



Lex Machina's 2024 Class Action Litigation Report

Join Wesley Sze (Senior Associate at Gibson Dunn) and Laura Hopkins (Lex Machina's Legal Data Expert in Class Action Litigation), hosted by Gloria Huang (Lex Machina's Product Marketing Manager), as they discuss class action litigation trends over the last three years and offer insights on judges, venues, parties, law firms, case filings, timing, case resolutions, damages, and more. The webcast will also include a look at emerging trends in general class action cases, civil rights class action cases, consumer protection class action cases, employment class action cases, and federal appellate cases.

Speakers:



Speaker
Wesley Sze
Senior Associate
Gibson Dunn



Speaker
Laura Hopkins
Legal Data Expert - Securities
Lex Machina



Moderator
Gloria Huang
Product Marketing Manager
Lex Machina

Gloria Huang ([00:00](#)):

Good morning. My name is Gloria Huang and I'm the product marketing manager at Lex Machina. I'd like to welcome everyone to today's webcast on the 2024 class action report. Today we're going to be discussing the report and insights into class action litigation over the past three years. I'm joined by fantastic guest speaker as well as one of Lex Machina's own legal data experts who I'll introduce in a moment. But before I introduce our speakers for today, I'd like to quickly address the webcast format. This will be a 30-minute discussion with our guest speaker, and if there's time remaining at the end, we'll take a few questions from the attendees. You can submit your questions into the q and a window at any time during the webcast. And if we don't have time to get to your question, we'll reach out to you afterwards. Now first, a little bit about Lex Machina.

([00:43](#)):

We're a legal analytics company that helps our clients win in the practice and business of law. Everything you see during this webcast or in the report is available on the platform. We count over 80% of the Amma 100 as our clients, so it's important to know the advantages that using Lex Mach and gain for organizations like yours. Now I'm excited to introduce our speakers for today. We're lucky to be joined by Wesley Z and Laura Hopkins. Wesley is a senior litigation associate in the Palo Alto office of Gibson, Dunn and Crutcher. He represents leading companies in a wide range of class action and complex litigation with a focus on privacy and technology related litigation. Laura's a legal data expert, Lex MNA specializing in class action, consumer protection and securities. She previously practiced as a civil litigator and bankruptcy attorney for over 13 years. Welcome, it's great to have you both with us today. Laura, I'll pass it over to you, Wesley now.

Laura Hopkins ([01:39](#)):

Thanks Gloria, I appreciate it. And welcome Wes, it's great to have you. Today we are going to discuss class action filings, also courts, judge, data parties, firms, timing, case resolutions and damages. So let's get right in there. We have a lot to cover. So first we're going to talk about what is Alexina class action case. Our class action data focus on federal district court class action cases, which are defined as any case in which a plaintiff alleges a claim on behalf of a group or a class of individuals. The case type includes all cases pled as federal rule of civil procedure, rule 23 class actions, but does not include employment cases brought as collective actions under the FLSA or shareholder derivative actions that are not also pled as class actions under rule 23. So there's our definition, so let's get to the data first. In this figure, we're seeing a gradual upward trend peaking in 2020, dropping back a little in 2021, but then rising again over the next very gradually, over the next two years. So Wes, welcome. Let me open it up to you. Is this what you're seeing in your practice? What's happening here?

Wesley Sze ([02:57](#)):

Great. Well thank you very much Laura and Gloria for the introduction. This chart that we're seeing on this slide here is certainly consistent with what we've been seeing in our practice. This chart goes for about as long as I've been practicing as an attorney about almost 10 years now, and I have worked a lot in class action defense and we've certainly seen a rise, a steady increase in class action filings over the years, and we've seen a lot of developments in the case law that have really drawn a lot of interest to class action litigation. And I think the steady increase is keeping many of us busy and we expect that to continue into the future as well.

Laura Hopkins ([03:36](#)):

Great, thanks. And so moving forward to the next slide. I'm very excited. I oversaw the development of class action, our class action data, and we only really just released in October of last year. So this is the first report that we're giving on this and the first webcast that we're giving. So this is new data that we're providing. So Lex Machina does offer modules based on many other practice areas of law or case types as we call them. And so here we're looking at class action filings over the last 10 years sort of by case type. And I just want to mention here, this is not an exhaustive list of case types that Lex Machina offers. This is just the top 10 word class action cases overlap. So Wes, tell me is it surprising? What are we looking at here?

Wesley Sze ([04:28](#)):

Yeah, no, this is a very interesting chart. I think a few insights kind of come to mind. The fact that consumer protection actions sort of comprise the largest subset of class action filings is not surprising. I think many people who follow class actions and work in the space know that consumer protection class actions really are the bread and butter of what class action litigators do. And this would include your standard consumer fraud or deceptive practices act litigation, but also privacy and cybersecurity litigation, which is also increasing I think make up a lot of what we see in that bucket. But the second insight that I would note about this chart is it really does also show the breadth of practice groups that sort of are at play in class action litigation and class action work is unique because it really does cut across substantive areas of law. And so while there is a very large number of consumer protection cases, you also see a lot in the civil rights era or in employment or securities actions. And so really class actions I think provide a very fruitful, varied area of practice for attorneys. And that's really one of the reasons that drew me to the practice in the first place and it's really interesting to see it kind of broken out on this chart.

Laura Hopkins ([05:46](#)):

Cool. Thanks for that. So we want to dig deeper into these individual practice areas and in our next slide we are looking at class consumer protection cases filed over the last 10 years. It seems like you kind of said pretty reliable work if you're working in class actions. It seems like there is a very steady stream of cases happening, and I'm guessing it's going to keep going like that. Wes, is this what you're experiencing then in your practice?

Wesley Sze ([06:20](#)):

Yeah, absolutely. And this is, I would say the majority of the types of cases that I work on in class actions. The one observation, and it'd be interesting to see this data going to the future is really whether this continues to increase or if we see any kind of uptake. And part of it I think is driven by an increase in cybersecurity related data privacy type actions, which are commonly filed as class action lawsuits. And with the development of technology and kind of a lot of interest in AI and also just general internet technologies and tracking technology, I think we've been seeing a lot of activity in that area and would certainly expect that to continue to increase going to the future.

Laura Hopkins ([07:05](#)):

Right. Yeah, that's interesting. Thanks. Moving forward then, and also looking at the civil rights practice area, which was the second highest, if you remember from our two slides ago, we see a very different looking phenomenon. Wes, can you give us more insights into what happened in 2018 and it clearly had a lasting impact?

Wesley Sze ([07:30](#)):

Sure, sure. And so yeah, this chart definitely shows quite a dramatic uptake in civil rights class actions that were filed around the 2017 or 2018 period and class action practitioners that are sort of may be familiar with this and it's been addressed and reported on the legal press, but really there was a spate of decisions from around the 2017 period that related to lawsuits filed under the Americans with Disability Act relating to website accessibility. And that was sort of a new type of action that began to get a little traction in 2017. There were some courts that issued some decisions that seemed very receptive to these types of lawsuits, and that really sparked, I think a surge of filings largely driven by a small number of law firms and small number of plaintiffs, but really filing these a website accessibility lawsuits. And this has really overloaded many courts and we kind of see that borne out in the data here where you really do see this dramatic increase in these types of filings around the 2017/2018 period. And that has really persisted since then. And so it's certainly interesting to see this data from Lex Machina, which corroborates what we have been seeing just anecdotally in the space and what I know many people, many class action practitioners have been following closely.

Laura Hopkins ([08:57](#)):

Right. Yeah. Wow. Yeah, you really see it there. So moving on, Lex Mina also offers data on appellate cases including appellate findings, app filings and outcomes. And here again, we are looking at a steady stream of class action appeal filings. Wes, it seems like class action appeals are pretty steady and reliable part of class actions. Are they a part of your practice then too?

Wesley Sze ([09:26](#)):

Yeah, absolutely. And class actions I think are really unique in a couple respects. One is just the potential amount of liability that a class action lawsuit can result in can be very large for a defendant for a company. And that really means that this is high stakes litigation. And for that reason it's very, very common to see an appeal filed by either party in a class action just because there's so much at stake. And so that I think is really one of the reasons why we see a steady stream, very continued kind of prevalence of class action appeals. The other unique aspect of class action practice is that there's actually a rule in the federal rules of civil procedure. This is Rule 23 F, which actually authorizes parties to file an immediate interlocutory appeal or at least a petition for an appeal from a class action decision, which may come in the middle of a district court proceeding. That's a little bit of an exception to the standard rule, which requires a case to be litigated to a final judgment or some sort of termination before you have an appeal. But really given the importance and the high stakes nature of class actions and the recognitions, that class certification really is the sort of the make or break moment that can really define the viability of a case. You do see these interlocutory appellate petitions also being filed, which I think contributes to sort of what you see on this chart here.

Laura Hopkins ([11:02](#)):

Wow, that's interesting. Thank you. I didn't know all that, so it's very helpful. So again, moving forward, we have the top five most active districts where class action cases were filed over the last three years and their totals. So the Southern District of New York is the standout top district carrying 23.9% of class action case filings. Wes, do you know why the Southern District of New York is so popular with class actions?

Wesley Sze ([11:36](#)):

Yeah, it's a very interesting to data that we're seeing here. The SDNY is certainly a focus area for class action litigation, and I think there are probably a couple of reasons for that. One would be the SDNY sits in Manhattan, and that is sort of the hotbed for securities litigation. And so you see a lot of that litigation being filed in that court, and a lot of those cases are filed as class actions. And so I think that's one of the factors that are contributing to the data here. I think the other thing, and this goes back to what I was saying earlier about the increase in the A website accessibility lawsuits. Really those decisions from the 2017/2018 period were from New York and they suggested that the courts in New York would be open and receptive to hearing these a website accessibility lawsuits. And that has really made that district in particular a little bit of a magnet for this type of litigation, especially given that websites could be accessed around the country really, it can often be have a little bit of a forum shopping issue where plaintiffs and plaintiff's law firms can really choose what district they want to file in.

([12:55](#)):

And for that reason, we've seen the SDNY really get a lot of these class action cases. And so those are a couple reasons that come to mind as to why we see the SDNY as such a dominant player in terms of the number of class action filings. With respect to the rest of this list here we see the central district of California, which is essentially Los Angeles. We have the Eastern District of New York, the northern district of California, which is where I personally am based, and also the northern district of Illinois, which is in Chicago. And I think class action lawyers will be very familiar with all of these districts. There are a lot of companies that are based out of these districts and they do receive a very large number of filings. And I think what class action litigators will know is that there are certain districts that just become more familiar with how to handle class action litigation.

([13:52](#)):

And there's a little bit of a snowball effect in that once a court sort of has the institutional experience and expertise in managing class actions, there becomes a more developed body of case law, the district court level on class action issues that can sometimes basically snowball to sort of reinforce that district as a particularly viable or useful district for which class action lawsuits can be filed. And so I think you see that kind of snowball effect here where you can really see the concentration of class action filings in a relatively small number of districts. And these are districts that myself and other class action lawyers I'm sure will be very familiar with litigating it,

Laura Hopkins ([14:39](#)):

Right? Yeah, yeah, exactly. And also that's where a lot of the people are too that are filing claims. Anyway, moving forward, I'm just going to try to add all those numbers up for you, but I'm not that fast. So anyway, now I think this is really interesting when we flip from top district, which remember yes, DY was almost 24%. When you look at appeals, almost 26% of the appeals are being brought in the ninth circuit, and then the second circuit where SDNY sits is fourth on the list with only 10% of the appeals within that same three year period. Wes, what do you think here?

Wesley Sze ([15:20](#)):

Yeah, this is super interesting and this is one of the reasons why I actually really like looking at data because sometimes the data will sort confirm what your intuition is and it reinforces what you already know to be true. But there are other times, and I think this slide is one example where the data can actually show a less intuitive result, and that really gives you a different perspective on a lay of the land. And so here you actually see that whereas a lot of the class action filings we saw were in the SDNY and the Easter District of New York, that sort of has fallen to fourth place. Those are in the second circuit.

And in fact, the ninth circuit is the most predominant circuit in terms of the number of class action appeals. And that's very interesting to see. The ninth Circuit is obviously a very large geographically speaking district, and it's a very important one that covers really, really many very important districts.

([16:20](#)):

I personally practice in the ninth circuit a fair bit, and I know that there is always a lot of class action related case law and precedents coming out of that circuit. And the only other thing I'd say is many times circuits over the years have developed reputations for being perhaps more progressive or more conservative, but the judicial composition of appellate judges really has changed over the years. And I think we're seeing a shift and that some circuits that may have been viewed as more progressive or plaintiff friendly may no longer be the same way, and you see an evolution over time. And so I think this is certainly a chart to track going forward and to see what the numbers look like going into future years.

Laura Hopkins ([17:07](#)):

Right. Interesting. Thanks. So moving forward to judges, looking at the top five judges, it isn't surprising that the most active judges are from the most active district. The SDNY also has the most active judges. So spoiler alert, when you look at the report, which lists the top 10 most active judges, all of them are from the SDNY. But what I found interesting here is that there is no judge that is a class action judge because even the top most active judge overall class action cases has only 1.1% of the cases filed over the last three years. So it's very different from say securities and in our or chapter 11 or anything like that. In our software though, you can dig deeper into specific judge data including findings. For example, we can look at Judge Broderick and we can look at how often Judge Broderick is granting or denying class certification status. Wes, how might you use judge data in your practice?

Wesley Sze ([18:14](#)):

Yeah, the judge level data I think is extremely useful, very, very valuable. And without a tool like Lex Machina, I think lawyers especially more maybe junior associates, will know how much work it takes to do all the diligence and research to find out a judge's track record on a particular issue. And that can really be very time consuming and involve combing through a lot of case law, a lot of decisions. You're doing a lot of crunching of data and numbers. And to be able to have that kind of judge level insight already tabulated is extremely useful. Every time that we are representing a client and there's a new lawsuit filed and it gets assigned to a district judge, the client always wants to know what is this district judge like, what is their track record? Are they a good or a bad draw? And those are always really tough assessments to make. I think obviously every case is different, but it certainly is helpful to look at a judge's track record to understand what their judicial philosophy is, how they tend to approach issues of law in fact. And being able to have this kind of data to understand how judges approach different important motions or class certification is really a very, very useful and powerful insight that can be very useful for lawyers.

Laura Hopkins ([19:34](#)):

Thanks, Wes. We work really hard here. So then turning to our parties here, we're looking at the most active plaintiffs over the last three years. I did some digging into the data and I can tell you each one of these plaintiffs class action filings was a civil rights class action. And I'm going to keep moving this forward just in the interest of time because Wes, I think you'll agree and maybe I'll have you comment on both of these flags together. But on the other side here are top defendants on the receiving end of the class actions. Wes, do you have any surprises here with the plaintiffs?

Wesley Sze ([20:14](#)):

Yeah, not a lot of surprises. I think on the plaintiffs, it's not surprising. As I noted, it's the known that there are a small number of parties that are filing a very large number of lawsuits, and many of these relate to the website accessibility claims, which I discussed earlier. The slide here, I mean there is a large number. These are all very large companies, many of them will be familiar household names, and it's not surprising that many of them are defending class action lawsuits.

Laura Hopkins ([20:49](#)):

So looking forward at top law firms representing plaintiffs, this data can actually be broken down further even into individual attorney data, which we do have in the report and available in our software. And I'll move us forward to just in the interest of time, looking at top defendant law firms with Lex Machina. There are, like I said, so many ways to slice the data to get insights on your case and your practice area, your law firm, and like I said, even your lawyer. So I did a little digging into Gibson Dunn and found that you are one of the top class action defense firms in securities and contracts, class actions. Also, Gibson Dunn is one of the top defense firms in cases ending in class action settlements, which means you guys are getting the job done there. Do you have anything to add?

Wesley Sze ([21:41](#)):

No, I appreciate the shout out there to my firm, Gibson Dunn. I mean you can see here these are all excellent firms that you see on the slide, but I also would like to think that there are many other excellent firms, my own included that might not appear on this list. And part of it really is just a function of the types of cases that are being filed. And as I said, there may be a lot of these civil rights actions, which may sort of be more prevalent in the number of filings and in sort of what you see in this chart right here. But really no class action is like another, and each one really you need to think about what's the subject matter, what are the claims like, and what is the best law firm that can help you with that? And I think there are great firms here, but also many more beyond this that are certainly very active and very, very good at what they do.

Laura Hopkins ([22:32](#)):

Absolutely. Moving forward, we Lex Machina offers timing data based on the time it takes to get to certain milestones and litigation such as the time it takes to get to a decision on class certification. We show these in box plots with the median here in the red box, see how that pops up there when I say it. Thanks. So this data can be very useful when breaking it down by judge court specific case type such as consumer fraud cases, which is one of our new subsets of consumer protection class action cases or a claims or anything like that. So here we're looking at time to a decision on class certifications. So that's whether it was granted or denied or granted for settlement purposes or granted partial. So any decision on the class certification. So the median time there is about two years. Then we have time to the actual class action settlement or approval of that settlement, which is almost three years. And then we have time to decision on summary judgment, which is a little under two years. And then time determination, which the meeting is about six months or 179 days. And that's on the low side because you see lots of cases that are dismissed for lack of prosecution, a quick settlement, procedural dismissals, things like that. So that gets factored into that. Wes, how would you use timing data in your practice?

Wesley Sze ([23:59](#)):

Yeah, it's certainly very useful and I'll say I love the block box plots. In a former life I was an economist and statistics kind of nerd, and so I love to see data like this, but really this kind of information is so

useful for a practicing attorney. These averages are helpful, but it really becomes much more useful and insightful when you break it down by the court you're in or the judge that you're assigned. And you can really see there are certain judges that can move along cases on average faster than others. And it really goes down to case management and judicial style. And having that kind of insight again is so important when we're advising clients about what a case looks like when you're trying to chart out or plan the lifecycle of a case and know how long is it going to take us to get to the key resolution points. And having some data can really be so useful to be able to practically advise the client in a very concrete way as to what the data shows and what we can expect in their case. And so this is exactly the kind of insight that I love to see and that I think will be very, very useful to practitioners.

Laura Hopkins ([25:04](#)):

Thank you. Thank you for that. Yeah, so looking forward to our appellate data, we also have time to a determination on appeal. So for class action appeals terminating over the last three years, the median time determination on appeal was 323 days. So we're looking at closer to a year for the median and I'll keep us moving forward so we can get to that good juicy damages data. So now we're looking at case resolutions. This is a lot of data to digest, but I do want you to focus on the colors of our chart. And I've highlighted that where the plaintiff prevails in class action cases terminating of the last three years, which is the pretty small sliver of red. So you kind of see what a very small portion that is. Those plaintiffs are prevailing primarily on consent judgment and then where the defendant is prevailing the most, which is blue, where defendant prevails also pretty much bigger than, well, it's more than the red, but that's usually on judgment on the pleadings we've got, I think 3% there at the time. And the yellow 29% is our cases getting dismissed on procedural grounds in the large green space represent 65% of cases settling, but only 5% of those were actual class actions settlements. Wes, any thoughts on this chart? There's a lot to digest, but any additional thing to add?

Wesley Sze ([26:34](#)):

Yeah, no, it's a very interesting chart. We'd love to see the blue continue to increase over the red, but that may just be from my there. I would say that this chart really does confirm what a lot of us know. And a couple things. One, class actions very, very rarely go to trial. And you see that here because the trial numbers are just so negligible and in practice a lot of these cases will be resolved on the pleadings or through settlement, and I think that's exactly what you see in this chart here. And that's sort of the reality of what it means to be a class action litigator. A lot of it will be litigation on the pleadings and also at certification becomes the defining moment in the case, and these really rarely do go to trial.

Laura Hopkins ([27:23](#)):

Great, thanks. I'm going to move us forward and just looking deeper into the cases resolving on class action settlement, Lex Machina captures data on class size and we do this where we know it to be the most accurate. So which is at the settlement stage where the parties have agreed and the judge approves that the actual class of the size, so it's only on cases ending in class action settlement that we annotate the class size. So here we're looking at the ranges of class size and how they fall across the varying number of cases terminating over the last three years. I'm going to keep us moving forward just because I do want to get to damages and want to save everybody, so be respectful of everybody's time. But going back to case outcomes, Lex Markina maintains appellate data on reversal rates. Here we're seeing 33% reversal rate, which you can also narrow down by district and judge the lighter color. Red is when a case is affirmed in part, reversed in part. But Wes, did you want to make any comments on reversal data? Anything to add?

Wesley Sze ([28:29](#)):

Not much to add here. You can see a third reversal rate depending on who you are. You may think that's high or low, but regardless, you can see why class action appellate practice is so important and why there's so much demand for it, because these cases get appealed and there are some that do get reversed.

Laura Hopkins ([28:48](#)):

Yeah, that is true and useful. So yeah, turning to damages. Now we're there over the past five years here we see the number of cases by year where class action settlement damages were awarded the total cumulative amount of the class action damages awarded in that year. There's also some data on reversals. Generally it looks like at least in the last five years, damages gone up to a high in 2023. While the number of cases seems relatively level and maybe even slightly decreased, it is possible that more damages though will get reversed. Since we know that the median time to decision on appeals about one year. Wes, I'll have you comment on both of these damages slides as we get to the end. Moving to the next slide, Lex Bina offers lots of damages types and you can slice the data by the event in which they were awarded, whether it was by default judgment, consent judgment, a jury verdict, or on the merits. I want to mention that Lex Bina annotates all class action settlement awards as all the merits since they are reviewed and approved by a judge. So Wes, what are your thoughts on this data?

Wesley Sze ([30:06](#)):

Yeah, these slides, I mean obviously very large numbers, class action litigation is high stakes. There's a lot of money at stake in each of these. The chart we see here is interesting because in terms of class settlements, you can see the ratio of the settlement amounts, which is about the 30 billion and the class action attorney's fees, which is about the 7.6, and the ratio of that is around 25%, which really does line up perfectly with what we see in a lot of the case law in terms of what a reasonable amount of attorney's fees would be relative to a class settlement. And we see different circuits and courts have various tests on that, but it's not uncommon to see somewhere in the 25 to 30% range, at least based on the case law. And everyone may have different views on whether that's high or low, but that is certainly something that we do see in the case law that is borne out by the data here, which I think is very, very interesting.

Laura Hopkins ([31:03](#)):

Great. Thanks Wes. Yes. So that brings us to the end of our program. Thank you to Wes, and thank you everyone who joined us. And Gloria, I'll turn it back to you if we have time for any questions.

Gloria Huang ([31:15](#)):

Yes, Wesley and Laura, thank you both so much for joining us today. For me personally, it's been so great to hear your thoughts and insights on this data, and I think I speak for everyone when that's the case. Laura, you are right. We are at the end of our a lot of time and I want to be respectful of everyone's time. If I could trespass just a little bit longer, a bunch of questions have come through and I'm really just going to squeeze in just one of them. The question is, can I get a list of securities class action lawsuits by year? And that question is more for me and Laura. The short answer is yes. On our platform, you can slice either the case types narrow down on the class actions, or you can go through class action, narrow down by case type. I would suggest that everyone on this call will be receiving an email with a bunch of links to follow up, and one of them will be to contact one of our legal data experts. So I would suggest if you're interested in seeing something like that, like the list of securities

class action lawsuits by year, please reach out and contact one of our legal data experts and they can show you specifically what you're interested in. Laura, did you want to add anything to that?

Laura Hopkins ([32:17](#)):

No, I think you said it. All securities. Yes, absolutely. Securities class action is one of the practice. I'm the practice area lead for that, and we can definitely get you that data and a demo and all that.

Gloria Huang ([32:29](#)):

Great. And again, thank you for all the questions. I'm sorry that we didn't get to a couple of them and we will be reaching out to you after the webcast. But I want to again thank everyone for joining us today, Wesley, Laura, all the attendees. As I mentioned, the highlights we've covered today are only a small selection of the insights in the report. You should definitely make Sherry to check out the full report. How may I do that? You might ask. Well, everyone will receive an email, as I mentioned, that explains how to get the report. If you're already a customer, you can actually go into the help center later today and it'll be available for you. And as I said, if you have any additional questions, please feel free to reach out to anyone on the LM and the team. Wesley. Thank you, Laura. Thank you everyone. Take care. Be well.

Wesley Sze ([33:10](#)):

Thank you.