



Quarterly D&O Claims Trends: Q1 2017

April 27th, 2017, 11 AM EST

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Today's Moderator



Jim Blinn

EVP, Client Solutions
Advisen

● Today's Panelists



Caroline Bullerjahn

Partner,
Goodwin Securities Litigation &
White Collar Defense Group



Kevin LaCroix

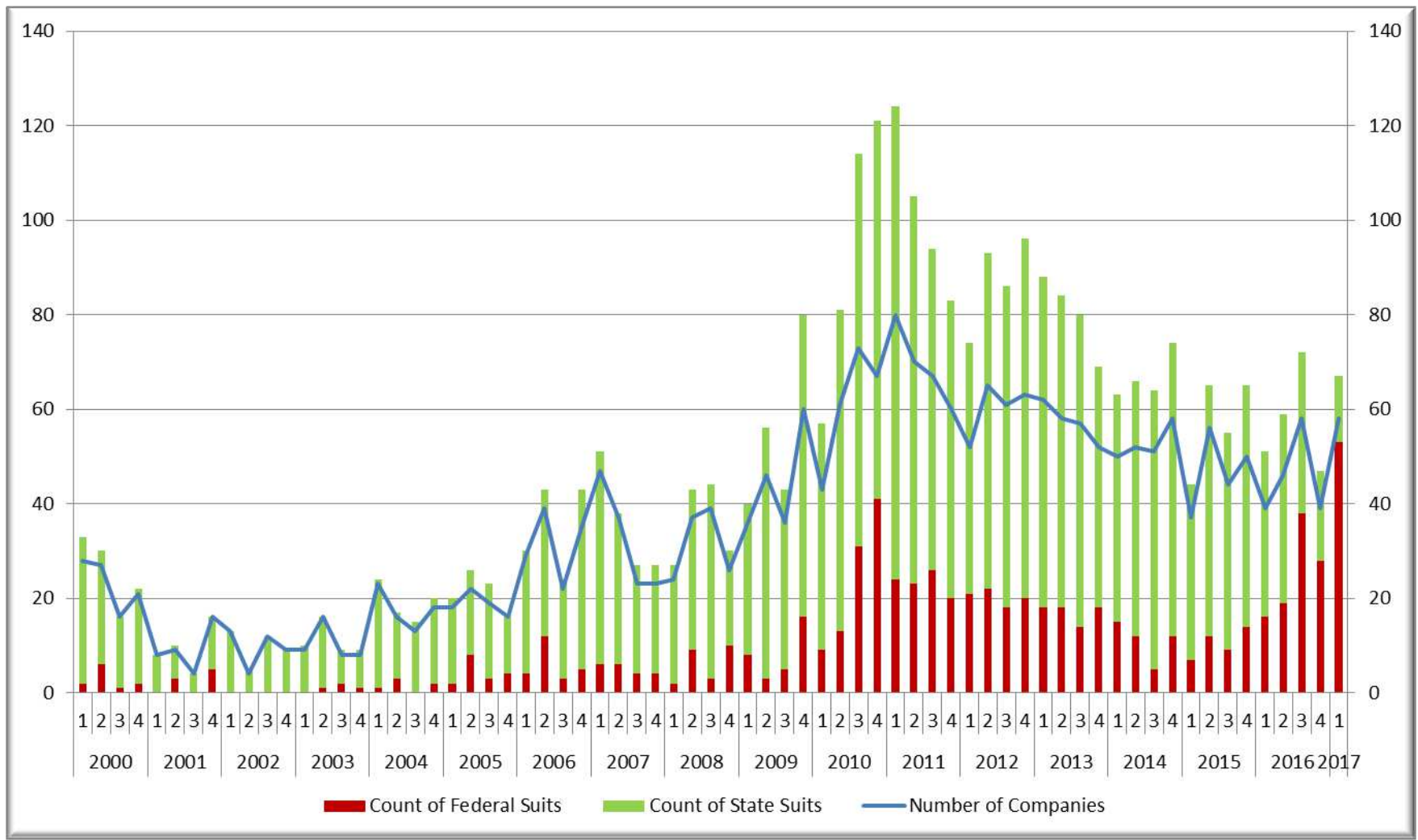
RT ProExec, a division of RT
Speciality
Author of the D&O Diary



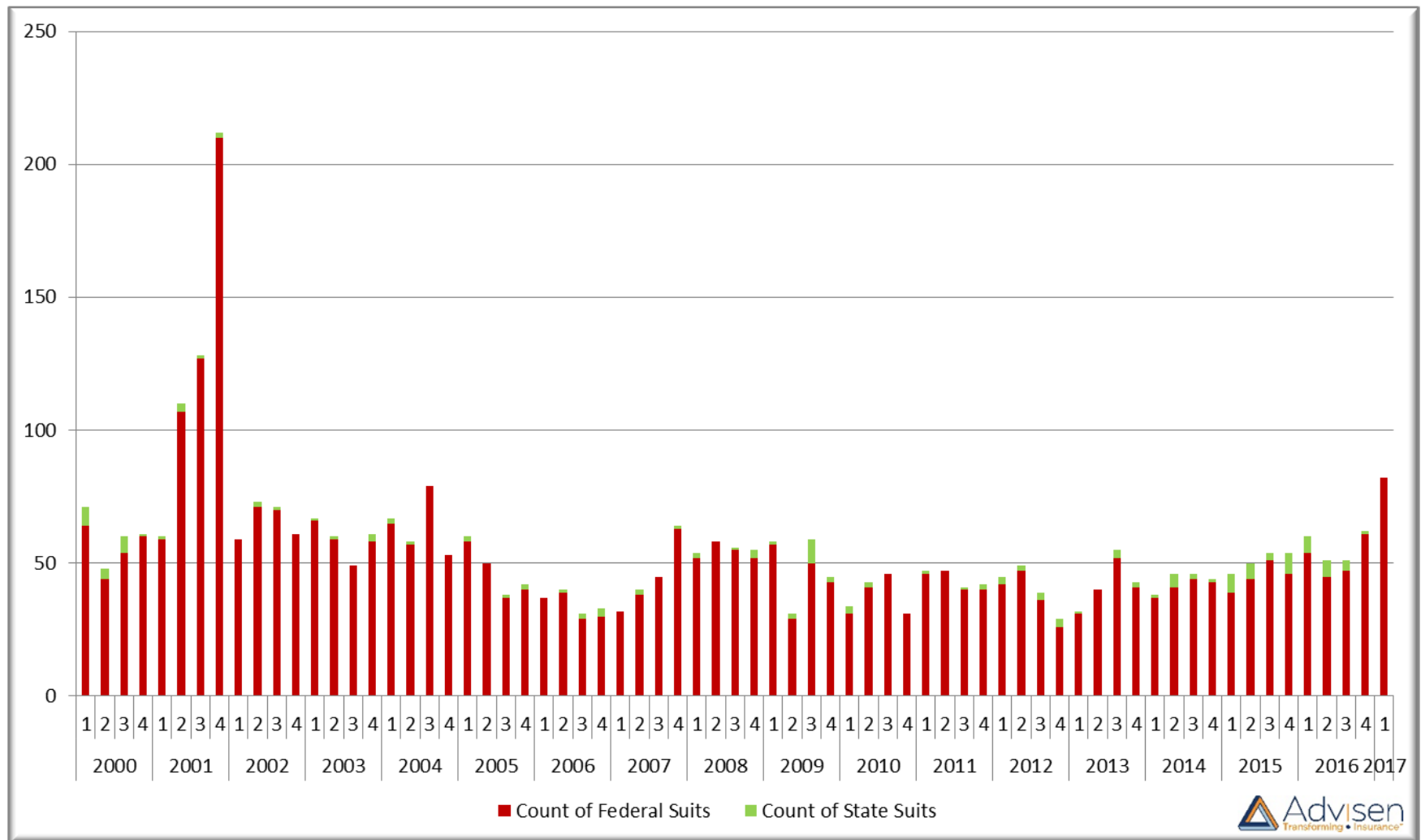
Michael Piccione

SVP, Public D&O Division,
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Merger Objection



Securities Class Action

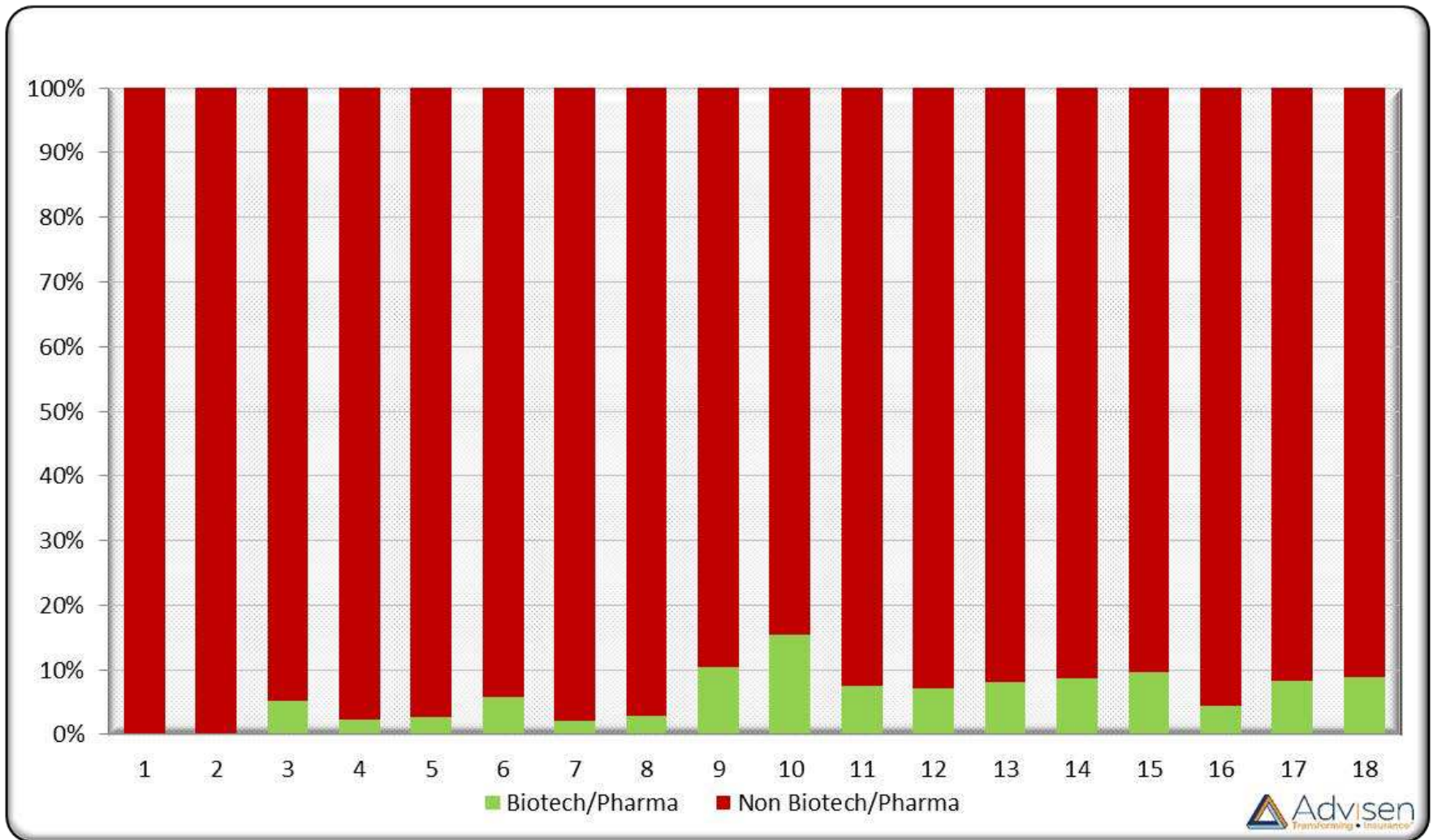


● Total Counts

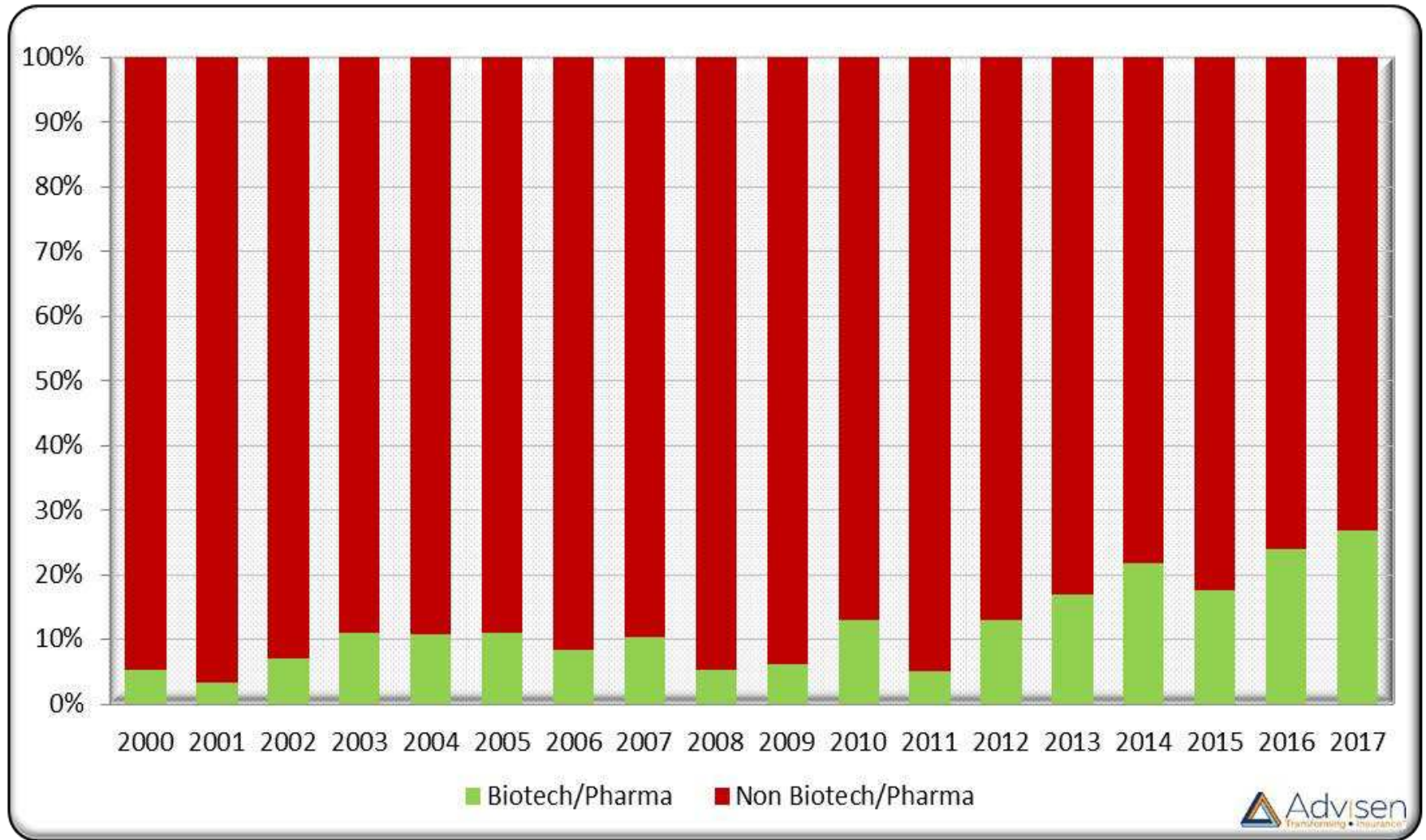
		Federal			State			Grand Total
		SCAS	Merger Objection	Total	SCAS	Merger Objection	Total	
2016	Q1	54	16	70	6	35	41	111
	Q2	45	19	64	6	40	46	110
	Q3	47	38	85	4	34	38	123
	Q4	61	28	89	1	19	20	109
2017	Q1	81	54	135	0	14	14	149

- Q1 2017 federal suits 93% higher than Q1 2016
- Total suits are 34% higher

Biotech & Pharma – Merger Objection



Biotech & Pharma – SCAS



● Biotech Motion to Dismiss

*Myths & Misconceptions of Biotech Securities
Claims: An Analysis of Motion to Dismiss Results
from 2005-2016*

Published March 14, 2017 by

- Doug Greene - Lane Powell
- Genevieve York-Erwin - Lane Powell
- Michael Tomasulo - Armfield, Harrison & Thomas

<http://www.dandodiscourse.com/>

● Biotech Motion to Dismiss

- Studied final district court decisions on motions to dismiss federal securities claims
- Biotech company did not already have drug or device on the market
- Alleged false or misleading statements concerned clinical trials or FDA approval
- 61 decisions met these criteria
- 78% from 2012-2016 complete dismissals
- 56% from 2001-2011 complete dismissals

● Biotech vs Pharma

- NAICS Codes:
 - Research and Development in Biotechnology (541711)
 - Pharmaceutical and Medicine Manufacturing (3254XX)
- Biotech:
 - Revenues < \$100M and
 - Market Cap < \$2.5B
- Pharma:
 - Not Biotech

Frequency of Filings

Distribution of Companies – 2000 to 2016

Market Cap Group	Revenue Group						Grand Total
	a < \$1M	b \$1M to \$25M	c \$25M to \$100M	d \$100M to \$1B	e >1B		
< \$50M	18.5%	12.3%	2.7%	0.2%	0.0%		33.8%
\$50M to \$100M	5.3%	5.3%	2.1%	0.4%	0.0%		13.0%
\$100M to \$500M	7.5%	10.8%	7.2%	3.5%	0.1%		29.1%
\$500M to \$1B	0.8%	1.8%	1.9%	2.8%	0.2%		7.5%
\$1B to \$2.5B	0.3%	0.7%	1.1%	2.9%	0.8%		5.9%
\$2.5B to \$5B	0.1%	0.1%	0.2%	1.3%	1.6%		3.2%
5B to \$10B	0.0%	0.0%	0.1%	0.5%	1.2%		1.8%
>10B	0.0%	0.0%	0.0%	0.4%	5.3%		5.7%
Grand Total	32.5%	31.0%	15.3%	12.1%	9.1%		100.0%

Frequency of Suits – 2000 to 2016

Market Cap Group	Revenue Group						Average
	< \$1M	\$1M to \$25M	\$25M to \$100M	\$100M to \$1B	>1B		
< \$50M	1.0%	1.1%	1.1%	3.8%			1.1%
\$50M to \$100M	1.1%	3.1%	4.5%	4.5%			2.6%
\$100M to \$500M	4.8%	4.3%	3.6%	4.4%	0.0%		4.3%
\$500M to \$1B	15.3%	11.5%	7.7%	7.1%	12.5%		9.3%
\$1B to \$2.5B	11.4%	9.6%	6.8%	6.6%	4.9%		7.0%
\$2.5B to \$5B	22.2%	9.1%	11.1%	8.3%	2.5%		6.0%
5B to \$10B	0.0%	0.0%	83.3%	14.0%	4.9%		9.8%
>10B				2.3%	8.8%		8.4%
Average	2.4%	3.4%	4.4%	6.3%	6.9%		3.9%

Pharma vs Biotech - Selection

Number of Securities Class Action Cases with a Settlement

2000-2016

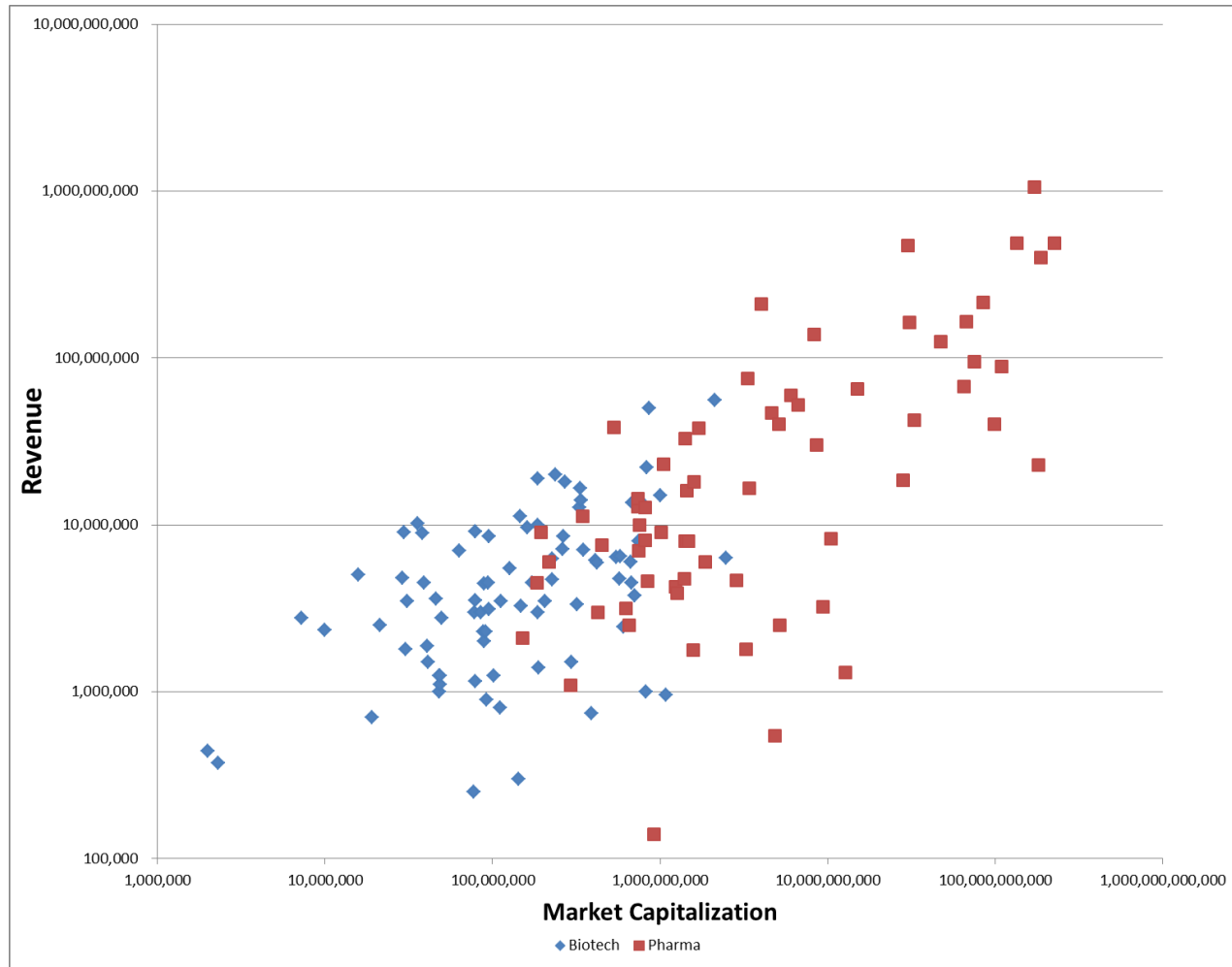
Market Cap Group	Revenue Group					Grand Total
	< \$1M	\$1M to \$25M	\$25M to \$100M	\$100M to \$1B	>1B	
< \$50M	11	8	3	0	0	22
\$50M to \$100M	2	9	4	0	0	15
\$100M to \$500M	6	15	7	8	0	36
\$500M to \$1B	4	7	3	10	1	25
\$1B to \$2.5B	0	3	1	11	3	18
\$2.5B to \$5B	0	0	2	3	2	7
5B to \$10B	0	0	2	3	2	7
>10B	0	0	0	1	18	19
Grand Total	23	42	22	36	26	149

Average Securities Class Action Cases Settlement

2000 - 2016

Market Cap Group	Revenue Group					Average
	< \$1M	\$1M to \$25M	\$25M to \$100M	\$100M to \$1B	>1B	
< \$50M	2,267,225	5,102,551	1,783,333			3,232,267
\$50M to \$100M	6,462,500	2,490,722	4,943,750			3,674,433
\$100M to \$500M	10,747,500	6,261,159	6,282,143	5,558,125		6,856,733
\$500M to \$1B	10,364,973	11,928,602	5,650,000	9,928,044	14,300,000	10,219,622
\$1B to \$2.5B		23,987,055	6,300,000	13,789,258	10,000,000	14,441,278
\$2.5B to \$5B			39,823,605	75,681,500	24,393,750	50,782,744
5B to \$10B			46,250,000	47,908,333	45,000,000	46,603,571
>10B				8,250,000	223,077,778	211,771,053
Average	6,252,581	7,443,230	12,022,600	18,734,632	161,480,288	37,542,661

Settlement Size vs Market Cap



Differences in Cases by Company Type

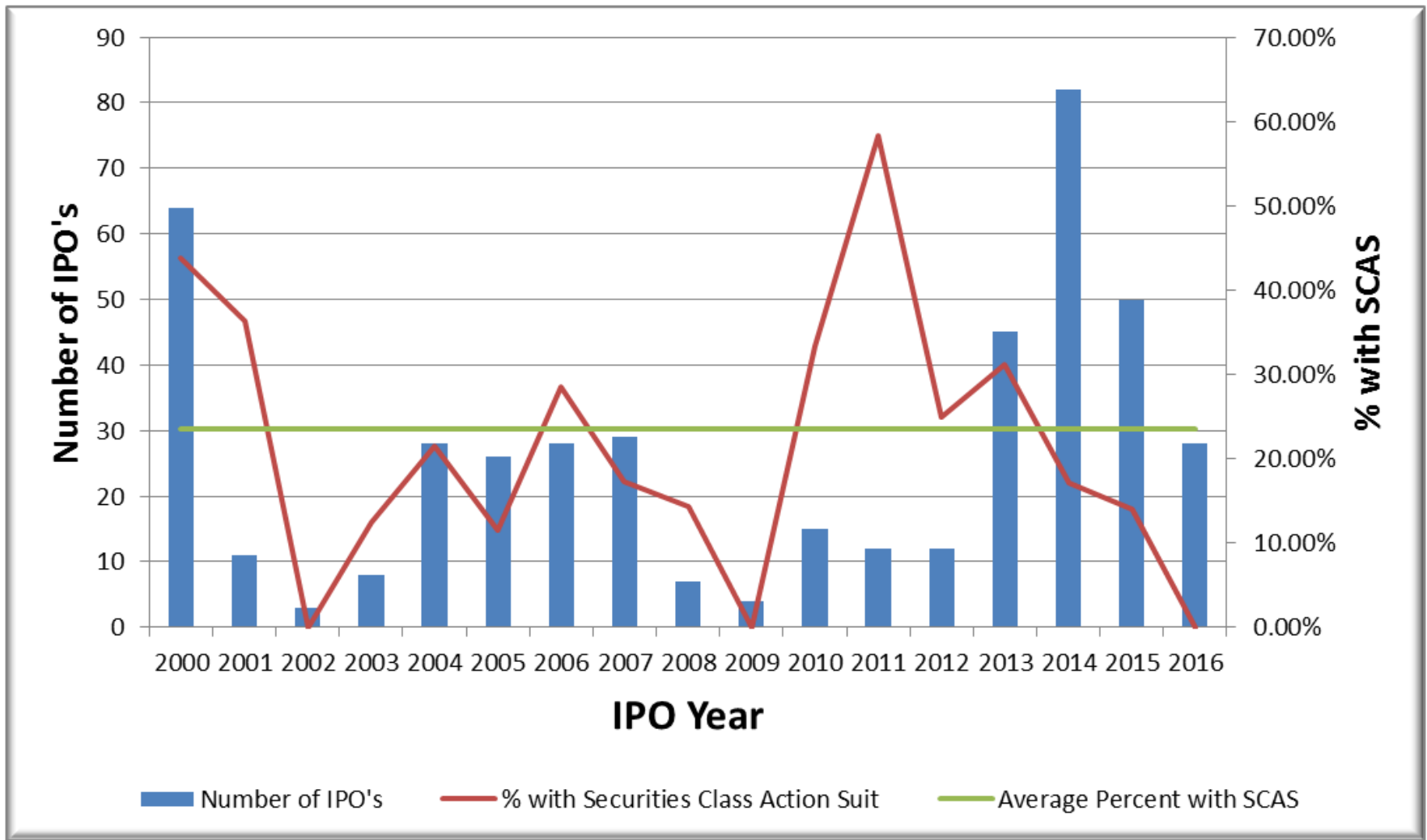
	Biotech	Pharma
Business Practices Risks		
Anti-trust	4	189
Billing Fraud	5	143
Breach of Contract	39	61
Bribery	0	16
Foreign Corrupt Practices Act (DoJ)	1	3
Foreign Corrupt Practices Act (SEC)	2	12
Other	2	8
Corporate Capital Risks		
Capital Regulatory Actions	145	114
Other	11	6
Shareholder Risks		
Books & Records Demands	8	11
Breach of Fiduciary Duties: Securities	10	5
Derivative Shareholder Action	169	138
Merger Objection	100	140
Securities Class Action	252	154
Securities Individual Actions	19	13
Trade Practices Risks		
Fraudulent Trade Practices	6	29
Marketing Practices	13	267
Price Fixing	2	10
Racketeer Influenced and Corrupt Organizations (RICO)	0	18
Sales Practices	2	17
Total	790	1354

Plaintiff Law Firms Count of Cases

Plaintiff Law Firm	<\$2.5B Market Cap	>= \$2.5B Market Cap	Total Suits
Pomerantz LLP	14	7	21
The Rosen Law Firm, P.A.	11	7	18
Glancy Prongay & Murray LLP	7	2	9
Robbins Geller Rudman & Dowd LLP	4	2	6
Levi & Korsinsky, LLP	5	1	6
Bronstein, Gewirtz, & Grossman, LLC	3	2	5
Goldberg Law PC	4	0	4
Lite DePalma Greenberg, LLC	3	0	3
Block & Leviton LLP	2	1	3
Christensen Young & Associates	2	0	2
Bernstein, Litowitz, Berger & Grossmann, LLP	1	1	2
Labaton Sucharow LLP	1	1	2
Others	21	9	30
Total	78	33	111

2016 Securities Class Action Suits

IPO's and SCAS



Average Settlement Amounts

Average Settlement Amount	
Derivative Shareholder Action	
Biotech	1,803,670
Pharma	6,912,337
Merger Objection	
Biotech	775,864
Pharma	5,614,193
Securities Class Action	
Biotech	6,611,747
Pharma	76,440,628

● Today's Panelists



Caroline Bullerjahn

Partner,
Goodwin Securities Litigation &
White Collar Defense Group



Kevin LaCroix

RT ProExec, a division of RT
Speciality
Author of the D&O Diary



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SVP, Public D&O Division,
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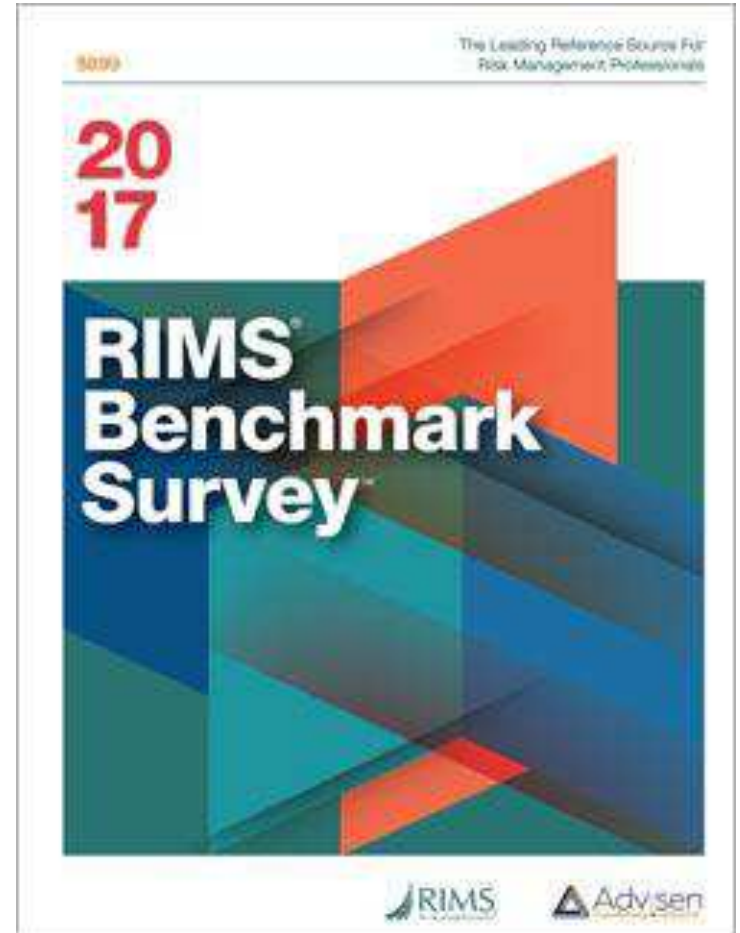
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Save the Date!

Quarterly D&O Claims Trends: Q2 2017

Wednesday, July 26th, 2017
at 11 am EST

Quarterly D&O Claims Trends: Q3 2017

Wednesday, October 11th, 2017
at 11 am EST





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