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Slack Ruling

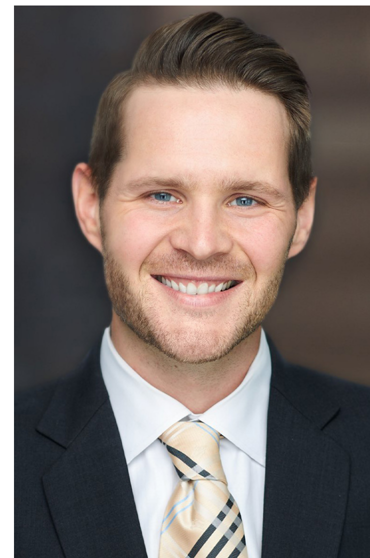
By Christopher Tourek

On June 1, 2023, the Supreme Court decided *Slack Technologies, LLC v. Pirani* – a much-watched case in the securities litigation field – and overturned the Ninth Circuit's holding that would have dramatically lowered the bar for plaintiffs to bring Section 11 and 12(a) claims involving direct listings. In doing so, the Court upheld the "tracing requirement" for Section 11 claims, while also signaling a de-coupling of Section 11 and Section 12(a)(2) claims.

The Securities Act of 1933 requires companies to make disclosures through a registration statement and a prospectus before they can offer certain shares to the public for sale. Under Section 11 of the Securities Act of 1933, anyone who acquired a security that was sold in connection with that registration statement and prospectus can sue if the registration statement was materially false or misleading and that investor lost money. Similarly, under Section 12(a)(2) of the Securities Act of 1933, anyone who acquired a security that was sold in connection to a prospectus that contained a material misstatement can sue if they suffered a loss. Unlike actions brought under Section 10(b) of the Securities Act of 1934, Section 11 and 12(a)(2) actions impose strict liability on defendants, meaning that defendants can be guilty even if the misstatements were unintentional. However, because of this strict liability, courts have generally limited the availability of Section 11 and 12(a)(2) claims to plaintiffs who can plead ***and prove*** that they bought securities registered under the registration statement at issue. This requirement is known as the "tracing requirement."

It was against this legal backdrop that the securities litigation against Slack arose. Slack is a software company that went public in June 2019 through a direct listing of its shares, rather than a traditional Initial Public Offering ("IPO"). Unlike in an IPO where newly registered shares are traded on an exchange for an initial period before pre-existing unregistered shares are traded, a direct listing allows both new shares subject to the registration statement ***and*** existing shares not subject to the registration statement to be traded immediately. In pursuing this direct listing, Slack filed a registration statement registering 118 million shares which were offered simultaneously with 165 million unregistered shares.

In September 2019, investor Fiyyaz Pirani, filed suit against Slack and a number of its directors and officers under Sections 11 and 12(a)(2) of the Securities Act of 1933, alleging misrepresentations in connection with Slack's direct listing. Slack moved to dismiss Pirani's complaint, arguing that Pirani had no standing because he could not satisfy the tracing requirement. In effect, Slack argued that Pirani was unable to show that he purchased some of the 118 million registered shares, and not some of the 165 million unregistered shares. In making its argument, Slack focused on language found in Sections 11 and 12(a) specifying that liability claims under those sections may be brought by a person acquiring "such security" – a phrase Slack argued referred to a security registered ***pursuant to*** a registration statement. The Northern District of California District Court ultimately denied Slack's motion to dismiss despite Slack's tracing requirement argument. Slack subsequently appealed this decision to the Ninth Circuit.


Christopher Tourek, Associate

In September 2021, the Ninth Circuit, in a 2-1 opinion, affirmed the District Court's holding and stated that, "Slack's shares offered in its direct listing, whether registered or unregistered, were sold to the public when 'the registration statement . . . became effective,' thereby making any purchaser of Slack's shares in this direct listing a 'person acquiring such security' under Section 11." The Ninth Circuit added that were the Court to adopt Slack's reasoning, the outcome "would essentially eliminate Section 11 liability for misleading or false statements made in a registration statement in a direct listing for both registered and unregistered shares." The dissent argued that the majority's holding reflected a departure from more than 50 years of jurisprudence applying the tracing requirement. Unsurprisingly, Slack appealed the Ninth Circuit's decision to the Supreme Court.

In its briefs, Slack argued that only persons who could definitively trace their shares to the June 2019 registration had standing to assert claims under Sections 11 and 12(a)(2) and that the Ninth Circuit's holding undercuts the longstanding application of the tracing requirement. Slack also argued that Sections 11 and 12(a)(2) offer the

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plaintiff a tradeoff – the benefits of strict liability if a plaintiff can meet the sometimes high standard of the tracing requirement. Slack further dismissed policy concerns that its position would provide companies de facto immunity from Section 11 claims for direct listings, arguing that there are several other avenues for justice, including Section 10(b) of the Securities Act of 1934.

In rebuttal, Pirani argued that the Ninth Circuit was correct in holding that he had standing to sue under Sections 11 and 12(a)(2) because the registered and unregistered securities were sold at the same time, under and pursuant to Slack's first and only registration statement. Pirani also argued that while there must be some connection between the offering of shares and the registration statement, Section 11 does not necessarily apply only to registered shares. Instead, Pirani contended that anyone who purchased shares that required a registration statement in order to be sold (which would include both registered and unregistered shares in a direct listing) could bring suit under Sections 11 and 12(a)(2). Pirani also emphasized that it is nearly impossible to discern whether shares purchased in a direct listing are registered or not, thus creating an impossible hurdle when trying to establish standing.

The implications of the parties' arguments were clear enough. Slack's position would essentially grant immunity from Section 11 and 12(a) claims for anything stated (or misstated) in a registration statement or prospectus connected with a direct listing. Pirani's position would essentially abolish the tracing requirement entirely and allow Sections 11 and 12(a) claims to be brought by anyone who purchased a security that needed a registration statement in order to be sold, regardless of whether that security was registered to the (misleading) registration statement.

During oral arguments, the Supreme Court appeared open to Slack's view of Section 11, with Chief Justice Roberts telling Pirani's counsel, "The statute says, 'such security.' I mean that's a big hurdle for you to get over." Additionally, Justice Kagan told Pirani's counsel, "It does seem to me like you have a hard row to hoe here." Nevertheless, the Court appeared hesitant to endorse Slack's position on claims under Section 12, saying that there is little case law and the SEC has not weighed in on the issue. Highlighting this reticence was Justice Kavanaugh, who told Slack's counsel, "[t]hat strikes me as a big issue for these direct listings and something that I'm not sure we're fully equipped at this moment to chime in on." Indeed, both Justices Kavanaugh and Gorsuch suggested that they might side with Slack on the Section 11 claim but return the case to the Ninth Circuit to revisit the Section 12 claim. Justice Kavanaugh made a point that he was "worried about making a mistake" given that neither the lower courts nor the SEC had extensively analyzed the Section 12 issue.

Ultimately, the Supreme Court held that plaintiffs bringing claims under Section 11 of the Securities Act are still required to satisfy the tracing requirement, even when the case involves a direct listing. In reaching the decision, Justice Gorsuch wrote that the better reading of Section 11 "requires a plaintiff to plead and prove that he purchased shares traceable to the allegedly defective registration statement." The Court then remanded the case back to the Ninth Circuit. However, the Supreme Court did not expressly apply this ruling to the Section 12 claim, and instead admonished the Ninth Circuit for its previous belief that Sections 11 and 12 "necessarily travel together," instead cautioning that "the two provisions contain distinct language that warrants careful consideration."

What this ruling will mean for plaintiffs is unknown, but it will likely increase the difficulty for plaintiffs attempting to sue a company that sells shares pursuant to a direct listing, since distinguishing between registered and unregistered shares sold at the time of a direct listing could prove impossible. Because of this difficulty, a cottage industry may be created of experts whose sole purpose is to identify whether a share was registered or unregistered when purchased. Finally, while it is unknown how the Ninth Circuit (and Supreme Court) will interpret Section 12 in light of this ruling, the Court's opinion at least signals a divergence between Section 11 and Section 12 jurisprudence.

The SEC's Proposed Rules: Protecting Investors in Cryptocurrencies

By Thomas H. Przybylowski

On January 4, 2023, the United States Office of Information and Regulatory Affairs ("OIRA") released the Fall 2022 Unified Agenda of Regulatory and Deregulatory Actions (the "Agenda"). The Agenda, which outlines the short- and long-term regulatory actions planned by various administrative agencies, includes rules submitted by the U.S. Securities and Exchange Commission ("SEC") in the proposed or final rule-making stage. In a statement published that same day, SEC Chair Gary Gensler stated, in relevant part:

> I support this agenda as it reflects the need to modernize our ruleset, moving deliberately to update our rules in light of ever-changing technologies and business models in the securities markets. Our ability to meet our mission depends on having an up-to-date rulebook—consistent with our mandate from Congress, guided by economic analysis, and shaped by public input.
>
> The SEC's regulatory actions on this unified agenda would help make our markets more efficient, resilient, and fair, including through rulemaking items we have been directed by Congress to implement. Taken together, the items on this agenda

> would advance our three-part mission: to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation.

The SEC's contributions to the Agenda include proposed rules designed to enhance company disclosures regarding human capital management and corporate board diversity, changes to registered investment companies' fees and fee disclosure, and rules focusing on "cybersecurity and [the] resiliency of certain commission registrants." Furthermore, the SEC is considering amendments to "modernize rules related to equity market competition and structure such as those relating to order routing, conflicts of interest, best execution, market concentration, pricing increments, transaction fees, core market data, and disclosure of order execution quality statistics."

Perhaps most relevant to the current economic climate are the SEC's proposals related to the cryptocurrency industry. For example, in March 2023, the SEC released a draft proposed rule pertaining to "Cybersecurity Risk Management, Strategy, Governance, and Incident Disclosure." The draft rule specified that the SEC is proposing, *inter alia*, "amendments to require current reporting about material cybersecurity incidents," and "proposing to require periodic disclosures about a registrant's policies and procedures to identify and manage cybersecurity risks, management's role in implementing cybersecurity policies and procedures, and the board of directors' cybersecurity expertise, if any, and its oversight of cybersecurity risk." The intention behind the proposed rule, the draft indicates, is to "better inform investors about a registrant's risk management, strategy, and governance and to provide timely notification of material cybersecurity incidents."

Similarly, in an April 14, 2023 press release, the SEC announced that it was reopening the comment period for proposed amendments to the definition of "exchange" under Rule 3b-16 of the Securities Exchange Act of 1934 (the "Exchange Act"). The proposed amendment concerns the applicability of existing rules to platforms that trade crypto asset securities and would "provide supplemental information and economic analysis for systems that would be included in the new, proposed exchange definition." In support of the reopening, Gensler stated that the supplemental release would help answer questions and comments raised by various market participants, and added, in relevant part, "[m]ake no mistake: many crypto trading platforms already come under the current definition of an exchange and thus have an existing duty to comply with the securities laws. Investors in the crypto markets must receive the same time-tested protections that the securities laws provide in all other markets."

The SEC's cryptocurrency-related proposals are particularly pertinent given the recent failure of several "crypto-facing" banks. In November 2022, cryptocurrency exchange FTX collapsed among allegations of fraud and mishandled customer funds, resulting in a wide-ranging disruption of the cryptocurrency markets. By March 2023, the disruption spread to various banks that had cultivated crypto-heavy deposit bases, such as Silvergate Bank and Signature Bank, significantly undermining their financial stability. As a result, Silvergate was forced to voluntarily wind down its operations and Signature experienced a bank run that ultimately lead to receivership. Accordingly, the fall of FTX and subsequent bank failures signaled to the SEC and the market at large that cryptocurrency remains inherently volatile and must be closely monitored.

Following the announcement of its proposals, the SEC was met with harsh criticism from representatives of the Republican party. Specifically, in a House Financial Services Committee (the "Committee") hearing held on April 18, 2023, Republican lawmakers claimed that the SEC was rushing the pace of its rulemaking in the areas of climate change risks and cryptocurrency. Moreover, Republican representatives criticized the number of enforcement actions the SEC has recently brought against cryptocurrency firms and accused Gensler of refusing to provide clarity on the applicability of securities laws on cryptocurrency and how cryptocurrency firms should comply with those laws. In addition to Republican lawmakers, several business groups have also expressed disagreement with the SEC's 2023 proposed rules. For example, the National Association of Manufacturers sent a letter to the Committee arguing that "over the last two years the SEC has instead advanced an ambitious policy agenda that will impose costly regulatory burdens on manufacturers and hamper long-term value creation for shareholders."

In response to these criticisms, Gensler defended the SEC's authority to regulate the cryptocurrency industry and argued that the U.S. capital markets are as profitable and secure as they are because of federal oversight. Indeed, Gensler stated that he was "trying to drive [the digital asset industry] to compliance and if [digital asset firms are] not complying with the laws then they shouldn't be offering their products to U.S. investors." Noncompliance, Gensler asserted, "not only puts investors at risk, but also puts at risk the public's trust in our capital markets." Gensler was joined by Democratic lawmakers who also advocated for heightened regulation of the cryptocurrency industry. Representative Brad Sherman, for example, reasoned that legislation categorizing all crypto assets as securities would make it clear that "investors in crypto get the same protection as investors in stock, bonds and other intangible assets acquired for an investment purpose." Likewise, in her opening statement at the April 18, 2023, Committee hearing, Representative Maxine Waters stated that, in the wake of the collapses of Silicon Valley Bank and Signature Bank, she "[couldn't] believe that [the] Committee [was] rushing to take off more guardrails when we should be adding them."

A 2022 study published by the CFA Institute revealed that 94% of state and government-sponsored pension funds are invested in one or more cryptocurrencies despite the obvious risks. Former SEC attorney Edward Seidle, in an October 3, 2022 article in *Forbes*, wrote:

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> According to Anessa Allen Santos, a Florida attorney and Special Magistrate who specializes in blockchain and fintech, one glaring reason why no pension fund should be toying with cryptocurrencies right now is "the rapid increase in regulatory hostility exercised without restraint toward cryptocurrency issuers by several federal administrative agencies."

Jessica N. Dell, Attorney

Whether or not the SEC's proposed rules are adopted, it is evident that companies should pay attention to them. This is particularly relevant to businesses in the cryptocurrency industry, given the inherent volatility of digital assets and the plurality of enforcement actions the SEC has recently taken against crypto companies. As such, it would be prudent for companies to review their cybersecurity policies, procedures, controls, and response measures. This includes an analysis of a company's governance structure to determine if any changes need to be made to the composition of boards or committees, including identifying any members that could be considered cybersecurity experts. In addition, companies may engage an outside third-party cyber penetration testing firm to review the company's current procedures or retain a Cyber Managed Services Provider to conduct external monitoring to supplement the company's internal processes. Ultimately, the current economic and regulatory climates, especially within the cryptocurrency industry, suggest a company is likelier to be in compliance with the SEC's proposed rules for 2023, should they be enforced, the greater the number of preventive measures that company takes.

It remains to be seen whether the SEC's proposed regulations for cryptocurrencies will help investors sleep better at night.

Empowered Investors, Enhanced Accountability

By Jessica N. Dell

My first encounter with environmental, social, and governance issues, or ESG, came 20 years ago when I was a college intern compiling survey results on "Corporate Citizenship and Sustainability." At the time, the "G" – governance – was investors' main area of focus. When they did turn their attention to environmental issues, investors primarily concentrated on how to distinguish companies that were "greenwashing," – i.e., promoting environmental initiatives without making substantive changes – from those undertaking real reforms, and on developing tools to measure and report their returns on ESG investments.

Two decades later, as investors increasingly seek ways to integrate ESG into their investment decision-making processes, ESG issues have become a leading topic. Institutional investors are wielding their combined power to demand increased transparency, accountability, and opportunities for engagement from corporations and their boards. This article will address ESG investing from four vantage points: (1) recent trends in proxy voting; (2) what investors should expect from boards; (3) regulatory oversight and recourse under securities laws; and (4) the current backlash from conservative politicians.

In April 2023, Deloitte & Touche LLP released the results of their Global Boardroom Program's analysis of the voting records of 101 large investors around the world. The results highlighted key concerns for the 2022 season of annual general meetings on topics including ESG, diversity, equity and inclusion (DEI), board composition and board independence, and executive pay. Deloitte's analysis found that nearly half or more of investors across Australia, the UK, and the US called for reporting aligned with the Task Force on Climate-Related Disclosure (TCFD) guidelines. "Over half of US investors sought disclosures of industry-specific metrics published by the Sustainability Accounting Standards Board (SASB). In contrast, only one in five global investors expected that their investee companies should follow SASB industry-specific guidance. In the UK, over half of investors asked companies to align their targets with other specific metrics, such as the Paris Agreement's 1.5°C target."

Among investor votes on social issues, diversity stood out as a major concern. The voting policies of two-thirds of UK and three quarters of US institutional investors pointed to the importance of ethnic diversity considerations.

Deloitte's April report dovetails with the results of their "Global Boardroom Program Frontier" survey, published in February 2023. There, respondents predicted that ESG and climate change would rank higher in priority than customer experience, innovation, and cybersecurity. Survey respondents placed responsibility for these priorities firmly with corporate CEOs and Board members, citing their leading role in cultivating and maintaining shareholder trust.

The Conference Board, a global, nonprofit think tank and business membership organization, recently convened more than 200 executives for a series of roundtables to discuss the changing role of the board in the era of ESG investing and stakeholder capitalism. Its findings confirmed that over the next five years, corporate boards should expect ESG issues to have a "significant and durable impact." Paul Washington, Executive Director of the Conference Board's ESG Center, identified "five key areas in which investors should expect more from boards—and be alert to red flags." According to Washington, investors should:

1. Seek clear evidence the board is making well-informed decisions as to what ESG issues to focus on and how they are balancing the interests of stake holders.

2. Have heightened expectations of board composition

and capabilities, demanding that board members have experience in strategic planning and human capital. Boards, according to Washington, should have "a robust and ongoing education program that ensures board fluency in key areas."

3. Expect that boards have the right leadership and committees. "A board leader needs not only to be respected by fellow directors and management, but also to be open to change."

4. Focus on how directors engage with their stakeholders; "investors should be alert to boards that seem to operate in a bubble."

5. Look for boards to evaluate the company's, senior management's, and their own performance in ESG as an integral part of their annual review processes.

With increased scrutiny on ESG measures, there has also been a dialogue around enforceability, both through regulatory oversight and recourse under securities laws. An article posted on May 15, 2023, by Professor James Park of UCLA on the Harvard Law School Forum on Corporate Governance provides a useful description of the nexus between ESG and securities fraud. Park notes that courts have aggressively dismissed ESG securities cases, "primarily by applying the puffery doctrine – a longstanding presumption that rosy statements of optimism should not be taken literally." Park argues that the current approach of courts "should be replaced by a more holistic approach that emphasizes assessment of the materiality of the ESG risk at issue."

In January 2023, SEC Commissioner Mark Uyeda addressed ESG concerns in a talk given to the California '40 Acts Group, a nonprofit forum that facilitates discussions regarding matters that impact the investment management industry. Addressing the fact that ESG investment products often charge high fees, he said that touting a product as being ESG is good for business, but cautioned that "[a]lthough ESG investing is wildly popular, it is difficult to ascertain exactly what ESG means, so it is challenging to identify when an ESG investment strategy is properly labeled as such."

Although the SEC has not to date given full guidance on ESG risk disclosures, Uyeda noted that beyond the risk of mislabeling a strategy as ESG, ESG strategies are often not adequately disclosed to clients. He stated that "an adviser can only pursue an ESG investment strategy if the client expresses a desire to pursue such a strategy after receiving full and fair disclosure regarding the salient features of the strategy, including the strategy's risk and return profile."

A final consideration is the impact of politics on investors' access to ESG investing. When President Biden first took office, ESG issues were high on his list of priorities. As Robert Eccles of Oxford University and Eli Lehrer of R Street Institute commented in a recent post by the Harvard Law School Forum on Corporate Governance, the debate over ESG standards has revealed stark policy contrasts between red and blue states in the US. Blue states have considered mandating divestment from companies connected to such products as firearms and fossil fuels. On the other side, Florida Governor Ron DeSantis recently led an alliance of 18 states to push back such divestment. They propose to remove all state pension funds and state-controlled investments from firms that follow the ESG model that DeSantis and his colleagues label as "politics before fiduciary duty."

According to Messrs. Eccles and Lehrer, neither the divestment strategy nor the anti-divestment strategy makes economic sense. They suggest a solution that they claim both the left and right should agree upon: "clear fiduciary duty laws that define who is responsible for state investment, allow them to consider ESG factors *only* when they contribute to economic value creation and assure that state employees in defined contribution plans can select non-ESG options."

It is clear that the ESG landscape is changing significantly on a global level, with an increasingly complex range of challenges for investors that include, among many others, greenwashing, as described above, and "green hushing" – the under-reporting or under-communicating of sustainable practices.

Pomerantz has long championed ESG issues – whether by creating forums for institutional investors and governance experts to share knowledge, or by litigating for improved corporate governance and financial redress for damaged investors. In October 2022, Pomerantz opened an office in London, co-managed by Partner Jennifer Pafiti, who is dually qualified to practice law in the US and the UK, and Dr. Daniel Summerfield, Director of ESG and UK Client Services. Prior to joining Pomerantz, Dr. Summerfield spent 20 years at the Universities Superannuation Scheme, the UK's largest private pension fund. Most recently, Daniel was Head of Corporate Affairs of USS, following a period of 16 years as Co-Head of Responsible Investment.

"ESG stands at a critical juncture in its development on both sides of the Atlantic," according to Dr. Summerfield. "Its future will be determined by all market participants and their consideration of their fiduciary responsibilities and the needs and requirements of the ultimate pension fund beneficiaries." ■

Pomerantz Achieves $74 Million Settlement for Arconic Investors

By The Editors

Emma Gilmore, Partner

On May 2, 2023, Chief U.S. District Court Judge Mark R. Hornak of the Western District of Pennsylvania granted preliminary approval to a $74 million settlement on behalf of defrauded investors in *Howard v. Arconic et al.*, No. 2:17-cv-01057 (W.D. Pa.), a securities class action in which Pomerantz is Co-Lead Counsel. A final approval hearing is scheduled for August 9, 2023. Arconic, Inc. is an American industrial company specializing in lightweight metals engineering and manufacturing. The company's Reynobond insulation panels consist of two sheets of thin aluminum bonded to a thermoplastic core. The panels can be constructed with a Fire-Resistant ("FR") core, or a less expensive but combustible Polyethylene ("PE") core. Due to their combustible nature, Reynobond PE panels are known to be unsuitable for use in any structures measuring ten meters or higher. In multiple instances, Arconic had explicitly warned against using Reynobond PE for buildings taller than ten meters, including in marketing brochures on their website, which stated that "as soon as the building is higher than the firefighters' ladders, it has to be conceived with incombustible material."

On June 14, 2017, a devastating fire broke out in the Grenfell Tower block of flats in London, United Kingdom, resulting in the deaths of 72 people and injuries to more than 70 other tenants. In the wake of the tragedy, numerous investigations were conducted, ultimately revealing that, while an electrical fault within a refrigerator located on the fourth floor instigated the blaze, Arconic's Reynobond PE panels, which covered the outside of the building, likely acted as an accelerant, contributing to the rapid spread of the flames to the floors above.

Considering this revelation, questions about why the panels were present in the tower's infrastructure were raised, with many fire safety experts agreeing that the decision was "disturbing" and "shocking." In an effort to distance itself from liability, Arconic argued that it "had known that the panels would be used at Grenfell Tower but that it was not its role to decide what was or was not compliant with local building regulations." Despite these claims, less than two weeks after the fire, Arconic announced that it would discontinue global sales of Reynbond PE for use in high-rise buildings.

In August 2017, Pomerantz filed a securities class action against Arconic alleging that its stock price was artificially inflated by the company's misstatements about the safety of its Reynobond PE insulating panels. In June 2019, Chief Judge Hornak granted defendants' motion to dismiss the case while allowing plaintiffs to provide an amended complaint, citing the need for more concrete evidence demonstrating that Arconic and its executives had sufficient knowledge to conclude that the insulation panels they were selling posed a significant safety risk. In response, Pomerantz filed a Second Amended Complaint in July 2021, which did just that.

The second amended complaint cited numerous instances in which Arconic sold Reynobond PE panels for use in other high-rise towers in the UK and across the globe. In the UK alone, the amended complaint cited at least ten additional buildings that had been constructed or refurbished using Reynobond PE panels. Additionally, despite claims to the contrary, multiple witnesses with firsthand knowledge of Arconic's business practices testified that the company kept exhaustive records of its Reynbond PE sales, which included the building specifications for each project. Thus, in selling flammable panels for these structures, Arconic ignored its own safety recommendations and created a serious risk to public safety.

Notably, despite the United States' near universal ban of combustible Reynobond for buildings taller than twelve meters (40 feet), plaintiffs found that Arconic had sold these panels for use in the construction of numerous structures measuring twelve meters or higher throughout the country, including: a terminal at the Dallas/Fort Worth airport (around 26 meters); Ohio's Cleveland Browns stadium (52 meters); and a clinic at the University of Texas Southwestern Medical Center (20 meters). The complaint also pointed to at least eighteen other instances in which deadly fires had spread through exterior wall assemblies, most of which involved high-rise buildings. The new allegations included in the second amended complaint convinced Chief Judge Hornak to not only change his mind on many of the claims he had previously dismissed, but also to make new law in plaintiffs favor on several significant issues, including the element of scienter, i.e., intent to deceive investors.

Pomerantz Partner Emma Gilmore, who leads Pomerantz's litigation of the case, stated, "We are gratified that the court found that the amplified allegations in the second amended complaint transform the context in which defendants' alleged misrepresentations were made. The court's decision sets important new precedents in favor of investors."

The $74 million settlement represents approximately 22% of recoverable damages for defrauded Arconic shareholders, an amount far exceeding the 1.8% median recovery for all securities class action settlements in 2022. ■

Jeremy A. Lieberman

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Dr. Daniel Summerfield

NOTABLE DATES ON THE POMERANTZ HORIZON

IF YOU WILL BE ATTENDING ANY OF THESE EVENTS AND WOULD LIKE TO MEET WITH US, SEND US A MESSAGE AT: EVENTS@POMLAW.COM

On June 20, **DR. DANIEL SUMMERFIELD** will chair the panel, **"Lessons Learnt From the Rise and Fall of Crypto and Silicon Valley Bank (SVB) – a Classic Case of Contagion?"** at the **ICGN 2023 Annual Conference** in Toronto, Canada; **JEREMY LIEBERMAN** will be a panelist.

JANALEE SPENCER will attend the **FPPTA 39th Annual Conference** in Orlando, Florida from June 25-28.

On June 27, **DANIEL** will participate in a panel titled, **"The Dilution of Investor Rights in the UK – Ramifications for Pension Funds"** at the **PLSA 2023 Local Authority Conference** in Gloucestershire, UK.

From July 10-12, **JANALEE** will attend the **OPAL Funds Summit East** in Newport, RI.

JENNIFER PAFITI and **JANALEE** will attend the **TEXPERS 2023 Summer Educational Forum** at The Woodlands, TX from August 13-15. Later in the month, **KAYLAN PEREZ** will join **JANALEE** at the **IBEW Membership Development Conference** in Chicago, IL from August 29-31.

From September 11-13, **JEREMY, JENNIFER, JANALEE,** and **KAYLAN** will attend the **CII Fall 2023 Conference** in Long Beach, CA.

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Pomerantz is acknowledged as a global leader in securities and corporate governance litigation. Pomerantz monitors the portfolios of some of the most influential institutional investors and financial institutions worldwide, monitoring assets in excess of $9 trillion. Founded by Abraham L. Pomerantz, who was known as the "dean of the class action bar," the Firm pioneered the field of securities class actions. For 85 years and counting, Pomerantz has continued the tradition that Abe Pomerantz established, fighting for the rights of victims of securities fraud, breaches of fiduciary duty, and corporate misconduct. Prior results, however, do not guarantee a similar outcome in future cases.

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