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**Securities Class Action Settlements Reach Record Level in 2005**  
**Median Settlement Size Nearly 20% Above 2004 Levels**

**Washington, February 7, 2006** -- Securities class action settlements reached unprecedented levels in 2005, according to a report released today by Cornerstone Research. Even excluding WorldCom's over \$6.1 billion settlement and Enron's \$7.1 billion (and counting) settlement, the total value of cases settled during 2005 grew to an all time high of \$3.5 billion, surpassing 2004's over \$2.9 billion tally by more than 17 percent.

The annual study compares settlements in 2005 against earlier settlements of cases filed since the passage of the Private Securities Litigation Reform Act in December 1995.

The increase in the total value of cases settled in 2005 is due to an almost 10 percent increase in the number of cases settled compared to 2004 (124 vs. 113) and the average settlement size (\$28.5 million in 2005 vs. \$26.4 million in 2004), as well as the number of "mega" settlements over \$100 million (nine in 2005).

Most striking is the upward trend in the median (midpoint) settlement amount, which is an indicator of the more typical case. In 2005 half of all settlements exceeded \$7.5 million whereas historically, through 2004, the median settlement amount has been only \$6.3 million – a 19 percent increase.

"While in recent years we have been observing an increasing number of very large settlements, never before have we observed such a large single-year increase in the median settlement amount," commented Dr. Laura Simmons, a principal in Cornerstone Research's Washington, DC office and an author of the study.

Contributing to the increase may be a growing frequency of cases involving accounting-related allegations, as well as institutional investors serving as lead plaintiffs. The percentage of cases involving restatements of financial statements grew to 40 percent in 2005, almost double the figure for 2004.

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In addition, more than 35 percent of all 2005 settlements were associated with an institutional investor lead plaintiff, compared to only 20 percent for the prior year. The median settlement amount for all cases involving financial restatements is \$7.5 million, compared to only \$5.8 million for cases without restatements. Median settlements in all cases with an institution as lead plaintiff are \$10.7 million compared to only \$5.0 million for cases without an institutional lead plaintiff. Settlements are significantly higher for suits involving either of these factors, even when other variables such as the size of the case are considered.

“The association between institutional investor lead plaintiffs and higher settlements may partially be attributable to institutions choosing to participate in stronger cases rather than a causal effect on settlement amounts, though in at least one case this year an institutional lead plaintiff had a significant influence on the settlement outcome,” noted Simmons. Namely, in the WorldCom matter, outside directors contributed funds from their personal assets to the settlement fund, apparently at the demand of the lead plaintiff, the New York State Common Retirement Fund.

By far, the most important determinant of settlements amounts is “estimated damages.” Interestingly, while average “estimated damages” remained at high levels, for the first time in post-Reform Act history, they actually decreased slightly from the prior year’s average – from \$2.3 billion in 2004 to \$2.2 billion in 2005. For purposes of the study, “estimated damages” are calculated based on a simplified version of a model often used by plaintiffs to estimate the number of shares damaged and the amount of alleged stock price inflation.

Some observers believe that lower damages may persist into future years as a result of the 2005 unanimous landmark Supreme Court decision in *Dura Pharmaceuticals v. Broudo*, where the court ruled that plaintiffs must show a causal link between the alleged misrepresentations and the subsequent actual losses suffered by plaintiffs.

“The Supreme Court’s decision in *Dura* is clearly the most significant decision in many years affecting the calculation of class action security damages,” said Stanford Law School Professor Joseph Grundfest, Director of the Stanford University Securities Class Action Clearinghouse and former Commissioner of the Securities and Exchange Commission. “It is now not enough for plaintiffs to prove that a fraud caused them to pay too high a price for a stock: they also have to prove that the fraud’s disclosure, and not other intervening factors, caused the stock’s price to decline. *Dura* will therefore cut back on plaintiff damage awards in some cases, but the decision’s full impact is impossible to predict until we see how the lower courts interpret the decision’s language.”

Analyzing 735 cases that have settled since the passage of the Reform Act, the study found several other leading factors that tend to influence settlement amounts. For example, when the SEC also took action against the defendants in the form of an

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administrative proceeding or litigation release, the median settlement amount was \$10.3 million vs. only \$5.5 million when the SEC did not take action. Even more significantly, in cases where corresponding derivative actions (e.g., suits filed against officers and directors on behalf of the defendant corporation) were filed, the median settlement was \$15 million vs. \$5.1 million in cases without derivative actions. Companion derivative actions tend to be associated with larger class action cases, as well as cases involving accounting allegations, SEC actions, and institutions serving as lead plaintiff. However, even considering these factors, they are still associated with higher class action settlements.

Leading the charge in the actual number of settlements secured were the law firms of Lerach Coughlin Stoia Geller Rudman & Robbins and Milberg Weiss Bershad & Schulman (firms that previously composed the now defunct Milberg Weiss Bershad Hynes & Lerach). The two firms were responsible for securing more than half of the settlements in 2005 — 32 percent and 25 percent, respectively.

Finally, while the Cornerstone study finds a significant increase in settlement amounts in 2005, a report recently issued by the Stanford Law School Securities Class Action Clearinghouse in cooperation with Cornerstone Research found decreases in 2005 in both the number of case filings, as well as the amount of investor losses associated with case filings. Since there is a delay between case filings and case resolutions, these results suggest — along with the effects of the *Dura* decision — potential lower settlement values in the future.

A full copy of Cornerstone Research's "Post-Reform Act Securities Settlements: 2005 Review and Analysis" is available at <http://securities.cornerstone.com>. Additionally, Dr. Simmons and Professor Grundfest are available for interviews.

Cornerstone Research provides financial and economic analysis in civil litigation and regulatory proceedings, and concentrates in securities, antitrust, intellectual property, energy, accounting, and financial institutions litigation. Cornerstone Research cosponsors the Stanford Law School Securities Class Action Clearinghouse, the leading source of data and analytical information regarding the financial and economic characteristics of securities class action litigation.

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