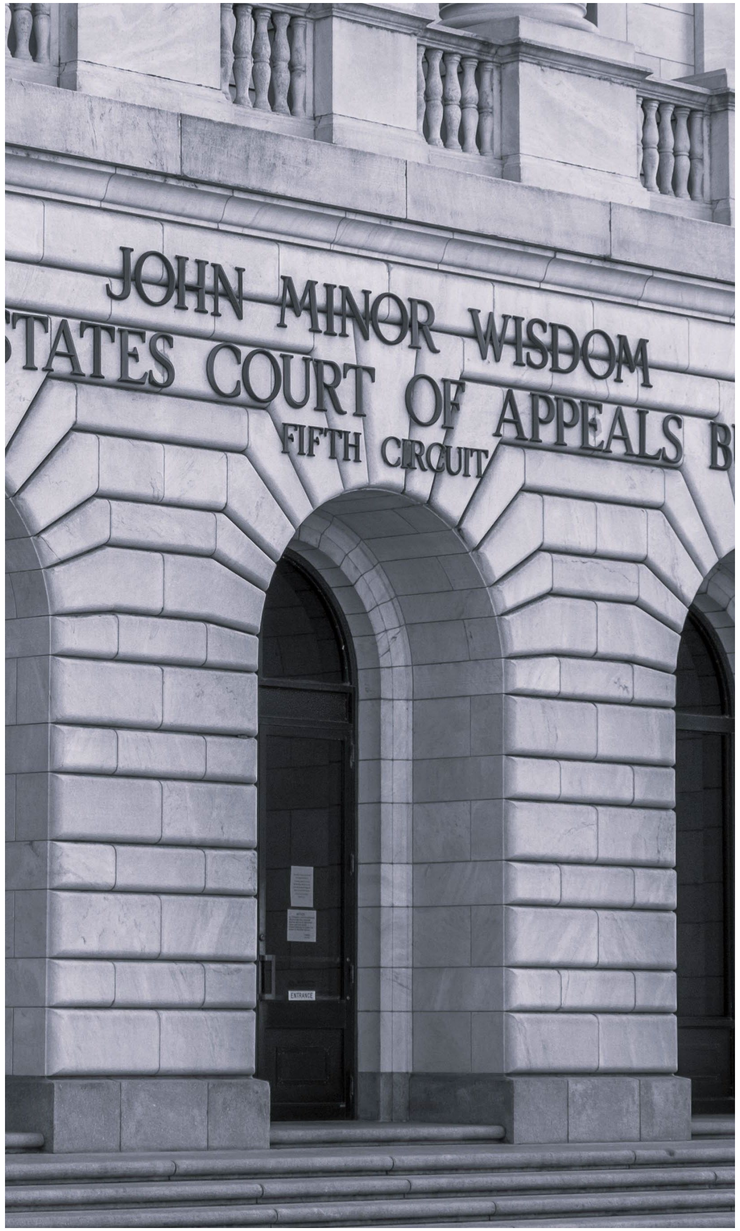
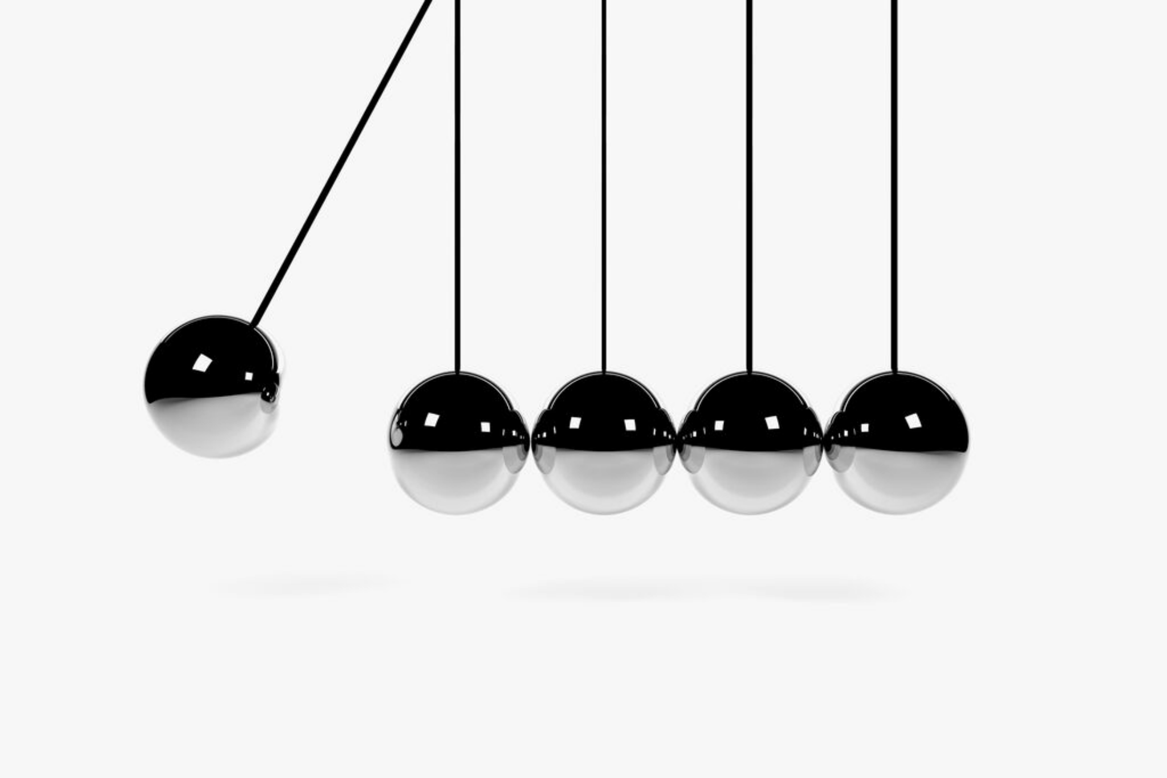
Fifth Circuit Securities Litigation Quarterly

JULY 2026



A&O SHEARMAN

Contents



Chambers
TOP RANKED
USA
2026
A&O Shearman

Ranked Band 1 for Securities Litigation in Texas – *Chambers USA*

Welcome to the Q2 2026 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 key developments and help our clients navigate the unique landscape for federal securities litigation in the Fifth Circuit.

In our Q2 edition, we cover two new class action filings, two new class action settlements, one class action trial, two pleading stage opinions, and other decisions of note.

New securities class action filings

NEW ERA ENERGY & DIGIT., INC. (W.D. TEX., 7:26-cv-120, Filed April 1, 2026)

- Filed on behalf of a putative class of investors who purchased or otherwise acquired New Era Energy securities between November 6, 2024 and December 29, 2025, inclusive
- Asserts claims under the Securities Exchange Act of 1934
- Alleges Defendants made “false and/or misleading statements, as well as failed to disclose material adverse facts about the Company’s business, operations, and prospects,” which included that: “(1) the Company overstated its progress in its permitting and regulatory filings for its flagship Texas Critical Data Centers project; (2) the Company was involved in a fraudulent scheme ‘to pocket revenues from hundreds of oil and gas wells in New Mexico’ by transferring wells among related entities and then placing liability-bearing companies into bankruptcy to avoid plugging and remediation costs; (3) that, as a result, the Company’s financial results were false and/or misleading; and (4) 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.”

HELEN OF TROY LTD. (W.D. TEX., 3:26-cv-1528, Filed June 2, 2026)

- Filed on behalf of a putative class of investors who purchased or otherwise acquired Helen of Troy securities between April 24, 2024 and October 8, 2025, inclusive
- Asserts claims under the Securities Exchange Act of 1934
- Alleges Defendants made “false, or at a minimum, materially misleading” statements concerning “Project Pegasus” because “[e]vidence suggest[ed] that given the importance of Project Pegasus to the Company’s business model and finances, the external macroeconomic conditions during the Class Period, and the Company’s internal budget and resource constraints, at the time these statements [concerning Project Pegasus’s progress] were made, Defendants knew or should have known that Project Pegasus would not, and was not on track to, realize the savings, efficiency, or effectiveness that Helen of Troy consistently touted.”

New securities class action settlements

IN RE DZS INC. SEC. LITIG. (E.D. TEX., 4:23-CV-549)

- $2.9 million settlement of case asserting claims under the Securities Exchange Act of 1934
- Case initially filed on June 14, 2023, and was later consolidated with two other cases. In 2025 while the case was pending, DZS commenced bankruptcy proceedings and Plaintiff voluntarily dismissed DZS from the case. In June 2025, the bankruptcy judge issued an order modifying the automatic stay in the bankruptcy proceeding to allow the causes of action against DZS to proceed. The case resolved after Defendants' motion to dismiss the amended complaint was fully briefed. Motion for preliminary approval of settlement filed on May 19, 2026.

IN RE CASSAVA SCIS., INC. SEC. LITIG. (W.D. TEX., 1:21-cv-751)

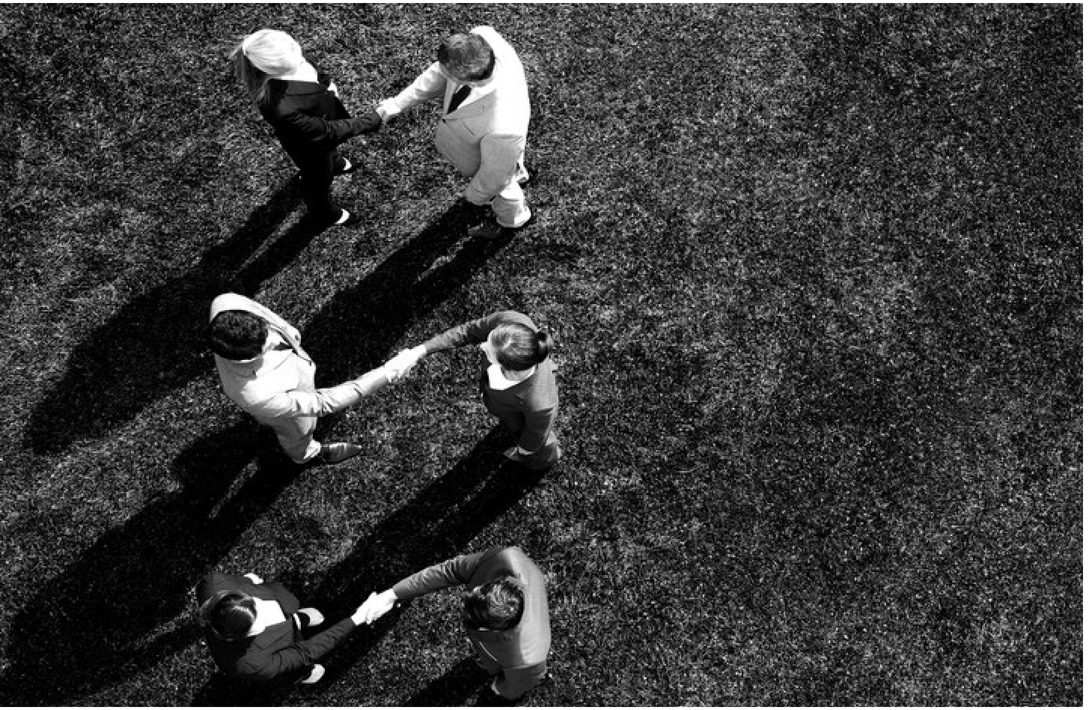
- $31.25 million settlement of case asserting claims under the Securities Exchange Act of 1934
- Case initially filed on August 27, 2021. The court granted in part and denied in part Defendants' motion to dismiss and granted Plaintiffs' motion for class certification. The Fifth Circuit granted Defendants' petition to appeal class certification under Rule 23(f), and the case resolved after the Fifth Circuit briefing was complete. Motion for preliminary approval of settlement filed on June 18, 2026.
- Also this quarter on June 29, Magistrate Judge Hightower denied Defendants' motion to consolidate a separate securities class action based on similar facts into the class action that is settling, finding that consolidation was not appropriate because there is no overlap in the class periods of the two cases and the other case is still at the pleading stage. *See In re Cassava Scis., Inc. Sec. Litig.*, 2026 WL 1878384 (W.D. Tex. June 29, 2026).

Securities class action trial

RAMIREZ V. EXXON MOBIL CORP., ET AL. (N.D. TEX., 3:16-cv-3111)

- In a rare securities class action trial, the jury returned a complete defense verdict on all claims against Exxon and its executives following a 14-day trial.
- Following significant narrowing of Plaintiffs' claims that had occurred through various pre-trial rulings in the decade-old case, Plaintiffs at the time of trial brought Exchange Act claims with a class period of February 24, 2016 through October 28, 2016.
- The jury found that Plaintiffs failed to prove their Rule 10b-5 claim as to each of the Defendants and as to each of three statements in Exxon's 2015 annual report. The three statements concerned (i) proved bitumen reserves at Exxon's Kearl operations in Canada, (ii) "average production prices" and "average production costs" at Exxon's Kearl operations, and (iii) Exxon's earnings statement regarding non-impairment of its Rocky Mountain Dry Gas operations.
- Also this quarter and prior to trial, Judge Kinkeade denied various motions from the parties in summary orders, including Exxon's motion for summary judgment, both sides' motions to exclude various experts, and Plaintiffs' motion to bifurcate the trial.

Decisions of note



01

Next Bridge Hydrocarbons: 5th Cir. Reverses and Remands District Court's Dismissal Determining Plaintiffs had Statutory Standing after Acquiring Security "For Value"

02

agilon health: W.D. Tex. Grants in Part Motion for Reconsideration of the Court's Dismissal Ruling for Failure to Adequately Allege Section 20A Insider Trading Claims Against CD&R Defendants

03

Other Decisions of Note: N.D. Tex. Holds Private Securities Litigation Reform Act's Automatic Stay of Discovery Did Not Apply Where Rule 12(c) Motion Was Pending in Brand *Engagement* Case; N.D. Tex Denies Temporary Restraining Order to Prevent Calling of a Special Shareholders' Meeting in *Fermi* Case; N.D. Tex. Grants Leave to File Third Amended Complaint in *AT&T* Case

Targgart v. Next Bridge Hydrocarbons, Inc., 2026 WL 1847853 (5th Cir. June 26, 2026)

- The Northern District of Texas had dismissed Securities Act claims brought in connection with an allegedly inaccurate registration statement in connection with Next Bridge's spinoff from its parent company.

- The district court had dismissed upon concluding that "Plaintiffs did not purchase or otherwise acquire for value their Next Bridge securities . . . because they received their Next Bridge interests merely as a distribution, giving nothing in return." Accordingly, the district court determined that Plaintiffs did not have statutory standing to bring their Securities Act claims.

- The Fifth Circuit reversed. The court noted the statutory requirement that a plaintiff acquire a security "for value" to have standing and concluded that the Plaintiffs did acquire their Next Bridge securities for value.

- The court held that because as part of the spinoff, Plaintiffs' receipt of Next Bridge stock was conditioned on forfeiture of their preferred stock in the parent company, the forfeiture of that preferred stock constituted the "value" needed to confer standing.

- Notably, the Fifth Circuit reversed on this basis even though the operative complaint did not describe how the transaction worked or allege that Plaintiffs gave value when their preferred shares in the parent company were canceled. The court reached its conclusion by reviewing the registration statement attached to Defendants' motion to dismiss to understand the transaction mechanics of the spinoff.

- The court also rejected Defendants' argument that Plaintiffs gave no value because the preferred stock they owned before the spinoff and the Next Bridge stock they owned after the spinoff corresponded to the same oil and gas assets, pointing to a prior Fifth Circuit case that held that trading partnership units of one company for stock in another pursuant to a merger constituted a purchase under the Securities Act.

- The Fifth Circuit did not reach Defendants' alternative dismissal arguments that the district court had not reached and left those arguments for the district court to consider on remand.

In re agilon health, inc. Sec. Litig., 2026 WL 1103762 (W.D. Tex. Apr. 22, 2026)

- Judge Ezra granted in part the CD&R Defendants' motion for reconsideration of the court's dismissal ruling, which we covered in the third quarter of 2025.
- The court had previously dismissed Securities Act claims against CD&R but allowed certain Exchange Act control person claims and a Section 20A insider trading claim to go forward.
- On reconsideration, the court dismissed all Section 20A insider trading claims against the CD&R Defendants. All but one of the CD&R Defendants were not adequately alleged to have sold agilon securities.
- As to the one CD&R Defendant that did sell agilon securities, the court found the insider trading allegations failed because Plaintiffs did not identify any specific material, non-public information that the defendant possessed. The court held that the fact that a controlling shareholder may have the right to access certain information does not suffice to plead that the controlling shareholder actually had the information in its possession while trading.
- The court denied reconsideration of the surviving control person claims against CD&R, and in a contemporaneous opinion also denied a motion for reconsideration filed by the issuer defendants. *See In re agilon health, inc. Sec. Litig.*, 2026 WL 1103389 (W.D. Tex. Apr. 21, 2026).

Other decisions of note

Brand Engagement Network, Inc. v. Brewer, 2026 WL 1243448 (N.D. Tex. May 6, 2026): Magistrate Judge Horan held in a non-class case that the Private Securities Litigation Reform Act's automatic stay of discovery while a motion to dismiss is pending would not apply in the case before the court while a Rule 12(c) motion for judgment on the pleadings was pending.

Fermi Inc. v. Neugebauer, 2026 WL 1333405 (N.D. Tex. May 13, 2026): Judge Hendrix denied a temporary restraining order that Fermi sought against its co-founder Toby Neugebauer to prevent Neugebauer from calling a special shareholders' meeting. The court found that Fermi did not have a substantial likelihood of success on the merits for its claim under Section 14(a) of the Exchange Act because the court determined Section 14(a) likely does not include a private cause of action permitting an issuer to sue.

In re AT&T Inc. Sec. Litig., No. 3:24-cv-01196 (N.D. Tex. June 1, 2026): Judge Godbey granted Plaintiffs leave to file a third amended complaint. Plaintiffs had filed the third amended complaint after Defendants moved to dismiss the second amended complaint. The court concluded that Plaintiffs did not have the right to amend as a matter of course under Rule 15, but nevertheless granted Plaintiffs leave to amend.

A&O Shearman’s Texas securities litigation team

Thad Behrens

Partner, Dallas
T +1 214 271 5812
thad.behrens@aoshearman.com

Emily Westridge Black

Partner, Austin
T +1 512 647 1909
emily.westridgeblack@aoshearman.com

Mallory Tosch Hoggatt

Partner, Houston
T +1 713 354 4847
mallory.toschhoggatt@aoshearman.com

Samuel W. Cooper

Partner, Houston
T +1 713 354 4838
samuel.cooper@aoshearman.com

Dan Gold

Partner, Dallas
T +1 214 271 5821
dan.gold@aoshearman.com

Billy Marsh

Partner, Dallas
T +1 214 2715348
billy.marsh@aoshearman.com

David P. Whittlesey

Partner, Austin
T +1 512 647 1907
david.whittlesey@aoshearman.com

Chambers
TOP RANKED
USA
2026
A&O Shearman

Ranked Band 1 for Securities Litigation in Texas – *Chambers USA*

A&O SHEARMAN