

# Law360 Quotes Partner Damon W. Suden on Supreme Court's Judgement in Class- Action Suit against Tyson

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Partner [Damon W. Suden](#) was quoted in the *Law360* article, "Attorneys React To High Court's Tyson Class Action Ruling," regarding the U.S. Supreme Court's \$5.8 million judgement against Tyson Foods as workers sought to be paid for the time they had spent putting on and taking off protective gear. The court held that averages and other statistical analyses can be used to show similarities between disparate class members in the case. Mr. Suden commented:

The court refused to adopt an outright ban on statistical evidence to establish liability in a class action, concluding instead that statistical evidence could be used to establish liability on a classwide basis if that same type of statistical evidence would have been admissible in an individual suit. The court did not reach the question of whether a class may be certified if it contains members who were not injured and have no legal right to any damages. Here, the takeaway for employers is to keep accurate records. The court permitted class members to prove that they worked uncompensated overtime with expert statistical analysis because their employer failed to keep adequate records. The takeaway for counsel is to challenge statistical analysis before it gets to the jury. The court noted that statistics may be inadmissible if based on implausible assumptions, but Tyson never challenged the evidence under Daubert.

To read the full article, please click [here](#). Access may require subscription.