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CLASS ACTIONS
AND OTHER MULTI-PARTY
LITIGATION
CASES AND MATERIALS

Third Edition



Robert H. Klonoff
Edward K. Bilich
Suzette M. Malveaux

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CLASS ACTIONS AND OTHER MULTI-PARTY LITIGATION

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■ ■ ■

By

Robert H. Klonoff

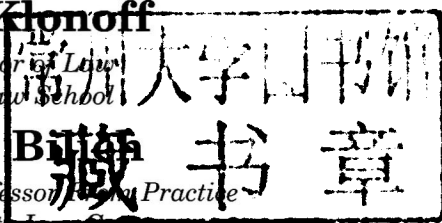
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*This book is dedicated to our
families and to the many jurists
and scholars who have thought
and written about class actions.
Without the support, patience, and
understanding of the former, and the
creativity and insights of the latter,
this book would not have been possible.*

PREFACE

This casebook addresses class actions and other multi-party litigation, principally in federal courts. It is designed for courses in class actions and complex litigation, as well as other courses with a substantial class-action component, such as mass torts. Originally published in 2000, and revised in 2006, this third edition contains substantial updates, including major recent Supreme Court and federal courts of appeal decisions.

In addition to teaching class actions and complex litigation, we have served as counsel in scores of class actions, including highly publicized securities fraud, mass tort, employment discrimination, antitrust, and consumer class actions. We have endeavored to write a textbook that is rich in theory but at the same time is relevant to the real world of class action practice.

Throughout this casebook, we have adopted editorial conventions that have led to certain modifications of the source documents. We have included citations within excerpted materials only to the extent that such citations served some pedagogical purpose (often to permit the reader to follow up on a particular point of law, but sometimes because the use of the authority is, for one reason or another, interesting or provocative). For U.S. Supreme Court cases, we provide only the United States Reporter cite if it is available. If it is not available, we cite to the Supreme Court Reporter. Citation form may vary from the excerpted source, *e.g.*, long- versus short-form. We have reflected our edits to excerpted materials by using three asterisks, as opposed to ellipses (ellipses in excerpted materials set forth in this casebook were present in the originals). We have included references to denial of *certiorari* only in cases in which the denial occurred in 2009 or later. We have noted when emphasis has been added to a source; if no notation is provided, the emphasis was in the original. On occasion, we have made minor typeface modifications to headings in excerpted materials for purposes of presentation. In the Table of Cases, we provide the name of a case and the pages in the book where the case appears. We do not distinguish between different opinions by the same court or different courts for the same case. This enables the student to easily find all discussions relevant to a particular case.

We are grateful for the invaluable assistance we received on all three editions of this casebook. In addition to the many people who reviewed or assisted with the first and second editions of this text (and who were acknowledged therein), we wish to recognize the contributions of those who worked on this latest edition. Jacob Abbott of Lewis & Clark Law School has been involved in every aspect of the third edition and has had a major impact. Other research assistants from Lewis & Clark who provided key support include Eleanor Garretson, Skye Christakos, Virginia Griffin, Gabby Richards,

and Crystal Chase. Alfred Dumetz Carry of The Catholic University of America, Columbus School of Law, played an invaluable role in every capacity of the casebook's third edition. The following additional research assistants and fellows from the Columbus School of Law also did an excellent job assisting with the book: Vania Allen, Scott Fisher, Oren Ginsberg, Trish Gray, Lori Kreloff, Shira Lazinger, Shayna Lewis, Ashley Moore, Grant Mulkey, Lauren Nesbitt, Laura Schwalbe, Christina Setlow, Christopher Staley and Cara Swan. Sheila Harris-el and Carolyn Goolsby from Jones Day also provided invaluable assistance in preparation of this edition. Finally, Sue Page of Lewis & Clark Law School provided excellent typing and editing assistance and was critical in securing the copyright approvals.

It goes without saying that the statements and conclusions in this text are ours alone (or those of the judges or authors whose writings are excerpted).

We also wish to acknowledge the following copyright holders (listed in alphabetical order) who gave us permission to reprint excerpts from their copyrighted materials. (Apart from granting us permission to reprint excerpts in this book, the copyright holders have reserved all of their rights.)

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