

## News & Insights

### Ninth Circuit U.S. Court of Appeals Sides With Kia Motors in Fuel Economy Nationwide Class Action

June 12, 2019

Dykema, a leading national law firm, represented Kia Motors America Inc. and Kia Motors Corp. in its Ninth Circuit U.S. Court of Appeals class action settlement victory on June 6, 2019.

In July 2018, the Court granted Dykema's petition for en banc review of a three-judge panel's split controversial decision, throwing out the nationwide class-action settlement claiming that fuel efficiency estimates in advertisements and car window stickers for certain vehicle models were overstated. The two-member panel majority criticized the trial court for not analyzing the consumer protection laws of several states in certifying a nationwide settlement class of plaintiffs, but the panel majority itself did not identify any variations in such state laws.

The decision forced trial courts to scrutinize a settlement class to the same degree as a litigation class by requiring the attorneys and the trial court to conduct an all-50-states analysis of consumers' claims. Trial courts throughout the Ninth Circuit sidelined pending class settlements as they waited for the en banc court's decision.

In an 8-3 majority decision, the en banc panel agreed with Dykema that there is no requirement, absent sufficient showing from an objector, that the trial court has to analyze variances of state laws at the settlement stage. Reversing the earlier panel ruling and reinstating the trial court's multidistrict settlement of more than \$200 million, the en banc majority explained that "[t]he criteria for class certification are applied differently in litigation classes and settlement classes," and "[i]n deciding whether to certify a litigation class, a district court must be concerned with manageability at trial. However, such manageability is not a concern in certifying a settlement class where, by definition, there will be no trial." The en banc panel's decision faithfully applies the established rule from its 1998 decision in *Hanlon v. Chrysler Corp.*, which rejected the notion that "idiosyncratic differences between state consumer protection laws" defeat certification of a class.

"The en banc panel reached the correct decision, returning to its own, well-settled understanding of the law and realigning itself with the Supreme Court and the precedents from the circuits across the country," said James Azadian, leader of the Kia Motors appeal team, who argued the case before the 11-judge en banc panel. "After many years of litigation, Kia may now proceed with distribution of the nationwide class action settlement chosen by its customers."

The Dykema appeal team representing Kia Motors was led by James Azadian, Dykema's West Coast Appellate Chair, and included litigators Dommond Lonnie, Director of Dykema's Automotive Industry Group, and Brian Newman, Member.

Dykema's reputation as an appellate powerhouse extends not only to its lawyers with appellate experience who are based in California, Illinois, Michigan, Minnesota, Texas, and Washington, D.C., but also well beyond the jurisdictions where it has office locations. The firm's attorneys have handled appeals in all the federal courts of appeals, most state appellate courts, and in the Supreme Court of the United States. Dykema has a winning track record of consistently obtaining reversals and preserving trial court victories for its clients.

#### Attorneys

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Business & Commercial

Class Action Defense

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Product Liability

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Automotive Industry Group

Automotive Product Liability Litigation