

Press Coverage | May 2, 2023

Supreme Court Decision Could See SEC Facing Logjams in Enforcement Cases

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Jay Dubow, co-leader of Troutman Pepper's Securities Investigations + Enforcement Practice Group, was quoted in the May 2, 2023 *Pensions & Investments* article, "[Supreme Court Decision Could See SEC Facing Logjams in Enforcement Cases](#)."

It's likely that the court will hear the case, said Jay A. Dubow, Philadelphia-based partner at Troutman Pepper Hamilton Sanders LLP who co-leads the firm's securities investigations and enforcement practice group. He pointed to a concurring opinion issued by Justice Clarence Thomas in the Cochran case that said he has "grave doubts about the constitutional propriety of Congress vesting administrative agencies with primary authority to adjudicate core private rights with only deferential judicial review on the back end."

The Jarkesy case "goes right to what Justice Thomas said in his concurring opinion," Mr. Dubow said.

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Mr. Dubow noted that the SEC under the current administration has been seeking higher penalties for alleged wrongdoing, which also could lead more people and companies to decide it's worth it to fight the case rather than settle. In contested enforcement matters, the SEC authorizes an action seeking certain amounts of financial remedies from an alleged wrongdoer, but it's up to the court to decide the amount, Mr. Dubow explained.

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