



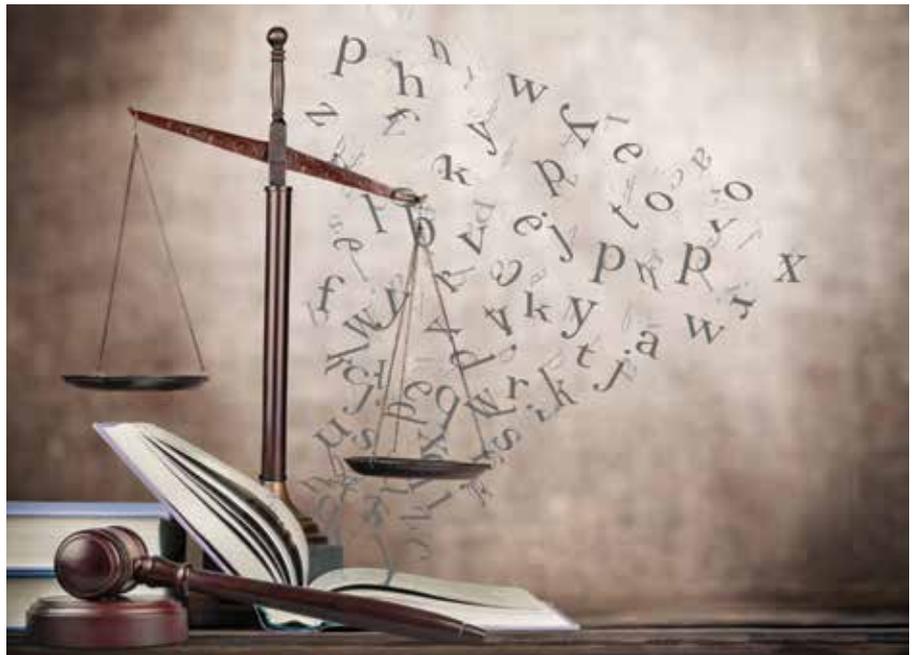
## A-Z Responses to a Class Action Lawsuit Against a Public Human Service Agency

**Y**ou just heard the news of a class action lawsuit being filed against your public human service agency. A collective shudder goes through you and your co-workers. What does it mean? What's going to happen?

A class action lawsuit is a legal action brought by a group of plaintiffs who claim to have suffered similar harm from similar actions or inactions of a particular defendant. This kind of lawsuit is brought by one or more "class representatives" who claim to represent the interests of the entire class. Such claims must arise from facts or law that are common to all of the members of the class. There are four legal requirements that must be met in order for a court to classify the claim as a class action suit. They are:

1. **Numerosity.** There are a significant number of people who are part of the claim.
2. **Commonality.** There is an issue of law or fact that is similar and common among all of the class members.
3. **Typicality.** The claims of the named plaintiffs who filed the class action must be typical of the interests of the class members.
4. **Adequacy.** The named plaintiffs must fairly and adequately represent the interests of the class members.

Whether you are the director of the agency being sued, a supervisor, line worker, or any other employee, here is a thumbnail list—A-Z—of what to expect:



**A** Class action lawsuits require a thorough **A**nalysis of numerous aspects of each claim.

**B** Stay **B**alanced. Neither too confrontational nor too timid will be key in securing a successful outcome.

**C** Don't underestimate how **C**omplex class action lawsuits are. You will undoubtedly stumble upon more important issues that need to be resolved along the way.

**D** Don't miss **D**eadlines, especially those that are court imposed.

**E** **E**lectronic records will be thoroughly searched, many times.

Do not tamper with them. This is dishonest and illegal.

**F** Encourage honest **F**eedback from leadership, employees, and consumers.

**G** It is critical to have the **G**uidance of firm-handed experienced attorneys.

**H** This will be take **H**ard work. Numerous documents will need to be drafted and filed. Input from scores of people throughout the agency will be necessary.

**I** Albert Einstein said: "The true sign of intelligence is not

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knowledge but imagination.” This is the time to use that **I**magination.

**J** Be prepared to thoroughly **J**ustify your legal and policy positions with a sound rationale and unbiased facts.

**K** Useful **K**nowledge is truly powerful. A class action lawsuit may reveal which employees have a treasure trove of knowledge.

**L** A class action lawsuit will demand the best **L**eadership qualities from key employees.

**M** **M**eet often with your attorneys, be they government attorneys, contracted attorneys, or in-house counsel.

**N** Be open to sincere **N**egotiation.

**O** Without compromising the agency’s legal position, have **O**pen communication with all employees.

**P** Assuming the defendant agency makes a motion to dismiss, this may be an opening to clarify or **P**are down some of the plaintiff’s assertions.

**Q** This may be the perfect opportunity to **Q**uestion the status quo way of doing things.

**R** Numerous state public human service agencies have been the subject of class action lawsuits. The subject matter is wide-ranging: child support, foster care, protective services, right to counsel, immigration concerns, among others. All the defendant agencies will tell you: This is going to take lots of **R**esources—time, money, and effort.

**S** This is a **S**erious opportunity. Make the most of it.

**T** Be prepared for some innovative **T**raining.

**U** **U**nderstand thoroughly the matters that are in dispute. What

exactly is at issue and what is not at issue?

**V** **V**alue the case. Long-term, what is the cost-benefit relationship between settling the lawsuit versus taking the case to trial?

**W** When forming a litigation strategy, seek out the **W**isdom of experienced experts. Once you have decided upon a strategy, implement it decisively and without excessive caution.

**X** Be **X**enial (hospitable, especially to visiting strangers). You’re going to meet a lot of new people!

**Y** Be patient. Class action lawsuits frequently take **Y**ears to resolve.

**Z** **Z**ero in on easy-to-resolve issues first. 📌

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to 6 finalists. The committee sat through two days of presentations. The last company to present was a migration specialist. The company’s name was familiar because it had appeared as part of several other finalists’ solutions.

In addition to the fact that this company’s migration approach met all requirements, both the selection committee and the existing development staff were convinced when they saw the vendor’s Java implementation of their Natural code. They knew they had found their partner because the software proved that this would be the standard for how system migration was to be done. It was unlike anything they had ever seen—code accessible to both Natural and Java programmers. The vendor provided the complete

toolset. The migration was done with 100 percent automation technology. This granted the developers access to the new development environment at the moment the project began, and it eliminated the potential of adding human error during the code transformation. The state believed this set the tone for the project allowing them to remain one month ahead of schedule for the majority of its duration.

Reflecting back on the project, the state did not encounter any negative surprises the two teams could not overcome. In fact, the smoothness of the project seemed to be the big surprise. Many times, if the state and on-site vendor staff had a problem they could not solve during the day, they would come in the next morning with

a solution already implemented by the off-site team.

In trusting the process of migrating before modernizing, the state is enjoying the benefits of the new system while shifting everyone’s attention to refactoring. Both teams are currently working on the modernization of ACSES using the power of Java and Eclipse.

The state of Colorado and the people who created ACSES in the 1980s can take pride in the fact they built something that is still providing value into the new millennium.

For information regarding the vendor, contact [Susie.Gager@state.co.us](mailto:Susie.Gager@state.co.us). 📌

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