

# *In re Activision, Inc. Shareholder Derivative Litigation*

**COURT:** California Superior Court, Los Angeles County

**CLASS PERIOD:** 04/01/1995 - 05/01/2003

Shareholder derivative action filed on behalf of Amalgamated Bank as Trustee of the LongView 400 Index Fund Retirement Trusts ("Amalgamated Bank") brought for the benefit of Nominal Defendant Activision, Inc. ("Activision"), against certain current and former executive officers and directors of Activision. This action arises from defendants' obtaining, approving or acquiescing to the backdating of stock option grants in violation of their fiduciary duties and other laws between April 1995 and April 2003 (the "Relevant Period"), causing damage to Activision.

On August 3, 2006, Plaintiff filed a Derivative Complaint in the Superior Court of the State of California, County of Los Angeles, against John T. Baker, IV, Harold A. Brown, William J. Chardavoyne, Robert J. Dewar, Ronald Doornink, Lawrence Goldberg, Kenneth L. Henderson, Barbara S. Isur, Brian G. Kelly, Robert A. Kotick, Mitchell H. Lasky, Howard E. Marks, Steven T. Mayer, Robert J. Morgado, Barry J. Plaga, Michael J. Rowe, Richard A. Steele, Kathy Vrabeck, and Activision. The Complaint alleges breach of fiduciary duty, aiding and abetting a breach of fiduciary duty, unjust enrichment, waste of corporate assets, ultra virus acts, and rescission of all stock option contracts between the officer defendants and Activision entered into during the Relevant Period.

On October 31, 2006, the three pending state court actions were consolidated and renamed *In re Activision Shareholder Derivative Litigation*. Amalgamated Bank was appointed Co-Lead Plaintiff. On January 22, 2007, the consolidated action was transferred to Department 311 (Complex Litigation Program of the Los Angeles Superior Court). Following an Initial Status Conference before the Honorable Carl J. West, a briefing schedule was issued. Plaintiffs filed their Amended Consolidated Shareholder Derivative Complaint (the "Complaint") on March 20, 2007, pursuant to the Court's Order.

Nominal Defendant Activision filed a motion to stay this consolidated state court action in favor of a different and later filed federal action pending in the United States District Court, Central District. Defendant Barry Plaga filed a Petition to Compel Arbitration and defendants Steele, Dewar, and Baker each filed motions to challenge jurisdiction. Lead Plaintiffs opposed all three motions. The case was temporarily stayed pending resolution of the motions to dismiss in the federal action. Lead Plaintiffs petitioned the court to proceed on issues that do not duplicate or conflict with the federal action. The Court granted leave to file a second amended complaint, which Lead Plaintiffs filed on July 13, 2007. On September 5, 2007, the Individual Defendants filed a motion to strike Lead Plaintiffs' jury demand. In addition, Activision filed a demurrer to the Second Amended Complaint. On October 10, 2007, Lead Plaintiffs filed oppositions to the motion to strike and the demurrer.

On May 12, 2008, the parties in the state action and the federal action filed a Stipulation of Settlement. On July 21, 2008, the Federal Court held a hearing to consider for final approval the terms of the Stipulation of Settlement and entered the Final Judgment approving the settlement of the actions. Pursuant to the terms of the Stipulation of Settlement, following approval by the Federal Court, a joint request for dismissal was filed in the state action. On July 28, 2008, Judge West of the Los Angeles Superior Court signed the order dismissing the state derivative action with prejudice.

## Case Documents

- July 13, 2007 - Second Amended Consolidated Derivative Complaint