

## State Of Class Certification

*(May 4, 2020, 4:49 PM EDT) - As recent data reveals record levels of class certification grants from federal courts, this Expert Analysis series examines the latest offense and defense strategies in Employee Retirement Income Security Act, workplace bias, and wage and hour class suits.*

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### Defense In ERISA Cases



Because certain types of Employee Retirement Income Security Act claims are more conducive to class actions than others, defendants should give careful consideration to whether, and to what extent, they should contest certification, say Richard Nowak and Nancy Ross at Mayer Brown LLP.

### Offense In ERISA Cases



Counsel for a proposed class in Employee Retirement Income Security Act breach of fiduciary duty cases can avoid most arguments against certification by including and thoroughly vetting multiple named plaintiffs, and moving to certify under two categories of class treatment, says Jerome Schlichter at Schlichter Bogard & Denton LLP.

### Defense In Workplace Bias Cases



As the rate of class certification in employment discrimination cases grows, companies can strengthen their defenses by challenging common proof of liability, disputing class representatives' adequacy, and implementing employee arbitration agreements, say Gerald Maatman and Jennifer Riley at Seyfarth Shaw LLP.

### Offense In Workplace Bias Cases



New state-level equal pay statutes, recent case law concerning unfair workplace policies, and an increase in lawsuits and federal agency filings targeting sexual harassment collectively support the viability of class certification bids in workplace discrimination cases, say Alexandra Harwin and Saba Bireda at Sanford Heisler Sharp LLP.

### Defense In Wage And Hour Cases



Although courts grant class certification for wage and hour actions at a relatively high rate, using individual arbitration agreements and asserting a personal jurisdiction defense continue to be promising avenues for defeating or limiting claims, say Paul DeCamp and Maxine Adams at Epstein Becker Green.

### Offense In Wage And Hour Cases



The stark disparity in how appellate courts weighed class certification requirements in several recent wage and hour class actions highlights four practical points concerning commonality and predominance for plaintiffs counsel seeking to obtain certification, says Harold Lichten at Lichten & Liss-Riordan PC.

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