

Shutting Down Massive Class Actions

Client:	International Coffee & Tea, LLC (dba The Coffee Bean & Tea Leaf)
Areas of Law:	Class action, privacy
Venue:	U.S. District Court for the Southern District of California
Result:	Representing more than a dozen clients after spotting a trend and defeating a class action certification in one of the first cases to hit the courts.



“Pillsbury...was the first to warn operators late last year that the industry was vulnerable to facing a number of class-action lawsuits stemming from FACTA violations.”

—Nation’s Restaurant News, September 15, 2007

Many retailers and restaurants across the United States were taken by surprise in late 2006, when they started being hit with class-action lawsuits over the printing of credit card expiration dates on customer receipts. Pillsbury was the first to notify many businesses about this litigation trend, enabling companies to fix their credit card printouts at an early stage and, in many cases, avoid these lawsuits altogether.

For our clients and other companies being sued, the damages being sought often run into the billions of dollars. Using a little-noticed provision in the Fair and Accurate Credit Transactions Act of 2003 (FACTA), plaintiffs attorneys are seeking damages of \$1,000 per receipt.

The class-action exposure could have run as high as \$48 million for a multi-unit quick-service chain like The Coffee Bean & Tea Leaf, even though no plaintiffs suffered any harm as a result of the printing of card expiration dates, and the dates were deleted from the receipt form within two days of notice of the suit.

Instead, this Pillsbury client was one of the first FACTA defendants to win a court victory. A federal judge in Los Angeles denied the plaintiff’s request for class certification against the beverage chain, citing the “disproportionate consequences to the Defendant’s business and the lack of any actual potential harm suffered by members of the potential class.”

Plaintiff appealed the denial of class certification, but the trial judge refused to stay the now single plaintiff case. Rather than proceed to trial, and risk the appeal, plaintiff accepted a nuisance value settlement comprised of free cups of coffee.