

Daily Journal

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TOP VERDICTS OF 2016

The largest and most significant verdicts and appellate reversals handed down in California in 2016

TOP DEFENSE VERDICTS

In re Arrowhead Research Corp. Securities Litigation

case INFO

Securities fraud

Central District

U.S. District Judge

Consuelo B. Marshall

Defense lawyers: Gibson, Dunn & Crutcher LLP, Alexander K. Mircheff, Dean J. Kitchens, Audrey K. Tan

Plaintiff lawyers: Pomerantz LLP, Jeremy A. Lieberman; Glancy Prongay & Murray LLP, Lionel Z. Glancy



ALEXANDER K. MIRCHEFF



AUDREY K. TAN

In this securities class action, the plaintiffs alleged that Arrowhead Research Corp. made misleading statements about the anticipated success of human trials for its flagship hepatitis B treatment by suggesting the company had achieved positive results in both human and chimpanzee trials. They claimed the statements caused a 44 percent drop in Arrowhead's stock price when the human trial results were published, representing hundreds of millions of dollars in market capitalization.

Marshall dismissed the complaint on Gibson, Dunn & Crutcher LLP's motion and denied the plaintiffs' motion for reconsideration. The plaintiffs' appeal is pending at the 9th U.S. Circuit Court of Appeals.

The complaint required Alexander K. Mircheff and colleagues to explain why complex scientific terminology was entirely accurate and not misleading, even when it had apparently been misinterpreted by third-party analysts who covered the company's research. The defense team emphasized that the analysts' own views were not properly at issue. That caused the plaintiffs to drop that theory and let the defense focus on the content of the statements. Mircheff used judicial notice procedures creatively to find places in the public record that underscored that accurate facts had been provided and in many cases actually understood. That

allowed the defense to cut through plaintiffs' attempt to equate market "confusion" with actionable misleading statements.

Mircheff declined to comment on specifics of the case, citing his client's wishes. He said, "We're pleased the court recognized that the company's statements were entirely accurate and complete. We see this as an important decision underscoring the rights of companies to make forward-looking disclosures about complex topics. That is to the benefit of investors everywhere, and we are confident that the court's ruling will be affirmed."

— John Roemer