2021 Antitrust Annual Report

Class Actions in Federal Court

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Center for Litigation and Courts
UC Hastings Law

Huntington

Foreword

We are pleased to present the 2021 Antitrust Annual Report produced in partnership with the Center for Litigation and Courts at UC Hastings College of the Law and The Huntington National Bank. Key findings include:

- From 2009-2021, a mean number of 127 consolidated complaints were filed per year, with outlier years as low as 72 and as high as 220.
- From 2009-2021, there were Defendant Wins in 125 cases as a result of judgments on the pleadings, summary judgment, judgment as a matter of law, or trial.
- From 2009-2021, most antitrust class actions that reached final approval did so within 5-7 years.
- The mean settlement amount varied by year from $6 million to $41 million, and the median amount varied by year from $2 million to $16 million.
- The total annual settlements ranged from $225 million to $5.3 billion per year.
- The cumulative total of settlements was $29.3 billion from 2009-2021.

We want to acknowledge several people who helped with the report including Lindsay Tejada and Abby Van Nostran. We would also like to acknowledge Lex Machina as our primary data source.

We hope that you find this information interesting and helpful.

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2021 Year at a Glance

Federal Antitrust Class Actions

Total # Consolidated Filings	# Cases with Defendant Win	# Cases with Settlements Reaching Final Approval	Total Settlements
134	10	20	$1.7B

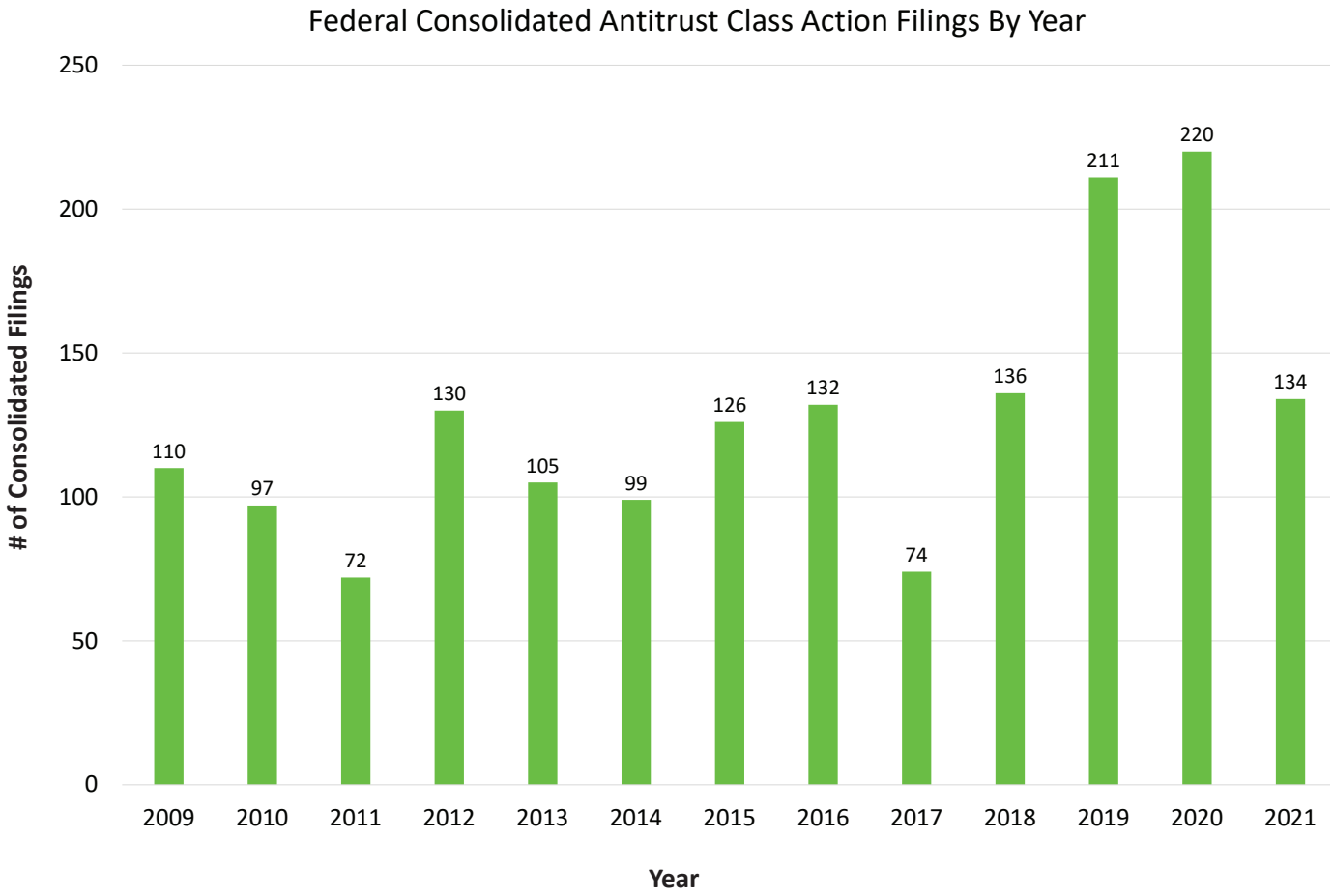
Consolidated Filings by Year

The number of consolidated filings generally increased from 2009 through 2021. Filings reached a low point in 2011—72 filings—and increased in 6 of the 10 years since then. During the 13-year period, the 134 filings in 2021 were slightly above the mean of 127. In contrast, 2011 and 2017—72 and 74 filings, respectively—were below the mean by more than one standard deviation. (A standard deviation is approximately 45 filings.)

Less clear is what these numbers mean. Without 2019 and 2020, the unexplained variation between years was much greater than the increasing trend over the years. The 130 filings in 2012 are similar to the 132 filings in 2016, the 136 filings in 2018, and the 134 filings in 2021—and different from the 72 filings in 2011 and the 74 filings in 2017. Perhaps these variations from year to year are random. If so, from 2009 through 2018 we see a gradual increase in filings with a great deal of annual variability.

In 2019 and 2020, filings increased dramatically to 211 and 220 respectively — which appears to be a temporary sharp increase. Filings fell to 134 in 2021, which is more in line with the mean over this time period.

Figure 1: **Federal Antitrust Filings**
2009 - 2021

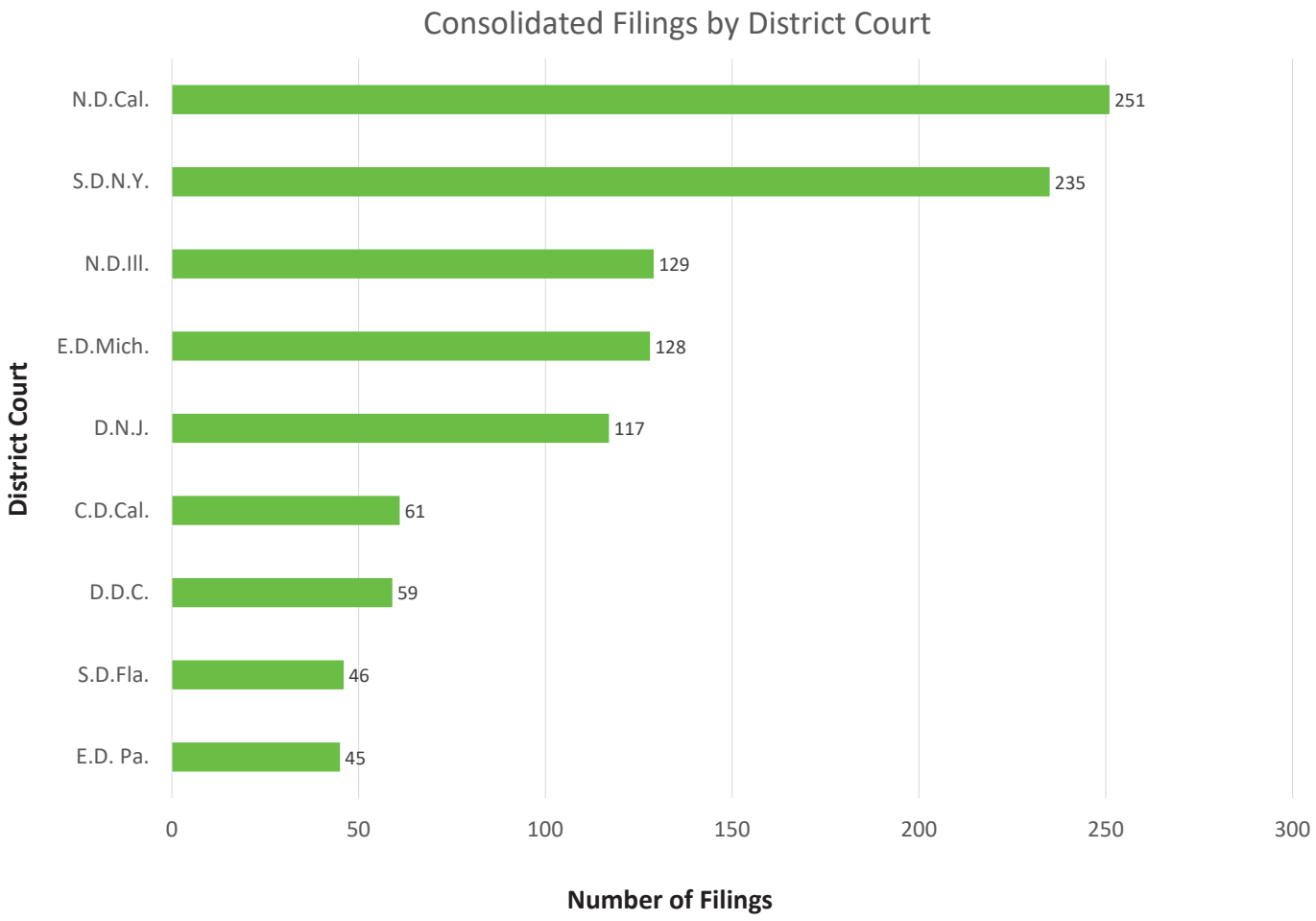


Consolidated Filings by District Court

Since 2009, there were 1,646 consolidated antitrust class action filings across all federal district courts in the United States. Of these districts, the Northern District of California (251), the Southern District of New York (235), and the Northern District of Illinois (129) have been the most frequent forums. There appears to be five district courts—add the Eastern District of Michigan and the District of New Jersey to the others listed above—in which plaintiffs file the most cases.

We may wonder whether the filing behaviors are based on the law in the district and circuit, a desire for judicial expertise based on experience in antitrust law, geography of the defendants, or some combination of the three. The relatively large number of antitrust cases filed in these five courts may be a characteristic of the underlying cases and defendants themselves.

Figure 2: **Federal Antitrust Filings by District Court**
2009 - 2021



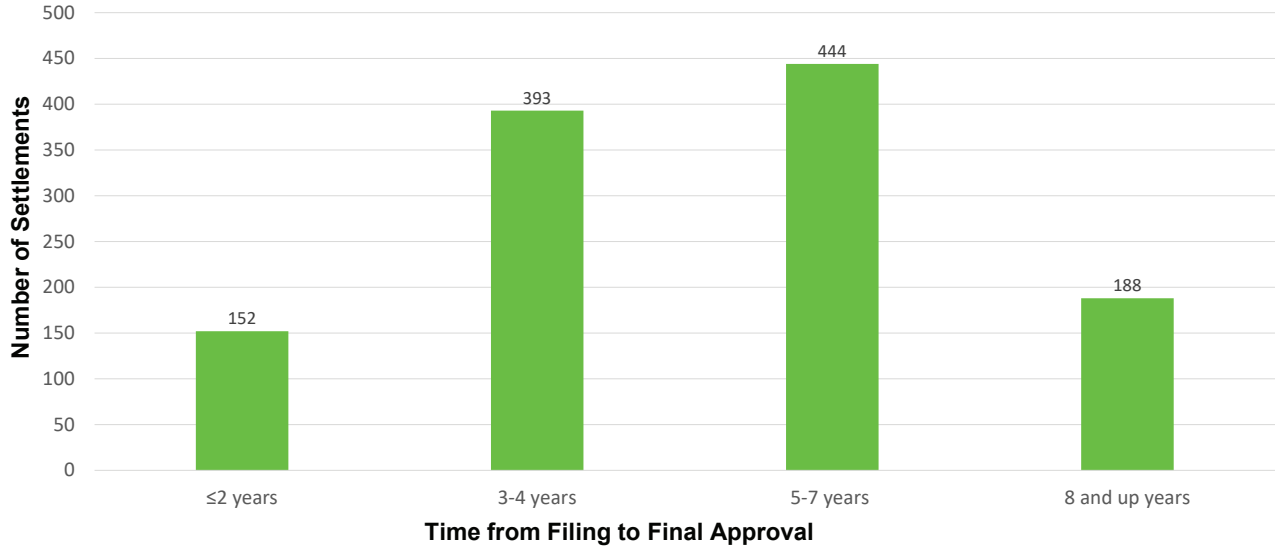
Time from Filing to Final Approval

During the period from 2009-2021, the median time from the filing of the complaint to the order granting final approval of a settlement was 5 years. Figure 3 illustrates a general increase in the length of time to reach final approval from 4.5 years in 2009 to 6.1 years in 2021.

Figure 3: **Percentage of Cases Settled by Number of Years from Filing to Final Approval**
2009 - 2021

Percentage of Cases Settled by Number of Years from Filing to Final Approval					
Year	≤2 Years	3-4 Years	5-7 Years	8+ years	Mean Years
2009	15.4%	34.6%	46.2%	3.8%	4.5
2010	17.9%	43.6%	33.3%	5.1%	4.3
2011	9.9%	51.6%	33.0%	5.5%	4.4
2012	13.4%	41.8%	37.3%	7.5%	4.7
2013	8.2%	18.4%	51.0%	22.4%	5.4
2014	6.0%	11.9%	50.7%	31.3%	7.4
2015	20.2%	23.9%	26.6%	29.4%	5.1
2016	27.2%	38.6%	16.5%	17.7%	4.3
2017	6.7%	57.8%	26.7%	8.9%	4.4
2018	11.4%	24.4%	60.2%	4.0%	4.9
2019	1.8%	42.2%	47.7%	8.3%	5.5
2020	10.1%	26.2%	34.2%	29.5%	6.1
2021	14.9%	17.0%	36.2%	31.9%	6.3
All Years	12.9%	33.4%	37.7%	16.0%	5.2

Figure 4: **Number of Years from Filing to Final Approval for Federal Cases**
2009 - 2021



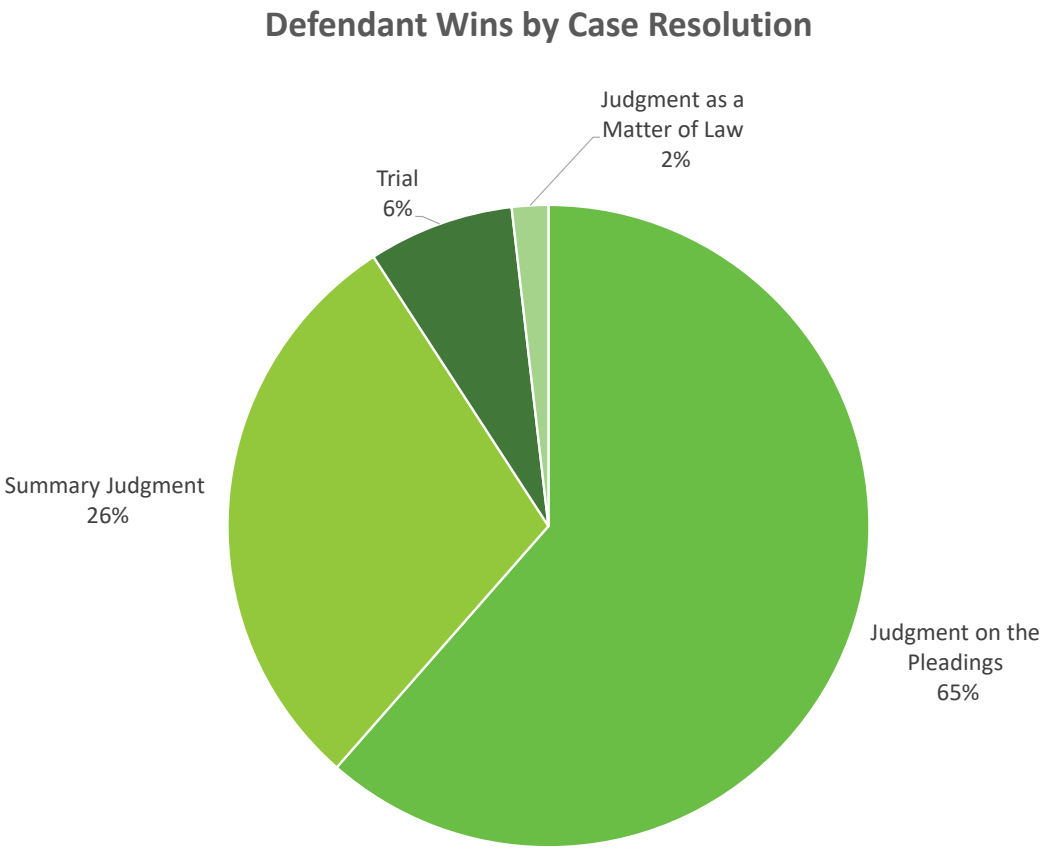
Defendant Wins by Case Resolution

Of the 125 cases won by defendants between 2009-2021, nearly two-thirds were based upon judgment on the pleadings. Over one quarter of them were won at summary judgment.

Figure 5: **Defendant Wins by Case Resolution**
2009 - 2021

Defendant Wins by Case Resolution		
Case Resolution	**# of Cases**	**% of Cases**
Judgment on the Pleadings	81	65%
Summary Judgment	33	26%
Trial	8	6%
Judgment as a Matter of Law	3	2%
Total	125	100%

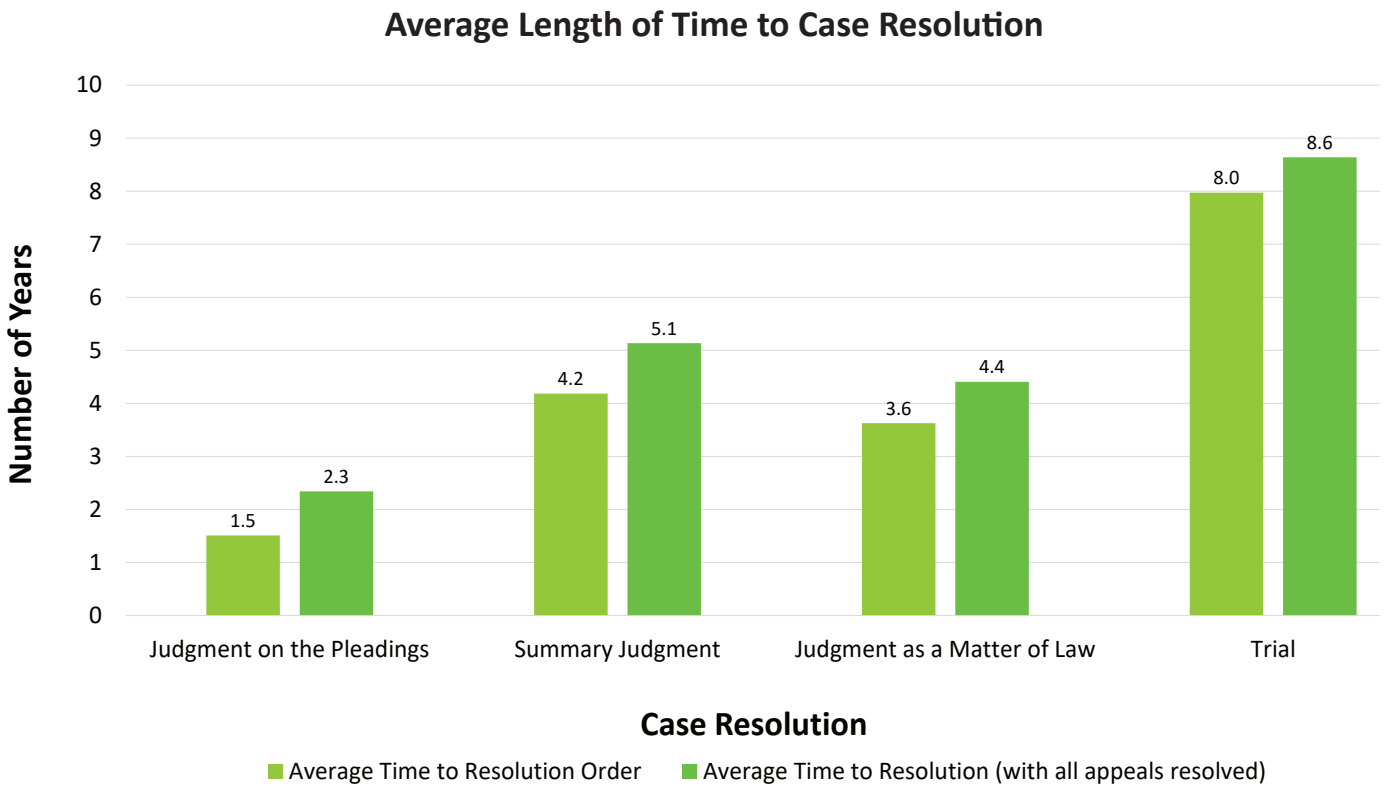
Figure 6: **Percentage of Defendant Wins by Case Resolution**
2009 - 2021



Defendant Wins by Length of Case Resolution

Comparing figures 5, 6, and 7, Judgment on the Pleadings was the quickest resolution in favor of defendants, and the most frequently awarded by the courts. Judgments on the Pleadings were ordered on average 1.5 years after filing. Summary Judgment was ordered on average 4.2 years after filing, and was also a frequent way for a defendant to win. Judgment as a Matter of Law during trial was ordered on average 3.6 years after filing.
As expected, a resolution by trial was the most time consuming, lasting on average for 8 years between filing and a Court's order to resolve a case.

Figure 7: **Defendant Wins by Length of Case Resolution**
2009 - 2021



Top Defense Counsel in Defendant Wins

Rank	Firm	# of Cases 2009-2021
1	Gibson, Dunn & Crutcher LLP	16
2	Morgan Lewis & Bockius LLP	14
3	Sidley Austin LLP	11
4	Kirkland & Ellis LLP	(tie) 10
4	O'Melveny & Myers LLP	(tie) 10
4	Skadden, Arps, Slate, Meagher & Flom LLP	(tie) 10
4	WilmerHale	(tie) 10
8	Baker Botts LLP	(tie) 8
8	Winston & Strawn LLP	(tie) 8
8	Boies, Schiller & Flexner LLP	(tie) 8
8	Paul, Weiss, Rifkind, Wharton & Garrison LLP	(tie) 8
8	Mayer Brown LLP	(tie) 8
8	Sullivan & Cromwell LLP	(tie) 8
8	White & Case LLP	(tie) 8
15	Latham & Watkins LLP	(tie) 7
15	Locke Lord LLP	(tie) 7
15	Hogan Lovells US LLP	(tie) 7
18	Bingham McCutchen LLP	(tie) 6
18	Faegre Drinker Biddle & Reath LLP	(tie) 6
18	Ballard Spahr LLP	(tie) 6

Note: Cases with more than one law firm as listed on complaint are attributed to each firm.

Total Settlement Amount by Year

From the data analyzed, 2016 and 2018 stand out for the total settlement amount by year. These years are also notable for the number of settlements reaching final approval. In 2016, 154 settlements reached final approval, while in 2018, 176 settlements did the same.

High dollar settlements in 2016 include:

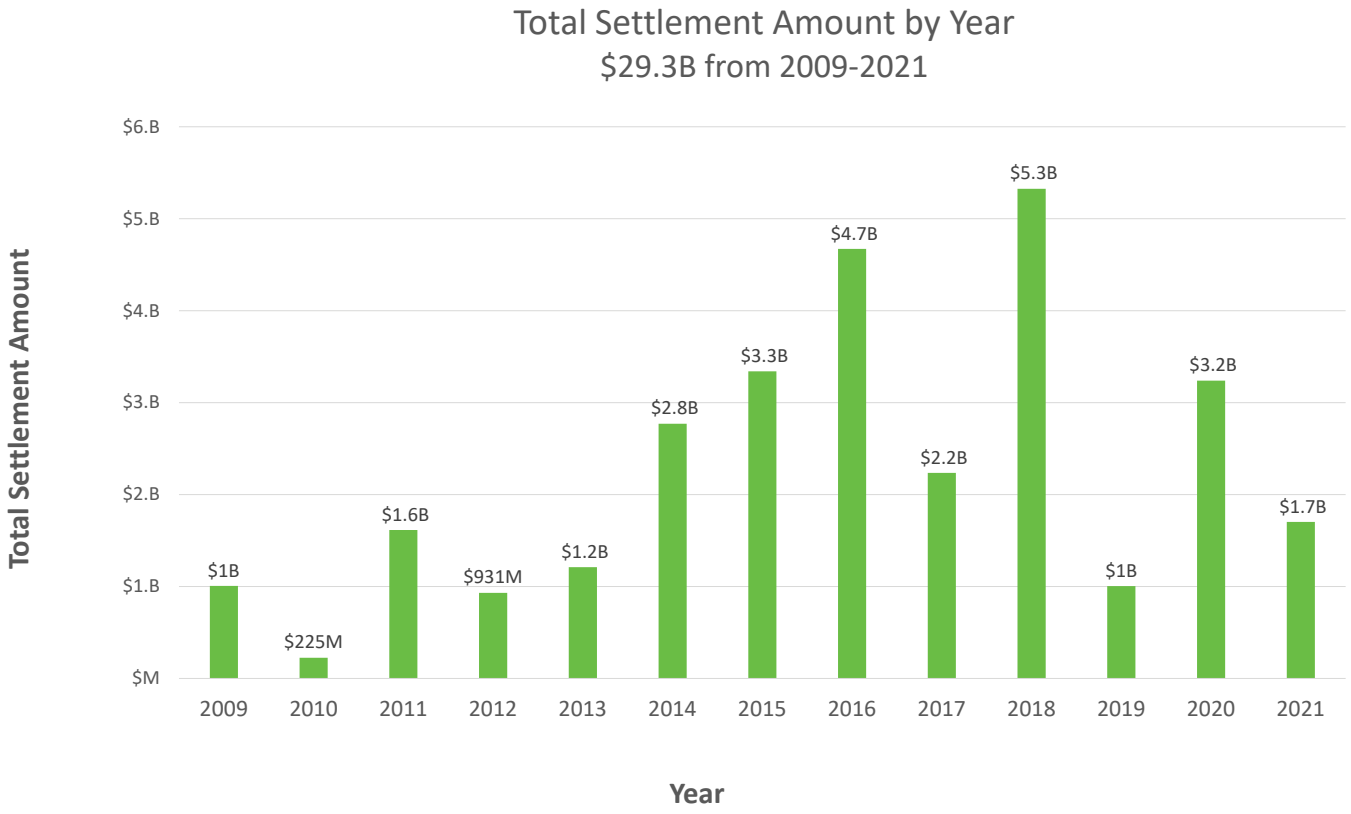
- In re: Credit Default Swaps Antitrust Litigation: $1.8B
- In re: Urethane Antitrust Litigation: $835M
- In re: Automotive Parts Antitrust Litigation: $224M for end payors class (first round of settlements)

High dollar settlements in 2018 include:

- In re: Foreign Exchange Benchmark Rates Antitrust Litigation: $2.3B
- In re: LIBOR Based Financial Instruments Antitrust Litigation: $590M
- In re: ISDAfix Antitrust Litigation: $504M

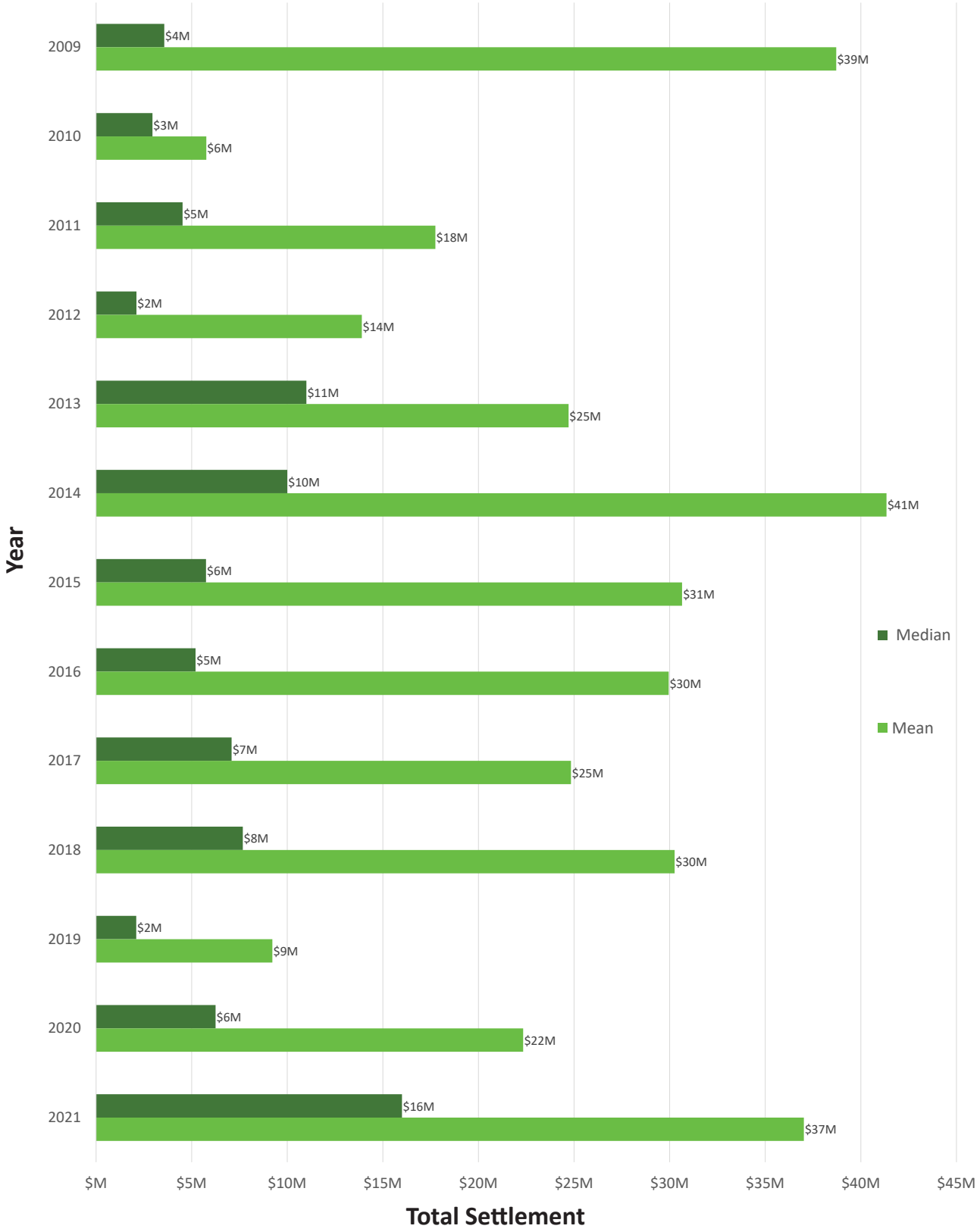
After a record year in 2018 of $5.3B, the settlements in 2019 declined significantly to only $1B, then increased to $3.2B in 2020, and dropped again in 2021 to $1.7B.

Figure 8: **Total Settlement Amount by Year**
2009 - 2021



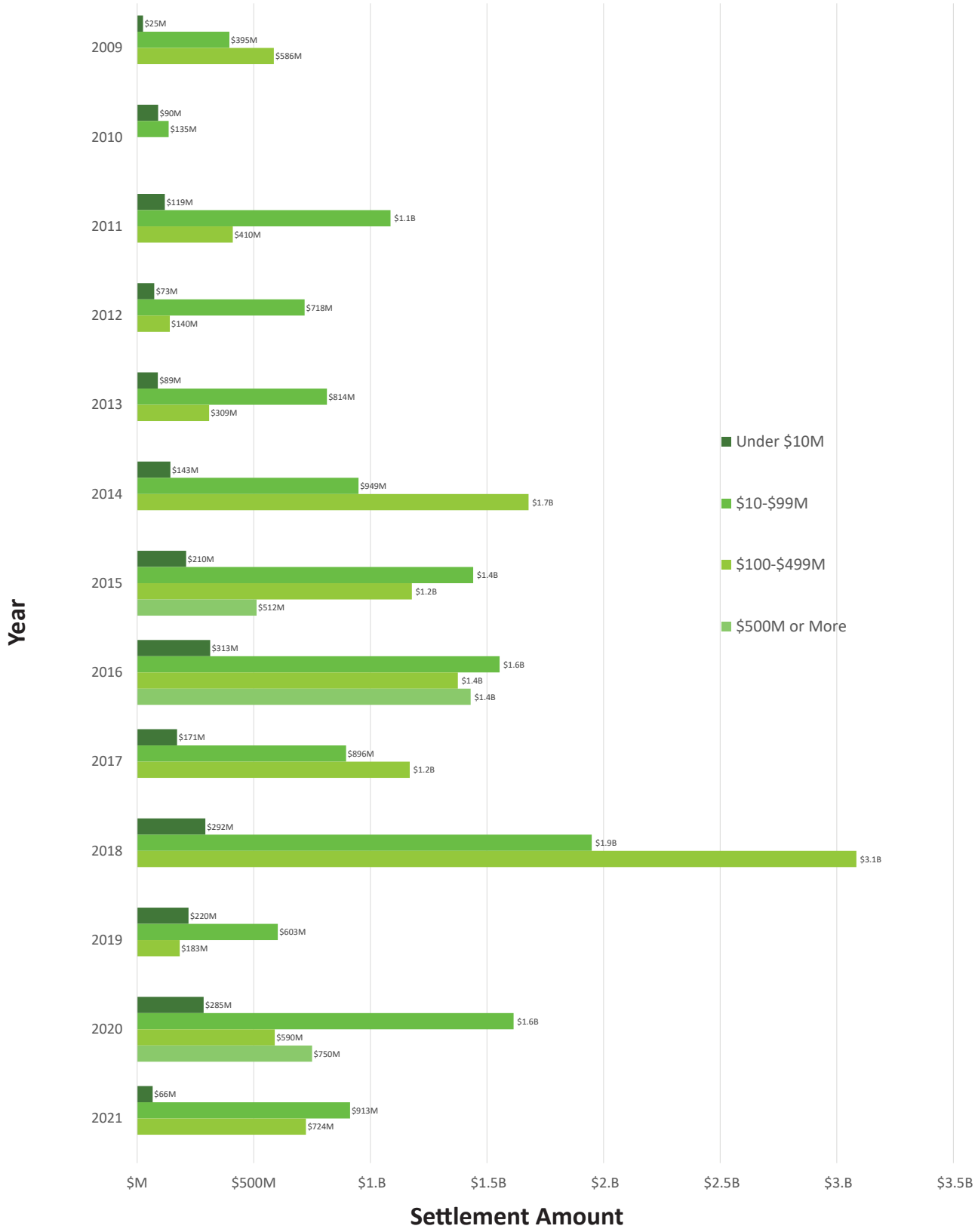
Average Settlement Amount by Year

Figure 9: **Median and Mean Federal Case Settlement Amount by Year**
2009 - 2021



Aggregate Settlement Value by Size

Figure 10: **Aggregate Settlement Value by Size**
2009 - 2021



Settlements by Industry

Figure 11: **Aggregate Settlement Amount by Industry**
2009 - 2021

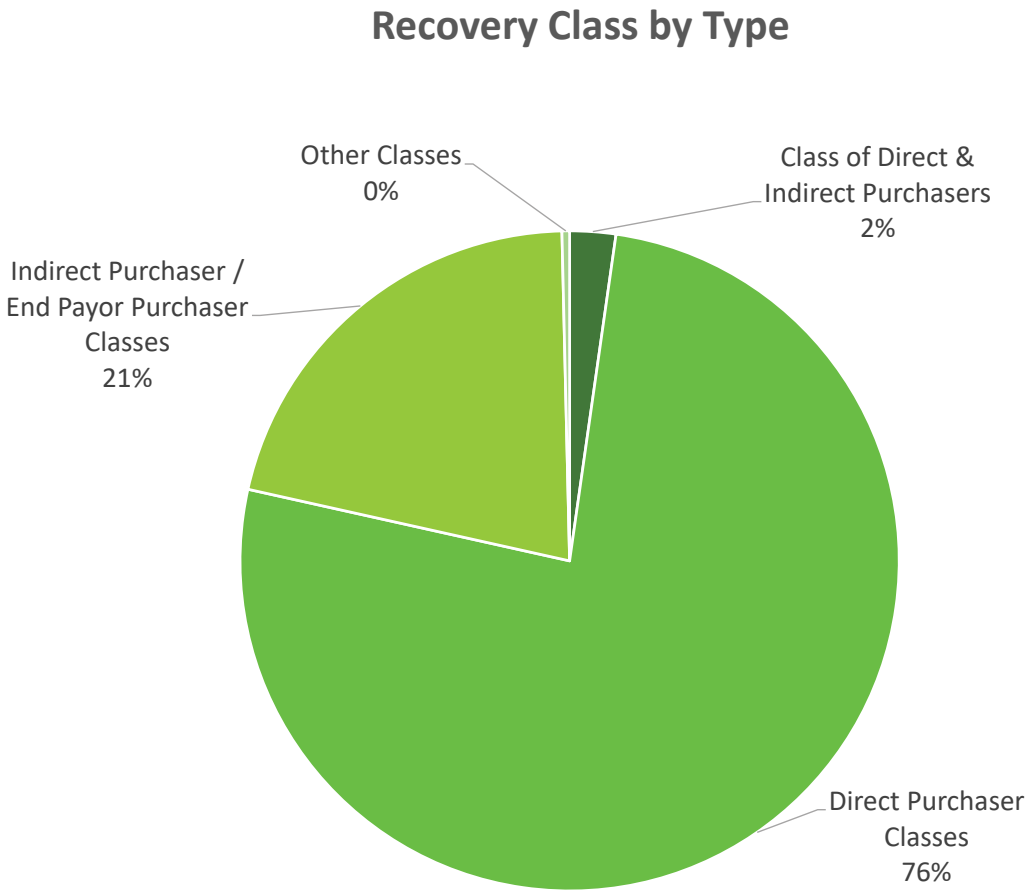
Industry	Aggregate Settlement Amount	# of Settlements	Average Settlement Amount
Financial Services	$8,349,444,307	128	$65,230,034
Pharmaceuticals	$4,447,494,378	82	$54,237,736
Electronics Manufacturing	$3,901,089,565	159	$24,535,155
Automotive Manufacturing	$2,410,990,520	410	$5,880,465
Chemical Manufacturing	$1,836,925,300	56	$32,802,238
Airlines	$1,493,809,442	43	$34,739,754
Agriculture	$1,095,762,500	42	$26,089,583
Entertainment	$749,566,763	10	$74,956,676
Publishing	$584,419,000	9	$64,935,444
Logistics and Freight	$575,515,228	32	$17,984,851
Food Processing	$546,795,500	23	$23,773,717
Media	$474,000,000	5	$94,800,000
Manufacturing - Wood Products	$376,400,000	3	$125,466,667
Healthcare	$317,274,187	49	$6,474,983
Construction / Manufacturing	$290,450,000	12	$24,204,167
Energy	$270,912,500	23	$11,778,804
Telecommunications	$270,258,618	2	$135,129,309
Manufacturing - Metals	$245,087,499	15	$16,339,167
Athletics	$213,414,445	2	$106,707,223
Insurance	$169,465,769	5	$33,893,154
Manufacturer - Medical Supplies	$151,200,000	7	$21,600,000
All Others	$568,225,193	60	$9,470,420

Recoveries by Class Type

The number of settlements and the amount of the class recoveries are strikingly different for direct purchaser class actions than for indirect purchaser class actions. From 2009 through 2021, direct purchaser actions recovered far more in total than indirect purchaser actions—$22.3 billion and $6.2 billion, respectively. That is because there were more direct purchaser settlements than indirect purchaser settlements, and because the direct purchaser settlements averaged $37 million while the indirect purchaser settlements averaged approximately $11 million. The ultimate result is that direct purchaser settlements recovered almost four times as much—3.6 times as much, to be precise—as indirect purchaser actions.

Figure 12: **Recoveries by Class Type**
2009 - 2021

Recoveries by Class Type	# of Settlements	% of Settlements	Aggregate Amount	% of Amount
Direct Purchaser Classes	604	51%	$22,328,295,669	76%
Indirect Purchaser / End Payor Purchaser Classes	559	47%	$6,241,379,278	21%
Class of Direct & Indirect Purchasers	8	1%	$659,725,769	2%
Other Classes	6	1%	$109,100,000	0%
Total	1,177	100%	$29,338,500,716	100%

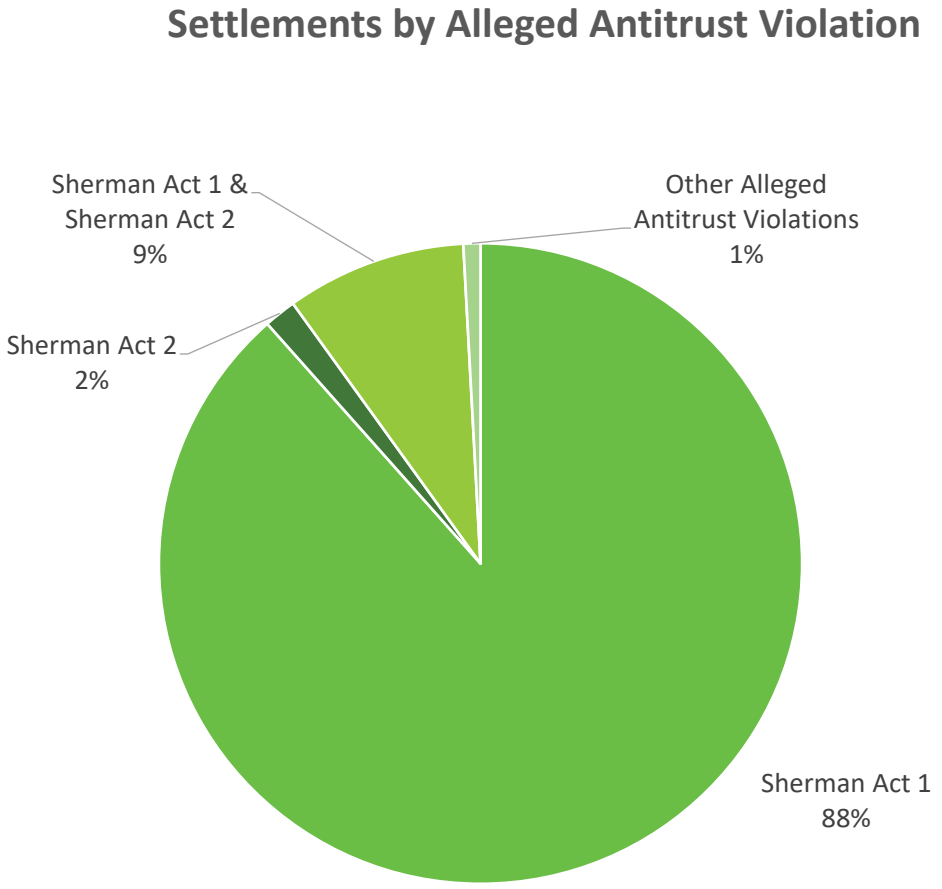


Settlements by Alleged Antitrust Violation

The vast majority of antitrust recoveries in federal court—just shy of 90%—were in cases brought only under Section 1 of the Sherman Act. These entail allegations of a contract, combination or conspiracy—sometimes called concerted action—and would include traditional horizontal agreements to fix prices. Far fewer recoveries occurred in actions—approximately 2%—based solely on Section 2 of the Sherman Act, which does not require concerted action and would include illegal monopolization. Approximately 9% of recoveries came in actions pursuing claims under both Section 1 and Section 2. The recoveries were more balanced when measured not by number of settlements but by amounts recovered. Section 1 claims accounted for $21.6 billion of recoveries—74%—Section 2 claims for slightly over $1 billion—4%—and cases involving claims under Section 1 and Section 2 for approximately $6 billion—22%.

Figure 13: **Settlements by Alleged Antitrust Violation**
2009 - 2021

Alleged Antitrust Violation	# of Settlements	% of Settlements	Aggregate Amount	% of Amount
Sherman Act 1	1,040	88%	$21,615,620,717	74%
Sherman Act 2	19	2%	$1,075,200,000	4%
Sherman Act 1 & Sherman Act 2	108	9%	$6,312,604,999	22%
Other Alleged Antitrust Violations	10	1%	$335,075,000	1%
Total	1,177		$29,338,500,716	100%



Cases with Settlements Reaching Final Approval in 2021

Rank	Case Name	Co-Lead Counsel	Aggregate Settlement Amount in 2021
1	Cathode Ray Tube (CRT) Antitrust Litigation - Indirect Purchasers	Trump Alioto Trump & Prescott LLP	$512,750,000
2	Epipen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litigation	Burns Charest LLP Keller Rohrback LLP Pritzker Levine LLP Robbins Geller Rudman & Dowd LLP Sharp Law LLP	$345,000,000
3	Broiler Chicken Antitrust Litigation - End User Consumer Plaintiffs	Cohen Milstein Sellers & Toll PLLC Hagens Berman Sobol Shapiro LLP	$181,000,000
4	Broiler Chicken Antitrust Litigation - Direct Purchasers	Lockridge Grindal Nauen PLLP Pearson Simon & Warshaw LLP	$155,000,000
5	Peanut Farmers Antitrust Litigation - Direct Sellers	Durrette Arkema Gerson & Gill PC Freed Kanner London Millen LLC Lockridge Grindal Nauen PLLP	$102,750,000
6	SSA Bonds Antitrust Litigation	Quinn Emmanuel Urquhart & Sullivan LLP Robbins Geller Rudman & Dowd LLP	$95,500,000
7	Lithium Ion Batteries Antitrust Litigation - Indirect Purchasers	Cotchett Pitre & McCarthy LLP Hagens Berman Sobol Shapiro LLP Lieff Cabraser Heimann & Bernstein LLP	$68,500,000
8	Interior Molded Doors - Direct Purchasers	Boni Zack & Snyder LLC Spector Roseman & Kodroff PC	$61,500,000
9	London Silver Fixing, Ltd., Antitrust Litigation - OTC Plaintiffs	Grant & Eisenhofer PA Lowey Dannenberg PC	$38,000,000
10	Keurig Green Mountain Single-Serve Coffee Antitrust Litigation - Indirect Purchasers	Kaplan Fox & Kilsheimer LLP Pearson Simon & Warshaw LLP Wolf Haldenstein Adler Freeman & Herz LLC	$31,000,000

Cases with Settlements Reaching Final Approval in 2021 (Continued)

Rank	Case Name	Co-Lead Counsel	Aggregate Settlement Amount in 2021
11	Disposable Contact Lens Antitrust Litigation - End Payors	Hausfeld LLP Robins Kaplan LLP Scott + Scott, Attorneys at Law	$30,200,000
12	Pork Antitrust Litigation (MDL 2998) - Direct Purchasers	Lockridge Grindal Nauen PLLP Pearson Simon & Warshaw LLP	$24,500,000
13	Mexican Government Bonds Antitrust Litigation	Lowey Dannenberg PC	$20,700,000
14	Interior Molded Doors Antitrust Litigation - Indirect Purchasers	Gustafson Gluek PLLC Joseph Saveri Law Firm, Inc Robins Kaplan LLP	$19,500,000
15	Binotti v Duke University	Edelstein & Payne Elliott Morgan & Parsonage Lieff Cabraser Heimann & Bernstein LLP	$19,000,000
16	Pre-Filled Propane Tank Antitrust Litigation - Indirect Purchasers	Hagens Berman Sobol Shapiro LLP Stueve Siegel Hanson The Paynter Law Firm PLLC	$6,500,000
17	Automotive Parts Antitrust Litigaton - Direct Purchaser	Freed Kanner London & Millen LLC Kohn Swift & Graf PC Preti Flaherty Beliveau & Pachios LLP Spector Roseman & Kodroff PC	$5,087,000
18	Intuniv Antitrust Litigation - Indirect Purchasers	Honik LLC Kanner & Whiteley LLC	$2,950,000
19	Western States Wholesale Natural Gas Antitrust Litigation Breckenridge Brewery of Colorado, LLC et al v. E Prime Inc. et al	Barry Law Offices LLC Polsinelli PC	$2,500,000
20	Libor Based Financial Instruments Antitrust Litigation The Berkshire Bank v. Bank of America Corporation - Lender Class	Pomerantz LLP	$425,000

Top 50 Cases with Settlements Reaching Final Approval 2009-2021

Rank	Case Name	Co-Lead Counsel	Aggregate Settlement Amount
1	Foreign Exchange Benchmark Rates Antitrust Litigation - Direct Purchasers	Hausfeld LLP Scott + Scott, Attorneys at Law LLP	$2,310,275,000
2	Credit Default Swaps Antitrust Litigation - Direct Purchasers	Pearson Simon & Warshaw LLP Quinn Emanuel Urquhart & Sullivan LLP	$1,864,650,000
3	Air Cargo Shipping Services Antitrust Litigation - Direct Purchasers	Hausfeld LLP Kaplan Fox & Kilsheimer LLP Levin Sedran & Berman Robins Kaplan LLP	$1,235,907,442
4	Automotive Part Antitrust Litigation - End Payors	Cotchett Pitre & McCarthy LLP Robins Kaplan LLP Susman Godfrey LLP	$1,220,850,658
5	TFT-LCD (Flat Panel) Antitrust Litigation - Indirect Purchasers	Alioto Law Firm Zelle LLP	$1,082,055,647
6	Urethane Antitrust Litigation - Direct Purchasers	Cohen Milstein Sellers & Toll PLLC Fine Kaplan and Black RPC	$919,000,000
7	Namenda Direct Purchaser Antitrust Litigation - Direct Purchasers	Berger Montague PC Garwin Gerstein & Fisher LLP	$750,000,000
8	Klein et al v. Bain Capital Partners, LLC et al (Leveraged Buyouts) - Direct Purchasers	Robbins Geller Rudman & Dowd LLP Robins Kaplan LLP Scott + Scott Attorneys at Law LLP	$590,500,000
9	LIBOR Based Financial Instruments Antitrust Litigation (MDL 2262) - OTC Class	Hausfeld LLP Susman Godfrey LLP	$590,000,000
10	Electronic Books Antitrust Litigation - Direct Purchasers	Hagens Berman Sobol Shapiro LLP Cohen Milstein Sellers & Toll PLLC	$566,119,000

Top 50 Cases with Settlements Reaching Final Approval 2009-2021 (Continued)

Rank	Case Name	Co-Lead Counsel	Aggregate Settlement Amount
11	Automotive Parts Antitrust Litigaton - Direct Purchaser Plaintiffs	Freed Kanner London & Millen LLC Kohn Swift & Graf PC Preti Flaherty Beliveau & Pachios LLP Spector Roseman & Kodroff PC	$531,454,335
12	Cathode Ray Tube (CRT) Antitrust Litigation - Indirect Purchasers	Trump Alioto Trump & Prescott	$512,750,000
13	King Drug Company of Florence, Inc vs. Cephalon, Inc., et al (Provigil) - Direct Purchasers	Garwin Gerstein & Fisher LLP	$512,000,000
14	ISDAfix Antitrust Litigation - Direct Purchasers	Quinn Emanuel Urquhart & Sullivan LLP Robbins Geller Rudman & Dowd LLP Scott + Scott, Attorneys at Law LLP	$504,500,000
15	Sullivan v. Barclays PLC et al (Euribor) - Direct Purchasers	Lovell Stewart Halebian & Jacobson LLP Lowey Dannenberg PC	$491,500,000
16	Capacitors Antitrust Lititgation - Direct Purchasers	Joseph Saveri Law Firm Inc	$489,090,000
17	TFT-LCD (Flat Panel) Antitrust Litigation - Direct Purchasers	Lieff Cabraser Heimann & Bernstein LLP Pearson Simon & Warshaw	$473,022,242
18	High-Tech Employee Antitrust Litigation - Direct Purchasers	Berger Montague PC Grant & Eisenhofer PA Joseph Saveri Law Firm Inc Lieff Cabraser Heimann & Bernstein LLP	$435,000,000
19	Polyurethane Foam Antitrust Litigation - Direct Purchasers	Boies Schiller Flexner LLP Quinn Emanuel Urquhart & Sullivan LLP	$432,300,000
20	Automotive Parts Antitrust Litigaton - Dealership Plaintiffs	Barrett Law Group PA Cuneo Gilbert & LaDuca LLP Larson King LLP	$402,361,277

Top 50 Cases with Settlements Reaching Final Approval 2009-2021 (Continued)

Rank	Case Name	Co-Lead Counsel	Aggregate Settlement Amount
21	GSE Bonds Antitrust Litigation - Indirect Purchasers	Lowey Dannenberg Scott + Scott Attorneys at Law LLP	$386,500,000
22	Currency Conversion Fee Antitrust Litigation	Berger Montague PC Hulett Harper Stewart Robbins Geller Rudman & Dowd LLP	$385,500,000
23	Kleen Products LLC et al v. International Paper et al - Direct Purchasers	Freed Kanner London & Millen LLC MoginRubin LLP	$376,400,000
24	Epipen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litigation	Burns Charest LLP Keller Rohrback Pritzker Levine LLP Robbins Geller Rudman & Dowd LLP Sharp Law LLP	$345,000,000
25	Precision Associates, Inc et al v. Panalpina World Transport (Freight Forwarders) - Direct Purchasers	Cotchett Pitre & McCarthy LLP Gustafson Gluek PLLC Lockridge Grindal Nauen PLLP Lovell Stewart Halebian & Jacobson LLP	$344,315,228
26	Laydon v Mizuho Bank, Ltd. Et al (Euroyen) - Direct Purchasers	Berman Tabacco Lovell Stewart Halebian & Jacobson LLP Lowey Dannenberg	$307,000,000
27	Southeastern Milk Antitrust Litigation - Direct Purchasers	Baker Hostetler Brewer & Terry PC	$303,600,000
28	Dynamic Random Access Memory - Indirect Purchasers	Cooper & Kirkham Gustafson Gluek PLLC MoginRubin LLP Straus & Boies	$287,650,000
29	Tricor Direct Purchaser Antitrust Litigation	Berger Montague PC Garwin Gerstein & Fisher LLP Kaplan Fox & Kilsheimer LLP Odom & Des Roches Rosenthal Monhait & Goddess The Smith Foote Law Firm	$250,000,000
30	Pharmaceutical Industry Average Wholesale Price Litigation (MDL 1456) - Indirect Purchasers	Hagens Berman Sobol Shapiro LLP Hoffman & Edelson LLC Spector Roseman Kodroff & Willis PC Wexler Wallace LLP	$247,000,000

Top 50 Cases with Settlements Reaching Final Approval 2009-2021 (Continued)

Rank	Case Name	Co-Lead Counsel	Aggregate Settlement Amount
31	Dial Corporation, et al v. News Corporation et al - Direct Purchasers	Kellogg Hansen Todd Figel & Frederick PLLC Susman Godfrey LLP	$244,000,000
32	Municipal Derivatives Antitrust Litigation (MDL 1950) - Direct Purchasers	Boies Schiller Flexner LLP Hausfeld LLP Susman Godfrey LLP	$223,514,307
33	First Impressions Salon, Inc. v. National Milk Producers Federation et al - Direct Purchasers	Barrett Law Group PA NastLaw LLC Roberts Law Firm	$220,000,000
34	Cathode Ray Tube (MDL 1917) - Direct Purchasers	Saveri & Saveri	$212,200,000
35	National Collegiate Athletic Association Athletic Grant-in-Aid Cap Antitrust Litigation - Direct Purchasers	Hagens Berman Sobol Shapiro LLP Pearson Simon & Warshaw LLP	$208,664,445
36	Optical Disk Drive Products Antitrust Litigation - Indirect Purchasers	Hagens Berman Sobol Shapiro LLP	$205,000,000
37	Steel Antitrust Litigaiton - Direct Purchasers	Fine Kaplan and Black RPC Kellogg Hansen Todd Figel & Frederick PLLC	$193,899,999
38	Domestic Drywall Antitrust Litigation - Direct Purchasers	Berger Montague PC Cohen Milstein Sellers & Toll PLLC Spector Roseman Kodroff & Willis PC	$192,500,000
39	Neurontin Antitrust Litigation (MDL 1479) - Direct Purchasers	Garwin Gerstein & Fisher LLP Kaplan Fox & Kilsheimer LLP	$190,000,000
40	Libor-Based Financial Instruments Antitrust Litigation - Exchange Based Plaintiffs	Kirby McInerney LLP Lovell Stewart Halebian Jacobson LLP	$187,000,000

Top 50 Cases with Settlements Reaching Final Approval 2009-2021 (Continued)

Rank	Case Name	Co-Lead Counsel	Aggregate Settlement Amount
41	Broiler Chicken Antitrust Litigation - End User Consumer Plaintiffs	Cohen Milstein Sellers & Toll PLLC Hagens Berman Sobol Shapiro LLP	$181,000,000
42	Blessing v. Sirius XM Radio Inc. - Direct Purchasers	Cook Hall & Lampros LLP Grant & Eisenhofer PA Milberg LLP	$180,000,000
43	Marchese v. Cablevision Systems Corporation et al - Direct Purchasers	Taus Cebulash & Landau LLP	$179,093,858
44	Broiler Chicken Antitrust Litigation - Direct Purchasers	Lockridge Grindal Nauen PLLP Pearson Simon & Warshaw LLP	$170,600,000
45	Animation Workers Antitrust Litigation	Cohen Milstein Sellers & Toll PLLC Hagens Berman Sobol Shapiro LLP Susman Godfrey LLP	$168,950,000
46	Lidoderm Antitrust Litigation - Direct Purchasers	Faruqi & Faruqi LLP Garwin Gerstein & Fisher LLP Hagens Berman Sobol Shapiro LLP	$166,000,000
47	Haley Paint Company, et al v. Kronos Worldwide, Inc. (Titanium Dioxide) - Direct Purchasers	Cera LLP Joseph Saveri Law Firm Inc Lieff Cabraser Heimann & Bernstein LLP Shapiro Sher Guinot & Sandler	$163,500,000
48	Polyurethane Foam Antitrust Litigation - Indirect Purchasers	Miller Law LLC	$151,250,000
49	Flonase Antitrust Litigation - Direct Purchasers	Hagens Berman Sobol Shapiro LLP Kessler Topaz Meltzer & Check LLP	$150,000,000
50	Transpacific Passenger Air Transportation Antitrust Litigation - Direct and Indirect Purchasers	Cotchett Pitre & McCarthy LLP Hausfeld LLP	$147,902,000

Class Recovery by Settlement Size

This report analyzes class recoveries by dividing settlements by a category, with the smallest settlements included in a single category of recoveries under $10 million and the largest settlements in a category of $1 billion or more.

Generally speaking, the larger the class settlement recovery by category, the higher the median percentage the class retained, the lower the median percentage awarded in attorney's fees, and the lower the median percentage paid in expenses. As shown in Figure 14, for recoveries under $10 million, the median percentage the class received was 64% and the median fees and costs awarded were 30% and 6%, respectively. In contrast, for settlement recoveries greater than or equal to $1 billion the median class recovery was 85%, the median fee award 14%, and the median expenses 1%.

While the median class recovery on the whole increased incrementally as a percentage of the class settlement, and the median expenses incrementally decreased, the awards of attorney's fees varied less. The median award of attorney's fees remained largely around 30% for recoveries up to $249 million. Between $250 - $999 million, attorneys' fees were 25-26%. The median fee award decreased significantly—again, to 14%—only for recoveries greater than or equal to $1 billion.

Looking at the data as a whole, Figure 15 illustrates the median class recovery was 67% of the settlement amount, the median award of attorney's fees was 30%, and the median expenses were 3%. When we move from the median to totals, we see that plaintiff classes received 75% of the total settlement recoveries between 2009 and 2021, attorney's fees awards were 23%, and expenses were 2%.

Many of these numbers would be expected. For example, as the settlement recoveries increase in size, the percentage allocated in expenses decreases. That likely reflects economies of scale, ones that have generally been recognized by commentators.

The median numbers in this Report, however, reveal that a typical award in antitrust class actions is actually 25 to 30%. They also indicate that 30% is typical unless the recovery is greater than $250 million. Further, they suggest that so-called "mega-funds"—in which attorneys receive a significantly smaller percentage fee award when there is a really large class recovery—arise only when there is a settlement in excess of $1 billion. To confirm this last point, additional analyses of awards just below and just above $1 billion would be helpful.

This analysis largely involves medians. It does so because median are informative about typical cases. It protects against weighing larger settlements more heavily than smaller settlements in assessing patterns. Note, for example, that we get different results when we analyze the median fees and expenses for all of the settlements than when we consider the total percentages allocated to fees and expenses. Yet these results are perfectly consistent. As for the typical antitrust class action from 2009 through 2021, the court awarded 30% of the class recovery in fees and 3% in expenses, and 67% of the recovery was available to class members. Medians help to analyze a typical case, weighing large and small cases equally.

Class Recovery by Settlement Size (continued)

In contrast, an analysis of overall percentages as illustrated in Figure 16, weighs cases with larger recoveries more heavily than cases with smaller recoveries. But that approach can be valuable too. The overall amounts and percentages can be particularly instructive if we want to assess the benefits and efficiency of private antitrust enforcement. In that case, it is useful to know that the total recovery over 13 years was $29.3 billion, that lawyers received 23% of this amount—about $6.7 billion—that expenses totaled 2%—about $586 million—that the plaintiff classes had available 75% of the total settlements—about $22 billion.

Figure 14: **Class Recovery by Settlement Size - Median**
2009 - 2021

Settlement Amount	Class Recovery	Attys Fees	Expenses	Total
>$1B	85%	14%	1%	100%
$500-$999M	73%	26%	1%	100%
$250-$499M	74%	25%	1%	100%
$100-$249M	68%	30%	2%	100%
$50-$99M	67%	30%	3%	100%
$10-$49M	66%	30%	4%	100%
<$10M	64%	30%	6%	100%
All Settlements	67%	30%	3%	100%

Class Recovery by Settlement Size (continued)

Figure 15: **Class Recovery by Settlement Size - Median**
2009 - 2021

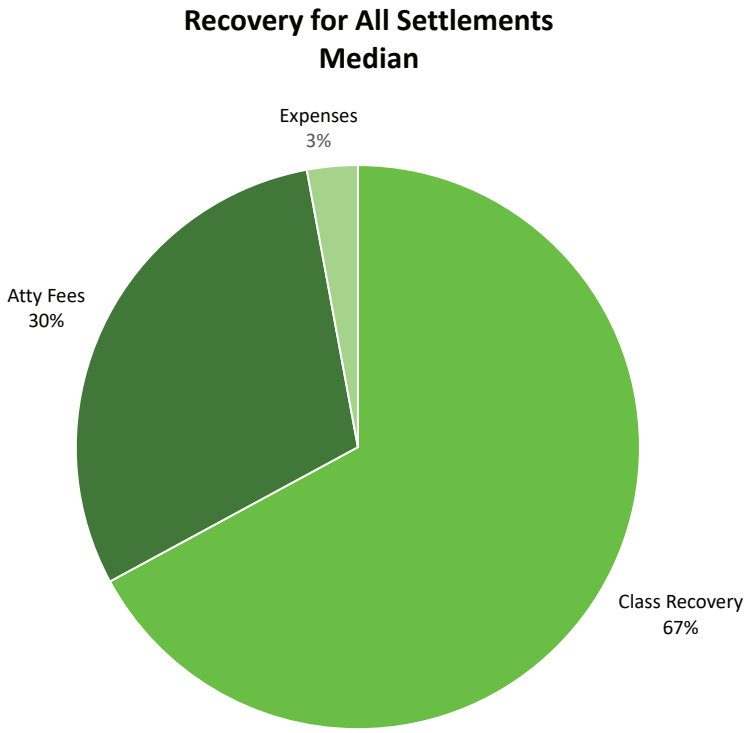
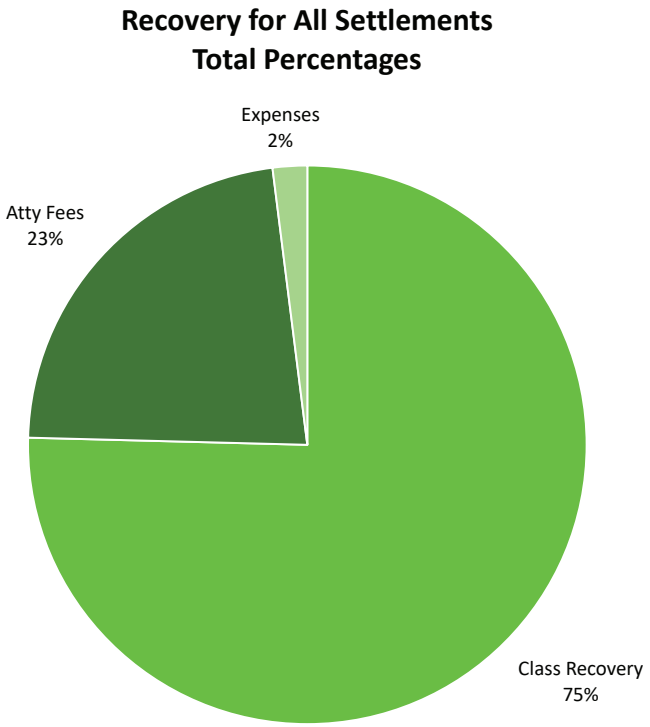


Figure 16: **Class Recovery by Settlement Size - Total Percentages**
2009 - 2021



Top 25 Firms Acting as Defense Counsel

Rank	Firm	# Cases Defended 2009-2021
1	Gibson, Dunn & Crutcher LLP	400
2	Latham & Watkins LLP	398
3	Skadden, Arps, Slate, Meagher & Flom LLP	333
4	Kirkland & Ellis LLP	332
5	Jones Day	258
6	Morgan Lewis & Bockius LLP	255
7	Freshfields Bruckhaus Deringer LLP	249
8	Hogan Lovells LLP	246
9	O'Melveny & Myers LLP	245
10	Crowell & Moring LLP	238
11	Arnold & Porter Kaye Scholer LLP	208
12	Covington & Burling LLP	204
13	Simpson Thacher & Bartlett LLP	196
14	Paul, Weiss, Rifkind, Wharton & Garrison LLP	192
15	Vinson & Elkins LLP	187
16	WilmerHale	186
17	White & Case	181
18	Cleary Gottlieb Steen & Hamilton LLP	(tie) 177
18	Wilson Sonsini Goodrich & Rosati	(tie) 177
20	Sullivan & Cromwell LLP	(tie) 172
20	Winston & Strawn LLP	(tie) 172
22	Mayer Brown LLP	162
23	Faegre Drinker Biddle & Reath LLP	(tie) 160
23	Foley & Lardner LLP	(tie) 160
25	Sidley Austin LLP	155

Note: Cases with more than one law firm listed on the docket are attributed to each firm.

Top 25 Lead Counsel in Complaints Filed

Rank	Firm	# of Complaints Filed 2009-2021
1	Hausfeld LLP	296
2	Hagens Berman Sobol & Shapiro LLP	285
3	Spector Roseman & Kodroff PC	273
4	Berger Montague PC	254
5	Cohen Milstein Sellers & Toll PLLC	240
6	Gustafson Gluek PLLC	234
7	Lockridge Grindal Nauen PLLP	213
8	Cuneo Gilbert & LaDuca LLP	201
9	The Miller Law Firm (Rochester, MI)	200
10	Susman Godfrey LLP	199
11	Freed Kanner London & Millen LLC	196
12	Cotchett Pitre & McCarthy LLP	192
13	NastLaw LLC	180
14	Nussbaum Law Group PC	179
15	Grant & Eisenhofer PA	(tie) 177
15	Labaton Sucharow LLP	(tie) 177
17	Glancy Prongay & Murray LLP	161
18	Barrett Law Group PA	151
19	Mantese Honigman PC	150
20	Kaplan Fox & Kilsheimer LLP	(tie) 145
20	Robins Kaplan LLP	(tie) 145
22	Scott+Scott Attorneys at Law LLP	141
23	Kohn Swift & Graf PC	139
24	Boies Schiller Flexner LLP	134
25	Heins Mills & Olson, PLC	125

Note: Filings with more than one law firm as listed on complaint are attributed to each firm.

Top 25 Lead Counsel in Number of Settlements

Rank	Firm	# of Settlements 2009-2021
1	Cotchett Pitre & McCarthy LLP	210
2	Susman Godfrey LLP	186
3	Robins Kaplan LLP	166
4	Barrett Law Group PA	146
5	Cuneo Gilbert & LaDuca LLP	(tie) 145
5	Larson King LLP	(tie) 145
7	Hausfeld LLP	114
8	Freed Kanner London & Millen LLC	90
9	Spector Roseman & Kodroff PC	88
10	Preti Flaherty Beliveau & Pachios LLP	82
11	Kohn Swift & Graf PC	80
12	Berger Montague	74
13	Hagens Berman Sobol Shapiro LLP	72
14	Cohen Milstein Sellers & Toll PLLC	63
15	Labaton Sucharow LLP	61
16	Lovell Stewart Halebian Jacobson LLP	56
17	Gustafson Gluek PLLC	51
18	Kaplan Fox & Kilsheimer LLP	(tie) 49
18	Quinn Emmanuel Urquhart & Sullivan LLP	(tie) 49
20	Scott + Scott, Attorneys at Law, LLP	46
21	Pearson Simon & Warshaw LLP	45
22	Lockridge Grindal Nauen PLLP	42
23	Garwin Gerstein & Fisher LLP	39
24	Robbins Geller Rudman & Dowd LLP	37
25	Boies Schiller Flexner LLP	(tie) 36
25	Lieff Cabraser Heimann & Bernstein LLP	(tie) 36

Note: Settlements with more than one law firm as lead counsel are attributed to each firm.

Top 25 Lead Counsel in Class Recovery

Rank	Firm	Aggregate Settlement Class Recovery 2009-2021	# of Settlements 2009-2021	Average Settlement Class Recovery 2009-2021
1	Hausfeld LLP	$5,276,541,749	114	$46,285,454
2	Scott + Scott, Attorneys at Law LLP	$3,901,975,000	46	$84,825,543
3	Quinn Emanuel Urquhart & Sullivan LLP	$3,103,350,000	49	$63,333,673
4	Pearson Simon & Warshaw LLP	$3,001,736,687	45	$66,705,260
5	Berger Montague PC	$2,919,778,068	74	$39,456,460
6	Susman Godfrey LLP	$2,869,842,465	186	$15,429,261
7	Hagens Berman Sobol Shapiro LLP	$2,818,411,895	72	$39,144,610
8	Cohen Milstein Sellers & Toll PLLC	$2,796,058,619	63	$44,381,883
9	Robins Kaplan LLP	$2,558,580,600	166	$15,413,136
10	Garwin Gerstein & Fisher LLP	$2,411,699,000	39	$61,838,436
11	Robbins Geller Rudman & Dowd LLP	$2,036,400,000	37	$55,037,838
12	Cotchett Pitre & McCarthy LLP	$2,034,905,363	210	$9,690,026
13	Kaplan Fox & Kilsheimer LLP	$1,895,973,692	49	$38,693,341
14	Lieff Cabraser Heimann & Bernstein LLP	$1,567,272,242	36	$43,535,340
15	Lovell Stewart Halebian Jacobson LLP	$1,460,245,228	56	$26,075,808
16	Levin Sedran & Berman LLP	$1,331,023,917	34	$39,147,762
17	Lowey Dannenberg PC	$1,260,450,000	18	$70,025,000
18	Spector Roseman & Kodroff PC	$1,250,868,935	88	$14,214,420
19	Fine Kaplan and Black RPC	$1,190,818,749	21	$56,705,655
20	Zelle LLP	$1,142,427,647	29	$39,394,057
21	Freed Kanner London & Millen LLC	$1,136,385,085	90	$12,626,501
22	Alioto Law Firm	$1,083,199,397	17	$63,717,612
23	Joseph Saveri Law Firm, Inc	$1,057,550,000	25	$42,302,000
24	Labaton Sucharow LLP	$858,035,750	61	$14,066,160
25	Boies Schiller Flexner LLP	$853,264,307	36	$23,701,786

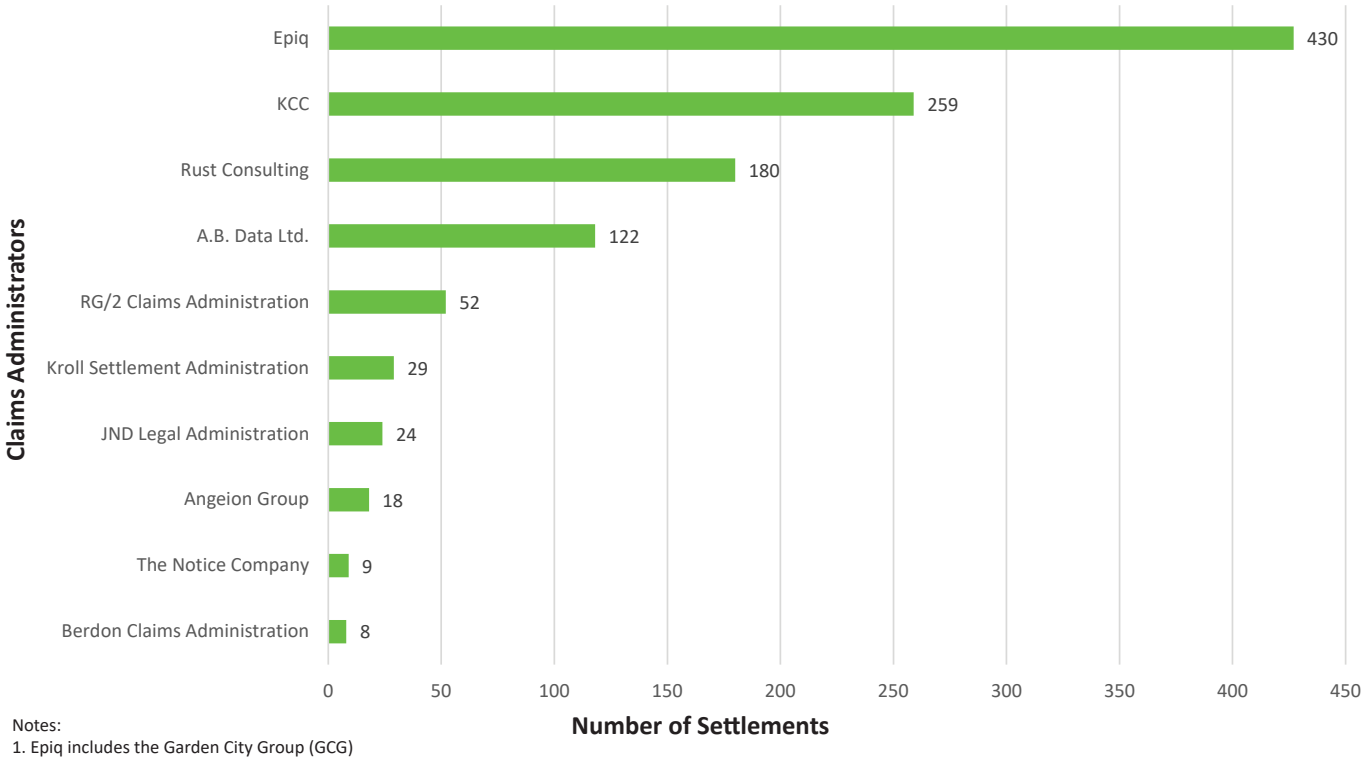
Note: Settlements with more than one law firm as lead counsel are attributed to each firm.

Top Claims Administrators

Figure 17: **Top Claims Administrators by Aggregate Settlement Amount**
2009 - 2021

Rank	Claims Administrator	Aggregate Settlement Amount 2009-2021	# of Settlements 2009-2021	Average Settlement Amount 2009-2021
1	Epiq	$12,340,525,090	430	$28,698,896
2	Rust Consulting	$7,043,235,285	180	$39,129,085
3	A.B. Data Ltd.	$3,260,809,100	122	$26,727,943
4	KCC	$3,033,905,889	259	$11,713,922
5	Berdon Claims Administration	$1,004,200,000	8	$125,525,000
6	Kroll Settlement Administration	$636,680,000	29	$21,954,483
7	The Notice Company	$514,562,500	9	$57,173,611
8	RG/2 Claims Administration	$494,819,068	52	$9,515,751
9	JND Legal Administration	$423,087,500	24	$17,628,646
10	Angeion Group	$286,884,050	18	$15,938,003

Figure 18: **Top Claims Administrators by Number of Settlements**
2009 - 2021



Notes:
1. Epiq includes the Garden City Group (GCG)
2. Rust Consulting includes Complete Claims Solutions
3. KCC includes Administar and Rosenthal & Company
4. Kroll Settlement Administration includes Heffler Claims Group
5. JND Legal Administration includes Class Action Administration

Methodology and Sources

Cases Analyzed

The cases analyzed in the preceding report represent three individual data sets: complaints filed from 2009-2021, cases won by defendants from 2009-2021, and cases with settlements reaching final approval or verdicts awarded within the time period of 2009-2021. Settlement data analyzed within the 2009-2021 period are not first evaluated by complaint filing date; which is to say, any settlement granted final approval during the eleven year analysis period is represented in the data, regardless of when the complaint was filed. Only settlements granted final approval within the eleven year analysis period are represented in the data. Regarding cases with multiple settlements, settlements reaching final approval outside of the eleven-year period of the study are excluded. Settlement Amounts refer to the full dollar value awarded by the court, inclusive of awards to lead plaintiffs, attorneys' fees, expenses, etc.

Sources

Data for this report are collected primarily through Lex Machina's Legal Analytics Platform. Lex Machina uses artificial intelligence to categorize federal court case data from PACER (Public Access to Court Electronic Records). The case data obtained from Lex Machina was verified by the supporting court docket and supplemented with additional data points also available through the Lex Machina platform. All analysis, commentary, and conclusions were reviewed by each member of the authoring team.

Historical data in this report may vary from last year's edition due to updates in case status, additional sources of information, or new methodology for analysis. The authors will continually update the data set for accuracy to provide the most recent information available.

The data gathered are not necessarily exhaustive of every settlement during the analyzed period. While this is intended to be an accurate reflection of class action matters in federal courts, there is a possibility that cases have been excluded due to source limitations or unintentional error.

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