

NY's Highest Court: Class Action Settlement Notice to All Class Members is Required Even Before a Class is Certified

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In a ground-breaking decision, *Desrosiers v. Perry Ellis Menswear, LLC*, the NY Court of Appeals ruled that in all cases filed on behalf of a proposed putative class, courts must provide notice to “all members of the class” before a case can be dismissed, discontinued or settlement approved. The decision has far-reaching consequences because now class members must receive notification about a case even if a court has not yet “certified” or decided that a group of similarly situated individuals exists.

The practical impact of the decision is that individuals will learn about legal actions taken against companies that they otherwise may never have known about. For example, if one employee brings a proposed class action lawsuit against his employer alleging violations of the wage and hour laws, before the employer can settle with this employee, the parties must notify similarly situated co-workers about the case. Such notice may cause other employees to inquire whether they also have legal claims and generate additional litigation against the employer. Because the federal rules require notice to class members only after a court has determined that a class exists, the recent decision may cause more class actions to be filed in NY state courts rather than federal courts.

Notably, the NY legislature has not changed the laws pertaining to class actions since 1975, and therefore, for the near future, the high court’s ruling will govern all cases filed as proposed class actions in state court.

The attorneys at Wigdor LLP have extensive experience representing employees in class actions alleging harassment, discrimination, wage and hour violations, and other employment-related claims against high-profile corporations. If you have any questions about your legal rights, contact Jeanne M. Christensen, Partner at Wigdor LLP.

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