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# Quarterly Report – Life Sciences Securities Litigation Activity in Q4 2017

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As part of a series of regular updates on developments in life sciences securities litigation (*see* **Q3 2017 Quarterly Report**), this report addresses recent activity in securities actions against life sciences companies during the fourth quarter of 2017, as well as some broader observations about life sciences securities litigation in 2017. A comprehensive digest of notable decisions, settlements, and new filings in the fourth quarter is accessible via the link below.

Investors continued to file securities lawsuits against life sciences companies at a record pace in 2017, as emerging and established plaintiffs' firms ramped up their efforts to target pharmaceutical, biotechnology, and medical-device companies. By midyear, plaintiffs had filed more securities suits against pharmaceutical firms than during all of an already highly active 2016, and nearly five times as many suits against biotechnology firms than the full-year average for the years 1997-2016. In the end, securities suits against life sciences companies generally, including pharmaceutical companies (65+ suits) and medical-device companies (15+ suits), accounted for nearly 20% of all securities suit filings in 2017.

Consistent with this trend, the fourth quarter saw significant new-filing activity as plaintiffs asserted familiar claims involving alleged failures to adequately inform investors about the efficacy or safety of products in development, alleged misstatements or omissions about clinical studies and FDA feedback, and alleged price-fixing schemes supposedly causing companies to report inflated and unsustainable revenues. The quarter also saw some more uncommon claims, including claims based on allegations that a drug manufacturer engaged in a misleading marketing campaign to influence policymakers to choose its addiction-treatment drug over more effective competitors and claims that a company overstated the prospects for a lead product candidate by failing to disclose that its finances were insufficient to support continued development and clinical trials.

Settlement activity during the fourth quarter was limited. The few notable settlements this quarter, described in the digest linked below, resulted from mediations in cases that had been revived by court of appeals' decisions reversing earlier dismissals by trial courts.

Decisions issued by courts during the fourth quarter generally involved the relatively straightforward application of well-established law to motions for summary judgment, dismissal, transfer of venue, and class certification. One notable decision, however, came from the U.S. District Court for the District of Massachusetts, which issued an interesting opinion concerning the relevant class period in a case involving allegations that a pharmaceutical company failed to disclose the FDA's concerns about a drug in development. The court concluded that the class period could extend beyond the initial public disclosure of the FDA's allegedly concealed concerns and until a vote on the NDA for the drug because the company made statements seeking to minimize the concerns and suggesting that the drug would be approved despite the disclosed concerns. In those circumstances, until the FDA's full view of the NDA was revealed to the public, the disclosure of its concerns alone did not convey the full extent of the information to render the disclosure curative.

**If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.**


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