

In The News

Donnie M. King, Ryan Roman, and Reginald Janvier Help Companies Avoid the Mixed Statement Trap in AI Disclosures in Part Three of Their Five-Part *Law360* Series on AI-Driven Securities and Governance Risk

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Akerman Litigation Practice Group Partners [Donnie M. King](#) and [Ryan Roman](#) and Associate [Reginald Janvier](#) authored “Fortifying the Disclosure Record: Navigating the Mixed Statement Trap” for *Law360*, the third installment in a five-part series on AI-driven securities and governance risk.

[Part One](#) identified an emerging litigation risk: that the plaintiffs’ bar may seek to frame material corporate decisions, such as AI-driven workforce reductions and restructurings, as securities fraud.

[Part Two](#) showed companies the importance of properly aligning board records with AI disclosures.

[Part Three](#) shows how disciplined disclosure drafting provides the next line of defense. It explains how a single sentence in a press release or earnings call can provide plaintiffs with the factual hook needed to survive a motion to dismiss in operational AI-washing cases.

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Donnie, Ryan, and Reggie identify the “mixed statement” trap: when companies blend factual claims about current operations with future projections in a single disclosure, most federal circuits strip Safe Harbor protection from the factual components, and some jurisdictions eliminate protection entirely. For companies navigating this risk, they recommend separating present facts from future projections into distinct sentences, including meaningful cautionary language that addresses specific operational risks rather than generic disclaimers, and maintaining alignment across all public-facing channels — noting that earnings calls, MD&A sections, and investor presentations carry the same litigation risk as formal SEC filings but often receive substantially less legal review.

Part Four, published next Tuesday, will show how defense counsel can use heightened pleading standards to dismiss operational AI-washing claims before discovery begins. A new installment in the series will be published each Tuesday through June 9, 2026.

[Click here to view Part 3.](#)

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