

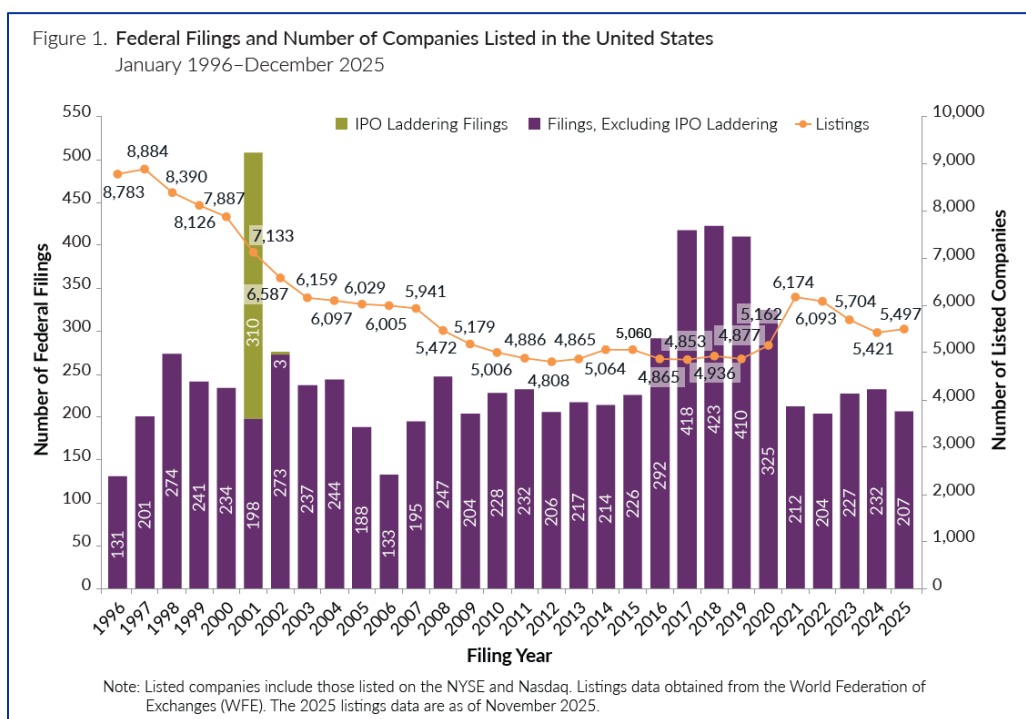
## The State of Securities Litigation: Key Developments from 2025 and What Lies Ahead

Last year brought meaningful developments in securities litigation, with notable case law and shifting industry dynamics. Over the past twelve months, litigation concentrated on the rise of artificial intelligence, heightened scrutiny at class certification, and a pivot in enforcement at the U.S. Securities and Exchange Commission (“SEC”). These developments will shape securities litigation and investor strategy in 2026.

### Securities Litigation Trends in 2025: A Lookback

#### Securities Litigation by the Numbers

Securities class action filings declined modestly from 2024. National Economic Research Associates (“NERA”) reports 207 new securities class actions in 2025, down from 232 in 2024.<sup>1</sup> A growing share targeted technology companies, particularly for AI-related disclosures.



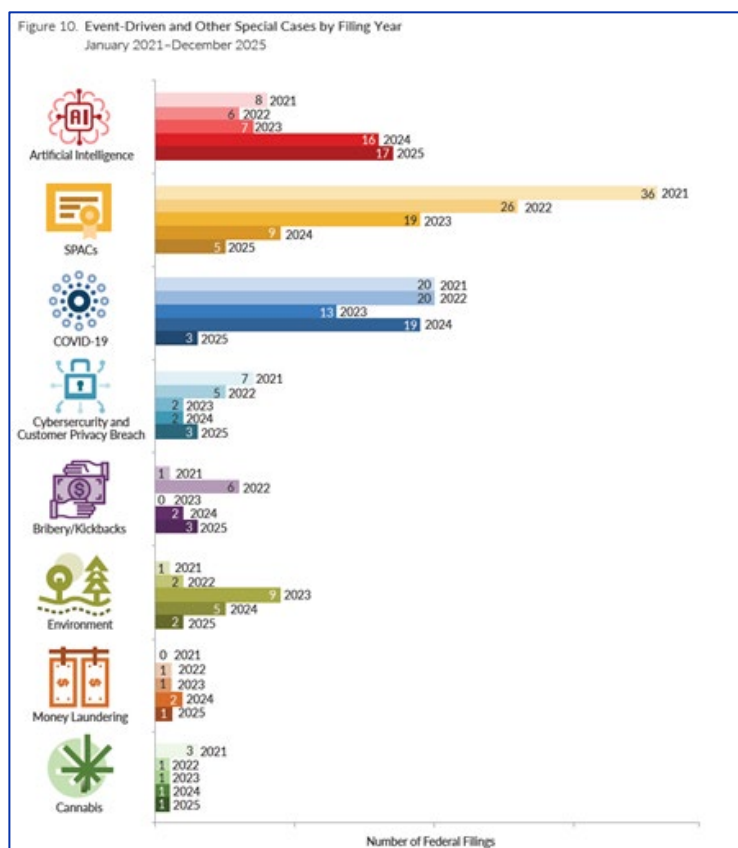
AI-related filings accelerated in 2025, exceeding the total number of such filings in 2024. Many cases allege “AI-washing”—exaggerations or misrepresentations about a company’s AI capabilities that allegedly caused investor losses. For example, in June 2025, investors sued Apple Inc. in the U.S. District Court for the Northern District of California, alleging Apple misled investors about its *Apple Intelligence* initiative

<sup>1</sup> See Recent Trends in Securities Class Action Litigation: 2025 Full-Year Review, NERA (2025).

announced at the Company's June 2024 Worldwide Developers Conference.<sup>2</sup> According to the complaint, Apple touted enhancements to its Siri technology despite having no prototype or beta testing of this enhanced technology, and lacked a reasonable basis to tell investors those capabilities would roll out with the iPhone 16. Apple ultimately delayed its Siri upgrades to 2026 and, by mid-2025, allegedly revealed that its AI developments were far from market-ready.

Investors in The Trade Desk sued the Company in the U.S. District Court for the Central District of California, asserting that statements about its generative AI forecasting tool, Kokai—including assurances of a seamless rollout, full adoption in 2024, and positive revenue impact—were misleading. The complaint alleges the company failed to disclose execution challenges that undermined those statements.<sup>3</sup>

Similarly, in *Hoare v. Oddity Tech Ltd.*, pending in the U.S. District Court for the Southern District of New York, plaintiffs contend that Oddity—a cosmetics retailer describing itself as a “consumer tech platform”—misrepresented its status as a technology company and overstated its AI capabilities in its IPO materials.<sup>4</sup> Each of these cases remains pending.



<sup>2</sup> See *Tucker v. Apple Inc et al*, No. 25-cv-05197, (N.D. Cal. June 20, 2025).

<sup>3</sup> See *In re the Trade Desk, Inc. Securities Litigation*, No. 25-cv-01396, Dkt. No. 74 (C.D. Cal. Aug. 15, 2025).

<sup>4</sup> See *Hoare v. Oddity Tech Ltd.*, No. 24-cv-06571-MMG, Dkt. No. 66 (S.D.N.Y. June 6, 2025).

Public enforcement reflected the same trend. The SEC and Department of Justice (“DOJ”) brought parallel enforcement actions against Albert Saniger, founder and former CEO of Nate, Inc., alleging he defrauded investors by making false and misleading statements about Nate’s purported AI capabilities.<sup>5</sup> According to the DOJ, Saniger “misled investors by exploiting the promise and allure of AI technology to build a false narrative about innovation that never existed.”<sup>6</sup>

## **Rise in Tariff-Related Cases**

The Trump Administration’s enactment of tariffs in 2025 had a meaningful economic impact and resulted in an uptick in tariff-related securities class actions in the latter half of the year. These cases typically allege misstatements and inadequate risk disclosures about the impact of tariffs, including a company’s ability to mitigate tariff-related headwinds or inflated growth projections driven by short-term demand ahead of anticipated tariffs. As tariff effects persist, public company disclosures will face scrutiny through this lens.

## **Continued Developments in Class Certification**

Another key trend in 2025 was continued developments in securities cases at the class certification stage. After a securities case overcomes a motion to dismiss, the next critical step is class certification. At that stage, courts determine the class of damages investors and appoint a lead plaintiff to represent the class.

Defendants increasingly challenge certification on “price impact” grounds following *Goldman Sachs Group Inc. v. Arkansas Teacher Retirement System*, 141 S. Ct. 1951 (2021), arguing that alleged misstatements do not sufficiently align with purported corrective disclosures.

In *Goldman*, the Supreme Court held that the generic nature of alleged misstatements and any mismatch with corrective disclosures are relevant to price impact. The analysis turns on the specific allegations and language at issue.

Even so, post-*Goldman* decisions show the high bar defendants face to defeat or narrow certification. In 2025, district and circuit courts continued to refine what is required at certification.

At the circuit level, the Ninth Circuit affirmed certification in *Jaeger et al. v. Zillow Group, Inc.*<sup>7</sup>, where plaintiffs alleged Zillow made false and misleading statements about its now-defunct home-buying program. On appeal, defendants argued the district court misapplied *Goldman* by relying on loss-causation doctrine. The Ninth Circuit disagreed, concluding the district court applied the correct standard and considered evidence of an alleged mismatch. The court found the disclosures revealed new information

<sup>5</sup> See *SEC v. Saniger*, No. 25-cv-02937 (S.D.N.Y. Apr. 9, 2025); *United States v. Saniger*, No. 25-cr-00157 (S.D.N.Y.); see also [SEC.gov | Alberto Saniger Mantinan, a/k/a Albert Saniger](#).

<sup>6</sup> See [Southern District of New York | Tech CEO Charged In Artificial Intelligence Investment Fraud Scheme | United States Department of Justice](#).

<sup>7</sup> *Jaeger et al., v. Zillow Group, Inc., et al.*, No. 24-cv-6605, Dkt No. 41 (9th Cir. 2025).

about how Zillow's home-pricing struggles threatened the business, and that the statements and disclosures were "matched enough under Goldman."<sup>8</sup>

At the district court level, price-impact challenges met mixed results. In *In re Concho Resources Inc. Securities Litigation*, the Southern District of Texas granted class certification in part, finding several challenged statements sufficiently aligned with alleged corrective disclosures.<sup>9</sup> While the district court excluded some statements for lack of a sufficient match, it found others supported price impact.

These decisions will continue to shape how plaintiffs prepare to overcome price-impact challenges at class certification in 2026.

## The Year Ahead: Securities Litigation Trends in 2026

Many 2025 trends will persist in 2026. AI-washing is likely to remain a major source of securities litigation. Key class certification rulings will further refine the post-*Goldman* landscape. In addition, the private credit sector may draw increased scrutiny, and private securities litigation will remain central if SEC enforcement activity continues to slow under the current administration.

### AI-Washing Litigation

Cornerstone Research reports a significant uptick in AI-related filings, and this rise is likely to continue in 2026. As companies expand and integrate AI, investor scrutiny of related statements will intensify. Decisions in pending AI-washing cases are expected to guide how courts evaluate AI-related disclosures and allegations.

### Class Certification Challenges Will Continue

Early this year, the Ninth Circuit denied Zillow's petition for panel rehearing and rehearing en banc, leaving its September 2025 decision intact. Zillow may seek Supreme Court review, which, if granted, could provide additional insight on the Court's 2021 *Goldman* decision. We continue to monitor *Zillow* for developments.

Beyond *Goldman*, defendants are also invoking *Comcast Corp. v. Behrend* to oppose certification.<sup>10</sup> In *Comcast*, the Supreme Court held that a plaintiff must show "that damages are capable of measurement on a classwide basis" using a methodology "consistent with [their] liability case" to satisfy Rule 23(b)(3)'s

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<sup>8</sup> *Id.*

<sup>9</sup> *In re Concho Res. Inc. Sec. Litig.*, No. 21-cv-2473, 2025 WL 1040379 \*13-14 (S.D. Tex. Apr. 7, 2025).

<sup>10</sup> 569 U.S. 27, 34 (2013).

predominance requirement. Defendants argue in some cases that plaintiffs cannot propose a damages model both consistent with their fraud theory and capable of classwide measurement.<sup>11</sup>

Although often unsuccessful, these arguments may gain traction in select cases. The Fourth Circuit has agreed to consider whether *Comcast* prevents certification in *In re The Boeing Company Securities Litigation*, an appeal from the Eastern District of Virginia’s certification of a class alleging misstatements about Boeing’s commitment to safety and damages following a mid-flight door-plug incident.<sup>12</sup> Boeing contends the plaintiffs’ expert failed to identify a classwide methodology for determining recoverable inflation consistent with their theory. A decision is likely in 2026 and will be a key case to watch.

Another area of focus at certification is tracing. Under Section 11 of the Securities Act of 1933, plaintiffs typically must “trace” their shares to an allegedly false or misleading registration statement to recover. The Supreme Court confirmed in *Slack Technologies, LLC v. Pirani*<sup>13</sup> that Section 11 plaintiffs must plead traceability to a specific registration statement. This fact-intensive inquiry is complicated by secondary market transactions, making it a common target for certification challenges. Investors should be mindful of potential tracing-based defenses at the certification stage, particularly for secondary-market purchases.

## ***A Spotlight on Private Credit***

Recent developments suggest potential stress in private credit in 2026. TriColor Holdings—an auto lender and used-car dealership—filed for bankruptcy in September 2025. The DOJ charged TriColor’s former COO with scheming to double-pledge collateral and manipulate collateral characteristics to make near-worthless assets appear eligible under lender requirements.<sup>14</sup> Amid these allegations of fraud, TriColor’s liabilities raised concerns about the lender’s portfolio quality. Shortly thereafter, First Brands Group filed for bankruptcy. Both bankruptcies allegedly revealed double-pledging of auto-loan portfolios across multiple credit lines, exacerbating concerns about private credit.

Investor concerns intensified when Blue Owl Capital called off a merger between two private credit funds following investor backlash. Blue Owl’s share price declined, and the company cited “current market conditions” in its termination announcement.<sup>15</sup>

These developments may spur investor actions against private credit lenders, particularly where disclosures about portfolio performance and asset quality are at issue. Limited transparency and structural

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<sup>11</sup> *Id.*

<sup>12</sup> See No. 25-135 (4th Cir. 2025); *In re Boeing Co. Sec. Lit.*, No. 24-cv-00151 (E.D. Va. Mar. 7, 2025), Dkt. No. 143.

<sup>13</sup> 598 U.S. 759 (2023).

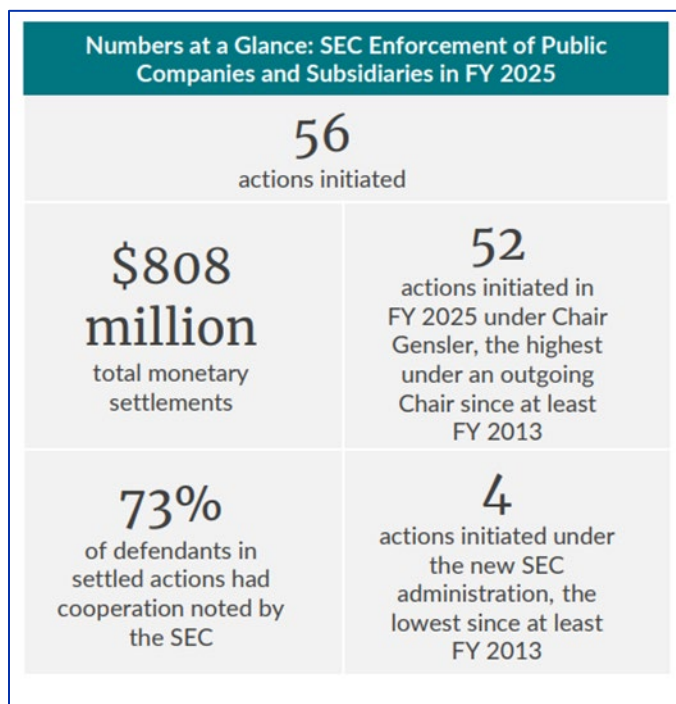
<sup>14</sup> See Southern District of New York | CEO, CFO, COO Charged In Connection With Billion-Dollar Collapse Of Tricolor Auto | United States Department of Justice.

<sup>15</sup> See Blue Owl Capital Corporation and Blue Owl Capital Corporation II Announce Termination of Merger :: Blue Owl Capital Corporation (OBDC).

weaknesses in private credit may create opportunities for plaintiffs to demand truthful, complete disclosures comparable to those required of public issuers under the federal securities laws.

## ***Lack of SEC Enforcement Actions***

SEC enforcement activity often reflects presidential priorities and changes in SEC leadership. Current SEC Chair Paul Atkins was sworn in when SEC leadership shifted in early 2025. According to Cornerstone Research, 93% (52 of 56) of actions brought in fiscal year 2025 against public companies and subsidiaries were initiated under former SEC Chair Gary Gensler. Since Chair Atkins' appointment, enforcement activity has slowed, with only four actions against public companies initiated in fiscal year 2025. There were 30% fewer enforcement actions against public companies in fiscal year 2025 than in fiscal year 2024, and most of the 2025 cases predated the change in administrations.



With enforcement actions likely to remain lower in number and significance throughout 2026, private securities litigation will continue to play a critical role in policing securities fraud and protecting investors.



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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