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Q&A With Pillsbury's Sarah Good

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Sarah Good

Sarah Good, a Pillsbury partner in San Francisco and Silicon Valley, specializes in securities litigation. She has represented issuers, boards of directors, audit and special committees, officers, underwriters, broker-dealers and hedge funds in more than 75 securities class actions, derivative litigation, and investigations and proceedings commenced by governmental and regulatory agencies across the country.

Good also has counseled more than 250 private, pre-IPO and public companies on risk management and insurance issues. In addition, she has handled more than 20 corporate internal investigations in allegations of misconduct which often involved activities outside the U.S., including in China, Japan, South Korea, Taiwan and the U.K.

Q: What is the most challenging case you have worked on and what made it challenging?

A: The most challenging case that I have worked on involved representing a former officer of a public company in matters relating to a restatement of financial results. The case involved proceedings and governmental investigations on multiple fronts — a corporate internal investigation, SEC investigation and litigation, DOJ investigation and indictment, derivative shareholder litigation in state and federal court and a securities class action.

At the end of the day, the client was not pursued by the SEC or the DOJ and successfully resolved the civil litigation. Many of my cases involve proceedings on multiple fronts and it is challenging to deftly weave a path to achieve an excellent global result on all fronts. The best results — when the DOJ or the SEC elects not to pursue a client — are nonpublic and the names of the clients and the companies involved cannot be disclosed.

Q: What aspects of your practice area are in need of reform and why?

A: The high incidence of nonmeritorious litigation filed in connection with mergers and acquisitions by public companies cries out for reform. A recent study found that 91.7 percent of all mergers that met certain requirements were accompanied by litigation challenging the transaction. Companies often resolve these lawsuits by supplemental disclosure associated with the challenged transaction and cash payment of attorneys' fees.

Companies are motivated to settle these suits so that the transaction may be approved by stockholders as planned and close without being delayed or incurring the high costs associated with discovery and

litigation in terms of attorneys' fees and time spent by directors and the executive team on litigation-related matters. The end result is a toll paid by public companies to the plaintiff's bar every time it enters into a merger or acquisition without any real benefit to the company's shareholders. These lawyer-driven lawsuits need to be eradicated.

Q: What is an important issue or case relevant to your practice area and why?

A: The Supreme Court's 2011 decision in Janus limited liability under Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5(b) thereunder to persons who "make" purported misstatements. In other words, defendants who did not "make" any purported misstatements could not be liable. Notwithstanding the clear language of Janus, there has been conflicting case law post-Janus on whether or not defendants who did not "make" statements may be held liable under Section 10(b) and Rule 10b-5(a) and (c). This issue needs to be put to rest by the courts.

Q: Outside your own firm, name an attorney in your field who has impressed you and explain why.

A: I have been very impressed by Clara Shin at Covington & Burling's San Francisco office. Clara is a tireless advocate on behalf of her clients and brings her considerable intellect and creativity to find a way to achieve the client's desired outcome. Throughout the process, she imparts a sense of calm to her clients who often are going through one of the most difficult periods in their lives. Clara also has a great deal of integrity. Fortunately, I have always represented clients whose interests are aligned with Clara's clients and have not had to face her as an adversary.

Q: What is a mistake you made early in your career and what did you learn from it?

A: In the first two years of my practice at a law firm other than Pillsbury, I was involved in defending large-scale securities class actions. As one of the most junior attorneys on the team, I was involved in a lot of discovery battles that entailed multi-hour meet-and-confer discussions and massive letter-writing campaigns. At that time in my career, I felt that it was important to fight every battle where there was an argument to be made to demonstrate that I was a tough advocate. At the time, I also was influenced by the more senior attorneys on those cases who believed in fighting over everything. As I matured, I realized that an effective advocate does not fight every battle, but only fights the battles that are worth fighting. The lesson learned was to pick your battles and be strategic.

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