

## Sometimes It's What You Don't Say That Gets You in Trouble

**Published in the National Association of Corporate Directors' *2018 Governance Outlook: Projections on Emerging Board Matters***

January 2018

The article focuses on the rise in omission-based litigation for many public companies. The usual list of prominent securities fraud lawsuits would be dominated by companies such as Enron, WorldCom, Cendant and Health South—all of which were charged with misleading investors by actively misstating financial results—while the reality is that most securities suits are premised on alleged omissions of material fact, and not the sorts of misrepresentations that capture headlines. This article provides an overview of the current trends in this type of securities litigation, exploring topics such as:

- Section 11: A Trap for the Tight-Lipped
- Section 10(b): A Never-Quiet Area of the Law
- Section 14: From a Whisper to a Roar
- Speak Up: Questions Directors Can Ask to Reduce the Risk of Liability

[Read "Sometimes It's What You Don't Say That Gets You in Trouble" in its entirety here.](#)

---

### CONTACTS

For more information, contact your Katten attorney or any of the following attorneys.



**Christina L. Costley**

+1.310.788.4485

[christina.costley@katten.com](mailto:christina.costley@katten.com)



**Richard H. Zelichov**

+1.310.788.4680

[richard.zelichov@katten.com](mailto:richard.zelichov@katten.com)

Attorney advertising. Published as a source of information only. The material contained herein is not to be construed as legal advice or opinion.

©2026 Katten Muchin Rosenman LLP.

All rights reserved. Katten refers to Katten Muchin Rosenman LLP and the affiliated partnership as explained at [katten.com/disclaimer](https://katten.com/disclaimer).