

Pharma Co. Can Get D&O Coverage For Securities Suit

Law360 (February 20, 2024, 7:02 PM EST) — A pharmaceutical company that developed a drug for rare genetic blood disorders is covered under a recent directors and officers policy for a securities class action, a Delaware state court ruled, rejecting its insurers' contention that the action was related to an SEC subpoena and thus fell under an older policy.

Judge Paul R. Wallace granted Alexion Pharmaceuticals Inc. partial summary judgment Thursday, ruling that excess insurers Swiss Re Corporate Solutions America Insurance Co., Endurance Assurance Corp. and Navigators Insurance Co. owed coverage for the underlying action under a D&O insurance tower spanning from 2015 to 2017.

A "meaningful linkage" between the U.S. Securities and Exchange Commission subpoena and the underlying securities action was required for the insurers to bar coverage under the 2015-2017 policy, but there was only a "loose connection" between the two, Judge Wallace said.

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