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Supremes Double Down on Use of Arbitration Agreements to Kill Class Actions

by H. Adam Prussin and Leigh Handelman Smollar

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It is not exactly news that the conservative justices on the Supreme Court, and in particular Justice Scalia, believe that class actions are a threat to big business and need to be curtailed. One way of doing this is by rigorously enforcing arbitration agreements that preclude class actions. Where individual claims are too small to warrant individual actions, barring class actions results in de facto immunity for big corporations which may have violated the law.

The conservative bloc on the Court is obviously more concerned that corporations might feel compelled to settle class action claims than that consumers, or others with small claims, might never have an opportunity to prosecute meritorious claims at all.

One way of curtailing class action claims is to insist that arbitration is incompatible with class procedures. The Court started down this road in a 2010 decision which seemed to hold that if the parties' arbitration agreement says nothing about whether claims can be brought as a class action, they can't be.

Then the Court turned to cases where the arbitration agreement had an express class action waiver, and set out to make sure that these waivers were enforced. In 2011, in a case called *Concepcion*, the Court held that the Federal Arbitration Act, which provides for the enforcement of arbitration provisions, preempted California law, which provides that such waivers can be unenforceable if they effectively deny people with small claims any practical way to enforce them. In *Concepcion* the individual plaintiff's claim (and all class members' claims) were so small (about $30) that unless class proceedings were permitted, it made no sense for anyone to bring an individual action. The Court held that this doctrine was in conflict with the Arbitration Act and had to be rejected.

In the wake of *Concepcion*, some observers maintained a faint hope that the result might be different for arbitrations of claims under federal law, which cannot be preempted by another federal law like the Federal Arbitration Act.

In fact, the courts, including the Supreme Court, have held that people cannot be forced to arbitrate federal claims unless the arbitration procedure allows for "effective vindication" of the federal rights. Some appellate courts have even held that the availability of class action proceedings is critical to the effective vindication of federal rights, especially in cases, such as antitrust cases, where it is not economically feasible to prosecute claims on an individual basis.

But the Supremes have now closed off this argument as well. This June the Court, in a 5-3 ruling in *American Express Company v. Italian Colors Restaurant,* held that arbitration agreements can bar class actions of claims under the antitrust laws, even if that makes prosecution of the claims a practical impossibility.

In this case, retail merchants claimed that American Express had violated the antitrust laws by forcing them to accept Amex credit cards, which impose transaction fees on merchants far greater than those of other credit card companies, such as Visa and MasterCard. American Express was able to impose its will on the mer-

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chants because of its dominant position in charge cards, heavily used by corporations and wealthy individuals. Charge cards, unlike credit cards, require payment in full each month. By contrast, credit cards allow customers to carry a balance. Amex was saying to merchants, if you want to be able to accept our charge cards, you also have to accept our overpriced credit cards. In antitrust parlance this is called illegal "tying".

Although this practice probably earned billions of dollars for American Express, the losses suffered by individual merchants might have been a few thousand dollars each, an amount far too small to warrant litigating an enormously expensive individual antitrust lawsuit.

Writing for the conservative 5-3 majority, Justice Scalia realized the economic realities here, but nonetheless held that the "effective vindication" rule is not violated by prohibiting class actions. He drew a distinction between an exorbitant filing fee, or an outright prohibition of prosecuting certain types of claims, both of which might be unenforceable, and prohibition of class action procedures. "The antitrust laws," he said, were enacted before the adoption of class action procedures, and "do not guarantee an affordable procedural path to the vindication of every claim. . . . The fact that it is not worth the expense involved in providing a statutory remedy does not constitute the elimination of the right to pursue that remedy."

Justice Elena Kagan, writing for the three dissenters, said that "If the arbitration clause is enforceable, Amex has insulated itself from antitrust liability — even if it has in fact violated the law. . . . The monopolist gets to use its monopoly power to insist on a contract effectively depriving its victims of all legal recourse." In expressing her disappointment in the ruling, she concluded that "to a hammer, everything looks like a nail. And to a Court bent on diminishing the usefulness of Rule 23, everything looks like a class action, ready to be dismantled." She summarized the majority's response to the damage they are doing to shallow pocket victims as "too darn bad."

In the wake of these rulings it is obvious that corporations dealing with consumers, or other small fry with little bargaining power, are going to try to foist arbitration clauses in their contracts that don't permit class actions.

The availability of class actions is now likely to be fought in other arenas. Among the questions remaining after the *American Express* decision is whether, as a matter of state law, investors bringing shareholder actions can be bound by an arbitration requirement in the company's articles of incorporation or by-laws. It is unlikely that this issue will find its way to the Supreme Court. Rather, the SEC, for example, has the right under the Dodd-Frank law to issue a regulation banning the arbitration clauses in broker-dealer contracts; and the Consumer Financial Protection Bureau, which now at last has a leader, has the authority to decide whether class action waivers can be banned in consumer finance contracts.

The Oxford Decision: the Silver Lining?

Ten days before the *American Express* decision, the Supreme Court, in a case involving the Oxford health insurance company, unanimously affirmed an arbitrator's decision to authorize class arbitration. He held that because the arbitration agreement stated that "all disputes" must be submitted to arbitration -- without specifically saying whether "all disputes" includes class actions -- nonetheless the agreement means that class action disputes can be arbitrated.

This case was filed in court by a pediatrician in the Oxford "network" who alleged that Oxford failed to fully and promptly pay him and other physicians with similar Oxford contracts. The court granted Oxford's demand that the case be arbitrated. The parties then agreed that the arbitrator should decide whether the contract authorized class arbitration. In finding that the contract did permit class arbitrations, the arbitrator focused on the language of the arbitration clause, which stated that "all" civil actions must be submitted to arbitration. Oxford tried to vacate the arbitrator's decision, claiming that he exceeded his powers under the Federal Arbitration Act. The District Court denied the motion, and the Third Circuit affirmed.

In agreeing with the lower courts, the Supreme Court held that when an arbitrator interprets an arbitration agreement, that determination must be upheld so long as he was really construing the contract. Whether this interpretation is correct is beside the point, as far as the courts are concerned. Judicial review of arbitrators' decisions is far more constrained than the review of lower court decisions.

This case may turn out to be the silver lining to the Supreme Court's series of rulings curtailing class actions in arbitration. This decision will specifically benefit plaintiffs, including those, like the plaintiff here, whose claims lie in the health care arena.

Moreover, the decision seems to narrow the effect of the court's previous decision in 2010, which held that "silence" in an arbitration agreement usually means that the parties did not agree to arbitrate on a class-wide basis. To the extent that arbitrators in future cases interpret an agreement to arbitrate "all disputes" as including class-wide disputes, plaintiffs will be more likely in the future to have a realistic chance to have their claims resolved.

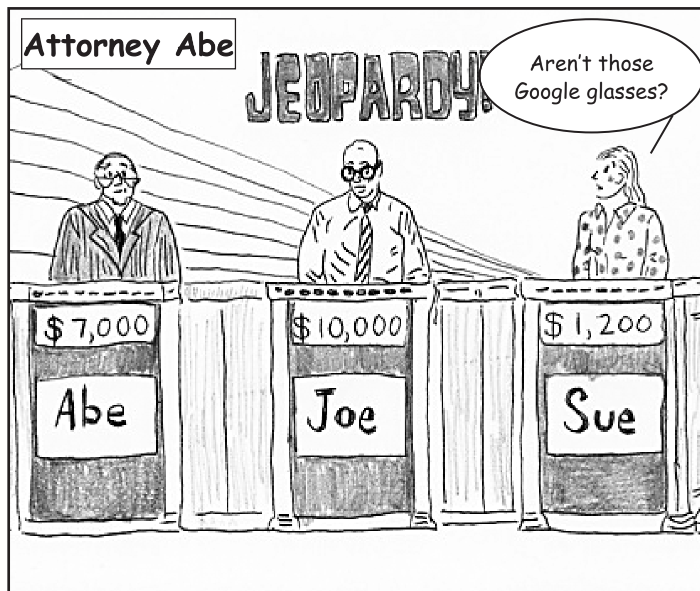
that is, unless there is an explicit class action waiver.

Many consumers are subject to arbitration agreements, including physicians who often have no choice but to accept such agreements if they want to be in-network providers for insurers. As Pomerantz and co-counsel argued in an amicus brief on behalf of the American Medical Association and the Medical Society of New Jersey in support of the pediatrician, without being able to arbitrate on a class-wide basis, physicians will have no effective means by which to enforce their contracts with insurers and challenge underpayments. The typical claim by a doctor against an insurer is relatively small. Prosecuting such small claims in individual arbitration is impossible, given that the cost of bringing an arbitration will almost always exceed the amount an individual doctor could potentially recover through arbitration. Moreover, individual arbitrations could not adequately address certain pervasive wrongful practices by insurers such as underpayment or delayed payment of claims and do not provide injunctive relief to stop such practices – a critical remedy sought in many class actions.

Jennifer Banner Sobers

Supreme Court Holds that "Pay-To-Delay" Deals Can Violate the Antitrust Laws

Last fall, we wrote about how brand name drug manufacturers have been paying large amounts of money to generic drug makers to induce them to delay bringing low-cost generic drugs to market. For years prior to this recent U.S. Supreme Court decision, many federal courts have refused to declare these pay-to-delay payments anti-competitive, or even subject them to the antitrust laws.



On June 17, 2013, in a case involving the testosterone supplement Androgel, the U.S. Supreme Court handed healthcare consumers and union health and welfare funds a victory. Androgel, a treatment for low testosterone, had sales of $1 billion a year. It has no competition from generic alternatives. If there were generic competition, sales of the branded version would probably drop by 75% and its manufacturer, Solvay, would lose approximately $125 million in profits a year. To postpone generic competition, Solvay paid the generic company, Actavis, as much as $42 million a year to delay their competing generic version of Androgel until 2015.

The Supreme Court ruled, 5-3, that such pay-to-delay deals are, in fact, subject to the antitrust laws. This is truly a big win, given the amount of healthcare costs involved. There were 40 such deals this past year alone, and they cost American consumers $3.5 billion a year in higher drug costs. The Androgel decision may not end pay-for-delay deals, but they will now be subject to the antitrust scrutiny.

The legal arguments addressed by the Supreme Court were complicated and involved a clash between the antitrust and patent laws. On the one hand, the antitrust laws state that two competing companies cannot agree that one of them will stay out of the market. That is, the branded and generic company cannot agree to keep drug prices high by delaying introduction of a generic drug into the market.

On the other hand, the patent laws give a company with a valid patent the right to exclude a competitor with a product that violates the patent. That is, a branded company can exclude a generic drug as long as the branded company had a valid patent. Pay-to-delay deals are part of a settlement in a patent infringement lawsuit, brought by the brand name manufacturer, alleging that the generic drug maker is violating the brand name patent. Settlements are generally encouraged as a good thing.

In the end, the Supreme Court chose antitrust law over patent law and healthcare consumers over pharmaceutical companies in holding that, settlement or not, these deals can be struck down if they violate the antitrust laws.

For years, Pomerantz – on behalf of health care consumers – and the Federal Trade Commission ("FTC") have been fighting against pay-to-delay deals, arguing that they are anticompetitive and violate the antitrust laws. In fact, Pomerantz is co-lead counsel, on behalf of a putative end-payor class, in

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Supreme Court Rules on "Pay to Delay" Deals . . .
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the companion case to the recently decided U.S. Supreme Court case, which is currently pending in the Northern District of Georgia. Now that the Supreme Court has agreed that pay-to-delay deals are not immune from the antitrust laws, Pomerantz will continue to represent vigorously our union health and welfare fund clients who end up paying unlawful supra-competitive prices for branded drugs as a result of these deals.

Adam Giffords Kurtz

SEC Approves Use of Facebook and Twitter for Company Disclosures

The Securities and Exchange Commission has issued a report that allows companies to use social media outlets like Facebook and Twitter to disclose material information as required by with SEC regulations, provided that investors are notified beforehand about which social media outlets the company will use to make such disclosures. In supporting the use of social media, the SEC stated that "an increasing number of public companies are using social media to communicate with their shareholders and the investing public. . .[w]e appreciate the value and prevalence of social media channels in contemporary market communications, and the commission supports companies seeking new ways to communicate." The new "guidance" is likely to change dramatically the way companies communicate with investors in the future.

The SEC's action actually began as an investigation into whether Netflix violated Regulation FD by disclosing financial information in the CEO's personal Facebook page. Regulation FD requires companies to distribute material information in a manner reasonably designed to get that information out to the general public broadly and non-exclusively. It was designed to curtail preferential early access to information by institutions and other well-connected industry heavyweights.

Netflix, as you may have heard, runs a service providing subscribers with online access to television programs and movies. In July of 2012, Netflix CEO Reed Hastings announced on his personal Facebook page that Netflix's monthly online viewing had exceeded one billion hours for the first time. Netflix did not report this information to investors through a press release or Form 8-K filing, and a subsequent company press release later that day did not include this information either. The SEC claimed that neither Hastings nor Netflix had previously used his Facebook page to announce company financial information, and they had never before told investors that information about Netflix would be disseminated in Hastings' personal Facebook page. The Facebook disclosure was nonetheless picked up by investors, and boosted the Netflix share price.

In responding to the SEC investigation, Hastings contended that since his Facebook page was available to over 200,000 of his followers, he was in compliance with Regulation FD. The SEC ultimately refrained from bringing an enforcement action against Hastings or Netflix, stating in a press release that the rules around using social media for company disclosures had been unclear.

Now the SEC has concluded that companies can comply with Regulation FD by using social media and other emerging means of communication, much the same way they can by making disclosures in their websites. The SEC had previously issued guidance in 2008, clarifying that websites can serve as an effective means for disseminating information to investors if they've been told to look there. The same caveat now applies to the use of social media.

The SEC's guidance brings corporate reporting into the social media age, where over one billion users of Facebook and 250 million on Twitter are sharing information. Indeed, a recent study suggests that while over 60% of companies will interact with customers using social media, very few use the medium to communicate business developments to investors. That could well be about to change dramatically.

Lesley F. Portnoy

In Potentially Significant Ruling, Appeals Court Grants Bail to Two Convicted Of Insider Trading

Although it has had mixed results, at best, in cases related to the financial crisis of 2008, the government has done quite well in pursuing claims of criminal insider trading. For example, the U.S. Attorney in Manhattan has filed criminal charges against 81 defendants since he took office in 2009, and convicted 73 of them. Among them is former Galleon hedge fund boss Raj Rajaratnam, whose conviction and lengthy sentence were upheld by the Second Circuit in June.

Insider trading may sound simple, but it isn't. The federal courts have been struggling for decades to decide what inside information is, who may trade on it, and who can't. If an investor or analyst calls someone up to ask how his company is doing, that can be legitimate information gathering, or it can be a violation. It all depends.

One well-established element of an insider trading violation is that the tippee must know that the information is being dis-

closed in violation of the insider's fiduciary duty. In one famous case, for example, someone disclosed that the company had received a takeover offer that had not yet been publicly disclosed. That kind of information is vital to the company; people working for the company cannot divulge it without breaching their fiduciary duties.

More recently, though, courts have been struggling with the question of whether the tippee also has to know that the person disclosing the information (the "tipper") is receiving a "personal benefit" for disclosing it. If the tippee does know this, the Supreme Court held 30 years ago that he is liable; but the question now is, does the tippee *have to* know this in order to be liable? If the tippee is not paying for this information, he or she may not be aware that the tipper will benefit from the disclosure in some other way.

This issue is coming to a head in a case now pending in the Second Circuit, which is hearing an appeal of an insider trading conviction involving two hedge fund managers. They did not pay for the information, and maintain that they did not know that the insiders were profiting from their disclosures in other ways. The trial court did not believe that this was a required element of the crime, and refused to instruct the jury on it. Defendants appealed on that issue. Defendants asked that they be granted bail pending their appeal. The trial court de-

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Pom Shorts

CFTC Sues Corzine Over Collapse of MF Global. In late June the Commodities Futures Trading Commission sued John Corzine over the collapse of MF Global. Its complaint focused specifically on his responsibility for the loss of over $900 million in customer money.

The complaint zeroes in on a call Corzine made to Edith O'Brien, an assistant treasurer of MF Global in Chicago. Corzine had just learned that JPMorgan Chase, the firm's principal bank, was threatening to cut off MF Global if it didn't immediately cover its $132 million in bank overdrafts. MF Global had just $82 million in its own accounts, as Corzine knew. Nonetheless, he allegedly told O'Brien that finding the funds and transferring them to JPMorgan to cover the overdrafts was "the most important thing" that she could be doing that day. Although he didn't, in so many words, tell her to raid customer accounts in order to make the payments, he knew that the only way she could cover the overdrafts was to steal from untouchable segregated customer accounts. Such a raid was possible because were no meaningful controls in place at MF Global to prevent it.

Under the circumstances, the complaint alleges that Corzine's call was tantamount to a directive that customer funds be used to cover MF Global's overdrafts.

Dell Going Private Deal Goes Into Sudden Death Overtime. Dell Computers, after years as a market favorite, more recently had seen its revenues and share price tumble. Five months ago Michael Dell, CEO of Dell, offered to take the company private for $13.65 per share, about $2.50 per share above its then current market price. The company appointed a "special committee" that agreed to the deal, and which then presided over a "go shop" process during which they tried to find someone to make a higher bid.

In the ensuing months many institutional investors with large stakes in Dell -- often purchased at prices higher than $13.65 -- have sharply criticized Dell's offer as inadequate, including Carl Icahn; yet no one has come forward with a better one.

Shareholders were scheduled to vote on the deal on July 18. In such situations it is unheard of for investors to vote no. But in this case, that was a definite possibility. Big institutions demanded that Dell raise his bid, or else they would vote no. Whether they were bluffing or not was hard to tell. A few days before the vote, Institutional Shareholder Services, which had been very critical of the offering price, unexpectedly recommended a yes vote, on the theory that a weak offer was better than none; yet the vote was still going to be a cliff-hanger.

The company was eventually forced to adjourn the meeting twice, most recently to August, a sure sign that the votes to approve the deal were not there. In the face of this rebuff, Michael Dell has offered to increase his offer by a mere 10 cents, but only if the voting rules are changed so that abstentions are no longer counted as "no" votes. It doesn't seem likely. By the time this issue of the *Monitor* reaches our readers, this saga will probably be over. After all this time, we sure hope so.

While these events show some aggressiveness by the special committee representing Dell, we would ask: if they thought the original offering price was too low, perhaps they shouldn't have agreed to it in the first place.

Appeals Court Grants Bail . . .
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nied it, but the defendants appealed that decision as well.

In late June, the Second Circuit granted their bail request. This has sent tongues wagging, because it may mean that the court is about to overturn the convictions and impose a "personal benefit" knowledge requirement for insider trading claims.

This is happening just as the government is zeroing in on the biggest fish in the insider trading pond, Steve Cohen of SAC Capital Advisors. Several of his underlings have already pleaded guilty to insider trading charges, and SAC recently paid more than $600 million in a "no admit, no deny" settlement of insider trading charges with the SEC. Yet somehow, Cohen authorized this hefty settlement without obtaining an agreement from the feds that they would not seek additional punishments or remedies against either himself or the company.

Perhaps he thought that, because it may be next to impossible for the feds to prove beyond a reasonable doubt that he had personal knowledge of the tippers' motivation for revealing insider information, the would not pursue criminal charges against him. In this respect he is probably right. With the five year statute of limitations bearing down, the feds have reportedly given up on the idea of prosecuting Cohen on criminal charges.

But he is not exactly getting a free pass. On July 19 the SEC brought an administrative action against him, seeking to bar him from the securities industry for life. The complaint alleges that Cohen ignored "red flags" of illegal insider trading by employees and allowed it to go on, violating his duty to supervise.

And then, just before our press time, the feds announced that SAC Capital has been indicted. When and if that happens, it is all over. On Wall Street, an indictment is a death sentence.

H. *Adam Prussin*

notable dates

. . . on the Pomerantz horizon

August 4-6: **Cheryl Hamer** will attend the Texas Association of Public Employee Retirement Systems' (**TEXPERS**) 2013 Summer Educational Forum in San Antonio, Texas.

September 10-12: **Cheryl Hamer** will attend the The Association of Canadian Pension Management's (**ACPM**) 2013 National Conference in Ottawa, Ontario.

September 25-27: **Cheryl Hamer** will attend the Council of Institutional Investors' (**CII**) 2013 Fall Conference in Chicago, Illinois.

October 2: **Jayne Goldstein** will speak at the Illinois Public Pension Fund Association's (**IPPFA**) Midwest Conference in Lake Geneva, Wisconsin.

October 20-23: **Cheryl Hamer** will attend the International Foundation of Employee Benefits' (**IFEBP**)Annual Conference in Las Vegas, Nevada.

October 24-25: **Brian Hufford** will speak on Benefit Claims Litigation at the American Conference Institute's National Forum on ERISA Litigation in New York, New York.

December 16-19: **Jeremy Lieberman** will attend the Israeli Pension Fund Conference in Eilat, Israel.

Cheryl D. Hamer

Jayne A. Goldstein

Jeremy A. Lieberman

D. Brian Hufford

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:

A selection of 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
Barrick Gold Corporation (2013)	ABX	May 7, 2009 to May 23, 2013	August 5, 2013
CenturyLink, Inc.	CTL	August 8, 2012 to February 14, 2013	August 5, 2013
Uni-Pixel, Inc. (S.D. Tex.)	UNXL	December 7, 2012 to May 31, 2013	August 5, 2013
iGATE Corporation	IGT	March 14, 2012 to May 21, 2013	August 13, 2013
Scuderi Group, Inc.	n/a	January 2004 to June 13, 2013	August 13, 2013
Crestwood Midstream Partners LP	CMLP	for unitholders of partnership units	August 16, 2013
Dell Inc. (2013) (S.D. Tex.)	DELL	for shareholders of Dell common stock	August 16, 2013
Energy Conversion Devices, Inc.	ENERQ	June 18, 2008 to June 17, 2013	August 16, 2013
Corinthian Colleges, Inc. (2013)	COCO	August 23, 2011 to June 10, 2013	August 19, 2013
Dynavax Technologies Corporation	DVAX	April 26, 2012 to June 10, 2013	August 19, 2013
Medtronic, Inc. (2013)	MDT	December 8, 2010 to August 3, 2011	August 26, 2013
The Cash Store Financial Services Inc. (S.D.N.Y.)	CSFS	November 24, 2010 to May 13, 2013	August 26, 2013
Vanda Pharmaceuticals Inc.	VNDA	December 18, 2012 to June 18, 2013	August 26, 2013
IEC Electronics Corp. (2013)	DEL, IEC	February 8, 2012 to May 21, 2013	August 27, 2013
Tetra Tech, Inc.	TTEK	May 3, 2012 to June 18, 2013	August 27, 2013
Uroplasty, Inc.	UPI	July 26, 2012 to June 13, 2013	August 30, 2013
lululemon athletica inc.	LULU	March 21, 2013 to June 10, 2013	September 2, 2013
Subaye, Inc. (2013)	SBAY	December 29, 2009 to April 7, 2011	September 3, 2013
Linn Energy, LLC (S.D. Tex.)	LINE	February 24, 2011 to July 1, 2013	September 9, 2013
Linn Energy, LLC (S.D.N.Y.)	LINE	February 25, 2010 to July 3, 2013	September 9, 2013
LinnCo, LLC	LNCO	October 12, 2012 to July 1, 2013	September 9, 2013
SemiLEDs Corporation	LEDS	December 9, 2010 to July 12, 2011	September 9, 2013
Kohl's Corporation	KSS	February 26, 2009 to September 13, 2011	September 23, 2013

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
Par Pharmaceutical Companies, Inc. (2006)	$8,100,000	July 23, 2001 to July 5, 2006	August 2, 2013
K12 Inc.	$6,750,000	September 9, 2009 to December 12, 2011	August 3, 2013
SunPower Corp.	$19,700,000	April 17, 2008 to November 16, 2009	August 6, 2013
Caraco Pharmaceutical Laboratories, Ltd.	$2,975,000	May 29, 2008 to June 25, 2009	August 8, 2013
Matrixx Initiatives, Inc. (2009)	$4,500,000	December 22, 2007 to June 15, 2009	August 15, 2013
SinoTech Energy Limited	$20,000,000	November 3, 2010 to August 16, 2011	August 15, 2013
FCStone Group, Inc. (2008)	$4,250,000	November 3, 2008 to February 24, 2009	August 16, 2013
Merrimac Industries, Inc.	$2,000,000	to	August 16, 2013
Citigroup Bonds	$730,000,000	May 11, 2006 to November 28, 2008	August 21, 2013
China Electric Motor, Inc.	$3,778,333	January 29, 2010 to March 30, 2011	August 28, 2013
Genta, Inc. (2008)	$785,000	to	August 30, 2013
Penson Worldwide, Inc.	$6,500,000	March 30, 2007 to August 4, 2011	September 5, 2013
Dendreon Corporation (2011)	$40,000,000	April 29, 2010 to August 3, 2011	September 7, 2013
American International Group, Inc. (2004)	$72,000,000	October 28, 1999 to April 1, 2005	September 12, 2013
A.C.L.N., Ltd. (SEC)	$28,265,287	June 15, 1999 to March 18, 2002	September 16, 2013
American International Group, Inc. (2011)	$0	to	September 16, 2013
China Century Dragon Media, Inc.	$778,333	February 7, 2011 to March 21, 2011	September 16, 2013
easyhome Ltd. (Canada)	$2,212,785	April 8, 2008 to October 14, 2010	September 17, 2013
Constellation Energy Group, Inc. (2008)	$4,000,000	June 27, 2008 to September 22, 2008	September 23, 2013
Human Genome Sciences, Inc. (SEC)	$35,000,000	December 7, 2007 to January 23, 2008	September 24, 2013
China Medicine Corporation	$700,000	February 8, 2006 to January 31, 2013	September 27, 2013
Aracruz Celulose S.A. (n.k.a. Fibria Celulose S.A.)	$37,500,000	April 7, 2008 to October 2, 2008	September 30, 2013
Grifco International Inc. (SEC)	$1,577,579	January 1, 2005 to December 14, 2006	October 1, 2013
Carter's Inc.	$3,300,000	March 16, 2005 to November 10, 2009	October 3, 2013
SMART Technologies, Inc. (2011) (S.D.N.Y.)	$15,250,000	July 14, 2010 to May 18, 2011	October 4, 2013
Computer Sciences Corp. (2011)	$97,500,000	August 5, 2008 to December 27, 2011	October 8, 2013
Fifth Third Bancorp (2008)	$16,000,000	to	October 8, 2013
General Electric Co. (2009)	$40,000,000	September 25, 2008 to March 19, 2009	October 11, 2013
Pacific Biosciences of California, Inc.	$7,686,494	October 27, 2010 to September 20, 2011	October 16, 2013
Idearc, Inc.	$33,750,000	August 9, 2007 to October 30, 2008	October 18, 2013
CNX Gas Corporation	$42,730,913	March 21, 2010 to May 28, 2010	November 6, 2013
Merck & Co., Inc. (2008)	$215,000,000	December 6, 2006 to March 28, 2008	November 18, 2013
Schering-Plough Corp. (2008)	$473,000,000	January 3, 2007 to March 28, 2008	November 18, 2013
Adelphia Communications Corp.	$12,000,000	August 16, 1999 to June 10, 2002	December 16, 2013
Federal National Mortgage Association (Fannie Mae) (2004)	$153,000,000	April 17, 2001 to December 22, 2004	December 20, 2013

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Pomerantz is acknowledged as one of the premier firms in the areas of corporate, securities, antitrust, mergers and acquisitions, and insurance litigation. 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. Today, more than 77 years later, Pomerantz continues in 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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