
Ninth Circuit Addresses High Standard for Pleading Scienter under Private Securities Litigation Reform Act

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Parties asserting claims for securities fraud under Section 10(b) of the Securities Exchange Act must satisfy the dual pleading requirements of both Federal Rule of Civil Procedure Rule 9(b) and the Private Securities Litigation Reform Act (PSLRA). To plead scienter successfully under the PSLRA, a plaintiff must allege with particularity “facts giving rise to a *strong inference* that the defendant acted with the required state of mind.” On June 10, 2020, in *Nguyen v. Endologix*, the Court of Appeals for the Ninth Circuit held that allegations that lacked any “basis in logic or common experience” fail to meet that standard. See 2020 WL 3069776, at *1. Nor could the complaint be salvaged by the allegations of a confidential witness that the Court found were “high on alarming adjectives” but short on facts. *Id.* at *9. These requirements are well known under the law. But in *Nguyen*, the Ninth Circuit made it clear just how substantial a showing is needed to satisfy the scienter requirements under Rule 9(b) and the PSLRA.

Attorneys

- Joel Kurtzberg
- Lauren Perlgut