

Milberg LLP Wins Major Securities Fraud Trial Against Vivendi

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On behalf of an international class of investors, Milberg LLP represented lead plaintiff the Retirement System for the General Employees of the City of Miami Beach and several individuals in the successful prosecution of the recent securities fraud trial against French conglomerate Vivendi S.A. The case culminated in a critical jury verdict for the plaintiffs on January 29, 2010, which entitled investors to recover as much as an estimated \$9.3 billion, or €6.6 billion. Tried before Judge Richard J. Holwell in New York federal court, the Vivendi litigation is one of only nine securities class actions tried to verdict based on conduct occurring after the passage of the Private Securities Litigation Reform Act in 1995.

Plaintiffs filed the action in 2002, alleging that defendants concealed Vivendi's true liquidity condition from the investing public during the period October 30, 2000 to August 14, 2002. Milberg attorneys successfully resisted defendants' several motions to dismiss as well as their subsequent motions for reconsideration.

The litigation involved extensive discovery, including the review of over 4 million pages of documents and depositions of over 60 witnesses. Many of the depositions were conducted overseas pursuant to international litigation procedures set forth in the Hague Convention. In 2007, the court certified a class of investors from France, the United States, England, and the Netherlands in a decision that survived interlocutory appellate review and subsequent motions for reconsideration.

The jury trial commenced on October 5, 2009 and lasted for nearly four months. Plaintiffs succeeded in thematically juxtaposing Vivendi's internal communications against its public statements -- a contrast that one French reporter called

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the "masterpiece" of the plaintiffs' presentation. Milberg senior partners Matthew Gluck and Michael Spencer conducted the examinations of the most important fact witnesses, including Vivendi's former CEO and CFO, and examined both sides' accounting and economic loss causation experts. The jury found Vivendi liable for securities fraud in connection with 57 false or misleading statements made during the class period. The jury calculated damages on a per-share basis, making a finding as to the amount of artificial inflation on each day of the class period. If all eligible class members submit claims, the resulting judgment could exceed \$9 billion. An international claims procedure will commence as soon as it is approved by the court and is expected to result in the largest judgment entered after a securities fraud trial, and one of the largest securities fraud recoveries of any kind.

The round-the-clock efforts of Milberg's attorneys and support staff enabled plaintiffs to navigate the logistical difficulties of this extremely complex trial and to oppose defendants' numerous trial motions. In describing the work of the attorneys trying the case, Judge Richard J. Holwell stated, "I can only say that this is by far the best tried case that I have had in my time on the bench. I don't think either side could have tried the case better than these counsel have." *In re Vivendi Universal, S.A. Securities Litigation*, No. 02-5571 (S.D.N.Y.).

