



Publications

"RELIABLE EVIDENCE REQUIRED TO SHOW CLASS ASCERTAINABILITY," LAW360

"The Third Circuit recently reaffirmed its prior pronouncement that an 'essential prerequisite' to class certification is a showing by a preponderance of the evidence that the class is ascertainable in a way that is both 'objective' as well as 'reliable and administratively feasible,'" writes David S. Osterman, Co-Chair of Goldberg Segalla's Class Action Litigation Practice Group. "In doing so, the court stated bluntly that class membership cannot be based on the 'say-so' of putative class members."

In this article, Dave examines *Hayes v. Wal-Mart Stores Inc.*, an important case in which the court granted an interlocutory appeal under Fed. R. Civ. P. 23(f) and reversed a trial certifying class claims for consumer fraud, breach of contract, and unjust enrichment on behalf of those who purchased extended warranties for "as-is" items.

This article originally appeared on Goldberg Segalla's *New Jersey Product Liability & Consumer Fraud Defense* blog.

[Read the article here:](#)

David S. Osterman, "Reliable Evidence Required to Show Class Ascertainability," *Law360*, September 16, 2013

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