



2018 Practice Group of the Year

Class Action

Class action experts at Kirkland & Ellis LLP were at the table last year in the nationwide opioid dispute, among the largest mass litigation in U.S. history, while scoring key wins for transgender military members and Xerox Corp., putting them among *Law360's* Class Action Groups of the Year.

Kirkland partner and worldwide management committee member Mark Filip said the class action group distinguishes itself among other elite practices with long track records in government service and in high-stakes mass litigation. The practice last year continued to build on Kirkland's deep institutional knowledge in areas including pharmaceuticals and complex product liability.

"We've worked hard to assemble collegial, on-the-merits, rigorous lawyers who have also served in the government — lawyers that get along and respect each other," he said.

"We also purposefully draw lawyers who have variously served in Democratic and Republican administrations, in senior roles. From a client perspective, that makes us more durable and informed, and a firm with all the advantages of diverse perspectives," Filip added.

Filip is a member of a national Kirkland team representing Allergan Finance LLC in the sprawling legal dispute springing

from the opioid crisis. With the majority of the federal cases consolidated in the multidistrict litigation in Ohio, the firm is also leading the Allergan defense in statewide MDLs, individual actions and other related matters.

D.C. litigation partner Jennifer Levy, another leader on the Allergan matter, called the case "uncharted" in terms of the number and types of plaintiffs and categories of defendants.

"Kirkland is particularly well-suited to handle this kind of litigation," she said. "We have a lot of experience with other large-scale and very high-stakes litigations, including in tobacco and in the BP [oil spill] cases, so we have a great number of lawyers with real-world experience in cases of this magnitude. This is what we do."

Chicago partner Donna Welch, another team leader, also called this type of

sprawling dispute "the bread and butter" of the Kirkland class action practice.

"We feel our client has a good story on the facts to tell, and we're excited and privileged to be the ones helping them tell that story," she said. The Ohio federal MDL, the most developed of the various branches of the opioid matter, is currently in discovery, and a trial is scheduled for September.

In a wholly different kind of case, a Kirkland team led by Jim Hurst in Chicago is working pro bono with Lambda Legal in an ongoing effort by current and former military members to strike down President Donald Trump's ban on transgender individuals serving.

In a key decision in April, a Washington federal court granted in part a plaintiff summary judgment motion, ruling that the plaintiffs have

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standing and that government policy warranted the strictest constitutional scrutiny. The court also denied the defendants' cross-motion for summary judgment. The case is ongoing, and a defense appeal of April's ruling is pending in the Ninth Circuit. Meanwhile, on Tuesday, the U.S. Supreme Court granted a Trump administration request to temporarily lift nationwide injunctions on the ban imposed by district court judges in Washington and California.

The Seattle federal court was also the setting for a \$1 billion class action known as *Bund v. Safeguard Properties LLC*, in which home mortgage holders alleged Consumer Protection Act and other violations in a case focused on Safeguard's "property preservation" business. Plaintiffs' attorneys had accused Safeguard of trespassing when representatives entered borrowers' properties prior to a lender's completion of a foreclosure, and then damaging or removing property.

Kirkland, which joined the case for Safeguard after the class had been certified, won decisions in the summer and fall that granted Safeguard partial summary judgment, decertified the 19,000-member class and dismissed the case. The court found that, among other things, the named plaintiff did

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not have standing and was not an adequate representative.

In another notable class action win in New York, a Kirkland team led a successful defense of Xerox and certain executives against a putative securities fraud class action with stakes the firm said were potentially in the billions of dollars.

The plaintiff, Oklahoma Firefighters Pension and Retirement System, had alleged that Xerox made scores of misstatements in connection with the implementation of a Medicaid administration platform known as Health Enterprise, in violation of the Securities Exchange Act. As a result, Xerox's share price was artificially inflated for the more than three years before Xerox spun off the business, according to the suit.

Judge Paul A. Engelmayer found that none of the challenged statements were actionably false or misleading under the statute, granting Xerox's motion to dismiss with prejudice last year.

The Kirkland team was led by partners Sandra Goldstein and Stefan Atkinson in New York. They made the jump to Kirkland last year from Cravath Swaine & Moore LLP.

Goldstein “is a very respected and serious figure in American law and in the securities arena in New York and Delaware, and we’re excited she’s joined Kirkland,” Filip said.



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