyo.)

The plaintiff shareholders of nominal defendant DYP, a China-based company incorporated in the state of Wyoming, sought to represent a nationwide class of shareholders to pursue a claim for breach of fiduciary duty against current and former officers and/or directors of DYP. On behalf of Christopher Holbert, one of DYP's directors, counsel prepared a motion to dismiss for lack of personal jurisdiction, which was ultimately joined by all other individual defendants. Following oral argument, the district court granted our motion, holding that the individual defendants' service as officers and/or directors of a Wyoming corporation was insufficient for the exercise of personal jurisdiction over them. *Schmitz v. Diao*, No. 11-CV-157-S, 2013 WL 5965882 (D. Wyo. Nov. 7, 2013).

Rooney v. City of Oklahoma City et al., Case No. CJ-2011-1950 (Cleveland County)

The plaintiff brought a purported class action challenging the alleged overcharging of customers for franchise fees. Representing defendant CoxCom LLC, a cable provider, we successfully defeated the plaintiff's motion for class certification under Okla. Stat. Ann. tit. 12, § 2023 (West) on the ground that the petition failed to state a valid cause of action. The Oklahoma Court of Civil Appeals summarily affirmed the district court's order denying class certification and subsequently the plaintiff dismissed her individual claim.

In re SinoHub Inc., Sec. Litig., Case No. 12-cv-8478 (S.D.N.Y.)

Counsel represented outside auditor Baker Tilly Hong Kong in this class action lawsuit brought under the securities laws by shareholders of SinoHub Inc., an electronics company based in Shenzhen, China. Following our filing of a motion to dismiss, we negotiated a settlement on behalf of Baker Tilly under which all claims were dismissed.

Lambert v. Baker Tilly Hong Kong, Case No. 14-cv-9959 (C.D. Cal.)

Counsel represented outside auditor Baker Tilly in this class action lawsuit brought by shareholders of China North East Petroleum Holdings Ltd. The district court granted without prejudice our initial motion to dismiss for failure to state a claim but denied a subsequent motion to dismiss. Subsequently, we negotiated a settlement on behalf of Baker Tilly under which all claims were dismissed.

Fessler v. Porcelana Corona De Mexico, S.A. de C.V., Case No. 19-cv-248 (E.D. Tex.)

Homeowners brought nationwide class action claims against a sanitary ware manufacturer alleging that defective toilet tanks cracked and caused property damage. Plaintiffs sought over \$147 million in damages. The parties' settlement resulted in payments of less than \$400,000 to the class members. Class counsel then sought \$12.7 million in attorneys' fees. The U.S. District Court for the Eastern District of Texas awarded class counsel \$4.3 million in fees. On appeal, the U.S. Court of Appeals for the Fifth Circuit vacated the award. On remand, the District Court cut its original award by 55%, which enabled the parties to resolve the attorney fee dispute. *Fessler v. Porcelana Corona De Mexico, S.A. de C.V.*, 2020 WL 1974246 (E.D. Tex. Apr. 24, 2020), rev'd, 23 F.4th 408 (5th Cir. 2022).

Betesselassie v. Porcelana Corona de Mexico, S.A. de C.V., Case No. 21-cv-02153 (D. Kan.)

We obtained dismissal of nationwide class claims against a sanitary ware manufacturer alleging that defective toilet tanks would crack and cause property damage.

In addition to substantive experience, we have in-depth industry knowledge in areas most susceptible to class actions, including:

- Securities and shareholder derivative actions
- Antitrust
- Commercial litigation
- Employment actions
- Consumer Protection
- Privacy and cybersecurity matters
- Food and beverage
- Life sciences
- Manufacturing
- Transportation

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