

Thad Behrens, Daniel Gold, Matt McGee in Law360 Series: Defending Securities Act Claims in Texas State Court

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PRACTICES Litigation, Securities and Shareholder Litigation

Haynes Boone Partners Thad Behrens and Daniel Gold and Counsel Matt McGee wrote a three-part series in *Law360* about strategies lawyers can take to defend against Securities Act claims in Texas state court.

Here is an excerpt:

The methods of defending securities claims in federal court are well-worn, with established precedent and courts that are deeply experienced with the unique procedural and statutory hurdles plaintiffs face in bringing such claims. But the relative comfort of litigating federal securities cases in federal courts was disturbed last year, when the U.S. Supreme Court issued its ruling in *Cyan Inc. v. Beaver County Employees Retirement Fund*, allowing securities class action plaintiffs to pursue public offering claims in state courts.

In *Cyan*, the high court held that: (1) state courts have jurisdiction to hear class actions brought under the federal Securities Act of 1933; and (2) the Securities Litigation Uniform Standards Act, or SLUSA, does not empower defendants to remove class actions alleging only 1933 Act claims from state to federal court. The practical effect of the Supreme Court's decision is that more public offering securities are now being litigated in state courts.

Texas has notoriously unusual procedures for obtaining early pretrial wins in securities litigation. In fact, it was not until very recently that Texas procedure permitted the filing of a motion to dismiss challenging the pleadings. Yet defendants who find themselves defending a 1933 Act case in Texas state courts can navigate Texas procedures to provide early opportunities for wins at the pleading, class certification or summary judgment stages.

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