SUPREME COURT DISMISSES APPEAL IN
NVIDIA v. E. OHMAN J: OR FONDER AB ET AL.

December 12, 2024

I. OVERVIEW

On December 11, 2024, the U.S. Supreme Court dismissed an appeal from NVIDIA in a highly anticipated securities fraud class action ruling, providing a single-sentence explanation that the appeal was "improvidently granted."[1] A dismissal on these grounds generally means the Supreme Court decided that the case did not meet the criteria for Supreme Court review, or that it was unsuitable for consideration based on procedural or substantive issues.

During oral arguments held on November 13, 2024, U.S. Supreme Court Justices second-guessed their decision to hear the case in the first instance, questioning whether the Justices were being asked to engage in a purely case-specific error correction analysis, rather than adopting a broader rule under the Private Securities Litigation Reform Act of 1995 ("PSLRA"). "I'm not actually sure what rule we could articulate that would be clearer than our cases already say," Justice Sonia Sotomayor said at the outset of the argument. Justice Elena Kagan also remarked that "it becomes less and less clear why we took this case … and why you [NVIDIA] should win it."

For additional information concerning the substance and procedural posture of *NVIDIA*, as well as the amicus brief that BFA filed in this matter, please refer to BFA's October 25, 2024 Investor Update, titled *BFA Files Supreme Court Amicus Curiae Brief in NVIDIA v. E. Ohman J: or Fonder AB et al.*

II. BACKGROUND

The suit against NVIDIA centers on allegations that company executives misled investors about the extent to which its sales depended on volatile crypto mining. The District Court dismissed the plaintiffs' complaint for failure to plead falsity and scienter and the Ninth Circuit Court of Appeals reversed the dismissal, in part, finding the plaintiffs' use of internal reports and expert analysis was sufficient to satisfy the pleading requirements under the PSLRA. NVIDIA then petitioned the Supreme Court for review, which agreed to hear the case in June of 2024.

The U.S. Supreme Court was set to address the fundamental requirements for pleading securities fraud claims under the PSLRA. Namely, what facts must investors allege in their complaint, prior to the commencement of any discovery, to satisfy the necessary elements of falsity and scienter under the PSLRA?

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[1] *NVIDIA v. E. Ohman J: or Fonder AB et al.*, 604 U. S. ____ (2024).

III. IMPLICATIONS OF THE DISMISSAL

The Supreme Court's dismissal of the appeal means the Ninth Circuit's reversal of NVIDIA stands and the case will return to the District Court for further proceedings.

More broadly, the dismissal marks an important victory for investors. The already stringent pleading standards under the PSLRA remain unchanged by the additional, heightened requirements advocated by NVIDIA, which provides greater clarity and certainty for investors in future cases. The dismissal also signals the Supreme Court's reluctance to delve into highly factual and complex securities litigation disputes, preserving such disputes for lower courts that are better equipped to handle these issues.

This marks the second time in recent weeks that the U.S. Supreme Court has dismissed a securities-related appeal after granting certiorari (*i.e.* permission to hear an appeal). On November 22, 2024, after hearing oral argument, the U.S. Supreme Court dismissed an appeal brought by Meta Platforms Inc., the parent company of Facebook, providing a one sentence order that mirrors the explanation in NVIDIA, that certiorari was "improvidently granted."

Meta Platforms sought to narrow the types of risk disclosures corporations need to make to investors. In Meta Platforms, investors alleged the company failed to disclose the risks associated with the Cambridge Analytica data harvesting scandal, which had collected the data of millions of Facebook users without their consent in order to target them with political ads. Meta Platforms petitioned the U.S. Supreme Court for review after the Ninth Circuit Court of Appeals revived the action, arguing that it did not need to disclose past events with no known risks of future harm and that hypothetical risk disclosures were sufficient. As with NVIDIA, the dismissal means the Ninth Circuit's ruling stands and the case against Meta Platforms will proceed at the District Court level.

IV. CONCLUSION

BFA is proud to have been at the forefront of this legal battle and is pleased to continue to advocate for investors' rights and protect against corporate wrongdoings.