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SECURITIES LAWSUITS: SETTLEMENT STATISTICS FOR 10b-5 CASES

Laura E. Simmons
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The doctoral dissertation of Laura Simmons, an associate in our Cambridge office, investigated the determinants of securities litigation outcomes. Her research separately modeled and empirically tested the factors affecting outcomes of both pretrial adjudication and settlements in 10b-5 cases. In conjunction with this research, she assembled a database of 125 securities lawsuits alleging Rule 10b-5 violations filed between January 1, 1991 and December 31, 1994.

Since our clients frequently ask about securities lawsuit settlement characteristics, this monograph assembles descriptive statistics from her database to address issues of interest to our clients. Future monographs will report results for cases filed in subsequent periods, and will compare pre- and post-Reform Act settlement characteristics, once sufficient post-Reform Act data become available.

Figure 1 shows the distribution of overall settlement amounts. Total settlement amounts vary substantially, ranging from $80,000 to $67.5 million, with an average settlement of $7.8 million and a median settlement of $4.0 million.

Subsequent pages provide further details regarding settlement characteristics. Because the sample is skewed by a few cases with very large settlements, we focus on medians (rather than averages).¹
Figure 2 provides median settlement amounts for the cases by ranges of estimated plaintiff-style damages. Overall, settlements increase with estimated damages, although not proportionately.

Figure 3 shows median settlements as a percentage of damages within estimated damage ranges. Although settlements increase with estimated damages, settlements as a percentage of estimated damages decline.
Figure 4 shows settlement data by industry. Consistent with prior research, the largest number of cases occurs in the technology industry (comprising over 30% of the total 125 cases). In addition, the median settlement is highest for the technology industry, although the retail/wholesale industry has the highest settlements as a percentage of damages.

Table 1 suggests substantial variation among circuits in the number of cases and size of settlements.
CONCLUDING REMARKS

This monograph reports descriptive statistics for 125 securities lawsuits alleging Rule 10b-5 violations. The statistics indicate significant variation in overall settlements and settlements in relation to estimated damages. In addition, settlements can vary widely across industries and court circuits.

The cases reported in this monograph were filed between January 1, 1991 and December 31, 1994. Future monographs will report results for cases filed in subsequent periods, as part of our ongoing research in securities litigation.

FOOTNOTES

1 Medians represent the point at which half the data points are greater and half are smaller. Therefore, unlike averages, medians are not distorted by the presence of extreme observations.

2 Plaintiff-style damage calculations are based on a market-adjusted backward value line, with the stock price two days after the end of the class period used as the starting point for the “correct value.” A volume reduction of 50% for shares traded on Nasdaq and 20% for shares listed on NYSE or AMEX was used. Further, as in prior research, no adjustment was made to the float for institutions or insiders.

3 Thirty-six cases are excluded from Figure 4 because they did not fall into a specific industry classification.

RESEARCH SAMPLE AND DATA SOURCES

These descriptive statistics are from a database of securities lawsuits compiled in conjunction with the author’s doctoral dissertation. The sample of 125 10b-5 cases filed between January 1, 1991 and December 31, 1994 was identified from Securities Class Action Alert (SCAA) and Class Action Reports (CAR). In addition to limiting the sample to cases alleging only violations of Rule 10b-5 (i.e., excluding cases involving Section 11 or 12(2) claims), selected cases were limited to those alleging fraudulent inflation in the price of a corporation’s common stock (i.e., excluding cases filed only by bondholders, preferred stockholders, etc., and excluding cases alleging fraudulent stock price depression). These criteria were imposed to ensure data availability and to provide a sample that was relatively homogeneous with respect to the applicable law and nature of the allegations.

Data sources included SCAA and CAR, the Center for Research in Security Prices at the University of Chicago (CRSP), Standard and Poor’s Compustat, and Lexis/Nexis.
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Laura Simmons is a certified public accountant and an associate in the Cambridge office of Cornerstone Research. Since joining Cornerstone Research she has concentrated on securities litigation cases, including the calculation of damages and analysis of derivative issues. While completing her doctoral program, Dr. Simmons was a research scholar of the Cato Institute for Applied Business Research and also received scholarships from KPMG Peat Marwick and the American Institute of Certified Public Accountants. She has also conducted research sponsored by KPMG Peat Marwick and taught managerial accounting.

Prior to obtaining her Ph.D. and M.B.A., Dr. Simmons worked for Price Waterhouse for five years. While employed at Price Waterhouse, she supervised audit and special service engagements in various industries including technology, financial services and publishing.
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