

Sunscreen Subject of One Lawsuit - Brokerage Firms Screened from Another

By Reg P. Wydeven
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During Spring Break of my senior year of college, five buddies and I went to Panama City. When I took my shirt off at the beach on the first day there, the sun's glare off my pasty white chest was purportedly visible from space.

Thank goodness I had SPF 4000 sun block, which is the equivalent of a sweatshirt. The only problem was that I got a haircut right before we left and I didn't spread the sun block high enough onto my forehead. I got sunburned so badly that no one slept for the rest of the trip because my head glowed like the Las Vegas strip.

Because a wicked sunburn is so painful, and potentially dangerous, a lawsuit was recently filed against several sunscreen manufacturers for false advertising. The suit names nine defendants, including Coppertone manufacturer Schering-Plough Corp., Johnson & Johnson's Neutrogena Corp., Hawaiian Tropic, and Banana Boat.

The lawsuit claims that these manufacturers exaggerate their products' ability to protect against harmful ultraviolet rays. According to the suit, sunscreens don't block all UVA rays, which can potentially cause skin cancer. The plaintiffs are seeking refunds for consumers and a mandate that the manufacturers surrender any profits derived from the sale of their sunscreens. Further, the plaintiffs are demanding that the manufacturers be required to remove allegedly false labels such as 'sunblock', 'waterproof' and 'all-day protection'.

A Los Angeles law firm known for targeting big corporations in class-action lawsuits filed the suit against the \$455-million-a-year industry in L.A.'s Superior Court. The firm is also seeking class-action status for this lawsuit, combining nine prior complaints against the companies.

Most dermatologists agree that sunscreens do not provide complete protection from the sun, however, they still feel sunscreens are beneficial. Two of the sunscreen manufacturers are vehemently denying the suit's allegations, citing the fact that their products comply with federal Food and Drug Administration regulations.

Dr. Richard G. Glogau, a clinical professor at the University of California, San Francisco, believes filing a lawsuit against sunscreen manufacturers for failing to prevent all sunburns is "akin to someone suing a seat belt manufacturer because seat belts don't prevent 100 percent of the deaths." Or, it might be like trying to sue a brokerage firm for losing money in the stock market.

Because the potential to lose money goes hand in hand with investing on Wall Street, Congress passed a law in 1995 (over a presidential veto) restricting class-action suits filed by disgruntled investors against brokerage firms.

That law was upheld in a recent U.S. Supreme Court case where the Justices unanimously ruled to shield Merrill Lynch from a lawsuit filed by brokers claiming the company released misleading information and manipulated stock prices. The brokers filed the class-action suit in Oklahoma after they lost customers and their own invested money as a result of bad advice they gave based on Merrill Lynch's allegedly faulty research.

While the brokers' allegations might have been proven to be true, the Court still barred these types of cases to prevent "wasteful, duplicative litigation." The ruling only precludes class-action lawsuits, not those filed by individual stockholders.

One thing's for sure - I should have invested in Solar Cosmetics Labs, Inc. after that Spring Break. I bought so many cases of their No-Ad brand Aloe Vera, their stock had to have soared.

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