

A Framework for Collaborative Research on Class Actions & Group Litigation

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What Should Policymakers Know About Class Action & Group Litigation Procedures? (1)

- How many cases were filed
 - For what types of substantive claims (securities, anti-competition, fraud, product defect, environmental damage, rights infringement)?
 - By what types of parties (public officials, registered/approved associations, other associations, private individuals)?
- What fraction of cases proceeded in class or group form (rather than being dropped)?

What Should Policymakers Know About Class Action & Group Litigation Procedures? (2)

- What fraction of cases were
 - negotiated to a settlement
 - adjudicated by court
- In what fraction of cases did plaintiffs (defendants) prevail?
- When plaintiffs prevailed, what were the outcomes did they obtain (by percent of cases)?
 - Change in practice
 - By defendant
 - Industry-wide
 - Individual money damages
 - Average & range for all cases with money damages
 - Group damages (e.g. support for consumer group)

What Should Policymakers Know About Class Action & Group Litigation Procedures? (3)

- What fraction of cases were appealed or otherwise led to controversy over outcomes (e.g. objections by class members, NGOs, etc.)?
- What was the average time from filing to resolution?
- What were the average total costs, including lawyers' fees & expenses for the litigation?
- On average, what fraction of costs were shifted?
- In what fraction of cases were third-party funders involved?

To collect these data, researchers could use a common data protocol for each case filed

- Title of case
- Date of filing
- Plaintiff type
- Defendant type
- Nature of claim
- Procedural form
- Did case proceed to resolution in class or group form?
- Who prevailed?
- Method of resolution (negotiated settlement, mediation or other ADR, adjudication)
- Date of resolution
- Remedies (in detail)
- Total money damages (if any)
- Average individual damages (if any)
- How money damages were distributed (if any)
- Date of final distribution
- Was a change in practice by others besides the defendant mandated?
- Total litigation costs
- Fees obtained by plaintiff lawyer(s)
- Was a third-party funder involved?
- Was after-event insurance provided?
- Were any funds or risk coverage provided by a public fund?

Qualitative Case Studies Could Supplement Statistical Data

- Case studies would tell the stories of selected cases, including background on how the case arose, dynamics of the litigation, how resolution was finally reached, and what were the direct and indirect consequences
- We could post case studies on the website, which would create a publicly accessible databank that researchers could use (with proper citations)