

# “Why Class Cert Is Unlikely in Cases Like Mattel ‘Wicked’ Suit,” *Law360*

## Publications

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By: Alexander M. Smith

In an article featured in *Law360*, Partner Alex Smith discusses the recently proposed class action, *Holly Ricketson v. Mattel Inc.* in the US District Court for the Central District of California and how it highlights the uphill battle plaintiffs face in certifying a class in such cases. The matter involves mislabeled children's dolls featuring characters from the movie *Wicked*.

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In the article, Alex analyzes the case in which a parent claims that after purchasing the Wicked-themed doll for her daughter, she discovered the packaging included a link to an adult website, rather than the movie's website, [wickedmovie.com](http://wickedmovie.com).

“Even if the plaintiff's lawsuit survives a motion to dismiss, certifying a class will not be as easy as clicking one's heels three times. To the contrary, the plaintiff will likely face steep obstacles if and when she seeks to certify a class,” Alex writes.

“When a case involves an obviously false or straightforwardly misleading statement on the front of a package, it may be relatively easy to certify a class. But when a plaintiff's claims require individual inquiry into whether the alleged mislabeling affected consumers' purchasing decisions or caused each consumer any injury, or when that alleged injury is not easy to quantify or measure, those individualized issues will often defeat certification. And as this case illustrates, it is eminently possible to spot those problems before filing a putative class action,” he added.

Alex helps consumer-facing companies defend the labeling of their products—including iconic food, beverage, personal care, and household products found in millions of homes. He persuades courts that his clients' advertising is not deceptive, and he proves consumers received what his clients promised.

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