

Press Coverage | November 7, 2022

Supreme Court Hears Arguments on Allowing Challenges to SEC's In-House Judges

RELATED PROFESSIONALS

[Jay A. Dubow](#) | [Ghillaine A. Reid](#) | [Sam Hatcher](#)

Troutman Pepper attorneys Jay Dubow, Ghillaine Reid, and Sam Hatcher are quoted in the November 7, 2022 *Pensions & Investments* article, "[Supreme Court Hears Arguments on Allowing Challenges to SEC's In-House Judges](#)." The article referenced their article, "[Full Scale of Constitutionality of SEC's Adjudication System Underway](#)."

In a separate decision two days after the Supreme Court agreed to hear the Cochran case, the Fifth Circuit found that the SEC's ALJ system was unconstitutional as a whole, explained attorneys from Troutman Pepper in a *Pensions & Investments* industry voice piece. The decision in that case — *Jarkesy vs. SEC* — found that the SEC's in-house adjudication of securities anti-fraud statutes violated the right to trial by jury, that Congress unconstitutionally delegated to the SEC the power to decide whether securities fraud cases were heard in Article III courts or before an ALJ, and that the removal protections given to SEC ALJs were unconstitutional, the attorneys wrote.

"While the Fifth Circuit's decision in *Jarkesy* set the stage for a future challenge to the overall ALJ structure before the Supreme Court, even in the short term, a ruling in Cochran allowing immediate challenges in a district court could paralyze the ALJ system going forward," the attorneys wrote.

RELATED INDUSTRIES + PRACTICES

- [Securities Investigations + Enforcement](#)
- [Securities Litigation](#)