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**Securities Class Action Trials  
in the Post-PSLRA Era**

July 24, 2012

## Part I: Securities Class Action Trials Based on Post-Reform Act Conduct Resulting in a Jury Verdict or Bench Decision at Trial

Eleven securities class action cases have been tried to a verdict since 1996, where the conduct at issue was alleged to have occurred after the PSLRA was enacted.

- ***In re Health Management Sec. Litig.*** (BDO Seidman, LLP) (E.D.N.Y. 1999) - Defendant BDO received a defense verdict in a class action seeking \$37 million for BDO's alleged participation in accounting fraud and failure to uncover accounting abuses.
- ***In Re Real Estate Associates Limited Partnerships*** (C.D. Cal. 2002) -Tried to a \$184 million jury verdict, later settled for \$83 million.
- ***In re Clarent Corp.*** (N.D. Cal. 2005) - Bernstein Litowitz reportedly “obtained only the second securities fraud class action verdict in favor of investors since the 1995 passage of the PSLRA.”
- ***Miller v. Thane International*** (C.D. Cal. 2005) - Defense verdict following a bench trial. Verdict overturned by 9th Circuit in 2007. Retrial resulted in another defense verdict.
- ***In re JDS Uniphase Corp Sec. Litig.*** (N.D. Cal. 2007) - Defense verdict following four weeks of trial.
- ***In re Apollo Group Inc. Sec. Litig.*** (D. Ariz. 2008) - \$280 million jury verdict for plaintiffs after two months of trial. Verdict overturned by judge, post-trial, but reinstated by Ninth Circuit in June 2010. Apollo’s cert petition was denied in March 2011, and the case settled in November 2011 for \$145 million.

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- ***Jaffe v. Household Intl.*** (N.D. Ill. 2009) - In a bifurcated trial, finding of liability for plaintiffs after several weeks of trial. Damages phase to start next.
- ***In Re American Mutual Funds Fee Litig.*** (C.D. Cal. 2009) - Judgment entered for defendants after a bench trial.
- ***In re Vivendi Universal S.A. Sec. Litig.*** (S.D.N.Y. 2010) - Jury verdict for plaintiffs on liability, loss causation, and per-share damages. Post-trial motions have narrowed the class based on the Morrison (NAB) decision.
- ***BankAtlantic Bancorp*** (S.D. Fla. 2010) - Verdict for plaintiffs on liability in November 2010, after several weeks of trial and more than a week of deliberations. Chairman and CEO Alan Levan and CFO Valerie Toalson also found liable. In April 2011, Judge granted defendants motion for judgment as a matter of law and entered judgments in favor of the defendants as to all of the plaintiffs claims. In July 2012, 11<sup>th</sup> Circuit affirmed judgment, but on loss causation grounds.
- ***In re Homestore.com Inc. Sec. Litig.*** (C.D. Cal 2011) - Jury verdict for plaintiffs against Stuart Wolff, the former chairman and CEO of Homestore. All other defendants had previously settled or been dismissed.

## Part II: Securities Class Action Trials Based on Post-PSLRA Conduct Resulting in Settlement or Summary or Default Judgment During Trial

Seven additional securities class action cases have been tried, since 1996 (but not to a verdict), where the conduct at issue was alleged to have occurred after the PSLRA was enacted.

- ***Equisure*** (D. Minn. 1998) - Entry of \$45.3 million default judgment against Equisure, which failed to show up for the trial.
- ***Cypress Funds*** (S.D. Fla. 2003) - \$5 million settlement by First Union after two days of trial.
- ***AT&T Sec. Litig.*** (D. N.J. 2004) - Settled after three weeks of trial for \$100 million.
- ***Safety-Kleen*** (D. S.C. 2005) - Settlement with PricewaterhouseCoopers after jury selection (but before opening arguments); Settlement with the director defendants after several weeks of trial (before closing arguments); and \$200 million judgment as a matter of law against two officers (former CEO and CFO) who did not show up for trial.
- ***WorldCom*** (S.D.N.Y. 2005) - \$65 million settlement with Arthur Andersen after four weeks of trial.
- ***Globalstar*** (S.D.N.Y. 2005) - Settlement during trial with individual defendant for \$20 Million.
- ***Heartland High-Yield/Short Duration High Yield Municipal Bond Funds*** (E.D. Wis. 2005) - Settlement with PricewaterhouseCoopers after presentation of both cases in chief for \$8.25 million.

### Part III: Securities Class Action Trials Based on Pre-PSLRA Conduct Resulting in a Verdict at Trial

Another eleven securities class action cases have been tried to a verdict since 1996, where the conduct at issue was alleged to have occurred before the PSLRA was enacted.

- ***In Re ICN/Viratek Sec. Litig.***, (S.D.N.Y. 1996) - Trial reportedly resulted in a "hung jury" verdict after a six week trial; Case ultimately settled for \$14.5 million.
- ***American Pacific***, (D. Nev. 1996) - Jury trial resulted in a defense verdict . Ninth Circuit affirmed in 1997.
- ***McEwen v. Digitran Systems, Inc.***, (D. Utah 1996) - Mixed verdict, with liability for company and former president, but verdict for auditor, Grant Thornton, and other individual defendants.
- ***NAI Technologies***, (E.D.N.Y. 1996) - Verdict for individuals and corporate defendants after jury trial.
- ***Tricord Systems, Inc.***, (D. Minn 1997) - Three week jury trial resulted in a defense verdict.
- ***Vladimir v. U.S. Banknote Corp.***, (S.D.N.Y. 1997) - Multi-million dollar jury verdict, settled prior to entry of a judgment and ruling on the motions for summary judgment and for a new trial.
- ***Howard v. Hui (Everex I)***, (N.D. Cal. 1998) - Directed verdict for defendant at the close of plaintiffs' case.
- ***Lazar v. James (Biogen)***, (D. Mass. 1998) - 1998 Trial resulted in verdict for defendants.

**Part III: Securities Class Action Trials Based on Pre-PSLRA Conduct Resulting in a Verdict at Trial**

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- ***Helionetics***, (C.D. Cal. 2000) - \$15.4 million jury verdict for plaintiffs against certain of the company's senior officers and directors and the spouse of company's Chairman.
- ***Howard v. Hui (Everex II)***, (N.D. Cal. 2002) - After the Ninth Circuit remanded the case for a new trial, the jury returned a defense verdict.
- ***Claghorn v. Edasco Ltd. (Scorpion Technologies)***, (N.D. Cal. 2002) - Case was originally filed against Scorpion, Scorpion officers, and Grant Thornton, the company's auditor. Case settled against those defendants, and settlement with Grant Thornton included an assignment of claims. Plaintiffs alleged that Edasco had participated in a scheme to deceive Grant Thornton. After a two week trial, the jury returned a verdict against Edasco, for \$5.78 million in compensatory damages and \$165 million in punitive damages. Case then settled for \$10 million.



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