

Understanding Securities Class Action Lawsuits

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Abstract

When a company violates securities laws and fraudulently reports financial information, a recourse for investors is to file a securities class action lawsuit. In 2017 alone, there were 412 alleged securities law violations that produced class action lawsuits. This paper analyzes the state of securities class action lawsuits in the United States from economic, geographic and calendar perspectives. Instructions are provided to investors with a potential claim of damages as a result of fraud, with procedural advice if they are part of a group pursuing a class action lawsuit. Further, a look at recent class action filings is provided.

Keywords: class action lawsuits, securities fraud, litigation Understanding Securities Class Action Lawsuits

1. Introduction

"I'm just another lawyer. Just another shark in the dirty water." - Rudy Baylor

In John Grisham's 1995, *The Rainmaker*³ novel, an underprivileged family is represented by a young but eager lawyer, Rudy Baylor. Rudy who has just passed the bar, must do battle against a mammoth law firm of ruthless sharks who represent Great Benefit Insurance Company. Rudy discovered that it was Great Benefit's corporate policy to deny every single insurance claim in 1991 regardless of validity. Great Benefit was gambling on the fact that people from humble means would never consult an attorney. Great Benefit was wrong and the trial ended in a judgment of \$50.2 million, which Great Benefit avoided paying by immediately declaring itself bankrupt. Although, *The Rainmaker* is a fictional novel, Grisham's imagined class action lawsuit could very well be factual. Common citizens are defrauded every day by large corporations without the slightest inclination they are being duped. It is the aim of this paper to educate the common layperson or professional on class action lawsuits in the United States so they can know the facts should they ever become part of one.

2. Breaking down Class Action Lawsuits

According to Cornell Law, a class action complaint is a procedural device that permits one or more plaintiffs to file and prosecute a lawsuit on behalf of a larger group, or "class". Put simply, the device allows courts to manage lawsuits that would otherwise be unmanageable if each class member (individuals who have suffered the same wrong at the hands of the defendant(s)) was required to be joined in the lawsuit as a named plaintiff. See *Hansberry v. Lee*⁴, 311 U.S. 32, 41, 61 S.Ct. 115, 118 (1940).

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³ Grisham, John. *The Rainmaker: A Novel*. New York: Dell, 2012.

⁴ Primary Holding: If a party is not adequately represented in a class action, the judgment in the case is not binding on that party.

An African-American man named Hansberry bought property from a person who had signed a restrictive covenant preventing property owners from selling land to African-Americans. Lee, one of its other signers, argued that the covenant should be enforced to enjoin the sale to Hansberry and that it was presumptively valid, based on an earlier case involving a class of landowners associated with the covenant.

The document would be found valid only if 95 percent of the property owners signed it, and the trial court in the earlier case had made a finding of fact that the 95 percent requirement had been met. The Illinois Supreme Court found that it had

Class action lawsuits are not criminal proceedings; therefore, the complaint must be filed in civil court. Depending on the facts of the underlying dispute, a class action lawsuit can be filed in state or federal court. The United States was the first to utilize this mechanism in the court system, and now class action lawsuits have spread to other countries. In 1833, Equity Rule 48⁵ was passed, which allowed for group litigation, known as representative litigation, to be carried out when an excessive number of similar individual cases had been filed. Ten years later, the Supreme Court further enhanced class actions by stating that individual plaintiffs did not have to be present in court for these suits to be heard. The settlements from a class action lawsuit can reach well into the billions of dollars. The largest settlement in the United States History was the Tobacco Master Settlement Agreement (1998): \$206 Billion⁶ This suit started in 1994 and was backed by 46 State Attorney Generals. It should be noted that the Tobacco Master Settlement Agreement was not technically a class action law suit but its similarity and scope of settlement allow for inclusion in this paper. Philip Morris, R.J. Reynolds, Lorillard, and Brown & Williamson settled with the attorneys general for costs incurred by the states for treating smoking-related illnesses in their Medicaid programs and also protected the companies from future private litigation. The \$206 billion is in the process of being paid to the states over 30 years.

As a non-legally minded individual, receiving a notice in the mail about a class action lawsuit can be very confusing. This paper aims to give an overview of rights as well as steps to take and the options available. Once a class action has been certified, the potential members of the class must be notified. The notice is sent by the law firm. Most courts require that notification be provided in writing if the addresses of potential class members are ascertainable. For example, if the class action is against a drug manufacturer then it could be possible to gather addresses from pharmaceutical records. Additionally, many class action lawsuits are publicized online, in newspapers, and via other forms of media to ensure that all appropriate class members have the opportunity to respond be included.

The document below is a real example of a notice that a member of a class receives in the mail. However, notice can now be given to a member of a class via email or a website.

not been met, but it still upheld the decision. Since the earlier case was a class action, the trial court ruled that the prior judgment would bind all members of the class, including the property owner who sold the land to Hansberry.

⁵ Supreme Court Explanation: Where the parties interested in the suit are numerous, their rights and liabilities are so subject to change and fluctuation by death or otherwise, that it would not be possible, without very great inconvenience, to make all of them parties, and would oftentimes prevent the prosecution of the suit to a hearing. For convenience, therefore, and to prevent a failure of justice, a court of equity permits a portion of the parties in interest to represent the entire body, and the decree binds all of them the same as if all were before the court. The legal and equitable rights and liabilities of all being before the court by representation, and especially where the subject-matter of the suit is common to all, there can be very little danger but that the interest of all will be properly protected and maintained.

⁶"5 Biggest Class Action Settlements or Verdicts Ever." McCune Wright Arevalo, LLP. May 11, 2017. Accessed July 24, 2018. <https://mccunewright.com/5-biggest-class-action-settlements-verdicts-ever/>.

Legal Notice	Legal Notice
<p>Legal Notice TO HOLDERS OF CITIBANK CREDIT CARDS</p> <p>Read This Notice Carefully. A Class Action Lawsuit May Affect Your Rights.</p> <p>A settlement has been proposed in a class action lawsuit relating to credit cards issued by Citibank (South Dakota), N.A. ("Citibank"). This notice is only a summary. A detailed notice of the settlement and your rights is available at http://www.casenosacv06571.com.</p> <p>Description of Litigation. Plaintiff alleges that Citibank imposed increased interest rates due to delinquency or default without giving prior notice. Citibank has denied all allegations of wrongdoing and liability. The Court has not ruled on the merits of Plaintiff's claims or Citibank's defenses.</p> <p>Who Is Included? You are a member of the settlement class if, between May 5, 2002 and May 24, 2010, you had a credit card account with Citibank (South Dakota), N.A., or its predecessor Citibank USA, National Association, and you paid periodic finance charges that were assessed from the beginning of a billing period in which the periodic rate was increased as a result of a default or delinquency that occurred before August 20, 2009.</p> <p>Settlement Payments. Citibank has agreed to establish a settlement fund of \$10 million. Members of the settlement class who timely submit a valid claim form will receive a check for the lesser of \$18 or an equal share of the settlement fund after payment of settlement costs, including certain administration costs and attorneys' fees and costs to class counsel. Plaintiff will request that the Court award \$2.5 million in attorneys' fees and costs to class counsel and \$5,000 to Plaintiff Laura Hoffman for her services as class representative. Any amounts left over will be paid to charity. Under certain circumstances, interest may be paid on certain of these amounts.</p> <p>How Do I Make A Claim? To be entitled to a payment from the settlement fund, you must mail in a claim form by February 11, 2011. Claim forms are available at http://www.casenosacv06571.com or by writing to: Hoffman Claim Form, PO Box 44007, Jacksonville, FL 32231-4007.</p> <p>Other Options. If you don't want to be legally bound by the settlement, you must request exclusion by November 8, 2010, or you will not be able to sue about the legal claims in this case. If you request exclusion, the court will exclude you from the class and you will not get money from this settlement. If you stay in the settlement, you may object to it by November 8, 2010. The detailed notice explains how to exclude yourself or object. If you remain a member of the settlement class, you will be bound by any judgment entered whether or not it is favorable to the settlement class.</p> <p>The Court will hold a hearing in this case (Hoffman v. Citibank (South Dakota), N.A. SACV 06-571 AJG (MLGx)) to consider whether to approve the settlement on December 13, 2010 at 10:00 a.m. before the Honorable Andrew J. Guilford, Courtroom 10D, Ronald Reagan Federal Building and U.S. Courthouse, 411 West Fourth Street, Santa Ana, California 92701-4516. The detailed notice explains what to do if you want to appear at the hearing. Requests to appear must be made by November 8, 2010. For more information, write to class counsel: Barry L. Kramer, Law Offices of Barry L. Kramer, 12428 Promontory Road, Los Angeles, California 90049 or send an email to kramerlaw@aol.com. You may also enter an appearance through your own attorney if you desire.</p> <p>DO NOT CALL OR WRITE TO THE COURT OR THE CLERK OF THE COURT. DO NOT CONTACT CITIBANK ABOUT THE SETTLEMENT. TELEPHONE REPRESENTATIVES ARE NOT AUTHORIZED TO CHANGE THE TERMS OF THE SETTLEMENT OR THIS NOTICE.</p> <p style="text-align: center;">Dated: May 24, 2010 /s/ Andrew J. Guilford, United States District Court Judge</p>	

There is some important verbiage to cite in this notice. First it states who is included. In the notice, it says that the payout for the regular individual is \$18. The named plaintiff in this party - Laura Hoffman - however, will receive \$5,000. And lastly, approximately \$2.5 million in attorney's fees are set to be awarded.

The purpose of a class action lawsuit is to recover damages for a class of people that, otherwise, would be too costly to litigate themselves, especially against a huge corporation. The goal of class action lawsuits is to equalize the playing field with the common individual and corporations with deep pockets. As a collective unit, the class can litigate an issue and get a larger settlement than they would have been able to on their own.

There are multiple steps to take when receiving a class action notice. First, read the notice vigilantly from start to finish. It is important to analyze whether the document is a "first notice". If it is determined the document is a "first notice," the lawsuit has been certified as a class action, and mass mailings are sent out to increase the size of the class suing for damages. Most of the time, an individual is automatically included if he/she fits within the description of the class.

There are three options when receiving a notice.

First, is participation as a class member. Participating as a class member means rights are forfeited to pursue a separate and private lawsuit related to the matter. If the individual knows they will not file a private lawsuit, there is very little to lose by becoming a member of the class action. If the individual does not act, they will, most likely, still be included in the lawsuit. The vast majority of members will decide on this route.

Another option after receiving a notice is opting out of the class. This means the individual does not want to be a member of the class action lawsuit. There are certain deadlines for which an individual can opt out, and these deadlines can easily be found online. Opting out is the selection to make if the individual plans to pursue a case of their own, and have the monetary backing to do so. Additionally, if the individual feels that their interests are not like the others in the class, or that their interests will not be represented, they should opt out. And lastly, if they believe that the lawsuit is not ethical or in their best interest, they should opt out. This is rarer than the first option, however exact figures for percentages of members picking one of these options is unavailable.

The third option is to participate in the class as a named plaintiff. This involves hiring a known attorney to participate in the class as a named party. This should be done if the individual has been seriously harmed or injured by the issue. Therefore, if there are large damages, this is a way to be more involved in the suit. If this is the best avenue to take, an immediate consultation with an experienced class action attorney is necessary. As a named plaintiff, there is more control over the case than with unnamed parties. However, being a named plaintiff can result in large attorney fees, as class action lawsuits are exceptionally expensive to litigate.

Another type of notice one may receive is a notice of settlement. Roughly 35% of class action lawsuits are dismissed before they ever can reach a trial settlement.⁷ Again, this notice should be carefully read. After receiving the notice of settlement, one should immediately go to the website and learn more about how many people were offered this settlement and other pertinent information. If there have been serious injuries or damages, a consultation with an experienced class action attorney is needed to determine if there should be an acceptance of the settlement offer.

Receiving a class action notice can be a daunting and bewildering occurrence. After receiving a class action lawsuit notice, it is important to think about oneself. Analyze the specific situation with regard to the class and see if there is a fit into that class. If there is not a fit in that class, consider how much money in damages has been incurred. After analyzing the situation, a decision can be made to be involved in the class action lawsuit or not, or to pursue a case independently, or simply to not be involved at all. The choice is different for everyone and it is important to consult a class action attorney if there has been serious harm.

Overview: The basic phases of a class action lawsuit

1. Parties ask for the complaint to be certified as class action
2. Members of the class are notified
3. Class actions typically settle
4. The payout must be administered⁸

Notice Requirements⁹

Class action notice is required to be given to all persons who would be affected by the court's decision. Although it usually is not possible to give every such individual personal notice, all persons who might be affected are entitled to the best notice possible. The court will order that the class representative, through his or her attorneys, make reasonable attempts to notify any unknown class members by general media such as television, an advertisement in a magazine or newspaper, or a posted flyer.

It is unlikely that the reader of this paper is not familiar with the commercials for mesothelioma. Mesothelioma causes tumors of the tissue that lines the lungs, stomach, heart, and other organs.

⁷ Brown, Mayer, LLP. "Do Class Actions Benefit Class Members? An Empirical Analysis of Class Actions." *The Institute For Legal Reform*, 2010. Accessed July 24, 2018.

https://www.instituteforlegalreform.com/uploads/sites/1/Class_Action_Study.pdf.

"This empirical study of class action litigation—one of the few to examine class action resolutions in any rigorous way—provides strong evidence that class actions provide far less benefit to individual class members than proponents of class actions assert."

⁸"The Phases of a Class Action Lawsuit." Legal Resources. Accessed July 24, 2018. <https://resources.lawinfo.com/class-action/the-phases-of-a-class-action-lawsuit.html>.

⁹ US Legal, Inc. "USLegal." Civil Procedure. Accessed July 24, 2018. <https://civilprocedure.uslegal.com/class-action/notice-requirements/>.

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 I AM A PAID NON-ATTORNEY SPOKESPERSON

It is classified as a very rare disease with less than 20,000 people in the United States suffering from it each year, however we still

see the commercials frequently. Why is this? Mesothelioma is linked to exposure to asbestos and there is a currently \$30 billion in asbestos trusts to compensate those diagnosed with mesothelioma. According to a recent Mealey's Litigation Report¹⁰, the average mesothelioma trial award is about \$2.4 Million. The average mesothelioma settlement is between \$1 Million and \$1.4 Million and typically paid by multiple defendants. This means that 1/3 of that award goes to the attorneys. Even if the cases are rare they provide a large payday for attorneys thus the inundation of commercials.

People who receive notice of the class action then have the opportunity to join in the action — called “opting in” — or to decide not to participate as a member of the class — that is, to “opt out.” In some cases, individuals don't have the opportunity to opt out. That is, if a class action has been filed over particular injuries caused by a particular defendant, all people who are similarly situated are automatically in the class and must live with the outcome.

For any class certified under Rule 23(b)(3),¹¹ the court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice must clearly and concisely state in plain, easily understood language the binding effect of a class judgment on members under Rule 23(c)(3).

In *Mullane v. Central Hanover Bank & Trust Co*¹², the Supreme Court articulated the standard for notice of a pending class action that would satisfy due process. The Court required individual notice by mail for those persons whose names and addresses were known or could be determined with reasonable effort.

¹⁰ "Mesothelioma Settlements - Asbestos Settlement Amounts." Mesothelioma Center - Vital Services for Cancer Patients & Families. Accessed July 24, 2018. <https://www.asbestos.com/mesothelioma-lawyer/settlements/>.

¹¹ Rule 23 Class Actions (b)(3)

- The nature of the action;
- The definition of the class certified
- The class claims, issues, or defenses
- That a class member may enter an appearance through an attorney if the member so desires;
- That the court will exclude from the class any member who requests exclusion;
- The time and manner for requesting exclusion
- The binding effect of a class judgment on members under Rule 23(c)(3).

¹² 339 U.S. 306 (1950) - Holding: Reasonable steps must be taken to give potentially interested parties notice of an action and an opportunity to respond, and notice by publication may be insufficient if the names and addresses of non-resident parties are available.

However, where notice to other individuals would be impractical – e.g., where the identities of class members are unknowable or where the cost of ascertaining the names and addresses of parties would be considerable – the Court has approved of constructive notice by publication. The class representative is to bear the cost of identifying members of the class and notifying class members.

History of Class Action Lawsuits:

The originating idea of a class action lawsuit dates back to 17th century England. The English courts created what was called a “Bill of Peace.”¹³ The Bill of Peace allowed an overall representative of a group to bring an action on behalf of a larger group. Three conditions were noted for this type of group. There must be too many interested parties for individual claims, the members must all share the same material interest, and the named representative must be able to protect the interest of all the members.

In the United States, class action lawsuits date back to 1853, when the Supreme court decided that courts should allow for a representative to sue on behalf of all of those in a similar situation in the interest of both justice and convenience. In 1938 The Supreme Court sought for more uniformity in class action suits. Rule 23 of the Federal Rule of Civil Procedure was adopted to provide oversight to class action litigation. Rule 23 includes; prerequisites, types of class actions, certification order, notice, judgement, and are an overall step by step guide that lawyers should follow when progressing through a class action lawsuit.¹⁴

The next main development in class action lawsuits was the Supreme Courts discouragement of filing class actions in a federal court unless there was a question of federal law. This gave more power to the states to hear a multitude of class action issues. To allow for this, the Supreme Court allowed states to hear cases even when all members did not reside in that certain state.

In 1966 Rule 23 Section 10.1.1 was amended to state that all class members were protected under the class action lawsuit unless they decided to “opt out.” This provision was named the “Class Notice.” This notice has various impacts and the number of class action lawsuits increased by 1000% in just one decade.¹⁵ The intent of Rule 23 was meant to bring justice to the disadvantaged. According to Timothy D. Cohelan, Cohelan & Khoury, the primary advantage of a class action lawsuit is that it allows a person the opportunity to take part in a claim that would be otherwise prohibited on an individual basis.¹⁶ Additionally, a certified class action strengthens the plaintiff's negotiating position. Class action lawsuits also lower the financial cost of litigation while bringing superior resources and legal expertise to the class. This in turn strengthens the plaintiff's negotiating position.

The development of class action lawsuits in the United States has been marked with great controversy. There is currently a push for more oversight and a sentiment that the people involved in the class aren't compensated fairly but the lawyers become rich.

Securities Class Action Lawsuits

When investors have purchased stock in a company and later discover that the company violated securities law, such as fraudulent reporting of financial data, one of their best recourses may be a securities class action lawsuit. These allow individual investors to consolidate their claims into a single legal action when they have all been similarly impacted by the alleged wrongdoing.¹⁷

One recent example of fraudulent reporting was by a company named, Virtus Investment Partners. This case settled for \$22 million in June 2018.

¹³ One which is filed when a person has a right which may be controverted by various persons, at different times, and by different actions. *Ritchie v. Dorland*, 6 Cal. 3- “>; *Murphy v. Wilmington*, 6 *Houst. (Del.)* 108. 22 *Am. St. Rep.* 345; *Eldridge v. Hill*, 2 *Johns. Ch. (X. Y.)* 281; *Randolph v. Kinney*, 3 *Hand. (Va.)* 395.

¹⁴ Cornell “Rule 23. Class Actions.” LII / Legal Information Institute. December 01, 2011. Accessed July 24, 2018. https://www.law.cornell.edu/rules/frcp/rule_23.

¹⁵ Taylor Martin, S. (August 20, 2000). Is Anyone Not Involved in a Class-action Lawsuit? *Times Publishing Company, St. Petersburg Times*.

¹⁶ Sweeney, Jacqueline L., “The evolution of the class action lawsuit: the original intent of providing fairness and equity for all has yet to be achieved” (2003). Theses and Dissertations. Paper 827.

¹⁷ FINRA. “Securities Class Action Lawsuits: What Investors Should Know.” *Certified Private Wealth Advisor (CPWA) | FINRA.org*. May 14, 2018. Accessed July 24, 2018. <http://www.finra.org/investors/highlights/securities-class-action-lawsuits-what-investors-should-know>.

According to the press release filed on February 27, 2015, the Complaint alleges that since at least May 28, 2013, Virtus knew that its sales and marketing of the Alpha Sector's past track record was based on false and misleading statements about its success against the S&P 500 index. Virtus's sales of its AlphaSector funds drove its increases in revenues and income, and caused substantial artificial appreciation in its stock price. On September 5, 2014, the Wall Street Journal first reported that the Securities and Exchange ("SEC") Commission was investigating F-Squared, a co-adviser responsible for Virtus's AlphaSector Funds, over alleged falsifications of its past track record. Following this disclosure, Virtus's stock fell by \$37 per share, and lost more than 16 percent of its value within a few days.

On December 22, 2014, the SEC announced that it had formally charged F-Squared and its President for fraud and various violations of the Investment Advisors Act of 1940, and that it had reached a settlement with F-Squared regarding those charges. The SEC's announcement, although never mentioning Virtus by name, revealed further details and evidence of F-Squared's fraud which implicated Virtus.¹⁸

Securities class action lawsuits can result in judgments or settlements worth millions of dollars or more. In 2017, there were 412 securities class action lawsuits filed in the United States. The rest of this paper will provide a descriptive analysis of the industries, states, dates, exchanges, and statuses of the companies involved in these securities class action law suits. By analyzing the 412 cases, it is the objective of this paper to identify emerging trends within the sector of class action lawsuits. The database shows the wide prevalence of the cohabitation of the financial and legal sectors within the United States economy and the Judicial System. Without analyzing these cases from a purely financial and statistical perspective, great insight would be lost into the current fiscal and economic state of class action lawsuits in the United States. The year 2017 is selected since several years generally elapse between the initial filing of the suit and the ultimate resolution. The database of lawsuits in this paper consequently tracks the entire lifespan of the securities class action lawsuits initially filed in 2017.

Descriptive Characteristics

Sector Exposure

The sectors included in this database for the 2017 include; Basic Materials, Capital Goods, Consumer Goods, Energy, Financial, Healthcare, Services, Technology, Transportation, and Utilities. These sectors offer a wide range of exposure within the U.S. economy. The most common sector producing securities class action lawsuits, historically, has been Technology; however, for the 2017 the most prominent sector by far was Healthcare with 94 case filings. This is an interesting observation and might be linked to all the changes enacted by the Obama Affordable Care Act. In second place is Technology with 80 filings and in third place is Services with 70 filings. Following the definition of the sector is an example of a company that was involved in a 2017 class action lawsuit.

Basic Materials companies are involved in the discovery, development and processing of raw materials.

Kobe Steel, Ltd. State of Filing: New York Outcome: Ongoing

Capital Goods are related to the manufacture or distribution of fixed assets and includes companies that manufacture machinery, electrical equipment, aerospace and defense, engineering and construction projects.

General Electric Inc. State of Filing: New York Outcome: Dismissed

Consumer Goods relate to items purchased by individuals rather than by manufacturers. This sector includes companies involved with food production, packaged goods, clothing, beverages, automobiles and electronics.

Ford Motor Company State of Filing: Michigan Outcome: Dismissed

Energy involves the production or supplying of energy. The exploration and development of oil or gas reserves, oil and gas drilling and refining, or integrated power utility companies - including renewable energy and coal are part of this sector.

Arc Logistics Partners State of Filing: New York Outcome: Dismissed

Financials comprised of firms that provide financial services to commercial and retail customers. This sector includes banks, investment funds, insurance companies and real estate.

¹⁸ "Securities Class Action Clearinghouse: Case Page." Securities Class Action Clearinghouse: Filings Database. Accessed July 24, 2018. <http://securities.stanford.edu/filings-case.html?id=105352>.

Capital Finance Corp. State of Filing: North Carolina Outcome: Ongoing

Healthcare consists of companies that provide medical services, manufacture medical equipment or drugs, provide medical insurance, or otherwise facilitate the provision of healthcare to patients.

Repros Therapeutics Inc. State of Filing: Texas Outcome: Dismissed

Services produces intangible goods, more precisely services instead of goods, and according to the U.S. Census Bureau, it comprises various service industries including warehousing and truck transportation services, information sector services, commodities, securities and other investment services, professional, technical and scientific services, waste management services, health care and social assistance services, and arts, entertainment, and recreation services.

Starwood Waypoint Homes State of Filing: Maryland Outcome: Dismissed

Technology relates to the research, development and/or distribution of technologically based goods and services. This sector contains businesses revolving around the manufacturing of electronics, creation of software and computers.

The Crypto Company State of Filing: California Outcome: Dismissed

Transportation companies provide services moving people, goods, or the infrastructure to do so.

Dryships Inc. State of Filing: New York Outcome: Ongoing

Utilities contains companies such as electric, gas and water firms, and integrated providers.¹⁹

Calpine Corporation State of Filing: Texas Outcome: Dismissed

Figure 1: Sector Exposure Summary of 2017 Security Class Action Lawsuits

Industry	Filings	Percentage
Basic Materials	19	4.61%
Capital Goods	18	4.37%
Consumer	32	7.77%
Energy	17	4.13%
Financial	63	15.29%
Healthcare	94	22.82%
Services	70	16.99%
Technology	80	19.42%
Transportation	8	1.94%
Utilities	11	2.67%
Total	412	100.00%

6.2 Geographic

Analyzing where a class action lawsuit was filed is important for analysis on sectors and prevalence in certain states. In this dataset of 412 lawsuits, 38 states and 1 territory (Puerto Rico) are represented. The number of filings per state range from 1 to 78. California and New York had the most filings with 71 and 78 respectively. After that there is a marked reduction in the filings with New Jersey in third place with 29 filings. This shows that the majority of companies that are involved in securities class action lawsuits are headquartered in California and New York.

Michael Lepage, spokesman for the Institute for Legal Reform conducted a study on which states are best to sue a company in. Lepage indicated that jurisdictions in some states, like California and Florida, award much larger jury awards than others.²⁰ As for securities class action lawsuits, the majority of businesses are headquartered in

¹⁹ "Sharper Insight. Smarter Investing." Investopedia. Accessed July 24, 2018.
<https://www.investopedia.com/>.

²⁰"The Best States to Sue A Company." 247wallst.com. September 17, 2012. Accessed July 24,

New York and California, thus the majority of lawsuits were filed in those states. In addition, New York City has a very strong reputation for the best class action lawyers in the country.

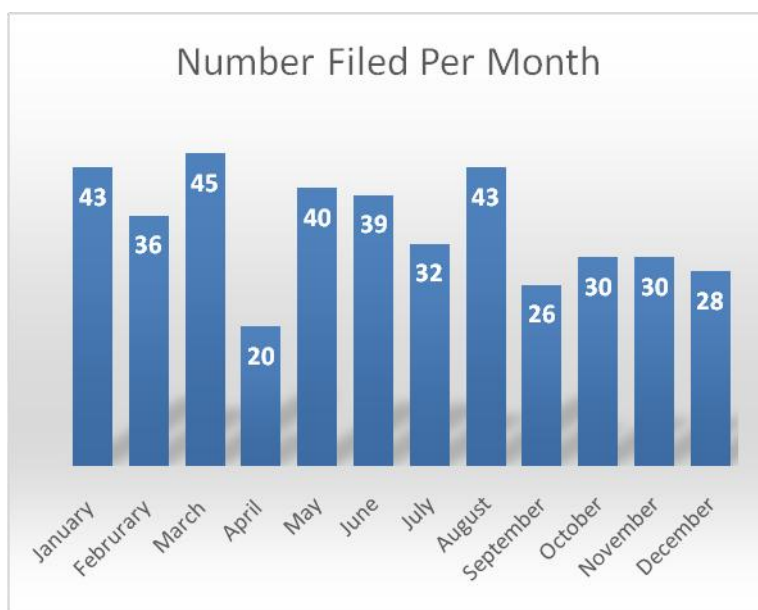
Figure 2: State of Filing for 2017 Security Class Action Lawsuits

State	Number of Filings	Percentage
New York	78	18.93%
California	71	17.23%
New Jersey	29	7.04%
Delaware	27	6.55%
Massachusetts	24	5.83%
Texas	20	4.85%
North Carolina	18	4.37%
Colorado	13	3.16%
Pennsylvania	13	3.16%
Virginia	12	2.91%
Florida	11	2.67%
Maryland	10	2.43%
Minnesota	8	1.94%
Georgia	7	1.70%
Washington	7	1.70%
Connecticut	6	1.46%
Ohio	6	1.46%
Tennessee	6	1.46%
Washington DC	4	0.97%
Illinois	4	0.97%
Michigan	4	0.97%
Nevada	4	0.97%
Arizona	3	0.73%
Oklahoma	3	0.73%
South Carolina	3	0.73%
Utah	3	0.73%
Wisconsin	3	0.73%
Iowa	2	0.49%
Kentucky	2	0.49%
Missouri	2	0.49%
Nebraska	2	0.49%
Alabama	1	0.24%
Arkansas	1	0.24%
Hawaii	1	0.24%
Indiana	1	0.24%
Kansas	1	0.24%
Oregon	1	0.24%
Puerto Rico	1	0.24%
	412	100.00%

6.3 Calendar Distribution

A numerical analysis was conducted for the month in which all 412 securities class action lawsuits were filed to see if there was a majority of cases filed in certain months. There was no substantial difference in the filing months and the number of filings ranged from 20 to 45. This finding did not warrant any further statistical analysis of the ratios of months. March accounted for 45 filings and April accounted for 20 filings. April had the fewest filings. This might be related to tax season for companies.

Figure 3: Calendar Distribution of 2017 Security Class Action Lawsuits



6.4 Listing Exchange:

The stock exchange is a market in which securities are bought and sold. The NASDAQ accounted for 223 of the listed companies in the related filings. In second place, the NYSE accounted for 159. In third place is the OTC Bulletin Board. The OTCB is an electronic trading service by the National Association of Securities Dealers (NASD) that offers traders and investors up-to-the-minute quotes, last-sale prices and volume information for equity securities traded over the counter (OTC). Companies on the OTCB are typically young, small, thinly traded, and mostly unprofitable. This exchange accounted for 22 of the filings in 2017.

Case Outcomes

The outcome of the case is a vital statistic to be analyzed. It should however be noted that since the data is from the 2017 year and class action lawsuits can be very lengthy a large percentage of the cases are still ongoing. The 2017 year was chosen to give the most recent and up to date statistical analysis of Class Action Lawsuits in the United States. Out of the 412 Filings in 2017 231 were dismissed. 170 of the filings are still ongoing. 6 of the 412 were remanded. The remand court procedure is used by higher courts to send cases back to lower courts for further action. Lastly, 5 of the 412 were settled. Approximately 56% of the cases were dismissed, 41% are ongoing, 1.5% remanded and 1.5% settled.

Settled Cases 2017

Five cases in 2017 did not go the distance and were settled with both sides agreeing to the terms. What follows is a summary of each settled case.

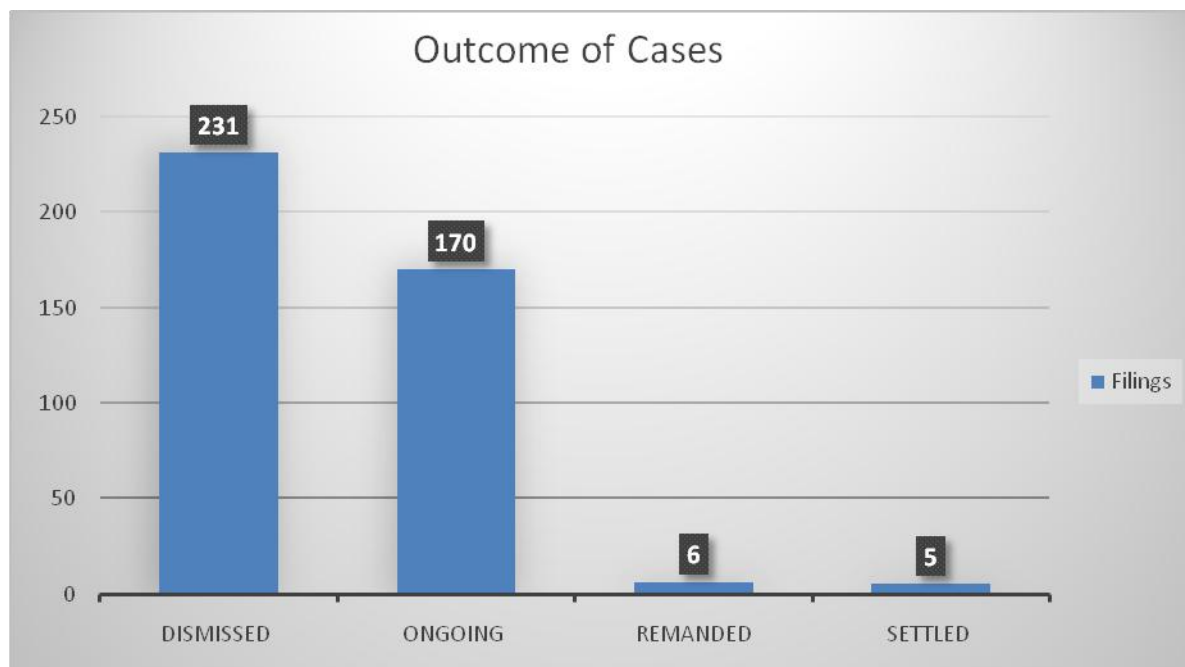
Alliance MMA Inc \$250,000 State: New Jersey Duration: 10/06/2016 - 04/17/2017

Case Name: Eric Shapiro, et al. v. Alliance MMA, Inc., et al.

The purpose of this lawsuit was the allegation that Alliance's IPO contained false statements and the question at hand was whether those false statements were material to investors. Under the terms of the settlement, the amount attributable to Alliance will be covered in full by its insurer. Alliance's sole financial responsibility with respect to the settlement will be to pay costs and expenses up to the policy deductible amount of \$250,000, of which it has already paid \$137,761 in the form of legal fees. The Settlement represents an average recovery of \$0.70 per share for the 2,222,308 Alliance shares issued in the IPO.

Attorneys for the lead plaintiffs (“Class Counsel” or “Lead Counsel”) intend to ask the Court to award them fees of up to \$516,666.66, or one-third (33 1/3%) of the Settlement Amount, reimbursement of litigation expenses of no more than \$25,000 and an award to the Lead Plaintiffs not to exceed \$15,000. Collectively, the attorneys’ fees and expenses are estimated to average \$0.25 per Alliance IPO share. If approved by the Court, these amounts will be paid from the Settlement Fund.²¹

Figure 4: Outcome of 2017 Security Class Action Lawsuits



Genworth Financial \$219 million State: Virginia Duration: 10/23/2016 - 01/23/2017
Case Name: Alexander Rice, et al. v. Genworth Financial Incorporated, et al.

Genworth Financial is a large, long-term care insurance carrier. Between 2013 and 2014, the company purportedly misrepresented the profitability of Genworth's long-term-care insurance business and reported false financial results. The company reports over \$10 million in legal fees from this lawsuit. From a finance perspective the company saw a 14% drop in stock the day that lawsuit was filed. Genworth said its insurers will pay \$150 million of the settlement, while the company itself will pay \$69 million. Genworth agreed to settle this lawsuit without admitting any wrongdoing. It should be noted this is not the first time Genworth has been sued via class action. In 2014 the firm settled for 531 million.²²

Pershing Square: \$290 million State: California Duration: 02/25/2014 - 04/21/2014

Case Name: Timber Hill LLC, et al. v. Pershing Square Capital Management, L.P., et al.

In December 2017, activist investor Bill Ackman’s Pershing Square Holdings Ltd. and Valeant Pharmaceuticals International Inc. agreed to pay \$290 million to settle investor claims that they engaged in insider trading in the unsuccessful 2014 takeover bid for Botox-maker Allergan Inc. Allergan’s shareholders claimed in the lawsuit that they were tricked when Ackman bought their shares with the secret knowledge

²¹ Case No.: 1:17-cv-02583-RBK-AMD

²² Iacurci, Greg. "Genworth to Pay \$219M to Settle Securities Lawsuit Related to Long-term-care Insurance." InvestmentNews - The Investing News Source for Financial Advisers. Accessed July 24, 2018. <http://www.investmentnews.com/article/20160314/FREE/160319971/genworth-to-pay-219m-to-settle-securities-lawsuit-related-to-long>.

Valeant was planning a hostile bid. Pershing Square made a paper profit of more than \$2 billion on its Allergan investment when Actavis ended up buying the then-Irvine, California-based company, which had rejected Valeant's takeover offers.²³

State Street Corporation State: Massachusetts Duration: 02/27/2012- 01/18/2017

Case Name: Anthony Delorosa, et al. v. State Street Corporation, et al.

The lawsuit alleges that State Street gave false and/or misleading statements and/or failed to disclose that: (1) State Street engaged in a scheme to defraud a number of its clients by secretly applying commissions to billions of dollars of securities trades; (2) State Street's billing practices relied on unsustainable methodologies; (3) over a 18-year period, approximately \$240 million or more of expenses may have been incorrectly invoiced to State Street's asset servicing clients; (4) from June 2010 until September 2011, State Street charged clients "substantial" mark-ups without their consent; and (5) as a result, the company's public statements were materially false and misleading at all relevant times. When the true details entered the market, the lawsuit claims that investors suffered damages as the value of the company dropped.²⁴

Yahoo Inc. - \$80 million State: California Duration: 11/12/2013 - 12/14/2016

Case Name: - Mark Madrack, et al. v. Yahoo Inc., et al.

Yahoo is a multinational technology company that provides a variety of internet services, including a web portal, search engine, Yahoo!Mail, Yahoo!News, Yahoo!Finance, advertising, and fantasy sports. As of February 2016, Yahoo had an estimated 1 billion monthly active users, 280 million Yahoo!Mail users, and 205 million monthly unique visitors to its sites and services.

The Complaint alleges that throughout the class period, Yahoo made materially false and/or misleading statements, as well as failed to disclose material adverse facts about the company's business, operations, and prospects. Specifically, it made false and/or misleading statements and/or failed to disclose that: (1) Yahoo failed to encrypt its users' personal information and/or (2) failed to encrypt its users' personal data with an up-to-date and secure encryption scheme. The court issued an order granting preliminary approval of the settlement on May 9, 2018.

Overall Analysis

Stanford Law School²⁵ has a comprehensive Securities Class Action Clearinghouse. The overall statistics from 1996 to 2018 were compared with the extrapolated 2017 data covered in this paper. According to Stanford Law School, the most active district court is New York. The total amount of settlements has totaled \$96,414,125,326. The total number of defendants sued is 37,737.

As for the status of the cases, 2,362 were settled, 2,140 were dismissed and 472 are still ongoing. From the closed cases, this shows that cases are settled rather than dismissed at a ratio of 1.1 to 1.0. As for the sector, Technology is the most frequently sued. Additionally, the NASDAQ accounts for the most frequently sued issuer.

²³ Pettersson, Edvard. "Pershing Square, Valeant to Pay \$290 Million to End Lawsuit." Bloomberg.com. December 29, 2017. Accessed July 24, 2018. <https://www.bloomberg.com/news/articles/2017-12-29/pershing-square-valeant-to-pay-290-million-to-end-insider-suit>.

²⁴ "STT INVESTOR ALERT: The Law Offices of Vincent Wong Reminds Investors of Commencement of a Class Action Involving State Street Corporation and a Lead Plaintiff Deadline of March 28, 2017." William Lyon Homes Announces Agreement to Acquire RSI Communities, a Southern California and Texas Based Homebuilder | Business Wire. February 22, 2017. Accessed July 26, 2018. <https://www.businesswire.com/news/home/20170222006125/en/STT-INVESTOR-ALERT-Law-Offices-Vincent-Wong>.

²⁵ "SCAC | Securities Class Action Clearinghouse | Home." Securities Class Action Clearinghouse: Filings Database. Accessed July 24, 2018. <http://securities.stanford.edu/>.

Figure 5: Largest Security Class Action Lawsuits Settlements in History

Top Ten by Largest Settlements	Settlement Amount
Enron Corporation	\$7,227,390,000
WorldCom, Inc.	\$6,133,000,000
Tyco International Ltd.	\$3,200,000,000
Cendant Corporation	\$3,186,500,000
Petroleo Brasileiro S.A. - Petrobras : American Depositary Shares	\$3,000,000,000
Nortel Networks Corporation (Nortel I & II)	\$2,935,901,451
AOL Time Warner, Inc.	\$2,500,000,000
Bank of America Corporation : Merger with Merrill Lynch	\$2,425,000,000
Household International, Inc.	\$1,576,500,000
Koninklijke Ahold NV	\$1,100,000,000
Total	\$33,284,291,451

The top ten lawsuit payouts in history account for 34.5% of total payouts from 1996 to present.

Figure 6: Longest Security Class Action Lawsuits Settlements in History

Top Ten by Longest Lawsuit	Days	Years	Outcome
Halliburton Company	5845	16.0	Settled \$100 Million
Symantec Corporation	5792	15.9	Settled for \$60 million Class Members received \$50-\$400
Centennial Technologies, Inc.	5692	15.6	\$1.475 million and Plaintiffs Receive 37% Common Stock
Health Management, Inc. I	5508	15.1	Settled \$4.55 Million
McKesson HBOC, Inc.	5130	14.1	Settled \$960 Million
Household International, Inc.	5057	13.9	Settled \$1.575 Billion
Xerox Corporation	4915	13.5	Ruled in Favor of Xerox
Merck & Co., Inc.	4618	12.7	Settled \$830 Million
SI Management L.P. : Synthetic Industries	4600	12.6	Settled \$12.35 per share of stock
Pfizer, Inc.	4591	12.6	Settled \$486 Million
Total Days	51748	141.8	

Prominent Law Firms

Statistics on the Plaintiffs firms from 1996 to present show the monopoly that a few powerful law firms hold on security class action lawsuits. From 1996 to 2018, 4,974 securities class action lawsuits were filed. Of those, 4,152 (83.5%) were brought to court by ten prominent law firms. In the majority of cases, counsel (the law firm) for the settled party receives on average between 25 and 33% of the settlement award.

Figure 7: Biggest Law Firm Security Class Action Settlements in History

Top Ten by Plaintiff firms	Cases	Out of 4152	Out of 4974	Facts
Milberg LLP	1002	24.13%	20.14%	7 - Billion Dollar Plus Victories
Topaz Kessler Meltzer & Check LLP	597	14.38%	12.00%	\$113,293,838 Settlement
Robbins Geller Rudman & Dowd LLP	551	13.27%	11.08%	Most Securities Recoveries of any US Law Firm
Stull Stull & Brody	439	10.57%	8.83%	Over a Billion Dollars in Settlements
Wolf Haldenstein	429	10.33%	8.62%	\$9 Billion in Settlements
Bernstein Liebhard LLP	366	8.82%	7.36%	\$3.5 Billion in Settlements
Sirota & Sirota	310	7.47%	6.23%	
Bernstein Litowitz Berger & Grossmann	167	4.02%	3.36%	6 - Billion Dollar Plus Victories
Labaton Sucharow	158	3.81%	3.18%	Billions in Settlements
Berger & Montague PC	133	3.20%	2.67%	
Total	4152	100.00%	83.47%	

Conclusions

The analysis of the 412 securities class action lawsuits from 2017 shows that most suits are in the Healthcare and Technology sectors. Most filings are against companies from California and New York. Lawsuit filings are spread fairly evenly throughout the year with no calendar month concentrations. Most cases are against companies listed on the NASDAQ and OTC BB, which tend to be comprised of smaller, younger and less established firms than are listed on the NYSE. Most cases are dismissed without recovery for the members and 41% are unresolved even after a couple years. Ten law firms dominate the class action market and they are the big winners receiving up to 33% of the settlement or award.

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