

CIVIL JUSTICE RESPONSE

NOVEMBER 2017

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This Civil Justice Response Committee Newsletter is the committee's report on the proposal to allow state class actions for the first time in Mississippi. Stephanie Rippee addresses the requested rule amendments as well as the IADC's opposition and filed comments on the proposed change.

State Court Class Actions? Not in Mississippi

ABOUT THE AUTHOR



Stephanie M. Rippee is a member of Watkins & Eager, PLLC in Jackson, MS. She was raised in Mississippi and has spent her entire 25+ year career practicing there. She focuses her practice on commercial litigation and product liability litigation. She has earned the ANSI-accredited Certified Information Privacy Professional/United States (CIPP/US) credential through the International Association of Privacy Professionals (IAPP). She is admitted to both the Mississippi and Tennessee Bars and has been recognized by Mid-South Super Lawyers® as one of the top 50 lawyers in Mississippi since 2011. She is also a Fellow of the American Bar Foundation and is listed in Chambers USA-America's Leading Lawyers for Business in the area of General Litigation. She is the immediate past chair of the IADC Product Liability Committee. She can be reached at srippee@watkinseager.com.

ABOUT THE COMMITTEE

The Civil Justice Response Committee works to establish a nationwide information network that promotes the rapid dissemination of information about legislation, rulemaking, judicial selection, and key elections likely to affect civil litigation and liability laws, in order to give IADC members and their clients timely opportunities to participate in these processes armed with information that can affect the outcome of the debate or controversy. If prompt, concerted action is taken. Learn more about the Committee at www.iadclaw.org. To contribute a newsletter article, contact:



Phil Goldberg
Vice Chair of Publications
Shook, Hardy & Bacon
pgoldberg@shb.com

The International Association of Defense Counsel serves a distinguished, invitation-only membership of corporate and insurance defense lawyers. The IADC dedicates itself to enhancing the development of skills, professionalism and camaraderie in the practice of law in order to serve and benefit the civil justice system, the legal profession, society and our members.

Mississippi does not currently have a state court class action procedure of any type – a rare distinction. Rule 23 is simply omitted from the Mississippi Rules of Civil Procedure and has been since the rules were first adopted in 1981. Every so often, someone (usually someone aligned with the plaintiffs’ bar) tries to change that. In April 2017, a prominent Mississippi plaintiffs’ lawyer once again filed a motion asking the Mississippi Supreme Court to amend the rules to include a state court class action procedure. His petition is [here](#). As is the procedure, the Court opened this issue up to the general public for comments. The comment period ended October 2, 2017.

The IADC engages in activities that are designed to benefit not only you, its members, and your clients, but also the civil justice system and the legal profession in general. The IADC takes a leadership role in many areas of legal reform. The IADC, through its membership generally, and through this very committee specifically, is always on the lookout for civil justice reform issues that need to be addressed. As a result, after canvassing the Mississippi membership of the organization to ensure that a consensus view existed, the IADC decided to submit comments opposing the adoption of a state court class action procedure in Mississippi.

The basis for the opposition is straight forward. The citizens of Mississippi already have adequate opportunity to participate in class actions in Mississippi federal courts via Federal Rule of Civil Procedure 23. Adding a state court class action procedure would add an unnecessary and heavy burden to an already overworked and understaffed state judiciary. Further, class

actions generally are fraught with the potential for abuse, particularly by lawyers, and they encourage the type of intrastate forum shopping Mississippi has experienced in the past and has worked hard to eliminate. Lastly, experience tells us that class actions simply do not adequately address the problems they are supposed to address such as “righting” small wrongs that are too expensive to “right” individually. Other existing mechanisms, such as government enforcement actions, have proven to be a more effective way to address such issues.

In the end, while class actions usually enrich lawyers (on both sides of the “v.”), the IADC believes that adoption of a Mississippi state court class action rule would be detrimental to the Mississippi justice system, employers who choose to do business in the state, and the Mississippi economy. As a Mississippi lawyer and an IADC member, I was given the opportunity to draft the IADC’s submission which can be found [here](#). I hope you’ll read it and find at least some bit of insight in it that is useful in your own practice.

The Mississippi Supreme Court will now begin the process of sifting through all the comments submitted. We know that many Mississippi businesses submitted or joined in opposition comments. We assume other people and organizations aligned with the plaintiffs’ bar submitted supportive comments. There is no time table for the Mississippi Supreme Court to decide this issue. But I will be watching the Court docket and announcements closely. Stay tuned for a report on the ruling.

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