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CIGNA v. Amara: A Dramatic Change in the Legal Landscape for ERISA Claims

by D. Brian Hufford

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The Employee Retirement Income Security Act of 1974, or "ERISA" as it is commonly known, has long been seen by insurance companies as something of a panacea for their legal difficulties. ERISA is a federal statute governing private employee benefit plans, including health insurance and pensions. It has a broad "preemption" provision that frequently overrides state law claims that might otherwise apply to various types of wrongdoing committed by plan providers. For example, if a patient is denied coverage for medical care and files suit in state court invoking state law claims – or even pursues a small claims court action – the insurer typically "removes" the case to federal court and then asks the court to dismiss the state law claims because ERISA supposedly "preempts" them. The case is then limited to ERISA claims, for which the remedies have been limited.

The patient can spend years litigating in an effort to recover the denied benefits (perhaps with interest and attorneys' fees, if lucky), but under ERISA, no other compensatory or punitive damages can be pursued. If the plaintiff seeks "equitable" relief for ERISA violations, remedies have been similarly restricted, since courts have made clear that monetary – or legal – relief is generally unavailable. That is, until now.

In *CIGNA v. Amara*, our normally very conservative U.S. Supreme Court issued a landmark decision this May which creates what could be an entire new world of ERISA litigation. For the first time, it opened the door to the possibility of obtaining "make-whole" monetary relief for an insurer's breach of fiduciary duty. Suddenly, ERISA has been recast as a statute that could help the beneficiary it was designed to serve, not just the insurer. As the Department of Labor stated in an *amicus* brief filed in a post-*CIGNA* ERISA case in Wisconsin, *CIGNA* "has dramatically changed the legal landscape" by "restor[ing] ERISA to its original promise as a statute protecting the participants and beneficiaries of employee benefit plans by affording them a remedy for harms suffered as the result of a fiduciary breach."

In the *CIGNA* case, a former employee of CIGNA Corporation, on behalf of herself and some 25,000 beneficiaries of the CIGNA Pension Plan, challenged changes in the pension plan which had significantly reduced benefits. The District Court found that CIGNA had violated ERISA through its action, including by causing the beneficiaries "likely harm" through its failure to provide proper notice of the changes. The court then "reformed" (i.e. changed) the new plan and ordered CIGNA to increase its benefit payments. It did so under the ERISA provision which allows a beneficiary to bring a "civil action" to "recover benefits due to him under the terms of his plan." After the Second Circuit upheld the decision in a brief summary order, the Supreme Court granted certification.

In its final decision, the Supreme Court first held that the District Court had overstepped its bounds in "reforming" the plan. In a benefits claim, seeking payment of benefits provided in the plan, the Court concluded that the trial court was limited to interpreting and applying the terms of the plan themselves, which did not give it the right to alter those terms. But rather than reversing the decision, the Court went on to conclude that relief might be available instead under

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another provision of the statute, which allows beneficiaries to obtain "appropriate equitable relief" for ERISA violations.

Prior decisions of the Court held that such equitable relief was limited to remedies "typically available in equity," and since a claim for monetary damages, "traditionally speaking, was legal, not equitable, in nature," it could not be awarded. Yet, the Court in *CIGNA* held that its own previous decisions were limited to claims against a non-fiduciary. On the other hand, when – as here – a fiduciary (defined as any party with discretionary authority over the administration of a plan) is being sued for breaching its fiduciary obligations, the Court held that just because the trial court's injunction included "a money payment" through increased benefits, this did "not remove it from the category of traditionally equitable relief." The Court found that courts in equity traditionally "possessed the power to provide relief in the form of monetary 'compensation' for a loss resulting from a trustee's breach of duty, or to prevent the trustee's unjust enrichment," sometimes referred to as a "surcharge." As the Court explained:

> The surcharge remedy extended to a breach of trust committed by a fiduciary encompassing any violation of a duty imposed upon that fiduciary. . . . Thus, insofar as an award of make-whole relief is concerned, the fact that the defendant in this case . . . is analogous to a trustee makes a critical difference. . . . In sum, contrary to the District Court's fears, the types of remedies the court entered here fall within the scope of the term "appropriate equitable relief " in § 502(a)(3).

The Court then vacated the decision and remanded it back to the District Court for determine if an "appropriate remedy" could be imposed based on the new theory of recovery.

The *CIGNA* decision applies not only to pension claims but to health insurance claims as well, and establishes a framework by which beneficiaries may now seek make-whole relief from an insurer or plan provider for breaches of fiduciary duty under ERISA – a remedy that heretofore was clearly unavailable. The "dramatic change in the legal landscape" recognized by the Department of Labor will, without doubt, have significant repercussions in future ERISA litigations.

Wal-Mart Women Employees Get Short End of Stick Again

The Supreme Court's recent decision in *Wal-Mart Stores Inc. v. Dukes*, denying class certification to a prospective class of women who claimed discrimination by Wal-Mart, is one of the most important class action decisions in memory.

Wal-Mart is the largest private employer in the country, with approximately 3,400 stores and over one million workers. Female employees at Wal-Mart have suffered from obvious gender discrimination for years. They make up 70% of the hourly employees but just a third of management positions; the further up the company food chain you look, the fewer women there are. They get paid less for working at the same positions than men do. Although Wal-Mart has a written corporate policy forbidding gender discrimination, it has obviously not been enforced.

The problem here is not that the class is so large – about 1.5 million people – but that this discrimination could not be traced to any centralized, company-wide policy or practice. Rather, the company gives local supervisors complete unfettered discretion over employment matters and provides no criteria for supervisors to use in making these decisions. In trying to create a single common question out of these supposedly individualized acts of personal discrimination, plaintiffs attacked Wal-Mart's corporate culture, which is steeped in sexism.

Plaintiffs presented sociological evidence that Wal-Mart has a strong corporate culture that encourages supervisors to act on their gender biases, and statistical evidence that, as a result, Wal-Mart promotes a lower percentage of women than its competitors. But while many managers may have been bad, others were not; and there were infinite degrees of badness from one end of the spectrum to the other. Plaintiffs' expert could not quantify what percentage of the employment decisions might be determined by gender bias. Plaintiffs also submitted 120 affidavits reporting experiences of discrimination. But the Court sloughed off this evidence as "anecdotal."

One of the requirements for obtaining class certification is that there are questions of law or fact common to the class. The District Court found that these tests were met and certified a class of "all women employed at any Wal-Mart domestic retail store at any time since December 26, 1998." The Court of Appeals concluded that the evidence was sufficient to "raise the common question whether Wal-Mart's female employees nationwide were subjected to a single set of corporate policies that may have worked to unlawfully discriminate against them."

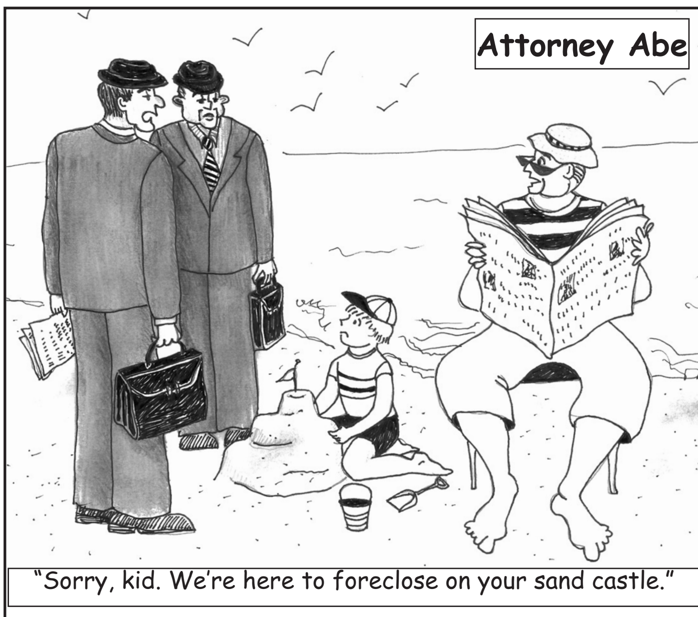
The question of whether there was "a single set of corporate policies" that discriminated against women would no doubt be a "common question" supporting class certification. What the

Supreme Court actually did, however, was determine as a fact that no single set of corporate policies actually existed, and that the discrimination claims were therefore not "of such a nature" that they were "capable of classwide resolution – which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke." The Court recognized that a corporate practice of giving unfettered discretion to lower-level supervisors can violate the anti-discrimination laws if the result is gender discrimination. But it concluded that such claims are unsuitable for prosecution as a class action. The Court said:

> in a company of Wal-Mart's size and geographical scope, it is quite unbelievable that all managers would exercise their discretion in a common way without some common direction. Respondents attempt to make that showing by means of statistical and anecdotal evidence, but their evidence falls short. . . . Merely showing that Wal-Mart's policy of discretion has produced an overall sex-based disparity does not suffice.

The Supreme Court held that absent proof of a "common mode of exercising discretion that pervades the entire company," there is no "common question" for the entire class.

It is too soon to know whether the *Wal-Mart* decision will have much of an impact on securities class actions, but a cottage industry has arisen to speculate and pontificate on this question. While litigants are debating this question in a number of pending actions, the answer will likely be that this decision will have an effect only at the margins. The prototypical securities class action centers around a common set of disclosures made by the corporate defendant (and its officers) to the public at large, such as financial reports and press releases. These statements do not even impact investors directly, but only indirectly, through their effects on the market price of the company's securities. These market-moving communications affect everyone the same way; there is no doubt that the accuracy of such communications presents a common question for all investors. It is therefore not surprising that the Court itself, in a footnote in its decision, hinted that its *Wal-Mart* decision would "probably not" have an impact on securities class actions.



"Sorry, kid. We're here to foreclose on your sand castle."

So if the employee plaintiffs in the *Wal-Mart* case had brought a suit alleging that Wal-Mart made false public statements about their employment discrimination practices, and that they were harmed as Wal-Mart shareholders, they would have had a better chance at getting a nationwide class of investors certified.

The *Wal-Mart* decision could conceivably have an impact on cases that involve a variety of offering documents, such as cases where many complex securities, issued pursuant to many different prospectuses, are bundled. In such cases it could be argued that there is no "common question" affecting the entire class, but only a series of questions that affect each investor differently.

Gustavo F. Bruckner and H. Adam Prussin

A Liar By Any Other Name Would Smell As Rank

A few months ago we reported that the Supreme Court had heard argument in a case involving Janus Capital Management, the "investment advisor" for the Janus family of mutual funds. The question was whether JCM could be liable under the federal securities laws for misrepresentations in the funds' prospectuses. Although JCM actually wrote all of those prospectuses, it was careful not to issue them under its own name. In the mutual fund industry, however, JCM's role was no secret because everyone knows that "investment advisor" is a euphemism: these "advisors" do all the work and completely control all the operations of the mutual funds, which typically have no employees of their own.

Nonetheless, JCM argued that it could not be liable under the federal securities laws because it did not "make" the misrepresentations; the funds themselves "made" them, by issuing the prospectuses under their names. Lo and behold, in its

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A Liar By Any Other Name . . .
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opinion this past June, the Supreme Court (or, more specifically, the five members of the conservative bloc) bought it. Concluding that the funds theoretically had "ultimate authority" over the contents of their prospectuses, the funds alone were responsible for their content. We have serious doubts whether, in the real world, the funds really had "ultimate authority" over anything. But the Supremes relied on the formalities: the funds each had separate corporate identities and separate boards, which had the formal decision-making authority. Form triumphed over substance.

The mutual funds industry is unusual, in that the funds themselves are little more than shell companies, completely controlled by their advisors. The Supremes could easily have held that in these limited circumstances the advisor was, in reality, the "maker" of all the statements in the prospectuses, because it was "ultimately responsible" for them. But they didn't.

The result is not a complete disaster, because the securities laws have a "controlling person" provision, which holds liable anyone who "controls" a primary violator of the securities laws. But the controlling person can be liable only if the "controlled" person is also liable. If the "controlled" person is totally clueless about what is really going on, it could lack scienter and might not be liable for the securities violation – in which case, the controlling person is off the hook, too. The funds themselves were only shell corporations and might have put their names on the prospectuses without knowing that they were false or misleading.

There is another provision, Section 20(b), which might be a tool for bridging this gap. This provision forbids "any person, directly or indirectly, to do any act or thing which it would be unlawful for such person to do under the provisions of this title or any rule or regulation thereunder through or by means of any other person." The courts have never decided what this provision means, or even whether there is a private right of action for violating it.

Now we are going to find out.

H. Adam Prussin

Chinese Companies Use and Misuse Reverse Mergers

Reverse mergers have become an extremely popular way for small Chinese companies to get access to U.S. markets and funding, without going through a formal initial public offering, which would involve extensive reviews by underwriters and the SEC. In a typical reverse merger, shareholders of a privately held Chinese company acquire control of an existing U.S. public company with few or no operations, and cause it to merge with the Chinese operating company. In a heartbeat, the Chinese private company becomes a U.S. public company, and its financial statements, created and audited under Chinese accounting standards, suddenly become the financial statements of a U.S. public company.

A reverse merger allows the private operating company to get access to the U.S. capital markets more quickly and cheaply than an initial public offering. The legal and accounting fees are less and there are no registration requirements under the Securities Act of 1933. According to the Public Company Accounting Oversight Board ("PCAOB"), between January 1, 2007 and March 31, 2010, there were 159 Chinese reverse mergers ("CRM") with a total market capitalization of $12.8 billion, compared to with only 56 initial public offerings in the U.S. by companies from the People's Republic of China, with a total market capitalization of $27.2 billion.

But evidence is mounting that reverse mergers are being abused by some Chinese companies in order to facilitate fraud on U.S. investors. In many cases, weaknesses of local Chinese accounting practices and auditing firms, or vast differences in accounting rules, have provided nasty surprises to U.S. investors when they have been discovered and the truth comes out. Recently, U.S. exchanges have halted trading in the shares of more than two dozen CRM companies. In some cases, there have been revelations of inaccuracies in their SEC filings, accounting irregularities, failure to disclose resignation of independent auditors and outright companywide fraud.

Sometimes there has been blatant fraud. For example, trading in the stock of China North East Petroleum Holdings Ltd. was halted when a forensic audit revealed that the company's top executive and a director engineered improper cash transfers between bank accounts of the company and their personal accounts. In another case, the stock of Advanced Battery Technologies, Inc. plummeted when it was revealed that the company's claimed distribution relationships with certain manufacturers were nonexistent and failed to disclose many related party transactions.

Similarly, the stock of Duoyuan Printing Inc. declined when the company dismissed its independent auditors after failing to verify to the auditors the identity of certain individuals and entities associated with third party distributors and vendors. In yet another case, after a reverse merger, it came out that the company had two sets of corporate books and accounts, one for the SEC and one for its counterpart in China, the SAIC. As reported in *Barron's*, when investors and analysts visit the corporate facilities of these CRM companies in China, they often

find out that operations are "smaller and less impressive than shown in U.S presentations."

In other cases, CRM companies "too often select auditors who have previously signed off on the financials of companies that turned out to be busts." According to the SEC's chief accountant, many Chinese companies listed in the U.S. are using small and largely unknown auditing firms which, in turn, have been outsourcing the work to local Chinese auditing firms. That can lead to problems, given the geographical distances and language and cultural differences. For example, some "work papers are in Chinese and the U.S. auditors can't even read them. And so there is no way that the auditor can conduct a review or perform appropriate supervision of staff," according to a deputy chief auditor at the PCAOB.

As noted in another *Barron's* article, "Chinese companies don't report sales until customers pay their bills, because sales tax is due immediately on receivables. Companies frequently underreport sales and profit to avoid being on the hook for taxes they haven't received. They also often borrow from related-party companies without repaying."

Although many legitimate companies have gone public through reverse mergers, the SEC is currently investigating accounting and disclosure issues regarding CRM companies; an inquiry is expected to lead to enforcement cases. One of the SEC commissioners reportedly commented that "a growing number of them [CRM's] are proving to have significant accounting deficiencies or being vessels of outright fraud." Hence, the SEC is also investigating accounting firms concerning their audits of Chinese CRM companies. As some U.S. auditors outsource their work to local auditors, the PCAOB is also investigating the quality of those audits.

Fei-Lu Qian

Court Voids Proxy Access Rule

The D.C. Circuit Court of Appeals has voided the SEC's new proxy access rule, which after years of heated debate was designed to give certain major long-term holders the right to put their own candidates for directors onto the company's proxy ballot. According to the Court, the SEC did not properly consider the potential financial impact of the rule, as required by the Administrative Procedure Act. So, the SEC is free to try once again to adopt this rule, after receiving further data.

Global Mortgage Settlement: Will They or Won't They?

Since a proposed settlement term sheet was released last March, rumors have run rampant about a possible mega-settlement of claims against five major mortgage lenders by the fifty states and the federal government involving mortgage abuses. The states have been investigating bank mortgage lending practices for months, looking into such issues as whether or not the banks knowingly continued to service bad mortgages instead of foreclosing on them in order to earn servicing fees, while still profiting from loans that could not satisfactorily back the securities purchased by many investors. State officials are pressing Bank of America, JPMorgan Chase, Wells Fargo, Citigroup and Ally Financial, to pay up to $30 billion in fines and penalties. State and federal officials are not only seeking monetary relief for homeowners under water, but also seek to set standards for the way the banks service loans and conduct foreclosures. The settlement, as it is now structured, would form two types of funds, one national and one state fund for each of the states, and would settle most state and federal civil foreclosure claims against these five banks.

State regulators would be allowed to use the settlement funds at their discretion to help modify underwater home mortgages. The national fund would offer the possibility of principal reductions, which lowers the principal amount a borrower has to pay, since many of the homes that have been foreclosed on are worth less than they were when originally purchased.

Ironically, if the settlement between the states and the five major lenders goes through, foreclosures for many homeowners will speed up. The closer these banks come to an agreement with the government, the better the situation will be for an investor or a home buyer. Unfortunately, on the flip side, homeowners currently at risk for foreclosure have much more to worry about.

Illinois Attorney General Lisa Madigan and North Carolina Attorney General Roy Cooper, two of the state attorneys general leading the negotiations, said the banks would be sued if a settlement is not reached.

The banks seem ready to pony up, settle all these proceedings and break through the mortgage foreclosure log jam. But while the negotiations seem to be coming to a head, as of press time there was still much disagreement among the 50 states involved in the settlement. Even within the "executive committee" of attorneys general who are leading the 50-state coalition, attitudes about the proposed settlement vary widely.

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Global Mortgage Settlement: Will They Or Won't They?
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For example, New York Attorney General Eric Schneiderman has expressed the view that the price tag of $25 billion is too cheap, while Florida's Pam Bondi has joined a handful of other Republican attorneys general in arguing against forcing banks to lower loan balances for troubled homeowners.

Recently, Gretchen Morgenson of *The New York Times* reported that one major hangup in finalizing a settlement concerns the banks' efforts to get themselves released from all claims involving their use of MERS, the Mortgage Electronic Registry System. As we have previously reported, as an administrative convenience, banks have routinely designated MERS as mortgage holder, even though it does not also own the mortgage notes. This maneuver has created monumental legal problems in foreclosure proceedings, with some courts refusing to allow MERS to bring foreclosure proceedings.

In a related matter, Bank of America, one of the five lenders at the heart of these negotiations, recently announced the largest settlement with investors to date related to bad mortgage practices, which many hold responsible for the worst economic downturn since the great depression. BofA will fork over $8.5 billion to settle claims with investors holding about $100 billion worth of mortgage-related securities sold by its Countrywide unit. The settlement also provides that the bank will hire additional "subservicers" to speed up the foreclosure process for high-risk loans. That means Bank of America borrowers whose foreclosure have been on hold may now see the process accelerated. The settlement is still subject to court approval, with many investors still not agreeing to the settlement.

Leigh Handelman Smollar

notable dates

. . . on the Pomerantz horizon

July 21:	**Jason Cowart** will speak on Class Actions at the Practicing Law Institute in New York.
July 25-26:	**Cheryl Hamer** and **Murielle Steven Walsh** will attend the International Foundation of Employee Benefit Plans (IFEBP) Canadian Public Sector Pension and Benefits Conference in St. John's, Newfoundland.
August 6-10:	**Cheryl Hamer** will attend the National Association of State Retirement Administrators (NASRSA) Annual Conference in Lake Geneva, Wisconsin.
August 27-30:	**Cheryl Hamer** and **Jeremy Lieberman** will attend the National Association of State Treasurers (NAST) Annual Conference in Bismarck, North Dakota.
Sept 12-14:	**Marc Gross**, **Cheryl Hamer** and **Jeremy Lieberman** will attend the International Corporate Governance Network (ICGN) Conference in Paris, France.
Sept 25-27:	**Cheryl Hamer** will attend the Council of Institutional Investors (CII) 2011 Fall Meeting in Boston, Massachusetts.
Oct 9-13:	**Cheryl Hamer** will attend the National Council on Teacher Retirement (NCTR) Conference in Baltimore, Maryland.
Oct 30-Nov 2:	**Cheryl Hamer** will attend the International Foundation of Employee Benefit Plans (IFEBP) 54th Annual Employee Benefits Conference in New Orleans, Louisiana.
November 11:	**D. Brian Hufford** will speak at the National Conference for the Congress of Chiropractic State Associations in Dallas, Texas.

We hope to see you there!

Cheryl D. Hamer

Jason S. Cowart

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
Fushi Copperweld, Inc. (2011) (M.D. Tenn.)	FSIN	August 14, 2007 - May 4, 2011	July 5, 2011
Fushi Copperweld, Inc. (2011) (S.D.N.Y.)	FSIN	August 14, 2007 - March 29, 2011	July 5, 2011
GEROVA Financial Group, Ltd.	GFC	January 8, 2010 - February 23, 2011	July 5, 2011
Sino Clean Energy	SCEI	April 6, 2009 - May 5, 2011	July 5, 2011
Community Health Systems, Inc.	CYH	July 27, 2006 - April 11, 2011	July 8, 2011
Computer Sciences Corp. (2011)	CSC	May 21, 2009 - May 25, 2011	August 2, 2011
The Timberland Company (2011) (D. N.H.)	TBL	February 17, 2011 - May 4, 2011	August 5, 2011
Yahoo! Inc. (2011)	YHOO	April 19, 2011 - May 13, 2011	August 5, 2011
Research In Motion Limited	RIM	December 16, 2010 - April 28, 2011	August 12, 2011
Carlyle Capital Corp.	CARYF	June 19, 2007 - March 17, 2008	August 22, 2011
Deutsche Bank AG (2011)	DB	January 3, 2007 - January 16, 2009	August 22, 2011
Yuhe International, Inc. (C.D. Cal.)	YUII	December 31, 2009 - June 17, 2011	August 23, 2011
Yuhe International, Inc. (S.D. Fla.)	YUII	December 31, 2009 - June 23, 2011	August 23, 2011
Yuhe International, Inc. (S.D.N.Y.)	YUII	December 31, 2009 - June 17, 2011	August 23, 2011
Smith Micro Software, Inc. (2011)	SMSI	November 3, 2010 - May 4, 2011	August 29, 2011
A-Power Energy Generation Systems, Ltd. (C.D. Cal.)	APWR	March 31, 2008 - June 27, 2011	August 30, 2011
A-Power Energy Generation Systems, Ltd. (D. Nev.)	APWR	August 27, 2009 - June 27, 2011	August 31, 2011
Avon Products, Inc. (2011)	AVP	January 2, 2000 - May 24, 2011	September 6, 2011
BioMimetic Therapeutics, Inc.	BMTI	October 14, 2009 - May 11, 2011	September 6, 2011
Ebix, Inc.	EBIX	May 6, 2009 - June 30, 2011	September 12, 2011
Jiangbo Pharmaceuticals, Inc.	JGBO	May 17, 2010 - May 31, 2011	September 14, 2011
China Medicine Corporation	CHME	November 30, 2006 - March 23, 2011	September 16, 2011
Magnum d'Or Resources Inc.	MDOR	July 2, 2008 - April 13, 2010	September 16, 2011
Lockheed Martin Corp. (2011)	LMT	April 21, 2009 - July 21, 2009	September 19, 2011
Mindray Medical International Limited	MR	January 11, 2010 - August 9, 2010	September 19, 2011
News Corporation (S.D.N.Y.)	NWSA	March 3, 2011 - July 11, 2011	September 19, 2011
Satcon Technology Corporation	SATC	March 4, 2010 - July 5, 2011	September 19, 2011
Zoo Entertainment, Inc.	ZOOG	May 17, 2010 - April 15, 2011	September 20, 2011
MLP AG (Germany)	MLP	January 1, 1999 - December 31, 2002	December 31, 2012

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
AuthentiDate Holding Corp.	$1,900,000	July 16, 2004 - May 27, 2005	July 1, 2011
Value Line Funds (SEC)	$43,705,765	January 1, 1986 - November 9, 2004	July 18, 2011
First Trust Portfolios L.P.	$5,150,000	July 26, 2005 - July 7, 2008	July 20, 2011
Nuvelo, Inc.	$8,916,667	January 5, 2006 - December 8, 2006	July 22, 2011
Panera Bread Co.	$5,750,000	November 1, 2005 - July 26, 2007	July 22, 2011
Semtech Corp.	$20,000,000	August 27, 2002 - July 19, 2006	July 24, 2011
Image Innovations Holdings, Inc.	$575,000	April 13, 2004 - March 16, 2006	July 26, 2011
Credit Suisse Group	$70,000,000	February 15, 2007 - April 14, 2008	August 1, 2011
Addus HomeCare Corp.	$3,000,000	October 27, 2009 - March 18, 2010	August 17, 2011
DVI, Inc.	$4,000,000	August 10, 1999 - August 13, 2003	August 31, 2011
Tellabs, Inc.	$7,375,000	December 11, 2000 - June 19, 2001	September 2, 2011
Accuray Inc.	$13,500,000	February 7, 2007 - August 19, 2008	September 12, 2011
Alstom S.A.	$6,950,000	August 3, 1999 - August 6, 2003	September 19, 2011
Corus Bankshares, Inc.	$10,000,000	January 25, 2008 - January 30, 2009	September 19, 2011
Harris Stratex Networks, Inc.	$8,900,000	January 29, 2007 - July 30, 2008	September 19, 2011
Satyam Computer Services (PwC Entities)	$25,500,000	January 6, 2004 - January 6, 2009	September 23, 2011
Satyam Computer Services (Satyam)	$125,000,000	January 6, 2004 - January 6, 2009	September 23, 2011
Levitt Corp.	$1,950,000	January 31, 2007 - August 14, 2007	September 25, 2011
InterVoice-Brite, Inc.	$4,750,000	October 12, 1999 - June 6, 2000	October 7, 2011
Popular, Inc.	$37,500,000	January 24, 2008 - February 19, 2009	October 11, 2011
SemGroup Energy Partners (N.D. Okla.)	$28,000,000	July 17, 2007 - July 17, 2008	October 15, 2011
Rentech, Inc.	$1,800,000	May 9, 2008 - December 14, 2009	October 22, 2011
DG FastChannel, Inc. (S.D.N.Y.)	$2,000,000	February 16, 2010 - August 29, 2010	October 24, 2011
Bernard Madoff Investment Securities (2008) (S.D.N.Y.) (Tremont Funds/Rye Funds)	$100,000,000	May 10, 1994 - December 11, 2008	October 30, 2011
Oppenheimer Champion Income Fund	$52,500,000	January 1, 2006 - December 31, 2008	October 30, 2011
Oppenheimer Core Bond Fund	$47,500,000	April 30, 2007 - December 31, 2008	October 30, 2011
GT Solar International, Inc. (D. N.H.)	$10,500,000	July 23, 2008 - July 24, 2008	November 9, 2011
Franklin Templeton Funds	$4,437,368	February 6, 1999 - February 4, 2004	December 12, 2011

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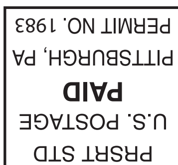
Pomerantz is acknowledged as one of the premier firms in the areas of corporate, securities, mergers and acquisitions, antitrust, and insurance litigation. Founded by the late Abraham L. Pomerantz, known as the 'dean of the class action bar,' the firm pioneered the field of securities class actions. Today, 75 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.

New York 100 Park Avenue, 26th Floor, New York, NY 10017 phone: 212.661.1100 fax: 212.661.8665
Chicago 10 South LaSalle Street, Suite 3505, Chicago, IL 60603 phone: 312.377.1181 fax: 312.377.1184
Washington 1025 Connecticut Avenue NW, Suite 1000, Washington, DC 20036 phone: 202.327.5420 fax: 202.327.5422
www.pomlaw.com

Contact Us: We welcome input from our readers. If you have comments or suggestions about *The Pomerantz Monitor*, or would like more information about our firm, please visit our website at www.pomerantzlaw.com or contact:

Cheryl D. Hamer, Esq. chamer@pomlaw.com 202.327.5420



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