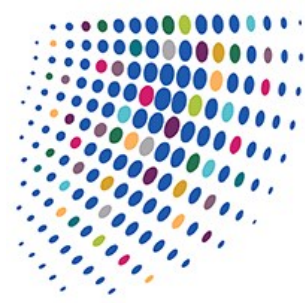


Alerts & Publications



Dismantling the SEC's Federal Court Disgorgement Authority

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KEY CONTACTS

Jonathan Rosenberg

New York
D: +1-212-408-2409

Bill Martin

New York
D: +1-212-728-5942

Alec Schierenbeck

New York
D: +1-212-728-5837

O'Melveny partner Jonathan Rosenberg, counsel Bill Martin, and associate Alec Schierenbeck co-authored this *New York Law Journal* article, which considers the US Supreme Court's decision to hear an appeal from the Ninth Circuit challenging whether a federal court can order disgorgement in an enforcement action brought by the Securities and Exchange Commission. As the authors note, the court previously held that SEC disgorgement, which requires defendants to turn over gains derived from violating federal securities laws, is a "penalty" subject to the securities laws' five-year statute of limitations for penalties.

"The SEC's power to seek disgorgement as an equitable remedy in federal court appears increasingly tenuous," they write. "It therefore seems unlikely that the court will leave the federal court disgorgement remedy undisturbed. More likely is that the court will either rule that such disgorgement is unavailable entirely, or at least limit the remedy in some way."

Read the full article [here](#).