

Corporate & Financial Weekly Digest

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Scienter Inadequately Pled Under the Standard Set Forth in the PSLRA

Co-authored by [Jonathan Rotenberg](#)

The U.S. District Court for the Southern District of Indiana dismissed plaintiff's securities fraud action against a nationwide health care benefits provider, and its officers and directors, in which plaintiff alleged that defendants artificially inflated the price of the stock by making certain false and misleading statements.

Specifically, plaintiff alleged that the defendant health care provider was experiencing system integration and claims processing problems, a growing claims backlog, lack of visibility into claims data, an inability to establish adequate reserves, and problems in adequately pricing products, prior to and during the class period, and that, as a result, certain statements defendants made during this time were false and misleading.

Defendants moved to dismiss, arguing that the allegations of securities fraud in plaintiff's amended complaint did not adequately plead scienter under the enhanced pleading standard of the Private Securities Litigation Reform Act (PSLRA), and that the allegedly false and misleading statements at issue fell within the PSLRA's safe harbor for forward-looking statements.

The court granted defendants' motion, finding that the allegations in plaintiff's amended complaint did not create a strong inference that defendants recklessly disregarded the truth when making the allegedly false statements. The court also found that the statements at issue fell within the PSLRA's safe harbor, because they were accompanied by meaningful cautionary language and failed to create a strong inference of actual knowledge on the part of defendants. (*Wade v. Wellpoint, Inc.*, 2010 WL 3766324 (S.D. Ind. Sept. 22, 2010))

Katten Muchin Rosenman LLP
Charlotte Chicago Irving London Los Angeles New York Washington, DC