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Merger Objection Litigation

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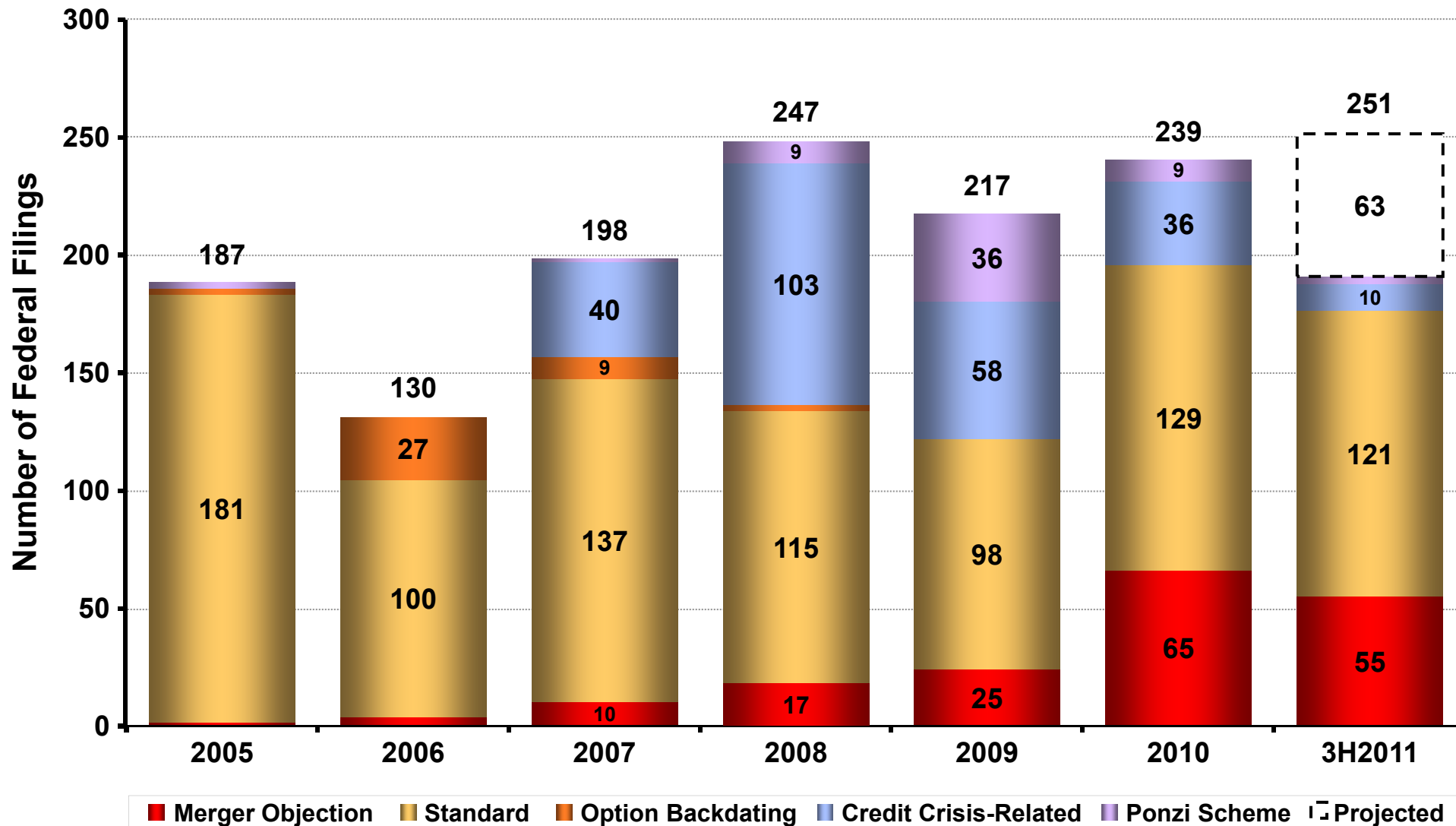
Insight in Economics™

Securities Class Actions: Federal Filings



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January 2005–September 2011



How Merger Objection Cases Differ



Type of Case	Allegation	Court	Plaintiff	Class Period
10b-5/S11 class action	Material misstatement or omissions	Federal	Buyers	Hours to years
Derivative	Breach of fiduciary duty	State or Federal	Nominally the company	n.a.
Merger objection class action	Breach of fiduciary duty re terms of deal	State or Federal	Owners	n.a.

Merger Objection Class Actions: Methodology & Definitions

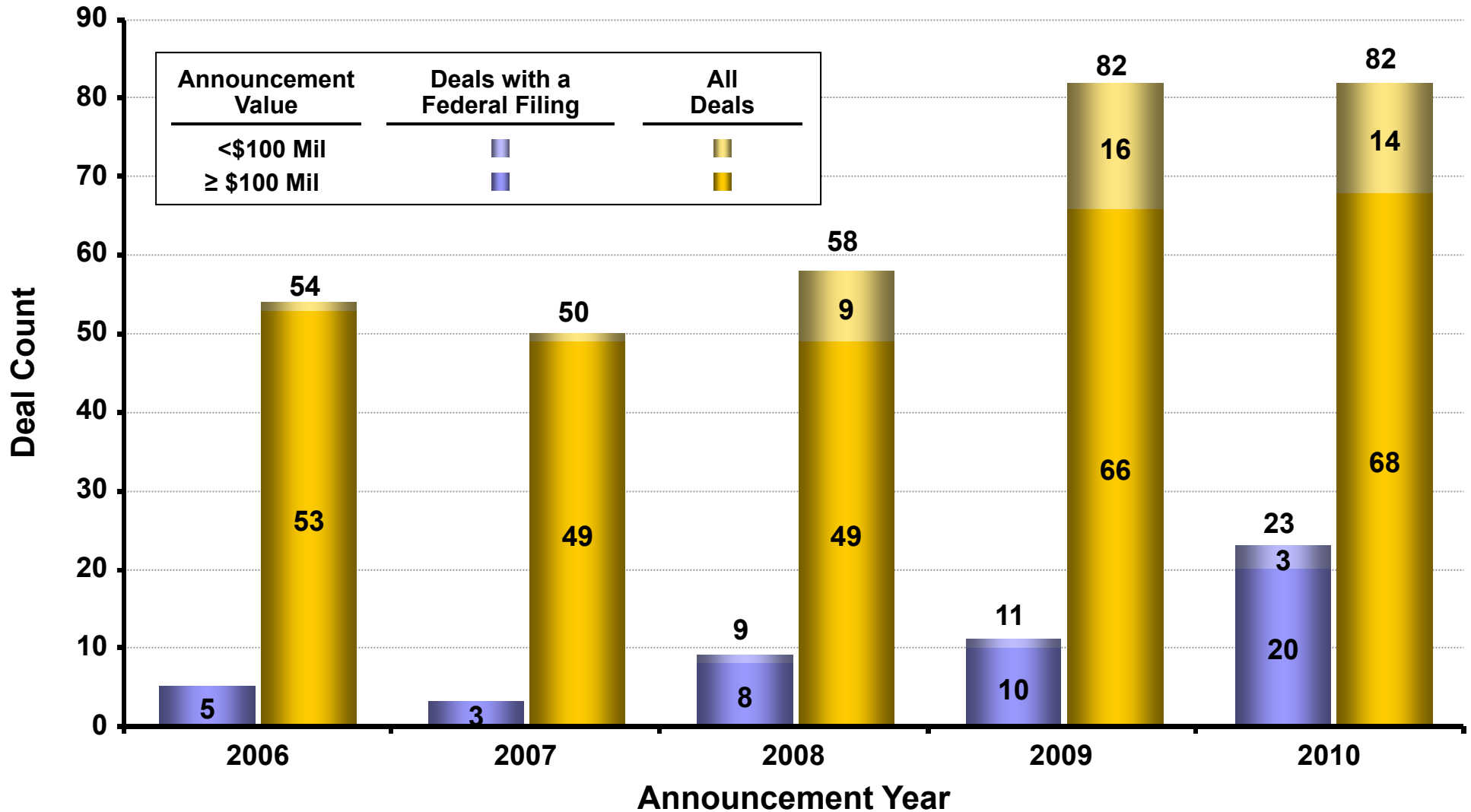


- **Total DEALs:** Screen MergerStat for M&A deals targeting a U.S. public company, announced 2006 – 2010, completed by 2/28/11, and having an announced value \geq \$100 MM (**N = 731**)
- **Litigated DEALs:** Use RiskMetrics and WSGR assistance to find those challenged in a Federal or state class action by 6/30/2011 (**N = 285**)
- **Settled Litigated DEALs:** Use RiskMetrics and WSGR assistance to find those with a court-approved settlement or an announced settlement agreement as of 6/30/2011 (**N=162**)

Number of Litigated Deals by Value, Venue, and Year



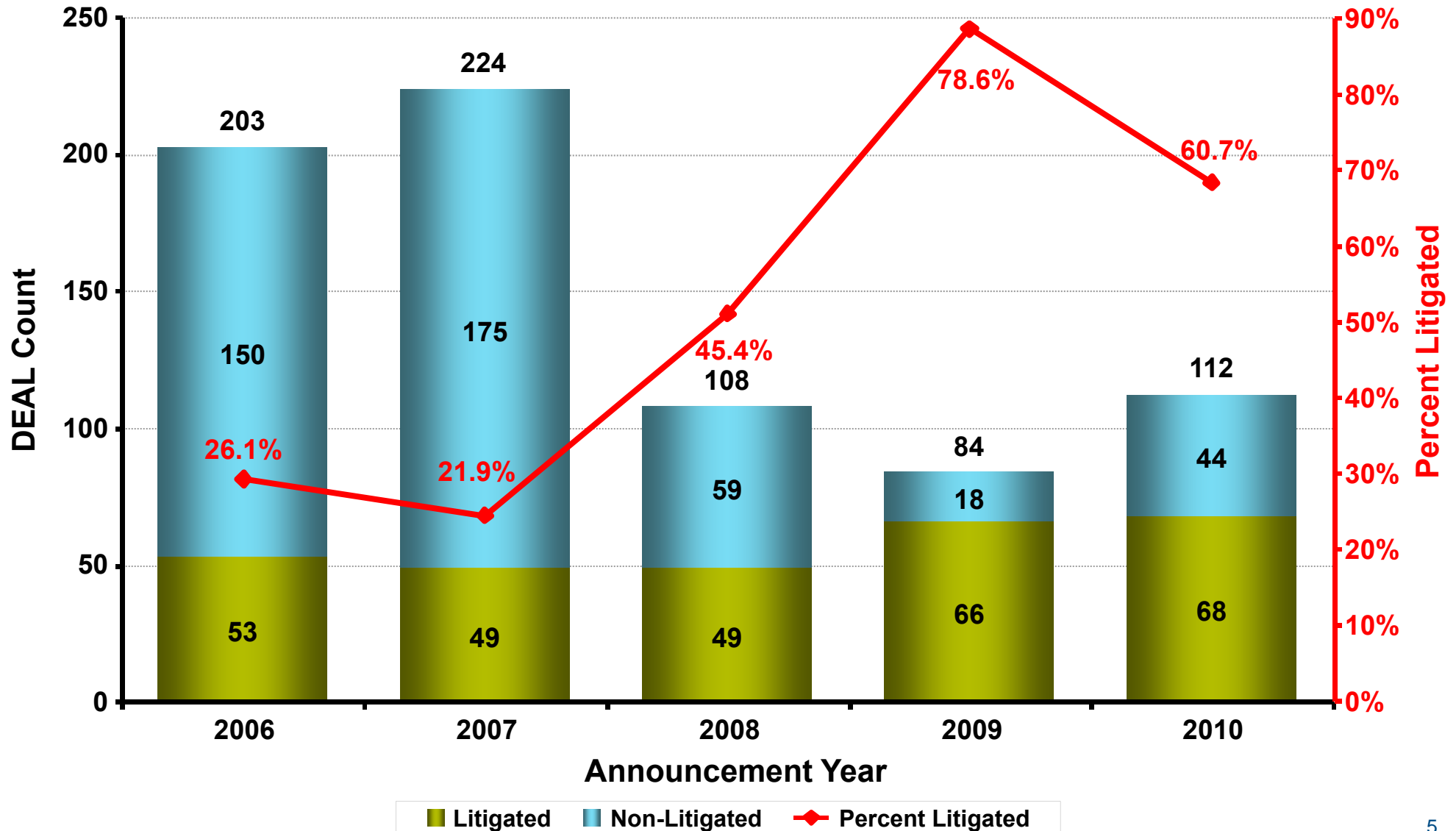
Completed by 2/28/11, All Sizes



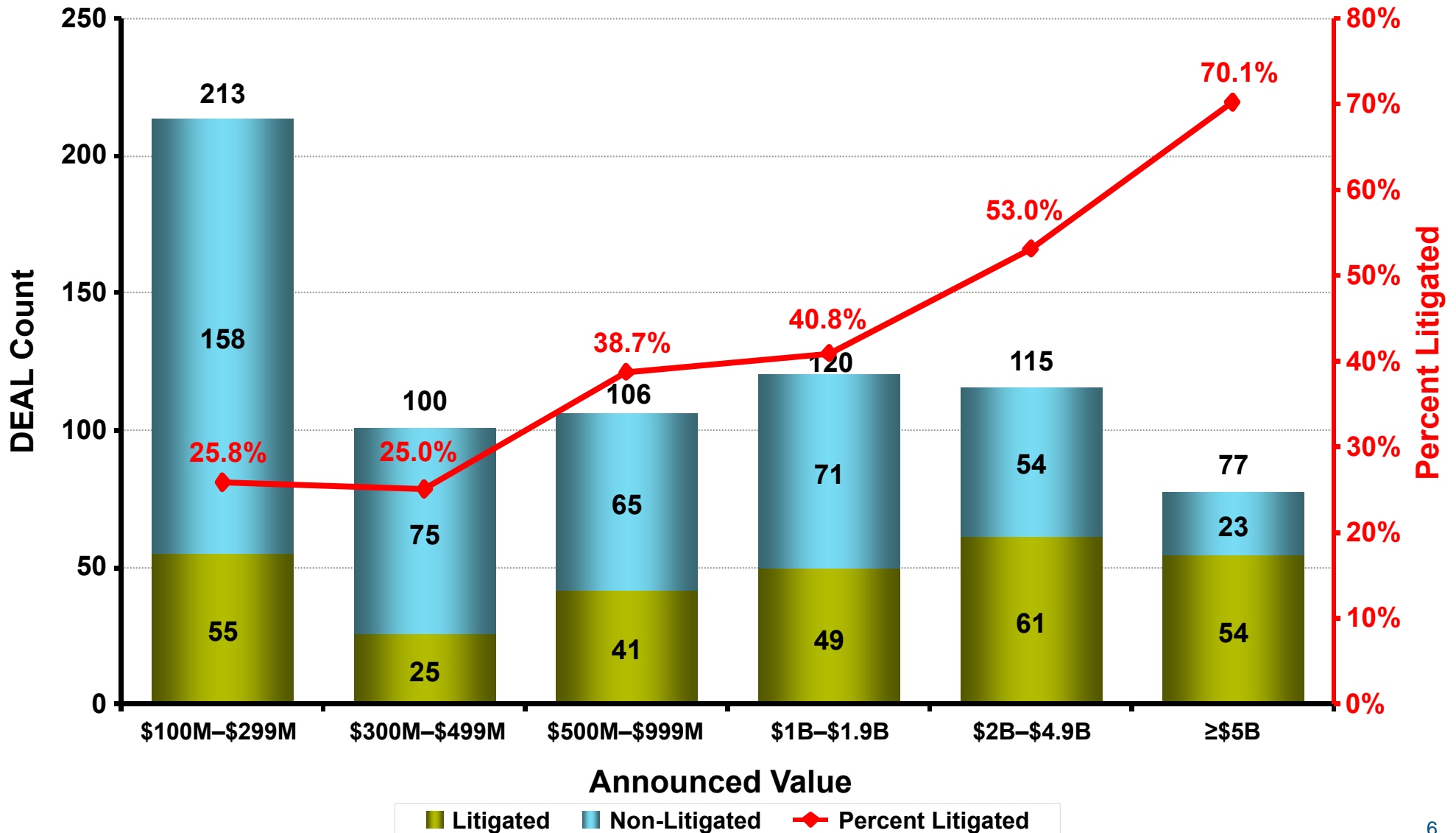
Incidence of DEAL Litigation by Year



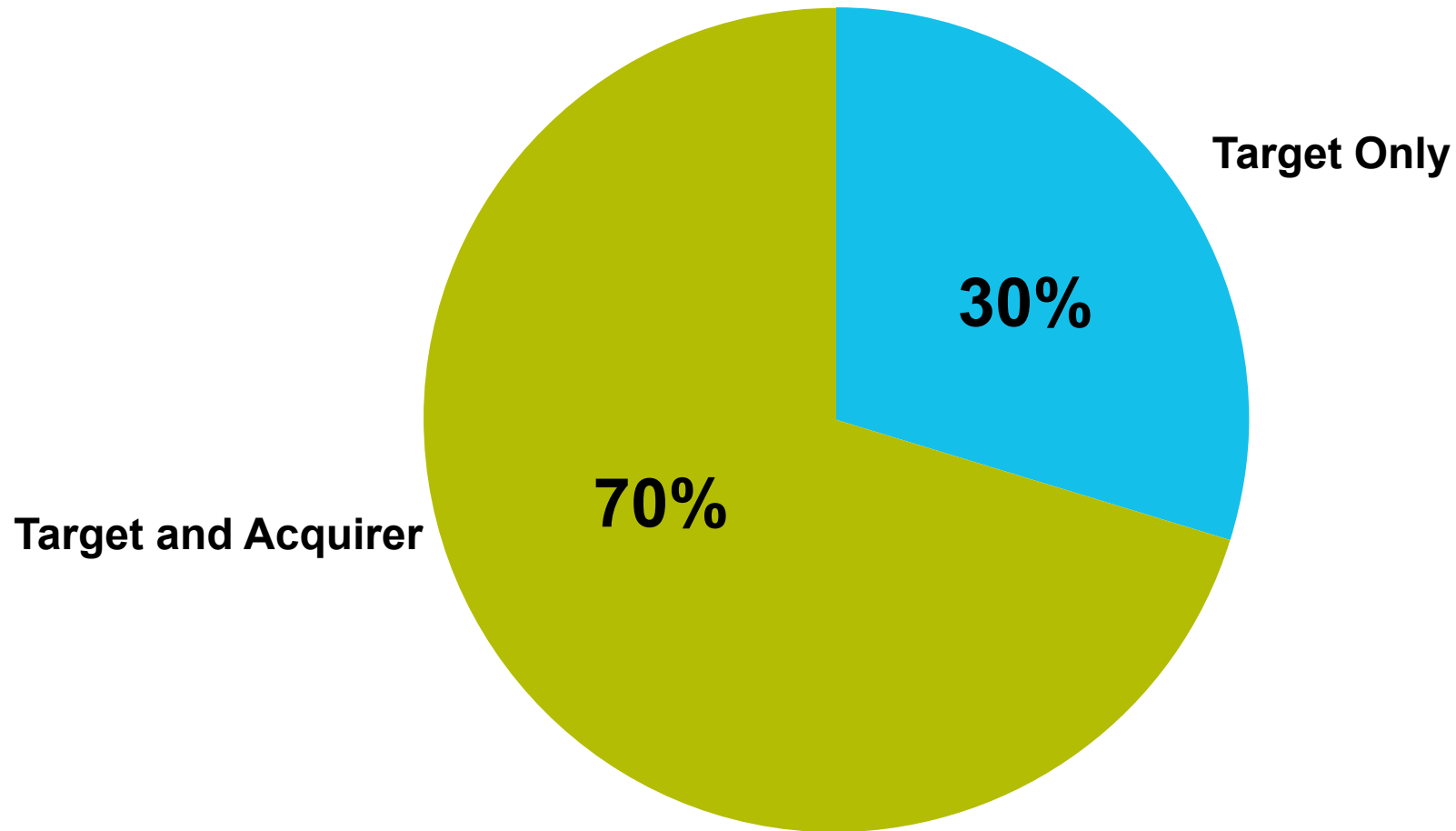
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Incidence of DEAL Litigation by Announced Value



Defendants' Affiliation

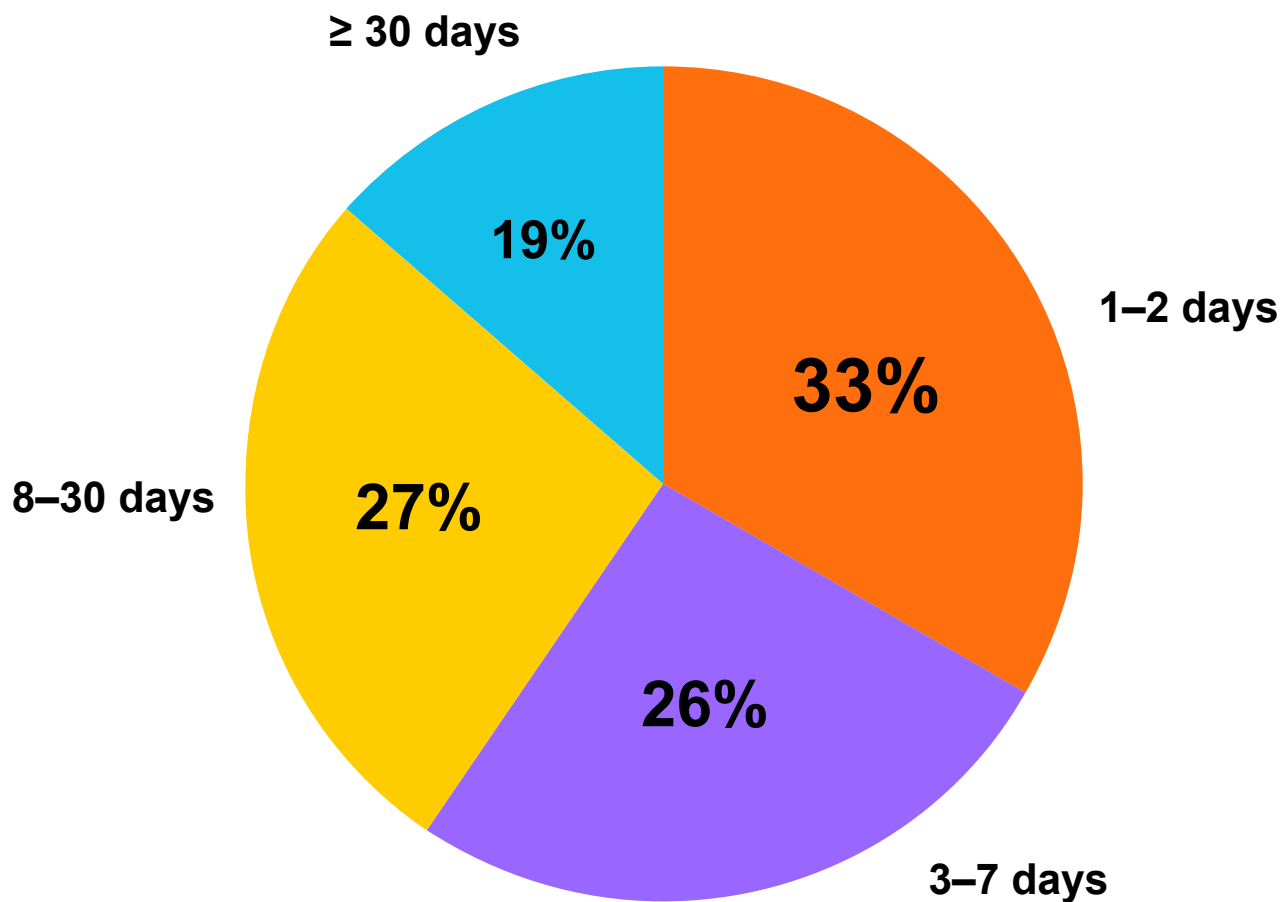


N = 141 Settled Litigated DEALs

Time from DEAL Announcement to Filing of First Objection Class Action



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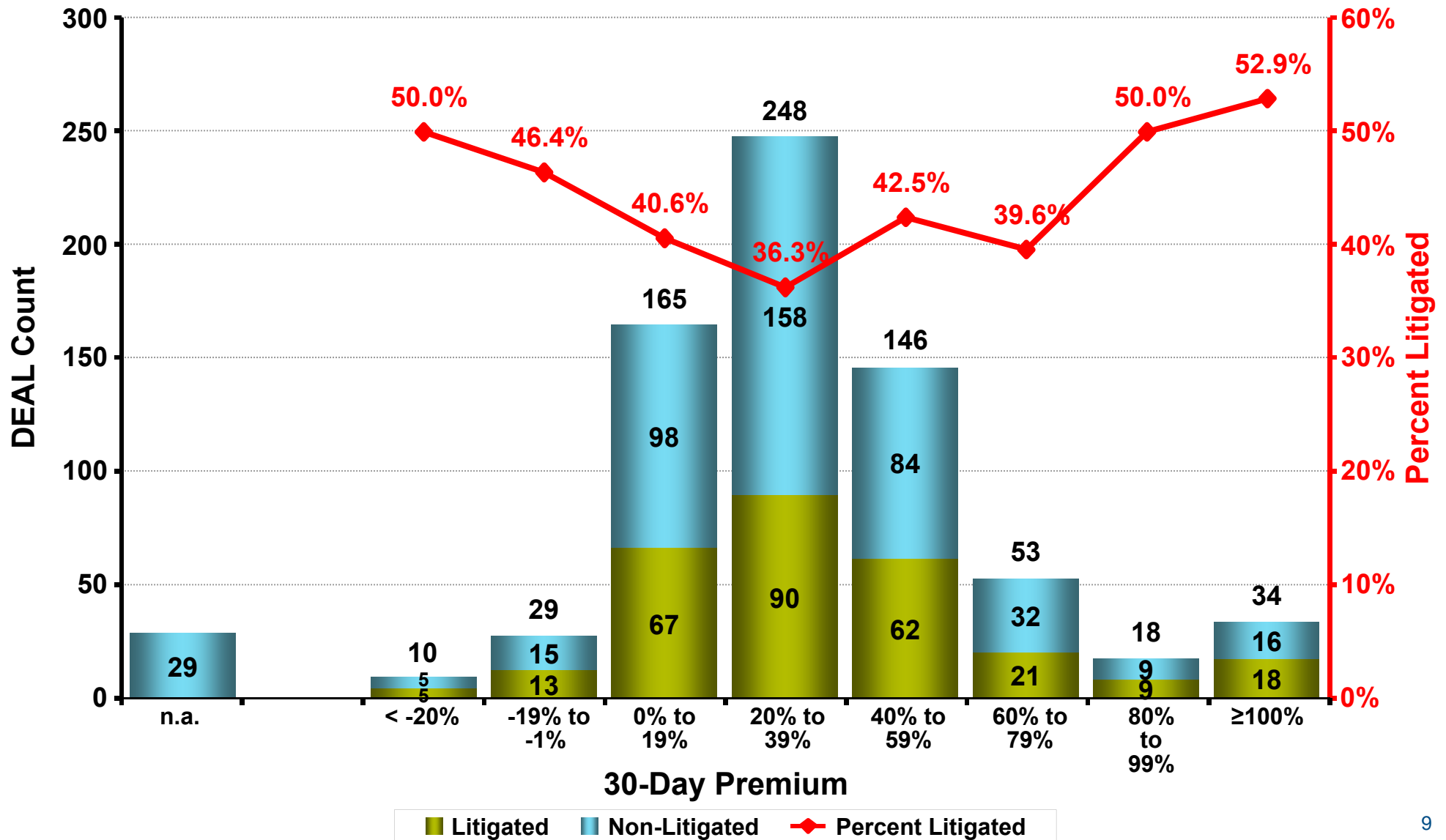


N = 257 Litigated DEALs

Incidence of DEAL Litigation by 30-Day Premium



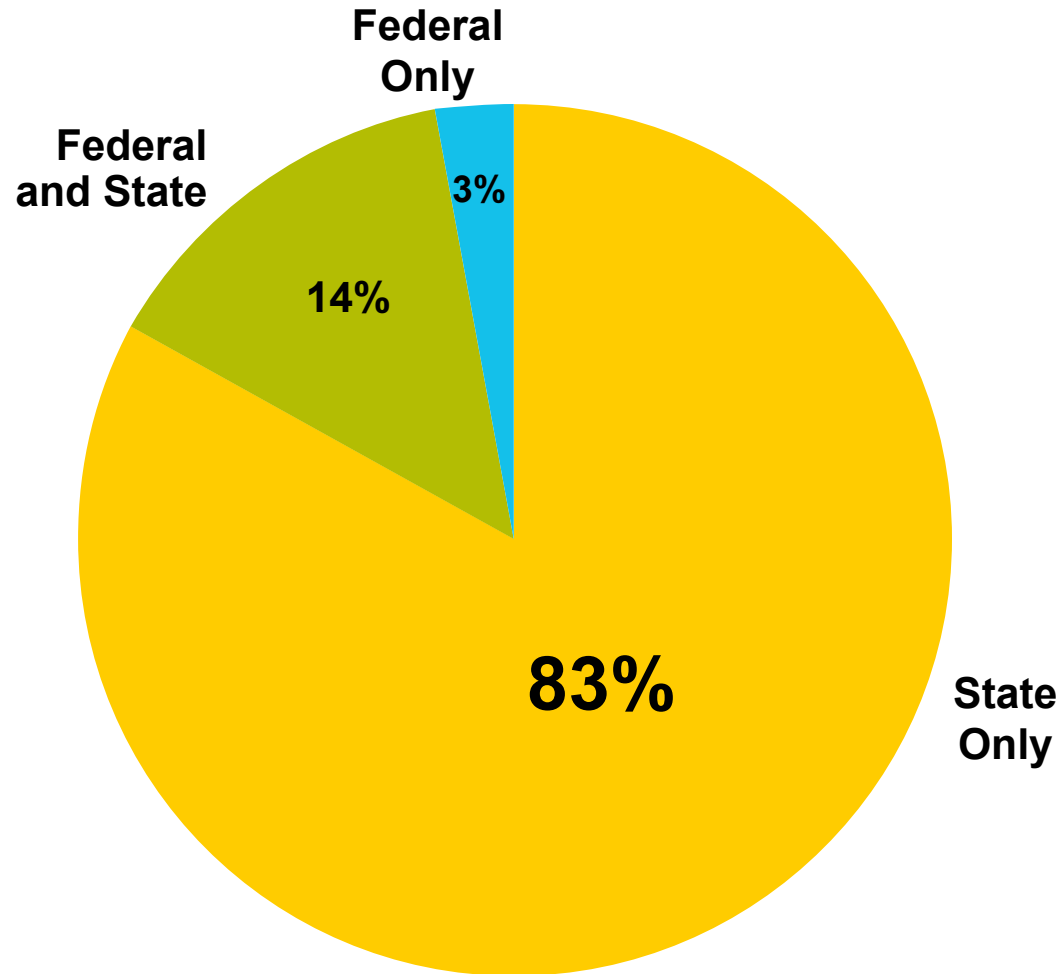
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Venue of Litigated DEALs: Federal versus State

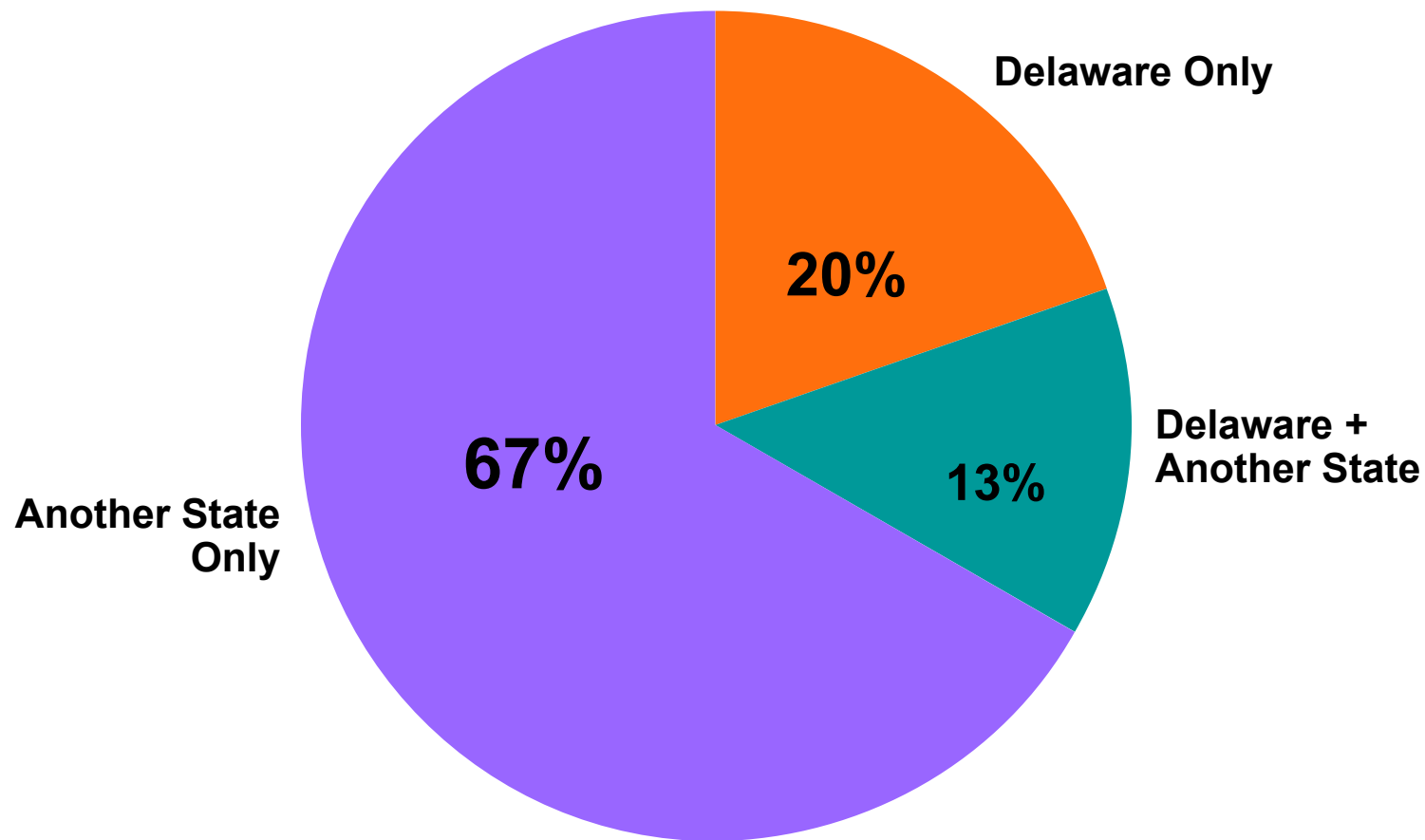


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N = 285 Litigated DEALs

Popularity of Delaware Among Litigated DEALs with a State Filing



N = 277 Litigated DEALs

Litigation Drivers: Results of LOGIT Analysis



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**Whether
DEAL Was
Litigated
(N = 731)**

Value on Announcement (LN)



Years after 2006



30-Day Premium

10b-5 or S11 Overlaps Deal Period



Positive and statistically significant at the 5% level

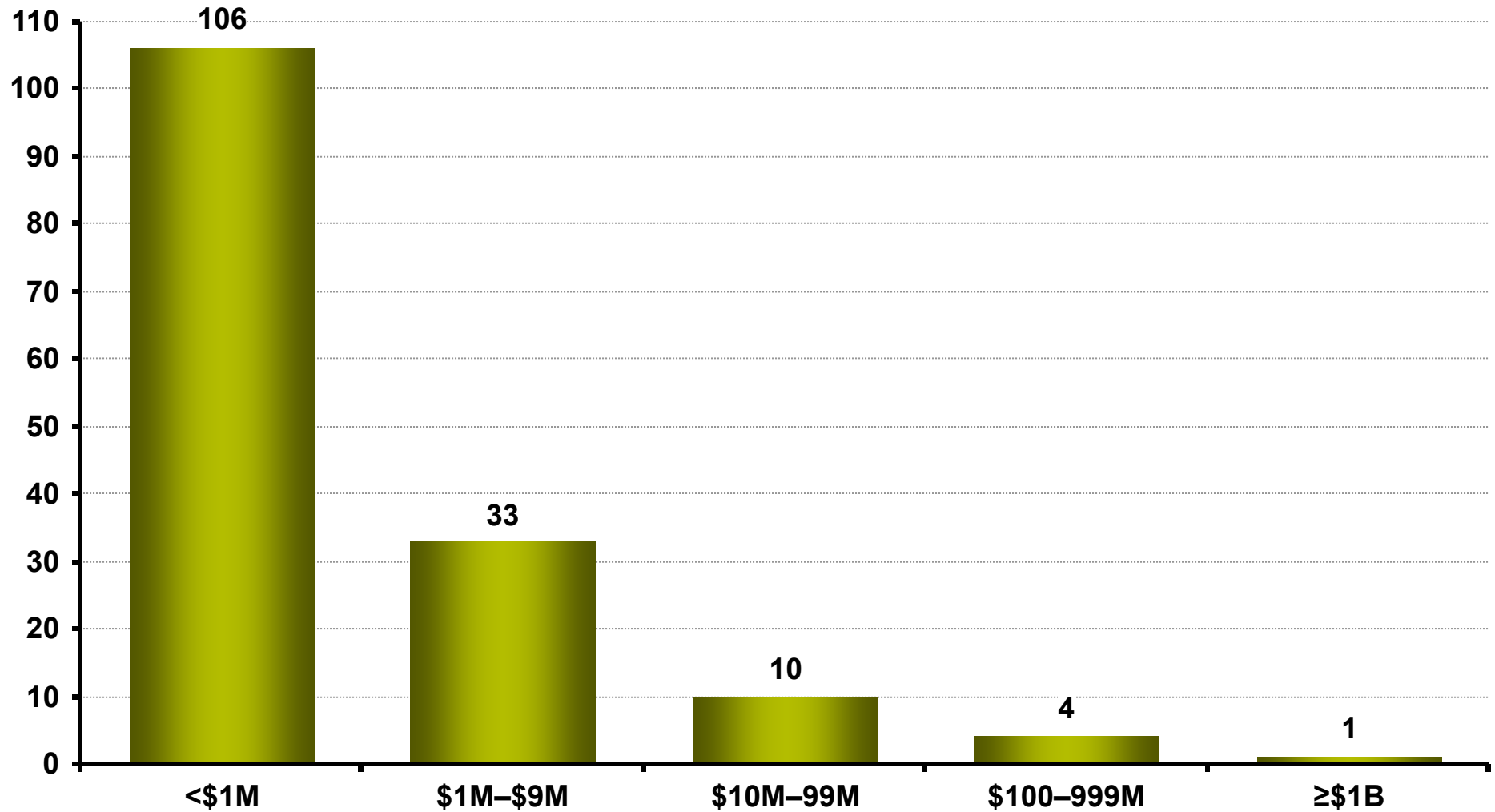


Negative and statistically significant at the 5% level

Settled Litigated DEALs by Total Settlement Amount



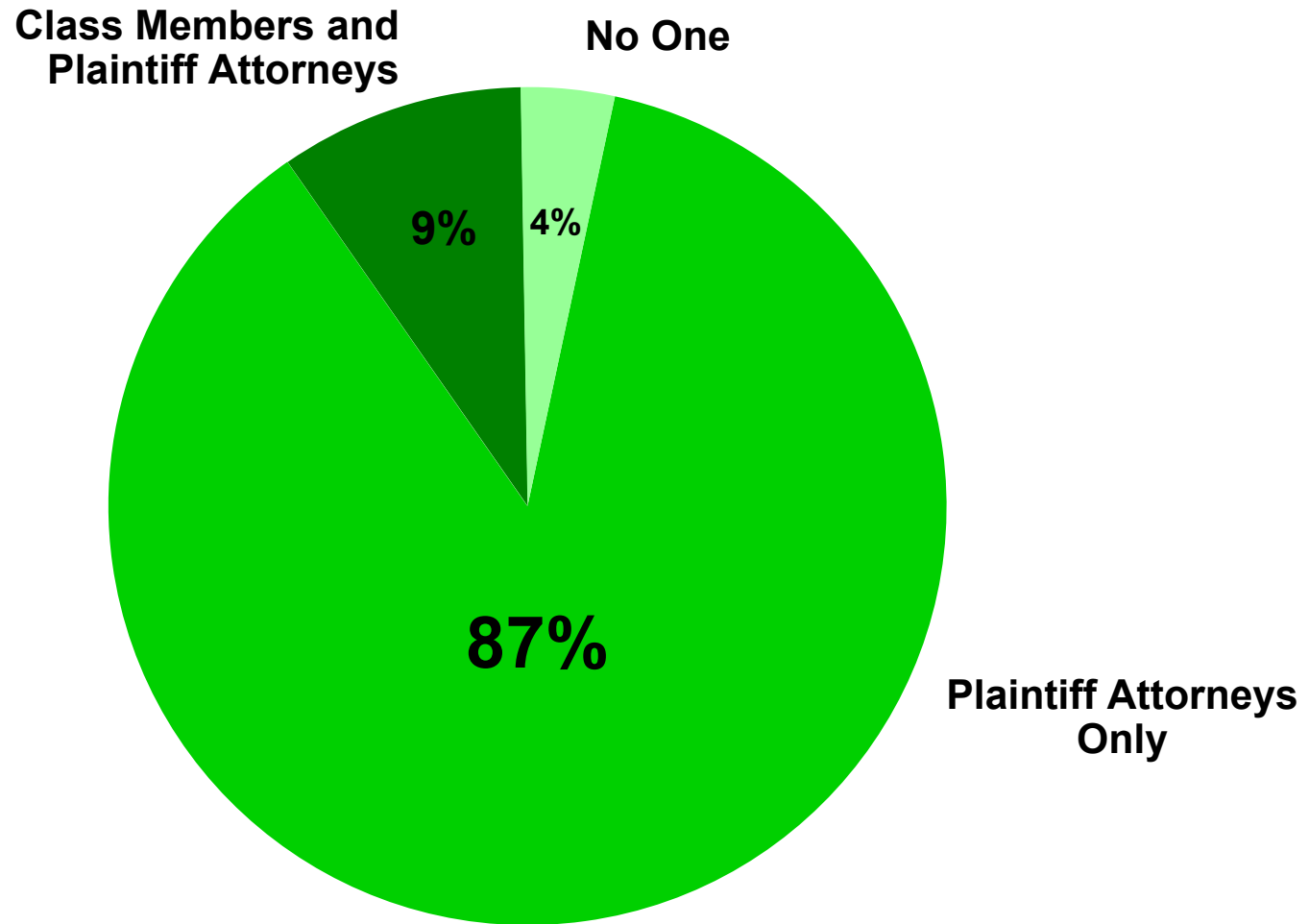
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Monetary Beneficiaries of Settled Litigated DEALs



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N = 162 Settled Litigated DEALs

Settlement Features

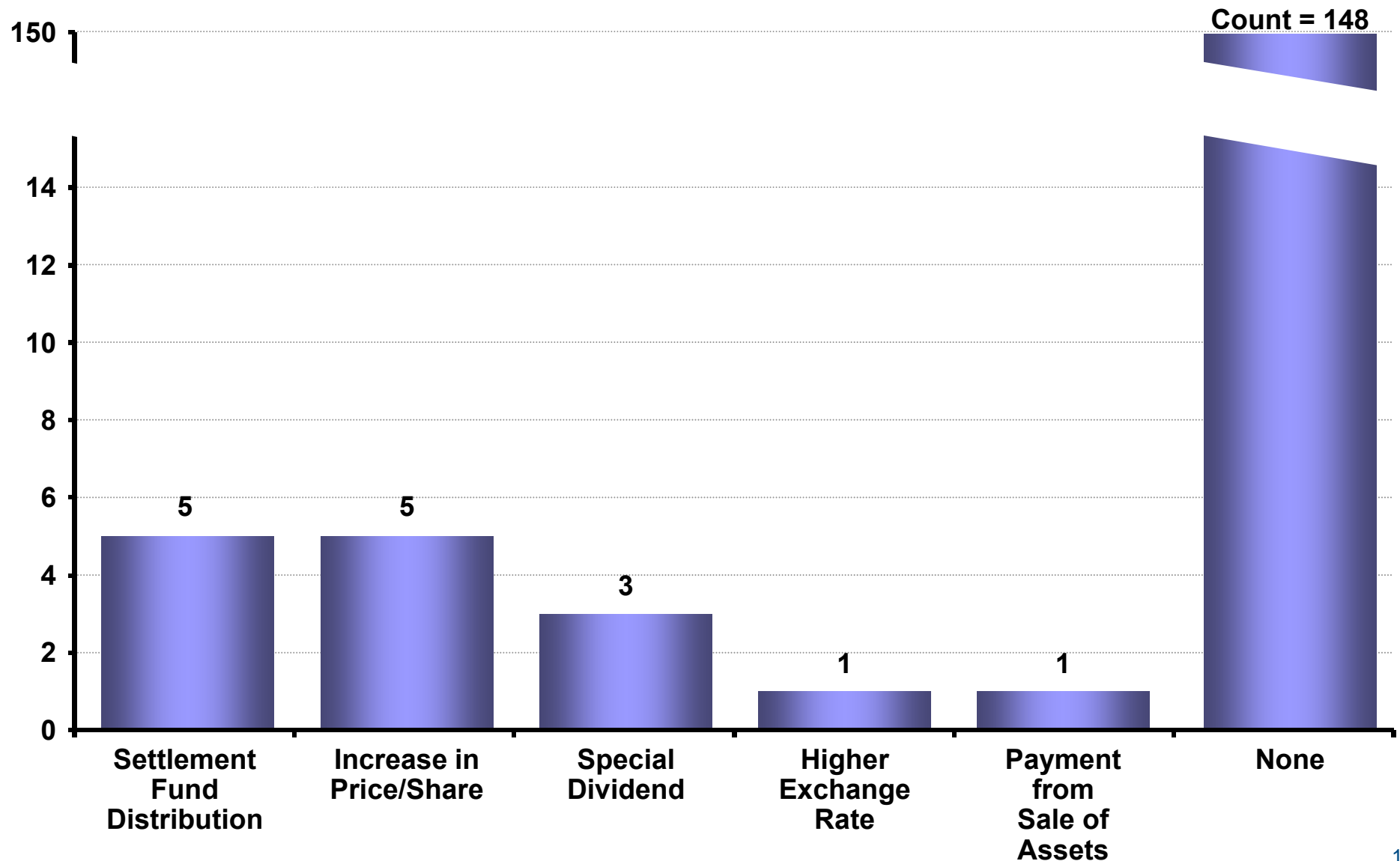


- If a DEAL results in multiple challenges, a single settlement typically encompasses all
- Vast majority of settlements pay for plaintiffs' attorney fees & expenses only
- “Benefits” to the class take a variety of forms
 - Monetary
 - Reduced target company termination fee
 - Fuller disclosure, improved corporate governance

Settled Litigated DEALs by Type of Payment to Class Members










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Settlement Drivers: Results of LOGIT and OLS Analyses



	Total Settlement Amount (N = 150)	Whether Class Participates (N = 162)
Value on Announcement (LN)		
Delaware Filing		
Years from 2006		
Time from Filing to Settlement		
10b-5 or S11 Overlaps Deal Period		
30-Day Premium		

-  Positive and statistically significant at the 5% level
-  Negative and statistically significant at the 5% level

Top 5 Settlements of Litigated DEALs Announced 2006-2010



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<u>Target</u>	<u>Acquirer</u>	<u>Court that Approved Settlement</u>	<u>Completion Date</u>	<u>Settlement Date</u>	<u>Total Settlement (\$M)</u>	<u>Attorney Fees & Expenses (\$M)</u>	<u>Amount to Class (\$M)</u>
1 Genentech, Inc.	Roche Holding AG	DE	3/26/09	7/9/09	\$3,058	\$25	\$3,033
2 CBOT Holdings, Inc.	Chicago Mercantile Exchange Holdings, Inc.	DE	7/12/07	9/25/07	\$490	\$7	\$483
3 Lafarge North America, Inc.	Lafarge SA,	MD	5/16/06	11/16/06	\$399	\$15	\$383
4 ARAMARK Corp.	Thomas H. Lee Partners LP, Warburg, Pincus LLC, Goldman Sachs Group, Inc., JPMorgan Chase & Co., Inc., GS Capital, Partners LP, JPMorgan Partners LLC, Warburg Pincus & Co., ARAMARK Corp. /Neubauer/	DE	1/26/07	4/12/07	\$227	\$2	\$225
5 Phelps Dodge Corp.	Freeport-McMoRan Copper & Gold, Inc.	AZ	3/19/07	9/10/07	\$127	\$2	\$125

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