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Securities Group Of The Year: Robbins Geller

By **Dean Seal**

Law360 (December 4, 2020, 3:29 PM EST) -- Robbins Geller Rudman & Dowd LLP nabbed a pair of billion-dollar settlements for investors in the former Valeant Pharmaceuticals International and American Realty Capital Properties this year and wrapped up a case on the eve of trial with a $350 million deal, earning the firm a spot among Law360's Securities Practice Groups of the Year.

One of the firm's first major victories in 2020 came just six days into the new year, when solar panel manufacturer First Solar Inc. agreed to stave off a trial scheduled to start the next day by paying $350 million to settle eight-year-old claims it fraudulently inflated its stock price.

Under the terms of the deal, First Solar wouldn't have to admit any liability for the estimated $250-per-share loss experienced by a class of 1,300 shareholders who accused First Solar of covering up and misrepresenting the impact of issues with its solar nodule products for photovoltaic solar cells.

After a Robbins Geller team defeated First Solar's summary judgment bid in 2015, the company appealed to the Ninth Circuit, which held that a plaintiff can establish loss causation even if an alleged fraud was not revealed to the market until after the losses were suffered, so long as the plaintiff proves the losses were caused by "the very facts about which the defendant lied."

The U.S. Supreme Court denied First Solar's bid to review the Ninth Circuit holding, pushing the case to an early January trial that was scrapped when the parties announced the $350 million settlement. Robbins Geller co-founder Darren Robbins praised the investor counsel's skillful maneuvering through the appellate courts and thorough preparation for the trial, which allowed them to hold out on settling until First Solar came back with an offer that provided a satisfactory recovery for the investors.

"The best trial lawyers and appellate lawyers are brought in [by defendants] on these cases, and it makes it very difficult to go down stream, prepare the case for trial and prevail," Robbins said. "But we're committed to that."

Roughly two weeks after the First Solar deal was handed to the Arizona federal court, a New York federal judge granted final approval of a $1.025 billion settlement for Vereit Inc. investors in a suit that accused the real estate investment trust, formerly known as American Realty Capital Properties Inc., of lying about its books.

The settlement ended five years of "hard-fought" litigation and represents a recovery of 50% of the maximum recoverable damages — the highest percentage recovery ever in a major private securities class action ahead of trial, according to Robbins Geller.

The agreement stipulated that American Realty's former CEO Nicholas Schorsch and former chief Chief Financial Officer Brian Block would be personally liable for $225 million and $12.5 million respectively, marking the largest personal contributions to a settlement owed by individual defendants, the firm said. According to Robbins, individual defendant contributions both benefited the class financially and act as "a therapeutic measure to protect institutional investors' portfolios going forward," sending a message that individuals can pay a hefty price for engaging in wrongdoing on behalf of an issuer.

"That kind of trifecta — getting an outsized recovery, making sure a huge chunk of it came from the alleged wrongdoers, and sending and important message to the markets for those who might otherwise contemplate engaging in chicanery — is a very strong outcome," Robbins said of the Vereit settlement.

Robbins said the firm was able to smoothly navigate the challenges wrought by the novel coronavirus pandemic early in the year, as the travel-heavy nature of their practice had already prepared most partners for operating remotely. In June, weeks before the First Solar settlement received final approval, a special master recommended final approval of a $1.2 billion settlement with Bausch Health Cos. Inc.

Bausch had agreed in 2019 to resolve a proposed securities class action accusing its former leaders of fraudulently inflating its stock when the Canadian company was known as Valeant. Investors claimed Valeant used a clandestine network of pharmacies to push high-priced drug prescriptions, sending the stock plummeting once price-gouging allegations surfaced.

Under the deal, which received preliminary approval in May, Bausch admits no liability and denies all wrongdoing. Retired U.S. District Judge Dennis M. Cavanaugh handed down a report on June 16 stating that the recovery — the ninth largest in Private Securities Litigation Reform Act history and the largest against a pharmaceutical company — was an "excellent result" for the class.

"The competence of opposing counsel favors a finding that lead counsel prosecuted this case with skill and efficiency," the retired judge said. "The $1.21 billion cash settlement is a further indicator of the quality of lead counsel's services to the class."

--Editing by Nicole Bleier.