

No. 25A_____

IN THE
SUPREME COURT OF THE UNITED STATES

SAFRON CAPITAL CORPORATION AND THE GENERAL RETIREMENT
SYSTEM OF THE CITY OF DETROIT, INDIVIDUALLY
AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED,
Applicants,

v.

ELANCO ANIMAL HEALTH INC.; JEFFREY N. SIMMONS; TODD S. YOUNG;
JAMES M. MEER; R. DAVID HOOVER; KAPILA KAPUT ANAND; JOHN P. BILBREY;
ART A. GARCIA; MICHAEL J. HARRINGTON; DEBORAH T. KOICHEVAR;
LAWRENCE E. KURZIUS; KIRK McDONALD; DENIS SCOTS-KNIGHT; GOLDMAN SACHS &
Co. LLC; CITIGROUP GLOBAL MARKETS INC.; J.P. MORGAN SECURITIES LLC;
BOFA SECURITIES, INC.; BARCLAYS CAPITAL INC.; BNP PARIBAS SECURITIES CORP.;
MIZUHO SECURITIES USA LLC; MUFG SECURITIES AMERICAS INC.;
AND STIFEL NICOLAUS & Co. INC.,
Respondents.

**APPLICATION FOR AN EXTENSION OF TIME WITHIN WHICH
TO FILE PETITION FOR A WRIT OF CERTIORARI TO THE
COURT OF APPEALS OF INDIANA**

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May 15, 2026

PARTIES TO THE PROCEEDINGS BELOW

Applicants Safron Capital Corporation and The General Retirement System of the City of Detroit, individually and on behalf of all others similarly situated, were the plaintiffs in the proceedings before the Marion Superior Court, Indiana Commercial Court; the appellants in the proceedings before the Court of Appeals of Indiana; and the appellants in the proceedings before the Indiana Supreme Court.

Respondents Elanco Animal Health Inc.; Jeffrey N. Simmons; Todd S. Young; James M. Meer; R. David Hoover; Kapila Kaput Anand; John P. Bilbrey; Art A. Garcia; Michael J. Harrington; Deborah T. Kochevar; Lawrence E. Kurzius; Kirk McDonald; Denis Scots-Knight; Goldman Sachs & Co. LLC; Citigroup Global Markets Inc.; J.P. Morgan Securities LLC; BofA Securities, Inc.; Barclays Capital Inc.; BNP Paribas Securities Corp.; Mizuho Securities USA LLC; MUFG Securities Americas Inc.; and Stifel Nicolaus & Co. Inc. were the defendants in the proceedings before the Marion Superior Court, Indiana Commercial Court; the appellees in the proceedings before the Court of Appeals of Indiana; and the appellees in the proceedings before the Indiana Supreme Court.

RULE 29.6 STATEMENT

Pursuant to this Court's Rule 29.6, applicant Safron Capital Corporation states that there is no parent or publicly held company owning 10% or more of Safron Capital Corporation.

RELATED CASES

State Proceedings (Under Review)

Safron Capital Corp., et al. v. Elanco Animal Health, Inc., et al.,
No. 24A-CT-01164 (Ind. Feb. 26, 2026) (denying petition to transfer jurisdiction)

Safron Capital Corp., et al. v. Elanco Animal Health, Inc., et al.,
No. 24A-CT-01164 (Ind. Ct. App. Aug. 1, 2025) (267 N.E.3d 463)
(affirming trial court), *petition for reh'g denied* (Sept. 23, 2025)

Safron Capital Corp., et al. v. Elanco Animal Health, Inc., et al.,
No. 49D01-2010-CT-36760 (Marion Super. Ct., Ind. Com. Ct. Apr. 17, 2024)
(dismissing second amended complaint)

Related Federal Proceedings (Not Under Review)

Hunter, et al. v. Elanco Animal Health Inc., No. 1:20-CV-01460-SEB-MG,
2022 WL 3445173 (S.D. Ind. Aug. 17, 2022) (dismissing first amended complaint)

Hunter, et al. v. Elanco Animal Health Inc., No. 1:20-CV-01460-SEB-MG,
2023 WL 6295487 (S.D. Ind. Sept. 27, 2023) (denying leave to file second amended
complaint), *appeal pending*, No. 23-3061 (7th Cir.)

**APPLICATION FOR AN EXTENSION OF TIME WITHIN WHICH
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To the Honorable Amy Coney Barrett, Associate Justice of the United States Supreme Court and Circuit Justice for the Seventh Circuit:

Pursuant to 28 U.S.C. § 2101(c) and Rules 13.5, 22, and 30.3 of the Rules of this Court, applicants Safron Capital Corporation and The General Retirement System of the City of Detroit, individually and on behalf of all others similarly situated, request a 58-day extension of time, up to and including July 24, 2026, within which to file a petition for a writ of certiorari to review the judgment of the Court of Appeals of Indiana.

The Court of Appeals of Indiana entered its judgment on August 1, 2025, and the Indiana Supreme Court denied a petition to transfer jurisdiction on February 26, 2026. The court of appeals' opinion (reported at 267 N.E.3d 463) is attached hereto as Exhibit A; the Indiana Supreme Court's order denying the petition to transfer jurisdiction is attached hereto as Exhibit B. The order of the Marion Superior Court, Indiana Commercial Court, dismissing the second amended complaint is attached hereto as Exhibit C. The petition would be due on May 27, 2026, and this application is made at least 10 days before that date. This Court's jurisdiction would be invoked under 28 U.S.C. § 1257(a).

1. This case presents important questions regarding when, if ever, a complaint alleging claims under §§11 and 12(a)(2) of the Securities Act of 1933 (the

“Securities Act”), 15 U. S. C. §§77k, 77l(a)(2), may be dismissed on the grounds of materiality as a matter of law.

This Court has explicitly held that the pleading requirements for claims brought under §§11 and 12(a)(2) are “relatively minimal.” *Herman & MacLean v. Huddleston*, 459 U.S. 375, 382 (1983). Indeed, a plaintiff “need only show a material misstatement or omission to establish his prima facie case.” *Id.*; see also *Slack Tech., LLC v. Pirani*, 598 U.S. 759, 762 (2023).

Therefore, the applicable standard for whether information is required to be disclosed under §§11 and 12(a)(2) is simply the standard for materiality: Is there a substantial likelihood that disclosure of the omitted information would have been viewed by a reasonable investor as having significantly altered the total mix of information made available? *TSC Indus. v. Northway*, 416 U.S. 438, 449 (1976).

Importantly, as this Court explained, materiality in this context is a “mixed question of law and fact,” which involves “the application of a legal standard to a particular set of facts.” *TSC*, 416 U.S. at 450 (reversing partial summary judgment because a genuine issue of material fact existed as to whether any of the omissions were material). Accordingly, even at the summary judgment stage, “[t]he determination requires delicate assessments of the inferences a ‘reasonable shareholder’ would draw from a given set of facts and the significance of those inferences to him, and these assessments are peculiarly ones for the trier of fact.” *Id.* However, in dismissing the operative complaint as a matter of law, the lower court

failed to determine that no reasonable investor would have viewed the omitted information as material.

In dismissing the complaint in this action, the lower court quoted and relied on, *inter alia*, the Seventh Circuit. The lower court stated that “While materiality is normally a question of fact reserved for the trier of fact, we can resolve materiality as a matter of law when the information at issue is so obviously unimportant that reasonable minds could not differ.” *Safron Cap. Corp. v. Elanco Animal Health Inc.*, 267 N.E.3d 463, 474 (Ind. Ct. App. 2025), *reh’g denied* (Sept. 23, 2025), *transfer denied sub nom. Safron Cap. Corp. v. Elanco Animal Health Corp.*, 275 N.E.3d 505 (Ind. 2026), *quoting Smykla v. Molinaroli*, 85 F.4th 1228, 1236 (7th Cir. 2023) (further citations omitted).

Notably, in a Dissent, Justice Thomas stated that “[a]lthough this Court has relied on factual findings to support a materiality conclusion, *Davison v. Von Lingen*, 113 U.S. 40, 50, 5 S.Ct. 346, 28 L.Ed. 885 (1885), I am not aware of a case in which this Court has treated the materiality inquiry as a pure question of law without relying on any factual findings whatsoever.” *CITGO Asphalt Ref. Co. v. Frescati Shipping Co., Ltd.*, 589 U.S. 348, 372 (2020). Writing for the majority of the Court, Justice Sotomayer responded to the dissent, in part:

For not all questions of materiality are alike: Sometimes materiality is a question of law. See, *e.g.*, 30 Williston § 75:30, at 108 (whether an alteration of a contract is material). Other times, it involves factual determinations uniquely suited for a jury. See, *e.g.*, *TSC Industries, Inc. v. Northway, Inc.*, 426 U.S. 438, 450, 96 S.Ct. 2126, 48 L.Ed.2d 757 (1976) (whether a company's misstatements to the public are material for securities-fraud purposes). The

dissent’s insistence that materiality is a question of fact “ ‘in other contexts’ ”—such as securities fraud—thus is inapposite. *Post*, at — (quoting *United States v. Gaudin*, 515 U.S. 506, 512, 115 S.Ct. 2310, 132 L.Ed.2d 444 (1995)).

CITGO, 589 U.S. at 357 n.4.

Therefore, in the securities context, both the *CITGO* Opinion and Dissent make a plausible case for arguing that, in the securities context, materiality cannot be decided as a question of law.

2. The 58-day extension to file a certiorari petition is necessary due to the complex nature of this case and fact that Applicants are in the process of retaining additional counsel whose regular practice is before this Court. That counsel has informed the undersigned that, among other things, he has, *inter alia*, an *amicus* brief due before this Court on June 4, 2026, and a certiorari petition due in this Court on June 26, 2026.

For all these reasons, there is good cause for a 58-day extension of time, up to and including July 24, 2026, within which to file a certiorari petition in this case to review the judgment of the Court of Appeals of Indiana.

Respectfully submitted,



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