“Claim-splitting” refers to the general requirement that all claims for relief arising from a single transaction or occurrence must be brought in one action. The general rule is that a subsequent suit, arising from the same transaction or events underlying a previous suit, would be barred under the doctrine of res judicata. However, a class action “is one of the recognized exceptions to the rule against claim-splitting.” For a discussion of res judicata and collateral estoppel effects of class actions, see Chapter 18 infra.

Defendants sometimes argue that failure to bring all possible claims demonstrates inadequate representation and is therefore a barrier to class certification. This argument generally should not succeed. For a discussion of this issue, see § 10.3.4.3 infra.

Practitioners in California should be aware of the decision in Janik v. Rudy, Exelrod & Zieff173. That case involved a legal malpractice claim against a law firm alleging that the attorneys mishandled a prior class action for overtime compensation. The plaintiff claimed that bringing the overtime compensation case under the state Labor Code and not under the California Unfair Competition Law limited the recovery to the Labor Code’s three-year statute of limitation as opposed to the broader class that could have been certified under the Unfair Competition Law’s four-year statute of limitation. The appellate court ruled that, “while the scope of the duty of class counsel must be determined with reference to the certification order . . . , the attorneys’ obligations may extend beyond the claims as certified to related claims arising out of the same facts that class members reasonably would expect to be asserted in conjunction with the certified claims.”174

The class counsel defendants in Janik, supported by numerous amici, sought a rehearing of the court of appeal’s decision and/or further appellate review by the California Supreme Court. Arguments raised included that the Janik rationale would undermine the vital public policies served by class actions by creating inevitable conflicts in the duties owed by class counsel to the class as a whole and to some absent class members; that the decision fails to provide adequate guidance for the discharge of class counsel’s duty because neither lawyers nor courts are furnished with any clear or workable standard of care; and that it would have a chilling effect on public interest class action litigation in the state. Rehearing and further appellate review were denied.

Footnotes

170 [170] Carr v. Tillery, 591 F.3d. 909 (7th Cir. 2010).


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