

Cabinet News and Views

Informed analysis for the financial services industry



Securities Litigation Alert: Ninth Circuit Clarifies Standards Governing the Statute of Limitations for Private Claims Under Section 10(b) of the Securities Exchange Act of 1934



By **Jason M. Halper**
Partner | Global Litigation



By **Adam K. Magid**
Special Counsel | Global Litigation



By **Diane Lee**
Associate | Global Litigation

In *York County v. HP, Inc.*, the U.S. Court of Appeals for the Ninth Circuit further clarified national standards governing the two-year statute of limitations applicable to private claims under Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder. Joining the Second Circuit (and others), the Court held that the statute of limitations begins to run when a “reasonably diligent plaintiff” would have discovered the “facts constituting the violation” (including scienter), and that occurs when such a plaintiff can plead those facts “with sufficient detail and particularity to survive a 12(b)(6) motion to dismiss.” *York* contributes to a growing consensus among the circuits on the standards applicable to the two-year Section 10(b) statute of limitations. It also advances the law by articulating a framework for courts to assess when, on the pleadings alone, a Section 10(b) claim may be dismissed as untimely (*i.e.*, when the complaint fails to plead that a “necessary” Section 10(b) “fact” became discoverable within two years of the complaint’s filing). While *York* is an important addition to jurisprudence on Section 10(b) limitations periods, questions remain, including the full gamut of “facts constituting the violation” that a reasonably diligent plaintiff must discover for the clock to start ticking.

You can read our Clients & Friends Memo [here](#).
