

LITIGATION ALERT

THE JURIDICAL LINK DOCTRINE: A CLASS ACTION TRAP FOR THE UNWARY CORPORATION



The “juridical link doctrine” is a creation of the courts that may permit a plaintiff who has a claim against a particular corporate defendant to sue that company’s parent and sister corporations in a class action even if he or she had no dealings with those companies and they had no role in causing the plaintiff’s claimed damages. The doctrine has so far stayed below the radar of many plaintiffs’ lawyers, but we have seen it argued with greater frequency recently. Because the rule can dramatically expand the scope, burden and exposure of class action litigation, potential class action defendants need to understand the rule and how it might affect you.

Standing is one of the most basic concepts of American jurisprudence: If you have it, you can sue; if you don’t, you can’t. In most cases, this means that a plaintiff can only sue parties with which he or she directly dealt or parties that (on a theory of conspiracy, control person or alter ego) played a direct role in the conduct that gave rise to the claim. These standing rules have existed for generations and have provided relatively clear guidance to courts and parties on the question of who is a proper defendant in a particular case. The juridical link doctrine muddies the waters by potentially allowing class claims against companies by people who technically have no standing to sue them. Many insurers and securities firms operate through multiple corporate entities, and the doctrine is directly relevant to such companies.

The juridical link doctrine first appeared in injunction actions involving civil rights claims and due process or equal protection challenges to government actions or policies. For instance, the doctrine was used to link as defendants in a single case wardens and jails of a particular state accused of discriminating against African-American prisoners, state universities in an equal protection challenge to their resident status rules, and state and county officials over their enforcement of an allegedly unconstitutional vagrancy statute.

More recently, courts have begun to apply the juridical link doctrine in a variety of business circumstances. In one of the first cases that applied the rule beyond its traditional civil rights/government action context, a federal court permitted a plaintiff to bring a class action lawsuit against all pawn brokers in the state of Oregon alleging that each of them had committed similar violations of the Truth in Lending Act, even though the plaintiff had dealt with only one of them. The court explained that it believed a juridical link existed because the alleged misconduct was common to all defendants and a single resolution of the dispute would

avoid multiple actions dealing with the same issues. Put another way, the court allowed the plaintiff to sue pawn brokers he had not dealt with and probably never heard of – and therefore had no standing to sue – to foster judicial convenience and to assure a consistent result across the state. (The 9th Circuit ultimately reversed this decision on standing grounds, but by recognizing that the juridical link doctrine can apply outside the civil rights context, the appellate decision has become the leading case in the area.)

As the case law has developed, predicting whether a court will find a juridical link to exist in a particular case can be difficult. Courts generally have not found such a relationship to exist where unrelated companies engage in the same conduct absent something linking them together. For instance, courts have found a juridical link to exist in the following situations:

- A plaintiff alleging broker misconduct was permitted to sue not only the broker and his employer but the employer’s sister and parent corporations because the corporate relationship among the companies created the necessary juridical link.
- A plaintiff who dealt with one of a group of underwriters of a public offering of stock could sue all of the underwriters on the theory that all of them had misled buyers in substantially the same way. The court found a juridical link to exist because the company who issued the stock had required all of the underwriters to sign a single underwriting agreement.
- Plaintiffs who challenged an insurance policy restriction endorsement disseminated by an insurance trade organization were permitted to sue all insurers who used the endorsement in a contract because trade organization membership provided a juridical link among the insurers.

For corporate defendants, the juridical link doctrine can profoundly affect the course and magnitude of a class action. An uninvolved defendant can find itself being sued by plaintiffs it never heard of or dealt with. Likewise, a defendant who did deal with the plaintiff can find itself having to defend not only its own conduct, but that of other people and companies as well.

In such cases, it is important to consider carefully how to answer discovery focused on potential connections among the defendants and to consider presenting standing challenges early, before the case gains momentum. The best strategy will obviously vary from case to case. The important thing is to keep the issue in mind and to recognize that being proactive in challenging potential juridical link arguments can be a major difference-maker in class cases.

CONTACT INFORMATION

Our attorneys are involved in several cases in which the juridical link doctrine might be raised. If you are interested in learning more about the juridical link doctrine and its potential impact on your company and the securities industry, please contact:

David Jones210.281.7281djones@akingump.comSan Antonio

John Gillard210.281.7049jgillard@akingump.com.....San Antonio

Austin	Brussels	Dallas	Houston	London	Los Angeles	Moscow
New York	Philadelphia	Riyadh (Affiliate)	San Antonio	San Francisco	Silicon Valley	Washington, D.C.