

October 2015

DataBox Third Quarter Securities Class Action Report

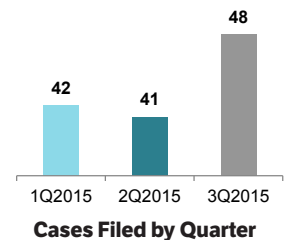
As of September 30, 2015

Woodruff-Sawyer & Co. is pleased to present the latest information concerning securities litigation filed against public companies in the United States. The information below comes from the **DATABOX** as of September 30, 2015. The **DATABOX** tracks securities class action litigation filed against public company issuers and their directors and officers.¹

Full Steam Ahead...

Activity in Q32015 was brisk with 48 securities class action cases filed, making it the most active quarter of the year to date:

A total of 131 cases were filed in the last three quarters through September 30, 2015. What is notable about third quarter activity? One-third of the companies sued in this quarter went public in 2014-2015. As mentioned in our 2015 mid-year report, the IPO market is a major factor in the increased activity for 2015. As it stands, through 3Q2015, 21% of the lawsuits filed in 2015 were against companies that went public in 2014-2015. The majority of these suits (28 suits) involved companies that went public in 2014.



While there were many new public companies being sued in the last quarter, well-known mature public companies were also sued such as:

- American Express Company – for failure to timely disclose the financial impact of its co-branding relationship with Costco and the loss of significant revenue when the relationship was terminated by Costco
- Volkswagen AG – for using deceptive software in its diesel cars designed to circumvent U.S. emissions tests
- Whole Foods Markets, Inc. - for misleading statements with regard to the handling of and accounting for certain products in which allegations are being made by NY regulators of systemic overcharging for pre-packaged foods

In the third quarter, 22 companies were sued that have been public for 10-30 years. 27% of these companies had market capitalizations over \$15B and 31% were sued with market capitalizations in the range of \$1B-\$7B.

As the year unwinds, we anticipate filing activity in Q4 to drop off some in the 10-15% range as it typically has in the last five years. Overall, the activity in 2015 will likely surpass the total number of filings in 2014 of 153 cases.

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¹ For purposes of tracking issuer-related securities litigation, the D&O DataBox focuses exclusively on securities class action lawsuits filed in federal courts against public companies by holders of common or preferred stock.

Settlements and Dismissals

17 companies settled for an aggregate of \$397.5M in 3Q2015 bringing total settlements for 2015 to:

- **58 Settlements**
 - 59% settled under \$10M
 - 19% settled \$10M - \$30M
 - 22% settled over \$30M
- **Total Cash Settlements: \$1.7 Billion**
 - Average: \$29.8M
 - Median: \$7.8M
- **19 Dismissals in Q32015** for a total to date in 2015 of 48 dismissals (9 withdrawals)
 - 5.3 per month average as compared to 5 per month average thru Q32014

Note: Settlement amounts do not include settlements by third parties

Large settlements have dominated the 2015 top 10 list of settlements as highlighted below:

Entity	Suit Year	Amount (\$M)	Allegation Notes
Pfizer, Inc.	2010	\$400	Off-label marketing and kickbacks (DOJ settlement: \$2.3B)
Bank of NY Mellon Corporation	2011	\$180	Fraudulent foreign exchange trading practices
Duke Energy Corp.	2012	\$146.3	Merger of Duke and Progress Energy; management shakeup
Sprint Nextel Corporation	2009	\$131	Merger of Sprint and Nextel; \$29.7B impairment charge
Weatherford International Ltd.	2012	\$120	Material weaknesses related to tax income reporting
Hewlett-Packard Co.	2012	\$100	Autonomy acquisition; \$8B impairment charge
Regions Financial Corp.	2010	\$90	AmSouth acquisition; \$6B impairment charge
MGM Mirage	2009	\$75	Misleading info about the financial health of CityCenter development
MF Global Holdings Ltd.	2011	\$64.5	Use of customer funds to cover liquidity shortfalls
Avon Products, Inc.	2011	\$62	FCPA violations – questionable payments to foreign officials

Stay tuned for our end of year report for a more detailed review of 2015 securities class action activity. In the meantime, we invite you to read up on the latest topics of interest in the areas of D&O liability, insurance and corporate governance at Woodruff Sawyer's "D&O Notebook: Directors and Officers Liability Blog". For example, articles discussing the government's focus on prosecution of directors and officers can be found at the following

- "The Yates Memo: What Is It and What You Need to Know"
- "The Yates Memo and D&O Insurance"
- "Under Pressure, the SEC Proposes Updates for a More Flexible Administrative Court"

Additional posts of interest:

- "2016 D&O Insurance Renewals: Looking Ahead"
- "Be Better Prepared to Handle Cyber Threats as a Director"

About the D&O Databox

D&O Databox is Woodruff-Sawyer & Co.'s proprietary director and officer litigation database. Included within the D&O Databox is information concerning every securities class action lawsuit filed against public company directors and officers since 1988. Woodruff-Sawyer uses the D&O Databox to help its client model their D&O litigation-related risk.

Woodruff-Sawyer is one of the largest independent insurance brokerage firms in the nation, and an active partner of Assurex Global and International Benefits Network. For 97 years, we have been partnering with clients to deliver effective insurance, employee benefits and risk management solutions, both nationally and abroad. Headquartered in San Francisco, Woodruff-Sawyer has offices throughout California and the West, including Oregon, Washington, Colorado and Hawaii.

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