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Value of 2009 Securities Class Action Settlements Increased to \$3.8 Billion, According to New Report by Cornerstone Research

Average Amount for 2009 Settlements Rose to \$37 Million

Washington, DC, March 24, 2010—According to *Securities Class Action Settlements: 2009 Review and Analysis*, an annual report by Cornerstone Research, the value and number of securities class action settlements increased in 2009 from 2008. Securities class action settlements totaled \$3.8 billion in 2009, a jump of more than 35 percent from 2008. The study identifies a total of 103 settlements approved in 2009, up slightly over the 97 settlements in 2008. The average settlement value increased from \$28 million for settlements in 2008 to \$37 million for settlements in 2009. The largest industry concentration among 2009 settled cases was in the financial sector, but these settlements primarily were for case filings with class periods ending prior to 2008. Securities case filings related to the credit crisis in 2008, for the most part, are yet to be resolved.

Commentary

Professor Joseph Grundfest, Director of the Stanford Law School Securities Class Action Clearinghouse in cooperation with Cornerstone Research, made the following observations about the settlements report.

- “The classic litigation risk factors continue to run true to form. If a lawsuit is prosecuted by a large public pension fund, involves a parallel SEC proceeding, and alleges accounting violations, then defendants can be expected to pay higher amounts.”
- “Because securities fraud litigation typically settles three to five years after the first complaint is filed, this year’s settlement activity reflects lawsuits brought roughly between 2004 and 2006. Given litigation trends over those years, the 2009 settlement data are within the zone of expected settlements, and aren’t much of a surprise.”

Professor Laura Simmons of the College of William & Mary Mason School of Business and Cornerstone Research Senior Advisor, made the following observations.

- “As we predicted last year, the decline in settlements that occurred in 2008 has proven to be temporary. Looking ahead, we anticipate that as cases brought in conjunction with the 2008 stock market decline and surrounding credit-crisis issues are resolved, settlements are likely to continue to increase both in number and value.”

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- “While financial statement restatements reportedly have been declining in recent years, this trend has yet to be borne out in securities case settlements, as restatements were associated with 45 percent of cases settled in 2009 (the highest proportion in more than a decade).”

Key Findings

- The median settlement in 2009 was \$8 million, unchanged from 2008. While this is lower than the inflation-adjusted median of \$9.3 million in 2007, it is higher than the median for all cases settled from 1996 through 2008.
- Estimated “plaintiff-style” damages for all cases settled in 2009 averaged \$2.7 billion, a 35 percent increase, adjusted for inflation, over the average for 2008 settlements.
- Inflation-adjusted median Disclosure Dollar Loss—the dollar value decrease in the defendant firm’s market capitalization at the end of the class period—for cases settled in 2009 was approximately \$140 million, an increase of nearly 15 percent over the inflation-adjusted median for 2008.
- Institutional investors continued to participate actively in post-Reform Act securities class actions and served as lead plaintiffs in nearly 65 percent of 2009 settlements. Cases involving public pensions as lead plaintiffs were associated with significantly higher settlements.
- Approximately 45 percent of 2009 settlements involved companion derivative actions, slightly higher than the 40 percent in 2008. Derivative actions tended to be associated with larger class actions and significantly higher settlement amounts.
- Alleged violations of Generally Accepted Accounting Principles (GAAP) were included in more than 65 percent of settled cases in 2009. Cases with GAAP allegations had larger settlement amounts and a higher percentage of estimated damages compared with cases not involving accounting allegations.
- The Ninth Circuit (California/Alaska/Arizona/Hawaii/Idaho/Montana/Nevada/Oregon/Washington) had the highest number of settled cases in 2009 with 28 settlements, followed by the Second Circuit (New York/Connecticut/Vermont) with 22 cases settled.

Professor Grundfest and Professor Simmons are available to speak to the media about *Securities Class Action Settlements: 2009 Review and Analysis*. The full text of the report is available at the Cornerstone Research Web site (securities.cornerstone.com) and the Stanford Law School Securities Class Action Clearinghouse Web site (securities.stanford.edu).

About Cornerstone Research

Cornerstone Research provides economic and financial consulting and expert testimony and cosponsors the Stanford Law School Securities Class Action Clearinghouse. Information about Cornerstone Research is available at (www.cornerstone.com).

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