

---

# Hughes Hubbard & Reed

## Class Certification Denied in Antitrust Lawsuit against Japanese Companies

### Client Advisories

Hughes Hubbard & Reed LLP • A New York Limited Liability Partnership  
One Battery Park Plaza • New York, New York 10004-1482 • +1 (212) 837-6000

Attorney advertising. Readers are advised that prior results do not guarantee a similar outcome. No aspect of this advertisement has been approved by the Supreme Court of New Jersey. For information regarding the selection process of awards, please visit <https://www.hugheshubbard.com/legal-notice-methodologies>.

---

**November 13, 2020** - On November 3, 2020, a federal court in California denied certification of a proposed 31-state class for claims of alleged price fixing by three Japanese companies—Shinyei Technology Co., Ltd. and Shinyei Capacitor Co., Ltd. (together, “Shinyei”), and Taitso Corporation (“Taitso”).

The court’s ruling occurred in the long-running *In re Capacitors Antitrust Litigation (No. III)* (Case No. 3:14-cv-03264-JD). This multidistrict litigation, which began in 2014, followed a U.S. Department of Justice investigation that resulted in guilty pleas by eight companies and fines totaling more than \$150 million. The multidistrict litigation involves consolidated cases brought by direct and indirect purchasers of capacitors.

The claims of the direct purchaser plaintiffs proceeded to trial in March 2020 against four of the original 22 defendants, many of which were leading Japanese companies. The remaining defendants, including Shinyei and Taitso, settled prior to the trial, which had to be halted due to the pandemic. The indirect purchaser plaintiffs (the “IPPs”) have also settled with most of the defendants, leaving Shinyei and Taitso as the last defendants standing.

### **Motion for Class Certification**

The IPPs moved to certify a class consisting of indirect purchasers in the 31 states that, they alleged, permit recovery by indirect purchasers in price-fixing cases. Alternatively, they requested certification of a class limited to purchasers in California and the five other states where the named plaintiffs allegedly bought capacitors. With respect to both of these proposed classes, the IPPs argued that California law would apply to the claims of all of the class members. The court disagreed. It found that the IPPs failed to establish that California law “can or should be applied to their proposed 31-state class.”

The court had previously rejected a nationwide class under California law, and noted that the IPP’s attempt to limit the class to 31 states sounded “awfully like an end-run around” the court’s prior ruling. The court proceeded to

hold that the 31-state class “could not be certified as one class because variations in state law would defeat predominance,” one of the bases under federal law for certifying a class. Under Federal Rule of Civil Procedure 23(b)(3), questions of law or fact common to the class must predominate over questions affecting only individual claimants, and a class action must be superior to other alternatives for fairly and efficiently adjudicating the case.

### **Due Process**

In analyzing whether California law could be applied, the court first considered the U.S. Constitution’s Due Process Clause. The Due Process Clause prevents application of a state’s laws where the defendant’s allegedly conspiratorial conduct is not sufficiently connected to that state. Shinyei and Taitso are Japanese companies with their principal places of business in Japan. The IPPs did not allege any significant contacts with California by Shinyei or Taitso themselves. Both companies have U.S. subsidiaries that are incorporated and do business in California, but the IPPs did not sue these subsidiaries. Under these facts, the court found that the IPPs had failed to clearly satisfy the due process requirements.

### **Choice-of-Law Rules**

The court next found that California’s choice-of-law rules also discouraged the application of California law to out-of-state purchasers. These rules say that California law may be used on a class-wide basis only if the interests of other states do not outweigh California’s interest in having its law applied. To make this determination, courts consider whether the laws of California and the other states differ and, if they do, whether the other states have an interest in the application of their laws such that there is a true conflict. If there is, the competing interests are weighed against each other.

Here, the standing requirements and statutes of limitations differed among certain of the states, and some of the states required a portion of the alleged overcharge to have been passed on to the IPPs while others did not. In addition, each state had an interest in striking its own balance between protecting consumers and encouraging commerce. Finally, the court noted that the California choice-of-law rules prioritize the place of the wrong—here, the state in which the capacitors were purchased. Thus, the California choice-of-law rules dictated that each of the putative class members’ claims be governed by the laws of the state where the relevant transaction took place.

### **The Requested Six-State Class**

The court refused to certify the six-state proposed class on similar grounds, noting that the IPPs made no arguments based on the laws of the six states. The six-state class also raised others questions relevant to class certification under federal class action law, such as whether there were sufficiently numerous plaintiffs.

### **Conclusion**

While the court’s order focused on the predominance requirement of Rule 23, it is clear the court was also concerned about Shinyei’s and Taitso’s lack of contacts with California. This is an issue that often arises when a Japanese parent company is sued in a U.S. state, and it should be given careful thought. A lack of relevant contacts can be a basis for dismissal, opposing class certification, and arguing other significant issues.

-----  
For further information, please contact:

**Seth D. Rothman** | Partner

**Hughes Hubbard & Reed LLP**

One Battery Park Plaza | New York, NY 10004-1482

Office +1 (212) 837-6872 | Cell +1 (917) 697-8093

[seth.rothman@hugheshubbard.com](mailto:seth.rothman@hugheshubbard.com) | [bio](#)

**Paul Marston** | Counsel

**Hughes Hubbard & Reed LLP**

Kojimachi Place, 9th Floor, 2-3 Kojimachi | Chiyoda-ku, Tokyo 102-0083, Japan

Office +81-3-6272-5831 | Cell +81-80-8432-3497

[paul.marston@hugheshubbard.com](mailto:paul.marston@hugheshubbard.com) | [bio](#)

## Related People



**Seth D. Rothman**



**Paul Marston**

## Related Areas of Focus

[Antitrust & Competition](#)

[Asia Pacific](#)

[Class Actions](#)