



PETER W. HERZOG III

Partner

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Peter Herzog has defended two certified class actions at trial and has won dismissal or defeated certification more than 100 times. His practice is focused on defending corporations from consumer class actions and complex commercial litigation.

EDUCATION

Washington University School of Law, J.D., 1985

Washington University at St. Louis, B.A., 1982

OTHER EXPERIENCE

Bryan Cave LLP

ADMISSIONS

Missouri

Massachusetts

PRACTICE AREAS

- Class Actions
- Commercial Litigation
- Antitrust & Competition
- Appellate

BIOGRAPHY

Peter Herzog is an accomplished trial lawyer with extensive experience defending corporations in complex commercial and consumer class action litigation. In 30 years of practice, Peter has successfully defended more than 100 consumer class actions on behalf of companies like Ford, Mercedes-Benz, Chrysler, Michelin, and Volvo in trial and appellate courts across the country. He defended Ford in a four-month certified class action trial in Sacramento, CA in 2007, and was part of the trial team that obtained a complete defense verdict in an \$800 million certified class trial in St. Clair County, IL in 2004.

In 2012 and 2014, Peter earned the BTI Client Service All-Star recognition for delivering superior service to large corporate clients. Super Lawyers has ranked Peter in class actions, mass torts, and appellate practices and he maintains an AV rating from his peers, the highest designation possible through Martindale-Hubbell.

Prior to joining WTO in January 2015, Peter was a partner at the St. Louis office of Bryan Cave LLP.

CASES

- *Star Funding v. Tire Centers, et al.*, 17-1074 (2nd Cir. 2017) - Won Second Circuit affirmance for a Michelin subsidiary upholding summary judgment from the Southern District of New York. The case involved fraud perpetrated by a former employee and a third party.
- *Rehberger et al. v. Yahoo!* (S.D. Ill. 2016) - Successfully resolved a putative class action against Yahoo! involving alleged violations of the Illinois Eavesdropping Statute.
- Obtained dismissal of two putative class action lawsuits for Yahoo! in Ohio state court alleging that daily fantasy sports contests on the website amounted to illegal gambling.
- *Neale v. Volvo Cars of North America, LLC*, No. 14-1540 (3rd Cir. 2015) - Won a precedential, Third Circuit opinion for Volvo that vacated a district court's order to certify classes in six states to pursue claims that the sunroof drains in all Volvo models manufactured from 2003 to the present are defective. The circuit court remanded the case with instructions to "rigorously analyze predominance in the first instance."
- *L.G. Motorsports v. NGMCO & Michelin* (5th Cir. 2015) - Won Fifth Circuit affirmance of a trial court's summary judgment for Michelin in a case alleging that Michelin and General Motors conspired to prevent the plaintiff from obtaining Michelin racing tires for use in the American Le Mans racing series. The original complaint included antitrust claims, which were

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dismissed, and unfair competition claims that survived until discovery, when no evidence supporting such claims was produced and the trial court granted summary judgment.

- *L.G. Motorsports v. NGMCO & Michelin* (E.D. Tex. 2014) - Won summary judgment for Michelin in a case alleging that Michelin and General Motors conspired to exclude the plaintiff from participation in The American Le Mans racing series.
- *Amata v. Toyota* (C.D. Cal. 2013) - Won dismissal of a nationwide class action alleging defects in two Scion vehicles.
- *In re: Bisphenol-A (BPA) Polycarbonate Plastics Product Liability Litigation* (W.D. Mo. 2011) - Defeated motions to certify nationwide, statewide, and issues classes in multidistrict litigation involving the chemical bisphenol A (BPA).
- *In re Ford Explorer Cases* (Cal. Sacramento Cnty. Super. Ct. 2007) - Defended Ford Motor Co. in a four-month certified class action trial involving \$2 billion in consumer fraud claims. On the day set for closing arguments, the plaintiffs agreed to a no-cash, coupon-based settlement for the California class and classes in three other states with pending parallel actions.
- *In re 2005 U.S. Grand Prix Litigation*, 489 F.3d 316 (7th Cir. 2007) - Successfully defended before the Seventh Circuit a Rule 12 dismissal of all claims relating to a proposed nationwide class action arising out of the 2005 United States Grand Prix in Indianapolis.
- *Phillips v. Ford* (Ill. Cir. Ct. 2007) - Obtained decertification of a certified nationwide class action against Ford.
- *Morris & Matlosz v. Mercedes-Benz* (N.J. Law. Div. 2009) - Won summary judgment against named plaintiffs in a proposed nationwide class action against Mercedes-Benz.
- *Thiedemann v. Mercedes-Benz USA*, 183 N.J. 234 (2005) - Won the seminal New Jersey decision on ascertainable loss in consumer fraud actions and affirmed summary judgment in favor of Mercedes-Benz.
- *St. Clair County and City of Centreville v. Ford* (Ill. St. Clair Cnty. Cir. Ct. 2004) - Won a complete defense jury verdict for Ford in a six-week, certified class action trial in Illinois.
- *Robinson v. American Honda*, 551 F.3d 218 (4th Cir. 2009) - Won a Rule 12 dismissal of a proposed nationwide class action against Michelin and won appeal of the dismissal in the Fourth Circuit Court of Appeals.
- *Dabush v. Mercedes-Benz*, 874 A.2d 1110 (App. Div. 2005) - Won summary judgment in favor of Mercedes-Benz and won appeal of summary judgment based on the plaintiff's inability to prove ascertainable loss.

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PERSONAL INTERESTS

Family, sports