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NEWSLETTERS

High Court Quietly Pulls Meta Case Without A Ruling

By [Jessica Corso](#) · [Listen to article](#)

Law360 (November 22, 2024, 10:23 AM EST) -- The U.S. Supreme Court on Friday set aside a [Meta Platforms Inc.](#) case that sought to narrow the types of risk disclosures corporations need to make to investors, saying that the court shouldn't have taken up the case in the first place.

All nine justices agreed to toss the case without a ruling, saying in a one-sentence order that the "writ of certiorari is dismissed as improvidently granted." The case is now expected to return to a California federal district court for further proceedings.



Facebook owner Meta Platforms had urged the U.S. Supreme Court to throw out a lawsuit brought by investors who argued the company failed to disclose risks associated with a data harvesting scandal nearly a decade ago. (AP Photo/J. Scott Applewhite)

"We are disappointed in the Supreme Court's decision not to clarify this part of the law," a Meta spokesperson said in a statement Friday.

"The plaintiff's claims are baseless and we will continue to defend ourselves as this case is considered by the district court," the spokesperson said.

An attorney for the investors declined to comment on the Supreme Court's decision.

Meta Platforms had asked the high court to throw out a lawsuit brought by a proposed class of investors who argued that the social media company failed to disclose the risks associated with the Cambridge Analytica data harvesting scandal. It was first revealed in 2015 that the British consulting firm had collected the data of millions of Facebook users in order to target them with conservative political ads.

Meta petitioned the Supreme Court [to hear the case](#) against it after the Ninth Circuit [revived it](#) last year, urging the justices to rule that public companies don't need to disclose past events with no known risks of future harm.

The suing investors, however, [argued](#) there was ongoing harm from the scandal even after the initial media reports began surfacing.

They said that Meta's risk disclosures warned that the misuse of user data could harm the business without fully disclosing everything the company knew about the data harvesting, which only came to light years later.

The case also drew the attention of the [U.S. Securities and Exchange Commission](#) and the solicitor general's office, which intervened in favor of the investors. The government said that Meta's arguments demonstrated "an insufficient appreciation of the likelihood that the investing public was misled."

"In the securities context as elsewhere, a forward-looking statement of risk can be misleading insofar as it implies that the relevant risk has not already come to fruition," the government said in its brief to the court.

Friday's ruling didn't say why the justices felt they should not have agreed to hear the case, but at oral argument earlier this month they [struggled to pin down](#) scenarios in which they felt a disclosure would be necessary.

The justices spent two hours questioning the parties on a range of hypothetical scenarios under which disclosing a past event would or would not be appropriate. They wondered, for example, whether a company warning of the business risks of a fire would need to disclose that such a fire had already occurred, or what a food manufacturer would need to tell investors about an E. coli outbreak.

Some conservative justices appeared to suggest that limits were needed to prevent corporations from having to disclose every past event that may have harmed their business, but they struggled to find where the line should be drawn.

[Labaton Keller Sucharow LLP](#) partner Lauren Ormsbee said she was surprised by the decision, given that the justices seemed to be "having a healthy debate on how to reach a decision" during oral arguments.

"It wasn't clear to me that they were considering not reaching a decision at all," she told Law360 on Friday.

The justices may have felt that the case wasn't a good one for drawing a bright line rule, as securities cases rarely are, Ormsbee said. She and some of her Labaton colleagues helped author an amicus brief in the case on behalf of institutional investors, who should be pleased with Friday's decision, Ormsbee said.

"We think the court came to the right decision," she said.

The defense bar may not be quite as happy with the decision, [Vinson & Elkins](#) partner Michael Charlson told Law360.

"I think a number of securities defense lawyers found it interesting and maybe even encouraging that the Supreme Court had granted certiorari in two different pleading cases coming up from the Ninth Circuit for this fall term," he said.

But there's a good chance that the other case, [Nvidia](#) v. Öhman Fonder, gets the same treatment that Meta got Friday after the justices seemed to second-guess that case during [oral arguments](#) last week, Charlson said.

"That suggests that we're not going to get further clarification from the court on aspects of the [Private Securities Litigation Reform Act] pleading standard that I at least had hoped for," he said.

Ormsbee also said she wouldn't be surprised if the justices passed on ruling on the Nvidia case.

"I feel like we'll know by the end of the year," she said. "If there's nothing out by the end of the year, they're probably writing an opinion."

The investors are represented by Kevin K. Russell and Daniel H. Woofter of Goldstein Russell & Woofter LLC, Salvatore J. Graziano and Jeremy P. Robinson of [Bernstein Litowitz Berger & Grossmann LLP](#), and Luke O. Brooks, Joseph Daley and Darryl J. Alvarado of [Robbins Geller Rudman & Dowd LLP](#).

Meta and its executives are represented by Kannon K. Shanmugam, William T. Marks, Matteo Godi, Jake L. Kramer, Anna P. Lipin, Audra J. Soloway and Kristina A. Bunting of [Paul Weiss Rifkind Wharton & Garrison LLP](#), and Joshua S. Lipshutz, Trenton J. Van Oss, Brian M. Lutz, Michael J. Kahn and Patrick J. Fuster of [Gibson Dunn & Crutcher LLP](#).

The government is represented by Megan Barbero, Michael Conley, Jeffrey Berger, Emily True Parise and Allison Bitz of the U.S. Securities and Exchange Commission, and Elizabeth Prelogar, Malcolm Stewart and Kevin Barber of the U.S. Office of the Solicitor General.

The case is Facebook Inc. et al. v. [Amalgamated Bank](#) et al., case number [23-980](#), in the [Supreme Court of the United States](#).

--Editing by Robert Rudinger.

has been updated with observations on the case from Lauren Ormsbee and Michael Charlson.

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