



PETER W. HERZOG III

Partner

pherzog@wtotrial.com | P 314.326.4129 | F 303.244.1879

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 consumer class action defense and complex commercial litigation. Peter is a two-time BTI Consulting Client Service All-Star.

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–BTI Consulting

EDUCATION

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

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

OTHER EXPERIENCE

Bryan Cave LLP

ADMISSIONS

Massachusetts
Missouri

HIGHLIGHTS

- Facilitated a rural electric cooperative's withdrawal from membership in a wholesale cooperative. WTO's client achieved settlement for hundreds of millions of dollars below the wholesaler's demand and can now acquire substantially cheaper and renewable green energy sources for its members.
- Won complete victory for Hillsdale College in a closely watched dispute against the University of Missouri over the misuse of a deceased alumnus's \$5 million donation.
- Obtained dismissal of a putative class action lawsuit against Volvo involving alleged misrepresentation and false labeling related to safety features.
- Won affirmance of summary judgment for a Michelin subsidiary in a fraud case before the Second Circuit.
- Representing Michelin and Goodrich Corp. against claims brought by more than 100 plaintiffs alleging groundwater contamination by benzene and other chemicals from a long-closed tire manufacturing plant in Oklahoma. Claims include nuisance, trespass, unjust enrichment, and RCRA violations.
- 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.

INDUSTRIES

- Automotive
- Consumer Products & Services
- Energy

PRACTICE AREAS

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

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BIOGRAPHY

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 consumer class action defense and complex commercial litigation. Peter is a two-time BTI Consulting Client Service All-Star.

Peter defended Ford in a four-month, \$2 billion, certified class action trial in Sacramento, California in 2007, which settled on the day of closing arguments for a no-cash, coupon-based agreement. He also served on the trial team that obtained a complete defense verdict in an \$800 million certified class trial in St. Clair County, Illinois 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

- Facilitated a rural electric cooperative's withdrawal from membership in a wholesale cooperative. WTO's client achieved settlement for hundreds of millions of dollars below the wholesaler's demand and can now acquire substantially cheaper and renewable green energy sources for its members.
- Won complete victory for Hillsdale College in a closely watched dispute against the University of Missouri over the misuse of a deceased alumnus's \$5 million donation.
- *Webb v. Volvo Cars* (E.D. Penn. 2018) - Obtained dismissal of a putative class action lawsuit against Volvo involving alleged misrepresentation and false labeling related to safety features.
- *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.
- *Taylor, et al. v. Michelin North America, Inc., et al.* (N.D. Okla. 2017) - Representing Michelin and Goodrich Corp. against claims brought by more than 100 plaintiffs alleging groundwater contamination by benzene and other chemicals from a long-closed tire manufacturing plant in Oklahoma. Claims include nuisance, trespass, unjust enrichment, and RCRA violations.
- *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.

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- *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 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.
- *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.
- *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.
- *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.

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- *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.
- *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.
- *Phillips v. Ford* (Ill. Cir. Ct. 2007) - Obtained decertification of a certified nationwide class action against Ford.

REPRESENTATIVE CLIENTS

CNA - National Trial Counsel
Ferrellgas, LP
Ford Motor Company
Michelin North America, Inc.
Toyota Motor Sales, USA
Volvo Cars of North America
Yahoo!

BAR & COURT ADMISSIONS

Massachusetts
Missouri
Not admitted in Colorado
U.S. Court of Appeals, 1st Circuit
U.S. Court of Appeals, 7th Circuit
U.S. Court of Appeals, 8th Circuit
U.S. Court of Appeals, 9th Circuit
U.S. District Court, D. Massachusetts
U.S. District Court, E.D. Missouri

LEGAL MEMBERSHIPS, ACTIVITIES & HONORS

BTI Consulting Group
Client Service All-Star, 2012, 2014
Missouri & Kansas Super Lawyers
Class Actions/Mass Torts, 2005-2012
The Best Lawyers in America
Commercial Litigation, 2018-2020
Mass Tort Litigation / Class Actions - Defendants, 2018-2020
Martindale-Hubbell AV® Peer Review Rated
American Bar Association
Missouri Bar Association
Massachusetts Bar Association
Defense Research Institute

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ARTICLES & PRESENTATIONS

Articles

- "Trial by Webcam: Tips From a Firsthand Experience," Law360 (May 28, 2020)

PERSONAL INTERESTS

Family, sports