

In the Supreme Court of the United States

ZILLOW GROUP, INC. ET AL., APPLICANTS

v.

JEREMY JAEGER, ET AL.

**APPLICATION DIRECTED TO THE HONORABLE ELENA KAGAN
FOR AN EXTENSION OF TIME TO FILE A PETITION FOR A WRIT OF
CERTIORARI TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

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PARTIES TO THE PROCEEDING

Applicants are Zillow Group, Inc., Richard Barton, Allen Parker, and Jeremy Wacksman. Respondents are Jeremy Jaeger and all others similarly situated.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, Applicants Zillow Group, Inc., Richard Barton, Allen Parker, and Jeremy Wacksman represent as follows: Zillow does not have a parent corporation, and no publicly held corporation owns 10% or more of Zillow stock.

APPLICATION FOR EXTENSION OF TIME

To the Honorable Elena Kagan, Associate Justice of the United States Supreme Court and Circuit Justice for the United States Court of Appeals for the Ninth Circuit:

1. Pursuant to 28 U.S.C. § 2101(c) and Supreme Court Rules 12, 13.3, 13.5, 22, 30, and 33.2, Applicants Zillow Group, Inc., Richard Barton, Allen Parker, and Jeremy Wacksman (Zillow) respectfully request a 60-day extension of time, up to and including Friday, June 5, 2026, to file a petition for a writ of certiorari. The United States Court of Appeals for the Ninth Circuit issued its opinion and entered judgment in Zillow’s case on September 26, 2025, and issued its order denying Zillow’s petition for rehearing en banc on January 6, 2026. The opinion is unreported but available at 2025 WL 2741642, and a copy is attached as Appendix A (App. 1a-5a). A copy of the order denying rehearing en banc is attached as Appendix B (App. 6a). Zillow’s petition is currently due April 6, 2026. This application has been filed on March 27, 2026, ten days before the time for filing the petition is set to expire. This Court has jurisdiction under 28 U.S.C. § 1254(1) to review the decision of the Ninth Circuit.

2. Zillow submits that this case warrants the Court’s review because, among other things, the court of appeals’ decision conflicts with this Court’s decision in *Goldman Sachs Group, Inc. v. Arkansas Teacher Retirement System*, 594 U.S. 113 (2021), and the Second Circuit’s decision on remand in that same case, *Arkansas Teacher Retirement System v. Goldman Sachs Group, Inc.*, 77 F.4th 74 (2d Cir. 2023) (*Goldman II*). To certify a class in a securities fraud case, a plaintiff must generally invoke the “fraud-on-the-market” doctrine, which allows courts to presume that

investors implicitly relied on the defendant’s alleged misstatements when the defendant’s stock was traded in an efficient market that incorporated material, public information into the stock’s price. *See Basic Inc. v. Levinson*, 485 U.S. 224, 246-47 (1988). To invoke the fraud-on-the-market doctrine, a plaintiff must show (among other things) that the alleged misstatements impacted the defendant’s stock price at the time the alleged misstatements were made. *See Halliburton Co. v. Erica P. John Fund, Inc.*, 573 U.S. 258, 283 (2014).

In some cases, securities plaintiffs argue that the defendant’s alleged misstatements impacted the stock’s price by preventing it from declining—a so-called “inflation maintenance” theory of price impact. “Plaintiffs typically try to prove” that theory “indirectly: They point to a negative disclosure about a company and an associated drop in its stock price; allege that the disclosure corrected an earlier misrepresentation; and then claim that the price drop is equal to the amount of inflation maintained by the earlier misrepresentation.” *Goldman*, 594 U.S. at 123. In *Goldman*, the Court explained that defendants can rebut an inflation maintenance theory by showing that “there is a mismatch between the contents of the misrepresentation and the corrective disclosure.” *Id.* Applying that guidance, the Second Circuit in *Goldman II* further held that alleged front-end misstatements and back-end disclosures are mismatched when the back-end statements do not directly falsify the front-end statements, and thus fail to reveal how the market would have reacted to truthful versions of the front-end statements. *Goldman II*, 77 F.4th at 96-101.

Rather than conduct the “mismatch” analysis required by *Goldman*, the Ninth Circuit below upheld the plaintiffs’ inflation maintenance theory in this case because it found that Zillow’s front- and back-end statements concerned the same general subject matter. (App. 1a-5a.) That decision merits the Court’s review because it conflicts with both *Goldman* and *Goldman II* and allows plaintiffs to certify classes in tenuous cases like this one where there is no class-wide evidence of reliance. Given the rarity of Rule 23(f) grants—the Ninth Circuit’s grant in this case was its first in a securities case in a decade—and trials in securities cases with certified classes, the Ninth Circuit’s approach will functionally set the course for a substantial number of securities fraud cases for years to come. The Court should take this opportunity to intervene and halt the Ninth Circuit’s departures from *Goldman*.

Moreover, the Ninth Circuit’s decision in this case perpetuates mass confusion among the lower courts about what *Goldman*’s mismatch analysis requires, showing the harm that will continue unless this Court intervenes. For example, in *San Diego County Employees Retirement Ass’n v. Johnson & Johnson*, No. 24-1409, 2025 WL 2176586, at *4 (3d Cir. July 30, 2025), *petition for cert. filed*, No. 25-977 (Feb. 4, 2026), the Third Circuit, like the lower courts in this case, affirmed class certification simply because the back-end disclosures “contained information relating to” the general subject matter of the alleged misstatements. But *Goldman* forecloses that approach. As *Goldman II* explained, “requiring only a general front-end-back-end subject matter match ... does not meaningfully account for the Supreme Court’s guidance in *Goldman*” to consider whether the statements work as stand-ins for one

another. 77 F.4th at 100-01. Or take *In re Mattel, Inc. Securities Litigation*, No. 19-cv-10860, 2021 WL 4704578 (C.D. Cal. Oct. 6, 2021). There, the court certified a class despite acknowledging that the front- and back-end statements were mismatched because it thought that applying *Goldman's* mismatch standard would be bad policy. *Id.* at *5-6. Other decisions from around the country reflect similar errors in certifying classes that likely wouldn't be certifiable under *Goldman* and *Goldman II*. See, e.g., *Ferris v. Wynn Resorts Ltd.*, No. 18-cv-479, 2023 WL 2337364, at *10 (D. Nev. Mar. 1, 2023); *Delaware County Employees Retirement System v. Cabot Oil & Gas Corp.*, No. H-21-2045, 2023 WL 6300569, at *7 (S.D. Tex. Sept. 27, 2023); *In re Apple Inc. Securities Litigation*, No.19-cv-2033, 2022 WL 354785, at *9 (N.D. Cal. Feb. 4, 2022).

3. Zillow has good cause to seek an extension of time. Zillow's counsel have been addressing and must continue to address competing deadlines extending from March through June, including briefing before this Court, that have made and will continue to make it difficult to meet the current deadline for filing a petition for writ of certiorari. Those briefing deadlines and argument dates include:

- March 20, 2026: merits response brief filed in *Bondi v. Lau*, No. 25-429 (S. Ct.) (deadline was not extendable given April 22, 2026, oral argument date);
- March 23, 2026: response brief filed in *FedEx Corp. v. United States*, No. 25-5694 (6th Cir.) (on an extension under Sixth Circuit Rule 33);
- March 23, 2026: certiorari-stage reply brief filed in *Johnson v. United States*, No. 25-774 (S. Ct.);
- March 24, 2026: reply brief filed in *North American Derivatives Exchange, Inc. v. Nevada*, Nos. 25-7187, 25-7516, & 25-7831 (9th Cir.) (on an expedited schedule for April 16, 2026, oral argument date);

- April 15, 2026: response brief due in *United States v. Jordan*, No. 25-6888 (4th Cir.);
- April 15, 2026: oral argument in *State v. Barton*, No. 2025-0912 (Ohio);
- April 16, 2026: oral argument in *North American Derivatives Exchange, Inc. v. Nevada*, Nos. 25-7187, 25-7516, & 25-7831 (9th Cir.);
- April 16, 2026: opening brief due in *Berner & Lapp v. Getty Images Holdings, Inc.*, Nos. 25-1794 & 25-1795 (2d Cir.);
- April 22, 2026: oral argument in *Bondi v. Lau*, No. 25-429 (S. Ct.);
- April 24, 2026: deferred appendix due in *G&A Strategic Investments I LLC v. Petroleos de Venezuela S.A.*, Nos. 25-1789, 25-1791, 25-1796, & 25-1970 (2d Cir.);
- April 29, 2026: reply brief due in *Soroban Capital Partners LP v. Commissioner*, Nos. 25-2079 & 25-2250 (2d Cir.) (on an extension);
- April 29, 2026: response brief due in *United States v. Carter*, No. 25-885 (S. Ct.) (on two thirty-day extensions);
- May 5, 2026: certiorari-stage reply brief due in *Grayson v. United States*, No. 25-851 (S. Ct.);
- May 8, 2026: final-form opening brief due in *G&A Strategic Investments I LLC v. Petroleos de Venezuela S.A.*, Nos. 25-1789, 25-1791, 25-1796, & 25-1970 (2d Cir.); and
- June 2, 2026: response and reply brief due in *G&A Strategic Investments I LLC v. Petroleos de Venezuela S.A.*, Nos. 25-1789, 25-1791, 25-1796, & 25-1970 (2d Cir.).

Zillow respectfully submits that counsel's need for additional time to prepare the petition for a writ of certiorari given the press of existing business constitutes good cause for an extension of time.

CONCLUSION

For the foregoing reasons, Zillow respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari by 60 days, up to and including June 5, 2026.

Dated: March 27, 2026

Respectfully submitted,

/s/ Shay Dvoretzky

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APPENDIX A

FILED

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

SEP 26 2025

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JEREMY JAEGER,

Plaintiff - Appellee,

v.

ZILLOW GROUP, INC.; RICHARD
BARTON; ALLEN PARKER; JEREMY
WACKSMAN,

Defendants - Appellants.

No. 24-6605

D.C. No.

2:21-cv-01551-TSZ

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Thomas S. Zilly, District Judge, Presiding

Argued and Submitted August 14, 2025
Anchorage, Alaska

Before: GRABER, OWENS, and R. NELSON, Circuit Judges.

Defendant Zillow Group, Inc. appeals the district court's decision to grant class certification under Federal Rule of Civil Procedure 23(c)(1). We review the district court's order for abuse of discretion. *See Lara v. First Nat'l Ins. Co. of Am.*, 25 F.4th 1134, 1138 (9th Cir. 2022). We affirm.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

1. The district court properly applied the relevant legal standard when determining whether Zillow rebutted the presumption of reliance established in *Basic Inc. v. Levinson*, 485 U.S. 224, 246–47 (1988). Under *Goldman Sachs Group, Inc. v. Arkansas Teacher Retirement System*, 594 U.S. 113, 119 (2021), “price impact” analysis serves as the appropriate standard at the class certification stage. Price impact analysis allows the defendant to rebut the *Basic* presumption at the class certification stage by showing—with the district court as the fact finder—that the “alleged misrepresentation did not actually affect the market price of the stock.” *Id.* (citation omitted). Loss causation, on the other hand, is a merits concept similar to proximate cause, which requires the plaintiff to show that the alleged misrepresentations caused the price of the stock the plaintiff purchased to become inflated, and that the inflation caused economic loss when the statements were revealed as false. *In re BofI Holding, Inc. Sec. Litig.*, 977 F.3d 781, 789 (9th Cir. 2020).

In an inflation-maintenance case, both standards require courts to consider substantially similar questions. Because the price impact standard assumes that a back-end “price drop is equal to the amount of inflation maintained by the earlier misrepresentation,” *Goldman*, 594 U.S. at 123, courts applying that standard may demand a closer fit in the level of generality and substance when comparing front- and back-end statements, *compare id.*, with *BofI*, 977 F.3d at 790 (“[T]o be

corrective, a disclosure need not precisely mirror the earlier misrepresentation.” (citation and internal quotation marks omitted)). But that does not mean the district court erred by looking to loss-causation case law for guidance. *Cf. Goldman*, 594 U.S. at 123 (citing *In re Vivendi, S. A. Sec. Litig.*, 838 F.3d 223, 233–37, 253–59 (2d Cir. 2016)).

Nor did the district court err by considering circumstantial evidence of the price drop immediately after the alleged corrective disclosures. *See Mineworkers’ Pension Scheme v. First Solar Inc.*, 881 F.3d 750, 754 (9th Cir. 2018) (per curiam). “Because loss causation is simply a variant of proximate cause, the ultimate issue is whether the defendant’s misstatement, as opposed to some other fact, foreseeably caused the plaintiff’s loss.” *Id.* at 753 (citation omitted). Even if a later disclosure does not refer directly to an alleged misrepresentation, it may reveal “true facts concealed” by such misrepresentation. *Bofi*, 977 F.3d at 790. If so, the “truth [becomes] known,” *id.* at 789 (citation omitted), and a changed market price may indicate how the market would have reacted had the defendant told the truth from the start. “[A] court cannot conclude that Rule 23’s requirements are satisfied without considering *all* evidence relevant to price impact.” *Goldman*, 594 U.S. at 122. Such evidence includes the circumstantial evidence of a price drop.

2. The district court found that Zillow failed to rebut the *Basic* presumption by a preponderance of the evidence. That finding was not illogical, implausible, or without support in the record. See *White v. Symetra Assigned Benefits Serv. Co.*, 104 F.4th 1182, 1191 (9th Cir. 2024). Zillow contends that it never revealed the use of manual overlays until November 9 and 17, 2021—after the close of the class period. But this contention alone does not mean that the district court abused its discretion by determining that the alleged misrepresentations were sufficiently related to the back-end disclosures. “It is enough if the disclosure reveals new facts that, taken as true, render some aspect of the defendant’s prior statements false or misleading.” *BofI*, 977 F.3d at 790. The disclosures revealed new information showing the extent of Zillow’s home-pricing struggles.

The alleged misrepresentations suggest that Zillow, while struggling to get its pricing model right, had made “progress . . . in strengthening [its] pricing models.” Yet a few months later, Zillow closed the entire home-buying side of its business because it had been “unable to accurately forecast future home prices,” and its pricing algorithm’s “observed error rate” was “far more volatile than . . . expected.”

The back-end disclosures thus revealed new information about how Zillow’s home-pricing struggles threatened the business and suggested that its earlier statements may have obscured how Zillow’s pricing model misfired. Zillow’s

front-end and back-end statements are matched enough under *Goldman*. See 594 U.S. at 122–23.

Zillow’s argument that the KeyBanc report did not disclose new information about Zillow’s overpayment for houses also does not support an abuse of discretion. The record suggests that this information was not widely discussed or accessible until the KeyBanc report was released. See *In re Genius Brands Int’l, Inc. Sec. Litig.*, 97 F.4th 1171, 1186 (9th Cir. 2024) (“[S]ecurities issuers should not escape liability for misrepresentations merely because . . . corrective information was publicly available on some webpage tucked in a deep corner of the internet.”).

3. Finally, Zillow did not rebut the presumption that the district court “consider[ed] all of the evidence.” *W. Pac. Fisheries, Inc. v. S.S. President Grant*, 730 F.2d 1280, 1285 (9th Cir. 1984). The district court characterized some evidence as relating “to loss causation and the merits,” but that does not mean it refused to consider it. Indeed, the district court said that the same evidence “does not preclude class certification,” and thus demonstrated that the court considered it. And the district court did not ignore the Sabry report, as it cited it several times.

AFFIRMED.

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JAN 6 2026

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JEREMY JAEGER,

Plaintiff - Appellee,

v.

ZILLOW GROUP, INC.; et al.,

Defendants - Appellants.

No. 24-6605

D.C. No.

2:21-cv-01551-TSZ

Western District of Washington,
Seattle

ORDER

Before: GRABER, OWENS, and R. NELSON, Circuit Judges.

The panel has unanimously voted to deny the petition for panel rehearing. Judge Owens and Judge R. Nelson vote to deny the petition for rehearing en banc, and Judge Graber so recommends. The full court was advised of the petition for rehearing en banc, and no judge has requested a vote on whether to rehear the matter en banc. *See Fed. R. App. P. 40.*

The petition for panel rehearing and the petition for rehearing en banc (Dkt. No. 50) are **DENIED**.