

# Fifth Circuit Securities Litigation Quarterly

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Q4 2024



A&O SHEARMAN

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Texas Securities Litigation  
Ranked Band 1  
*Chambers USA*

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# Introduction



Welcome to the Q4 2024 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 Q4 2024 edition, we cover one new case filing, a series of settlements in a rare securities class action that went to trial, two district court decisions on pleading stage and class certification issues, and other decisions of note.

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# New securities class action filing

## ***CASSAVA SCIENCES (W.D. TEX., 1:24-CV-01525, FILED DEC. 12, 2024)***

Filed on behalf of a putative class of investors who purchased or otherwise acquired Cassava securities between February 7, 2024 to November 24, 2024, inclusive.

Asserts claims under the Securities Exchange Act of 1934.

Alleges Defendants made “overwhelmingly positive statements to investors while, at the same time, disseminating materially false and misleading statements and/or concealing material adverse facts concerning the true capabilities of Cassava’s drugs; notably, that [the] Company simply did not have a drug that was capable of abating the progression of Alzheimer’s Disease.”



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# New securities class action settlement

## ***ALTA MESA (S.D. TEX., 4:19-CV-00957)***

Four class-wide settlements with different groups of Defendants of case asserting claims under the Securities Exchange Act of 1934.

The three settlements for which the amount of the settlement is public were for \$6.3 million (HPS Defendants), \$3 million (ARM Energy), and \$2 million (Bayou City Energy). The remaining Defendants reached an agreement in principle to settle during trial, with the amount of the settlement expected to become public early in 2025.

Case initially filed March 2019. In March 2021, the court denied Defendants' motions to dismiss. The court granted class certification in January 2022. The court granted in part and denied in part Defendants' motions for summary judgment on August 12, 2024, and denied the parties' Daubert motions without prejudice to reasserting them at trial. The case resolved in the lead up to trial and during trial. Motions for preliminary approval of settlements filed on October 28, 2024, November 5, 2024, and November 15, 2024. Agreement in principle to settle with remaining Defendants publicly announced on December 9, 2024, with motion for preliminary approval expected to be filed in January 2025.



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# Decisions of note

***GWG*: N.D. Tex. Grants Motions to Dismiss Without Prejudice on Statutory Standing Grounds**

***Cassava*: W.D. Tex. Magistrate Recommends Granting Class Certification, Concluding Cassava's Stock Traded in an Efficient Market**

**Other Cases of Note: W.D. La. adopts magistrate's recommendation to dismiss *Lumen* case with prejudice; S.D. Tex. cuts Plaintiffs' attorneys' fees request following *Apache* settlement; S.D. Tex. denies *Southwest Airlines* motion to dismiss in one-paragraph order**

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## *In re GWG Holdings, Inc. Sec. Litig.*, 2024 WL 4582904 (N.D. Tex. Oct. 24, 2024)

- ◆ Judge Boyle granted Defendants' motions to dismiss without prejudice.
- ◆ Plaintiff brought Securities Act claims arising from GWG's issuance of bonds in June 2020.
- ◆ The court held Plaintiff failed to plead facts to establish statutory standing. The Section 11 claim was dismissed because Plaintiff failed adequately to allege that his bond purchases were made pursuant or traceable to the June 2020 offering rather than a prior offering. The Section 12 claim was dismissed because Plaintiff failed adequately to allege that Defendants were statutory sellers under Section 12.
- ◆ The court stated that Plaintiff's statutory standing allegations did "not appear to be incurable" and dismissed without prejudice with leave to amend. The court did not reach Defendants' other dismissal arguments, such as the argument that Plaintiff failed to plead any false or misleading statement in the offering documents for the June 2020 issuance of bonds.



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# *In re Cassava Sciences, Inc. Sec. Litig.*, 2024 WL 4824243 (W.D. Tex. Nov. 15, 2024)

- ◆ Magistrate Judge Hightower recommended granting Plaintiffs' motion for class certification of an Exchange Act class with a class period of September 14, 2020 to October 12, 2023.
- ◆ 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 objections to the Magistrate Judge's recommendation with the district court.





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## Other decisions of note

*In re Lumen Techs., Inc. Sec. Litig.*, 2024 WL 4633496 (W.D. La. Oct. 30, 2024): Judge Doughty adopts the Magistrate's recommendation to dismiss the case with prejudice, as covered in our Q3 review.

*In re Apache Corp. Sec. Litig.*, 2024 WL 4881432 (S.D. Tex. Nov. 25, 2024): Magistrate Judge Edison awards Plaintiffs' counsel \$15.9 million in fees (24%) following a \$65 million settlement rather than the requested \$21.7 million (33%), finding the reduced amount was adequate compensation.

*Teroganesian v. Southwest Airlines Co.*, 4:23-cv-00115 (S.D. Tex. Dec. 4, 2024): Judge Tipton denies Defendants' motion to dismiss in a one-paragraph order. Defendants had moved to dismiss the Exchange Act case which arose from Southwest Airlines operational disruptions in December 2022. Defendants have filed a motion for reconsideration and to permit an interlocutory appeal.

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# Top ranked *Chambers* team

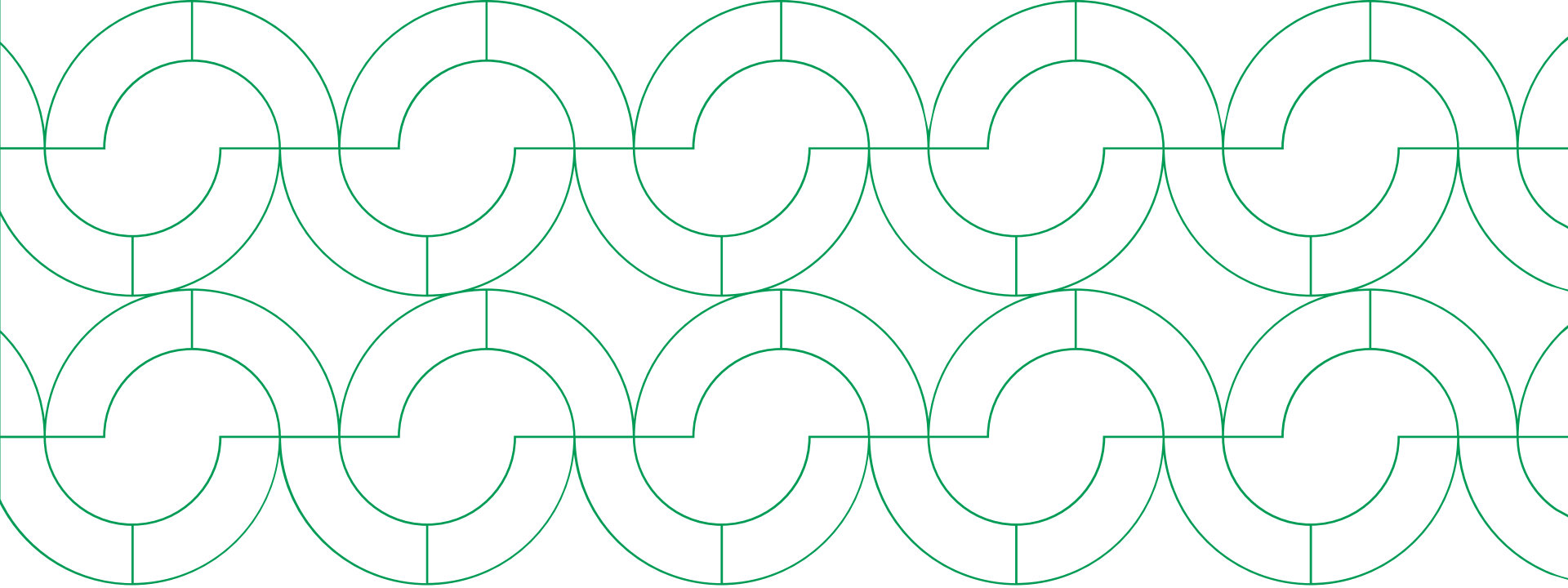
## Texas *Litigation: Securities*



Band 1

“The lawyers are world-class in securities class action defense.”

“They offer 100% value for the service provided.”



# A&O SHEARMAN

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