

Going to Court for NJ Businesses

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Improving New Jersey's business climate isn't always about legislation; often, how laws and rules are interpreted by the judiciary can be just as important. New Jersey's courts have long had a reputation for being very favorable to plaintiffs when it comes to business lawsuits, but with the help of one of New Jersey's leading law firms, we are trying to change that.

Take the case decided in October, *Dugan vs. TGI Friday's*, and others. Restaurants were facing class-action suits for charging different prices for drinks at their bars than in their dining rooms, or during different times of day, such as happy hours. The plaintiffs argued these differences in price are violations of the NJ Consumer Fraud Act and the Truth in Consumer Contract, Warranty and Notice Act (TCCWNA).

Attorneys David Kott and Edward Fanning, Jr. of McCarter & English, who prepared an amicus brief on NJBIA's behalf, told the court, every patron who bought a drink in that restaurant would be a member of the affected class if certified, creating potentially thousands of cases. The Supreme Court thankfully has spared businesses from that prospect.

Mr. Kott also recently appeared before the Supreme Court arguing that New Jersey businesses should not have to defend themselves against class-action lawsuits where no one has been seriously harmed. Naturally, forcing businesses to pay penalties when no damage has been done can hardly help New Jersey's business climate.

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Videos:

Click to watch full video: ["David Kott argue before the New Jersey Supreme Court in relation to TCCWNA class actions *Wenger v. Bob's Discount Furniture, LLC* and *Spade v. Select Comfort Corp*"](#)

Click to watch full video: ["David Kott argue in the New Jersey Supreme Court in *Debra Dugan, et al. v. TGI Fridays, Inc.* on New Jersey's Consumer Fraud Act and Truth-in-Consumer Contract, Warranty and Notice Act \(TCCWNA\)"](#)

Click to watch full video: ["David Kott argues in the New Jersey Supreme Court in *Ernest Bozzi v. OSI Restaurant Partners, LLC* on New Jersey's Consumer Fraud Act and Truth-in-Consumer Contract, Warranty and Notice Act \(TCCWNA\)"](#)

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Edward J. Fanning, Jr.
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