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2017  
PROFESSIONAL  
EXCELLENCE  
AWARDS



2017 LITIGATION DEPARTMENT OF THE YEAR:  
FINANCE

**SIMPSON THACHER & BARTLETT**



## 2017 LITIGATION DEPARTMENT OF THE YEAR: FINANCE

**Q: What are some of the department's most satisfying successes of the past year and why?**

**A:** In April 2016, we convinced the Eighth Circuit to reverse class certification in a securities fraud action against Best Buy. The Eighth Circuit's ruling marked the first time a court had ever applied the Supreme Court's decision in *Halliburton II* to find that a defendant successfully rebutted the fraud-on-the-market presumption of reliance by showing a lack of stock price impact by alleged misrepresentations.

**RESPONSES  
PREPARED BY**

JONATHAN  
YOUNGWOOD  
AND PAUL CURNIN,  
LITIGATION DEPARTMENT  
CO-CHAIRS

This past June, the District of Minnesota cemented our victory before the Eighth Circuit by denying plaintiffs leave to file a new motion for class certification.

In the Best Buy action, our team was retained as counsel only after class certification was granted. But when our litigators are involved from the outset of a securities fraud case, we frequently procure dispositive rulings very early on in the proceedings. We have recently achieved outstanding results in securities fraud actions against Alibaba, Weight Watchers, JPMorgan Chase, La Quinta, Yingli Green Energy Holding Company, and MDC Partners.

**Q: A prospective client in crisis calls and asks why your team should be retained. What is your answer?**



**SIMPSON THACHER & BARTLETT TEAM:**

*From left, litigation department co-chair Paul C. Curnin, litigation partners Linton Mann III and Mary Beth Forshaw, and litigation department co-chair Jonathan K. Youngwood*

**A:** We have a long roster of high-profile clients who have turned to us for counsel during the height of a company-threatening crisis.

For example, when news reports emerged accusing Valeant Pharmaceuticals of forming a secret network of specialty pharmacies to artificially inflate drug prices, Valeant soon found itself the target of a barrage of lawsuits. The company quickly realized that it needed an aggressive team with deep fraud expertise to tell its side of the story. In the midst of briefing the motion to dismiss the pending securities class

action, Valeant handed over the reins to our seasoned securities litigators.

Our first move was to narrow the claims at issue. In April 2017, defendants achieved the dismissal of claims related to four offerings of corporate debt totaling \$15 billion.

We are now spearheading a coordinated defense to the securities class action, 10 individual securities actions, and a RICO class action. Our team is also leading a number of joint defense groups in these multi-defendant actions.

**Q: What traits do you respect most in opposing firms and lawyers?**

**A:** We pride ourselves on aggressively advocating for our clients while proceeding with the utmost integrity vis-à-vis our opponents. We have great respect for our colleagues in the plaintiffs' bar who take this same forthright and honest approach.

**Q: What sorts of trends are you seeing in litigation, and what do you think will be the most important development in the law/legal business that will impact your field in the next 10 years?**

**A:** The securities litigation landscape is constantly evolving. Current trends include a continuing increase in filings of federal securities lawsuits, and a notable uptick in merger litigation, an area in which we have decades of experience. Practitioners are watching important matters currently before the U.S. Supreme Court, including whether state courts have jurisdiction over Securities Act class actions and whether omissions of disclosures under Item 303 of Regulation S-K are actionable under §10(b).

Even if federal securities fraud class actions were to decline, the class action bar is resilient and will seek other avenues for relief. Regardless

of any shifts in the nature of the substantive claims brought by plaintiffs' counsel, there will always be a strong demand for superior defense lawyers with deep substantive knowledge of securities-related legal issues. Excellent lawyering has always stood the test of time, even in the face of dramatic marketplace changes.

**Q: Has your team done anything innovative or used new approaches to litigation?**

**A:** Simpson Thacher's culture of collaboration provides our clients with a distinct advantage that few firms can replicate. For instance, when the firm's capital markets team advised Alibaba on its historic \$25 billion IPO, our securities litigation team worked closely with our corporate colleagues to draft Alibaba's IPO disclosures with an eye towards minimizing future litigation exposure.

Alibaba later retained our securities litigators to fend off multibillion-dollar post-IPO securities fraud and related actions. We have been extraordinarily successful in the defense of these suits. In June 2016, the Southern District of New York dismissed the consolidated actions with prejudice based on what the court found to be "unusually comprehensive" disclosures.

**Q: What is the firm doing to ensure that future generations of litigators are ready to take the helm?**

**A:** We entrust our associates with graduated responsibility and independence, commensurate with their individual experience and their demonstrated capabilities, rather than their class rank. We also encourage associates to take on pro bono engagements, which often provide early opportunities for young lawyers to conduct depositions and gain courtroom experience.