

How Defendants Can Use Class Certification to Their Advantage

[Michael C. Lynch](#)

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Partner [Mike Lynch](#) has updated an earlier [article](#) which discusses the issue of whether courts may consider merits-related issues in deciding whether or not to certify a case as a class action which was established in the Supreme Court decision in *Eisen v. Carlisle & Jacquelin*. Recently the Supreme Court has retreated from the view that *Eisen* prohibits courts from considering merits-related issues at the class certification stage, at least where the merits and certification issues overlap. Today, courts are more likely to examine all of the evidence bearing on certification, including evidence submitted by the defendant.