

Defeated a third class certification attempt brought by plaintiffs in four states against Volvo in an overly broad putative class action alleging defects in eight Volvo model sunroofs. The ruling is a significant setback to plaintiffs in the 11-year-old case that the court described as “tortured.”

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WTO lawyers defeated a third class certification attempt by plaintiffs in a putative federal class action in New Jersey. The plaintiffs claimed that the sunroofs of eight different Volvo models produced since 2003 were defective, resulting in leakage and damage to the vehicles. Plaintiffs sought to certify classes in California, Florida, Massachusetts, and New Jersey.

In denying the motion for class certification, the court ruled that the plaintiffs failed to establish predominance, noting that a trial of the case “could devolve into a series of min trials concerning causation or injury.” As such, the court doubted that the claims could be administered as a class action.

Since the case was filed in 2010, WTO lawyers have successfully rebuffed three of the plaintiffs’ attempts to certify the case. A motion for certification was granted in 2013, but WTO lawyers argued successfully to the Third

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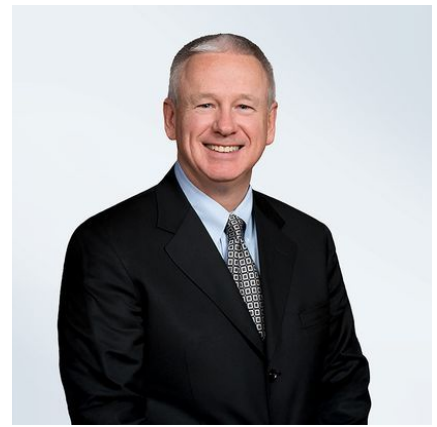


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Circuit Court of Appeals that the trial court had failed to conduct a proper predominance analysis under Rule 23(b), and that it also failed to define or analyze the elements of the claims certified.

As a result of WTO's arguments, the Third Circuit issued a precedential 2015 opinion that vacated the trial court certification and remanded the case with instructions to "rigorously analyze predominance in the first instance."

This latest ruling demonstrates that defendants do in fact have options to challenge the inclusion of uninjured, absent class members in a proposed class.



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