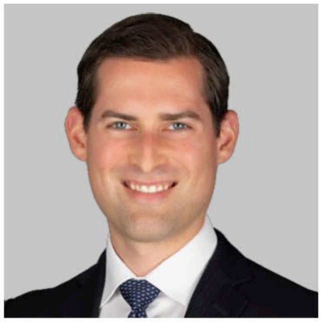
Webcast Recording: 2023 Securities Litigation Report

Join Colleen Smith (Partner at Latham & Watkins), Alexander Rodney (Partner at Kirkland & Ellis), and Laura Hopkins (Lex Machina's Legal Data Expert in Securities Litigation), hosted by Aria Nejad (Lex Machina's In-House Counsel), as they discuss securities litigation trends over the last three years and offer insights on judges, venues, parties, law firms, case filings, timing, case resolutions, findings, damages, and more. The webcast also includes a look at emerging trends in connection with shareholder derivative suit cases, class action securities cases, cryptocurrency cases, SPAC cases, and federal appellate securities litigation.

Speakers:

Colleen Smith
Partner
Latham & Watkins



Alexander Rodney
Partner
Kirkland & Ellis

Laura Hopkins
Legal Data Expert - Securities
Lex Machina

Aria Nejad
In-house Counsel
Lex Machina

Aria Nejad (00:00):

All right, and welcome everyone to today's webcast where we'll be introducing Lex Machina's newly released 2023 securities litigation report. My name's Aria Nejad. I'm in-house counsel here at Lex Machina and I'm moderating today's webinar. I'll introduce our guests here shortly, who will be discussing securities litigation trends over the last three years and they're going to offer insights on judges, venues, parties, law firms, and more.

(00:24):

A couple of quick housekeeping notes before we get started, though. This will be a 25-minute presentation followed by answers to any questions submitted by attendees for a total of up to about 30 minutes. Please share your questions at any time and we'll review them together at the end of the presentation. At the end of the presentation, we'll have an interactive poll for the audience to get your feedback on today's webcast. It just takes a few seconds and it really helps us improve our future webcast. Please take that time to share your thoughts with us.

(00:52):

A little bit about Lex Machina. Lex Machina is legal analytics. It's our focus. Lex Machina provides legal analytics to companies and law firms, enabling them to craft successful strategies, win cases, and close business. We currently count over three quarters of the Am Law 100 as clients, in addition to companies of all sizes from Fortune 50 companies to small businesses. I'm joined today by my colleague Laura Hopkins, Lex Machina's legal data expert in securities litigation. Before joining Lex Machina, Laura served as a civil litigator and bankruptcy practitioner for over 13 years in the Western district of Pennsylvania and District of Maine. Welcome, Laura.

Laura Hopkins (01:31):

Thank you.

Aria Nejad (01:32):

We're also excited to have Latham & Watkins partner colleague Colleen Smith with us today. Colleen is an experienced trial lawyer and global vice chair of the firm's securities litigation practice. She represents both emerging and Fortune 500 companies in high stakes complex litigation. She's joining us from the San Diego office. Welcome, Colleen.

Colleen Smith (01:51):

Great to be here.

Aria Nejad (01:54):

We're also very fortunate to have with us today, Kirkland & Ellis partner Alexander Rodney. Alex is a litigation partner in Kirkland's New York office. His practice focuses on complex and high value commercial matters, representing public and private companies in securities and antitrust and other cutting-edge commercial disputes. Welcome, Alex.

Alexander Rodney (02:13):

It's a pleasure to be here with you today. Thank you.

Aria Nejad (02:15):

Thank you. At this point I'm going to turn the presentation over to you, Laura. Laura, go ahead and begin the presentation when you're ready.

Laura Hopkins (02:21):

Thanks, Aria. Just to give folks listening an idea of what they're listening to, this is our securities litigation report and this webcast focuses on Lex Machina's Federal District court securities cases. These are case filings with one or more claims filed in federal district court based on securities law violations, so either brought under the Securities Act, the Ex Exchange Act, excuse me, or another federal securities law such as the Commodity Exchange Act. Once we receive our data from Pacer, we clean it, normalize it, and enhance it by adding features like you're going to see today, so filing numbers, timing, courts, judges, parties, firms, resolutions and damages. We also have subcategories that we affectionately call tags. Some of Lex Machina's security case tags include shareholder derivative suits, class actions, and there's others based on securities fraud, 10b-5, and we will go over some of those different tags today. Moving to our data, first, we see securities case filings filed in again, Federal District court over the last 10 years. Here, we see pretty steady line up until 2016 when we see a gradual rise and then a peak. 2021 and then 2022 comes back to around the 2020 levels. We're going to talk about this chart quite a bit later. I do want you to picture it, take a mental photo. Colleen, I'll start with you. Is this what you're seeing in the court?

Colleen Smith (04:08):

Yeah, no, thank you Laura. I think, so just for the audience, this represents all cases involving Securities Act or Securities Exchange Act violations. This includes SEC enforcement and private actions as well. I think the interesting thing about this chart is the spike in 2021, which we think represents, is consistent with the deal flow for 2021. It was a significant year in terms of M&A, capital markets and De-SPAC activity, which, of course, comes with merger related 14(a) claims type litigation. I think in talking about this, preparing for this, we think that explains the spike for 2021 and we're seeing a return to normalcy, if you will, in 2022. Alex, did you have anything to add?

Alexander Rodney (04:54):

Well, I was just going to say, if you look at the general distribution from 2016 going earlier, you can see how there's been an uptick in cases and this isn't shown in the chart, but we'll see it perhaps a bit later, greater concentration of individual cases after the Delaware Chancery Court's decision in Trulia, and that led to a shift in cases from Delaware into Federal Court, proliferation of individual cases, and then in 2021, it's interesting. There's a very significant uptick, though, I think less so in the class action context, and there are a couple reasons for that that we might explore in a few minutes.

Laura Hopkins (05:31):

Yeah. Sneak peek. First, we're going to talk about shareholder derivative suit cases, and we do see a pretty steep increase from 2016 to 2020. Alex, can you tell me, was what you were talking about or what do you think is fueling this increase?

Alexander Rodney (05:51):

Yeah, no, I think it's exactly what we were discussing before that, really two factors. One is this move from Delaware into Federal Court and also, just increased federal for scrutiny of class action supplements, which has led to more cases being filed as individual actions. You can see a tail off after

2020. I think in part, there's just a lag and so the derivative cases are often board as tag along cases after say, a securities filing, but also, just there was a lot of disruption in 2020, a lot of focus on director decision making, and you can see how that's being picked up and then it drops off again as things begin to normalize later into COVID.

Laura Hopkins (06:40):

Gotcha. Colleen, did you want to add anything?

Colleen Smith (06:42):

Yeah, the only thing I would just add is, we are beginning to see a trend when it comes to shareholder derivative litigation of an increased number of matters as shareholder demands that are not going to be picked up by the statistics, more regular demands behind the scenes as opposed to complaints. Obviously, there are still complaints filed. I actually think this trend line is probably going to drop into 2023 for that reason, there's a mark and shift toward demand letters versus complaints.

Laura Hopkins (07:15):

Right. Right. You think maybe the cases are still being filed, the cases are still happening, but maybe just not getting to the filing point?

Colleen Smith (07:24):

Right. We're seeing cases, but we're also seeing a large number of shareholder demands, whereas we might have seen, for example, three or four or five shareholder follow on derivative cases. Instead, we're seeing one or two of those, and then a number of shareholder demands that'll never be picked up publicly because those are behind the scenes.

Laura Hopkins (07:42):

Right. Interesting. Thanks. Moving to class action securities cases, we see a very steep, so remember, think back to the original slide where we were seeing an increase all the way up until 2021, but here, we can see that it's not being fueled by class actions, or at least maybe it was in 2016 to 2017, but then we have a gradual decline. 313 cases in 2022 is the lowest in the last 10 years. Colleen, do you want to start? What's happening here then? Same thing?

Colleen Smith (08:23):

Well, this is anecdotal. I'd say two things. One is, in 2020 and 2021, and even into early 2022, we had strong markets. Of course, to have a shareholder class action securities case, you need a stop drop. That can, of course, happen been when there are major events affecting public companies, but when you have a strong market, it would make sense. There'd be fewer cases. The other thing I think, again, anecdotal, that might be explaining this is, several years ago when a securities class action case was initiated, you would often see the initial complaint and then sometimes one or two other complaints that would ultimately be consolidated together into one securities case. We do see that now.

Colleen Smith (09:03):

... consolidated together into one securities case. We do see that now occasionally, but I would say it's more common for there to be one complaint and for the lead plaintiff, lead counsel to be sorted out in that one lead case. And that could explain some of the decline.

Laura Hopkins (09:19):

Interesting. Keep this moving forward. So the next slide is based on a keyword search of several different keywords relating to cryptocurrency. And we specify those keywords in the actual report, if you're interested, but using security tags and our keyword search over the pleadings of each case, we found this trend going all the way back 10 years because cryptocurrency was, at least Bitcoin was around back then.

(09:52):

Alex, are you seeing an increase in cryptocurrency cases or cases related to cryptocurrency?

Alexander Rodney (09:57):

Yeah, absolutely. And I think really there are two ways of thinking about this. One is back to Colleen's point, when you see at least class action litigation, it arises often from an event driven drop in most cases, in the case of stock, in the case of crypto, it's an open question as to whether it counts as a security. And so there's been an uptick in filings that have really addressed the threshold question, is the relevant non-fungible token or cryptocurrency a security in the first place?

(10:28):

And those filings tend to proliferate after there's been a big decline in value because that's the situation where the damages, if at all, would be higher. And we are seeing that it increased just as crypto has been really in the crosshairs of regulatory enforcement. And often the private plaintiff's bar follows along from regulatory scrutiny.

Laura Hopkins (10:55):

Nice. And I'll keep us going to another hot topic, which is securities cases. These are, again, pleadings based on a keyword search for SPAC litigation. Colleen, are you, I'm guessing this is a big part of your practice now.

Colleen Smith (11:12):

It is. It is. And the chart speaks for itself. And of course it reflects the fact that an increasing number of companies went public through a de-SPAC merger as opposed to a traditional IPO or even a direct listing over the last couple of years.

(11:27):

I think we'll see this stay steady or maybe even increase over the next couple of years, but now that we're seeing fewer companies go public through a de-SPAC process, it likely we will drop off, but we'll have to see.

Laura Hopkins (11:40):

Alex, did you have anything to add? I know de-SPAC is probably a big part your job too.

Alexander Rodney (11:47):

Yeah, it's interesting. I totally agree with everything Colleen just said. There's definitely been a decline in SPAC transactions, which I think ultimately will lead to this reducing in volume. But there's also an enormous number of SPACs looking for partners that are sitting on the shelf effectively. And as you know, most of these SPACs have the sunset force. So at some point, folks are going to be out of the money. And when folks are out of the money, that tends to lead to litigation. And there's as many as 500

SPACs that were looking for a de-SPAC transaction at the moment. So we expect that to continue to lead to litigation.

Laura Hopkins (12:26):

Yeah, interesting. We will continue to watch. So moving forward to some ways that you can slice and dice the data with Lex Machina, we have the most active districts by cases, so this is the last three years you'll see. And yes, it's surprising to me as well that 2020 was in the last three years, feels like it's still going. And then you have a total over here, and then the percentage of the total that each of these districts represent. So some of the numbers that stuck out to me, if you remember that spike in 2020, excuse me for my, there you go.

(13:10):

So in my opinion, and based on the data, it's mostly coming from the Southern District of New York, the Eastern District of New York, and the Eastern District of Pennsylvania, which have huge spikes, relatively speaking, from their norms in 2021.

(13:29):

The other thing I noticed, and then I'd love to hear your thoughts, is that the District of New Jersey and Eastern District of Pennsylvania both saw quite a significant decline after that number. So Colleen, what do you think is going on here? What do you think is interesting about these?

Colleen Smith (13:50):

Yeah, two things you jumped out at me. One is, if you look at the District of Delaware numbers, there is a pretty significant decrease in 2022. I'm not sure exactly what's driving that, but a lot of companies, public companies have forum selection bylaws. Those forum selection bylaws often specify Delaware Chancery as the preferred jurisdiction for a derivative case.

(14:12):

But if there's federal jurisdiction, a large number of those bylaws previously specified that a federal derivative case would need to be filed in the district of Delaware. In the wake of a couple of cases, including one in California involving Restoration Robotics, in which a court suggested the forum selection bylaw would be valid, but perhaps not if it specified a particular jurisdiction, a particular federal jurisdiction.

(14:38):

We're seeing those bylaws shift to Delaware Chancery, or if there's federal jurisdiction, another federal district court without specifying the district of Delaware. And so I think that probably explains the big drop-off in the district of Delaware cases.

(14:54):

The other thing that's interesting is, I think we'll see it on another slide, there is a reduction of cases being filed within the third circuit. That could be a little bit of forum shopping, but we'll have to see.

Laura Hopkins (15:06):

And then moving forward, this is federal circuits by cases. So with Lex Machina, we do have appellate data linked to our district court data. There you go. And so this is a list of cases that are being appealed in these particular years and with the total, and again, the percentage we see in the second circuit and ninth circuit being the top top two most active federal circuits.

(15:35):

And then I did see, one thing that I noticed that actually, Colleen, you had mentioned before was that the third circuit is seeing a pretty significant decline. There is a lag in obviously appellate cases after district court cases, but you had mentioned something that was going on with the third circuit. Could you elaborate on that a little bit?

Colleen Smith (16:01):

Sure. Yeah, no, it's just interesting, and appears to be a less preferred forum potentially for the plaintiffs [inaudible 00:16:09] in terms of whether they're choosing to file in the district of New Jersey, for example, versus the Eastern District or Southern District of New York. It could also be an aberration in 2022, but will be interesting to see what the 2023 data holds.

Laura Hopkins (16:24):

Moving forward to most active judges by cases, these are the top judges hearing securities cases over the last three years with the total and the percentage. We see the total percent is pretty spread out amongst the top judges hearing cases. It's pretty even. But I did think it was interesting, Judge Stark, even though he is now up in the appellate court is still making the list of the top 10.

(16:57):

Alex, can you tell me what would you do with this data? Tell me a little bit more about how you might use this to build your case.

Alexander Rodney (17:08):

Sure. Well, a few things that I would note. First is if you look at the stats, I would drill down a great deal more. And what I'd want to see is data on specific judges. If a complaint has already been filed, you'd want to see what does the data show for the time it takes for a judge to, say appoint a lead plaintiff. If, in the case of a PSLARA case, if it sticks to the default deadlines, clients often want to know that because it bears on various issues, including disclosure.

(17:48):

And then you'd want to see how long does it take to decide a motion to dismiss, what's the rate of dismissal, how that's been treated at the circuit court above. And if I could just go back to the third circuit point that Colleen touched on before.

Alexander Rodney (18:03):

If I could just go back to the third circuit point that Colleen touched on before, Colleen mentioned that, I mean, see what 2023 holds in, and my expectation is that it could lead to even more of forum shopping. And the reason is that there was a decision just out of the third circuit last month that held that in the event that a judge finds that there is a violation of Rule 11, which is a sanctions provision in a PSLRA case, in a class action case, the judge doesn't have discretion as he normally would, or she normally would. The judge is required to enter sanctions, and I think that that's going to have a further chilling, in fact, on choosing the courts within the third circuit as a forum.

Laura Hopkins (18:51):

Interesting. Yeah, thanks. Thank you for reminding me of that. We'll move forward to most active plaintiffs, and both of you being on the defense side, I think you now are familiar with quite a few of these names. But here we see the Securities and Exchange Commission as the top most active plaintiff, filing the most cases. On the far right column, you do see the total districts that are being filed in. So it's not surprising to me, and I'm glad it isn't, that the commodity feature trading commission and the SEC are the top across each of the districts, but obviously there are some individuals filing across many districts as well. So Alex, any comments or anything, or I can move forward as well?

Alexander Rodney (19:47):

Well, I think what it reflects to me is a large portion of the cases from the non regulators are individual cases, and what you don't see in the data, but what Colleen and I see every day and many of our colleagues is that the enormous number of demand letters that are not reflected in these numbers. So this is consistent with our practice, and there's a whole other side of this that wouldn't come through in terms of filings at all.

Laura Hopkins (20:17):

Right, right. Moving forward to most active defendants. Again, we have the number of cases being filed, and the total, and the number of districts across how many districts. Colleen, anything to add to this? I'm sure it's not surprising.

Colleen Smith (20:37):

Not surprising, and I think this slide will be consistent, if you went and looked back at prior presentations, it should be fairly consistent, because, of course, the major banks are underwriting IPOs that are leading of course to securities class action cases. And so this is not too surprising, and the statistics seem fairly consistent. Robinhood, of course, shows up on here on the bottom, which is an interesting data point as we were discussing and preparing this. We think that's a little bit of an aberration, because there are so many cases that have been consolidated into an MDL, involving the various Robinhood entities here. But an interesting statistic.

Laura Hopkins (21:14):

Yes, thank you. And the most active law firms representing the plaintiffs that we had previously seen, SEC, obviously, is top. And then we have the relative plaintiff's firms and across how many districts there each case is being filed. There are some lower numbers in 2022 kind of reflecting that drop after 2021 that we saw in the first slide. Is that a reflection then of the underground demand happening, instead of the filing, or what do you guys think?

Alexander Rodney (21:57):

I mean, if you look a... Sorry, go ahead, Colleen.

Colleen Smith (22:00):

Please.

Alexander Rodney (22:01):

No, I was just going to say, as I think folks watching this know, the SEC has picked up enforcement activity over the last few years, so it's not surprising to me to see those numbers going up, though that doesn't represent all of the SEC's enforcement, because sometimes it's represented by the DOJ or by outside council. And then, absolutely, I think part of what we're seeing is what would be cases dropping off and coming through as demands.

Laura Hopkins (22:36):

And most active law firms representing defendants. I'm in great company, so nice job, guys. But again, looking at number of cases per year, totals, and districts. I'll keep moving forward, unless you guys want to add anything about your practice?

Colleen Smith (22:59):

No, I'll just say this is obviously a core group of firms handling these kinds of cases, and it's interesting to see the breadth of the districts in which all each of the firms is handling a variety of securities cases across the board.

Laura Hopkins (23:17):

Thank you. Okay, so getting into timing, Lex Machina allows you to get timing data to certain events. We have more actually than just what's listed, but class certification, summary judgment, trial and case termination. And I wanted to show you with the box plots, the middle number represents the median for each of the timing events. So, Alex, can you tell me how you might use this data to talk to your client?

Alexander Rodney (23:57):

Sure. I mean, one of the very first things clients often ask you is to prepare a budget, and we're often engaged in dealing with insurers. A lot of our clients have insurance in place. And so both sides want to have an understanding of the timeline, the costs involved, various inflection points. These are key stages of the case that could have a bearing on resolution or settlement, and very early on in a case you want to give your client a close understanding of what the data shows annual anecdotal experience and flex between the two with respect to timing and budget.

Laura Hopkins (24:41):

Cool.

Colleen Smith (24:41):

Yeah, and I'll just add, I think this is some of the most compelling data that's available from Lex Machina to be able to sort by judge and district, and look at how long it takes for a particular judge to decide, a motion to decide a lead plaintiff appointment, what sort of the track record is in the district, if you might be considering a transfer venue, how does that compare to the venue that you're currently in, and what are the pros and cons there? So definitely a very useful tool.

Laura Hopkins (25:07):

Right, thank you. Here we see case resolution. So this is obviously how a case resolves. It does not include all the findings that we code at Lex Machina, but here we see some general numbers of how often cases are settling. And again, these are all federal securities cases, what's being dismissed on a procedural resolution. Claimant wins and claim defendant wins. And then I wanted to point out specifically most of the claimant wins are by default and consent judgment. So again, it's a settlement, but there's actually a consent judgment being entered. And then for defendants, most defendants are winning on judgment on the pleadings, which is a motion to dismiss based on the merits of the case. I mean, I guess, I don't want to tell you guys about judgment on the pleading.

(25:57):

Yeah, and this is over the last three years. I'm going to move us forward, unless you guys have a really big desire to comment on this. But just because of time, I'm aware of everybody's time and appreciate it. Again, we have appellate data, and this is overall securities cases over the last three years. The reversal rate is 25%, affirmance rate is 75%. That kind of lighter shade of red is a partial or affirmative part, reversed in part. So we have the state, and we link it to the district court cases that originate from the appellate court. Securities findings by judgment event. So even a case might not resolve on a finding in particular, but we do code actually more than this in the securities' module. But just to highlight some of the findings we are seeing-

Laura Hopkins (27:03):

But just to highlight some of the findings, we are seeing that for Securities Act violations versus no Securities Act violation findings, that's mostly coming on consent judgment for violation, and a judgment on the pleadings for no violation, and those are the totals. And then for Exchange ACT violations versus no Exchange Act violations, again, we kind of saw it on the resolutions, but we're seeing those on consent judgments, and judgment on the pleadings. So, higher findings on the Exchange Act violations. Any surprises here, Colleen?

Colleen Smith (27:43):

No. And I think, just to clarify maybe for the audience where we're saying Exchange Act violation on this slide, and the prior for Securities Act where there's a settlement, it's being counted as a consent judgment, and of course in the settlement there's no admission of liability, but that's captured in these numbers. What I think is interesting about this slide is if you look at the far right column, this continues to show that, as a rough approximation, that you're winning motions to dismiss in about half of the cases, and about half of the cases are getting passed that in some form or fashion, whether that be resolved by settlement, which is consent judgment or ED summary judgment, or trial.

(28:21):

And then if you look at the two for the Securities Act violation, it's a little bit of a different statistic. This is a decent proxy for motion to dismiss versus resolution in some other form, or fashion. And you're looking at more of a four to one ratio there in that context, which of course makes sense because the Securities Act, section 11, and section 12 are essentially strict liability statutes, and don't have an intent, or scienter requirement. So, this is not too surprising, generally consistent with what the conventional wisdom is in terms of percentages for your motions to dismiss in those cases.

Laura Hopkins (28:55):

Thank you. Moving forward, we also have damages data, and this is over the last 10 years, total damages ordered in securities cases. We do have reverse amounts, too, and how many cases were reversed. Obviously there's a lag because in 2021, and 2022, because those cases haven't been decided on any appeals quite yet. So, Alex, in highlighting kind of the 10 billion, the two top years, which are not the years that 2013, and 2014 actually had the most number of cases with damages. But Alex, can you tell me how you might use damages data in your practice or how might you discuss it? Is it helpful to use with the client?

Alexander Rodney (29:44):

Yeah, absolutely. And one of the things that you first tend to do is to drill down a bit more, and what you look for is certain plus factors that are correlated with higher supplements. And I understand that, that's something that your data can be used for as well. And so you tend to look for certain features of your particular case, and to see how that maps onto the overall data, and to look for patterns. And that gives you much more accuracy, and a much more powerful sense of the sorts of cases that are likely to result in the higher supplements. And typically, people in the defense bar are very reluctant to offer prediction of what a case could settle for. And so this is a way of providing some rigor based upon analytics that are done just on the data itself. And you can point out all of the limitations of that, and what it's based on, but at least it's based on something that's subjective versus your own hunch.

(30:48):

And then you can provide context in color. One thing that's interesting on damages is if when we look back at 2020, I think a lot of folks expected that there would be a real uptick in class actions immediately after the stock drop at the beginning of COVID. And it didn't really happen to the extent people were predicting. And a big part of the reason for that is that the PSLRA has this bounce back provision. And so if you have a V shape where there's a big stock drop, and then there's a return, and it's within the relevant period of time, then you don't get to count the damages if you end up in a similar place to where you were. And I'm raising that just, because I think 2020, everyone was expecting it to lead to a much greater uptake on mitigation than actually happened because there was this recovery.

Laura Hopkins (31:39):

Right. Interesting. Thank you. And then I did want to show, since our last slide, I know we're at out of time, but this is from 2020 to 2022 total damages awarded by type. So, this gets into those numbers a little deeper over the last three years. Obviously the approved class action settlement over the last three years is the highest number. Colleen, did you want to add anything about damages?

Colleen Smith (32:07):

No, other than I agree with Alex's comments, I'll just add the fact that this information, and data is available is helpful really to everyone to help to benchmark what a potential settlement value might be in the context of a mediation, or otherwise. And really is helpful to set expectations on both sides of the D to be able to have the data to be able to drill in, and really apply that as appropriate to your particular matter.

Laura Hopkins (32:33):

Thank you. Thank you. So, that's the end of our presentation. Colleen, and Alex, thank you so much for joining us today. I really enjoyed it. As I mentioned, what you see in this webcast, it's really just some of the content of the Securities Litigation Report, and I want to thank our listeners as well. And Aria, I'll turn it over to you if we have some questions, or time for questions.

Aria Nejad (32:57):

Yeah, thank you so much. That was such an interesting conversation. It's always nice to hear how users are using Lex Machina, and I thought some of the specific comments, Colleen, you made around timing to events, how useful that is, and of course what you just got finished discussing about damages, about relating to a particular matter. So, that was great. I think we have time for maybe one quick question. This is directed for Colleen, or Alex, or both. Do you have any predictions for the next few years in securities litigation? Any major shifts, or movements?

Colleen Smith (33:29):

I would say one thing that'll be interesting to watch will be ultimately the Slack direct listing decision coming out on Supreme Court. Probably one of the most watched things, legal developments for 2023. And I think it will be interesting to see how some of these cryptocurrency cases ultimately resolve, and whether this is going to be a continued trend, or whether ultimately some of those assets are deemed to be not securities, and whether that'll go away. So, that'll be a fun one to watch as well.

Aria Nejad (34:05):

Great. Thank you. Alex, any thoughts?

Alexander Rodney (34:07):

I totally agree with that, and I think it extends the non-fungible tokens too, which are mystifying to a lot of people, and raise even more complex questions, particularly on issues like extra territoriality. I think the other big ticket item that's really dividing the second, and ninth circuit where the vast majority of some of the securities litigation is happening is liability around schemes. And whether you need to plead facts for a scheme liability that go beyond alleged misstatements, and the second, and ninth circuit have interpreted Supreme Court precedent quite differently on that. The fact that they are seem to be diverging, I think is going to lead to at some point another case before the Supreme Court, and in the meantime could have very significant ramifications for second reliability.

Aria Nejad (35:03):

Interesting. Yeah. Thank you so much for looking into your crystal balls there. I think you've read the tea leaves correctly there. We'll be looking forward to the next Securities Litigation Report next year to see what comes true or not. So, I want to thank everyone today for joining us. Really quickly, if you are already a Lex Machina customer, you can log in, and find the Securities Litigation Report. It's in the help center right now. So, go up to your name in the upper right hand corner, and the help center is in that menu. And if you're not a customer, you'll receive an email with follow-up information as well. So, if you're not a customer, we do ask that you spend about 15 minutes with one of our experts before receiving the report, but it's real very straightforward to get it after that. I want to thank Colleen, and Alex, and Laura for all of your expertise. Thank you so much. And to all of our attendees, thank you for joining us. If you have any questions, reach out to us directly via the Lex Machina website. Enjoy the rest of your day everyone.

Alexander Rodney (35:53):

Thank you so much.

Colleen Smith (35:54):

Great. Thank you.