

Business and Commercial Litigation Newsletter

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We're pleased to present the Bernstein Shur Business and Commercial Litigation Newsletter. This month we highlight a recent case addressing the intersection of the Dodd-Frank Act's whistleblower protections and federal pleading requirements, as well as other developments regarding patent and products liability law that will have an impact on business and commerce. We hope you enjoy the newsletter.

In the News:

In one of the first cases to test the whistleblower protections provided under the Dodd-Frank Act, a New York federal judge dismisses a suit against a company that allegedly violated securities laws and retaliated against its former employee. The plaintiff's complaint asserted claims of securities laws violations and wrongful termination after he reported that his employer's CEO was diverting company assets to another company he owned. The issue raised by the defendant's motion to dismiss was the manner in which a whistleblower must report the wrongdoing in order to receive protection against retaliation under the Dodd-Frank Act. In a case of first impression, Judge Sand ruled that Dodd-Frank's whistleblower protections required the wrongdoing to be reported to the SEC. Because the plaintiff only reported it to the company's president, his claims under Dodd-Frank were deemed insufficient. [Read more about the case on Law.com.](#)

Congress approves a sweeping patent reform bill that will result in significant changes to the U.S. patent system. The Senate's approval follows the passage of the bill by the U.S. House of Representatives. President Obama is expected to sign the bill into law this month. Under the new legislation, the U.S. patent system will change from a first-to-invent system to a first-to-file system. The legislation also refines the one-year grace period in which inventors can publicize their invention without waiving patent rights by enumerating permissible disclosures. In addition, the legislation limits false marking claims to U.S. government and private parties who can show actual competitive harm. [Learn about the new legislation here.](#)

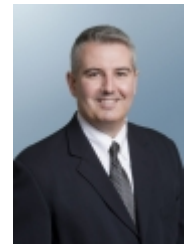
U.S suppliers of allegedly defective drywall from China may face a flood of additional lawsuits following an order of a Florida court allowing parties to opt out of the terms of a \$55 million preliminary settlement deal pending in federal court. The settlement deal, overseen by U.S. District Judge Eldon Fallon, would have resolved 3,000 claims brought in Miami, Florida against Banner Supply Company. However, the resolution of these claims has been placed in doubt after a judge in Broward County, Florida determined that relief was available in state courts outside of the federal, multidistrict litigation. Plaintiffs claim that the Chinese drywall supplied by Banner was defective and emitted toxic gasses that corroded home wiring. [Here's what Reuters.com had to say.](#)

A federal jury in Virginia awards DuPont Co. \$919 million based on trade-secrets violations committed by a competitor based in South Korea making similar high-strength synthetic fibers such as those used in DuPont's Kevlar body armor. In reaching its determination, the jury found that the defendant, Kolon Industries, misappropriated no less than 149 of DuPont's trade secrets related to fiber technology. The case arose out of Kolon's hiring of a former DuPont employee who provided DuPont's confidential/proprietary information regarding fiber technology to Kolon. [Click here for the Washington Post article.](#)



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