

Fifth Circuit Securities Litigation Quarterly

Q3 2025



A&O SHEARMAN

Contents

3 Introduction

4 New securities class
action filings

10 Decisions of note

17 A&O Shearman's
Texas securities
litigation team



Texas Securities Litigation
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Introduction



Welcome to the Q3 2025 edition of A&O Shearman's Fifth Circuit Securities Litigation Quarterly. As public companies and financial institutions continue to migrate to Texas, our Texas-based securities litigation team continues to monitor all developments and help our clients navigate the unique landscape for federal securities litigation in the Fifth Circuit.

In our Q3 2025 edition, we cover six new case filings, five district court decisions on pleading stage and class certification issues, and other decisions of note.

New securities class action filings

TESLA (W.D. TEX., 1:25-CV-01213, FILED AUGUST 4, 2025)

Filed on behalf of a putative class of investors who purchased or otherwise acquired Tesla, Inc. securities between April 19, 2023 and June 22, 2025, inclusive

Asserts claims under the Securities Exchange Act of 1934

Alleges Defendants “made false and/or misleading statements and/or failed to disclose that: (i) Tesla overstated the effectiveness of its autonomous driving technology; (ii) there was thus a significant risk that the Company’s autonomous driving vehicles, including the Robotaxi, would operate dangerously and/or in violation of traffic laws; (iii) the foregoing increased the likelihood that Tesla would become subject to heightened regulatory scrutiny; (iv) accordingly, Tesla’s business and/or financial prospects were overstated; and (v) as a result, the Company’s public statements were materially false and misleading at all relevant times.”



New securities class action filings

NUTEX HEALTH(S.D. TEX., 4:25-CV-03999, FILED AUGUST 22, 2025)

Filed on behalf of a putative class of investors who purchased or otherwise acquired Nutex Health Inc. securities between August 8, 2024 and August 14, 2025, inclusive

Asserts claims under the Securities Exchange Act of 1934

Alleges Defendants “made false and/or misleading statements and/or failed to disclose that: (i) HaloMD was achieving lucrative arbitration results for Nutex by engaging in a coordinated scheme to defraud insurance companies; (ii) as a result, to the extent that they were the product of fraudulent conduct, revenues attributable to the Company’s engagement with HaloMD in the IDR process were unsustainable; (iii) in addition, the Company overstated the extent to which it had remediated, and/or its ability to remediate, the material weaknesses in its internal controls over financial reporting; (iv) as a result, the Company was unable to effectively account for the treatment of certain of its stock based compensation obligations; (v) as a result, Nutex improperly calculated these stock based compensation obligations as equity rather than liabilities; (vi) the foregoing increased the risk that the Company would be unable to timely file certain financial reports with the SEC; (vii) accordingly, Nutex’s business and/or financial prospects were overstated; and (viii) as a result, Defendants’ public statements were materially false and misleading at all relevant times.”



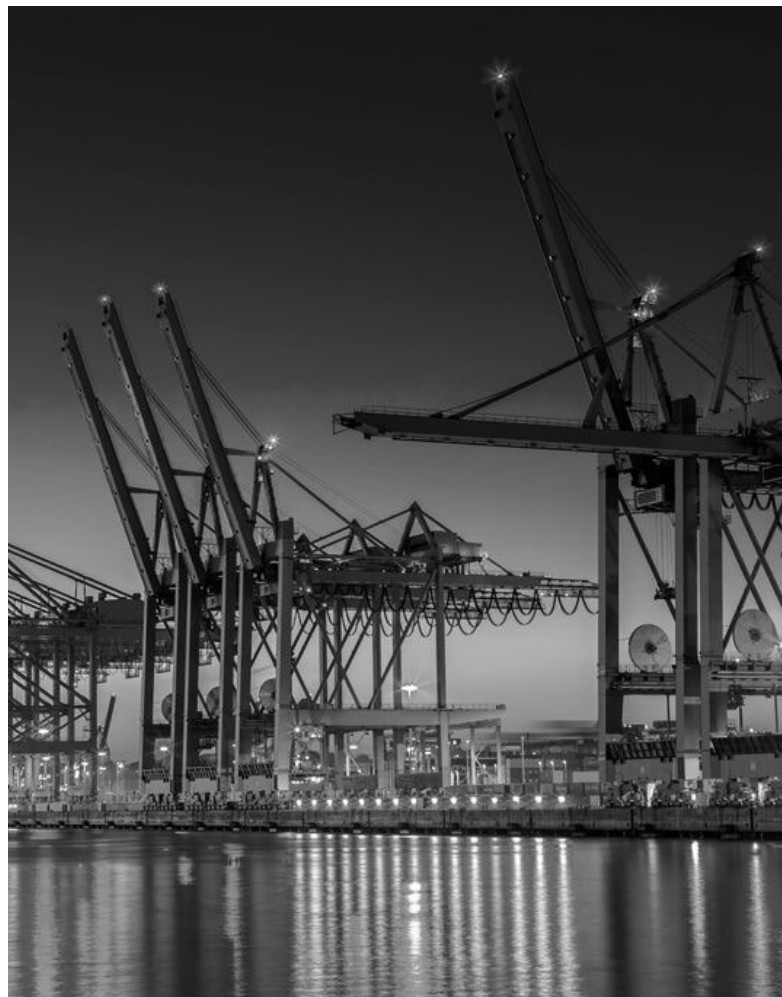
New securities class action filings

FLUOR (N.D. TEX., 3:25-CV-02496, FILED SEPTEMBER 15, 2025)

Filed on behalf of a putative class of investors who purchased or otherwise acquired Fluor Corporation securities between February 18, 2025 and July 31, 2025, inclusive

Asserts claims under the Securities Exchange Act of 1934

Alleges Defendants “made false and/or misleading statements and/or failed to disclose that: (i) costs associated with the Gordie Howe, I-635/LBJ, and I-35 projects were growing because of, inter alia, subcontractor design errors, price increases, and scheduling delays; (ii) the foregoing, as well as customer reduction in capital spending and client hesitation around economic uncertainty, was having, or was likely to have, a significant negative impact on the Company’s business and financial results; (iii) accordingly, Fluor’s financial guidance for FY 2025 was unreliable and/or unrealistic, the effectiveness of the Company’s risk mitigation strategy was overstated, and the impact of economic uncertainty on the Company’s business and financial results was understated; and (iv) as a result, Defendants’ public statements were materially false and misleading at all relevant times.”



New securities class action filings

QUANEX BUILDING PRODUCTS (S.D. TEX., 4:25-CV-04453, FILED SEPTEMBER 19, 2025)

Filed on behalf of a putative class of investors who purchased or otherwise acquired Quanex Building Products Corporation securities between December 12, 2024 and September 5, 2025, inclusive

Asserts claims under the Securities Exchange Act of 1934

Alleges Defendants “failed to disclose to investors: (1) the Company’s procedures and policies regarding tooling and equipment maintenance in its Tyman Mexico facility were significantly ‘underinvested’; (2) as a result, the Company’s tooling and equipment conditions had significantly degraded to near ‘catastrophic’ levels; (3) that, as a result of the foregoing, the Company was likely to incur significant costs, ‘pushing out the timing’ of expected benefits from the Tyman integration; (4) that Quanex had previously identified the foregoing issues; and (5) that, as a result of the foregoing, Defendants’ positive statements about the Company’s business, operations, and prospects were materially misleading and/or lacked a reasonable basis.”



New securities class action filings

***KBR* (S.D. TEX., 4:25-CV-04464, FILED SEPTEMBER 19, 2025)**

Filed on behalf of a putative class of investors who purchased or otherwise acquired KBR, Inc. securities between May 6, 2025 and June 19, 2025, inclusive

Asserts claims under the Securities Exchange Act of 1934

Alleges Defendants “made false and/or misleading statements and/or failed to disclose that: (1) Despite the knowledge that the U.S. Department of Defense’s Transportation Command (TRANSCOM) had, for months, had material concerns with Homesafe’s ability to fulfill the Global Household Goods Contract, Defendants claimed that the partnership was without issue, and would ramp up in future quarters; and (2) as a result, Defendants’ statements about KBR’s business, operations, and prospects were materially false and misleading and/or lacked a reasonable basis at all relevant times.”



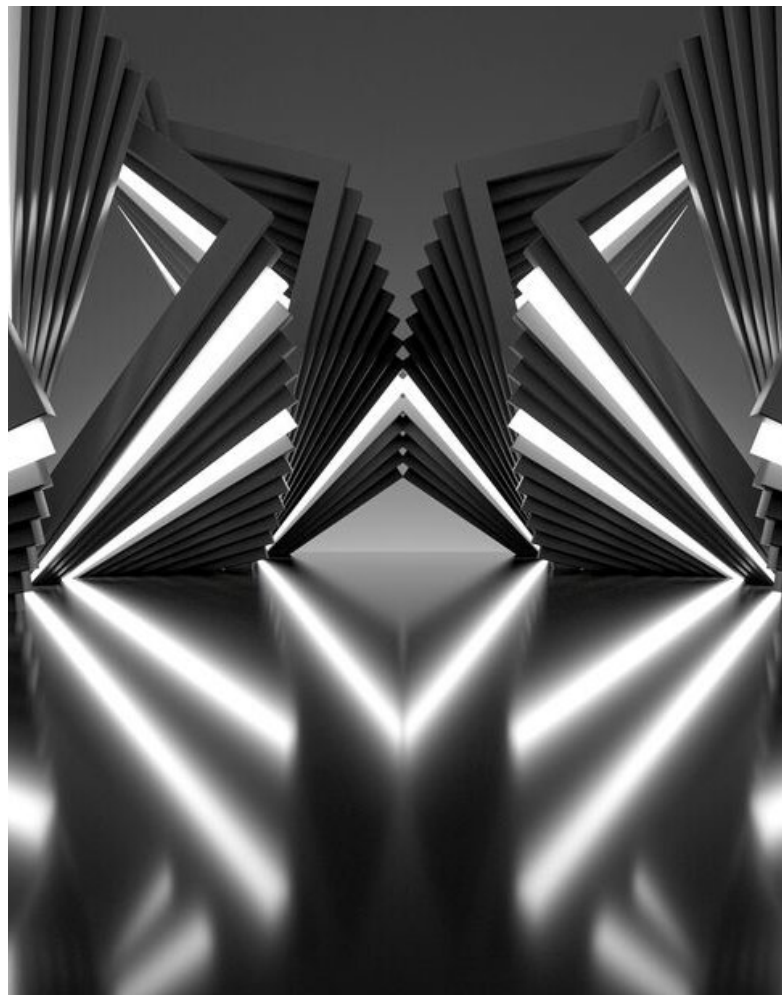
New securities class action filings

RCI HOSPITALITY (S.D. TEX., 4:25-CV-04477, FILED SEPTEMBER 21, 2025)

Filed on behalf of a putative class of investors who purchased or otherwise acquired RCI Hospitality Holdings, Inc. securities between December 15, 2021 and September 16, 2025, inclusive

Asserts claims under the Securities Exchange Act of 1934

Alleges Defendants “made false and/or misleading statements and/or failed to disclose that: (1) Defendants engaged in tax fraud; (2) Defendants committed bribery to cover up the fact that they committed tax fraud; (3) as a result, Defendants understated the legal risk facing the Company; and (4) as a result, Defendants’ statements about its business, operations, and prospects, were materially false and misleading and/or lacked a reasonable basis at all relevant times.”



Decisions of note

Next Bridge Hydrocarbons: N.D. Tex. Grants Motion to Dismiss with Prejudice for Failure to Plead Shareholders Acquired Shares Under the Securities Act

Direct Digital Holdings: S.D. Tex. Grants Motion to Dismiss with Prejudice for Failure to Plead Falsity

Cassava: W.D. Tex. Grants Class Certification, Concluding Cassava's Stock Traded in an Efficient Market

agilon health: W.D. Tex. Dismisses Securities Act Claims for Failure to Plead Falsity and Partially Denies Dismissal of Exchange Act Claims

Microvast: S.D. Tex. Denies Motion to Dismiss Exchange Act Claims as to Most Challenged Statements

Other Cases of Note: W.D. Tex. magistrate recommends granting dismissal of securities claims in *CryptoZoo* case; W.D. Tex. magistrate recommends denying certification of Texas Securities Act claims in *Goldovsky v. Rauld*; E.D. Tex. denies Defendant's motion to dismiss in *Globe Life* case.

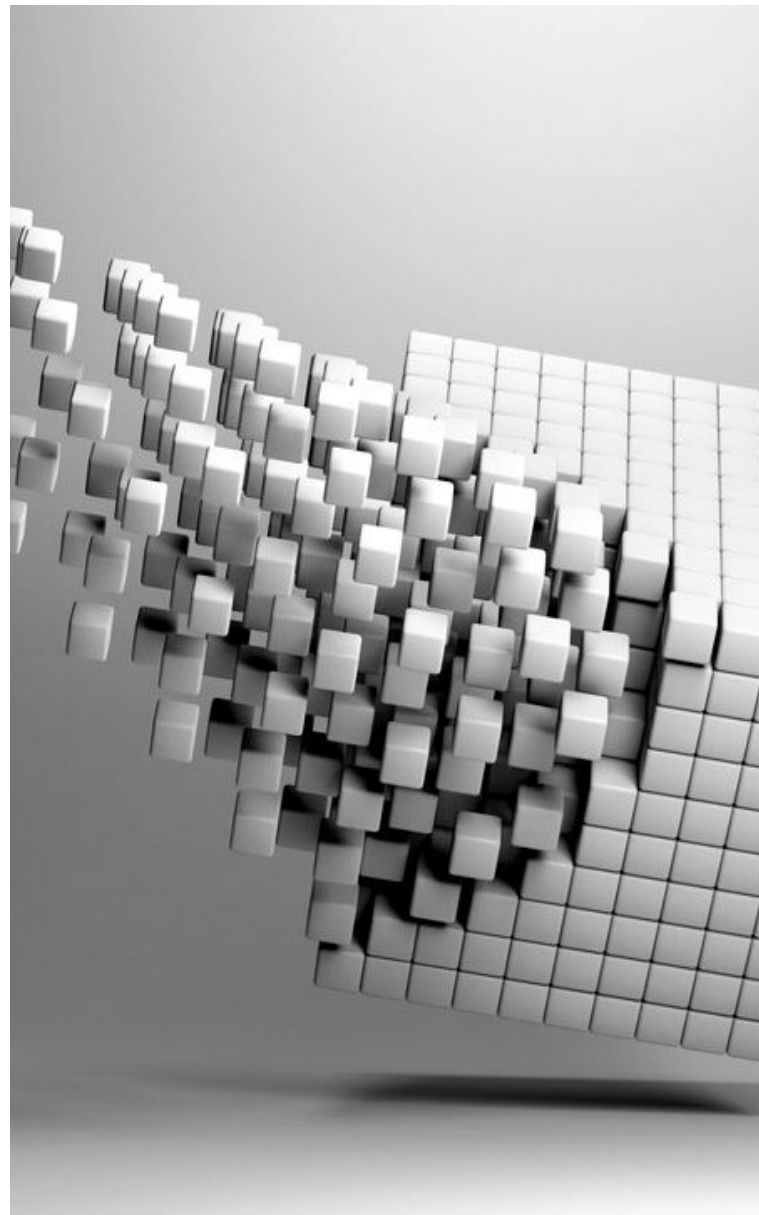
Targgart v. Next Bridge Hydrocarbons, Inc.,
--- F. Supp. 3d ---, 2025 WL 1831590
(N.D. Tex. July 3, 2025)

- ♦ Judge Pittman granted Defendants' motion to dismiss with prejudice.
- ♦ Plaintiffs brought Securities Act claims concerning statements leading up to the spinoff of Next Bridge from Meta Materials, Inc.
- ♦ The court held Plaintiffs did not have Section 11 statutory standing, finding they did not "acquire" Next Bridge shares within the meaning of the statute when they "receive[d] securities as a distribution given to holders of shares in another company" pursuant to a spinoff. Plaintiffs did not give any value for their Next Bridge shares, which were received as a distribution from Meta Materials.
- ♦ For similar reasons, the court also dismissed Plaintiffs' Section 12 claim, finding Plaintiffs did not purchase Next Bridge shares.
- ♦ Plaintiffs have appealed the dismissal to the Fifth Circuit.



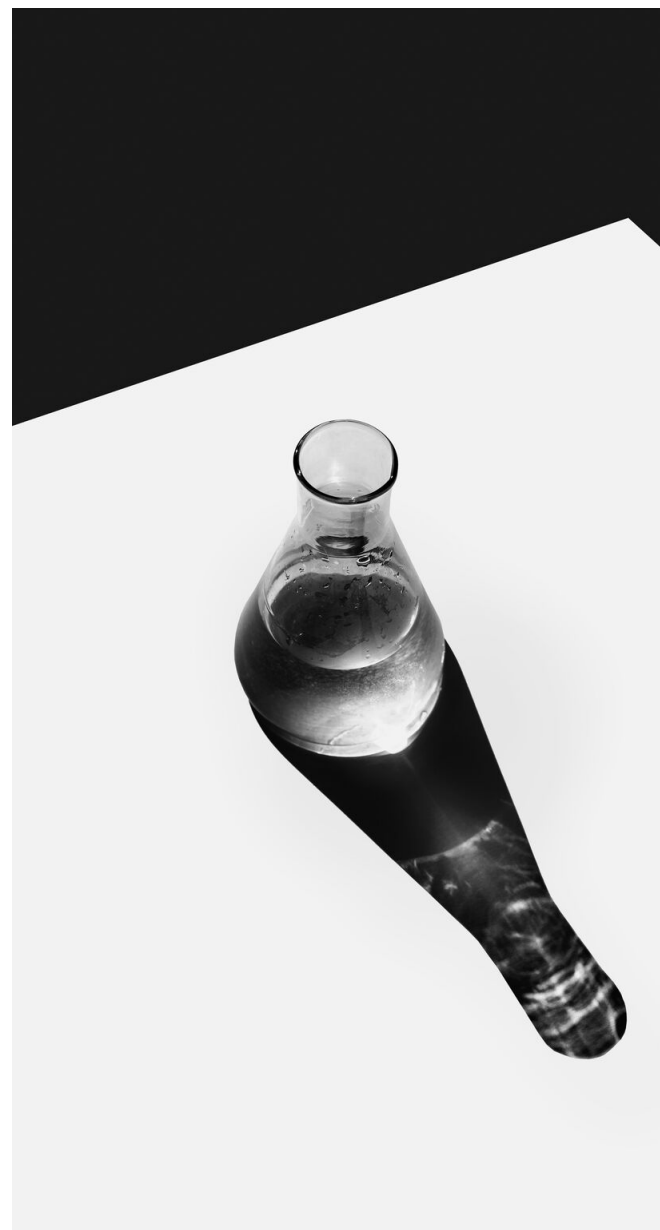
Monsky v. Direct Digital Holdings, Inc., No. 4:24-cv-01940 (S.D. Tex. Aug. 7, 2025)

- ♦ Judge Hoyt granted Defendants' motion to dismiss with prejudice.
- ♦ Plaintiffs brought Exchange Act claims alleging that Defendants "concealed the severe disruption" to the revenue of one of Direct Digital's subsidiaries and made related overly optimistic and misleading statements.
- ♦ The court held the challenged statements were "vague, optimistic generalizations" on which reasonable investors would not rely or were projections of future performance not worded as guarantees.
- ♦ As to alleged omissions of "day-to-day business difficulties," the court found that Defendants did not have a duty to disclose any and all material information and that the general statements challenged by Plaintiffs did not trigger a duty to disclose.
- ♦ Plaintiffs have appealed the dismissal to the Fifth Circuit.



In re Cassava Sciences, Inc. Sec. Litig., ---
F.R.D. ---, 2025 WL 2327101 (W.D. Tex.
Aug. 12, 2025)

- ♦ Judge Ezra granted class certification of an Exchange Act class with a class period of September 14, 2020 to October 12, 2023 for the same reasons recommended by Magistrate Judge Hightower, as reported in our Q4 2024 review.
- ♦ Plaintiffs alleged that Defendants fraudulently promoted a drug candidate “by concealing facts that undermined the integrity of Cassava’s research.”
- ♦ The court found that Plaintiffs’ status as day traders who Defendants argued did not rely on the alleged misrepresentations did not render Plaintiffs atypical of other putative class members.
- ♦ The court also held that Plaintiffs established market efficiency through their expert’s report, which focused on factors that many courts have considered in a market efficiency analysis. The court rejected Defendants’ argument that a standard analysis was deficient because some market participants characterized Cassava as a “meme stock.”
- ♦ According to the court, Defendants did not carry their burden to prove a lack of price impact from the alleged misrepresentations by pointing to a lack of a statistically significant stock price decline following some of the alleged corrective disclosures. There was no dispute that the stock price increased in response to at least some of the alleged misrepresentations and decreased in a statistically significant manner after six of the alleged corrective disclosures.
- ♦ Defendants have filed a petition with the Fifth Circuit under Rule 23(f) seeking permission to bring an interlocutory appeal of the class certification order.



In re agilon health, inc. Sec. Litig., 2025 WL 2388183 (W.D. Tex. Aug. 15, 2025)

- ♦ Judge Ezra granted Defendants' motions to dismiss Securities Act claims without prejudice and granted-in-part and denied-in-part motions to dismiss Exchange Act claims.
- ♦ Plaintiffs alleged that agilon, its officers, directors, underwriters, and private equity sponsor made or were responsible for false or misleading statements regarding agilon's business model, financial visibility, and data management. Plaintiffs challenged a range of public statements and disclosures, including those in the offering documents, asserting claims under the Securities Act and the Exchange Act.
- ♦ The court first dismissed all Securities Act claims for failure to plead falsity, which resulted in the underwriters being completely dismissed from the case. The court held that Plaintiffs failed to plead any actionable misstatement or omission in the offering documents. The court agreed that the challenged statements were either non-actionable puffery, accompanied by meaningful cautionary language, or not false when made. The Court found that the risk disclosures in the offering materials were robust and sufficient to preclude liability.
- ♦ The court found that some of the statements challenged under the Exchange Act that agilon made outside of offering documents were adequately pled to be false or misleading and made with scienter. Statements based on data integration and growth management were dismissed. Statements based on medical margin guidance, agilon's business model, healthcare utilization trends, and agilon's reported results, survived.



Schelling v. Microvast Holdings, Inc., --- F. Supp. 3d ---, 2025 WL 2430613 (S.D. Tex. Aug. 22, 2025)

- ♦ Judge Hanen denied Defendants' motion to dismiss as to most of the challenged statements.
- ♦ Plaintiffs brought Exchange Act claims alleging that Microvast "understated and/or misrepresented its ties to China in its grant applications to the DOE" and "exaggerated its ability to protect its technology from the Chinese government and downplayed its financial and political ties with the Chinese government." Plaintiffs further challenged statements made about the construction of a plant in Clarksville, Tennessee.
- ♦ Of thirteen challenged statements, the court denied dismissal as to ten, partially dismissed as to two, and granted dismissal as to one.
- ♦ Alleged statements concerning whether Microvast had received a DOE grant, when instead it allegedly was only selected to negotiate the grant, were held to be adequately pled as materially false or misleading and made with scienter.
- ♦ As to challenged statements regarding the Clarksville plant, the court credited allegations from confidential witnesses and mostly rejected Defendants' materiality arguments in largely denying dismissal. The court dismissed portions of two statements on materiality grounds and dismissed one challenged statement as protected by the PSLRA's safe harbor for forward-looking statements.



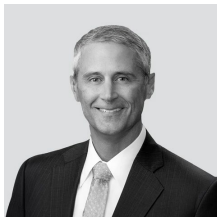
Other decisions of note

Holland v. CryptoZoo Inc., 2025 WL 2492970 (W.D. Tex. Aug. 14, 2025): Magistrate Judge Griffin recommended granting a motion to dismiss with leave to amend in a case asserting putative class claims under the Exchange Act regarding a non-public cryptocurrency company. The court held that the cryptocurrency transactions at issue were adequately alleged to be securities transactions but found the Exchange Act claims were not pleaded with particularity as required by the PSLRA.

Goldovsky v. Rauld, 2025 U.S. Dist. LEXIS 190226 (W.D. Tex. Sept. 26, 2025): Magistrate Judge Gilliland recommended denying class certification in a Texas Securities Act case arising from an alleged Ponzi scheme. The court found there was no presumption of reliance under *Affiliated Ute*, and the causation and reliance elements of plaintiffs' claims raised substantial individualized issues regarding the uniformity of the alleged representations and plaintiffs' degree of reliance.

City of Miami Gen. Employees' & Sanitation Employees' Ret. Trust v. Globe Life Inc., 2025 U.S. Dist. LEXIS 191144 (E.D. Tex. Sept. 29, 2025): Judge Mazzant denied defendants' motion to dismiss in an Exchange Act putative class action, rejecting in a short order Defendants' challenges to the pleading of falsity, scienter, and loss causation.

A&O Shearman's Texas securities litigation team



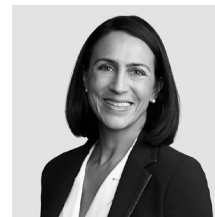
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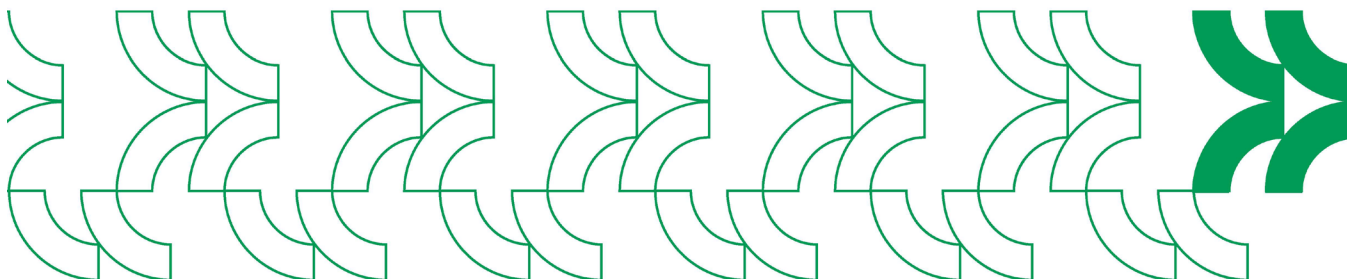
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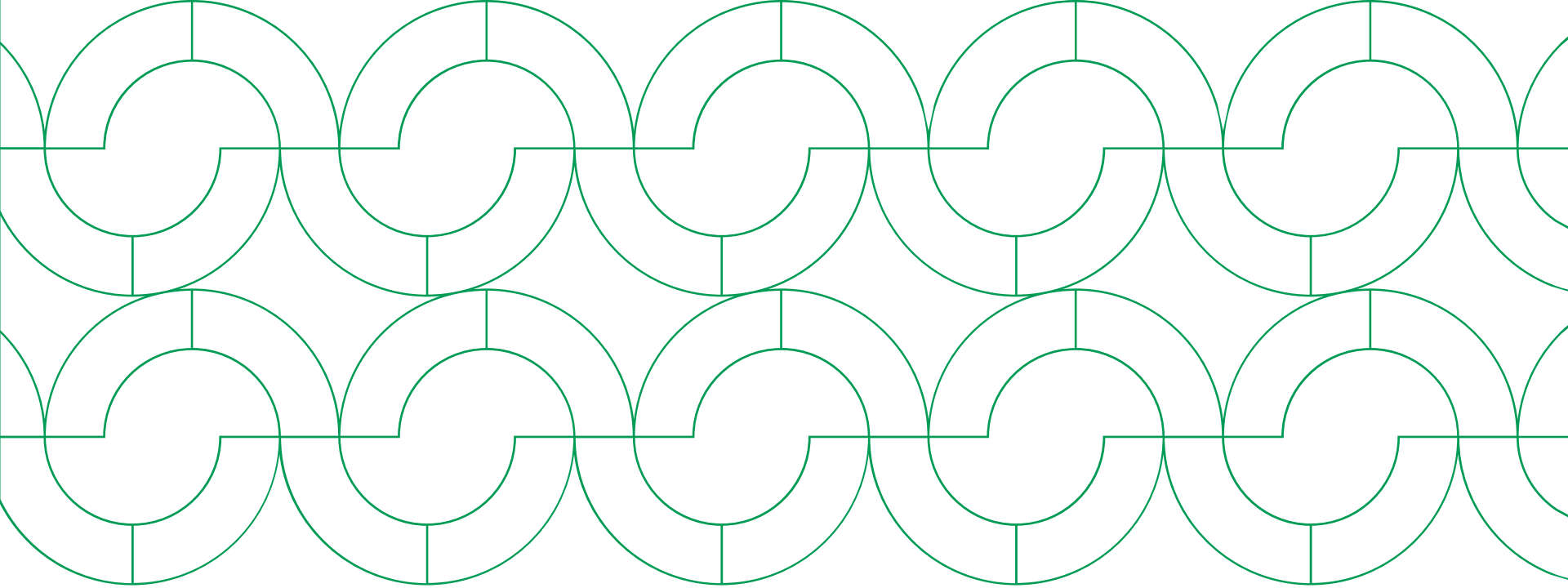


Litigation: *Securities*

Band 1

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