

Corporate & Financial Weekly Digest

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Securities Fraud Claim Dismissed for Lack of Standing

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The U.S. District Court for the District of Nevada dismissed a claim for securities fraud brought under Section 10(b) of the Securities Exchange Act on the ground that plaintiff lacked standing because he had never purchased or sold the securities in question.

Plaintiff was a doctor who worked at defendant Laboratory Medical Consultants (LMC) for 31 years and retired in 2006. LMC redeemed all of plaintiff's stock in accordance with the parties' 2001 Stockholders' Agreement at that time. Under the 2001 Stockholders' Agreement, a portion of plaintiff's deferred compensation benefits was to be secured by an escrow of plaintiff's stock. Plaintiff alleged that his shares were not properly placed in escrow and defendants conspired to defraud him of the value of his shares during the sale of LMC in 2007.

In granting defendant's motion to dismiss, the district court ruled that under Section 10(b), a claim for securities fraud must be made in connection with the purchase or sale of a security. Plaintiff did not allege that he was forced to sell his stock or even that it was sold. He alleged harm based on defendant's action in not placing the stock in escrow, or alternatively, based on defendant's placing the stock in escrow and then converting it. In dismissing the complaint, the court held that "the mere involvement of shares of stock does not bring a transaction within [Section 10(b)]." (*Slaughter v. Laboratory Medical Consultants*, 2011 WL 1486228 (D.Nev. Apr. 19, 2011))

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