

# Trends in 2024 Securities Class Actions: AI and Biotech Cases On the Rise, Second Circuit Bounces Back

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Cornerstone Research recently issued its [2024 Year in Review report](#) examining recent trends in securities class action filings. For the second year in a row, the number of securities class action filings saw an uptick, according to the report. As with 2023, the increase is attributed to a rise in cases asserting only Section 10(b) claims under the Securities Exchange Act of 1934, as the number of filings asserting claims under the Securities Act of 1933 (including Section 11 claims) declined year-over-year. Filings against biotechnology companies surged – as did cases relating to artificial intelligence (AI) and COVID-19 – while filings relating to special purpose acquisition companies (SPACs), cybersecurity, and cryptocurrency fell in 2024.

Looking ahead, this year the US Court of Appeals for the Ninth Circuit is poised to be the second federal appeals court to interpret the US Supreme Court's 2021 class certification decision in [Goldman Sachs Group v. Arkansas Teacher Retirement System](#). In 2023, the US Court of Appeals for the Second Circuit was the first to address the proper application of *Goldman*, and the Ninth Circuit's ruling is expected to offer additional – and much-awaited – guidance.

## Section 10(b) filings surge, Section 11 filings continue to decline

Cornerstone reports a continued upward trend in the number of securities class action lawsuits filed in federal and state courts: 225 suits were filed in 2024 as compared to 215 in 2023. Section 10(b)-only filings rose to a record high level, at 198. In contrast, both federal and state 1933 Act claims were down 34% compared to 2023, likely corresponding to a decrease in the total number of initial public offerings (IPOs), which fell to their lowest level in the past 15 years. The majority of the 1933 Act cases were filed in federal court, with just a handful filed in state court. Distinct from last year, plaintiffs were quicker to file federal Section 11 and state 1933 Act claims after an IPO – from a median of 508 days in 2023 to 371 days in 2024.

## Ninth and Second Circuit lead the charge in core federal filings

With respect to what Cornerstone defines as “core” filings (a count that excludes M&A filings), as in 2023, the Ninth Circuit saw more federal filings than any other circuit, followed closely by the Second Circuit. Interestingly, however, Second Circuit filings increased at a much more significant pace. Filings in the Ninth Circuit only increased by 5% (to 69) while filings in the Second Circuit increased by 31% (to 64), narrowing the gap. Filings in the third most popular circuit – the US Court of Appeals for the Third Circuit – declined almost 50%, from 36 filings in 2023 to 19 in 2024 (bringing filings back in alignment with historical levels).

## AI, biotech and COVID-19 cases on the rise, while SPAC, cybersecurity and crypto cases continue to fall

Again focusing on “core” federal filings (as described above), the Consumer Non-Cyclical sector – including biotechnology and pharmaceutical companies – saw the most filings (67), a 24% increase year-over-year, which Cornerstone attributed to an uptick in filings against biotech companies. Cornerstone also reported that companies in this sector have often been hit with multiple suits over the last decade: 126 companies since 2013 had “at least two separate lawsuits filed against them, of which 72 companies (57%) were Biotechnology or Pharmaceuticals companies.” The Technology sector also saw an increase in filings as compared to 2023, coming in second-highest at 37 filings.

AI-related filings trended up in 2024, with 15 cases filed as compared to seven in 2023, likely contributing to the uptick in Technology sector filings. The highest number of AI-related cases were in the Technology sector (eight), with others touching on the Communications, Industrial and Consumer Non-Cyclical sectors. Cornerstone noted that AI-related filings are likely to increase in the coming years due to the “growing prominence of AI in the business models of many companies.”

Filings related to COVID-19 also rose compared to 2023 (15 filings versus 11 filings) but remained below the peak in 2022 (20 filings). Other categories continued to trend downward, including filings related to SPACs, cybersecurity and

cryptocurrency, which fell again in 2024, as they did in 2023. SPAC filings declined by 59%, in line with the continued decline in SPAC IPOs since 2021. Cybersecurity cases likewise dropped again in 2024 to just two filings, consistent with its downward trajectory since the peak of seven filings in 2021. Crypto-related filings also declined by more than 50%.

Cornerstone also explored settlement and dismissal rate trends for AI and COVID-19-related cases filed from 2020 to 2023. While AI-related cases filed in 2020 – 2022 settled at a marginally higher rate as compared to other cases, the same was not true for those filed in 2023, where no AI-related cases settled (as compared to 6% of all other filings). Additionally, across the board, AI-related cases were dismissed at a lower rate than other filings from 2020 – 2023 (38% versus 54% in 2020 – 2021, 17% versus 36% in 2022, and 14% versus 20% in 2023). Dismissal and settlement rates for COVID-19-related cases filed in 2023 were lower as compared to prior years (45% dismissed and 0% settled), but dismissal rates for COVID-19 cases continued to trend significantly higher as compared to other types of filings (45% versus 19% in 2023).

## Ninth Circuit set to review application of *Goldman Sachs*

Cornerstone also highlighted an important forthcoming Ninth Circuit ruling. The Ninth Circuit is set to review a [decision from the US District Court for the Western District of Washington](#), where the court certified a class of investors who alleged the defendants failed to disclose material weaknesses in their business. On appeal, the defendants argued that the district court did not correctly apply the Supreme Court's decision in *Goldman*, which Cornerstone reports has only been interpreted by one federal court of appeals (the Second Circuit) to date. Read more about the Second Circuit's decision in this [September 2023 Cooley blog post](#).

In *Goldman*, the Supreme Court held that when assessing whether the *Basic* presumption of reliance has been rebutted, courts must consider all evidence of price impact, including whether a corporation's alleged misstatements were so generic that they could not have artificially inflated the company's stock price. In the pending Ninth Circuit case, the defendants argued that the district court erred in its analysis of whether the defendants demonstrated a mismatch in specificity between the alleged misstatements and the corrective disclosures, and in ignoring the testimony of an expert who opined that the alleged misstatements did not impact the price of the company's stock. The Ninth Circuit's interpretation and analysis of *Goldman* is expected to provide much-anticipated additional guidance to courts and litigants alike.

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