<i>Merck & Co., Inc. v. Reynolds</i>: U.S. Supreme Court Ruling Clarifies When Statute of Limitations Begins to Run for Securities Fraud Claims

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A private securities fraud action must be brought within "(1) 2 years after the discovery of the facts constituting the violation; or (2) 5 years after such violation." Faced with interpreting the phrase "discovery of the facts constituting the violation," the Supreme Court held in *Merck & Co., Inc.* v. *Reynolds* that: (1) the limitations period begins to run either from the time the plaintiff actually discovered the facts constituting the violation or from the time a hypothetical reasonably diligent plaintiff would have discovered such facts; and (2) "facts constituting the violation" includes facts demonstrating scienter, which is a necessary element of a securities fraud claim.

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