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The Supreme Court's Cyan Decision and What Happens Next

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On March 20, 2018, the Supreme Court decided *Cyan, Inc. v. Beaver County Employees Retirement Fund* ("*Cyan*"), ruling unanimously that, under the Securities Litigation Uniform Standards Act ("SLUSA"), class actions under the Securities Act of 1933 ("'33 Act") (1) may be brought in state court, and (2) are not removable to federal court. The decision swings the doors of state courts wide open to actions asserting '33 Act claims against issuers, officers, directors, underwriters, and others involved in the securities offering process. There is much debate about whether the Supreme Court's construction of the relevant provisions of SLUSA, which Justice Alito at oral argument referred to as "gibberish," make sense. Regardless of one's views on that score, it is difficult to contest that the result of *Cyan* is, to pick a word, odd: putative class-action plaintiffs can now avoid federal court by asserting solely federal claims under the '33 Act. Whether state courts generally or particular state courts will become, to borrow a term utilized by the Supreme Court in another leading securities law ruling, the "Shangri-La of class-action litigation for lawyers representing those allegedly" misled in the context of a securities offering remains to be seen. In any event, *Cyan* undoubtedly will be a catalyst for class-action-litigation lawyers to search for the most-plaintiff-friendly jurisdiction and thus introduce all the well-recognized perils associated with forum-shopping and inconsistent, unpredictable standards across multiple jurisdictions.

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