*the* **POMERANTZ** MONITOR

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# THE SUPREME COURT TO REVIEW DUTY TO DISCLOSE

*By Brenda Szydlo*

## INSIDE THIS ISSUE





The Supreme Court recently granted certiorari in *Leidos, Inc. v. Indiana Public Retirement System*, taking up the question whether the Second Circuit erred in holding that Item 303 of SEC Regulation S-K, which imposes specific disclosure requirements on public companies, creates a duty to disclose that is actionable under Section 10(b) of the Securities Exchange Act of 1934 and SEC Rule 10b-5. The high court's decision will resolve a split between the Second and Ninth Circuits, and could expand the playing field to other circuits by giving investors a powerful tool – the ability to use an SEC disclosure regulation as the basis for a securities fraud claim.

The Second Circuit's decision in *Leidos* revived a Section 10(b) suit by investors against a government contractor that failed to disclose in its March 2011 Form 10-K a kick-back scheme's impact as a known trend or uncertainty reasonably expected to have a material impact on the corporation's financial condition in violation of Item 303. The court stated that in *Stratte-McClure v. Morgan Stanley*, "we held that Item 303 imposes an 'affirmative duty to disclose . . . [that] can serve as the basis for a securities fraud claim under Section 10(b)[,]'" and now "hold that Item 303 requires the registrant to disclose only those trends, events, or uncertainties that it actually knows of when it files the relevant report with the SEC." The court concluded that the proposed amended complaint supported a strong inference that Leidos actually knew about the fraud before filing the 10-K, and that it could be implicated and required to repay the revenue it generated to the City of New York.

The Second Circuit's holding in *Leidos* is in direct conflict with the Ninth Circuit's decision in *In re NVIDIA Corp. Sec. Litig.* In finding that "Item 303 does not create a duty to disclose for purposes of Section 10(b) and Rule 10b-5[,]" the Ninth Circuit relied on the Third Circuit's opinion in *Oran v. Stafford*, written by then-Judge Samuel Alito. In *Oran*, Justice Alito wrote that "a violation of SK-303's reporting requirements does not *automatically* give rise to a material omission under Rule 10b-5" and further held that the duty did not arise under the specific facts of the case. (emphasis added).

The Supreme Court's decision in *Leidos* could be potentially explosive. In *Matrixx Initiatives, Inc. v. Siracusano*, the Supreme Court held that Section 10(b) and Rule 10b-5 do not create an affirmative duty for public companies to disclose material information, except in cases where an omission renders an affirmative statement misleading. As the Supreme Court stated in *Basic v. Levinson*, "[s]ilence, absent a duty to disclose, is not misleading under Rule 10b-5." But the Supreme Court's decision in *Leidos* could significantly alter the securities fraud landscape, in that public companies could be subjected to securities fraud liability for failing to comply with Item 303's duty to disclose information about a subject it had been completely silent about.


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Regulation S-K, and Item 303 in particular, set forth comprehensive reporting requirements for various SEC filings. If failure to disclose information required by Item 303 can serve as the basis for fraud, and the same is true for other regulations requiring disclosure of specific information, we could be on the verge of a new era in securities fraud litigation.

Private litigants should have the right to assert securities fraud claims against public companies that hide material information in violation of SEC disclosure regulations. There is no question that the failure to disclose immaterial information cannot support liability, even if Item 303 requires that it be disclosed. However, others will contend that the litigation floodgates will be opened if the high court sides with the Second Circuit and expands silence as a basis for securities fraud claims. Given the importance of the outcome, *Leidos* warrants careful observation.

# GORSUCH APPOINTMENT TAKES PARTISANSHIP TO A NEW LEVEL

*By H. Adam Prussin & Jessica N. Dell*

Quick quiz: who wrote this?

the politicization of the judiciary undermines the only real asset it has — its independence. Judges come to be seen as politicians and their confirmations become just another avenue of political warfare. Respect for the role of judges and the legitimacy of the judiciary branch as a whole diminishes. The judiciary's diminishing claim to neutrality and

*Continued on page 2*

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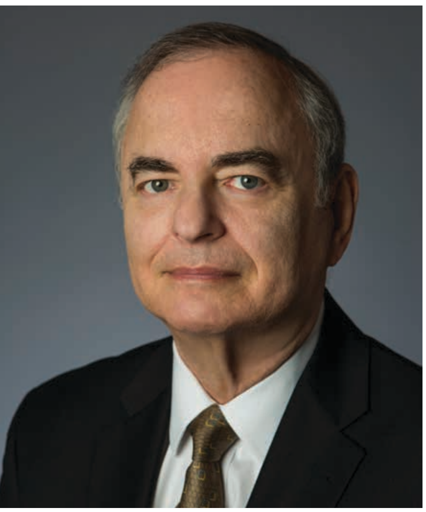
independence is exemplified by a recent, historic shift in the Senate's confirmation process. Where trial-court and appeals-court nominees were once routinely confirmed on voice vote, they are now routinely subjected to ideological litmus tests, filibusters, and vicious interest-group attacks.

Our readers may be surprised to learn that the answer is none other than Neil Gorsuch, President Trump's appointee to the Supreme Court. After this article appeared in 2005, he was appointed to the Tenth Circuit Court of Appeals and, a few weeks ago, was confirmed to fill the Supreme Court vacancy created by Justice Scalia's passing in February 2016.

What better example of confirmation through "political warfare" could there possibly have been? Republicans had scuttled President Obama's nomination of Merrick Garland, refusing to grant Judge Garland even a hearing in the Senate, in the hope that a Republican would win the presidency a year later and appoint a more conservative justice. Once Trump was elected, his new administration immediately began the push for Judge Gorsuch's confirmation, to restore a 5-4 majority on the court for Republican appointees. When Senate Republican leaders couldn't rally the requisite 60 votes to confirm him, they changed the rules to allow Gorsuch (and all future nominees) confirmation by a simple majority. And a simple majority was all that he got, as both parties voted almost strictly along party lines to deliver the most politically polarized judicial confirmation in history.



*Of Counsel, H. Adam Prussin*

Ironically, Gorsuch's 2005 article put all the blame on liberals for the politicization of the Supreme Court. It was they, he said, who supposedly relied too heavily on unelected judges to advance their policy objectives. The passing of time, however, has shown that Republicans can play that game at least as well as Democrats. Garland's totally partisan rebuff, followed by Gorsuch's totally partisan confirmation, come on the heels of a series of conservative crusades in the courts including, most notably, their efforts to allow corporate cash to flow unfettered into elections, and multiple attempts to strike down or cripple the Affordable Care Act, and to create a whole new free-fire zone of unlimited gun rights.

Although Gorsuch's appointment raises a host of concerns, those of us who represent investor rights are especially troubled. In 2005, when he was a member of the Bush Justice Department, he wrote another article, which appeared in *Andrews Securities Litigation*, where he made plain his hostility to shareholder class actions. The first section of his article is entitled "The Incentive To Bring and the Pressure To Settle Meritless Suits"; the second is headed "The Incentive To Reward Class Counsel but Not Necessarily Class Members"; followed by a series of suggestions for choking off these "meritless" securities cases, most of which come from (or found their way into) the standard defense bar playbook. Prominent among them are his proposals for tightening

*Attorney Jessica N. Dell*

"loss causation" pleading requirements and for slashing fees awarded to counsel for shareholders. Justice Gorsuch is not going to be a friend to investors. Sadly, the first case he heard after joining the Court was a securities case brought by CALPers.

There are other grounds for concern about Justice Gorsuch's legal views. Some of them include his belief that corporations are people entitled to constitutional protections, including the rights to buy elections, avoid government regulation and oversight, and to impose management's religious convictions on their employees. His views prompted Emily Bazelon of the *New York Times* to write that "Gorsuch embraces a judicial philosophy that would do nothing less than undermine the structure of modern government — including the rules that keep our water clean, regulate the financial markets and protect workers and consumers."

As a judge, Gorsuch's most notable decision might have been his joinder in most of the Tenth Circuit's en banc ruling in *Hobby Lobby Stores, Inc. v. Sebelius*, which famously held that the religious beliefs of the owners of a closely held corporation could be imputed to the company and justify its refusal to comply with the law. At issue were the religious beliefs of David Green, the evangelical Christian CEO of the chain. Green claimed that Hobby Lobby was exempt from providing coverage for the full range of contraceptives for his employees under the Affordable Care Act because of his own religious convictions. Gorsuch agreed that those religious beliefs could be considered to be the beliefs of his corporation, and that the Religious Freedom Restoration Act, which protects the religious freedom of all "persons," therefore applied. Confronted on the topic of *Hobby Lobby* after his nomination, and asked how he could read the Religious Freedom Restoration Act to include corporations, Gorsuch said he relied on existing case law that support the idea that corporations could be considered as having the same rights as individuals. "Congress could change that if it thinks otherwise," Gorsuch said. "… and it was affirmed by the Supreme Court." The *Hobby Lobby* decision was indeed upheld by the Supreme Court.

If you are a fan of the rights of corporations to impose their will on individuals, while being immune from the claims of their own shareholders, then you will love Justice Gorsuch.

# NINTH CIRCUIT EXTENDS WHISTLEBLOWER PROTECTIONS TO EMPLOYEES WHO REPORT FRAUD TO MANAGEMENT

*By Atif Iqbal*

Corporate employee-informants play an essential role in the enforcement of the federal securities laws. By reporting wrongdoing that might otherwise be very difficult for outside investors to detect, informants can make it easier to investigate and correct ongoing frauds, limiting the harm inflicted on investors as well as the broader public. In fact, according to a 2008 study by the Association of Certified Fraud Examiners, frauds are more likely to come to light through whistleblower tips than through internal controls, internal or external audits, or any other means.

Because confidential informants play such a vital role in disclosing and deterring securities fraud, the law recognizes the importance of protecting them from retaliation. The Sarbanes-Oxley Act of 2002 ("SOX") requires companies to create robust internal compliance systems through which employees can anonymously report misconduct, and it protects such employees from any adverse employment consequences that might result. Significantly, SOX requires that certain employees first report violations internally, to allow the company to take corrective action before the SEC gets involved. The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 further expands informants' incentives by directing the SEC to pay a bounty to any "whistleblowers" who provide the SEC with information leading to a successful enforcement action.

> DODD-FRANK ... 'NECESSARILY BARS RETALIATION AGAINST AN EMPLOYEE ... WHO REPORTS VIOLATIONS TO THE BOSS'

Dodd-Frank includes an anti-retaliation provision that prohibits employers from retaliating against a "whistleblower" for acting lawfully within three categories of protected activity: (1) providing information to the SEC, (2) assisting in any SEC investigation or action related to such information, or (3) "making disclosures that are required or protected under" SOX or any securities law, rule, or regulation.

In recent years, some corporate defendants have argued that Dodd-Frank's anti-retaliation provision does not protect employees who complain internally about wrongdoing if they do not report to the SEC before they suffer retaliation. They argue that the provision's text only protects a "whistleblower," which Dodd-Frank elsewhere defines as an individual "who provides information relating to a violation of the securities laws to the Commission." So, if an employee reports a suspected violation to a supervisor or internal compliance officer and is then fired before he can report to the SEC, he is not a "whistleblower" as defined under Dodd-Frank's anti-retaliation provision.

In March 2017, the Ninth Circuit rejected this argument in *Somers v. Digital Realty Trust*. The plaintiff had complained to senior management about "serious misconduct" by his supervisor, but was fired before he could report to the SEC. The district court denied the company's motion to dismiss, holding that, because the plaintiff was fired for internally reporting a suspected violation—in other words, for "making disclosures that are required or protected under" SOX—he was protected under Dodd-Frank's anti-retaliation provision.

The Ninth Circuit affirmed, holding that Dodd-Frank's anti-retaliation provision "necessarily bars retaliation against an employee of a public company who reports violations to the boss." In reaching its conclusion, the Ninth Circuit emphasized "the background of twenty-first century statutes to curb securities abuses," noting that SOX did not just strongly encourage internal reporting; it *prohibited* certain employees, such as lawyers, from reporting to the SEC until they'd first reported internally. Dodd-Frank's anti-retaliation provision "would be narrowed to the point of absurdity" unless it protected employees who reported internally; otherwise, the law would require lawyers to report internally and then "do nothing to protect these employees from immediate retaliation in response to their initial internal report." The Ninth Circuit thus agreed with the Second Circuit, which had reached the same conclusion in 2015 in *Berman v. Neo@Ogilvy LLC*.

Dodd-Frank's promise of robust anti-retaliation protection is critical to deterring and correcting corporate fraud. By protecting whistleblowers whether they speak up internally or to law enforcement, the Ninth Circuit has helped ensure that both the external securities regulation system and the internal compliance system within each company can make use of these whistleblowers' knowledge and insights in combating corporate fraud—and that wrongdoers cannot avoid the whistleblower protections entirely by firing any employee who reports misconduct internally, before he or she has the chance to inform the SEC.

*Attorney Aatif Iqbal*

## OTHER SHOES KEEP DROPPING AT WELLS FARGO -- BUT IS IT ENOUGH?

*By Tamar A. Weinrib*

*Of Counsel, Tamar A. Weinrib*

Though every attempt was made at first to "blame the little guy," Wells Fargo executives have finally been called to task for an egregious scandal over fraudulent accounts, with the CEO fired and over $182 million in executive compensation rescinded.

As the *Los Angeles Times* first revealed back in 2013, and as the *Monitor* has recently reported, a pervasive culture of aggressive sales goals at Wells Fargo pushed thousands of workers to open as many as 2 million accounts that bank customers never wanted. This happened because low-level, low-wage employees had to meet strict quotas for opening new customer accounts, or risk their positions. To meet these quotas, the employees opened unneeded accounts for customers and forged clients' signatures on documents authorizing these accounts. Wells Fargo employees called the bank's practice "sandbagging" and a "sell or die" quota system. More recent reports have surfaced based on sworn statements signed by former Wells Fargo employees that indicate their former bank superiors instructed them to target Native Americans, illegal immigrants and college students as they sought to open sham accounts to meet the bank's onerous sales goals.

Once the scandal hit the media, rather than placing accountability on those at the helm responsible for the corporate culture that fostered the scheme, Wells Fargo fired 5,300 low-level employees for creating the unauthorized accounts. However, that all changed after Wells Fargo agreed to a $185-million settlement in September 2016 with Los Angeles City Attorney Mike Feuer, the Consumer Financial Protection Bureau and the Office of the Comptroller of the Currency, to end investigations into the unauthorized accounts. Feuer had conducted his own investigation and then sued Wells Fargo, saying the bank's impossible sales quotas had encouraged "unfair, unlawful, and fraudulent conduct" by employees forced to meet them. Notably, the bank did not admit any wrongdoing as part of the settlement, but apologized to customers and announced steps to change its sales practices. The $185 million settlement consisted of $100 million to the Consumer Financial Protection Bureau—the largest fine the federal agency has ever imposed—as well as $50 million to the city and county of Los Angeles and $35 million to the Office of the Comptroller of the Currency.

Also in September 2016, Wells Fargo CEO John Stumpf appeared before the Senate Banking Committee, where he was grilled by Senator Elizabeth Warren of Massachusetts. Berating Stumpf and noting the shocking lack of accountability, Senator Warren stated: "So, you haven't resigned, you haven't returned a single nickel of your personal earnings, you haven't fired a single senior executive. Instead, evidently, your definition of accountable is to push the blame to your low-level employees who don't have the money for a fancy PR firm to defend themselves. It's gutless leadership." In March 2017, Wells Fargo reached a $110 million preliminary settlement to compensate all customers who claim the scandal-ridden bank opened fake accounts and other products in their name.

Moreover, the independent directors on Wells Fargo's board created an Oversight Committee to investigate the improper sales practices and to make recommendations to the independent directors. The investigation, assisted by outside counsel Sherman & Sterling, resulted in a detailed 110-page report that the bank released on April 10, 2017. The report laid the blame squarely on the shoulders of former CEO Stumpf and former head of the bank's community banking business, Carrier Tolstedt—both of whom resigned in the fall of 2016 shortly after the Senate Banking Committee session. As a result of the report, the Wells Fargo Board was determined to claw-back approximately $75 million in compensation from the two executives, which is in addition to the $60 million in unvested equity awards Stumpf and Tolstedt agreed to forfeit at the time of their ouster. The claw backs are reportedly the largest in banking history and one of the biggest ever in corporate America. They're also unprecedented in that they are not called for by either Sarbanes -Oxley or the Dodd-Frank Act, both of which provide for claw backs only in the event of a restatement of financial results. The board also required the forfeiture or claw-back of an additional $47.5 million in compensation from other former bank executives, bringing the total amount of compensation that the board has reclaimed to $182.8 million. This is apparently the second-largest clawback of executive compensation in history; and its massive size underscores how high executive compensation was at this bank. The bank also assured the public it has ended its sales quota program.

However, even though repercussions have appropriately made their way to the executive suite, many say it's not enough. Specifically, angry shareholders claim that the board itself needs to be held responsible for what happened here. Indeed, in April 2017, Institutional Shareholder Services, which advises big investment firms about corporate governance issues, recommended that Wells Fargo's shareholders oppose the re-election of 12 of the bank's 15 board members at the bank's annual meeting. Ultimately, all the board members were re-elected, but some by very small margins, even though they were running unopposed. Shareholders also asked why KPMG, Wells Fargo's auditor, didn't discover the phony accounts. Senator Warren and Senator Edward Markey agreed, and called upon the Public Company Accounting Oversight Board, which sets standards for audits of public companies, to review KPMG's work for Wells Fargo.

# POMERANTZ ANNUAL CONFERENCE

## Corporate Governance & Securities Litigation Roundtable Event

**July 11 & 12, 2017**

**An opportunity for institutional investors from around the globe to discuss topics that affect the value of their pension funds. Presenters are experts in the fields of securities litigation, corporate governance, and asset management.**

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# STUDY SHOWS DRASTICALLY INCREASED CONCENTRATION OF CORPORATE ECONOMIC POWER

*By H. Adam Prussin*

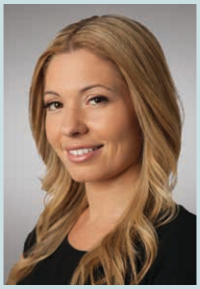
A recent academic study of public corporations in America has produced a picture of dramatically increased business concentration over the past 40 years. The study, done by professors Kahle and Stulz of Arizona State and Ohio State universities, respectively, which was published earlier this year, reveals the following startling facts about corporate America in 2015 vs. 1975:

- In 1975, there were 4,819 publicly listed U.S. corporations. In 1997 there were 7,507. In 2015 there were only 3,766.
- Despite this decline, the aggregate market capitalization of U.S. public companies is seven times larger, in constant dollars, than it was in 1975. The 2015 mean and median market values of the equity of public companies (in constant 2015 dollars) is almost 10 times the market values in 1975. In short, although there are far fewer public companies, they are far larger than ever before.
- An ever smaller proportion of public companies are responsible for most of the profits and assets. In 1975, 94 companies accounted for half of the assets of all public companies and 109 companies accounted for half of the net income. In 2015, 35 corporations accounted for half of the assets and 30 accounted for half of the net income.
- Capital expenditures as a percentage of assets fell by half between 1975 and 2015, while R&D expenditure increased fivefold. Capital expenditures are depreciated over time while R&D costs are expensed in the year incurred.
- In 1980, the first year for which the data are complete, the authors found that institutional owners represented 17.7% of ownership of U.S public companies. By 2015, the figure was 50.4%.
- The highest percent of net income paid out to shareholders during the 40-year period between 1975 and 2015 was in 2015. These payouts were not mostly in the form of dividends, but instead, of share repurchases.

It seems as if the "winner take all" phenomenon of outsized financial rewards for the top one percent of the population seems to apply at the corporate level as well.

As wealth becomes more and more concentrated, so too is the influence of the wealthy, not only in the business world but in the political world as well. Particularly after the *Citizens United* case, super-wealthy individuals and corporations are free to throw their financial weight around.

## NOTABLE DATES ON THE POMERANTZ HORIZON



Jennifer Pafiti

Jeremy A. Lieberman

Nicolas Tatin

Marc I. Gross

**JENNIFER PAFITI** will attend the **Massachusetts Association of Contributory Retirement Systems ("MACRS")** conference in Cape Cod on June 6-8. On June 22, she will be in Amsterdam to attend the **Pensioen Pro Annual Conference and Awards.** On June 26-28, she will attend the **NASP 28th Annual Pension and Financial Services Conference** in Los Angeles, where she will speak on the panel, **"Ethics and Corporate Governance: What Every Trustee Should Know."**

On June 8, **JEREMY LIEBERMAN** and **NICOLAS TATIN** will host and speak at a Pomerantz-sponsored conference titled **"EAG, Corporate Governance & US Securities Class Actions"** in Paris, France.

On July 20-21, **MARC GROSS** will attend the Duke Law Center for Judicial Studies conference on **"Emerging Issues in Securities Class Actions."** He will speak on the panel, **"Enhancing Consistency and Predictability in Applying 'Fraud-on-the-Market' Theory.**

# 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 |
|---|---|---|---|
| OvaScience, Inc. | OVAS | January 8, 2015 to March 26, 2015 | May 26, 2017 |
| Inventure Foods, Inc. | SNAK | March 3, 2016 to March 16, 2017 | May 29, 2017 |
| U.S. Concrete, Inc. | USCR | March 6, 2015 to March 23, 2017 | May 29, 2017 |
| U.S. Physical Therapy, Inc. | USPH | May 8, 2014 toMarch 16, 2017 | May 31, 2017 |
| Bofl Holding, Inc. | BOFI | April 28, 2016 to March 30, 2017 | June 2, 2017 |
| Long Bon International Co., Ltd. (Taiwan) | 2514 | November 23, 2012 toJanuary 11, 2013 | June 3, 2017 |
| Wins Finance Holdings, Inc. | WINS | October 29, 2015 to March 29, 2017 | June 5, 2017 |
| Lion Biotechnologies, Inc. | LBIO | November 14, 2013 to April 10, 2017 | June 13, 2017 |
| Alliance MMA, Inc. | AMMA | October 6, 2016 in IPO | June 16, 2017 |
| Amyris, Inc. | AMRS | March 2, 2017 to April 17, 2017 | June 19, 2017 |
| Celadon Group, Inc. | CGI | January 27, 2016 to May 1, 2017 | June 19, 2017 |
| TherapeuticsMD, Inc. | TXMD | July 7, 2016 to April 9, 2017 | June 19, 2017 |
| Ocwen Financial Corp. | OCN | May 11, 2015 to April 19, 2017 | June 20, 2017 |
| Citizens Financial Group, Inc. | CFG | March 18, 2016 to March 29, 2017 | June 24, 2017 |
| Catalyst Hedged Futures Strategy Fund | HFXAX HFXCX HFXIX | November 1, 2014 to April 28, 2017 | June 27, 2017 |
| ImmunoCellular Therapeutics, Ltd. | IMUC OPMO | May 1, 2012 to December 11, 2013 | June 30, 2017 |
| Synchronoss Technologies, Inc. | SNCR | May 5, 2016 to April 27, 2017 | June 30, 2017 |
| Anadarko Petroleum Corp. | APC | February 17, 2016 to May 2, 2017 | July 3, 2017 |
| KBR, Inc. | KBR | February 26, 2016 to April 27, 2017 | July 3, 2017 |
| PCM, Inc. | PCMI | June 17, 2015 to May 2, 2017 | July 3, 2017 |
| Sunrun Inc. | RUN | September 10, 2015 to May 3, 2017 | July 3, 2017 |
| United States Steel Corp. | X | November 1, 2016 to April 25, 2017 | July 3, 2017 |
| Live Ventures, Inc. | N/A | November 7, 2016 to January 6, 2017 | July 5, 2017 |
| Signet Jewelers, Ltd. | SIG | August 29, 2013 to February 27, 2017 | July 5, 2017 |
| Vince Holding Corp. | VNCE | December 8, 2016 to April 27, 2017 | July 5, 2017 |
| Hongli Clean Energy Technologies Corp. | CETC | October 13, 2015 to April 7, 2017 | July 7, 2017 |
| Puma Biotechnology, Inc. | PBYI | February 29, 2016 to May 4, 2017 | July 7, 2017 |
| Barrick Gold Corp. | ABX | February 16, 2017 to April 24, 2017 | July 10, 2017 |
| Akari Therapeutics, Plc | AKTX | March 30, 2017 to May 11, 2017 | July 11, 2017 |
| Intra-Cellular Therapies, Inc. | ITCI | August 12, 2014 to April 28, 2017 | July 11, 2017 |
| United Technologies Corp. | UTX | April 21, 2015 to July 20, 2015 | July 11, 2017 |
| Dick's Sporting Goods, Inc. | DKS | March 7, 2017 to May 15, 2017 | July 17, 2017 |
| Neurotrope, Inc. | N/A | January 7, 2016 to April 28, 2017 | July 17, 2017 |
| Snap, Inc. | SNAP | March 2, 2017 to May 15, 2017 | July 17, 2017 |
| JBS S.A. | JBSAY | June 2, 2015 to May 19, 2017 | July 21, 2017 |
| Eco Science Solutions, Inc. | ESSI PRTN | May 1, 2017 to May 19, 2017 | July 24, 2017 |

## 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 |
|---|---:|---|---|
| Elan Corporation, plc | $135,000,000 | August 23, 2006 to July 29, 2008 | May 29, 2017 |
| PTC, Inc. | $2,100,000 | November 24, 2011 to July 29, 2015 | May 30, 2017 |
| Sino-Forest Corporation (Canada) (BDO) | $6,361,080 | March 19, 2007 to June 2, 2011 | May 31, 2017 |
| Sino-Forest Corporation (Canada) (Directors) | $543,720 | March 19, 2007 to June 2, 2011 | May 31, 2017 |
| Revance Therapeutics, Inc. | $6,400,000 | June 19, 2014 to May 1, 2015 | June 5, 2017 |
| Molycorp, Inc. | $20,500,000 | February 7, 2011 to November 10, 2011 | June 14, 2017 |
| CBD Energy (n/k/a BlueNRGY Group) | $1,500,000 | June 13, 2014 to October 24, 2014 | June 29, 2017 |
| Ampio Pharmaceuticals, Inc. | $3,400,000 | January 13, 2014 to August 21, 2014 | July 5, 2017 |
| Barclays Bank PLC (BARX) | $50,000,000 | June 1, 2008 to April 21, 2016 | July 7, 2017 |
| FireEye, Inc. | $10,250,000 | March 6, 2014 to June 20, 2014 | July 8, 2017 |
| Federal Home Loan Mortgage Corp.(SEC) | $50,755,388 | April 18, 2000 to June 8, 2003 | July 10, 2017 |
| Altisource Portfolio Solutions S.A. | $32,000,000 | April 25, 2013 to December 21, 2014 | July 11, 2017 |
| Geron Corporation | $6,250,000 | December 10, 2012 to March 11, 2014 | July 11, 2017 |
| Ruby Tuesday, Inc. | $5,000,000 | April 10, 2013 to October 9, 2013 | July 17, 2017 |
| Third Avenue Focused Credit Fund | $14,250,000 | March 1, 2013 to December 10, 2015 | July 19, 2017 |
| L-3 Communications Holdings (n/k/a L3 Technologies) | $34,500,000 | January 30, 2014 to July 30, 2014 | July 29, 2017 |
| Energy Recovery, Inc. | $3,850,000 | March 7, 2013 to March 5, 2015 | August 4, 2017 |
| Dole Food Company, Inc. | $74,000,000 | January 2, 2013 to November 1, 2013 | August 9, 2017 |
| Salix Pharmaceuticals, Ltd. | $210,000,000 | November 8, 2013 to November 6, 2014 | August 9, 2017 |
| Halliburton Company | $100,000,000 | August 16, 1999 to December 7, 2001 | August 12, 2017 |
| KBR, Inc. | $10,500,000 | September 11, 2013 to July 30, 2014 | August 19, 2017 |
| DFC Global Corporation | $30,000,000 | January 28, 2011 to February 3, 2014 | September 4, 2017 |

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Pomerantz is acknowledged as one of the premier firms in the area of corporate securities. 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 of $3 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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