



## Class Actions

Class actions and collective redress litigation are being filed with increasing frequency across the globe. These proceedings allow plaintiffs' lawyers to file complaints that claim to remedy a supposed wrong on behalf of groups of aggrieved investors, shareholders or consumers. Aggressive plaintiffs' lawyers are attempting to capitalize on the rising availability of these actions in numerous countries and are increasingly prosecuting claims in a coordinated manner across jurisdictions.

Now, everything from a natural disaster to a company merger to an everyday event like an advertisement for a new consumer product may serve as the trigger. These cases may involve thousands, even millions of putative plaintiffs in numerous jurisdictions across the world – seeking millions or billions of dollars in damages or injunctive relief that may strike at the heart of your company's business.

These procedures vary across jurisdictions. Some jurisdictions are steeped in long-standing regulations, and others are emerging. To address this great variation, prudent companies seek an experienced team of lawyers on the ground who can help you navigate the issues, in each local jurisdiction as well as across borders and globally. In this high-stakes atmosphere, DLA Piper's Global Class Actions and Collective Redress group can help. Leveraging our global platform, our integrated team works closely together across multiple jurisdictions where class actions and collective redress litigation is existing or expanding, among them the United States, Canada, the United Kingdom, Australia and many countries in Europe and Asia.

We are proud that we have more than 150 class actions litigators with deeply rooted experience in key global markets, who regularly defend many of the world's leading corporations against class actions and related regulatory proceedings. Our team of lawyers is recognized worldwide by respected legal directories. We combine multi-jurisdictional reach with local knowledge and experience. Our clients depend on us to anticipate emerging threats, develop effective strategies that respond to the nuances of a particular suit and keep their overall business objectives in mind. Effective strategies to combat class actions and collective redress litigation often include defeating claims at an early stage through motions to dismiss, crafting a narrow focus for discovery where possible to control costs and contain international discovery issues, acting to prevent class certification by pre-emptive motions to deny class certification or otherwise, employing motions to block or limit testimony, crafting economical settlements when necessary or defeating the case at trial. We also consult with our clients proactively to identify and mitigate potential class action risks, including drafting arbitration or class action waiver provisions where they are enforceable and advising on emerging business issues before litigation occurs.

### CAPABILITES

Areas of focus for our team include:

- Antitrust
- Automotive
- Banking and financial services
- Consumer
- Employment
- Insurance
- Privacy
- Securities
- Technology
- Telecommunications

### EXPERIENCE

Canada

United Kingdom

United States

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- Litigation, Arbitration and Investigations
- Data Protection, Privacy and Security
- Cybersecurity
- Antitrust and Competition
- Transportation Regulatory and Litigation
- Employment
- Corporate and Securities Litigation
- Telecom
- Financial Services Regulation, Enforcement and Litigation
  
- Financial Services
- Consumer Goods, Food and Retail
- Insurance
- Technology

Canada

- BDO USA LLP in a proposed class action commenced in Ontario alleging violations of securities laws with respect to purchases and sales of shares of a publicly traded international company in the secondary market. The plaintiffs agreed to dismiss this class action against BDO
- Sino-Forest Corporation in a secondary market class action brought by shareholders in relation to allegations against senior officers of fraud in the company's business activities in China
- Bristol-Myers Squibb in a proposed class action that the Province of British Columbia filed in August 2018 in the provincial Supreme Court against 40 defendants– international pharmaceutical companies, distributors and retailers who are alleged to have manufactured, distributed, marketed, promoted or sold opioids in British Columbia. The province is seeking to recover all healthcare, pharmaceutical and treatment costs in Canada related to opioids during the period from 1996 to the present and is seeking disgorgement of all of the defendants' gains resulting from the alleged wrongful conduct
- Pfizer in a proposed proton-pump inhibitor class action filed in Ontario; we are acting for Pfizer on the PPI matters in the US
- Pfizer and Bristol-Myers Squibb in a proposed class action commenced in Manitoba which asserts a variety of common law claims and statutory breaches (including breach of the Competition Act) with respect to Eliquis, an anti-coagulant drug approved for use in Canada. We are acting in parallel litigation brought in the US
- Air Canada, Lufthansa and Delta Airlines, Inc. in three separate class actions commenced in British Columbia with respect to international fuel surcharges levied on international air travel tickets over a 10-year period. The certification application before the Supreme Court of British Columbia was dismissed and the Court of Appeal upheld that decision
- Porsche AG in class actions commenced in Nova Scotia, Quebec and British Columbia involving consumer claims relating to diesel engine emissions. These actions were settled in 2018
- Nongshim Co. Ltd. in class actions commenced in both Ontario and British Columbia alleging criminal conspiracy/price fixing with respect to Korean noodles
- Air Canada in a proposed class action commenced in Saskatchewan in which alleging a conspiracy with respect to first bag fees for domestic flights
- Intellipharma International Inc. in a proposed secondary market class action in Ontario brought by shareholders regarding alleged misrepresentations in public statements. This action is ongoing
- An international computer and electronic device manufacturer in a proposed class action brought in British Columbia related to breach of privacy allegations involving Facebook
- Timminco Secondary in a market class action brought by shareholders in relation to alleged misrepresentations in Timminco's financial statements. The case was effectively dismissed on limitation periods, with the Court of Appeal decision becoming the leading case on the issue

## United Kingdom

- Groups of institutional investors in relation to claims and other contentious issues arising from the collapse of Abraaj Private Equity
- Unilever in successfully resisting the imposition of liability for mass claims arising out of an attached by armed invaders on the plantation operated by an indirect subsidiary in Kenya
- Miller Argent (an open cast mining company) in successfully resisting an application for a group litigation order made on behalf of 500 residents of Merthyr Tydfil who sought to bring claims of private nuisance in relation to a land reclamation site
- A global bank in resisting an attempt to join it into a group litigation order involving claims for breach of contract and misrepresentation arising from allegedly faulty silicone breast implant surgeries. Our work includes advising the bank on, and managing, a bespoke settlement process
- A global bank, defending discrimination claims brought under the Equality Act 2010 (UK) by Iranian and Pakistani nationals in relation to the termination of banking facilities
- A global bank, defending mass claims alleging the unenforceability of credit agreements
- Arconic in relation to the Grenfell Tower public inquest and related contentious issues
- A UK card acceptance service provider on a data compromise involving an American retail chain, which affected over 50 million cards. Our work focussed on potential tortious and contractual liability, including monitoring US class actions, reputational issues and advising on fraud liability
- Financial institutions in relation to mass mis-selling claims involving allegations of unfair relationship and/or fraudulent misrepresentation
- Multiple financial institutions and global companies, defending mass claims brought under the EU General Data Protection Regulation for data breaches

## United States

- Defeated class certification for Porsche Cars North America, Inc. in a case arising from alleged defects in certain Porsche 911 vehicles under the California Consumer Legal Remedies Act and Unfair Competition laws. The court denied class certification on predominance grounds because: (1) the plaintiff failed to prove the alleged defect on a class-wide basis; (2) even if the defect was pervasive, due to warranty replacements and multiple sales of the same vehicles, some putative class members necessarily bought cars with "non-defective" replacement cables, thus individual analysis was necessarily required; (3) reliance could not be presumed on a class-wide basis; and (4) exposure to and reliance upon PCNA's supposed omission required individual inquiry.
- Won dismissal for J. Crew Group, Inc. of a putative class action under federal privacy litigation, the Fair and Accurate Credit Transactions Act ("FACTA"). The plaintiff alleged J. Crew violated FACTA by printing the first six digits and last four digits of his credit card number and sought statutory damages of \$100 to \$1,000 per violation. The plaintiff did not allege that he suffered any actual damages. The court granted J. Crew's motion to dismiss for lack of subject matter jurisdiction pursuant to *Spokeo v. Robins*, holding the plaintiff had not suffered a "concrete" injury. This was the first district court decision within the Third Circuit to address standing under FACTA post-*Spokeo* and the first to make it to the Third Circuit for review, where it is pending.
- Won summary judgment for a technology company in a putative class action alleging violations of federal privacy litigation, the federal Driver's Privacy Protection Act ("DPPA"). The DPPA provides for statutory damages of \$2,500 per violation, so if the plaintiffs had been able to show that the DPPA applied, and that there was a violation, damages could have reached into the billions. Initially, we bifurcated discovery so that the court resolved the named plaintiffs' claims before any class discovery. After limited discovery, the court agreed the named plaintiffs' driver's licenses were not protected by the DPPA and dismissed the case in its entirety.
- Won dismissal of two putative class actions against Quik Park and Icon Parking that alleged certain parking fees were actionable under New York's deceptive practices act and a theory of unjust enrichment. After we filed our motion to dismiss, the plaintiffs agreed to dismiss their claims with prejudice for the payment of a nominal amount.
- Won dismissal for The WhiteWave Foods Company, maker of Silk dairy-substitute beverages, in a putative class action alleging use of the term "almond milk" was deceptive; and that products using that term should have nutritional qualities equivalent to dairy milk or else the product must be called "imitation milk." The court dismissed the action on federal preemption grounds.
- Won dismissal for Massachusetts Mutual Life Insurance Company of a putative class action before even responding to the complaint by demonstrating, through declarations and negotiations with plaintiff's counsel, that there was no certifiable class. The complaint alleged a national class of purchasers of whole life insurance policies with waiver of premium riders that were not refunded premium payments under the waiver when they became disabled. The plaintiff initially sought refunds of thousands of dollars in premium payments for each putative class member, but eventually conceded that there was no circumstance in which he could certify a class.
- Won a victory for Pool Corporation, the largest US distributor of swimming pool construction and maintenance products, in an antitrust class action. In January 2016, we won summary judgment on a claim of horizontal conspiracy under the Sherman Act; in April 2016, we won summary judgment on three claims of vertical conspiracy; in October 2016, the direct

purchaser plaintiffs dismissed their appeal voluntarily without any money changing hands after the court granted our motion for summary judgment on the remaining federal and state law claims.

- Won dismissal of a putative shareholder class action brought against Ray Berry and Brett Berry, the founder and chairman of the board and the former CEO of The Fresh Market. After a tender offer of \$1.4 billion for the company, a stockholder challenged the transaction, claiming the directors had breached their fiduciary duties and that Brett Berry had aided and abetted the breach. We moved to dismiss on the ground that the decision by a majority of the stockholders to tender their shares was not coerced and had been fully informed. The matter is now on appeal.
- Defeated certification for Hilton of a putative class action seeking damages ranging from \$18 billion to \$54 billion on allegations it had violated the Telephone Consumer Protection Act by using an automated telephone dialing system to call customers' cell phones. The lawsuit sought statutory damages ranging from \$18 to \$54 billion. We defeated class certification, the plaintiffs appealed, and the Ninth Circuit heard oral argument and dismissed Plaintiffs' appeal in July 2017.
- Obtained a favorable settlement for Groupon, Inc. in 15 putative nationwide class action lawsuits and two state actions coordinated into an MDL. The plaintiffs alleged inclusion of an expiration date on Groupon's "daily deal" vouchers violated national and state laws prohibiting the expiration of gift cards. At the time, the applicability of gift card laws to Groupon's innovative Internet-based business model was not clear, and the challenged "daily deals" made up the majority of Groupon's rapidly growing business. Groupon settled the matter for \$8.5 million. The Ninth Circuit overturned an initial settlement, and the district court approved an amended settlement in 2016. Implementation of the settlement took place during 2016 and 2017.
- Obtained a favorable settlement for a boutique fitness company in a putative class action alleging the company's sale of classes violated federal and California gift certificate laws, the CLRA and UCL. In response to our first motion to dismiss, the plaintiff dropped claims under the laws of Connecticut, New Jersey, Massachusetts, Florida, Illinois and Maryland. In response to our second motion to dismiss, the court dismissed the CLRA claim. After discovery, the parties briefed class certification, which was pending when the parties went to mediation. In October 2017, the court granted final approval of a settlement in which the company agreed to provide replacement classes and a cash option capped at \$50 each and \$500,000 overall.
- Obtained a settlement and dismissals for The WhiteWave Foods Company in MDL class actions alleging Horizon Organic Milk fortified with DHA Omega-3 fatty acids did not "Support Brain Health," as advertised, and seeking damages in the hundreds of millions. We excluded plaintiffs' sole expert on the merits, then negotiated a novel settlement that included a nominal monetary payment but preserved the client's ability to continue making its "brain health" label claims and included protocols for a third-party monitoring process. In August 2017, a new putative class action was filed challenging the same label claims for Horizon milk; we won dismissal of that action.
- Settled thousands of putative class actions against Omni Hotels under California's Invasion of Privacy Act ("CIPA"). As the CIPA provides \$5,000 in statutory damages per alleged violation, the exposure was approximately \$65 million. The court approved a settlement which entailed no payment of attorneys' fees and class relief of less than \$10,000 in gift cards.

## INSIGHTS

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### Publications

#### *Javier v. Assurance IQ, LLC et al.*: Ninth Circuit issues ruling in session-replay case

14 June 2022

The ruling leaves open a host of questions about the viability of session-replay cases under state wiretapping statutes.

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#### Global Perspectives on Class Actions

5 May 2022

Global perspectives on class actions from our jurisdictions around the country.

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#### Food and Beverage News and Trends

21 April 2022

### FOOD AND BEVERAGE NEWS AND TRENDS

FDA announces new approach to food allergens; oyster recall in Canada and US; bird flu update; and the price of food has never been higher.

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#### *Bott & Co v Ryanair*: The Impact on Direct Compensation Payments in High Volume Low Fee Claims

24 March 2022

This article sets out in further detail key aspects of the Supreme Court's judgment and provides insight into its potential future implications, especially in the management of high volume-low cost litigation by SRA regulated claimant law firms and claims management companies.

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#### Canada: Federal court denies motion to certify proposed antitrust class action alleging conspiracy to suppress supply of DRAM

3 December 2021

In a recent decision of the Federal Court of Canada, Justice Gascon refused certification, without leave to amend, of a proposed competition law class action alleging that three leading manufacturers (Samsung, SK Hynix and Micron) of Dynamic Random Access Memory Chips (DRAM), a semiconductor memory chip used in most computer products, conspired to limit the global supply and raise the price of DRAM.

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#### Food and Beverage News and Trends

2 December 2021

### FOOD AND BEVERAGE NEWS AND TRENDS

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Suspend imports of fresh beef from Brazil, US cattle group says; plant-based producers take new approach in suit over Oklahoma labeling law; plus salt, soda, and news from Hawaii

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## Food and Beverage News and Trends

12 November 2021

### FOOD AND BEVERAGE NEWS AND TRENDS

Avoid foods with glittery garnishes, CDC says; USDA considers whether Salmonella should be declared an adulterant; soaring energy costs this year may mean widespread food shortages next year.

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## Food and Beverage News and Trends

1 October 2021

### FOOD AND BEVERAGE NEWS AND TRENDS

FDA announces winners of food traceability challenge; Pennsylvania rations sale of some popular liquors; not enough vegetables?

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## Insights from the US: will knowledge, recklessness or negligence in Australian securities class actions actually change anything?

16 August 2021

Last week the Federal Government introduced permanent reforms to the continuous disclosure regime and misleading and deceptive conduct provisions in the *Corporations Act 2001* and *ASIC Act 2001* which provide that companies and their officers will not be exposed to civil liability unless they had a requisite mental element, being *knowledge, recklessness or negligence*. This change is in line with the recommendations of the Parliamentary Joint Committee for Corporations and Financial Services and also extends the temporary measures originally introduced at the height of the COVID-19 pandemic.

This change brings Australia's continuous disclosure regime closer to that of its counterparts in the United States and the United Kingdom, and there is much we can learn from our international colleagues.

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## Food and Beverage News and Trends

23 July 2021

### FOOD AND BEVERAGE NEWS AND TRENDS

FDA reassures public on the safety of PFAS in the food supply; trial of former Blue Bell CEO is postponed.

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## "No concrete harm, no standing": Supreme Court issues major Article III standing opinion in *TransUnion v. Ramirez*

29 June 2021

Given the proliferation of class-actions alleging purely procedural statutory violations, the ruling is likely to have far-reaching consequences.

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## In *Goldman Sachs* decision, Supreme Court expands methods for challenging class certification in securities fraud cases

23 June 2021

The decision is a significant holding for securities fraud defendants.

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## Supreme Court significantly limits the scope of the Computer Fraud and Abuse Act

4 June 2021

The decision will largely gut the CFAA as a tool for addressing insider data theft.

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## New Italian class action regime enters into force

26 May 2021

On May 19, 2021, the reform of the Italian legal framework on class actions finally entered into force. The new rules, designed by Law n. 31 and published on April 18, 2019, (Law n. 31/2019), were initially intended to become effective on April 19, 2020, but had been delayed twice.

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## Second Circuit sets standing threshold for data-breach class actions

30 April 2021

The court ruled there are limits to the "increased-risk" theory of standing.

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## Preliminary injunction granted in Cal Chamber lawsuit concerning acrylamide Prop 65 warning

1 April 2021

California's Eastern District federal court found that Prop 65's acrylamide warning requirement was likely unconstitutional and preliminarily enjoined new lawsuits alleging failure to warn for acrylamide exposure in food and beverages.

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## Food and Beverage News and Trends

26 March 2021

### [FOOD AND BEVERAGE NEWS AND TRENDS](#)

Consumer groups ask FDA to act against hard seltzers; Berkeley passes healthy checkout-aisle ordinance; plus: wear a mask, get a sandwich.

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## Court dismisses class action against cryptocurrency exchange: A review of the holding in *Holsworth v. BProtocol Foundation*

22 March 2021

The court issued a terse three-page opinion dismissing the case on multiple grounds.

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## Food and Beverage News and Trends

12 March 2021

### [FOOD AND BEVERAGE NEWS AND TRENDS](#)

Biden restaurant grants called a lifeline for the industry; plus sugary cereal, cell-cultured seafood and sesame in the news.

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## California Prop 65: OEHHA proposes changing popular short-form warning

3 February 2021

Businesses selling products in California that utilize short-form Proposition 65 warnings may have to be re-label yet again or risk enforcement actions.

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## Food and Beverage News and Trends

1 March 2021

### [FOOD AND BEVERAGE NEWS AND TRENDS](#)

Winter storm devastates Texas agriculture.

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## Defensible deletion: The proof is in the planning

5 February 2021

A framework for making defensible deletion an attainable goal.

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## UK FCA test case on business interruption insurance: Supreme Court decision preview

14 January 2021

The UK Supreme Court will, on Friday 15 January, hand down its decision in the non-damage business interruption insurance test case.

The test litigation is the first of its kind in the UK, and the ruling will affect around 60 insurers and 370,000 policyholders. It will clearly be significant for policies covering non-damage business interruption, but it's also possible the decision will have wider implications, as the appeal submissions addressed some key insurance issues, particularly relating to causation.

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## US: Four significant developments in arbitration case law

26 October 2020

US-style discovery; compelling arbitration on the basis of equitable estoppel; class-wide arbitration when the arbitration agreement is ambiguous; ongoing use of the US DDCC for ICSID award enforcement.

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## Rule 26(g) certification means more than guide and advise: Key takeaways

12 August 2020

Sanctions were imposed on an attorney for failing to properly oversee the client's discovery process.

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## Class actions make it easier than ever to seek redress

28 July 2020

Businesses should note that they are at risk of increased exposure to claims once group proceedings are permitted in Scottish courts, write Alistair Drummond and Jen Talbot.

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## Global Class Actions Briefing: Major developments in European consumer protection laws: Product safety and consumer class actions in Europe

15 July 2020

The EU's proposals for a revised EU General Product Safety Directive (the GPSD) and the EU's deal for a Collective Redress Directive (the CRD) point the way to a future of heightened novel risk in Europe of collective redress or, as these claims are popularly known, "class actions".

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## United States Supreme Court reaffirms use of class action waivers in arbitration agreements: next stop – employment contracts

18 DEC 2015

The most recent in a line of Supreme Court decisions affirming the validity of class action waivers in arbitration agreements

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## B4 u txt: will your text message ads lead to a class action lawsuit?

6 APR 2011

It is useful for businesses to understand the statutory framework that governs advertising through text messages as well as key legal terms and the way these terms have been interpreted by the FCC and the courts.

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## Events

### Upcoming

#### Product Liability Symposium

October 26, 2022 | 2:00 - 5:15 pm ET  
Webinar

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### Previous

#### Global Class Actions Client Summit 2022

21 June 2022

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#### White Collar Crime, Investigations and Compliance Symposium

5 October 2021  
Webinar

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#### Consumer class actions: Demystifying trends, developments and legal challenges

13 May 2021 | 12:00 - 2:00 ET  
Webinar

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#### Class actions and complex litigation in 2020: Creating a cutting-edge solution to class action litigation

17 September 2020 | 3:00 - 4:00 ET  
Webinar

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## 2020 developments in US and EU privacy laws

15 September 2020  
Webinar

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## NEWS

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### DLA Piper obtains dismissal of COVID refund case for New York University and defeats class certification

29 June 2022

On behalf of New York University (NYU), DLA Piper defeated class certification and won dismissal of a proposed class action lawsuit filed by a former graduate student seeking a refund of fees after the University transitioned to remote learning due to COVID-19.

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### DLA Piper recognized as a top litigation firm, named a Powerhouse firm for class action and cybersecurity litigation by BTI Consulting Group

7 October 2021

DLA Piper is pleased to announce that it was recognized as a "most feared" law firm in litigation in BTI Consulting Group's *BTI Litigation Outlook 2022: Post-Pandemic and Beyond* report and was named a "Powerhouse" – the highest rating in the report, representing the top 1 percent of all law firms – for class action and cybersecurity litigation.

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### Keara Gordon named to the *National Law Journal's* 2021 list of Crisis Leadership Trailblazers

7 September 2021

DLA Piper is pleased to announce that Keara M. Gordon has been named a 2021 Crisis Leadership Trailblazer by the *National Law Journal*.

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### DLA Piper lawyers and practices ranked in latest edition of *The Legal 500*

17 June 2021

DLA Piper announced today that the firm received 42 individual lawyer rankings and 49 firm rankings in *The Legal 500 United States 2021* guide.

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### Austin Brown joins DLA Piper's Litigation and Regulatory practice in Washington, DC

15 April 2021

DLA Piper announced today that Austin Brown has joined the firm's Litigation and Regulatory practice as a partner based in Washington, DC.

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### DLA Piper represents Blue Diamond in dismissal of class action lawsuit

14 December 2020

DLA Piper represented Blue Diamond Growers in the dismissal of a class action lawsuit filed in the US District Court for the Southern District of New York.

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