



The Curious Case of 'Merits' and Class Certification

Published in *Class Action Litigation Reporter*

January 2009

The question of certification is critical in a class action case. Over the years, interpretation errors have complicated the question of whether a court may examine the merits of class claims when deciding whether to certify a class action under state or federal law. This article traces the issue back to a widely misinterpreted 1974 U.S. Supreme Court decision and concludes that merits issues should be decided at the class certification stage to the extent that those issues relate to the certification requirements.

Attorney advertising. Published as a source of information only. The material contained herein is not to be construed as legal advice or opinion.

©2025 Katten Muchin Rosenman LLP.

All rights reserved. Katten refers to Katten Muchin Rosenman LLP and the affiliated partnership as explained at katten.com/disclaimer.