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Jordan D. Eth

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Morrison & Forester LLP



Eth is a co-chair of Morrison & Foerster's securities litigation, enforcement and white-collar defense group. In December, it will have been 35 years since he joined as a summer associate.

In November, the first case he's had to reach the U.S. Supreme Court is set for oral argument on the question of whether the discovery stay provision in the federal Private Securities Litigation Reform Act applies in state court matters. *Pivotal Software Inc. v. Superior Court of California*, 20-1541 (S. Ct., argument set for Nov. 9, 2021).

Eth leads the team representing Pivotal and its executives in the underlying federal and state securities litigation in the Northern District and in San Francisco County Superior Court. The plaintiffs allege that Pivotal misled investors about the capabilities of its software products and sales projections before its IPO. Eth obtained dismissal of the federal litigation in September 2020; the high court granted cert on Pivotal's request for review of the discovery stay's application in the parallel state court case. State courts have been divided on whether the stay provision applies to them; a San Francisco trial judge OK'd the Pivotal plaintiffs' discovery request.

"The Supreme Court takes maybe one securities case per term," Eth said. "They thought this was an important issue of statutory interpretation." He pointed out that the reform act's text says that its discovery stay provision applies in "any private action arising under" the securities act. "Our position is that 'any' means 'any,'" he said.

Eth leads the team that prevailed for Oracle Corp. by obtaining dismissal of a derivative suit by shareholders who claimed the board of directors' statements regarding a commitment to diversity were contradicted by allegations of discriminatory hiring. *Klein v. Ellison et al.*, 3:20-cv-04439 (N.D. Cal., filed July 2, 2020).

And Eth won dismissal for an aerospace client in a securities class action over claims it misled investors. The win came on a second motion for reconsideration of its summary judgment ruling following a favorable ruling in a separate matter by a 9th U.S. Circuit Court of Appeals panel. *Murphy v. Precision Castparts Corp.* 3:16-cv-00521 (D. Ore., filed March 25, 2016).

"The case was headed toward trial. To have a judge grant a motion for reconsideration is unusual," Eth said.

- John Roemer