On May 27, 2020, in the latest #MeToo-related securities class action lawsuit to be dismissed, Judge Gloria M. Navarro granted the defendants’ motion to dismiss the securities suit filed against Wynn Resorts based on allegations that the company had failed to disclose sexual misconduct of its former CEO, Stephen Wynn. The ruling joins several other recent dismissal rulings in #MeToo-related securities suits – although, as noted below, there have also been several noteworthy settlements in #MeToo suits as well. A copy of Judge Navarro’s opinion can be found here.

Background

Wynn Resorts is a developer, owner, and operator of casino resorts. Stephen Wynn is the company’s founder and served as its CEO and Chairman from 2002 to 2018. In a separate unrelated lawsuit and in a January 26, 2018 Wall Street Journal article (here), reports emerged that Wynn had engaged in sexual misconduct involving company employees, including in particular that the company had paid a substantial monetary settlement to one particular employee who had raised sexual misconduct allegations.

The allegations of sexual misconduct allegations led to investigations of the company and of the allegations by gaming regulators in Massachusetts and Nevada. The Nevada investigation ultimately led to a disciplinary complaint against the company. The complaint alleged eight instances of sexual misconduct involving Wynn. The company ultimately was fined $20 million for failing to investigate the sexual misconduct claims against Wynn.

On February 20, 2020, plaintiff shareholders filed a securities class action lawsuit in the Southern District of New York against Wynn Resorts; Wynn; and certain of the company’s directors and officers. The action was later transferred from the New York federal court to the United States District Court for the District of Nevada. The action was filed on behalf of investors who purchased Wynn Resorts securities between February 28, 2014 and February 12, 2018. The complaint alleged that the defendants had violated Sections 10(b) and 20(a) of the Securities Exchange Act of 1934. The complaint sought to recover alleged damages on behalf of the class.

In their complaint, the plaintiffs alleged that defendants had made several misleading statements and omissions concealing the Wynn’s alleged sexual misconduct. The complaint alleged that the company had made misrepresentation or omissions about the underlying alleged misconduct in statements about its code of conduct, compliance, regulatory risks, risks associated with Stephen Wynn’s departure from the company, and corporate culture. The defendants’ moved to dismiss the plaintiffs’ complaint.

The May 27, 2020 Order

On May 27, 2020, Judge Navarro granted the defendants’ motion to dismiss, albeit with leave for plaintiffs’ to attempt to amend their complaint. In ruling on the defendants’ motion, Judge Navarro held that none of the alleged misrepresentations and omissions on which the plaintiffs’ sought to rely are actionable.