

This is your Release #3 (October 2019)

Securities Litigation

A Practitioner's Guide

Second Edition

Gibson, Dunn & Crutcher LLP

This third supplement to the Second Edition of *Securities Litigation* updates every chapter of this essential treatise to keep you up to date on the latest developments in private securities class actions. This practitioner's guide continues to bring you comprehensive analysis of the key issues involved in shareholder litigation as it is practiced today.

A few highlights of Release #3:

False Statements under Rule 10b-5. In 2019, the Supreme Court held in *Lorenzo v. SEC* that a person who did not “make” a false statement under Rule 10b-5(b) may nonetheless be primarily liable under Rule 10b-5(a) or (c) if he or she disseminates a false statement with intent to defraud. See §§ 1:2.2[A][3] and 2:4.1.

State Court Securities Act Claims. After the Supreme Court's decision in *Cyan*, a split of authority has emerged regarding whether certain provisions of the PSLRA, including the automatic stay, apply to state court class action lawsuits asserting claims under the Securities Act. See § 3:2.16[A].

Cautionary Language in Proxy Statements. The Fourth Circuit, in *Paradise Wire & Cable Defined Benefit Pension Plan*, recently weighed in on the sufficiency of cautionary language in a proxy statement and found listed warnings adequate such that the proxy statement was not misleading to investors. See § 5:4.1[B].

2018 Amendments to Rule 23. The 2018 amendments to Rule 23(e)(2) create a list of “core concerns” courts should consider when analyzing the fairness, reasonableness, or adequacy of a proposed settlement. The 2018 amendments to Rule 23(e)(5) create a more robust objector review standard and new safeguards against professional objectors. See §§ 6:4.2[A] and [B].

ERISA Fiduciaries and the Duty of Prudence. Courts continue to grapple with “duty of prudence” claims in ERISA stock-drop cases post-*Dudenhoeffer*. The Supreme Court has granted certiorari in one such case, *Jander v. Retirement Plans Committee of IBM*. See § 15:4.3.

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