

THE FOLLOWING ARTICLE APPEARED IN  
*BESTWEEK*

December 10, 2008

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**US Lawyer: Class-Action Suits are Heading for United Kingdom**

By Robert O'Connor,  
London editor

The class-action lawsuit, given increased impetus in the United States by the current economic turmoil, is likely to grow in importance in the United Kingdom.

→ This prediction was offered by Dean Hansell, a partner in the Los Angeles law firm of Dewey & LeBoeuf. He made his remarks in a lecture sponsored by the International Underwriting Association in London.

"It is definitely headed this way," Hansell said in an interview after the address. He spoke of the formation of an action group in the United Kingdom by investors upset over losses in connection with products issued by American International Group Inc. "I think there will be a lot of litigation from that action group alone," Hansell said.

Over the next two years in the United Kingdom, Hansell predicted "a series of group actions" in relation to subprime losses. "And I think you will also see UK financial services and insurance companies dragged into class-action cases in the United States," he said.

"Class-action suits are an established feature of the US legal scene," Hansell said. He expects to see more of these suits as a result of the subprime crisis.

"Financial services companies are the primary targets" of these suits, Hansell said. While some insurance companies are involved in providing financial services, he said, other insurance companies have underwritten risks for financial services providers. "We wind up seeing lawsuits under both circumstances," he said.

Hansell expects class-action litigation from US investors who lost heavily in the markets. The defendants in such suits, he suggested, could be people who recommended certain investments. As a "nontraditional" action, Hansell said, class-action suits must meet certain legal criteria. Unlike individuals, he said, those bringing

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class actions must satisfy the court that they have a common purpose. "There is no automatic entitlement to a class action," Hansell told the audience.

Dewey & LeBoeuf represents insurance companies, which may be defendants in class-action suits, Hansell said. But it is not unknown, he added, for insurers to be class-action plaintiffs.

A class-action suit can prevent a large number of similar suits, particularly when the individual grievances are small, Hansell said. He cited a suit aimed at US automobile insurers for imposing, but not disclosing, a service charge for the processing of modal premiums. While the charge was not big enough to attract individual lawsuits, Hansell said, it offered plenty of scope for a collective action.

Supporters of the class-action approach, Hansell said, argue that it saves the court's time and the plaintiffs' resources. But the reality, he argued, is different. The process may begin with a legitimate claim that can be expanded by an enterprising lawyer to include a large group of litigants.

"The first question for the recipient of a class-action lawsuit," Hansell said, "should be: 'How do we defeat the class part?' If you can defeat the class part of it, then it will go away. It could end up with two or three people with a claim."

Class actions can vary in the number of plaintiffs involved. Hansell spoke of a case in which an insurance company is fighting a claim for overtime pay from a group of employees on the grounds that the plaintiffs were managers and not entitled to the extra money. Another case in which Hansell is helping to defend revolves around disagreement over discounts offered to customers.

Consumer-oriented class-action suits can easily involve hundreds of thousands of complainants drawn from a pool that itself can be difficult to define, Hansell said.

The court would certify who belongs to the class, Hansell said. Individuals are free to opt out: They can bring their own lawsuits or choose not participate at all. Those plaintiffs who remain in the group are bound by the settlement.

A class action can be "very lucrative," Hansell said, noting that a fairness hearing, in which the court rules on the acceptability of a settlement, can draw other plaintiff lawyers seeking "a piece of the action." A defendant that decides to settle a class-

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action suit wants the class to be as broad as possible, Hansell said, because it does not “ever want to hear about this issue again.”

Hansell advises insurance company clients in the United States that are facing class-action suits to seek to have them heard in federal courts rather than in state courts. The federal courts are more accustomed to dealing with complex commercial issues, and there is less variation among their rules, Hansell said.

An insurance company concerned about the possibility of class-action litigation, Hansell said, should prepare itself for the risks it faces. This involves working closely with outside lawyers, “particularly if they feel they’re being set up.”

An unsuccessful litigant in a UK court action would wind up paying the legal expenses of the other side. “That’s a system we should adopt in the United States,” Hansell said. But he believes such a practice would not be a thorough deterrent “when you have 5,000 plaintiffs.”