

## Corporate & Financial Weekly Digest

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### **Third Circuit Affirms District Court's Dismissal of Securities Fraud Class Action for Failure to Plead Scienter**

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The U.S. Court of Appeals for the Third Circuit affirmed the District Court's grant of defendants' motion to dismiss all claims against corporate defendants and individual officers and directors of Horizon Lines, Inc. for securities fraud arising out of price fixing under the heightened pleading standard in the Private Securities Litigation Reform Act (the PSLRA). Highlighting that the PSLRA places a weighty burden on plaintiffs, the Third Circuit affirmed that plaintiff did not plead sufficient facts to raise a strong inference of scienter as to the senior executives of Horizon. The Third Circuit further held that in pleading scienter as to the corporation, one still needed to look to the state of mind of the individual corporate officials who made the statements at issue, as opposed to the collective knowledge of all the corporation's employees. Because there was no individual at Horizon who made actionable statements with scienter, the Third Circuit affirmed the District Court's determination that the plaintiff had not pled scienter against the corporation.

*City of Roseville Employees' Retirement System v. Horizon Lines, Inc.*, Nos. 10-2788 and 10-3815 (3d Cir. Aug. 24, 2011).

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