

Law360

3 Securities Litigation Trends To Watch In 2026

By **Todd Cosenza, Charles Cording and Zeh Ekono** (January 2, 2026)

Over the last decade or so, there has been a steady stream of decisions from the U.S. Supreme Court that have shaped the securities litigation landscape. 2025 proved to be different: In a twist, not a single securities law opinion was delivered by the Supreme Court.

In late 2024, the Supreme Court dismissed — after oral argument and without issuing opinions — two highly anticipated appeals it had previously agreed to hear during the October 2024 term: Facebook Inc. v. Amalgamated Bank^[1] and NVIDIA Corp. v. E. Ohman J:or Fonder AB.^[2] Both cases raised issues of pleading standards in securities fraud class actions.

Securities litigants in 2025 fared no better in efforts to reach the high court: On Oct. 6, the Supreme Court denied certiorari petitions in two closely watched cases: first BDO USA LLP v. New England Carpenters Guaranteed Annuity and Pension Funds,^[3] then Pirani v. Slack Technologies Inc.^[4] These cases raised issues of auditor liability and tracing requirements, respectively.

Much of the activity in the securities litigation arena occurred at the appellate level in 2025. Class certification issues continued to loom large, with much attention focused on:

- The evidentiary proof that plaintiffs must offer regarding their damages methodology to satisfy the 2013 standard set in Comcast Corp. v. Behrend;^[5] and
- The application of the Supreme Court's decision in Goldman Sachs Group Inc. v. Arkansas Teacher Retirement System.^[6]

One high-profile attempt by securities class action defendants to tighten the Goldman matching test proved unsuccessful. In July in the case of San Diego County Employees Retirement Association v. Johnson & Johnson, the U.S. Court of Appeals for the Third Circuit applied a looser "subject-matter match" test rather than a tighter "content-matter match" test, thereby easing class certification burdens on plaintiffs.^[7]

In 2026, we expect to see other notable appellate court decisions addressing these class certification issues, including from the U.S. Court of Appeals for the Fourth Circuit in In re: The Boeing Company Securities Litigation and the U.S. Court of Appeals for the Ninth Circuit in the case of Jaeger v. Zillow Group Inc.

We also expect to see the U.S. Court of Appeals for the Fifth Circuit address a different type of class certification issue for the first time in Bozorgi v. Cassava Sciences:^[8] whether courts can presume classwide reliance under the Supreme Court's 1988 decision in Basic Inc. v. Levinson,^[9] which requires a showing of market efficiency, for meme stocks that are traded based on internet hype rather than new, value-relevant information.



Todd Cosenza



Charles Cording



Zeh Ekono

Outside of class certification, artificial intelligence-focused securities litigation is on the rise, with the industry — and AI-related disclosures — under scrutiny. Moreover, with the U.S. Securities and Exchange Commission's shifting enforcement priorities, private plaintiffs are expected to take on a larger enforcement role in the crypto space.

We also expect to see a flurry of initial public offerings in the tech sector more broadly, fueled in part by the favorable macroeconomic environment and pent-up demand.[10] We can expect this wave of IPO activity to bring with it an increase in busted IPO litigation for years to come.

In view of volatile market dynamics, we expect to see securities litigation as active as ever in 2026 across a variety of industries and forums. This article highlights the key trends and cases in securities litigation that will matter most in 2026.

Class Certification Issues

Over the past decade, class certification has remained one of the most hotly contested and litigated issues in securities litigation. We expect 2026 to be no different.

Damages Models

In the 2013 Comcast case, the Supreme Court held that plaintiffs cannot satisfy Rule 23(b)(3)'s predominance requirement without demonstrating through evidentiary proof "that damages are capable of measurement on a classwide basis" using a methodology "consistent with [their] liability case." [11] The court made clear that district courts "must conduct a 'rigorous analysis' [of the proposed damages methodology] to determine whether that is so." [12]

One case to keep a close eye on with respect to its application of Comcast is *In re: The Boeing Company Securities Litigation*, which is currently pending before the Fourth Circuit on a Rule 23(f) appeal. [13]

The case arose after a door plug detached from a Boeing 737 airplane on an Alaska Airlines flight in January 2024. Following the incident, Boeing's stock price dropped and investors sued, alleging that Boeing made false and misleading statements about its commitment to safety that artificially inflated its stock price over the three years preceding the incident.

In March, the U.S. District Court for the Eastern District of Virginia granted the plaintiffs' motion for class certification, holding that the plaintiffs met their Comcast burden by proffering the out-of-pocket damages methodology as the appropriate way to calculate damages. [14] The court further held that the plaintiffs need not "conduct detailed damages modeling to meet Rule 23's predominance requirement at the class certification stage." [15]

On appeal, Boeing argued that the district court improperly certified the class because the plaintiffs had only identified the general legal standard for damages in securities cases — that is, out-of-pocket damages — rather than an actual methodology for calculating damages in a manner that is consistent with their theory that the inflation in Boeing's stock price increased over time. [16]

The Fourth Circuit has yet to render a decision. However, the court may follow the Sixth Circuit's lead in *In re: FirstEnergy Corp. Securities Litigation*. [17]

In this case, the plaintiffs filed a putative class action against FirstEnergy, an electrical

utility company, alleging that FirstEnergy violated the federal securities laws by making statements that were false or misleading because they failed to disclose FirstEnergy executives' alleged bribery of Ohio public officials.

At class certification in 2023, the U.S. District Court for the Southern District of Ohio certified the class, holding that the plaintiffs satisfied Comcast, even though the plaintiffs offered no actual damages model particularized to their theory of liability and instead assured the court they would articulate a sufficient damages methodology at a later stage.[18]

On a Rule 23(f) appeal, the Sixth Circuit in August vacated and remanded the district court's class certification order.[19] In doing so, the Sixth Circuit faulted the district court for not conducting the rigorous analysis required by Comcast — let alone any substantive analysis of damages at all.

Price Impact After Goldman

In its 2021 decision in *Goldman*, the Supreme Court held that the generic nature of a misrepresentation will often be important evidence of a lack of price impact, particularly in cases proceeding under the inflation-maintenance theory.[20]

Since then, price impact issues have been front and center at class certification, with courts closely scrutinizing whether a mismatch exists between the alleged misstatements and the corrective disclosures. Given that the Supreme Court in 2021 did not specify just how close of a match is required, a circuit split has emerged on the proper standard to be applied in making that determination.

In considering *Goldman* on remand, the Second Circuit in 2023 concluded that a generalized subject-matter match between the alleged misstatement and the alleged corrective disclosure is insufficient to support the inference that the back-end price drop equals front-end inflation.[21] Rather, the corrective disclosure must expressly and specifically negate the misrepresentation or directly render it false when considering whether a match exists.[22]

The Second Circuit further noted that "any gap among the front-end and back-end statements as written [must] be limited." [23]

The Ninth Circuit addressed the Supreme Court's *Goldman* decision for the first time this fall on a Rule 23(f) petition in *Jaeger v. Zillow Group Inc.* [24] One of the issues before the court was whether the U.S. District Court for the Western District of Washington erred in 2024 by applying the more lenient "plausible connection" loss causation standard, which does not require a direct conflict between the front- and back-end statements, rather than the *Goldman* tests established by the Supreme Court in 2021 and the Second Circuit in 2023.

In September, the Ninth Circuit affirmed the Western District of Washington's order in a short two-page opinion, holding that the district court did not err "by looking to loss-causation case law for guidance" because both price impact and loss causation "require courts to consider substantially similar questions." [25]

On Oct. 24, Zillow filed a petition for a panel rehearing or rehearing en banc, arguing, among other things, that the Ninth Circuit's ruling creates a circuit split with the Second Circuit by applying "a confusing, watered-down standard at odds with *Goldman*'s clear directive." [26]

The Ninth Circuit has not granted Zillow's petition. If it refuses to do so and allows the decision to stand, defendants facing class actions in the Ninth Circuit will face far greater difficulty showing that the alleged misstatements did not affect the stock price at the class certification stage.

Meme Stocks and Market Efficiency

During the COVID-19 pandemic, meme stocks — that is, stocks that have a significant increase in trading volume due to attention on social media rather than the company's performance — emerged as a new phenomenon. While the meme stock phenomenon has ebbed and flowed since then, some cases concerning them have reached class certification, bringing with them a focus on how such stocks affect traditional notions of market efficiency and introducing important new case law on how courts assess short bursts of trading volatility at class certification.

In some cases, defendants have defeated class certification by demonstrating that a meme stock trades in an inefficient market, so reliance cannot be presumed on a classwide basis.

Most famously, this was the result in *Bratya SPRL v. Bed Bath & Beyond Corp.*, where the plaintiffs sued Bed Bath & Beyond, or BBBY, for securities fraud and market manipulation after one of BBBY's investors tweeted a "to the moon" emoji in response to a negative news article about BBBY.[27] The tweet attracted the attention of meme stock investors, causing BBBY's stock price to rapidly increase and then collapse in a dramatic fashion.

In September 2024, the U.S. District Court for the District of Columbia denied the plaintiffs' motion for class certification, finding that "the market for [BBBY's] securities was so volatile and subject to such unusual market dynamics during the Class Period that it cannot possibly have reflected all public, material information." [28]

In other cases, like the *Shupe v. Rocket Companies Inc.* case decided in October 2024 in the U.S. District Court for the Eastern District of Michigan, defendants have relied on Goldman to defeat class certification by demonstrating that even if the market for a meme stock is efficient, the alleged, generic misrepresentations had no price impact.[29]

While the prevailing view is that meme stocks present unique challenges for plaintiffs at class certification, it is equally clear that there is no categorical bar on certifying classes of investors in meme stocks — or stocks alleged to be meme stocks.

For instance, in *In re: Cassava Sciences Inc. Securities Litigation*, the defendant argued that Cassava, a biopharmaceutical company, was a meme stock that exhibited extreme price swings that were untethered to any material news during the class period.[30] Nevertheless, the U.S. District Court for the Western District of Texas certified the class this August based on a strict application of the *Cammer* and *Kroger* market efficiency factors.[31]

The Cassava Sciences case is currently pending before the Fifth Circuit on the defendants' Rule 23(f) petition.[32] If the Fifth Circuit reaches the Western District of Texas' class certification order, this would represent the first time the federal appellate courts have issued guidance on class certification in meme stock securities cases.

Artificial Intelligence

Over the last few years, AI-related securities cases have been on the rise. While many of the cases have been tossed on motions to dismiss,[33] the filing of new AI-related securities cases show no signs of slowing.[34] We expect AI-related securities cases to be one of the defining trends of the second half of the 2020s, with cases focused on both the AI sector and AI-related disclosures.

The allegations in AI-related securities cases have taken many different shapes. More recently, there has been a wave of cases involving allegations of AI washing, which is the deceptive tactic of overstating a company's AI capabilities or the extent to which AI drives performance or demand.

One example of this is *Hoare v. Oddity Tech Ltd.* in the U.S. District Court for the Southern District of New York.[35] This February, the plaintiffs filed a putative class action against Oddity, a consumer tech platform that focuses on the global beauty and wellness market and various underwriter banks following Oddity's initial public offering in 2023.

The complaint alleges, among other things, that Oddity violated the federal securities laws by "overstat[ing] its AI technology and capabilities, and/or the extent to which this technology drove the Company's sales" in their IPO offering documents.[36] The case is currently pending a ruling on the defendants' motion to dismiss.

Some other recent cases allege that companies understated the impact of AI-related risks, including the risk posed by AI advances made by other companies or competitors.

For example, in *Tamraz v. Reddit Inc.*, the plaintiff in June filed a putative class action against Reddit, a forum-style social media platform, alleging that the company violated the federal securities laws by making false and misleading statements and omissions regarding the impact that Google's new AI capabilities, including its "AI Overviews" feature, would have on Reddit's business and website traffic.[37] The case is currently pending in the U.S. District Court for the Northern District of California.

While it remains to be seen how these more recent types of allegations will fare, they make clear that companies must exercise extreme caution when it comes to making AI-related disclosures and closely monitor new decisions in this rapidly developing area of the law.

Cryptocurrency

In 2025, the defining development in crypto-related securities litigation was the SEC's decision to scale back its enforcement efforts and instead focus on providing a clear regulatory framework for crypto assets in the U.S.[38]

Given the SEC's change in priorities,[39] we expect that more private plaintiffs will step in and fill the enforcement gap by advancing claims under the federal and state securities laws. Such lawsuits will further shape the crypto litigation landscape, likely building on some of the key decisions in 2025.

For example, in *Risley v. Universal Navigation Inc.*, the Second Circuit in February addressed the threshold question of whether "the developers of automated computer codes that facilitate the transfer of cryptocurrency on a decentralized exchange" qualify as sellers under Section 12(a)(1) of the Securities Act.[40] Shareholders were suing the developers of a cryptocurrency trading platform called the Uniswap Protocol after they lost money on scam tokens issued by third parties on the platform.

The Second Circuit held that the Uniswap developers were not statutory sellers of the scam tokens because the platform operated as a decentralized exchange. Instead, the court held, the developers had merely created the code for the smart contracts that facilitated the trades; they exerted no control over token listings, liquidity pools or user interactions. The court also held that the developers did not solicit the fraudulent transactions.

Conclusion

Given these notable cases and trends, 2026 promises to be a significant year for securities litigation. Securities law practitioners and public companies should continue to closely monitor cases currently pending in the federal courts.

Todd G. Cosenza is a partner and co-chair of the securities litigation practice group at Willkie Farr & Gallagher LLP.

Charles D. Cording is a partner at the firm.

Zeh S. Ekono is a partner at the firm.

Willkie associate Amanda M. Payne and law clerk Gordon Waldman contributed to this article.

Disclosure: Willkie represents groups of former SEC officials and law professors who filed (1) an amicus brief in support of Goldman Sachs' petition for a writ of certiorari and petition to appeal in Goldman, (2) an amicus brief in support of FirstEnergy's petition for a Rule 23(f) appeal and (3) an amicus brief in support of Boeing's petition for a Rule 23(f) appeal.

The opinions expressed are those of the author(s) and do not necessarily reflect the views of their employer, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

[1] In re: Facebook Inc. Sec. Litig., 87 F.4th 934, 941 (9th Cir. 2023), cert. granted in part sub nom. Facebook Inc. v. Amalgamated Bank, 144 S. Ct. 2629 (2024), and cert. dismissed as improvidently granted sub nom. Facebook Inc. v. Amalgamated Bank, 604 U.S. 4 (2024).

[2] E. Ohman J:or Fonder AB v. NVIDIA Corp., 81 F.4th 918 (9th Cir. 2023), cert. granted sub nom. NVIDIA Corp. v. Ohman J, 144 S. Ct. 2655 (2024), and cert. dismissed as improvidently granted, 604 U.S. 20 (2024).

[3] New England Carpenters Guaranteed Annuity & Pension Funds v. DeCarlo, 122 F.4th 28 (2d Cir. 2024), cert. denied sub nom. BDO USA, LLP v. New England Carpenters, No. 24-1151, 2025 WL 2824451 (U.S. Oct. 6, 2025).

[4] Pirani v. Slack Techs. Inc., 127 F.4th 1183 (9th Cir. 2025), cert. denied, No. 25-44, 2025 WL 2824130 (U.S. Oct. 6, 2025).

[5] Comcast Corp. v. Behrend, 569 U.S. 27 (2013).

[6] Goldman Sachs Group Inc. v. Arkansas Teacher Retirement System, 594 U.S. 113

(2021).

[7] San Diego County Employees Retirement Association v. Johnson & Johnson, No. 24-1409, 2025 WL 2176586 (3d Cir. July 30, 2025), reh'g denied, 2025 WL 2848912 (3d Cir. Oct. 7, 2025).

[8] Bozorgi v. Cassava Sciences, No. 25-50855 (5th Cir. Oct. 21, 2025).

[9] Basic Inc. v. Levinson, 485 U.S. 224 (1988).

[10] Anthony Hughes and Bailey Lipschultz, Bankers Ready US IPOs at 'Overwhelming' Pace Ahead of 2026, Bloomberg (Dec. 6, 2025), <https://www.bloomberg.com/news/articles/2025-12-09/bankers-readying-us-ipos-at-overwhelming-pace-ahead-of-2026>. <https://www.bloomberg.com/news/articles/2025-12-09/bankers-readying-us-ipos-at-overwhelming-pace-ahead-of-2026>

[11] Comcast, 569 U.S. at 33-35 (citation omitted).

[12] Id. at 35 (citation omitted).

[13] In re: The Boeing Company Securities Litigation, No. 25-1492 (4th Cir.).

[14] In re: Boeing Co. Sec. Litig., No. 1:24-CV-151 (LMB/LRV), 2025 WL 2428481, at *2 (E.D. Va. Mar. 7, 2025).

[15] Id.

[16] Opening Brief at 3-4, In re: The Boeing Company Securities Litigation, No. 25-0135 (4th Cir. 2025).

[17] 149 F.4th 587 (6th Cir. 2025).

[18] In re: FirstEnergy Corp. Sec. Litig., No. 2:20-CV-3785, 2023 WL 2709373 (S.D. Ohio Mar. 30, 2023), opinion clarified, No. 2:20-CV-03785, 2023 WL 8105252 (S.D. Ohio Apr. 18, 2023).

[19] In re: FirstEnergy Corp. Sec. Litig., 149 F.4th 587 (6th Cir. Aug. 13, 2025).

[20] Goldman Sachs Group Inc. v. Arkansas Teacher Retirement System, 594 U.S. 113, 117 (2021).

[21] Arkansas Teacher Retirement System v. Goldman Sachs Group Inc., 77 F.4th 74, 100-01 (2d Cir. 2023).

[22] Id. at 98.

[23] Id. at 99.

[24] Jaeger v. Zillow Group Inc., No. 24-6605, 2025 WL 2741642 (9th Cir. Sept. 26, 2025).

[25] Id. at *1.

[26] Defendants-Appellants' Petition for Rehearing or Rehearing En Banc, Jaeger v. Zillow

Group Inc., No. 24-6605, ECF No. 50 (9th Cir. Oct. 24, 2025).

[27] *Bratya SPRL v. Bed Bath & Beyond Corp.*, 752 F. Supp. 3d 34, 43 (D.D.C. 2024), reconsideration denied, No. 1:22-CV-02541 (TNM), 2025 WL 721770 (D.D.C. Mar. 6, 2025), and dismissed sub nom. *In re: Bratya SPRL*, No. 25-8002, 2025 WL 1354922 (D.C. Cir. May 8, 2025).

[28] *Id.* at 56; see also *In re: Jan. 2021 Short Squeeze Trading Litig.*, No. 21-2989-MDL, 2023 WL 9035671 (S.D. Fla. Nov. 13, 2023) (finding that the markets for the meme stocks at issue were inefficient during the class period based largely on the fact that plaintiffs' market manipulation theory of the case admitted as much).

[29] *Shupe v. Rocket Companies Inc.*, 752 F. Supp. 3d 735 (E.D. Mich. 2024) ("The generic nature of Farner's alleged misrepresentations, balanced against the specific nature of the Rocket's alleged corrective disclosure, presents 'important evidence' that Farner's alleged misrepresentations had no price impact. And this lack of price impact is compounded by Defendants' proof that no analysts relied on Farner's misrepresentations throughout the Class Period. Defendants have shown — by a preponderance of the evidence — that Defendant Farner's alleged, generic misrepresentations had no impact on the price of Rocket stock." (quoting *Goldman*, 594 U.S. at 123)).

[30] *In re: Cassava Scis. Inc. Sec. Litig.*, 350 F.R.D. 91 (W.D. Tex. 2025).

[31] The Cammer factors are derived from *Cammer v. Bloom*, 711 F. Supp 1264 (D.N.J. 1989); the Krogman factors are derived from *Krogman v. Sterritt*, 202 F.R.D. 467 (N.D. Tex. 2001). Courts routinely apply the Cammer and Krogman factors to measure the efficiency of stock markets.

[32] *Bozorgi v. Cassava Science Inc.*, No. 25-50855 (5th Cir. Oct. 21, 2025).

[33] See, e.g., *In re: Vicor Sec. Litig.*, No. 24-CV-04196-RS, 2025 WL 1616537 (N.D. Cal. June 6, 2025); *Lamontagne v. Tesla Inc.*, No. 23-CV-00869-AMO, 2024 WL 4353010, at *1 (N.D. Cal. Sept. 30, 2024), *aff'd sub nom. Oakland Cnty. Voluntary Employees' Beneficiary Ass'n v. Tesla Inc.*, No. 25-55, 2025 WL 3459471 (9th Cir. Dec. 2, 2025).

[34] See Securities Class Action Trend Filings, Cornerstone Research, <https://www.cornerstone.com/wp-content/uploads/2025/07/Securities-Class-Action-Filings-2025-Midyear-Assessment.pdf> (last visited Dec. 10, 2025) ("There were 12 AI-related filings in 2025 H1. The annualized number of AI-related filings is on pace to far surpass the 2024 total (15).").

[35] Second Amended Complaint, *Hoare v. Oddity Tech Ltd.*, No. 1:24-CV-06571-MMG, Dkt. No. 66 (S.D.N.Y. June 6, 2025).

[36] *Id.* at 4.

[37] Complaint for Violation of the Federal Securities Laws, *Tamraz v. Reddit Inc.*, No. 25-cv-05144 (N.D. Cal. June 18, 2025).

[38] See Paul S. Atkins, Chairman, U.S. Sec. & Exch. Comm'n, American Leadership in the Digital Finance Revolution (July 31, 2025) (available at <https://www.sec.gov/newsroom/speeches-statements/atkins-digital-finance-revolution-073125>); Paul S. Atkins, Chairman, U.S. Sec. & Exch. Comm'n, The SEC's Approach to

Digital Assets: Inside "Project Crypto" (Nov. 12, 2025) (available at <https://www.sec.gov/newsroom/speeches-statements/atkins-111225-secs-approach-digital-assets-inside-project-crypto>).

[39] See Press Release, U.S. Sec. & Exch. Comm'n, SEC Announces Dismissal of Civil Enforcement Action Against Coinbase, 2025 WL 638585 (Feb. 27, 2025); U.S. Sec. & Exch. Comm'n v. Payward Inc., Litigation Release No. 26278 (Mar. 27, 2025) (announcing dismissal of civil enforcement action against Kraken); U.S. Sec. & Exch. Comm'n v. Ripple Labs Inc., Litigation Release No. 26369 (Aug. 7, 2025) (announcing joint stipulation to dismiss appeals and resolving civil enforcement action against Ripple).

[40] No. 23-1340-CV, 2025 WL 615185 (2d Cir. Feb. 26, 2025)