

Daily Journal

February 9, 2022

Top Verdicts

The largest and most significant verdicts and appellate reversals in California in 2021

TOP DEFENSE RESULTS

Barnes et al. v. Edison International et al.

Case Info

CASE NAME: BARNES ET AL. V. EDISON INTERNATIONAL ET AL.

TYPE OF CASE: SECURITIES FRAUD

COURT: CENTRAL DISTRICT

JUDGE(S): U.S. DISTRICT JUDGE CONSUELO B. MARSHALL

DEFENSE ATTORNEYS:

Munger, Tolles & Olson LLP, John M. Gildersleeve, John W. Spiegel, Lauren C. Barnett; Davis Polk & Wardwell LLP, Neal A. Potischman, Charles S. Duggan, Craig T. Cagney, Dana M. Seshens; PIB Law, Heather E. Stern, John M. Sorich, Mariel Alexandria Glathena Gerlt-Ferraro

PLAINTIFFS' ATTORNEYS:

Pomerantz LLP, Jennifer Pafiti, Louis C. Ludwig, Jeremy A. Lieberman, Jordan L. Lurie, Leigh R. Handelman, Patrick V. Dahlstrom

John M. Gildersleeve led the Munger, Tolles & Olson LLP team defending Southern California Edison and its parent, Edison International, in a securities class action lawsuit. In April, U.S. District Judge Consuelo B. Marshall of Los Angeles dismissed the complaint in its entirety.

Following two massive Southern California wildfires in 2017 and 2018, Plaintiffs alleged that Edison and its executives misled investors about the utility company's commitment to



JOHN M. GILDERSLEEVE

safety, wildfire risk mitigation efforts and potential liability for wildfire damages. Plaintiffs claimed damages based on Edison's stock price decline after the wildfires.

The lawsuit was another in a growing trend of "event-driven" securities litigation.

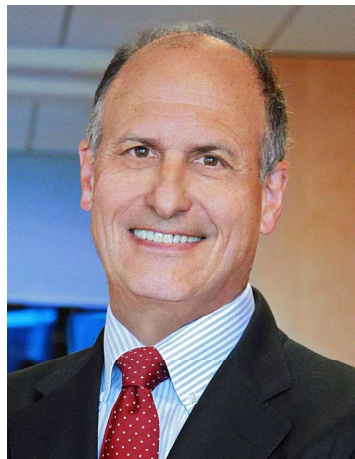
"This is a species of securities claim where plaintiffs work backward in time from a sudden, catastrophic event, which may be a problem with a company's product, a data breach, an environmental disaster or wildfire," Gildersleeve said.

"The plaintiff claims the company should have said something more or something different about the risk of that event happening later," he said.

The lawsuit against Edison was nearly 200 pages long.

"We tried to cut through the bulk of the complaint and the abstraction in the complaint to focus on the precise claims," Gildersleeve said.

"So when we filed a motion to dismiss, our focus was on bringing order to those allega-



JOHN W. SPIEGEL

tions and helping to clarify the substance of what the Plaintiffs were precisely alleging: What were the alleged false statements and why were they false?"

The Munger lawyers explained the stock price declines didn't happen because the fires exposed years of securities fraud.

Rather, investors understood that Edison faced substantial losses when the blazes broke out because the company had repeatedly warned investors its extensive electrical infrastructure could cause wildfires, they argued.

The company said it disclosed that it may not be permitted by its regulator to recover wildfire losses in customer rates.

In dismissing all of plaintiffs' claims, Marshall held that Edison's "general statements related to prioritization of safety would not mislead a reasonable investor," adding that none of Edison's statements were false or misleading.

Marshall agreed with defendants that the complaint was an attempt to exploit California's new wildfire reality and plead



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fraud by hindsight, a practice the Private Securities Litigation Reform Act, or PSLRA, aims to prevent. Barnes et al. v. Edison International et al., 18-CV-09690 (C.D. Cal., filed Nov. 16, 2018).

"In this case, the statutes worked as they should. [The PSLRA] says securities laws don't provide plaintiffs with insurance against market losses," Gildersleeve said.

"The whole thing makes clear that when a disclosed risk of doing business comes to pass, plaintiffs are not entitled to recover losses in the stock market," he added.

The ruling in this case may help curb the proliferation of event-driven securities claims filed in recent years, Gildersleeve said.

Plaintiffs have appealed the ruling to the 9th U.S. Circuit Court of Appeals, with oral argument expected this year.

Lead plaintiffs' attorney Jennifer Pafiti, a partner with Pomerantz LLP, did not return phone calls for comment.

— JENNIFER CHUNG KLAM