



HIGHLIGHTS FROM THE STUDY OF CALIFORNIA CLASS ACTION LITIGATION

By Hilary Hehman

DataPoints is produced by the AOC Office of Court Research to inform the court community about empirical trends in the California judicial branch.

Class action lawsuits are often the focus of policy and practice discussions due to their controversial nature and impact on court workload. Unfortunately, even basic information on class action litigation in California is difficult to acquire because data specific to these cases are not collected in trial court case management systems.

The Office of Court Research initiated the Study of California Class Action Litigation to overcome this lack of data and contribute to a more rounded dialogue about class action litigation and its effect on the court system. Through the study, data from over 1,500 class action cases filed between 2000 and mid-2006 were compiled through case-file review, resulting in the most comprehensive examination of California class action litigation to date.

This release of DataPoints provides highlights from the first interim report on class action litigation. Further detail about the Study of California Class Action Litigation and the full report on which this summary is based can be found at www.courtinfo.ca.gov/reference/caclassactlit.htm.

Filings Analysis

Study courts reported a total of 3,711 class action cases filed between 2000 and 2005. Filings steadily increased by 81% in the first five years of the study. However, the number of filings fell 9.8% between 2004 and 2005, which may be attributable to changes instituted by the Class Action Fairness Act of 2005. It will be necessary to update the data for the ensuing years to determine if the filings decline continued after 2005.

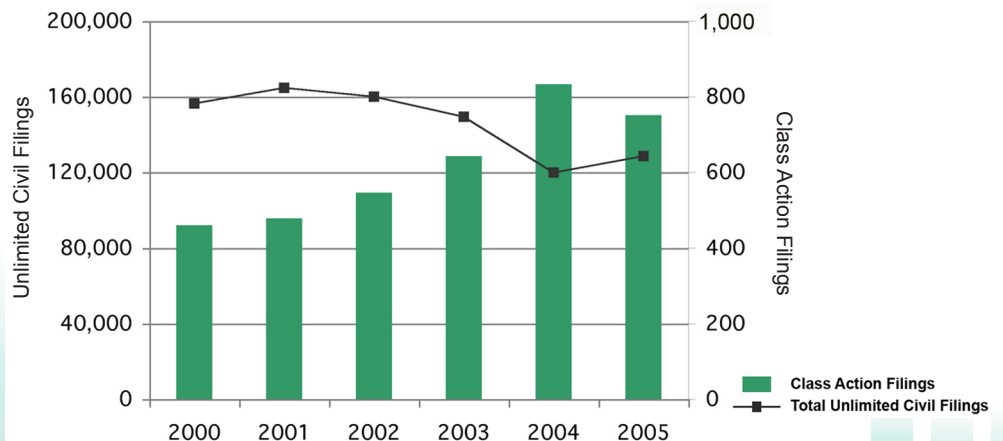
For additional information on class action litigation in California:

www.courtinfo.ca.gov/reference/caclassactlit.htm



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Figure 1. While total unlimited civil filings declined during the study period, the subset of class action filings increased by 63 percent



The increase in the number of class action cases filed from 2000 to 2005 stands in sharp contrast to the trend in unlimited civil filings during the same period, which show an overall decrease. Total unlimited civil filings decreased 17.8% between 2000 and 2005 in comparison to the 63.3% increase in class action filings.

Case Type Analysis

Employment and business tort cases are the most frequently filed class action case types in California, comprising more than half of all cases reviewed. Employment cases represented a yearly average of 29.3% of all class actions cases. Business tort cases represented a yearly average of 27.4% of filings during the same period.

Employment filings showed the most growth, increasing by 313.8% between 2000 and 2005. In contrast, business torts filings increased during the first two years of the study before declining in 2002.

Primary Claim Base Analysis

As part of the case-file review, the data collection captured the claims listed in the block caption on the face of each class action complaint. These claim bases list any statutory violations and other foundations for suit and offer a means of analyzing the general statutory base or legal theory at play in the case.

Over half of employment cases cited violations of the California Labor Code relating to overtime pay and general wage violations. On average, 31.5% of the cases referred to violations of the California Labor Code Section 1194 and 20.7% referred to a generalized wage violation. The analysis also shows that usage of California Labor Code Section 512 relating to meal and rest breaks greatly increased in 2003 following the successful use of this claim base in a series of cases against Wal-Mart Stores starting in 2002. 10.5% of employment class action cited this code section as a primary claim base in 2003 in comparison to zero in 2002.

Figure 2. Employment

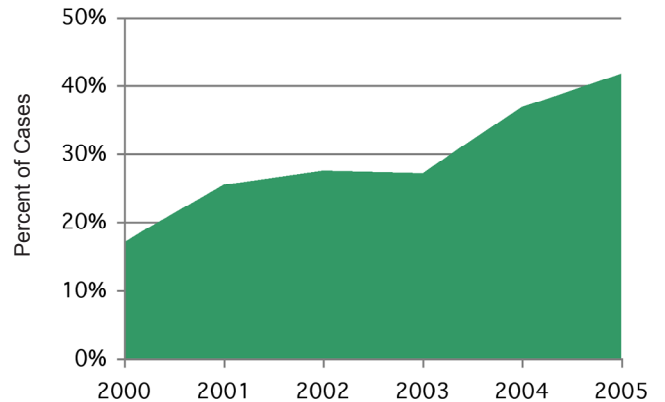
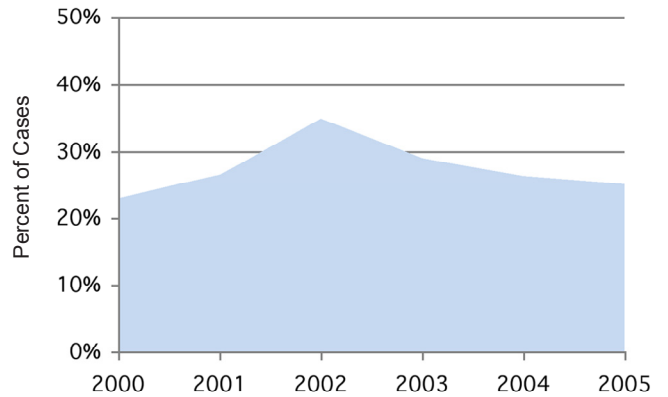
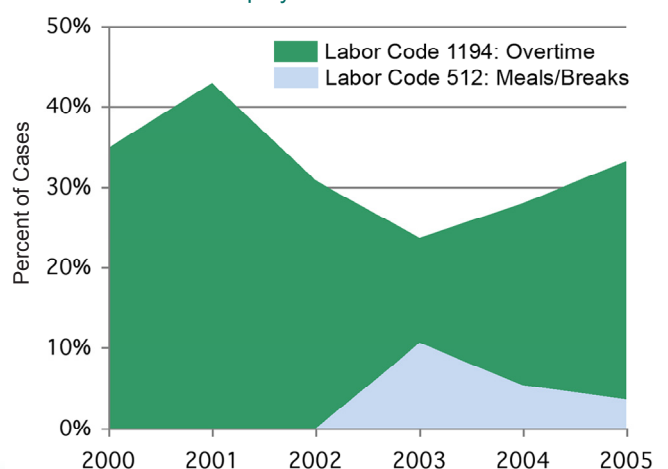


Figure 3. Business Torts



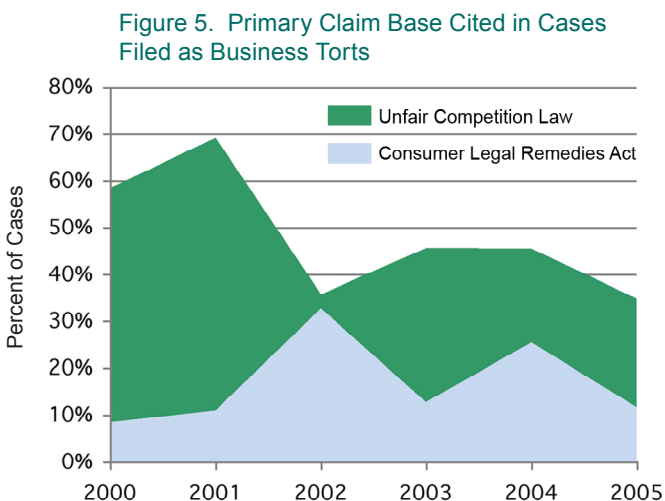
Combined, Employment and Business Tort cases represent over half of all class action cases filed in the study courts

Figure 4. Primary Claim Base Cited in Cases Filed as Employment



The California Business and Professions Code Section 17200 et seq., also known as the Unfair Competition Law (UCL) was the most commonly-cited claim base in class action cases filed as business tort. On average, the UCL was used in 45.6% of all business tort cases filed in the study sample. This percentage reached a peak in 2001 wherein 69.1% of all business torts filed cited the UCL as the primary claim base of the suit.

Use of the Unfair Competition Law decreased sharply in 2002 and again between 2004 and 2005 after California Proposition 64 changed the law to include more stringent standing requirements for suit. Although Proposition 64, passed in 2004, was intended to curb the use of the UCL, it appears that Attorney General action against the misuse of the UCL in 2004 actually led to a substantial decline in its use prior to the passage of Proposition 64. Plaintiffs appear to have substituted the Consumers Legal Remedies Act as the primary claim base for the UCL in 2002 and 2004.



Disposition Analysis

Table 1. Frequency of Dispositions for all Disposed Class Action Cases in the Sample

Dispositions	n	% of Total Dispositions
Settlement	413	31.9%
Dismissed with prejudice	217	16.8%
Dismissed without prejudice	163	12.6%
Coordinated	141	10.9%
Removed to federal court	121	9.4%
Consolidated with another case	120	9.3%
Summary judgment for defendant	50	3.9%
Transferred	40	3.1%
Other disposition	12	0.9%
Trial verdict	9	0.7%
Stayed	6	0.5%
Interlocutory appeal	2	0.2%
All Disposed Cases	1,294	100.0%

Settlements were the most common type of disposition in study cases, representing 31.9% of all dispositions in cases filed as class actions. However, the settlement rate skyrockets to 89.2% if the disposition analysis is confined to cases that had a certified class. Class action cases rarely proceed through trial to a verdict. Only 9 study cases ended in a verdict after trial and only 2 of these reached verdicts with a certified class. Overall, it is extremely uncommon for certified class actions to reach a trial verdict in California.

Construction defect, employment, and securities litigation class actions have the highest settlement rate with percentages that are well above the overall average for all casetypes combined.

31.9% of cases filed as class actions in the study settled.

89.2% of the cases that had a certified class settled.

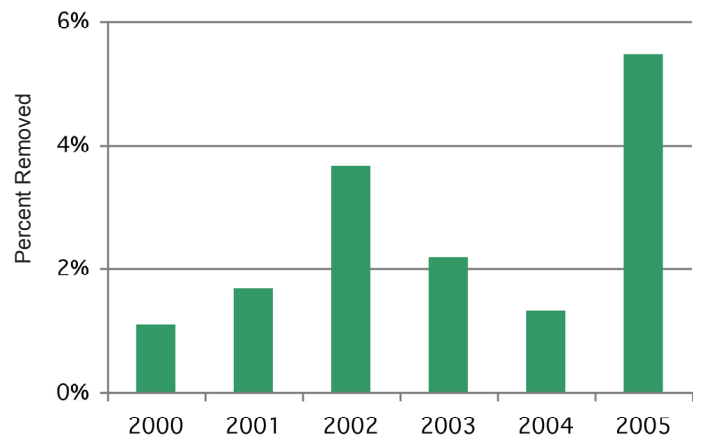
Impact of Class Action Fairness Act

41 cases were permanently removed to federal court in 2005 after CAFA took effect as compared to only 11 cases removed in 2004. The overall removal rate in California prior to CAFA was 6.6%. Post-CAFA, this removal rate increased to 19.2%. However, the post-CAFA removal rate increase does not significantly affect the class action caseload in California as the absolute number of cases removed to federal court remains low as a percentage of the statewide total.

The study also highlights that class action litigation does not lend itself to a traditional trend and long-term behavior analysis that is common for other types of litigation, for several reasons. First, class actions are relatively rare, and a small change in absolute numbers in this area translates to a large variation in the overall percentage in an analysis. Second, the field of class action practitioners is small and active which cultivates rapid change in the data as attorneys chase the latest successful claims, case outcomes, or litigation strategies.

Lastly, the trends and tendencies that do exist in class action data often exist on a local level, and a statewide analysis of class action data can obscure some of the more interesting behavior.

Figure 6. Cases permanently removed to federal court, as a percent of yearly class action filings



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