WINSTON & STRAWN LLP

NEWS

Winston Awarded Summary Judgment in Securities Class Action on Behalf of Cisco

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Winston & Strawn recently scored a major victory for Cisco Systems, Inc. in a securities class action filed in federal court for the Northern District of Georgia. The case involved Scientific-Atlanta, Inc., one of the largest cable suppliers in the world, which Cisco acquired in 2006.

Plaintiffs, who represented a class of purchasers of Scientific-Atlanta stock during the period from January 18, 2001 to August 16, 2001, sued Scientific-Atlanta and two of its former executives after the company's stock price dropped following the withdrawal of earnings guidance in mid-2001. Plaintiffs claimed that, prior to the announcement, Scientific-Atlanta had created a false impression regarding demand for its products by engaging in improper sales practices, providing overly optimistic earnings guidance, and inflating revenue through improper accounting practices. Plaintiffs alleged this conduct artificially inflated the company's stock price, and that investors were injured when the market learned the truth about demand for Scientific-Atlanta's products and the stock price fell. Plaintiffs' damage expert opined that nearly all of the company's stock price decline following the announcement was the result of the market learning that Scientific-Atlanta had previously created a false impression regarding demand.

Cisco retained Winston as lead counsel in the litigation after it acquired Scientific-Atlanta. After the close of discovery, which lasted approximately two years, Winston moved for summary judgment. One of Winston's main arguments was that plaintiffs failed to satisfy their burden of proof on loss causation. Winston argued that a host of factors unrelated to the alleged fraud caused the company's stock price to decline, including an economic downturn, spending patterns by customers and a slowdown in new product offerings. Winston argued that plaintiffs' damage expert failed to take these factors into consideration which meant plaintiffs could not show how much the company's stock price declined, if at all, due to a corrective disclosure relating to the alleged fraud. The court agreed. The court ruled that plaintiffs needed to provide evidence quantifying how much the stock price declined as a result of new information unrelated to the fraud. Without such evidence, a jury would have no way of determining how much of the stock price decline was attributable to the market reacting to a corrective disclosure of the alleged fraud as opposed to other new information about the company. Accordingly, the court granted summary judgment against plaintiffs, dismissed all claims and awarded defense costs.

Winston's team included firm chairman Dan Webb, partner Bob Michels, and associate Joe Motto.

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