

## Schreiber Discusses Defense of Piggyback Class Action Suits

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Winston & Strawn partner [John Schreiber](#) co-authored the article, “The Piggyback Strike Suit,” published in the *Daily Journal* on July 25, 2012. The article addresses increasingly frequent “piggyback” suits in which shareholders attempt to bring a class action lawsuit after disclosure of government investigations into a company or *qui tam* lawsuits alleging corporate misconduct. These suits have become a source of concern for public companies in industries with complex regulatory environments; however, as the article notes, defendants often have a number of strong defenses.

The article details the reasons why these claims are often dismissed. First, federal securities fraud class actions are subject to heightened pleading strictures of Federal Rule of Civil Procedure 9(b) and the Private Securities Litigation Reform Act of 1995, which require that “a securities fraud complaint contain particularized factual allegations detailing the circumstances of the alleged fraud and the defendants’ scienter.” Courts have held that press reports of government investigations and unproven fraud allegations filed by other parties do not satisfy the plaintiff’s requirement to conduct an independent investigation.

In addition, a plaintiff must allege that the “truth” of the defendant’s fraud being disclosed to the market caused the drop in stock prices. Therefore, unless there is a judicial determination or admission of wrongdoing on the part of the company, a government investigation or whistleblower lawsuit does not satisfy this requirement because it presumes illegal conduct that has not been proven.

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John Schreiber