

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JEFFREY TOOLE,

Plaintiff,

v.

AFFIRM HOLDINGS, INC., et al.,

Defendants.

Case No. 22-cv-01243-VC

**ORDER GRANTING MOTION TO  
DISMISS**

Re: Dkt. No. 70

The motion to dismiss is granted. The complaint does not even come close to satisfying the PSLRA's scienter requirement. Indeed, the context (quickly taking down the tweet and accelerating the earnings release) creates a far more compelling inference that the company reacted quickly to correct a mistake that was embarrassing but not nefarious.

Arguably, this is the rare PSLRA case where dismissal with prejudice would be appropriate at the outset, because it is so difficult to imagine that the plaintiffs will ever be able to state a claim. But in an abundance of caution, the plaintiffs will be given leave to amend. Any amended complaint must be filed within 21 days of this ruling, with a response due 21 days after the amended complaint is filed.

**IT IS SO ORDERED.**

Dated: September 28, 2022



VINCE CHHABRIA  
United States District Judge