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Eleventh Circuit Reverses Certification of Damages Class Masquerading as Injunction Class

Kilpatrick Townsend Blog

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Injunctive relief is a forward-looking remedy. A damages award compensates for past harm. This dichotomy lies at the heart of the difference between a Rule 23(b)(2) injunctive relief class and a Rule 23(b)(3) damages class. In an opinion that discussed the fundamental differences between injunctive and compensatory relief, the Eleventh Circuit recently overturned the certification of an “injunction” class under Rule 23(b)(2), determining that it was really a “damages” class attempting to avoid the more onerous predominance and superiority requirements of Rule 23(b)(3). This decision – *AA Suncoast Chiropractic Clinic, P.A., et al. v. Progressive American Insurance Company*, --- F.3d ---, No. 17-13003, 2019 WL 4316088 (11th Cir. Sept. 12, 2019) – should encourage class action defendants to scrutinize proposed injunction classes to determine whether the relief sought is a damages claim in disguise.

To view Stephanie Bedard's blog article, please click [here](#).

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