Davis Polk

Supreme Court rejects implied private right of action under ICA's section 47(b)

August 13, 2026 | Articles & Books

Davis Polk partner and Investment Management practice head Leor Landa, along with partners Oran Ebel, Chris Healey and Greg Rowland co-authored “Supreme Court rejects implied private right of action under ICA’s section 47(b)” in *SecondaryLink*.

The article discussed the reasoning and implications of the Supreme Court’s decision that Section47(b) of the Investment Company Act (ICA) does not contain an implied private right of action to sue for recission of contracts that allegedly violate the act.

Explaining the decision, the article noted, “On June 11, 2026, the Court issued its decision reversing the Second Circuit by a 6-3 margin. Justice Barrett, writing for the majority, began by reviewing the Supreme Court’s shift – now several decades old – away from implying private rights of action in statutes that otherwise provide for express rights of action.”

“The most immediate consequence of the Supreme Court’s ruling is that investment companies will no longer be subject to private suits for recission under Section 47(b),and that the four remedies Section 47(b) provides can only be sought in a suit otherwise available to investors,” the article explained.

Read the article