

No. 26-_____

IN THE
Supreme Court of the United States

COURTNEY KELLN,

Petitioner,

v.

U.S. SECURITIES AND EXCHANGE COMMISSION, PAUL
SEXTON, JACKSON T. FRIESEN, MIKE K. VELDHUIS, AND
ZHIYING YVONNE GASARCH,

Respondents.

**On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the First Circuit**

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether a district court, having found that the evidence does not demonstrate receipt of funds by individual defendants, can nonetheless impose joint-and-several disgorgement based solely on “concerted wrongdoing,” notwithstanding the strong presumption against joint-and-several liability and the absence of any of the relevant factors this Court identified in *Liu v. SEC*, 591 U.S. 71 (2020).

PARTIES TO THE PROCEEDING

The Petitioner is Courtney Kelln, a defendant in the district court and appellant in the court of appeals. The primary Respondent is the U.S. Securities and Exchange Commission (SEC), plaintiff in the district court and appellee in the court of appeals. Also listed as Respondents are Paul Sexton, Jackson T. Friesen, Mike K. Veldhuis, and Zhiying Yvonne Gasarch, defendants in the district court and appellants in the court of appeals, each of whom have also filed separate petitions for certiorari. As explained below, by way of this companion petition, Kelln adopts the grounds set forth in the lead petition submitted by Sexton, Friesen, and Veldhuis.

None of the parties to the proceeding have stock ticker symbols, as they are either natural persons or a governmental agency.

RELATED PROCEEDINGS

United States District Court (D. Mass.):

SEC v. Sharp, No. 1:21-cv-11276 (June 20, 2024)

United States Court of Appeals (1st Cir.):

SEC v. Gasarsch, Nos. 24-1770, 24-1771, 24-1772, 24-1773, 24-1774 (Feb. 19, 2026)

OPINIONS BELOW

The opinion of the court of appeals is reported at 168 F.4th 11. The memorandum opinion and order of the district court is reported at 737 F. Supp. 3d 66. Both opinions are contained in the appendix filed with the lead petition of Paul Sexton, Jackson T. Friesen, and Mike K. Veldhuis (“Sexton App.”). *See* Sexton App. 1a–82a (court of appeals opinion), 83a–135a (district court opinion).

JURISDICTION

The judgment of the court of appeals was entered on February 19, 2026, and the court of appeals denied a timely petition for rehearing on May 1, 2026. On May 14, 2026, Justice Jackson extended the time within which to file a petition for a writ of certiorari to and including August 31, 2026 (No. 25A1241). The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

15 U.S.C. § 78u(d)(3) provides:

(A) Authority of Commission

Whenever it shall appear to the Commission that any person has violated any provision of this chapter, the rules or regulations thereunder, or a cease-and-desist order entered by the Commission pursuant to section 78u-3 of this title, other than by committing a violation subject to a penalty pursuant to section 78u-1 of this title, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to— ...

(ii) require disgorgement under paragraph (7) of any unjust enrichment by the person who received such unjust enrichment as a result of such violation.

15 U.S.C. § 78u(d)(7) provides:

In any action or proceeding brought by the Commission under any provision of the securities laws, the Commission may seek, and any Federal court may order, disgorgement.

STATEMENT OF THE CASE

This is a companion petition that adopts the reasons for granting certiorari set forth in the lead petition and accompanying appendix filed by Paul Sexton, Jackson T. Friesen, and Mike K. Veldhuis, co-defendants/appellants in the consolidated proceedings below.

Petitioner Courtney Kelln was an administrative assistant who operated at the direction of her boss, an attorney almost thirty years her senior, in performing basic tasks relating to transfers of securities. According to the SEC, however, her boss, Fred Sharp, was engaged in a pump and dump scheme. With Sharp nowhere to be found, the district court entered default judgment against him and imposed disgorgement on Kelln and other defendants based on joint-and-several liability for concerted wrongdoing with Sharp. The court of appeals, which had jurisdiction pursuant to 28 U.S.C. § 1291, affirmed.

ARGUMENT

Certiorari is warranted because the decision below threatens to erase the limits the Court placed on the SEC's disgorgement power and creates a split with the Fifth Circuit.

1. The imposition of joint-and-several disgorgement exceeds the limits the Court placed on the SEC’s statutory disgorgement power in *Liu v. SEC*, 591 U.S. 71 (2020). *Liu* warned that joint-and-several disgorgement risks transforming an “equitable profits-focused remedy into a penalty” and that it “runs against the rule to not impose joint liability.” *Id.* at 90. Yet the district court imposed joint-and-several disgorgement *sua sponte*, despite expressly finding that the evidence “does not show that ill-gotten gains have been obtained and retained by the individual Defendants, much less in the amounts requested by the SEC.” Sexton App. 47a.

2. The decision below also conflicts with the Fifth Circuit’s approach in *SEC v. Stack*, No. 23-50327, 2024 WL 4199017 (5th Cir. Sept. 16, 2024), which held that disgorgement cannot include funds a defendant “did not keep or benefit from.” *Id.* at *3. The Fifth Circuit also refused to impose joint-and-several liability on its own where the SEC had abandoned that theory, *id.* at *4, which conflicts with the *sua sponte* order here and the SEC’s attempted abandonment of that theory before the First Circuit. This case is an ideal vehicle to clarify that SEC disgorgement cannot be transformed into a penalty through uncabined joint-and-several liability, and certainly not where the SEC does not even request such relief.

CONCLUSION

The Court should grant the petition.

Respectfully submitted,

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