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# SUPREMES HOLD THAT STATE COURTS STILL HAVE JURISDICTION OVER SECURITIES ACT CLASS ACTIONS

*By H. Adam Prussin*

## INSIDE THIS ISSUE





Since the Securities Act of 1933 (the "Securities Act") was first enacted, it has provided that state and federal courts have "concurrent" jurisdiction over cases brought under that Act. So Congress passed SLUSA, the Securities Litigation Uniform Standards Act of 1998, which prevents investors from bringing so-called "covered class actions" under state law which parallel misrepresentation claims under federal securities laws. Generally speaking, section 77p of SLUSA defines "covered class actions" as cases, brought on behalf of fifty or more investors in securities listed on a national exchange, that allege that defendants made misstatements or omissions in connection with initial public offerings, *in violation of state law*. The intent was to prevent investor plaintiffs from bringing state law cases alleging misrepresentations in securities transactions.

As we reported in the September/October 2017 edition of the *Monitor*, the Supreme Court had granted certiorari in a case called *Cyan*. That case poses the question of whether SLUSA deprives state courts of jurisdiction over class actions under the Securities Act.

The *Cyan* case concerns one of SLUSA's "conforming" amendments, which added the following phrase to the Securities Act's provision allowing state court concurrent jurisdiction over Securities Act claims: "except as provided in section 77p of this title with respect to covered class actions." Since "covered class actions" are defined as actions raising state law claims, not securities laws claims, this "exception clause" seems to be a non sequitur.

So what does SLUSA's "exception" clause mean? Defendants said that it means that class actions under the Securities Act can no longer be prosecuted in state courts. Plaintiffs said that section 77p does not actually say that and applies only when a complaint contains claims under both the Securities Act and state law. The government had a third position, which is that such cases could still be brought in state courts, but that defendants could then have them "removed" (transferred) to federal courts.

The Supreme Court has now spoken. In a unanimous opinion, it agreed with the plaintiffs, holding that Securities Act cases can still be brought in state courts, and cannot be removed to federal courts. According to the Court, section 77p "says nothing, and so does nothing, to deprive state courts of jurisdiction over class actions based on federal law. That means the background rule of §77v(a)—under which a state court may hear the Investors' 1933 Act suit – continues to govern."

What, then, does the "exception clause" actually remove from state court jurisdiction? In our article last fall, we noted that "the exemption is codified in the jurisdictional provision of the Securities Act, so it must mean that concurrent jurisdiction does not exist for some claims under the Act. What those claims are is a puzzlement that only the Supreme Court can resolve." As it turns out, the Court could not figure that out either.

*Editor, H. Adam Prussin*

The opinion states that the investors might be right that the "exception" clause applies only when the case involves both state law and Securities Act claims. Or it might be there for some other reason. It concluded that "[i]n the end, the uncertainty surrounding Congress's reasons for drafting that clause does not matter. Nor does the possibility that the risk Congress addressed (whether specific or inchoate) did not exist. Because irrespective of those points, we have no sound basis for giving the "except" clause a broader reading than its language can bear."

In cases involving statutory interpretation the Supreme Court has, in recent years, been relying heavily on the "plain meaning" of statutory language, a doctrine that presupposes that Congress, in passing statutes, means exactly what it says and says exactly what it means. Sometimes, though, Congress uses language that makes no sense. That seems to be what happened here.

Defendants in securities cases often believe that state courts will be more favorably disposed towards investor plaintiffs than the federal courts will be. If that is true, the Supreme Court's decision in *Cyan* will preserve this tactical advantage for investors.

# REGULATION A+ EARNS A D-

*By Joshua B. Silverman*

For more than eight decades, the Securities Act of 1933 has protected investors by requiring full disclosure in initial public offerings. As President Roosevelt explained at the time of its enactment, the statute was intended to restore confidence in public markets by ensuring that important information regarding new issues was not "concealed from the buying public."

In 2012, the Jumpstart Our Business Startups (JOBS) Act created a new type of offering that largely bypassed these investor protections. Commonly known as a mini-IPO or Regulation A+ offering, the provision allowed small companies to raise $50 million or less with limited regulations. Advocates claimed that by bypassing "burdensome" regulations the act would facilitate capital formation, create jobs, and reinvigorate capital markets.


*Partner Joshua B. Silverman*

Regulation A+ companies go through only a minimal "qualification" process, avoiding most pre-offering scrutiny from the SEC's Division of Corporate Finance. Such companies are not bound by the "quiet period" rules that restrict advertising of traditional IPOs. As a result, many are promoted by online ads and social media campaigns making aggressive promises. Even worse, Regulation A+ offerings are not subject to the strong private remedy under Section 11 of the Securities Act of 1933.

More than five years after the JOBS Act, none of the promised benefits has materialized. There is no evidence that Regulation A+ has created jobs (except for stock promoters) or boosted small business. Peeling back safeguards, however, definitely hurt investors. Regulation A+ has become a "backdoor" mechanism to facilitate public listings by companies that would not be able to do so by traditional means, and most have resulted in heavy losses. Because most shares in these offerings are foisted on retail investors, they have borne the majority of these losses. But institutions are now getting involved. FAT Brands, for example, claims that institutional investors accounted for 30% of its mini-IPO.

The first company to take advantage of the light-touch regulations, Elio Motors, listed on the OTCQX at $12 after running a heavily-advertised campaign on a crowdfunding site. Shares now languish below $3, less than 25% of their price at the time of listing. Instead of creating jobs, the undercapitalized manufacturer of three-wheeled vehicles has furloughed workers.

More than a dozen other companies have since used Regulation A+ to go public, with many even listing on the NASDAQ or NYSE. A recent study by *Barrons* magazine confirms that investors lost money in nearly all of these offerings. The fourteen offerings reviewed by *Barrons* dropped by an average of 40% on a price-weighted basis during their first six months of trading, at a time when the Russell 2000 and S&P SmallCap 600 indexes both registered strong gains.

Predictably, the reduced scrutiny of Regulation A+ has attracted promoters with shady pedigrees. For example, the CEO of Level Brands, Martin Sumichrast, was previously known for bringing low-quality companies public through Stratton Oakmont, the infamous penny-stock brokerage featured in *Wolf of Wall Street*. Rami El-Batrawi, the CEO and founder of YayYo, a ride-sharing company that filed to go public in 2017, was until recently banned from serving as an officer or director of a public company under a consent judgment settling claims that he manipulated trading of his prior company, Genesis Intermedia.

Although Regulation A+ has been a disaster by any objective measure, lawmakers seem intent to double down. A bill currently pending in the House of Representatives would raise the limit of Regulation A+ offerings to $75 million. Until Congress begins to consider the needs of investors, it truly is "buyer beware."

# DEPT. OF TREASURY PROMOTES FORCED ARBITRATION FOR IPO CLAIMS

*By Leigh Handelman Smollar*

When a company goes public, it seeks to raise money from investors by selling securities through an initial public offering ("IPO"). To effectuate an IPO, the company must file several documents with the SEC, including a registration statement and a prospectus. In these documents, the company relays its financial statements and other important information about its business, operations and strategy. Investors rely on these documents in determining whether to purchase the company's securities in the IPO.

Under the securities laws, investors can much more easily recover for misrepresentations in IPO offering documents than misrepresentations in non-IPO public disclosures. Section 11 of the Securities Act makes companies automatically liable for any material misstatements or omissions in their registration statements; and all officers and directors who sign the registration statement are also presumptively liable. In order to escape liability, these officers and directors carry the burden of establishing that they did not know, and could not reasonably have known, about the misrepresentations. Investor reliance on these misrepresentations or omissions is also presumed, unless the company can disprove it.

Of course, most investors cannot practically avail themselves of these rights unless they can pursue them in a class action. Except for large institutional investors, which may have large-scale individual damages, most investors' losses are not great enough to justify bringing an individual securities action. The very threat of class action securities suits helps to keep companies honest, especially in their public filings. Investors are able to seek the full amount of damages from the fraud, whereas a government action typically only seeks disgorgement. Class action securities suits based on false or misleading IPO documents have allowed investors to recover billions of dollars over the years. These investors range from an average citizen holding the security in his/her retirement account, to large pension funds. Private class action securities suits on behalf of investors have been a driving force in holding bad actors accountable. It is well-known that SEC resources are limited and that private enforcement has been more effective in not only holding bad actors accountable, but in deterring wrongdoing as well.

The very effectiveness of these Section 11 remedies has made them a prime target of pro-business groups; and the Trump administration is showing signs that it may well be listening to them, in the guise of promoting more IPOs. The U.S. Dept. of Treasury recently issued a report on ways to reduce the cost of securities litigation, including forced arbitration. *Bloomberg News* has reported that the SEC, under its new chair, Jay Clayton, might be looking for ways to effectively ban securities class actions based on misstatements in IPO documents, in favor of forcing arbitration. Often, class actions are impossible to arbitrate; therefore, requiring arbitration could effectively present an insurmountable barrier to any recovery for all but the minority of investors whose losses are large enough to make an individual action practicable.

While this move may promote more IPOs in the United States, taking away real investor rights has serious implications in the United States securities markets. In general, the SEC has been less successful in recovering monies for defrauded investors than private lawsuits. Further, as the *Wall Street Journal* recently reported, foreign investors purchased over $66 billion in U.S. stocks in 2017, which number is predicted to grow. One of the main reasons foreign investors like to invest in U.S. stocks is that the protections of the U.S. securities laws are stronger than those of other countries. The *Petrobras* case is a great example. There, investors in a class action who purchased pursuant to U.S. transactions were able to recover $3 billion (despite Petrobras bylaws requiring arbitration). However, investors who purchased securities through the Brazilian stock exchange were required to arbitrate their claims rather than bring a private enforcement action. Those investors recovered nothing.

Aside from individual investors not being able to recover in an arbitration, there is another negative side effect: arbitrations are not matters of public record and, therefore, the deterrent effect is negated. Newly-appointed SEC Commissioner Robert J. Jackson, Jr. has recently stated similar concerns, displaying his skepticism for mandatory arbitration of these claims.


*Partner Leigh Handleman Smollar*

While SEC Commissioner Michael S. Piwowar indicated he would be willing to consider such a drastic policy change, SEC Chairman Jay Clayton has told a Senate panel that he is "not anxious" to allow investors to be barred from filing securities class action claims after an IPO. Senator Elizabeth Warren has been vocal about refusing to dilute investor rights in this regard. She told Clayton, "The SEC's mission is to protect investors, not throw them under the bus." Further, former SEC Chairman Harvey Pitt urged Clayton to put this issue on the "back burners," citing the very limited resources that the SEC is already encountering. Jackson, Jr. also voiced concerns with respect to the limited budget of the SEC. Another critic of the proposed policy change, Rick Fleming, Investor Advocate at the SEC, has stated his opinion about mandatory arbitration of shareholder claims this way: "stripping away the right of a shareholder to bring a class action lawsuit seems to me to be draconian, and, with respect to promoting capital formation, counterproductive."

Chairman Clayton recognizes that the issue is complex, with investor rights pitted against public company rights, each with their own strong advocates. He confirmed that any policy change in this regard would be subject to great debate, reiterating his desire to delay decision on this issue: "[This] is not an area that is on my list for where we can do better[.]" In other words, Chairman Clayton does not appear to want to decide this issue anytime soon.

# NINTH CIRCUIT RESOLVES LOSS CAUSATION ISSUE UNDER SECTION 10(B)

*By Austin P. Van*

In *Mineworkers' Pension Scheme v. First Solar, Inc*., the Ninth Circuit recently resolved an internal conflict in its case law regarding the loss causation requirement of Section 10(b) of the Exchange Act. The court held that a plaintiff may prove loss causation by showing that revelation of the very facts misrepresented or omitted by the defendant caused the plaintiff's economic loss, even if the fraud itself was not revealed to the market. That is, to satisfy the loss causation requirement, a plaintiff need not point to a revelation that the defendants committed fraud, but rather only to a revelation of the facts concealed by the fraud. This commonsense ruling greatly improves the ability of investors in California and elsewhere in the Ninth Circuit to recover losses that were sustained as a result of fraud before the fraud itself was revealed to the public.

Defendant First Solar, Inc. is a large producer of solar panel modules. Plaintiffs, a putative class of purchasers of First Solar's stock, alleged that the company discovered manufacturing defects in its solar panel modules that caused them to lose power within the first several months of use, as well as design defects in the modules that caused them to lose power faster in hot climates. Plaintiffs alleged that First Solar hid these defects and their cost and scope from the market and misrepresented key data in their financial statements.

First Solar's stock price declined steeply after these defects and their cost and scope were revealed to the market. First Solar initially disclosed the manufacturing defect and significant additional costs related to curing the defect and, over the next year, the company disclosed consistently disappointing earnings and financial results, additional expenses related to curing the product defects, and the departure of the company's CEO. However, at no point did the company or any other party reveal that First Solar had known about, and misrepresented or fraudulently concealed, any of these problems in the past.

On their motion for summary judgment, defendants argued that plaintiffs had not satisfied the loss causation requirement of Section 10(b) because plaintiffs' losses were not caused by the revelation that First Solar had committed fraud. Plaintiffs replied that revelation of the facts allegedly misrepresented and concealed by defendants, namely, the company's product defects and related financial burdens, was sufficient to satisfy the loss causation requirement.

The district court identified two irreconcilable lines of Ninth Circuit case law on this issue. The first line of cases began with *In re Daou Sys.,* where the Ninth Circuit reversed a district court's decision dismissing a Section 10(b) action on the ground that the plaintiffs had not alleged any disclosures that defendants were engaging in improper accounting practices. The Ninth Circuit held that where disclosure of "the company's true financial condition" caused the stock to drop, loss causation was satisfied, even though the company's fraudulent accounting practices were not revealed to the market. The Ninth Circuit took a similar approach in *Berson v. Applied Signal Technology, Inc.,* and ultimately fashioned a standard for loss causation in *Nuveen v. City of Alameda* when it held that a plaintiff can establish loss causation "by showing that the defendant misrepresented or omitted the very facts that were a substantial factor in causing the plaintiff's economic loss."

However, the district court in *First Solar* recognized that a second line of Ninth Circuit cases had applied a different standard. In *Metzler v. Corinthian Colleges, Inc.,* the plaintiff alleged that the defendant, an operator of vocational colleges, had manipulated student enrollment data, and that plaintiff suffered losses when the company issued a press release showing lower earnings than the false data had suggested. The Ninth Circuit affirmed dismissal of the complaint on the ground that plaintiff had

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failed to allege that the market "learned of and reacted to [the] fraud," as opposed to merely reacting to reports of the defendant's newly disclosed poor financial health. In *In re Oracle Corp.,* the Ninth Circuit similarly held that plaintiffs cannot prove loss causation "by showing that the market reacted to the purported 'impact' of the alleged fraud . . . rather than to the fraudulent acts themselves." The Ninth Circuit followed the holdings of *Metzler* and *In re Oracle* in *Loos v. Immersion Corp.* and *Oregon Public Employees Retirement Fund v. Apollo Group, Inc.*, both of which held that loss causation requires a showing that the market reacted to the revelation of fraud, rather than the revelation of the facts concealed by the fraud or the impact of the fraud.

The district court in *First Solar* ultimately applied the standard from the *Daou* line of cases and held that plaintiffs did not need to show that the market reacted to the fact that First Solar had committed fraud in order to satisfy the loss causation requirement. However, faced with two irreconcilable lines of cases, the district court requested that the Ninth Circuit resolve the conflict on interlocutory appeal.

In a brief yet unequivocal *per curiam* opinion, the Ninth Circuit affirmed the district court's holding, and so upheld its prior rulings in *Daou, Berson* and *Nuveen*. The Court announced that "[t]o prove loss causation, plaintiffs need only show a causal connection between the fraud and the loss by tracing the loss back to the very facts about which the defendant lied." Accordingly, plaintiffs may satisfy the loss causation requirement "even where the alleged fraud is not necessarily revealed prior to the economic loss."

The Ninth Circuit's holding in *First Solar* marks its first definitive resolution of the internal conflict in its case law on loss causation. While the Court did not expressly overrule the *Metzler* line of cases, it limited those cases to their facts. Moreover, the Court made clear that, contrary to *Metzler* and its progeny, a plaintiff may prove loss causation by showing that defendant's stock price fell upon revelation of an earnings miss, even if the market was unaware at the time that fraud had concealed the miss.

In recent years, defendants in Section 10(b) actions in the Ninth Circuit have routinely cited to the *Metzler* line of cases to support an argument that loss causation is absent in any case where losses were sustained prior to the market learning the fact that defendants had committed fraud. This standard from *Metzler* permitted defendants to escape liability under Section 10(b) if the negative impact of their fraud was revealed to the market prior to revelation of the fraud itself. With *First Solar,* the Ninth Circuit has closed the door to that argument and, in the process, granted a significant victory for investors seeking to recover for losses due to fraud that occured prior to revelation of the fraud itself.

# POM*shorts*

**Theranos and its CEO Settle SEC Fraud Case.** Theranos was a cutting-edge pharmaceutical start-up that claimed it had invented a revolutionary portable blood testing device that needed only a drop or two of blood to do its work. What's more, it had a great back story: its founder and CEO, Elizabeth Holmes, had dropped out of Stanford at age 19 to create this company, and this device. She was one of the few women billionaires in the industry, and she looked cool in the role, evoking the memory of Steve Jobs, black turtleneck and all. Her investors, though few in number, were definitely from the A-list, as were her directors.

Now it turns out that Theranos was a scam. The SEC has brought fraud charges against Holmes and her company, alleging they had raised $700 million from investors by faking data, pretending they had performed extensive blood testing with the device, when they had actually used other, standard equipment for the tests. They then lied to cover up the fact that they had no device that actually worked. Beyond the injurious financial consequences to investors, Theranos was forced to void two years of blood test results when they were revealed to be inaccurate, exposing potentially life-threatening consequences for thousands of patients.

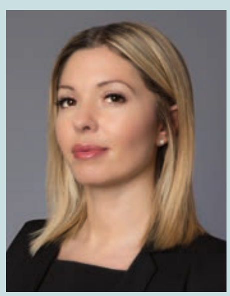
Holmes and Theranos have now agreed to settle fraud charges brought against them by the SEC. Holmes has given up voting control of the company, which may not mean much as Theranos is circling the drain. She also agreed to pay a $500,000 fine, and will be barred for ten years from serving as an officer or director of any public company.

Ironically, one of Theranos's biggest A-list investors was Rupert Murdoch, who reportedly sank over $100 million into the company, and lost it all. Murdoch's own newspaper, the *Wall Street Journal*, played a central role in uncovering the fraud.

**Supremes Rule That Dodd-Frank Whistleblower Protections Apply Only to Employees Who Report Misconduct to the SEC, and Not to Those Who Report Violations Internally.** As the *Monitor* previously reported, the Dodd-Frank financial reform act instituted a reward system for corporate employees who blew the whistle on financial wrongdoing at their companies. To further encourage reporting of violations, it prohibited companies from retaliating against whistleblowers. Unfortunately, though, Congress dropped the ball in defining the class of people entitled to protection. While in one place the Act prohibits companies from retaliating against whistleblowers who report violations to corporate superiors or to the SEC, it elsewhere defines "whistleblowers" as limited to those who provide information to the SEC.

In June of last year, the Supreme Court agreed to hear a case that directly addressed whether those who reported misdeeds internally were entitled to protection from retaliation. The Court has now ruled and internal whistleblowers lost in a ruling that may force whistleblowers to avoid internal reporting channels and instead report wrongdoing directly to the SEC every time.

## NOTABLE DATES ON THE POMERANTZ HORIZON


Jennifer Pafiti


Jeremy A. Lieberman

**JENNIFER PAFITI** will attend the **TEXPERS 29th Annual Conference** from April 15 – 18 in South Padre Island, Texas.

**JEREMY LIEBERMAN** and **JENNIFER PAFITI** will attend the **CWAG 2018 Chair's Initiative** from May 2 – 4 in Scottsdale, Arizona.

**JEREMY LIEBERMAN** will speak about securities litigation on a panel at the **NCPERS Annual Conference & Exhibition** to be held from May 13 – 16 in New York City. **JENNIFER PAFITI** will also attend the conference.

# POMTRACK© CLASS ACTIONS UPDATE

Pomerantz, through its proprietary PomTrack© system, monitors client portfolios to identify potential claims for securities fraud, and to identify and evaluate clients' potential participation in class action settlements.

## NEW CASES:

*Recently filed securities class action cases filed by various law firms are listed below. If you believe your fund is affected by any of these cases, contact Pomerantz for a consultation*

| CASE NAME | TICKER | CLASS PERIOD | LEAD PLAINTIFF DEADLINE |
|---|---|---|---|
| MetLife, Inc. | MET | February 27, 2013 to January 29, 2018 | April 6, 2018 |
| Advance Auto Parts, Inc. | AAP | November 14, 2016 toAugust 15, 2017 | April 9, 2018 |
| Bellicum Pharmaceuticals, Inc. | BLCM | May 8, 2017 to January 30, 2018 | April 9, 2018 |
| Johnson & Johnson | JNJ | February 22, 2013 to February 7, 2018 | April 9, 2018 |
| Super Micro Computer, Inc. | SMCI | August 5, 2016 to January 30, 2018 | April 9, 2018 |
| Bristol-Myers Squibb Co. | BMY | January 27, 2015 toOctober 9, 2016 | April 10, 2018 |
| Synergy Pharmaceuticals Inc. | SGYP | November 10, 2016 toNovember 14, 2017 | April 10, 2018 |
| NQ Mobile Inc. | NQ | March 30, 2017 to February 6, 2018 | April 11, 2018 |
| Aflac Incorporated | AFL | February 27, 2013 to January 11, 2018 | April 16, 2018 |
| Obalon Therapeutics, Inc. | OBLN | October 5, 2016 to January 23, 2018 | April 16, 2018 |
| Ohr Pharmaceutical, Inc. | OHRP | June 24, 2014 to January 4, 2018 | April 16, 2018 |
| Quantum Corporation | QTM | May 10, 2016 to February 7, 2018 | April 16, 2018 |
| Wells Fargo & Company (2018) | WFC | January 13, 2017 to July 27, 2017 | April 16, 2018 |
| Riot Blockchain, Inc. (f/k/a Bioptix, Inc.) | APNB; APPY; RIOT | October 4, 2017 to February 15, 2018 | April 18, 2018 |
| Ubiquiti Networks, Inc. | UBNT | May 9, 2013 to February 20, 2018 | April 23, 2018 |
| Wynn Resorts, Limited | WYNN | February 28, 2014 to January 25, 2018 | April 23, 2018 |
| MiMedx Group, Inc. | MDXG | March 7, 2013 to February 21, 2018 | April 25, 2018 |
| Kraton Corporation | KRA | October 25, 2017 to February 21, 2018 | April 27, 2018 |
| Ulta Beauty, Inc. | ULTA | March 30, 2016 to February 23, 2018 | May 1, 2018 |
| Atlas Financial Holdings, Inc. | AFH | March 13, 2017 to March 2, 2018 | May 4, 2018 |
| Grupo Televisa S.A.B. | TV | April 11, 2013 to January 25, 2018 | May 4, 2018 |
| Akorn, Inc. (2018) | AKRX | March 1, 2017 to February 26, 2018 | May 7, 2018 |
| Henry Schein, Inc. | HSIC | March 7, 2013 to February 12, 2018 | May 7, 2018 |
| Foot Locker, Inc. | FL; Z | August 19, 2016 to August 17, 2017 | May 8, 2018 |
| WageWorks, Inc. | WAGE | May 6, 2016 to March 1, 2018 | May 8, 2018 |
| BRF S.A. | BRFS | April 4, 2013 to March 2, 2018 | May 11, 2018 |
| Acadia Healthcare Company, Inc. | ACHC | February 23, 2017 to October 24, 2017 | May 14, 2018 |
| Credit Suisse Group AG | XIV | January 29, 2018 to February 5, 2018 | May 14, 2018 |

## SETTLEMENTS:

*The following class action settlements were recently announced. If you purchased securities during the listed class period, you may be eligible to participate in the recovery.*

| CASE NAME | AMOUNT | CLASS PERIOD | CLAIM FILING DEADLINE |
|---|---|---|---|
| MagicJack VocalTec Ltd. | $3,650,000 | November 12, 2013 to March 12, 2014 | March 19, 2018 |
| iDreamSky Technology Limited | $4,150,000 | August 7, 2014 to March 13, 2015 | March 20, 2018 |
| LIBOR U.S. Dollar Antitrust (OTC Citibank) | $130,000,000 | August 1, 2007 to May 31, 2010 | March 29, 2018 |
| Arena Pharmaceuticals, Inc. | $24,000,000 | March 17, 2008 to January 27, 2011 | April 13, 2018 |
| Benger Fair Fund | $5,340,614 | March 1, 2007 to February 28, 2009 | April 13, 2018 |
| SunEdison, Inc. (TerraForm Global) | $57,000,000 | July 18, 2014 to March 15, 2016 | April 13, 2018 |
| Fitbit, Inc. | $33,000,000 | June 18, 2015 to May 19, 2016 | April 15, 2018 |
| Avid Technology, Inc. | $1,325,000 | August 4, 2016 to November 9, 2016 | April 19, 2018 |
| Akorn, Inc. | $24,000,000 | May 6, 2014 to April 24, 2015 | April 20, 2018 |
| ARIAD Pharmaceuticals, Inc. | $3,500,000 | December 11, 2012 to December 14, 2012 | April 26, 2018 |
| Bluefly, Inc. | $1,013,000 | for holders as of May 23, 2013 | April 30, 2018 |
| Longwei Petroleum Investment Holding Ltd. | $100,000 | for holders as of March 22, 2013 | April 30, 2018 |
| Marvell Technology Group Ltd. | $72,500,000 | February 19, 2015 to December 7, 2015 | May 7, 2018 |
| Natural Health Trends Corp. | $1,750,000 | March 6, 2015 to March 15, 2016 | May 12, 2018 |
| FX Benchmark Rates Antitrust (Nine Banks) | $2,310,275,000 | January 1, 2003 to December 15, 2015 | May 16, 2018 |
| FX Benchmark Rates Antitrust (Five Banks) | $2,310,275,000 | January 1, 2003 to December 15, 2015 | May 16, 2018 |
| FX Benchmark Rates Antitrust (Deutsche Bank AG) | $2,310,275,000 | January 1, 2003 to December 15, 2015 | May 16, 2018 |
| J.P. Morgan Securities LLC (SEC) | $74,500,000 | December 18, 2006 to January 25, 2007 | May 16, 2018 |
| AVEO Pharmaceuticals, Inc. | $21,000,000 | May 16, 2012 to May 1, 2013 | May 29, 2018 |
| comScore, Inc. (comScore Defendants) | $110,000,000 | February 11, 2014 to November 23, 2016 | May 29, 2018 |
| MagnaChip Semiconductor Corp. (Avenue Capital) | $6,200,000 | February 1, 2012 to March 11, 2014 | June 9, 2018 |
| Petroleo Brasileiro S.A. - Petrobras | $3,000,000,000 | January 22, 2010 to July 28, 2015 | June 9, 2018 |
| CommVault Systems, Inc. | $12,500,000 | May 7, 2013 to April 24, 2014 | June 20, 2018 |
| Focus Media Holding Limited (SEC) | $55,627,865 | March 17, 2010 to July 29, 2010 | June 20, 2018 |
| Metrologic Instruments, Inc. (Elliott) | $9,750,000 | September 12, 2006 to December 21, 2006 | June 20, 2018 |
| American Renal Associates Holdings, Inc. | $4,000,000 | April 20, 2016 to August 18, 2016 | July 6, 2018 |
| 3D Systems Corporation | $50,000,000 | October 29, 2013 to May 5, 2015 | July 11, 2018 |
| ISDAfix Transactions Antitrust (11 Banks) | $408,500,000 | January 1, 2006 to January 31, 2014 | July 16, 2018 |
| EURIBOR Antitrust (Barclays, HSBC, Deutsche) | $309,000,000 | June 1, 2005 to March 31, 2011 | August 1, 2018 |
| Straight Path Communications, Inc. | $9,450,000 | August 1, 2013 to July 22, 2016 | August 2, 2018 |

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Pomerantz is a recognized leader in securities and corporate governance litigation. Our clients include major individual and institutional investors and financial institutions with combined assets well over $4 trillion. Founded by the late Abraham L. Pomerantz, known as the"dean of the class action bar," the firm pioneered the field of securities class actions. For 80 years and counting, Pomerantz has continued the tradition that Abe Pomerantz established, fighting for the rights of victims of securities fraud, breaches of fiduciary duty, and corporate misconduct. Prior results, however, do not guarantee a similar outcome in future cases.

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