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## **The Number of Securities Class Action Settlements Is Lowest in Ten Years, According to New Report by Cornerstone Research**

### **Median Settlement Amount and Estimated Damages Increased for Cases Settled in 2010**

#### **Average Settlement Amount Decreased**

**Washington, DC, March 10, 2011**—The number of Private Securities Litigation Reform Act (Reform Act) settlements approved in 2010 was the lowest in more than ten years, according to *Securities Class Action Settlements—2010 Review and Analysis*, an annual report by Cornerstone Research. In 2010 there were 86 court-approved securities class action settlements, involving \$3.1 billion in total settlement funds. The number of settlements approved in 2010 decreased by approximately 15 percent compared with 2009, and the total dollar value of settlements declined by more than 17 percent, from \$3.8 billion in 2009 to \$3.1 billion in 2010.

The median settlement amount for cases settled in 2010 increased to \$11.3 million from \$8.0 million reported in 2009. This represents a year-over-year increase of more than 40 percent. This is the largest percentage increase in the median settlement amount in the last ten years and is the first time during that same period that the median settlement amount, even when adjusted for inflation, exceeded \$10 million. In addition median estimated “plaintiff-style” damages for 2010 settlements reached \$547 million, the highest level observed since passage of the Reform Act in 1995.

The average settlement amount decreased slightly from \$37.2 million in 2009 to \$36.3 million in 2010 and remains substantially below the average of \$54.8 million for all post-Reform Act settlements through 2009. The decline in the 2010 average settlement is due to a decline in very large settlements. For the third consecutive year, no single securities class action settlement exceeded \$1 billion, and the average of the top five “mega-settlements” in 2010 (settlements in excess of \$100 million) declined more than 30 percent from the average for 2009 mega-settlements.

#### **Commentary**

*Professor Joseph Grundfest, Director of the Stanford Law School Securities Class Action Clearinghouse in cooperation with Cornerstone Research:*

- “Just like movies and music, securities fraud litigation is a hit-driven business. Mega-settlements in 2010 were smaller—they just weren’t reaching the high dollar levels we have seen in the past. That depressed the average size of recoveries in the markets as a whole. Or, to thoroughly mix metaphors, plaintiffs hit more doubles and triples in 2010 rather than grand-slam home runs.”
- “In 2010 we saw an increase in the percentage of settlements with accompanying SEC actions. Parallel SEC proceedings, on average, lead to higher settlements in class actions. Increased SEC

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Washington, DC

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enforcement activity turns out to account for part of the increase in the median size of settlements.”

*Professor Laura Simmons of the College of William & Mary Mason School of Business and Senior Advisor at Cornerstone Research:*

- “I don’t expect the sharp drop in the number of settlements to reoccur in the near future; however, the broad-based shift toward higher settlement amounts may persist in upcoming years.”
- “While only fifteen credit-crisis-related settlements have occurred to date, there have been no surprises associated with these case settlements. Generally these cases involve relatively high damages and large defendants; not surprisingly, they tend to settle for higher amounts.”

### **Additional Key Findings**

- The percentage of settled cases that involved a remedy of a corresponding SEC action prior to the settlement of the class action increased to 30 percent in 2010 compared with 20 percent for all cases settled through 2009. Cases that involve SEC actions are associated not only with significantly higher settlements, but also higher settlements as a percentage of estimated “plaintiff-style” damages.
- The median inflation-adjusted Disclosure Dollar Loss—the dollar value decrease in the defendant firm’s market capitalization at the end of the class period—increased to \$158.1 million in 2010, representing more than a 10 percent increase from 2009.
- Institutional investors continue to increase their participation in post-Reform Act class actions as lead plaintiffs. In 2010 institutions served as lead plaintiffs in more than 67 percent of settlements—the highest proportion to date among post-Reform Act settlements.
- In 2010 allegations related to violations of generally accepted accounting principles were included in approximately 70 percent of settled cases compared with 65 percent for cases settled in 2009. These complex cases continued to be resolved with statistically significant larger settlement amounts than cases not involving accounting allegations. Given that the proportion of settlements involving accounting cases has increased over the last few years, the complexity of these cases may also have contributed to an increasing interval between the filing date and the settlement date that we observe among 2009 and 2010 settlements.
- The number of cases involving companion derivative actions decreased in 2010 compared with 2009. Slightly more than 40 percent of cases settled in 2010 were accompanied by a derivative action filing compared with more than 45 percent of cases in 2009. The 2010 percentage is still higher than the post-Reform Act average of 30 percent.
- The Ninth Circuit (California/Alaska/Arizona/Hawaii/Idaho/Montana/Nevada/Oregon/Washington) had the highest number of approved settlements with 32 cases, followed by the Second Circuit (New York/Connecticut/Vermont) with 21 class action settlements approved in 2010.

Professor Grundfest and Professor Simmons are available to speak to the media about *Securities Class Action Settlements—2010 Review and Analysis*. The full text of the report is available at the Cornerstone Research website (<http://www.cornerstone.com/securities>) and the Stanford Law School Securities Class Action Clearinghouse website (<http://securities.stanford.edu>).

### **About Cornerstone Research**

Cornerstone Research provides financial and economic analysis in litigation and regulatory proceedings and cosponsors the Stanford Law School Securities Class Action Clearinghouse. Information about Cornerstone Research is available at (<http://www.cornerstone.com>).