Labaton Keller Sucharow

Investor Alert

# The Supreme Court Dismisses Nvidia's Writ of Certiorari for Review of PSLRA Pleading Standard

On December 11, 2024, the Supreme Court issued a one-sentence order that dismissed the defendants' writ of certiorari in *Nvidia Corp. v. E. Ohman J:or Fonder AB* as improvidently granted—meaning that the Court concluded that it should not have taken the case on appeal.[1]

As explained in a recent article in *Law360* authored by Labaton attorneys, the defendants urged the Court to adopt a rule under the Private Securities Litigation Reform Act (i) requiring specific allegations of the exact contents of any internal documents or data referenced in a complaint, and (ii) limiting plaintiffs' reliance on outside experts to allege a securities fraud violation.[2] The defendants argued that various federal appellate circuit courts had come to different conclusions on these issues—with certain circuits endorsing the defendants' position—and they argued that this split in authority justified the Supreme Court taking the case.[3]

During oral argument on November 13, 2024, however, multiple Justices challenged defense counsel on whether such a split in authority actually existed and, therefore, the propriety of the Court issuing a decision in defendants' favor. For example, Justice Sotomayor chastised defendants: "you told us there was a [circuit] split. And, in fact, there is no split."[4] Justice Kagan, echoing this sentiment, advised defense counsel that during oral argument it had "become[] less and less clear why we took this case, number one . . . and, number two, why you should win it."[5] In a similar vein, Justices Barrett and Gorsuch questioned defense counsel on whether the defendants' argument boiled down to a claim that the lower court erroneously applied settled law across the circuits, which usually would not warrant Supreme Court intervention under these circumstances.[6]

Though the Court's one-sentence order dismissing the defendants' writ did not elaborate on the Court's reasoning, the Court's order is nonetheless a victory for investors. This is because the Court refused to adopt the defendants' call for the imposition of a bright-line rule requiring plaintiffs to plead the exact contents of relevant internal reports and data at the pleading stage while limiting the use of expert analysis. Labaton's recent *Law360* article warned that such a rule would "require plaintiffs to plead evidence prior to discovery."[7] Endorsing this view, Justice Jackson voiced "concern" during oral

[1] No. 23-970, 2024 WL 5058572, at *1 (U.S. Dec. 11, 2024).

[2] Michael P. Canty, Lauren A. Ormsbee & Matthew J. Grier, *Nvidia Case's Potential Impact On Securities Class Actions*, Law360 (Oct. 30, 2024).

[3] Petition for Writ of Certiorari at 3-5, *Nvidia Corp. v. E. Ohman J:or Fonder AB*, No. 23-970 (March 4, 2024).

[4] Transcript of Oral Argument at 13, *Nvidia Corp., et al. v. E. Ohman J:or Fonder AB, et al.*, 604 U.S. __ (2024) (No. 23-970)

[5] *Id.*at 23.

[6] *Id.* at 24, 26.

[7] Michael P. Canty, Lauren A. Ormsbee & Matthew J. Grier, *Nvidia Case's Potential Impact On Securities Class Actions*, Law360 (Oct. 30, 2024).

argument that the defendants' proposed rule would have required "plaintiffs to actually have the evidence in order to plead their case . . . when discovery hasn't occurred yet."[8] Due to the Court's ruling, investors' ability to police securities fraud and recover losses on behalf of themselves and class members remains intact.

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Labaton Keller Sucharow's lawyers are available to address any questions you may have regarding these developments. Please contact the Labaton Keller Sucharow lawyer with whom you usually work or the contacts below.

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[8] Transcript of Oral Argument at 6, *Nvidia Corp., et al. v. E. Ohman J:or Fonder AB, et al.*, 604 U.S. __ (2024) (No. 23-970).