

“A Pyrrhic Victory for Class Action Defendants,” *Daily Journal*

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In an article for the *Daily Journal*, Partner Alexander M. Smith analyzes the aggregate statutory damages in the *Montera v. Premier Nutrition Corporation* case where the plaintiff sought \$91 million in statutory damages under New York law, even though the jury had determined that the class had suffered less than \$1.5 million in actual damages. In the end, the *Montera* court awarded the class only \$8.312 million in statutory damages.

In the article he writes, “many aspects of the court’s ruling—including its decision to calculate statutory damages on a per-product basis and its decision to award statutory damages well in excess of actual damages—illustrate that defendants continue to face a very real threat from aggregate statutory damages.”

“By reducing the damages award on due process grounds, the court made clear—despite the plaintiff’s insistence to the contrary—that the award of aggregate statutory damages under Sections 349 and 350 is not automatic,” he says.

Mr. Smith is a member of the firm’s Consumer Law and Class Action Practices. He has extensive experience navigating consumer class actions through all stages of litigation.

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