

Class Action Litigation Services

Data & Analytics

The complex nature of acquiring and managing vast quantities of information relevant to a class action lawsuit can exponentially increase the risk of a negative outcome if the underlying end-to-end processes are left unchecked for potential compromises.

To help clients address these risks, FTI Consulting's Data & Analytics (D&A) team brings together highly focused experts with years of litigation experience and technical expertise with a deep understanding of advanced database design, methodologies, and queries.

We work closely with clients and their legal counsel to:

- Navigate through the client's enterprise-wide systems;
- Identify applicable and relevant information to address the purported class claims;
- Ensure the identified information is extracted properly and with the appropriate chain of custody to preserve its integrity for downstream production; and
- Migrate the information onto a secured, stand-alone platform for early case assessment, class rebuttal analytics, and downstream trial testimony.

Working together, our professionals develop estimates of potential damages and penalties, quantify client exposure under various case scenarios, and devise affirmative opinions to rebut class certification based on numerosity, commonality, typicality and adequacy. Our proven approach to gathering and managing data and our expertise in key industries, along with our case experience enable our clients to make more informed, strategy-driven decisions to achieve the most favorable outcome.

Class Action Services

FTI Consulting offers a full suite of complementary class action services.

Early Case Assessment

D&A professionals assist clients with investigating the merits of each purported claim to understand reputational risk and potential financial impact to the company. Specifically, our team designs and implements robust data collection methodologies, data warehouses, and document image management systems to capture complex financial, economic, operational, and transactional data that is relevant to addressing the class allegations.

We frequently assume responsibility for defining data requests and identifying the most relevant evidence in what may amount to millions of pages of document production. The team then puts this data to work in economic and statistical analyses. In many instances, these analyses may precede complaint filing, as early storage assessment and settlement analysis are key components of the litigation process.

Our analytics include, but are not limited to, identifying the relationship between multiple sources of data; designing appropriate accounting or economic and damage models; and distributing or sharing information with appropriate parties, such as other experts, corporate and outside counsel or co-defendants.

Class Certification Rebuttal

Following the Supreme Court's decision in *Wal-Mart v. Dukes*,¹ both plaintiffs and defense lawyers must now meet a more rigorous set of standards regarding class certification. These rules of "rigorous analysis" and "significant proof" require methodologically sound and replicable analysis to pass class certification.

Given D&A's focus on complex data analysis and the management of large datasets, we have long provided the rigorous analysis now required by case law. Effectiveness at the class certification stage is often determined by the success of data-gathering and early discovery efforts – two areas for which our D&A professionals provide key assistance to counsel.

D&A has successfully assisted our clients and their counsel with all types of class action, including but not limited to:

- Wage and hour disputes
- Product misrepresentation
- Fraud on the market
- Interference with competitor market entry
- Violation of fiduciary responsibility
- All forms of alleged customer harm within financial services
- Breach of contract
- Discrimination

While D&A frequently addresses issues of typicality and numerosity, our core strength involves careful determination of common issue predominance, common impact, potential differences among class members and how these factors impact class certification. Once these factors are analyzed, we use professionally accepted methodologies for calculating class-wide damages given the specific facts of the case.

Expert Testimony

Should the case require expert testimony during the class certification, merits, and/or damages phases of the litigation, FTI Consulting has seasoned testifiers with vast deposition and trial experience available to serve as testifying experts.

Settlement

Our team provides privileged consulting to support counsel in reaching the most optimal outcome at mediation or arbitration. As part of the settlement process, we can also act as neutral advisor during negotiations to develop a strategy to ensure clients are prepared to meet the terms of settlement. By leveraging complex data analysis, we are well prepared to assist clients with downstream execution of settlement provisions – which includes designing and deploying technology-enabled solutions to facilitate claim-related workflows in a fully audited environment (including claim intake, adjudication, reconciliation, resolution and fund disbursement).



— OUR SERVICES

Early Case Assessment

- Privileged consulting
- Discovery assistance (including preparation of, or responding to interrogatories)
- Data warehousing of exigent information (database creation, population, and maintenance)
- Alternative dispute resolution (inclusive of mediation and/or settlement support)

Rebuttal

- Suitability assessment
- Class demographic and behavior profiling (including statistical analysis when appropriate)
- Qualification (including the identification of offsets and mitigants)
- Deposition preparation & testimony

Trial

- Merits assessment & damages analysis (including calculation of statutory penalties, prejudgment interest, etc.)
- Counterclaim preparation
- Percipient and/or expert witness testimony
- Trial services (including the preparation of graphics, demonstratives, compilations)

Claims Administration

- Claims processing and evaluation
- Compliance review
- Funds distribution and tax reporting

1 Scalia, A. G. & Supreme Court Of The United States. (2010) U.S. Reports: Wal-Mart Stores, Inc. v. Dukes, 564 U.S. 338. [Periodical] Retrieved from the Library of Congress, <https://www.loc.gov/item/usrep564338/>.

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