PROGRAM MATERIALS
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Maximizing Recovery in Global Securities and Antitrust Class Actions

- Steve Cirami, Esq. - Broadridge Financial Solutions, Inc.
- Christi Cannon, Esq. - Broadridge Financial Solutions, Inc.

Celesq® AttorneysEd Center
www.celesq.com

5255 North Federal Highway, Suite 100, Boca Raton, FL 33487
Phone 561-241-1919

Growing Complexities in Global Securities and Antitrust Litigation

A CLE REPORT, *FEATURING ADDITIONAL INSIGHTS FROM BROADRIDGE’S 2020 ANNUAL REPORT*

BY THE GLOBAL CLASS ACTION TEAM AT BROADRIDGE FINANCIAL SOLUTIONS

October 27, 2021

Ready for Next

Speakers

STEVE CIRAMI

VP, HEAD OF CLASS ACTIONS & CORPORATE ACTIONS

CHRISTI CANNON

VP, GLOBAL CLASS ACTIONS

More Opportunities for Recovery

Overview

Attorneys advising investors will find that most fail to maximize recoveries in global settlements – or even participate in the settlement – due to insufficient information, competing and complementary proceedings, and complexities in the filling process.

We will identify substantive trends and issues to anticipate when advising investors how to maximize class action-based asset recovery, leveraging the 10 most complex securities class action settlements of 2020, as per the Broadridge 2020 Annual Report - Broadridge Global Class Actions 2020 Annual Report.

Trends and issues we will cover:

1. Traditional securities class actions, where the applicable law is uncertain or changing **(Category 1)**
2. Antitrust class actions, where there are complex claims and multiple opportunities for recovery **(Category 2)**
3. Fair Funds proceedings, where there are multiple opportunities for asset recovery **(Category 3)**
4. Bankruptcy/Reorgs, where there is a claims program for equity holders **(Category 4)**
5. International class action proceedings, where there are multiple opportunities for recovery **(Category 5)**

Agenda

Category 1: Traditional: Changes in Substantive Law

#6: First Solar Securities Litigation
#9: Zimmer Biomet Holdings Securities Litigation

Category 2: Private Enforcement: Antitrust Litigation

#2: USD LIBOR EuroDollar Futures Settlements
#8: Bondholder LIBOR Settlements
#10: GSE Bonds Antitrust Litigation

Category 3: Public Enforcement: Fair Funds

#3: ARCP Securities Litigation

Category 4: Bankruptcy Proceedings

#7: PG&E Corporation Securities Litigation

Category 5: International Proceedings

Opt-Out Litigation / Canadian Settlements

- #1: Valeant Pharmaceuticals Securities Litigation
- #4: Canadian FX Price-Fixing Class Action

Opt-In Litigation

- #5: Wirecard AG

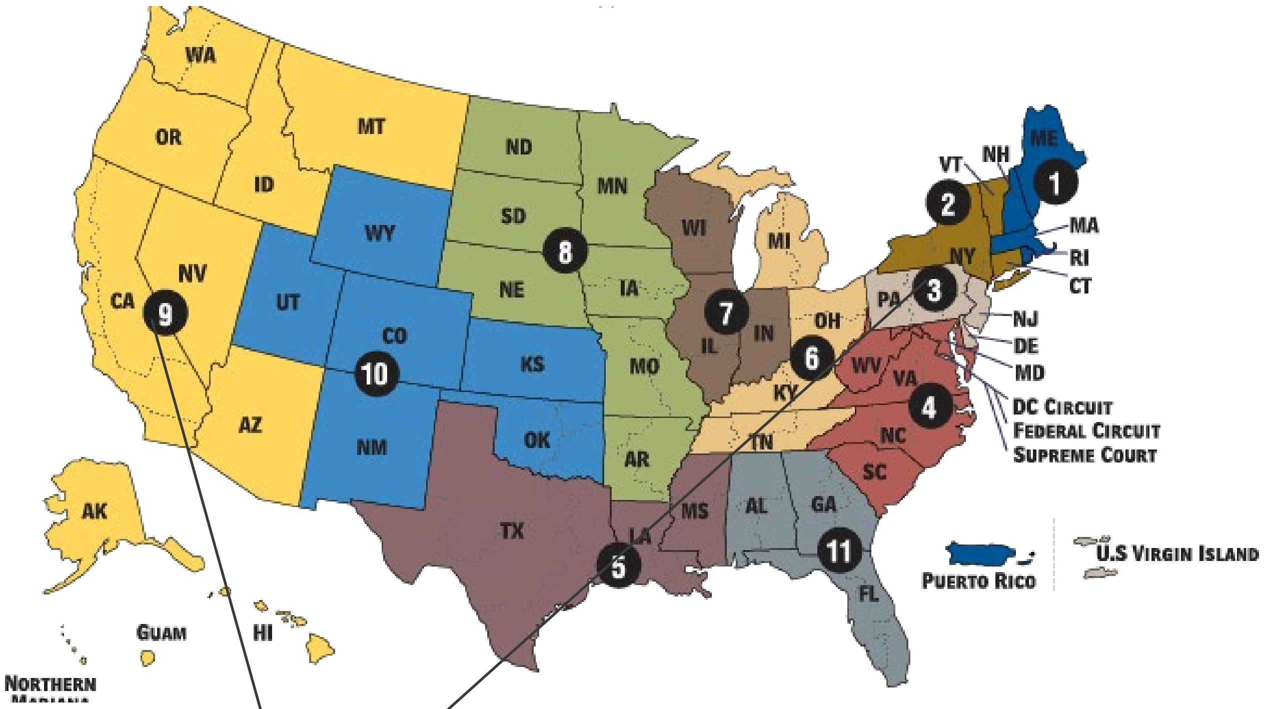
CATEGORY 1 -- TRADITIONAL SECURITIES CLASS ACTIONS: CHANGES IN SUBSTANTIVE LAW

#6: First Solar Securities Litigation
#9: Zimmer Biomet Holdings Securities Litigation

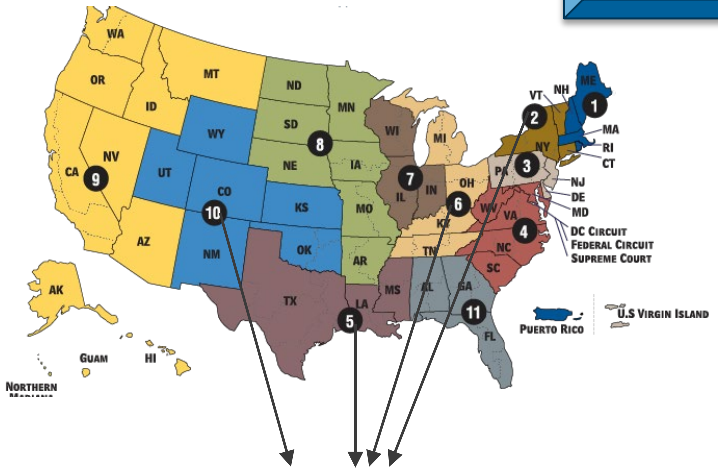
Category 1 | Category 2 | Category 3 | Category 4 | Category 5

#6: First Solar Securities Litigation
Smilovits v. First Solar, Inc. (D. Az., 2:12-cv-00555)

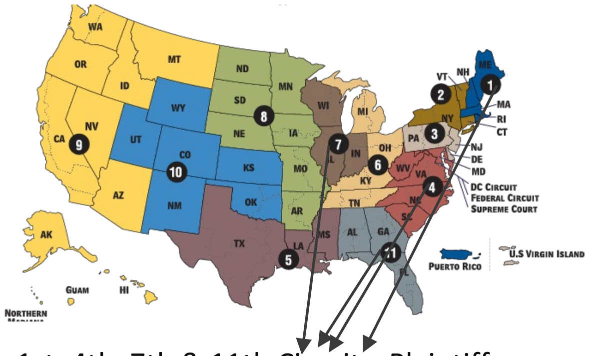
$350 million



<u>3rd</u> & <u>9th Circuits</u>: To satisfy loss causation, a plaintiff need only point to a revelation of the fraudulently concealed facts.



<u>2nd</u>, <u>5th</u>, <u>6th</u> & <u>10th Circuits</u>: Plaintiffs need only show that the market learned of and reacted to fraudulently concealed facts, even if the fraud itself was not revealed.



<u>1st</u>, <u>4th</u>, <u>7th</u> & <u>11th Circuits</u>: Plaintiffs can only recover losses **caused by** the market's reaction to **the fraudulent nature** of the Defendant's conduct.

Category 1 | Category 2 | Category 3 | Category 4 | Category 5

#9: Shah v. Zimmer Biomet Holdings, Inc.

$50 million

THIS SETTLEMENT INVOLVED MULTIPLE SECURITY TYPES, INCLUDING SECURITIES TRACEABLE TO 2 OFFERINGS, AND IMPLICATED COMPLEX LOSS CALCULATIONS.

"MATERIALITY" HAS RECENTLY BEEN CLARIFIED BY THE SUPREME COURT IN *GOLDMAN SACHS GROUP INC V. ARKANSAS TEACHERS RETIREMENT SYSTEM*.

The court is required to examine all evidence surrounding alleged impacts on stock price at class certification, <u>even if that evidence relates to the merits of the case</u>.

→

This means, in practice, that if a claim survives a 12(b)6 motion to dismiss, the putative class will almost certainly be certified.

Category 1 | Category 2 | Category 3 | Category 4 | Category 5

CATEGORY 2 -- PRIVATE ENFORCEMENT: ANTITRUST LITIGATION

#10: GSE Bonds Antitrust Litigation
#2: LIBOR EuroDollar Futures Settlements
#8: Bondholder LIBOR Settlements

Category 1 | **Category 2** | Category 3 | Category 4 | Category 5

Overview:

10: GSE BONDS ANTITRUST LITIGATION

$386.5 million

11 data fields per transaction

10-year Class Period

> 70,000 CUSIPS

ANTITRUST CLAIMS

In the U.S. → Section 1 of the Sherman Antitrust Act ("Sherman Act"). Absent proof of actionable misrepresentation, one cannot prevail on a securities claim. However, they do not require a materially false disclosure or misrepresentation.

SECURITIES CLAIMS

In the U.S. → Section 11 of the Securities Act of 1933 ("Securities Act"), Section 10(b) and 20(a) of the Securities Exchange Act of 1934 ("Exchange Act") and SEC Rule 10b-5. The Securities Act and SEC Rule 10b-5 require the defendant make an actionable misrepresentation of fact as well as scienter, or knowledge of wrongdoing, on the part of the corporate officers.

Category 1 | **Category 2** | Category 3 | Category 4 | Category 5

*Sample recovery amount for purpose of this example.

#2 and #8 - LIBOR LITIGATION- *In re LIBOR-Based Financial Instruments Antitrust Litigation*

- Multiple antitrust litigations resulting in a combined settlement of US $1B+
- **6** different settlements reached with **dozens of defendants.**

$36M in Settlements

June 6, 2017

November 16, 2018

$7M Settlement

$25.5M in Settlements

April 8, 2020

Category 1 | **Category 2** | Category 3 | Category 4 | Category 5

#2: USD LIBOR EuroDollar Futures Settlements

$187 million

This Plan of Allocation was exceptionally complicated and provides for distribution of **75% of the net settlement fund based on pro rata "Recognized Net Loss"** and **25% based on pro rata "Recognized Volume."** **But that is just the beginning of the complexities. . .**

Calculations	8 Legal Risk Periods (LRP's)	Legal Risk Adjustments – 0% to 95%, per LRP	Hedger vs. Swap Dealer Discounts	Options on Eurodollar futures - 70% Discount
Recognized Net Loss	X	X	X	
Recognized Net Volume	X	X	X	X

Category 1 | **Category 2** | Category 3 | Category 4 | Category 5

#8: LIBOR BONDHOLDER SETTLEMENTS

Complex Proof of Claim Form due to:

- Long, aged class period
- 40,000+eligible CUSIPs
- Multiple calculations for each day during the class period

$68.625 million

$6.25 million

$17.9 million

$13 million

$7.025 million

$11.1 million

$7.1 million

Category 1 | **Category 2** | Category 3 | Category 4 | Category 5

CATEGORY 3 -- PUBLIC ENFORCEMENT: FAIR FUNDS

#3: ARCP SECURITIES LITIGATION

Category 1 | Category 2 | **Category 3** | Category 4 | Category 5

$1 billion Securities Class Action Settlement

$8 million Fair Fund

$34 million Fair Fund

#3: In re American Realty Capital Properties, Inc. Litigation (now known as "VEREIT")

- **SEC Fair Funds provide another recovery opportunity for injured investors, separate from U.S. class actions or international opt-in collective actions.**
- **Investors who filed successful claims in the securities class action do not need to refile their claim to be part of the relevant class in the AR Capital Fair Fund (roughly $34 million).**
- **There is another opportunity for recovery with a $8 million VEREIT Fair Fund.**

Category 1 | Category 2 | **Category 3** | Category 4 | Category 5

CATEGORY 4 -- BANKRUPTCY PROCEEDINGS

#7: PG&E Corporation Securities Litigation

Category 1 → Category 2 → Category 3 → **Category 4** → Category 5

#7: In re PG&E Corporation Securities Litigation

BANKRUPTCY PROCEEDINGS

- Defendants in PG&E filed for bankruptcy during ligation, which resulted in an automatic stay.
- When a corporation faces a securities class action lawsuit, they are generally subject to an automatic stay pursuant to section 362(a) of the Bankruptcy Code.
- Typically, when the litigation is against a corporation who is *already* insolvent, injured investors can pursue damages from directors and officers, affiliates and even underwriters.

Class Action Lawsuit is Filed → **Defendant files for bankruptcy** → **Class Action Litigation is Automatically Stayed Pending the Bankruptcy Proceedings**

Category 1 | Category 2 | Category 3 | **Category 4** | Category 5

CATEGORY 5(A) -- INTERNATIONAL PROCEEDINGS

Opt-Out Litigation / Canadian Settlements:
#1: Valeant Pharmaceuticals Securities Litigation
#4: Canadian FX Price-Fixing Class Action

Category 1 | Category 2 | Category 3 | Category 4 | **Category 5(a)**

#1: Valeant Pharmaceuticals Securities Litigation

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INVESTORS WITH POTENTIAL CLAIMS IN BOTH ACTIONS WERE NOT AWARE THAT OPTING OUT OF THE U.S. SETTLEMENT AND WAITING FOR THE CANADIAN SETTLEMENT WOULD LOWER THEIR RECOVERY POTENTIAL.

$1.21 billion USD

$94 million CAD

U.S. Action	1.21 billion USD	3 eligible securities	Both: eligible securities listed on any secondary market, including the NYSE and Toronto Stock Exchange.
Canadian Action	94 million CAD	9 eligible securities	Eligibility is determined by the existence of 1 of 9 different offering memoranda or prospectus.

Category 1 → Category 2 → Category 3 → Category 4 → **Category 5(a)**

#4: Canadian FX Price-Fixing Class Action - Canadian Class Actions (Ontario vs. Quebec)

$109M (CAD)
across 13 settlements

CANADA USES A SIMILAR OPT-OUT CLASS ACTION MECHANISM TO THE U.S.

BUT UNLIKE THE U.S., SECURITIES CLASS ACTIONS IN CANADA ARE BROUGHT IN "PROVINCIAL" COURTS, NOT IN FEDERAL OR STATE COURTS. THUS, EACH OF CANADA'S 13 PROVINCES HAS ITS OWN SECURITIES-REGULATING BODY WITH ITS OWN UNIQUE SET OF REGULATIONS AND PROCEDURES

- Cases alleging the same claims may be filed in multiple provinces
- Ambiguous standards of class action certification and liability
- Multiple settlements and claim filing deadlines for the same issuer depending on the province and the class definition

Compare to:

- In the U.S., it is likely these cases would have been consolidated in federal court and coordinated for litigation

CATEGORY 5(B) -- INTERNATIONAL PROCEEDINGS

Opt-In:

#5: Wirecard AG

Category 1 | Category 2 | Category 3 | Category 4 | **Category 5(b)**

#5: Wirecard AG

WIRECARD FILED FOR INSOLVENCY AFTER ADMITTING TO FRAUDULENT ACCOUNTING OF $2.1 BILLION IN CASH ON ITS BALANCE SHEETS.

Broadridge

2020 | 2021 | 2022 | 2023

November 24

The European Parliament formally endorses the Collective Redress Directive.

December 25

EU Member States must translate the Directive into national law and implement effective procedural mechanisms.

June 25

Enforcement of the Directive by EU Member States must commence.

Multiple opportunities are pending including several opt-in actions in Germany, and a US class action.

The EU Collective Redress Directive:

- To align with (EU) 2020/1828, German civil procedure law will have to significantly expand the possibilities of access to the German judicial system based on domestic and cross-border EU representative actions.
- While collective redress in Germany typically takes several years, cases following German compliance with the Directive may provide consumers with refreshingly speedy redress measures.

Category 1 | Category 2 | Category 3 | Category 4 | **Category 5(b)**

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THANK YOU . . .

BROADRIDGE HAS SUPPORTED THE FINANCIAL SERVICES INDUSTRY FOR ITS CLASS ACTION NEEDS FOR MORE THAN A DECADE.

- Broadridge is a global FinTech leader that supports institutions, broker-dealers, trust banks, fund manager, pension funds and other asset managers in the global class action market via its experienced team of career class action industry veterans including attorneys, auditors, data scientists and technologists.
- As a result, we have a truly unique perspective on the class action market.

TO DISCUSS THIS REPORT, THE 2020 ANNUAL REPORT, OR FOR MORE INFORMATION, PLEASE CONTACT US AT +1 855 252 3822.

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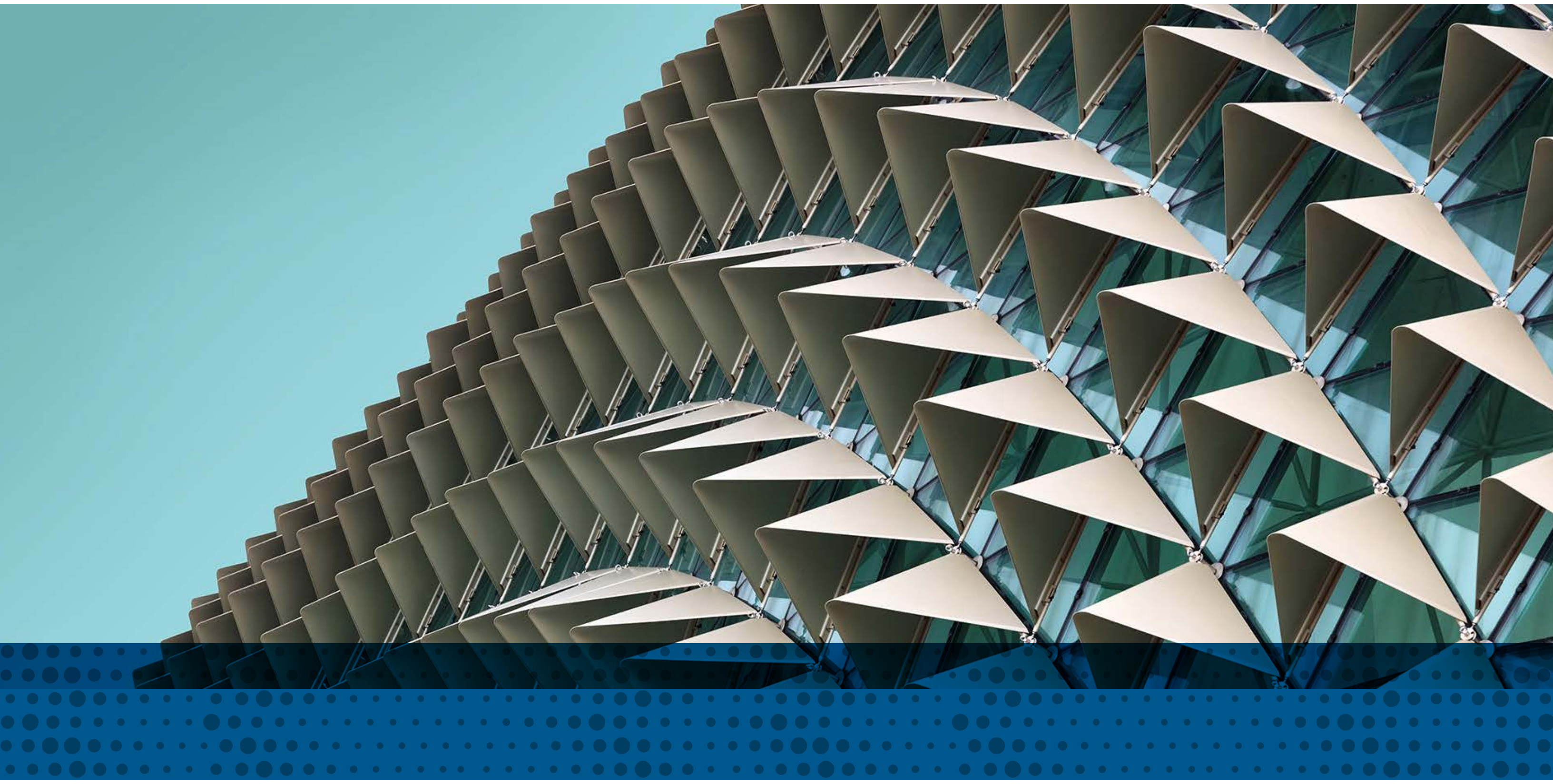
Global Class Action Annual Report

The top 10 most complicated class action asset recovery opportunities of 2020



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INTRODUCTION

Even amidst the global COVID-19 pandemic, securities litigation in 2020 managed to keep pace with recent market trends, including a continued shift to event driven litigation and an increased globalization of class action asset recovery opportunities.

Bookended by significant amendments to the Dutch Act on the Resolution of Mass Claims in Collective Action (Wet afwikkeling massaschade in collectieve actie, or WAMCA) on January 1, 2020, and the European Parliament endorsing its new directive on representative actions for the protection of the collective interests (Collective Redress Directive) on November 24, 2020, multiple noteworthy developments last year will drive increasing complexities and volume in collective redress opportunities over the next decade.

In keeping with recent trends, and notwithstanding the challenges of court and business closures, there was no shortage of case filing activity in the courts. First, there were over 90 separate claim filing or registration deadlines in 2020. Further, Broadridge identified more than 450 newly filed class or collective actions worldwide related to investments in publicly traded securities, bringing the total number of active cases we are tracking but that have not settled to well over 1,000. Moreover, over 140 new settlements were reached in 2020, totaling more than $6 billion (USD).

The increasing complexities of financial instruments and high volume of cases make it harder for investors to stay ahead of business needs and obligations. Methods to identify settlements are complex, processing requirements are arduous, and new legal theories, laws and jurisdictions are entering the ecosystem at an unprecedented pace. As a result, even when opportunities are identified and claims are timely filed, many of them are denied for foot-faults, failures to plan, and errors in the claim filing process.

In this report, Broadridge, an active partner supporting the class action needs of the financial services industry, highlights the 10 most complex class action cases of 2020. Collectively, these settlements total over $3.4 billion (USD)*.

Our report aims to detangle the complexities of the class action world to better equip hedge funds, pension funds, asset managers, custodian banks, investment advisors, and broker-dealers for participation in future cases.

We hope you will find this report instructive on how to prepare for even the most complex of cases, and that it facilitates the proper and accurate adjudication of your claims.

**This figure does not include settlement amounts for two cases currently pending.*

The Top 10 Most Complex Cases of 2020

10 GSE Bonds Antitrust Litigation
$386.5 MILLION

9 Zimmer Biomet Holdings Securities Litigation
$50 MILLION

8 Bondholder LIBOR Settlements
$68.625 MILLION

7 PG&E Corporation Securities Litigation
PENDING LITIGATION

6 First Solar Securities Litigation
$350 MILLION

5 Wirecard AG
PENDING LITIGATION

4 Canadian FX Price-Fixing Class Action
$109 MILLION CAD

3 ARCP Securities Litigation
$1.025 BILLION

2 USD LIBOR EuroDollar Futures Settlements
$187 MILLION

1 Valeant Pharmaceuticals Securities Litigation
$1.21 BILLION USD AND $94 MILLION CAD

Industry Trends: Noteworthy developments in this dynamic market in 2020

- **New Class Action Laws Worldwide.** In 2020, we witnessed no fewer than seven material collective redress developments worldwide—we already touched on the Netherland's WAMCA amendments and the European Union's monumental Collective Redress Directive (of which we should begin seeing member countries comply with in 2021). To that list we can add: (a) Italy's "provisions regarding class actions", (b) Scotland's Civil Litigation Expenses and Group Proceedings Bill, (c) Germany's extension of its KapMuG procedure, (d) Ontario's amendments to its Class Proceedings Act, and (e) the People's Republic of China's provisions on Issues of Representative Securities Litigation.

- **Increased Participation in Opt-in Litigation.** Opt-in opportunities have been active for years now, particularly in certain EU and South American jurisdictions, but this year we saw a sharp spike in investor interest in opt-in litigation worldwide.

- **Broker-Dealers Shift in Service.** Historically, broker-dealers have implemented robust processes to ensure their retail clients received appropriate notice of claim filing opportunities, but very few provided claim filing services. 2020 saw a seismic shift in thinking for many broker-dealers. A number of large global wealth managers began providing such support to their retail clients, and many more are planning to provide such services in 2021.

- **Increased Reliance on Outsourcing.** While a significant percentage of the market outsourced portfolio monitoring services, many institutional investors have historically handled claim filing in-house. In 2020, Broadridge heard from institutional investors that, with growing international developments and increasing complexities worldwide, the burden is too high to manage these services internally. Accordingly, many firms that traditionally handled this work in-house are now looking to shift the risk through outsourcing, ensuring opportunities are not missed and recoveries are maximized.

Broadridge continues to expand its suite of services around notification, portfolio monitoring, and class action asset recovery on behalf of asset managers as the industry grows and becomes more complex.

OUR METHODOLOGY

Broadridge offers a robust, end-to-end portfolio monitoring and asset recovery service with no jurisdictional or financial product limits. Accordingly, this report looks at cases globally that involve publicly traded securities or other financial instruments where a class or collective action mechanism was used. We include cases brought under each respective country's securities and antitrust laws.

Broadridge's proprietary database tracks U.S. securities class actions; antitrust class actions involving securities and complex financial products; international collective actions; U.S. SEC and DOJ enforcement actions; and other "mass redress" cases that involve financial instruments in which our clients transact.

We broadly refer to all of these types of litigations when we discuss class actions in this report. Using the Broadridge database, we identified more than 90 global cases involving securities and/or financial products whose claim filing deadline was in 2020. Leveraging Broadridge's experts in the financial services and class action area, this report provides a comprehensive summary of the 10 most complex cases in 2020 and highlights several other cases we deem to be honorable mentions. Each case profile provides the case facts, case overview, and a detailed summary of the complications and administrative challenges that factored into the case making the list.

Cases are ranked by complexity from the standpoint of a financial institution's ability to recover its funds, or those of its investors and clients. We define complexity from an administration standpoint as:

- The lift and work involved in tracking and monitoring the case
- The difficulty of housing, scrubbing and preparing the data
- Complexities in jurisdictional, judicial and/or filing requirements
- Complex deadlines (e.g., more than one settlement, with different legal rights and deadlines)
- Complexities in the security/product of interest and the underlying data needed to prove a claim
- Complexities in the loss calculation formula
- Competing litigations (multiple law firm/funder groups)
- Any other factors that impacted the ability to file a complete and comprehensive claim and recover assets

Class actions are complex. Broadridge simplifies every step. We've included this scannable glossary to provide everyone a clear understanding of the terms used in this report.

Certification
The judicial process whereby a court examines whether a case shall be permitted to proceed as a class action.

Claim Filing Deadline
The court-approved date by which all claims must be filed by class members.

Claims Administrator
A court-approved third-party that handles the claims administration process in compliance with the terms of the settlement agreement.

Class
A group of individuals who have suffered a similar loss or harm, whose claims are brought in a singular lawsuit.

Class Action
A lawsuit brought by one or more individuals on behalf of others who are similarly situated. Under U.S. law, a case is only a class action after it is "certified" by a court.

Class Action Notice
A court-approved notice sent out by the claims administrator that describes the cause of action, the class claim, the class itself, how class members can enter an appearance through a lawyer, how members can request exclusion, and information regarding the binding nature of class judgments.

Class Counsel
The lawyers or law firms that are appointed by the court to represent the class representative and all class members.

Class Member
A person or entity on whose behalf a class action lawsuit has been filed.

Class Period
The specific time period during which the unlawful conduct is alleged to have occurred.

Complaint
A formal legal document that sets out the facts and legal reasons the filing party ("plaintiff") believes a claim can be brought against the other party ("defendant").

Exclusion Request
The formal request from a class member to be removed from the class.

Fair Fund
A fund established by the U.S. SEC to distribute disgorgements (wrongful profits), penalties and fines to defrauded investors.

Final Approval Order
A court order that approves (as is or with modification) a class action settlement.

Lead Plaintiff
A person, group of persons, or entity that is selected by the court to represent the interests of all class members.

Market Loss
The actual out-of-pocket loss that an investor had for eligible transactions during the class period.

Opt-Out
The act of a class member electing not to be part of the class action lawsuit.

Plan of Allocation
The stated methodology by which a class action recovery is allocated among eligible claimants; literally, it is a plan for allocating the settlement fund.

Preliminary Approval Order
A court order that indicates initial approval of a class action settlement, and directs the parties to begin the notification process, as well as to solicit opt-outs and objections. The settlement is subject to final approval and modifications.

Proof of claim
A form that is completed with the necessary information requested by the claims administrator to process a claim.

Pro Rata
The percentage of settlement funds paid out to each eligible investor of its total recognized loss as calculated pursuant to the Plan of Allocation.

Recognized Loss
The loss amount calculated for the claim based on the court-approved Plan of Allocation.

Security
The financial instrument that is part of the particular class action.

Settlement Amount
The funds available to be distributed to the eligible class members pursuant to the Plan of Allocation.

10 GSE Bonds Antitrust Litigation

SETTLEMENT

$386.5M

Just the facts

FULL CASE NAME: *In re GSE Bonds Antitrust Litigation* (1:19-cv-01704)

CLASS DEFINITION: All persons and entities who or which entered a GSE bond transaction with one or more defendants or a direct or indirect parent, subsidiary, affiliate, or division of a defendant during the class period (January 1, 2009, through and including January 1, 2019).

THE ALLEGATIONS: Plaintiffs allege that defendants conspired to fix prices for unsecured GSE bonds issued by Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Farm Credit Banks, and Federal Home Loan Banks in the secondary market in violation of Section 1 of the Sherman Act, 15 U.S.C. §1.

SETTLEMENT AMOUNT: $386,500,000 total

SECURITY: Any and each unsecured bond or debt instrument (i.e., senior debt, subordinated debt, and junior subordinated debt) regardless of currency or credit quality, issued by Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Farm Credit Banks, and Federal Home Loan Banks.

COURT: United States District Court for the Southern District of New York

JUDGE: Honorable Jed S. Rakoff

CLAIMS ADMINISTRATOR: A.B. Data, Ltd.

CLASS COUNSEL: Scott + Scott Attorneys at Law LLP and Lowey Dannenberg, PC

LEAD PLAINTIFFS: Joseph M. Torsella, in his official capacity as the Treasurer of the Commonwealth of Pennsylvania; City of Birmingham Retirement and Relief System; Electrical Workers Pension Fund Local 103, I.B.E.W.; and Local 103, I.B.E.W. Health Benefit Plan

INITIAL COMPLAINT FILED: February 22, 2019

PRELIMINARY APPROVAL ORDER ENTERED: October 29, 2019, and December 12, 2019

FINAL APPROVAL ORDER ENTERED: June 16, 2020

CLAIM FILING DEADLINES: February 28, 2020, and May 12, 2020

An Overview

GSE Bonds are not backed by the full faith and credit of the U.S. government.

Government-sponsored enterprises ("GSE") are privately held corporations created by an Act of Congress that provide public financial services. Unlike U.S. Treasury bonds and bonds issued by certain federal agencies, GSE bonds are not backed by the full faith and credit of the U.S. government. The plaintiffs allege that the GSE underwriter and dealer defendants conspired to fix the price at which GSE bonds were free to trade in the secondary market at supracompetitive levels.

Between October 2019 and February 2020, the Court preliminarily approved five separate settlements between plaintiffs and 17 defendant banks with a total settlement pot approaching $386.5 million. Depending on the losses alleged, claim filing deadlines fell on February 28, 2020, or May 12, 2020. However, if a class member previously submitted a valid proof of claim and release for any of the earlier settlements, they were not required to submit a new proof of claim and release to participate in any of the later settlements.

The Administrative Challenges

Numerous eligible CUSIPs

These settlements involve multiple debt instruments consisting of more than 70,000 individual CUSIPs.

IMPACT: Portfolio monitoring to determine eligibility is vastly more complicated. Claim preparation and filing can take hundreds of hours just to get the data in the proper format and confirm that all the eligible CUSIPs are identified in the trade data. Significant quality assurance measures are also needed to ensure accuracy and completeness on the part of both the filer and the claims administrator.

Detailed supporting documentation required

These settlements required that claimants provide detailed supporting documentation, including trade-by-trade GSE bond transaction data with 11 required data fields for each transaction. Business records, or data kept by a financial institution in the ordinary course of business, are not enough to prove a claim in this case. Failure to provide adequate supporting documentation for all transactions in addition to the data set will lead to rejection of the claim.

IMPACT: All filers are required to submit the supporting documentation needed to prove the claim before verification of the claim will take place. Institutions that had many class period transactions will need significant planning and clean preparation work to prove their claims and maximize recovery.

Old class period

The class period for the eligible transactions began over a decade ago.

IMPACT: Typically, most financial institutions and individuals only keep copies of statements, broker confirmation and house data relating to their accounts for seven years. As such, given the length and the start of the class period, it is hard for a class member to: (a) provide transaction information longer than 7-10 years, and (b) provide any supporting documentation. This could severely limit class members' ability to provide all eligible transactions and reduce or eliminate their recovery.

9 Zimmer Biomet Holdings Securities Litigation

SETTLEMENT

$50M

Just the facts

FULL CASE NAME: *Shah v. Zimmer Biomet Holdings, Inc.* (3:16-cv-00815)

CLASS DEFINITION: All persons or entities who, between June 7, 2016, and November 7, 2016, inclusive, purchased or otherwise acquired Zimmer Biomet Holdings, Inc. ("ZBH") common stock and/or call options, and/or wrote ZBH put options, and were damaged thereby.

THE ALLEGATIONS: Plaintiffs allege that Zimmer Biomet Holdings, which is the product of a $13.4 billion merger between two medical device competitors, Zimmer Holdings, Inc. and Biomet Inc., issued false and misleading statements and/or omitted material facts regarding the success of the merger and ZBH's expected financial performance during the class period, affecting approximately 31.9 million shares of ZBH common stock.

SETTLEMENT AMOUNT: $50,000,000

SECURITY: ZBH common stock, call options and put options

COURT: United States District Court for the Northern District of Indiana

JUDGE: Honorable Philip P. Simon

CLAIMS ADMINISTRATOR: JND Legal Administration

CLASS COUNSEL: Glancy Prongay & Murray LLP

LEAD PLAINTIFFS: Rajesh M. Shah; Matt Brierly

INITIAL COMPLAINT FILED: December 2, 2016

PRELIMINARY APPROVAL ORDER ENTERED: May 21, 2020

FINAL APPROVAL ORDER ENTERED: September 18, 2020

CLAIM FILING DEADLINE: October 19, 2020

An Overview

Plaintiffs allege ZBH and its senior leadership misled investors and concealed material information from the market.

Zimmer Biomet Holdings is a multi-billion-dollar medical device manufacturer that was formed in June 2015 when two cross-town competitors merged with one another (Zimmer Holdings, Inc. and Biomet, Inc.). Plaintiffs allege that ZBH and its senior leadership misled investors and concealed material information from the market regarding a major ZBH manufacturing facility known as the "North Campus." It is alleged ZBH knew that its North Campus was severely non-compliant with federal regulations and, moreover, knew how costly and extensive remediation would be and thus had a duty to disclose this information pursuant to Item 303 of SEC Regulation S-K which requires companies to "[d]escribe any known trends or uncertainties that have had or that the registrant reasonably expects will have a material favorable or unfavorable impact on net sales or revenues or income from continuing operations."

The Administrative Challenges

There are multiple security types included in this matter

The court-approved Plan of Allocation includes multiple securities: (a) Zimmer Biomet common stock purchased during the class period from June 7, 2016, through and including November 7, 2016; (b) Zimmer Biomet common stock purchased pursuant to or traceable to either the June 2016 offering at $115.85 or as part of the August 2016 offering at $129.75; (c) Zimmer Biomet call options purchased during the class period; and/or (d) Zimmer Biomet put options sold during the class period.

IMPACT: First, identifying these types of shares through a standard portfolio monitoring process is difficult because the acquisition may not be reflected as a "purchase" in the underlying transactional data. Second, even after the transactions have been identified as eligible, additional work is required to ensure all data is populated into the required filing format prior to submission. Failure to accomplish these tasks can lead to a failure to file, a reduced distribution, or a rejected claim.

Unusually complicated loss formula

Recognized losses for shares purchased pursuant to or traceable to the June 2016 or August 2016 offerings will be eligible for a claim under Section 11 of the Securities Act. The recognized loss for common stock under both Sections 10(b) and 11 will be the maximum of the recognized loss amount calculated under the provisions of each. A claimant must have suffered an overall market loss with respect to their overall transactions in Zimmer Biomet securities during the class period. To the extent that the market loss is less than the claimant's recognized claim, the recognized claim will be limited to the amount of the market loss.

IMPACT: This challenge leads to a more complicated and involved review and quality assurance process to confirm the accuracy and completeness of the claims administrator's findings and to ensure an accurate recovery.

8 Bondholder LIBOR Settlements

SETTLEMENT

$68.6M

Just the facts

FULL CASE NAME: *In re LIBOR-Based Financial Instruments Antitrust Litigation* (12-cv-1025; Master File No. 1:11-md-2262)

CLASS DEFINITION: All persons and institutions that owned (including beneficially in "street name") any debt security: (a) with a CUSIP number; (b) on which interest was payable at any time between August 1, 2007, and May 31, 2010; and (c) where that interest was payable at a rate expressly linked to U.S. dollar LIBOR.

THE ALLEGATIONS: Plaintiffs allege that defendants unlawfully conspired to manipulate the U.S. dollar LIBOR throughout the class period, artificially lowering LIBOR, resulting in holders of U.S. dollar LIBOR-based debt securities being paid less interest during the class period.

SETTLEMENT AMOUNT: $68,625,000

SECURITY: Any U.S. dollar-denominated debt security: (a) that was assigned a unique identification number by the CUSIP system; (b) on which interest was payable at any time during the class period; and (c) where that interest was payable at a rate based upon U.S. dollar LIBOR. U.S. dollar LIBOR-based debt securities include, but are not limited to, any such bonds, corporate bonds, municipal bonds, government bonds, asset-backed securities, residential mortgage-backed securities, commercial mortgage-backed securities, collateralized debt obligations and collateralized loan obligations.

COURT: United States District Court for the Southern District of New York

JUDGE: Honorable Naomi Reice Buchwald

CLAIMS ADMINISTRATOR: Epiq Systems, Inc.

CLASS COUNSEL:
Morris and Morris LLC Counselors at Law and Weinstein Kitchenoff & Asher LLC

LEAD PLAINTIFFS:
Ellen Gelboim; Linda Zacher

INITIAL COMPLAINT FILED: February 9, 2012

PRELIMINARY APPROVAL ORDER ENTERED:
July 5, 2017, December 5, 2018, and May 5, 2020

FINAL APPROVAL ORDER ENTERED:
December 16, 2020

CLAIM FILING DEADLINE:
December 28, 2020

An Overview

On February 9, 2012, plaintiffs filed cases alleging artificial manipulation of the London Interbank Offered Rate ("LIBOR") for the U.S. dollar.

On February 9, 2012, plaintiffs filed cases alleging artificial manipulation of the London Interbank Offered Rate ("LIBOR") for the U.S. dollar over a period of several years. Eight years and two dismissals later, plaintiffs have now reached settlements totaling $68.625 million. These preliminary settlements range from $6.25 million to $17.9 million and represent a partial settlement of all bondholder plaintiff claims.

This $68.625 million settlement is one of the many LIBOR-based antitrust litigations consolidated with *In re LIBOR-Based Financial Instruments Antitrust Litigation*, MDL No. 2262, No. 11 Civ. 2613, pending in the United States District Court for the Southern District of New York. To date, the total settlement amount across this MDL for alleged LIBOR manipulation is approaching the $1 billion mark.

The Administrative Challenges

Class period is 13 years old

The class period for the eligible transactions began over a decade ago.

IMPACT: Typically, most financial institutions and individuals only keep copies of statements, broker confirmations and house data relating to their accounts for seven years. As such, given the length and the start of this class period, it is hard for a class member to: (a) provide transaction information longer than 7-10 years; and (b) provide full supporting documentation that is required.

Numerous eligible CUSIPs

This settlement involves bonds and debt securities consisting of more than 40,000 individual CUSIPs.

IMPACT: Portfolio monitoring to determine eligibility is vastly more complicated. Claim preparation and filing can take hundreds of hours just to get the data in the proper format and confirm that all the eligible CUSIPs are identified in the trade data. Significant quality assurance measures are also needed to ensure accuracy and completeness on the part of both the filer and the claims administrator.

Unique complexity in obtaining CUSIP list

In order to obtain the list of eligible CUSIPs, anyone that wishes to access the list must qualify as an Authorized Recipient by personally executing an acknowledgement of the Protective Order and thereafter may only disclose such data to other Authorized Recipients. Each Authorized Recipient will also need to certify to the court in writing that they have destroyed all data (CUSIP standard descriptions, CGS ISIN identifiers, CINS identifiers, etc.) within 60 days of the resolution of the Bondholder LIBOR Action.

IMPACT: This challenge leads to additional time and diligence required to prepare and file claims in an accurate and compliant manner.

Complicated loss formula, or "Plan of Allocation"

Each claimant will need to calculate its Total Suppressed Interest Payment Amount which requires summing each of its Individual Suppressed Interest Payment Amounts received over the class period. This process requires multiple calculations for each day during the three-year class period that the claimant received an Authorized Interest Payment on a qualifying debt security. Recovery is then based on a claimant's pro rata share of the net settlement fund.

IMPACT: The difficulty projecting potential distributions, preparing an accurate claim form and then auditing the claims administrator's distribution determination, is vastly increased in this case where we have a long, historic class period, involving over 40,000 eligible CUSIPs.

7 PG&E Corporation Securities Litigation

Bankruptcy Proceeding

Just the facts

FULL CASE NAME: *In re PG&E Corporation Securities Litigation* (18-cv-03509)

CLASS DEFINITION: All persons and institutions that purchased or acquired PG&E's publicly traded debt and/or equity securities from April 29, 2015, through November 15, 2018, inclusive.

THE ALLEGATIONS: Plaintiffs allege that throughout the class period PG&E Corporation and Pacific Gas and Electric Company made false and/or misleading statements for failing to maintain its electricity transmission and distribution networks in compliance with safety requirements and regulations promulgated under state law, leading up to the wildfires that ravaged Northern California in October 2017 (the "North Bay Fires") and November 2018 (the "Camp Fire"), including violations of U.S. federal securities laws.

SETTLEMENT AMOUNT: Ongoing litigation pending bankruptcy stay

SECURITY: PG&E publicly traded securities

COURT: United States District Court for the Northern District of California

JUDGE: Honorable Edward J. Davila

CLAIMS ADMINISTRATOR: Prime Clerk

CLASS COUNSEL: Labaton Sucharow

LEAD PLAINTIFF: Public Employees Retirement Association of New Mexico

INITIAL COMPLAINT FILED: June 12, 2018

PRELIMINARY APPROVAL ORDER ENTERED: NA

FINAL APPROVAL ORDER ENTERED: NA

CLAIM FILING DEADLINE: April 16, 2020 (bar date for prepetition claims in the bankruptcy proceeding)

An Overview

In October 2017, North Bay Fires devastated Northern California.

On June 8, 2018, the California Department of Forestry and Fire Protection ("Cal Fire") published its findings alleging that PG&E's purported violations of California law, including the California Public Utilities Commission's safety regulations, were responsible for the North Bay Fires that devastated Northern California in October 2017. All told, these fires burned approximately 249,000 acres, destroyed 8,898 structures, and killed 44 people across nine counties resulting in estimated damages in excess of $17 billion. This news was part of a broader story, including an investigation by the SEC shortly after the wildfires started. Over the course of several months the stock price of PG&E dropped $30 per share.

On June 12, 2018, plaintiffs filed suit alleging PG&E allegedly made false and misleading statements and omissions about its safety and compliance initiatives. Cases were consolidated on December 14, 2018, and soon thereafter PG&E commenced voluntary Chapter 11 bankruptcy proceedings, which automatically stayed the securities class action underway. Pursuant to orders in the bankruptcy proceedings, eligible investors with Rescission or Damage Claims (losses suffered as a result of the alleged fraudulent actions as part of the securities class action) had until April 16, 2020, to file their proof of claim forms to prevent their claims against the debtors from being discharged and forever barred.

The Administrative Challenges

Bankruptcy proceedings present unique challenges and considerations

Example 1: Unlike claim filing deadlines in securities cases, bankruptcy deadlines are strict, and no late filings are permitted.

Example 2: All claim filings become part of the public claims register and can be seen by anyone and some clients have a desire to not have their claims or trading known publicly.

Example 3: Section 510(b) of the Bankruptcy Code subordinates Rescission or Damage Claims based upon purchases of debt securities to all other creditors; and it also subordinates Rescission or Damage Claims based upon purchases of equity securities even lower, to the same level of treatment as holders of other equity securities, meaning secured and priority creditors may exhaust the business assets prior to their claims being paid.

Required documents

Each claim must be individually filled out and submitted with required documentation.

IMPACT: As a result, separate claim forms needed to be submitted for each client, greatly increasing the effort and resources required to timely complete and review each individual submission.

6 First Solar Securities Litigation

SETTLEMENT

$350M

Just the facts

FULL CASE NAME:
Smilovits v. First Solar, Inc. (2:12-cv-00555)

CLASS DEFINITION:
All persons and entities that purchased or otherwise acquired First Solar publicly traded securities during the period between April 30, 2008, and February 28, 2012, inclusive.

THE ALLEGATIONS: Plaintiffs allege that defendants artificially inflated the price of First Solar securities by issuing materially false and misleading statements and omitted material information regarding First Solar's solar modules.

SETTLEMENT AMOUNT: $350,000,000

SECURITY: First Solar, Inc. common stock

COURT: United States District Court for the District of Arizona

JUDGE: Honorable David G. Campbell

CLAIMS ADMINISTRATOR: Gilardi & Co. LLC

CLASS COUNSEL:
Robbins Geller Rudman & Dowd LLP

LEAD PLAINTIFFS:
Mineworkers' Pension Scheme; British Coal Staff Superannuation Scheme

INITIAL COMPLAINT FILED: March 15, 2012

PRELIMINARY APPROVAL ORDER ENTERED:
March 2, 2020

FINAL APPROVAL ORDER ENTERED:
June 30, 2020

CLAIM FILING DEADLINE: July 1, 2020

An Overview

Defendants allegedly undertook a fraudulent scheme to conceal manufacturing defects in its solar panels.

First Solar Inc., a solar panel manufacturer, settled this eight-year-old securities class action but not before two trips to the Ninth Circuit and one appeal to the U.S. Supreme Court (writ of certiorari denied). The case concerns an allegedly fraudulent scheme to conceal several manufacturing defects in its solar panels—the first of which cost the company $260 million to remediate, and the second of which led to a 90% stock drop by the end of the class period when news had settled.

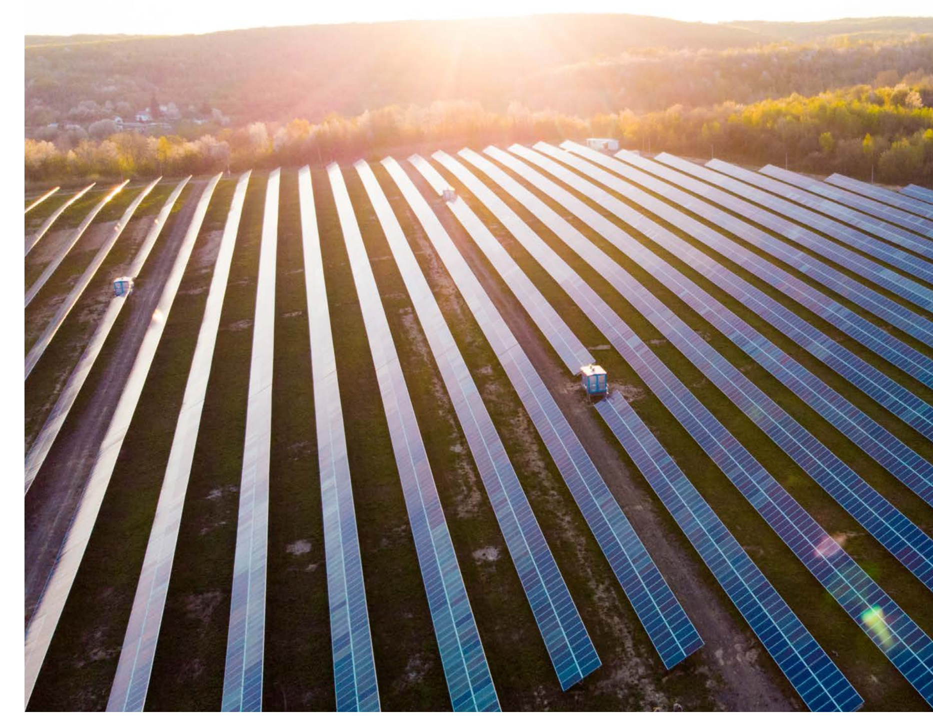
This settlement does not resolve the factually related derivative suit pending in Arizona state court or the opt-out action pending in the District of Arizona.

The Administrative Challenges

Unusually complicated loss formula

The court-approved Plan of Allocation was exceptionally complicated in several ways. For example, the Plan includes an artificial inflation table that requires class members to calculate the price impact on First Solar common stock that the six alleged corrective disclosures had.

IMPACT: This challenge leads to a more complicated and involved review and quality assurance process to confirm the accuracy and completeness of the claims administrator's findings and to ensure an accurate recovery.



5 Wirecard AG

Litigation Pending

Just the facts

FULL CASE NAME: Wirecard AG

THE ALLEGATIONS: Plaintiffs allege that defendants, including the company's auditor, throughout the class period, made false and/or misleading statements and/or failed to disclose that: (a) Wirecard AG ("Wirecard") overstated its cash balances during the class period, falsely claiming €1.9 billion of cash in a trust account that was missing; (b) Wirecard overstated its financial results, including revenue and EBITDA; (c) Wirecard did not have adequate risk management or countermeasures; (d) Wirecard's auditor failed to audit the Company in accordance with applicable auditing principles; and (e) as a result, defendants' statements about Wirecard's business, operations and prospects were materially false and misleading and/or lacked a reasonable basis at all relevant times.

SETTLEMENT AMOUNT: Litigation Pending

SECURITY: Eligible securities were those listed on the Frankfurt Stock Exchange in Germany or Wirecard ADRs publicly traded over the counter in the United States.

COURT: United States District Court for the Eastern District of Pennsylvania; Civil Courts in Munich and Frankfurt, Germany

An Overview

On June 25, 2020, Wirecard admitted that $2.1 billion (€1.9 billion) in cash on its balance sheets probably never existed.

Wirecard is a German payment processor that filed for insolvency on June 25, 2020, after admitting $2.1 billion (€1.9 billion) in cash on its balance sheets probably never existed. The scandal, which was fully disclosed by June 2020, caused Wirecard shares to plummet by more than 90% over a seven-day trading period.

Litigation is already underway in a consolidated class action in the United States (*In re Wirecard AG Securities Litigation*, in the U.S. District Court for the Eastern District of Pennsylvania) with another five opt-in proceedings being pursued in Germany against Wirecard's auditor, Ernst & Young ("E&Y") and/or the German Federal Financial Supervisory Authority ("BaFin")/German Financial Reporting Enforcement Panel ("FREP/DPR"). Significantly, since Wirecard filed for bankruptcy and is no longer a solvent counterparty, Wirecard investors brought cases against its auditor for wrongful auditing, and against BaFin for allegedly failing to comply with its statutory duties to prevent market manipulation. Additionally, four investor groups are pursuing recovery in Wirecard's insolvency proceedings.

These competing actions are brought by some of the world's leading international law firms with various funders, and in some cases, differing time periods, and legal or damage theories.

Any interested client must weigh the various litigations and determine which provides the best opportunity for recovery, which varies greatly depending on investments. For the German opt-in litigations, soft registration deadlines began in the fourth quarter of 2020, with hard deadlines of October 26, 2020, in the insolvency proceedings (per court order) in Germany.

FIRM	FUNDER	ACTION	REG DEADLINE
Robbins Geller Rudman & Dowd	NA	U.S. Class Action (PA)	NA
TILP Litigation	DRRT/Therium	Opt-In (Germany) (E&Y) (BaFin)	03/30/2021 (soft)
Quinn Emanuel	Omni Bridgeway	Opt-In (Germany) (E&Y)	12/30/2020 (soft)
Rotter Rechtsanwälte	AEQUIFIN	Opt-In (Germany) (E&Y)	12/31/2020 (soft)
Schirp & Partner Rechtsanwälte	Not Available	Opt-In (Germany) (E&Y) (BaFin) (FREP)	07/30/2020 (soft)
Kathmann & Gebhard Rechtsanwälte	DRRT/Therium	Insolvency (Germany)	04/30/2021 (hard)
Quinn Emanuel	Burford Capital	Insolvency (Germany)	10/26/2020 (hard)
Rotter Rechtsanwälte	AEQUIFIN	Insolvency (Germany)	10/26/2020 (hard)
Mattil & Kollegen	Unknown	Opt-In (Germany) (E&Y) (BaFin)	NA
Mattil & Kollegen	Unknown	Insolvency	10/26/2020 (hard)

SEE ADMINISTRATIVE CHALLENGES PAGE 18 > > >

The Administrative Challenges

International opt-in

First, most of the opportunities here involve collective actions and not a settled class action. To participate, you must get involved before the settlement process and be part of the litigation. Claimants must work with a law firm and litigation funder, which can make the process longer and more involved. Second, in many opt-in litigations, there are options. Like here, there are multiple cases on parallel tracks. In order to weigh the various options, claimants must understand the differences between cases, their legal theories, damage calculations, and potential outcomes. They must also understand how those differences impact their losses and trading patterns, which requires a very individualized review. Finally, various firms and funders may have different theories and contractual terms.

IMPACT: There are several steps that must be completed to be part of the litigation. Data for potential damage calculations must be provided to the funder. Claimants who wish to remain anonymous at first can have an agent do this on their behalf. After a review of the information, clients who are interested in pursuing a claim can enter into a funding agreement, at which point fulsome data and claim filing can proceed, provided that it is legal for the firm and/or client to participate in matters like this. Further, since this must be done before a settlement is entered into in order to participate, the process is longer and active participation in the litigation may be necessary.

German law and claim filings

The participants who have filed or will file a lawsuit and "claim" via the opt-in litigation will be known to the court and the defendants. This is a requirement under German law.

IMPACT: Many potential participants may not want to file since disclosure of their identity to the defendants and the court may impact business or other legal dealings they may have with the defendants.

The Administrative Challenges

Multiple proceedings

Interested parties have several options to pursue recovery for losses incurred because of the alleged Wirecard scandal.

IMPACT: With no fewer than six class actions and parallel insolvency proceedings, it is important for institutional investors to understand time periods, defendants, and damage theories in relation to their trading patterns and appetite for exposure. For example, an investor may be prohibited, or may decline to bring a claim against the auditor defendant, while still pursuing recovery against BaFin or participating in one of the insolvency proceedings. With Wirecard in insolvency, each of these proceedings must carefully be considered because future recovery efforts may not be pursued.

International exchange and complex instruments

Eligible securities may include securities listed on the Frankfurt Stock Exchange in Germany and Wirecard ADRs publicly traded over the counter in the United States.

IMPACT: This requires a higher-level review to locate each transaction and confirm the transaction occurred on the correct exchange.

Concurrent insolvency actions

Wirecard filed for insolvency on June 25, 2020, and interested parties have no fewer than four separate opportunities to participate in the proceedings.

IMPACT: The indebtedness and insolvency of Wirecard will complicate recovery as shareholders' fraud claims will be part of the same pro rata distribution with other unsecured claims.

Additional filing costs

These litigations may involve additional costs and additional contractual relationships.

IMPACT: Participating in an opt-in litigation may involve additional costs and additional contractual relationships. Unlike a U.S. class action, each potential claimant is treated separately, and each individual case has its own funding and paperwork requirements. Typically, there are fees associated with filing in these matters. Funding agreements and costs will differ depending on the case in which the claim is filed, and the law firm and litigation funder.

4 Canadian FX Price-Fixing Class Action

SETTLEMENT

$109M

Just the facts

FULL CASE NAME: *Mancinelli v. Royal Bank of Canada* (Ontario; CV-15-536174CP); and *Béland v. Banque Royale du Canada* (Québec; 200-06-000189-152)

CLASS DEFINITION: All persons in Canada who, between January 1, 2003, and December 31, 2013, entered into an instrument traded in the foreign exchange ("FX") market, either directly or indirectly through an intermediary, and/or purchased or otherwise participated in an investment or equity fund, mutual fund, hedge fund, pension fund or any other investment vehicle that entered into an instrument traded in the foreign exchange market.

THE ALLEGATIONS: The class actions in Ontario and Québec arise from an alleged conspiracy among the defendants to fix, raise, maintain, stabilize, control, or unreasonably enhance the prices of currency purchased in the FX currency market.

SETTLEMENT AMOUNT:
$109,047,205 (CAD) across 13 settlements

SECURITY: FX spot transactions, outright forwards, FX swaps, FX options, FX futures contracts, options on FX futures contracts, and other instruments traded in the FX market in Canada or on a Canadian exchange.

COURT: Ontario Superior Court of Justice and the Superior Court of Québec

JUDGE: Justice Paul Perell (Ontario), Justice Clause Bouchard (Québec)

CLAIMS ADMINISTRATOR: Epiq Systems, Inc.

CLASS COUNSEL: Siskinds LLP, Sotos LLP, Koskie Minsky LLP and Camp Fiorante Matthews Mogerman LLP

LEAD PLAINTIFFS:
Ontario action: Joseph S. Mancinelli, Carmen Principato, Douglas Serroul, Luigi Carrozzi, Manuel Bastos and Jack Oliveira in their capacity as The Trustees of the Labourers' Pension Fund of Central and Eastern Canada, and Christopher Staines. Québec action: Christine Béland.

INITIAL COMPLAINT FILED: September 2015

PRELIMINARY APPROVAL ORDER ENTERED:
On July 4, 2018, and on August 24, 2018, the Courts approved the plaintiffs' Plan of Allocation.

FINAL APPROVAL ORDER ENTERED:
Thirteen settlements approved from November 9, 2016, through January 24, 2019

CLAIM FILING DEADLINE:
January 15, 2020 (amended)

An Overview

Plaintiffs allege dozens of banks and financial institutions participated in an unlawful conspiracy to fix the price of currency purchased in the foreign exchange.

Plaintiffs in Canada brought two related class actions alleging that dozens of banks and financial institutions participated in an unlawful conspiracy to fix the price of currency purchased in the foreign exchange or foreign currency market, and to fix key foreign exchange benchmark rates over a period of 11 years. To date, we have seen 13 settlements and, in April 2020, Justice Perell certified a class action for the remaining non-settling defendants in Ontario.

The Administrative Challenges

Complex damage calculations

These cases involve multiple calculations to determine the eligible participation amount before applying one of five different formulas depending on the instrument, on a trade-by-trade basis, to arrive at a claims value. Calculations include applying the correct currency ratio for the correct instrument, adjusting the sum relative to damage factors including liquidity and trade size, and appropriately discounting certain trades based on the time of trade and the eligible participation amounts. Additionally, claim amounts vary based on whether the claimants are direct or indirect claimants.

IMPACT: Complex recognized loss calculations increase the amount of both time and expertise required to accurately calculate each claim's recognized loss amount. An incorrect calculation can lead to claims not being filed and will lessen the ability to review and challenge a claims administrator's determination, if needed.

Numerous eligible securities

These settlements involve FX spot transactions, outright forwards, FX swaps, FX options, FX futures contracts, options on FX futures contracts and other instruments traded in the FX market.

IMPACT: This challenge impacts a variety of areas in the case. First, portfolio monitoring is made more complicated by the size of the searches and resulting data exports. Second, the time required to prepare and file claims can be increased exponentially. Finally, significant quality assurance measures are needed to ensure accuracy and completeness of the files before they can even be filed.

Complicated security type

Unlike most cases, which involve a company's common stock, the FX instruments involved here are very complicated and can be difficult to identify.

IMPACT: First, portfolio monitoring is complicated by the fact that these instruments do not have CUSIPs. Filers must create one-off procedures to identify and export the data. Second, the claims filing process becomes vastly more complicated because the data is generally in a different format than a normal data extract. Significant work is needed to format and review data before a submission can be filed. Likewise, the opportunity for administrative error increases, and care must be taken to ensure your claims are paid accurately.

3 ARCP Securities Litigation

SETTLEMENT

$1B

Just the facts

FULL CASE NAME:
In re American Realty Capital Properties, Inc. Litigation (1:15-mc-00040)

CLASS DEFINITION:
All persons who purchased or otherwise acquired American Realty Capital Properties common stock, preferred stock or debt securities during the period between February 28, 2013, and October 29, 2014.

THE ALLEGATIONS: Plaintiffs allege that the real estate investment trust American Reality Capital Properties ("ARCP" and now known as "VEREIT") made false and misleading statements about its past and future operating performance and the state of the company's internal controls. Among other things, plaintiffs allege that VEREIT improperly and artificially inflated its reported Adjusted Funds from Operations ("AFFO"), a common measurement of Real Estate Investment Trust ("REIT") performance.

SETTLEMENT AMOUNT: $1,025,000,000

SECURITY:
Common stock, preferred stock, or debt securities of American Reality Capital Properties

COURT: United States District Court for the Southern District of New York

JUDGE: Honorable Alvin K. Hellerstein

CLAIMS ADMINISTRATOR: Gilardi & Co. LLC

CLASS COUNSEL:
Robbins Geller Rudman & Dowd LLP

LEAD PLAINTIFF: Teachers Insurance and Annuity Association of America

INITIAL COMPLAINT FILED: October 30, 2014

PRELIMINARY APPROVAL ORDER ENTERED:
October 4, 2019

FINAL APPROVAL ORDER ENTERED:
January 21, 2020

CLAIM FILING DEADLINE: January 23, 2020

An Overview

In 2014, American Realty Capital Properties disclosed that some of its financial results were overstated.

In 2014, American Realty Capital Properties, now VEREIT, disclosed that some of its financial results were overstated. ARCP's Audit Committee also revealed that the financial errors were identified, but intentionally not corrected, and other errors in other financial metrics, including adjusted funds from operations, were intentionally made. This revelation led to a 36% stock drop and five years of litigation.

The resulting $1.025 billion settlement represents approximately 50% of the lead plaintiff's estimated recoverable damages—which by itself is remarkable when considering that the median settlement in a claim by investors of $1 billion or more is less than 3%.

In addition to the shareholder class action, VEREIT settled with the SEC on June 23, 2020, agreeing to pay an $8 million fine that will be distributed to harmed investors as part of a Fair Fund. The claims filing deadline for the VEREIT Fair Fund has not been announced as of the date of this report.

The Administrative Challenges

Multiple eligible security types

There are over 10 types of securities that are included in this matter: (a) ARCP common stock purchased during the class period between February 28, 2013, and October 29, 2014, inclusive; (b) 8 ARCP debt securities purchased at the initial offering on or about July 23, 2013, or purchased during the eligible period; (c) ARCP preferred stock purchased at the initial offering on or about January 3, 2014, or purchased during the eligible period; (d) ARCP common stock received as a result of the ARCT IV Merger or the Cole merger that occurred during the class period; and (e) ARCP preferred stock received as the result of the ARCT IV Merger.

IMPACT: First, identifying these types of securities through a standard portfolio monitoring process is difficult because the acquisition may not be reflected as a "purchase" in the underlying transactional data. Second, even after the transactions have been identified as eligible, additional work is required to ensure all data is populated into the required filing format prior to submission. Failure to accomplish either can lead to a failure to file, a reduced distribution or a rejected claim.

Complex recognized loss calculations

The court-approved Plan of Allocation included unusually complicated recognized loss calculations for the eligible security types under both Sections 10(b) and 11 calculations.

IMPACT: This challenge increases the amount of both time and expertise required to accurately calculate each claim's recognized loss amount. An incorrect calculation can lead to claims not being filed and will lessen the ability to review and challenge a claims administrator's determination, if needed.

Corporate actions

The common stock was impacted by two mergers and a follow-on offering, while preferred stock was impacted by one merger during the class period.

IMPACT: Due to the inconsistent nature of transactional records associated with shares acquired pursuant to a merger, separate reviews must be performed to ensure that any shares exchanged in the merger are properly categorized according to the case requirements. Failure to adequately identify shares acquired via a merger can lead to a claim being found ineligible or of lower value.

2 USD LIBOR EuroDollar Futures Settlements

SETTLEMENT

$187M

Just the facts

FULL CASE NAME: *In re LIBOR-Based Financial Instruments Antitrust Litigation* (Master File No. 11-md-2262)

CLASS DEFINITION: All persons (other than defendants, their employees, affiliates, parents, subsidiaries and co-conspirators) that transacted in LIBOR-based Eurodollar futures or options on exchanges such as the Chicago Mercantile Exchange ("CME") from January 1, 2003, through May 31, 2011.

THE ALLEGATIONS: Plaintiffs allege that defendant banks artificially manipulated U.S. Dollar LIBOR and Eurodollar Futures during the class period by misreporting their borrowing costs to the organization that calculated LIBOR. The alleged manipulation of the U.S. Dollar LIBOR rate allegedly caused Eurodollar Futures prices to be suppressed and/or inflated to artificial levels, thereby causing class members to pay artificial prices for Eurodollar Futures during the class period.

SETTLEMENT AMOUNT: $187,000,000 USD across seven settlements

SECURITY: Eurodollar futures contracts and/or options on Eurodollar futures transacted on exchanges, such as the CME.

COURT: United States District Court for the Southern District of New York

JUDGE: Honorable Naomi Reice Buchwald

CLAIMS ADMINISTRATOR: A.B. Data, Ltd.

CLASS COUNSEL: Kirby McInerney LLP and Lovell Stewart Halebian Jacobson LLP

LEAD PLAINTIFFS: Metzler Asset Management GmbH (f/k/a Metzler Investment GmbH), FTC Capital GmbH (advisor to plaintiffs FTC Futures Fund SICAV and FTC Futures Fund PCC Ltd.), Atlantic Trading USA, LLC, 303030 Trading LLC, Gary Francis and Nathanial Haynes

INITIAL COMPLAINT FILED: April 15, 2011

PRELIMINARY APPROVAL ORDER ENTERED: March 2, 2020

FINAL APPROVAL ORDER ENTERED: September 17, 2020

CLAIM FILING DEADLINE: December 1, 2020

An Overview

This litigation is part of a larger, decade-old, multidistrict litigation, *In re LIBOR-Based Financial Instruments Antitrust Litigation.*

The $187 million aggregate settlement pool includes Exchange-Based plaintiffs who transacted in Eurodollars futures contracts and options on Eurodollars futures with seven of the defendant banks (there remain nine non-settling banks still litigating the case). The Exchange-Based plaintiffs allege the defendant banks manipulated the U.S. Dollar London Interbank Offered Rate (LIBOR or U.S. Dollar LIBOR) to benefit their trading positions in the suppression of LIBOR causing the price of Eurodollar futures to be suppressed or artificially inflated during the class period.

The Administrative Challenges

Old class period

The class period begins on January 1, 2003.

IMPACT: Typically, most financial institutions and individuals only keep copies of statements, broker confirmation and house data relating to their accounts for seven years. As such, given the length and the start of this class period, it is hard for a class member to: (a) provide transaction information longer than 7-10 years; and (b) provide any supporting documentation that may be needed. As a result, this could cause the class member to not provide all potentially damaged Eurodollar futures contracts and/or options on Eurodollar futures and impact their potential recognized loss.

Unusually complicated loss formula or "Plan of Allocation"

The court-approved Plan of Allocation was exceptionally complicated and provides for distribution of 75% of the net settlement fund on the basis of pro rata "Recognized Net Loss" and 25% on the basis of pro rata "Recognized Volume." And all of that is subject to a guaranteed minimum payment of $20.

IMPACT: This challenge requires you to first, have a deep understanding of the legal and economic principles in the Plan necessary to build an appropriate algorithm to calculate the damages of your claim. Second, while you will want to do this in every case, it is particularly important in a complicated case like this to ensure proper handling of each claim by the claims administrator.

Complex instruments involved

Unlike most cases, which involve a company's common stock, this case involved Eurodollar futures contracts and/or options on Eurodollar futures transacted on various exchanges.

IMPACT: This challenge impacts a variety of areas of the case. Portfolio monitoring—knowing if you are even eligible—is vastly more complicated. Claim preparation and filing can take hundreds of hours just to get the data in the proper format. And significant quality assurance measures are needed to ensure accuracy and completeness. Further, cases as complicated as these all but ensure a complex audit and deficiency process. In order to be able to handle the claims administrator's requests, your data will need to be in order. In addition, mistakes can happen, and all work—yours and the claims administrator's—should be checked and audited in order to ensure maximum recovery. Finally, if you are recovering on behalf of multiple clients and/or accounts, putting those funds back into the proper account can be complex, and care should be taken.

Identification of hedger or swap dealer

Whether you were identified as a hedger or a swap dealer plays a role in determining if any discounts are applied during the loss formula calculation.

IMPACT: Requires a higher level of review to check and audit the claimant's and the claims administrator's calculations to ensure maximum recovery.

1 Valeant Pharmaceuticals Securities Litigation—Two Parallel Cases

SETTLEMENT

$1.21B USD
$94M CAD

Just the facts (U.S.)

FULL CASE NAME: *In re Valeant Pharmaceuticals International, Inc. Securities Litigation* (3:15-cv-07658)

CLASS DEFINITION: All persons and entities that purchased or otherwise acquired Valeant common stock, Valeant debt securities, or call options on Valeant common stock, or sold put options on Valeant common stock, during the period between January 4, 2013, and March 15, 2016, inclusive.

THE ALLEGATIONS: Plaintiffs allege that Valeant inflated its stock price through a series of fraudulent business practices, including ties to the now-defunct specialty pharmacy, Philidor. Valeant's U.S. listed shares fell over 90% when news of the scandal broke.

SETTLEMENT AMOUNT: $1,210,000,000 USD

SECURITY: Valeant equity securities and Valeant debt securities, including Valeant common stock; options on Valeant common stock, defined to be the purchase or acquisition of call options and the sale of put options; and the following Valeant senior notes: (a) 5.375% senior notes due 2020; (b) 5.875% senior notes due 2023; (c) 6.125% senior notes due 2025; (d) 5.5% senior notes due 2023; (e) 5.625% senior notes due 2021; (f) 6.75% senior notes due 2018; (g) 7.5% senior notes due 2021; (h) 6.375% senior notes due 2020; (i) 7.25% senior notes due 2022; (j) 6.75% senior notes due 2021; and (k) 7.0% senior notes due 2020. This action does not include securities at issue in the Canadian Actions.

COURT: United States District Court for the District of New Jersey

JUDGE: Honorable Michael A. Shipp

CLAIMS ADMINISTRATOR: Gilardi & Co. LLC

CLASS COUNSEL: Robbins Geller Rudman & Dowd LLP

LEAD PLAINTIFF: Teachers Insurance and Annuity Association of America

INITIAL COMPLAINT FILED: October 22, 2015

PRELIMINARY APPROVAL ORDER ENTERED: January 23, 2020

FINAL APPROVAL ORDER ENTERED: June 15, 2020

CLAIM FILING DEADLINE: May 6, 2020

Just the facts (Canada)

FULL CASE NAME: *In re Valeant Pharmaceuticals International, Inc. Securities Litigation* (500-06-000783-163)

CLASS DEFINITION:
Primary Market Sub-Class: All persons and entities, wherever they may reside or may be domiciled, who, during the period February 28, 2013, to November 12, 2015, acquired Valeant's securities in an offering, and held some or all of such securities at any point in time between October 19, 2015, and November 12, 2015, excluding any claims in respect of Valeant's securities acquired in the U.S. (but not excluding any claims in respect of Valeant's 4.5% Senior Notes due 2023 offered in March 2015).

Secondary Market Sub-Class: All persons and entities, wherever they may reside or may be domiciled who, during the period February 27, 2012, to November 12, 2015, acquired Valeant's securities in the secondary market and held some or all such securities at any point in time between October 19, 2015, and November 12, 2015, excluding any claims in respect of Valeant's securities acquired in the United States.

THE ALLEGATIONS: Investors allege that Valeant artificially inflated the price of its shares through a series of material misrepresentations and fraudulent business practices between February 27, 2012, and November 12, 2015.

SETTLEMENT AMOUNT: $94,000,000 CAD

SECURITY: (a) Valeant common shares (purchased pursuant to one of nine different offering memoranda or prospectuses); (b) Valeant 6.75% senior notes due 2018 (2018 6.75% Notes); (c) Valeant 7.50% senior notes due 2021 (2021 7.50% Notes); (d) Valeant 5.625% senior notes due 2021 (2021 5.625% Notes); (e) Valeant 5.50% senior unsecured notes due 2023 (2023 5.50% Notes); (f) Valeant 5.375% senior unsecured notes due 2020 (2020 5.375% Notes); (g) Valeant 5.875% senior unsecured notes due 2023 (2023 5.875% Notes); (h) Valeant 4.50% senior unsecured notes due 2023 (2023 4.50% Notes); and (i) Valeant 6.125% senior unsecured notes due 2025 (2025 6.125% Notes).

COURT: Superior Court of Québec

JUDGE: Justice Peter Kalichman

CLAIMS ADMINISTRATOR: Epiq Systems, Inc.

CLASS COUNSEL: Siskinds LLP and Faguy & Co.

LEAD PLAINTIFFS: Mr. Celso Catucci and Ms. Nicole Aubin

INITIAL COMPLAINT FILED: August 29, 2017

PRELIMINARY APPROVAL ORDER ENTERED: October 6, 2020

FINAL APPROVAL ORDER ENTERED: November 16, 2020

CLAIM FILING DEADLINE: February 15, 2021

An Overview

This U.S. class action is the largest settlement against a pharmaceutical manufacturer.

Valeant Pharmaceuticals International (now Bausch Health Companies) was a Canadian pharmaceutical company that for a period of several years allegedly artificially inflated revenues and profits through a clandestine network of pharmacies, deceptive pricing and reimbursement practices, and fictitious accounting. When news of this practice broke, investors saw Valeant's stock drop 90% over the course of two years, wiping out over $100 billion in shareholder equity.

As is often the case in securities class actions involving Canadian-domiciled companies, there were parallel, or sister, class actions filed in the United States and Canada. The U.S. action is the largest settlement against a pharmaceutical manufacturer, and the ninth largest settlement since the passage of the Private Securities Litigation Reform Act of 1995 (PSLRA).

SEE ADMINISTRATIVE CHALLENGES PAGE 28 > > >

The Administrative Challenges (continued from page 27)

Unusually complicated loss formula

For the U.S. settlement: (a) Section 10(b) of the Exchange Act recognized losses will be calculated for common stock shares, debt securities and call and put options; (b) Section 20A of the Exchange Act recognized losses will be calculated for common stock purchases between June 1, 2015, and June 15, 2015, these losses will supersede any recognized loss calculated for these shares under Section 10(b); and (c) for common stock shares purchased pursuant to the March 2015 offering, a Section 11 recognized loss will be calculated for these shares, and the claimant will receive the larger recognized loss amount of either the Section 10(b) amount or Section 11 amounts. A claimant must have suffered an overall market loss with respect to their overall transactions in Valeant securities during the class period. To the extent that the market loss is less than the claimant's Recognized Claim, the Recognized Claim will be limited to the amount of the market loss.

IMPACT: This challenge leads to a more complicated and involved review and quality assurance process to confirm the accuracy and completeness of the claims administrator's findings and to ensure an accurate recovery.

Multiple eligible security types

Between the two cases, there are more than a dozen types of eligible Valeant securities, including common stock; options on Valeant common stock; defined to be the purchase or acquisition of call options and the sale of put options; and many various Valeant senior notes.

IMPACT: First, identifying these types of securities through a standard portfolio monitoring process is difficult because the acquisition may not be reflected as a "purchase" in the underlying transactional data. Second, even after the transactions have been identified as eligible, additional work is required to ensure all data is populated into the required filing format prior to submission. Failure to accomplish either can lead to a failure to file, a reduced distribution, or a rejected claim.

Last-in, first-out (LIFO)

For the Canadian case, the Plan of Allocation uses the principle of last-in first-out (LIFO)—wherein securities are deemed to be sold in the opposite order that they were purchased—in the calculation. In other words, the last securities purchased are deemed to be the first sold. Note that this is different from the United States case, where first-in, first-out (FIFO) is used.

IMPACT: This type of calculation is not typical in most securities matters. Given that class members are responsible for calculating their own claims, this can cause issues in determining the true last-in and first-out transactions. Further, it is our experience that filers and even claims administrators do not apply LIFO matching consistently, so additional care is needed.

An international exchange

For the Canadian case, eligible securities include Valeant's common stock purchased on any secondary market, including international exchanges, such as the Toronto Stock Exchange in Canada, except for trading venues in the United States, such as the New York Stock Exchange.

IMPACT: Locating eligible security purchases requires a higher-level review of the transactions to confirm they were completed on the correct exchange.

Complex recognized loss calculations

For the Canadian settlement, the primary market sub-class, shares are determined to be eligible or non-eligible based on their respective purchase and sales dates and such purchase must be pursuant to one of nine different offering memoranda or prospectuses. After offsetting profits for those purchases, the compensable damages must then be risk adjusted to determine a claimant's compensation from the net settlement fund, which itself will be distributed on a pro rata basis.

IMPACT: Complex recognized loss calculations increase the amount of both time and expertise required to accurately calculate each claim's recognized loss amount. An incorrect calculation can lead to claims not being filed and will lessen the ability to review and challenge an administrator's determination, if needed.

Honorable Mentions

FOR COMPLICATED ASSET RECOVERY OPPORTUNITIES IN 2020

Namaste Technologies, Inc. Securities Litigation (Two Cases)

(CV-17584809-00CP (CA); 1:18-CV-10830 (U.S.))

SETTLEMENT AMOUNT:
COMBINED $4,900,000 USD
($2,150,000 million: CA; $2,750,000: U.S.)

SUMMARY: There were two separate actions taken against Namaste Technologies, Inc., a Canadian cannabis e-commerce company. As is often the case when Canadian-domiciled companies litigate shareholder lawsuits, there was a related sister case in the U.S., which also settled in 2020. The principal allegations for each case involve similar allegations regarding misstatements and omissions about divestiture of Namaste's U.S. operations in December 2017.

ADMINISTRATIVE COMPLICATIONS AND IMPACT: One complication of the Canadian Namaste action is something we've seen trending in other Canadian securities class actions—that is, the judicial requirement that each claimant include with their claim form complete loss calculations. In this instance, we're talking about a nineteen-step calculation—this means that a class member must have a full understanding of the Plan of Allocation before submitting its claim. Failure to do so, and do so correctly, could result in a reduced payout or rejected claim. Moreover, the Canadian action is also using the principle of last-in first-out ("LIFO") to calculate qualified Namaste shares. Under LIFO, securities are deemed to be sold in the opposite order that they were purchased, which is not typical in most securities matters. Given that class members are responsible for calculating their own claims, this can cause issues in determining the true last in and first out transactions. Further, it is our experience that filers and even claims administrators do not apply LIFO matching consistently, so additional care is needed.

Endeavour Resources, Inc. Securities Litigation

(Court File 02-CV-241587CP)

SETTLEMENT AMOUNT:
$3,285,000 CAD

SUMMARY: This case involves Aspen's take-over bid circular and offer to purchase Endeavour Securities. Plaintiffs allege that throughout the take-over process, defendants made material misrepresentations and omissions and it has been ongoing for over a decade. Between 2010 when the case was first certified and 2019 when the case was scheduled for trial, there were three settlements with various officer defendants, their counsel, and auditors. The penultimate settlement was filed on August 8, 2019.

ADMINISTRATIVE COMPLICATIONS AND IMPACT: Significantly, this case involved a Corporate Action—shares exchanged in a take-over. The Distribution Protocol provides that any claimant who establishes that they are a class member will receive a share of the net settlement fund based on the number of Endeavour securities they tendered into the take-over and if they sold the Aspen common shares received in the take-over at a loss or held those Aspen common shares at the time Aspen common shares were delisted from the TSX, they may claim a greater percentage of the net settlement fund. Due to the inconsistent nature of transactional records associated with shares acquired pursuant to a take-over, separate reviews must be performed to ensure that any shares exchanged are properly categorized according to the case requirements. Failure to adequately identify shares acquired via a take-over can lead to a claim being found ineligible or of lower value. This is further complicated by the fact that all eligible transactions occurred nearly two decades ago on an international exchange.

Euroyen Antitrust Litigation (Two Settlements)

(12-CV-3419; 15-CV-5844)

SETTLEMENT AMOUNT:
COMBINED: $71,000,000 USD
($31,750,000 Sonterra Action; $39,250,000 Laydon Action)

SUMMARY: These related class actions run adjacent to the global investigation of the LIBOR scandal—in which it is alleged that several of the world's largest banks colluded with one another to manipulate LIBOR to benefit their own trading positions. In 2012, plaintiffs filed suit against more than 20 banks that sit on LIBOR and TIBOR panels for conspiring to fix rates by submitting agreed-upon estimates. The $71 million settlement here is the sum of two group settlements, including eight Japanese banks. Previous settlements with various other banks have been reached on similar terms and are estimated to be worth an additional $275 million.

ADMINISTRATIVE COMPLICATIONS AND IMPACT: These related cases present a host of challenges, including: (a) the sheer number of eligible securities, compounded by the fact that there are no known security identifiers for Euroyen-Based Derivatives making portfolio monitoring vastly more complicated. Claim preparation and filing can take hundreds of hours just to format the data as required by the claims administrator; (b) This is not simply a purchaser class—that is—

financial institutions and their clients who purchased, sold, held, traded, or otherwise transacted in Euroyen based derivatives during the class period had significant asset recovery opportunities. Such a unique quality requires a bespoke process to identify qualifying securities and claims; (c) The court-approved Plan of Allocation was exceptionally complicated. The determining factor for payment eligibility is dependent on the amount of "Artificiality" that was either paid, or received, by the class member across all Euroyen-based derivative transactions which included a downward risk adjustment of 25% in the weighting of CME Yen Currency Futures Contract Transactions. This requires you to have a deep understanding of the legal and economic principles in the Plan of Allocation necessary to build an appropriate algorithm to calculate the damages of your claim and ultimately leads to a more complicated and involved review and quality assurance process to confirm the accuracy and completeness of the claims administrator's findings and to ensure an accurate recovery; (d) And to top it off, all eligible transactions occurred over a decade ago, when most financial institutions and individuals only keep copies of statements, broker confirmation and house data relating to their accounts for seven years.

Henry Schein, Inc. Securities Litigation

(1:18-CV-01428)

SETTLEMENT AMOUNT:
$35,000,000 USD

SUMMARY: Henry Schein, Inc. is one of the largest distributors of health care products and equipment in the United States with reported worldwide net sales of approximately $12.5 billion in 2017—half of which owing to its dental distribution business. Plaintiffs allege that throughout the class period, Henry Schein made materially false and misleading statements about its North American Dental business, including that the business was operating in a competitive environment—allegations which arose after the Federal Trade Commission filed its complaint, alleging violations of U.S. antitrust laws—including that Henry Schein had sought to reduce competition by entering into agreements with two of the nation's other largest distributors of dental products.

ADMINISTRATIVE COMPLICATIONS AND IMPACT: This case had one significant complication precipitated by a corporate action, wherein Schein common stock experienced a 2-for-1 stock split during the class period. Class members were instructed to report numbers of shares purchased, sold, or held and per-share purchase and sale prices based on the share prices and share amounts in effect at the time of those transactions or holding dates without taking the subsequent stock split into account. This adds an additional layer of complexity to the Plan of Allocation requiring additional steps to adjust for the splits in the purchase and sale prices in order to properly calculate claims.

Flowers Foods Securities Litigation

(7:16-CV-00222)

SETTLEMENT AMOUNT:
$21,000,000 USD

SUMMARY: Flowers Foods is a producer and marketer of packaged bakery foods, such as Wonder Bread and Dave's Killer Bread in the United States. The principal allegations in the case concern the company's "labor strategy" of intentional misclassification of its distributors as independent contractors, which ultimately led to several class action complaints under the Fair Labor Standards Act and Department of Labor investigations, wiping out shareholder equity in the process.

ADMINISTRATIVE COMPLICATIONS AND IMPACT: Similar to the Henry Schein matter, this case includes a corporate action that further complicated the claims filing process. Flower Foods common stock also experienced a stock split during the class period: 3-for-2. Again, this adds an additional layer of complexity to the Plan of Allocation, requiring additional steps to adjust for the splits in the purchase and sale prices in order to properly calculate the claims. Moreover, this stock split was omitted from the notice, requiring extra vigilance to identify and adjust for the split in the purchase and sale prices in order to properly calculate claims.

Equifax Securities Litigation

(1:17-CV-03463)

SETTLEMENT AMOUNT:
$149,000,000 USD

SUMMARY: This securities class action is part of the larger Multidistrict Litigation arising out of the Equifax data breach that occurred between May and June of 2017 where an estimated 147.9 million Americans, 15.2 million British citizens and 19,000 Canadian citizens had their private records compromised. This securities fraud class action alleges that Equifax falsely represented to investors that it was in compliance with applicable data protection laws and cybersecurity best practices.

ADMINISTRATIVE COMPLICATIONS AND IMPACT: The most significant challenge for this case comes from the court-approved Plan of Allocation, which requires class members to calculate the price impact on Equifax common stock that the five alleged corrective disclosures had throughout the class period. This challenge leads to a more complicated and involved review and quality assurance process to confirm the accuracy and completeness of the claims administrator's findings and to ensure an accurate recovery.

SCANA Securities Litigation

(3:17-CV-2616)

SETTLEMENT AMOUNT:
$192,000,000 USD and Equity
($160,000,000 cash and $32,500,000 in cash or shares of Dominion Energy, Inc. common stock)

SUMMARY: SCANA Corporation was South Carolina's largest publicly traded utility. In 2008, it began the construction of two nuclear reactors—at the time committing to completing construction by January 2021. Investors allege that by October 2015, SCANA was fully aware that it would not complete construction of the reactors to well past 2021. Despite this, investors allege that SCANA continued to reaffirm that the project would be completed by 2020, in a series of fraudulent misrepresentations and omissions. Construction was ultimately abandoned in July 2017 after expending nearly $9 billion on the project. In January 2019, the Virginia-based Dominion Energy purchased SCANA and SCANA's stock was delisted by the NYSE. The $192.5 million settlement in this case will be paid out in cash and, if SCANA elects, shares of Dominion Energy common stock.

ADMINISTRATIVE COMPLICATIONS AND IMPACT: The sheer number of alleged corrective disclosures that occurred throughout the class period greatly complicated the court-approved Plan of Allocation. With no fewer than 15 alleged corrective disclosures that must be accounted for when calculating the price impact on SCANA common stock, this case necessarily involved a more complicated and involved review and quality assurance process to confirm the accuracy and completeness of the claims administrator's findings and to ensure an accurate recovery.

Freshpet, Inc. Securities Litigation

(2:16-CV-02263)

SETTLEMENT AMOUNT:
$10,100,000 USD

SUMMARY: Freshpet manufacturers and distributes refrigerated food for cats and dogs through a network of Freshpet-branded refrigerators located in retail stores and other retail outlets. Plaintiffs allege that defendants failed to disclose material adverse facts about the company's true financial condition, business and prospects, specifically regarding its ability to install the number of Freshpet Fridges at the levels previously communicated to investors. By the time Freshpet accurately disclosed its true financial results and prospects in its quarterly disclosures, its common stock had fallen nearly 60%.

ADMINISTRATIVE COMPLICATIONS AND IMPACT: This case was complicated because recognized losses were calculated separately for the Section 10(b) and Section 11 settlement classes. Generally, settlements involve a single calculation of losses across all eligible transactions in a case. In this case, the court-approved Plan of Allocation called for loss calculations to be made separately for each settlement class. This challenge requires a more complicated review and quality assurance process to confirm accuracy of the claims administrator's findings and ensure distributions are accurate for the filer.

Puma Biotechnology, Inc. Securities Litigation

(8:15-CV-00865)

SETTLEMENT AMOUNT:
Estimated: $55,000,000 USD
(Jury verdict, awarding up to $4.50 per share as damages)

SUMMARY: Puma Biotechnology, Inc. is a development-stage pharmaceutical company that, during the relevant period, focused primarily on the development of neratinib, a breast cancer treatment drug. Plaintiffs filed this lawsuit alleging that Puma misrepresented neratinib's safety and effectiveness to investors. In a rare occurrence, this case went all the way to trial. After a two-week trial, the jury delivered a verdict for the plaintiffs and in February 2019, awarded $4.50 per share as damages. This is notable because the last time a Section 10 class action brought under the Private Securities Litigation Reform Act of 1995 went to verdict was a decade ago.

ADMINISTRATIVE COMPLICATIONS AND IMPACT: There were two main complications in this case that made the administration of this case more difficult than normal. The first involves the Plan of Allocation's use of the last-in first-out (LIFO) method of calculation, wherein securities are deemed to be sold in the opposite order that they were purchased. In other words, the last securities purchased are deemed to be the first sold. This type of calculation is not typical and causes issues in determining the true last-in and first-out transactions. Further, it is our experience that filers and even claims administrators do not apply LIFO matching consistently, so additional care is needed. The second complication stemmed from the fact that this case was the result of a jury verdict. In cases like this, it is not uncommon for the claims administrator to request supporting documentation for many, if not all, of the claims filed electronically in the case. As a result, it is necessary for filers to undertake the time-intensive process of gathering copies of all required supporting documentation (i.e., broker statements, clearing house blotters or other independent, third-party verification of the transactions) before their claims will be deemed eligible.

Signet Jewelers Limited Securities Litigation

(1:16-CV-06728)

SETTLEMENT AMOUNT:
$240,000,000 USD

SUMMARY: Signet, whose brands include Jared, Kay Jewelers and Zales, is a large jewelry retailer that owns thousands of stores in North America and the United Kingdom and offers in-house credit to its customers for their purchase. Plaintiffs allege that throughout the class period, Signet misrepresented the credit quality of its in-house loan portfolio, its underwriting process, and its loan loss reserves in addition to misleading investors about its efforts and progress in remedying existing long-standing allegations of systemic sexual harassment at the company. This settlement is notable as being the first #MeToo related, at least in part, securities class action settlement.

ADMINISTRATIVE COMPLICATIONS AND IMPACT: The first challenge is that the Plan of Allocation uses LIFO in the calculation, which is the principle of last-in first-out, wherein securities are deemed to be sold in the opposite order that they were purchased (i.e., the last securities purchased are deemed to be the first sold). This can cause issues in determining the true last-in and first-out transactions and further, it is our experience that filers and even claims administrators do not apply LIFO matching consistently, so additional care is needed. The second challenge is that the recognized loss calculations were complex; for example, the Plan of Allocation includes three loss limit tables that must be applied when calculating recognized loss or gain amounts for each purchase, sale, or holding depending on the timing of the transaction, which itself can fall into one of four different categories, and the class period spans four different inflation periods where Signet released more insider information. The ability to accurately calculate a claim's recognized loss is significant as it serves as the basis for all audits and quality assurance work conducted by the filer. Inaccurate calculations can lead to the loss of money as the filer is unable to accurately review and confirm the determinations of the claims administrator.

ABOUT BROADRIDGE

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When it Comes to Recovering on Securities Class Actions, More Money Means More Complexity

Ross Todd from The AM Law Litigation Daily interviews Steve Cirami, VP, Head of Class Actions and Corporate Actions at Broadridge.

Please forgive us as we paraphrase the late, great economic philosopher The Notorious B.I.G.

In the securities class action world, the settlements just keep getting bigger. And for folks on the receiving end of those settlements, the recovery opportunities just keep getting more complicated. That's according to the latest report (/report/global-class-action-2nd-annual-report) on securities class action recovery opportunities from Broadridge, a fintech company that helps track litigation and navigate the claims process for institutional investors including hedge funds, pensions, asset managers, and broker-dealers. Broadridge, which tracked more than 150 new settlements totaling more than $6 billion last year, **for the second year (https://www.law.com/litigationdaily/2020/07/30/your-settlement-is-approved-things-just-got-complicated/)** ranked what it considers the year's 10 most complex recovery opportunities. Those top 10 alone totaled $3.4 billion. To paraphrase the late, great economic philosopher The Notorious B.I.G., when it comes to class action asset recovery opportunities, more money means more complexities.

The Litigation Daily **once again (https://www.law.com/litigationdaily/2020/07/30/your-settlement-is-approved-things-just-got-complicated/)** caught up with **Steve Cirami**, the head of Broadridge's class action team and a former litigator at **King & Spalding** and **Clifford Chance**, to discuss the findings of the annual surveys. The following has been edited for length and clarity.

Litigation Daily: What's changed in the class action recovery world over the past year? Have changes implemented by courts to deal with the pandemic affected class action asset recovery opportunities?

Steve Cirami: I think the pandemic had an effect on new class action filings last year, but not so much in asset recovery opportunities, which is what we look at when they get to the settlement phase. Since **our last report that covered 2019 (/_assets/pdf/broadridge-classaction-report-070920.pdf)**, there have been a few material changes in terms of securities class action opportunities.

First, we've been seeing the globalization of class actions for a while, but last year was really a big year for that. There were a number of countries that have implemented either progressive laws or even completely new laws allowing class actions. The big one was the E.U. Parliament passing a collective action measure across all of Europe. So, countries that previously didn't have them now have a few years to implement class action laws. And that's going to continue to increase the opportunities globally, but also the complexities.

Another big change we saw at Broadridge is with broker-dealers, who didn't traditionally provide claims-filing and asset recovery services. We've seen a lot of adoption there and a lot now have efforts in the pipeline. So, I think you're going to see a lot more retail investors start recovering because they're getting that service through their broker-dealer.

Does this mean that the percentage of shareholders filing claims is expected to go up? And does that have the potential to make these cases any more difficult, or expensive, to settle?

I think the answer is yes, we're going to see a lot more participation by retail investors as their brokers provide that service. I think historically retail investors would have to fill out a claim form and something like 10% of them would file or even less. You get that form, and it's hard to get all the data. But when broker-dealers are providing the service directly or through a third party provider like Broadridge, you'll see a material increase in that participation.

It won't increase the cost of settlement per se. I think claims administration costs will go up a little bit because the volumes are going up. But it's going to mean a significant lift in terms of data. You're talking about potentially millions of account holders who are now actively participating in the infrastructure of settlements who previously weren't.

You say that more than 140 new settlements were reached in 2020, totaling more than $6 billion. But the 10 most complex class action (/_assets/pdf/broadridge-bfs-classaction-report.pdf) cases that you list tally settlements total over $3.4 billion. Is there a natural correlation between size and complexity in these cases?

Yes there is. We saw that in our first annual report as well, and we've seen that trend continue. The largest cases tend to be the most complex by their very nature. They sometimes involve antitrust laws. They often involve thousands of securities in one settlement. For example, in the LIBOR bondholder case you have over 40,000 eligible CUSIPs (Committee on Uniform Securities Identification Procedures numbers). In the GSE bond case there are over 70,000 CUSIPs. Those are both securities cases, but they're really broader antitrust laws, so you've got a lot of different issues.

And even in a large, straightforward securities case you have many different material drops over the course of a class period. They tend to go back longer in timeframes, so you have a longer class period. So yes, the larger ones are more complex. But also the cases are just generally becoming more complex, especially as you start seeing new jurisdictions and new countries have different laws and the way they look at these things.

The Valeant Pharmaceuticals settlement landed the plaintiffs lawyers at Robbins Geller "Litigator of the Week" (https://www.law.com/litigationdaily/2021/02/05/litigators-of-the-week-how-robbins-geller-landed-a-1-2b-settlement-in-the-valeant-pharmaceuticals-securities-case/) honors back in February. It also landed atop your list of top 10 most complicated class action asset recovery opportunities. Can you walk me through what made it so complicated from an asset recovery standpoint?

Sure. First, you've got two separate litigations: One in the U.S. and one in Canada. They settled on different timelines. They had different, sometimes overlapping requirements. You've got to really analyze both of them. Depending on where you reside, you could be in one, or both, or make a decision between the two cases.

Then you've got another different securities types. Historically, you have straightforward, one-CUSIP securities litigation where you pull your transactions and you file them. Here, if you're either a large retail investor or an institutional investor, you've got to make sure you've got your data across all eligible securities types. You have to know what they are. Sometimes the claims administrator does not tell you "Here are the eligible CUSIPs." The document will say "all eligible securities that have been traded during the class period." So then you have to figure it out. You've got to Bloomberg and run all the CUSIPs or you've got to know what bonds and what debt instruments were out there.

We had one client who engaged us right after they filed in this case. They didn't realize that all of their options transactions were eligible and they needed to file for those. You need to really know what you're looking for when you're looking to pull all the data.

This case had a very complicated recognized loss formula. That is not necessarily a claim filing requirement. Some cases end up having investors do their own loss calculations. Here you don't have to do it. But if you don't actually calculate your own losses, you don't necessarily know if the claims administrator has all your right data, that they handled it the right way, and that you're going to get paid out in the right amount. So, it's important, if you've got big funds and you've got big losses that you're able to calculate them on your own so that you know on the back end that the payment you're getting matches what was supposed to be provided pursuant to the court orders.

In addition to that being difficult, most calculations in securities class actions have been FIFO calculations, first-in, first-out. This one applied the reverse. You see maybe one or two out of a hundred that do that.

And again you've got multiple exchanges. This was traded on the Canadian exchanges and the U.S. exchanges. You've got to really match up those trades and make sure those trades were on the right exchange for what you're filing for. Absent that, your claim can get rejected. So you have to make sure you're keeping your data the right way and you're completing your claims forms in a fulsome way.

We're nearly halfway 2021. I know you track these things in real time. How is this year shaping up so far?

It's been busy. There've been roughly 80 settlements so far where we've filed claims for our clients. There have been no billion-dollar settlements. Last year we had two. So, the total dollar amount is trending below where we were last year. We're at roughly $2 billion so far. But 80 cases is quite a lot.

Ross Todd *is the Editor/columnist for the Am Law Litigation Daily. He writes about litigation of all sorts. Previously, Ross was the Bureau Chief of The Recorder, ALM's California affiliate. Contact Ross at rtodd@alm.com. On Twitter: @Ross_Todd.*

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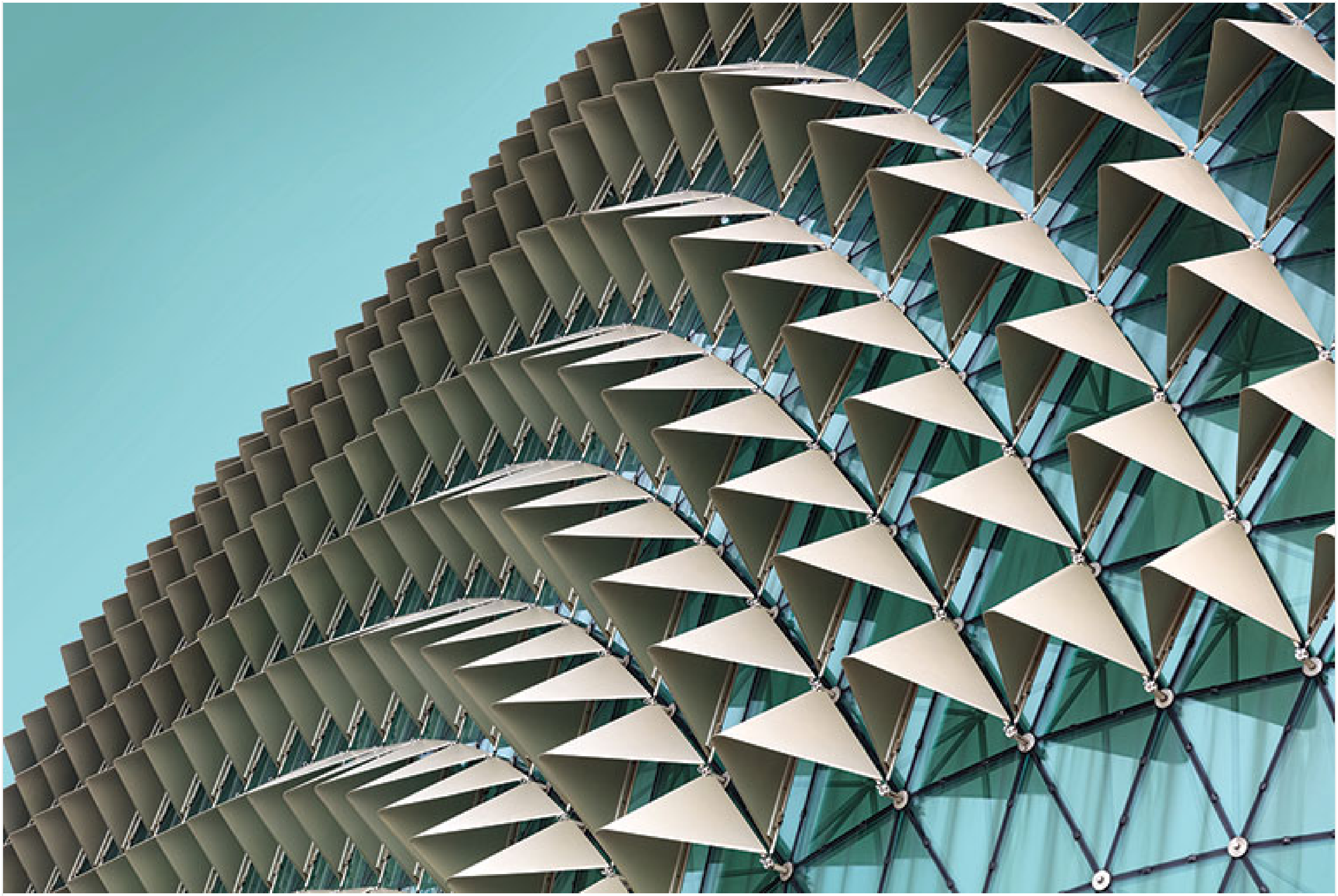

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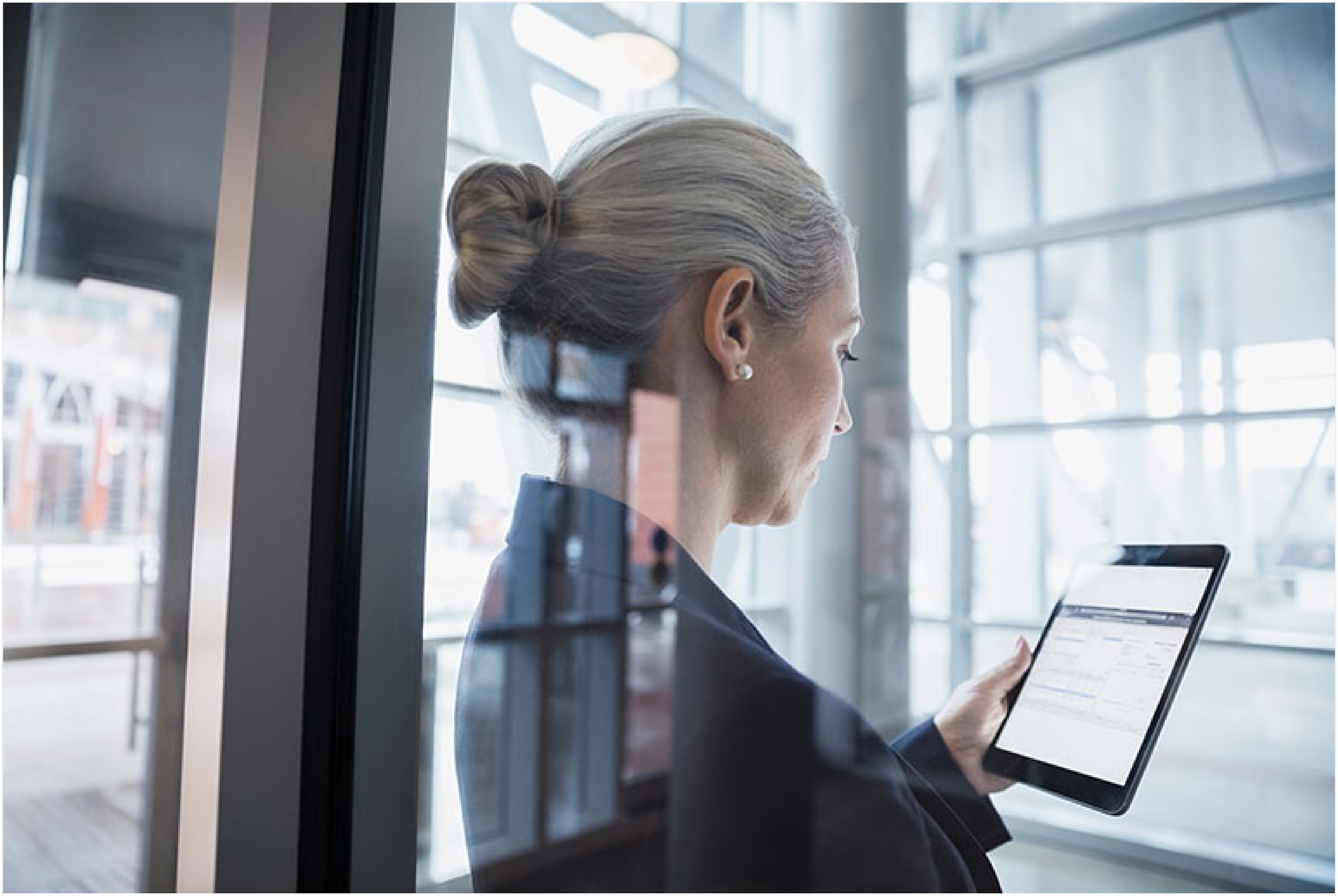

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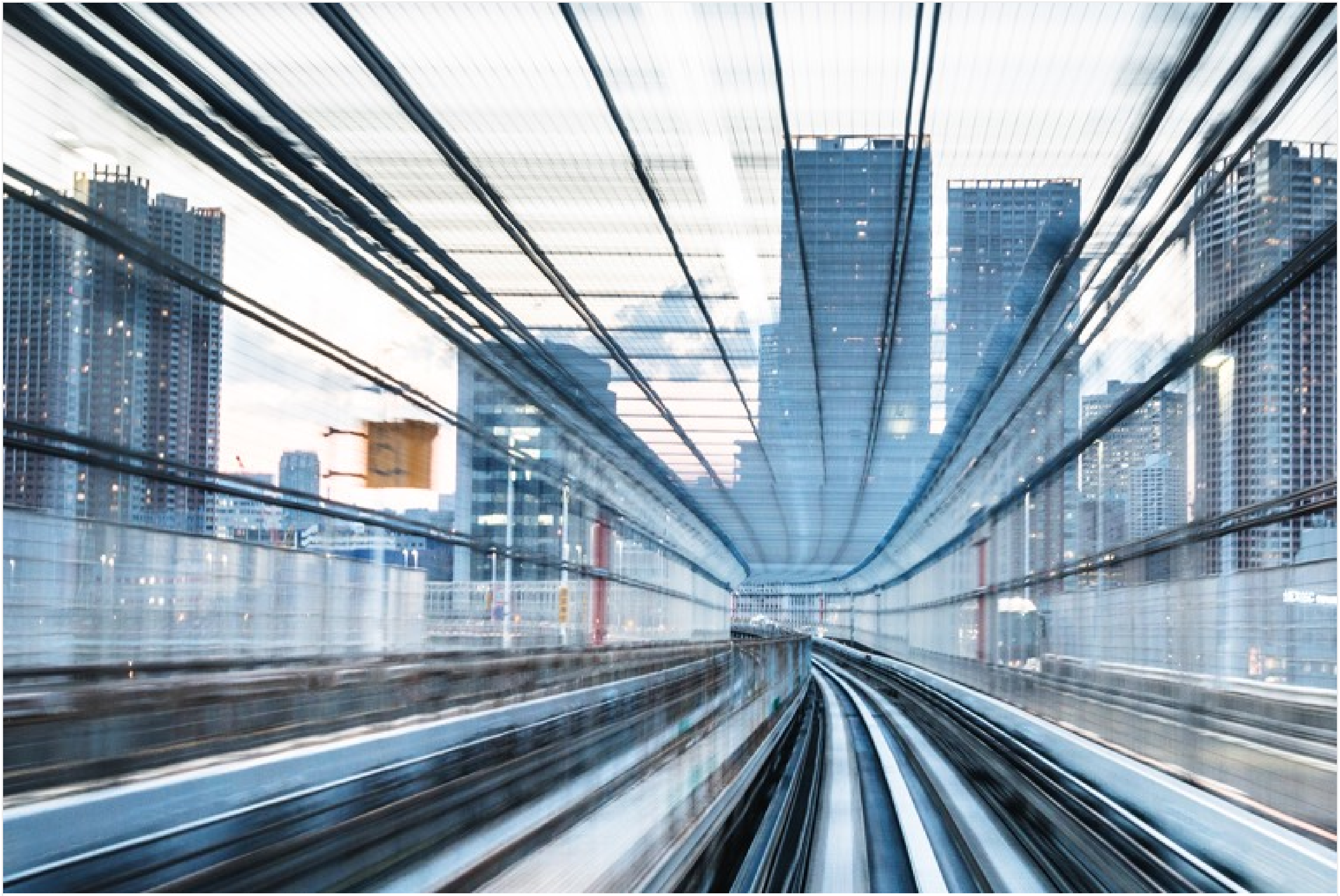

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