
Second Circuit Elucidates Statute of Repose for Section 14(a) Claims

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On March 17, 2016, the United States Court of Appeals for the Second Circuit held that claims pursuant to Section 14(a) of the Securities Exchange Act of 1934 for false representations and material omissions in a proxy statement are subject to a three-year statute of repose, unaffected by enactment of the Sarbanes-Oxley Act of 2002 ("SOX"), which extended the statute of repose to five-years for certain private rights of actions involving claims of fraud, deceit, manipulation and contrivance, such as those brought under Sections 9(f) and 18(a) of the Exchange Act. The Court also clarified that operation of Section 14(a)'s statute of repose begins to run on the date of the defendant's last culpable act or omission and reiterated the established legal edict that statutes of repose are unamenable to equitable tolling principles.

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