



Directors & Officers

## SESSION

“SCA: Back to the Future - Disruptive Dynamics & Higher Filing Rates”

*Denise Amantea, Partner, Woodruff Sawyer*



Jan. 31 & Feb. 1, 2018 ▶ New York, NY ▶ Marriott Marquis

2018

# SCA: Back to the Future – Disruptive Dynamics & Higher Filing Rates

Moderator:

Jessica Corley, Partner, Alston & Bird

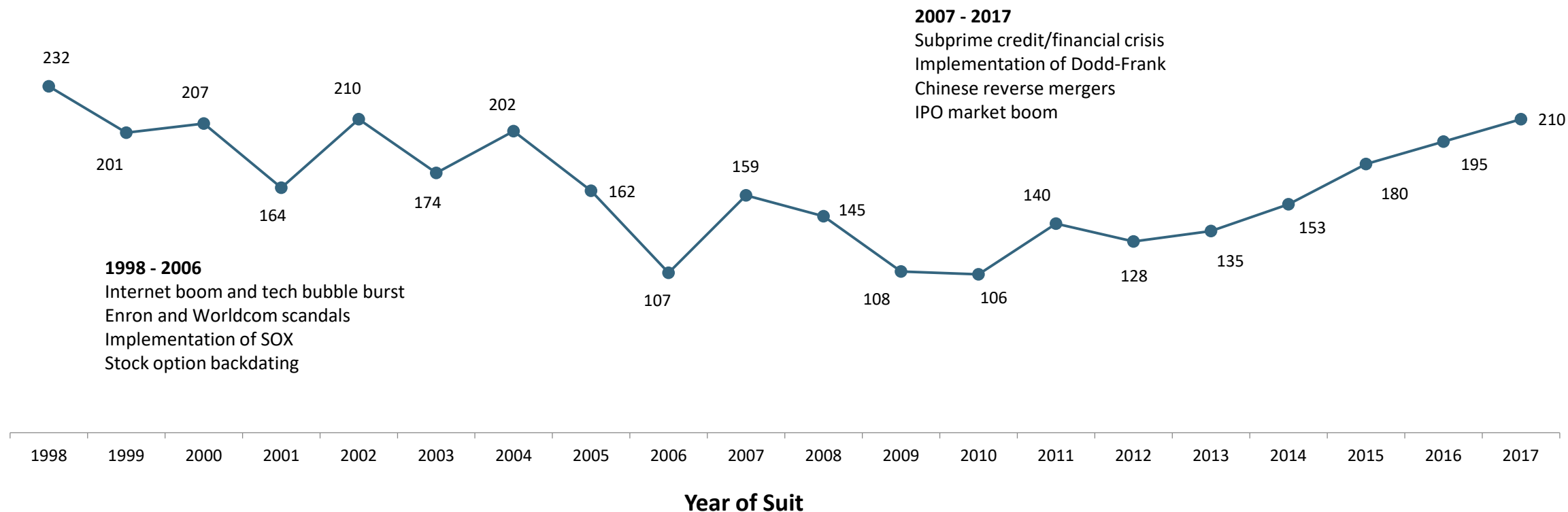
Panelists:

Denise Amantea, Partner, Woodruff Sawyer

Kieran P. Hughes, Vice President, AIG

Layn R. Phillips, Mediator, Phillips ADR Enterprise

# Securities Class Action Filings - the Last 20 Years



Note: Count consists of classic SCA suits in which there was a stock drop. Does not include M&A suits.

Source: Woodruff-Sawyer & Co.

DATABOX™

# Accounting vs. Non-Accounting Allegations - the Last 20 Years



Source: Woodruff-Sawyer & Co.  
DATABOX™

## Percentage of Suits Against Foreign Companies 10-Year Averages

1998 – 2007

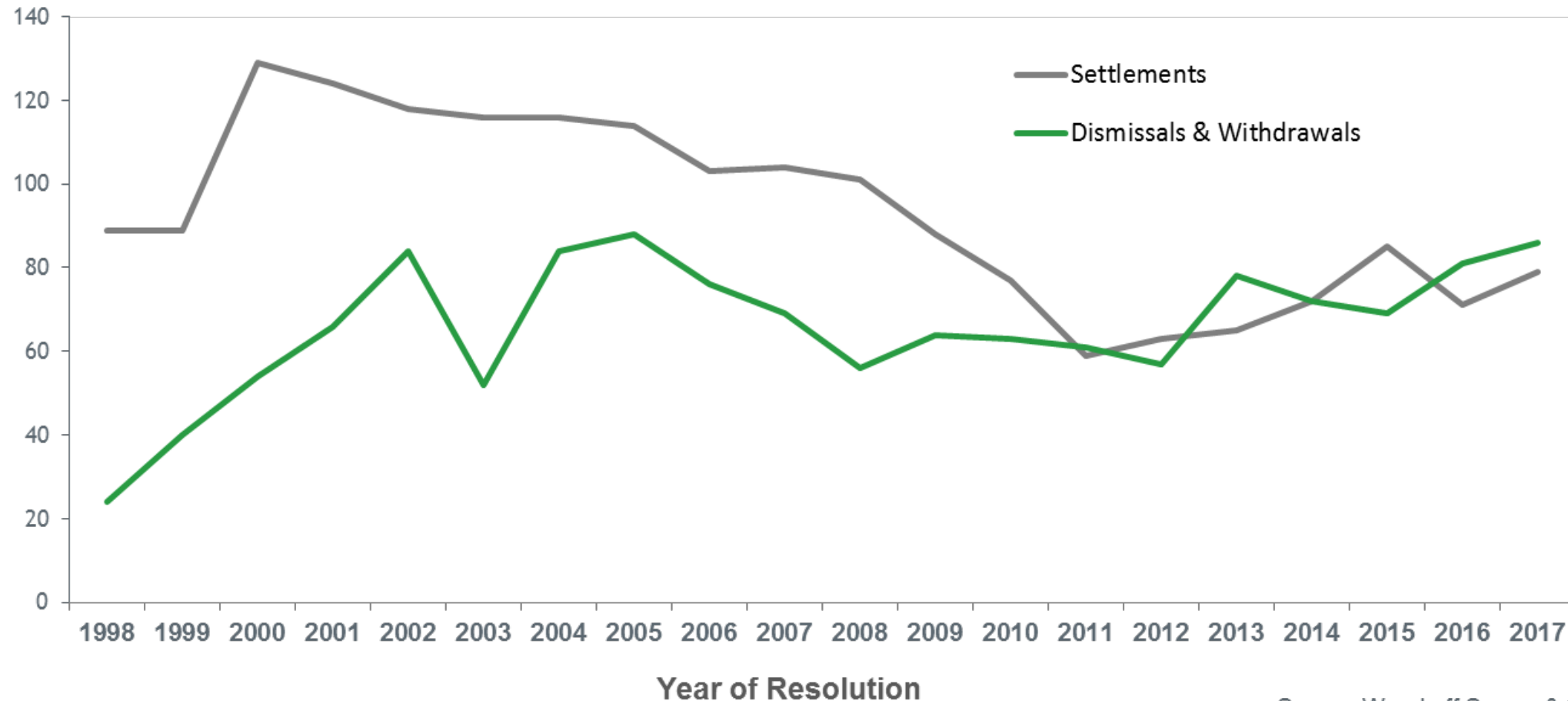
9%

2008 – 2017

21%

Note: 2008-2017 includes Chinese companies which attributed to 8% of the 21% increase.  
In 2011, 27% of the 41% is attributable to filings against Chinese HQ'd and Chinese reverse merger companies.

# Settlements vs. Dismissals - the Last 20 Years



Source: Woodruff-Sawyer & Co.

DATABOX™

# Active Plaintiffs' Firms - the Last 20 Years

(Firms Assigned Lead/Co-Lead Role)

## 1998 through 2007

- Berger & Montague, P.C.
- Bernstein, Litowitz, Berger & Grossman LLP
- Coughlin Stoia Geller Rudman & Robbins LLP
- Lerach Coughlin Stoia & Robbins LLP
- Milberg, Weiss, Bershad, Hynes & Lerach LLP
- Schiffrin Barroway Topaz & Kessler, LLP

## 2008 through 2017

- Bernstein, Litowitz, Berger & Grossman LLP
- Glancy Prongay & Murray LLP
- Labaton Sucharow LLP
- Pomerantz LLP
- Robbins Geller Rudman & Dowd LLP
- The Rosen Law Firm, P.A.

Source: Woodruff-Sawyer & Co.

DATABOX™

# Key Mediation Dynamics

- Process and Purpose of the Mediation
- Thought Leaders and Alliances
- Alignment of Carriers and Defendants/Counsel
- The Good and the Bad of Pre-mediation Demands
- Managing Expectations and Likely Timeline for Settlement



# Effective Mediation Tactics

- Engage with the Mediator prior to the Session
- Persuasive Mediation Briefs including Key Coverage Issues (possibly in a separate brief)
- The Good and the Bad of Opening Statements
- Openness to Joint Sessions and Alternative Processes
- Communication with Smaller Groups

# Tips for Success at Mediation

- Commit to Candor: prepare to discuss strengths and weaknesses of the complex cases
- Listen: God gave us two ears and only one mouth for a reason
- Have patience: a disappointing proposal (or proposals) does not always portend failure
- Stay Engaged: securities cases often need months, or even years, to settle