

## [Securities Regulation Daily Wrap Up, TOP STORY—N.D. Cal.: Apple accused of rotten disclosure by pension fund, \(Apr. 19, 2019\)](#)

Securities Regulation Daily Wrap Up

[Click to open document in a browser](#)

By [Brad Rosen, J.D.](#)

A Michigan-based retirement fund seeks class action status alleging false and misleading disclosure by Apple and its top executives.

The City of Roseville Employees Retirement System filed a securities fraud class action complaint against Apple Inc., CEO Tim Cook, and Senior Vice President Luca Maestri in the District Court for the Northern District of California. The plaintiff claims that the defendants violated Sections 10(b) and 20(a) of the Exchange Act and SEC Rule 10b-5 in connection with allegedly materially false and misleading statements it made in connection with the demand for iPhones, particularly in China, which led to a \$74 billion one-day slide in Apple's market value once subsequent disclosures were made. The plaintiffs seek class certification on behalf of all purchasers of Apple common stock from November 2, 2018 through January 2, 2019 ([City of Roseville Employees Retirement System v. Apple Inc.](#), April 16, 2019).

**Background to the dispute: Apple's activities in Greater China.** The dispute in this matter arises largely from Apple's activities in Greater China. As noted in the complaint, Greater China, a region that includes mainland China, Hong Kong, and Taiwan, was Apple's third-largest market after the United States and Europe, accounting for \$52 billion in sales in Apple's fiscal year 2018, representing nearly 20 percent of Apple's total FY18 annual sales. The complaint further indicates that while China represents Apple's highest growth market, it is also among its most competitive. Chinese upstart brands offer similar looking all-screen phones for much lower prices. At the time that Apple's iPhone sales revenues were growing in China due to Apple's outsized price increases, Chinese smartphone manufacturers were launching scores of much lower priced smartphones with greater advancements throughout the Chinese market, thus competing with Apple's iPhone offerings and diminishing the company's pricing power.

**Alleged false and misleading statements.** The plaintiff alleged that the defendants' materially false and misleading statements included:

- On November 1, 2018, Apple reported its fourth quarter and FY18 financial results for the period ended September 29, 2018, boasting that over the past two months, it had delivered huge advancements for its customers through new versions of iPhone, Apple Watch, iPad and Mac as well as its four operating systems. As a result, Apple claimed it had entered the holiday season with its strongest lineup of products and services ever." As a result, Apple set its 1Q19 revenue expectations in a range of \$89 billion to \$93 billion and its gross profit margins at 38 percent to 38.5 percent;
- during a conference call for analysts and investors held later that same evening, Tim Cook, when asked whether the U.S.-China trade tariffs and trade tariff threats were having any impact on demand for iPhones in China, assured investors that the only emerging markets impacted were where currencies had weakened. Cook indicated that Apples business in China was very strong for the last quarter and noted 16 percent growth; and,
- during that conference call, Apple surprised investors by announcing that it would no longer disclose unit sales for iPhones and other hardware, asserting that such data was no longer relevant for investors to evaluate Apple's financial performance, all the while assuring investors that despite the decision to withhold unit sales data, as in the past, the company would still experience strong performance.

**A shocked market.** The complaint alleges that on January 2, 2019, after the close of trading, Apple shocked the market when it disclosed the true state of its actual 1Q19 iPhone sales, particularly in China. For the first time during Cook's tenure as CEO, Apple would miss its public revenue projections, and this miss was up to \$9 billion. The complaint further alleged this news caused the market price of Apple common stock to plunge, closing down more than \$15 per share, or more than 9 percent, from its close of \$157.92 per share on January 2, 2019 to \$142.19 per share on January 3, 2019.

**Relief sought.** The plaintiffs filed a jury demand and the relief it seeks includes:

- A determination of class certification designation of the plaintiff as the lead plaintiff for the class;
- compensatory damages;
- costs and expenses including counsel fees and expert fees; and,
- such equitable/injunctive or other relief as deemed appropriate by the court.

Most recently, Apple stock closed at a price of \$203.85.

The case is [No. 19-cv-2033 \(YGR\)](#).

Attorneys: Mary K. Blasy (Robbins Geller Rudman & Dowd LLP) for City of Roseville Employees' Retirement System.

Company: Apple Inc.

MainStory: TopStory DirectorsOfficers FraudManipulation InternationalNews NewLawsuitsNews  
PublicCompanyReportingDisclosure CaliforniaNews