

## U.S. Supreme Court Docket Oct. 2014 Term— Federal Securities Cases

Docket No.	Date	Opinions of the Court	Subject	Status	Holding
Docket No.	Date filed	Granted Petitions	Subject	Status	Questions
13-7451	11/11/13	<a href="#">Yates v. U.S.</a>	Sarbanes-Oxley Act	Certiorari granted (4/28/14)  Oral argument scheduled for Wednesday, November 5, 2014.	Whether SOX extends to the destruction of anything meeting the dictionary definition of "tangible objects," or is limited to the destruction of tangible objects related to recordkeeping.
13-435	10/4/13	<a href="#">Omnicare, Inc. v. The Laborers District Council Construction Industry Pension Fund</a>	Securities Act Sec. 11	Certiorari <a href="#">granted</a> (3/3/14)  Oral argument scheduled for Monday, November 3, 2014.	For the purposes of a Securities Act Sec. 11 claim, whether a plaintiff may plead that a statement of opinion was "untrue" merely by alleging that the opinion itself was objectively wrong, or must the plaintiff also allege that the statement was subjectively false.  <a href="#">Sixth Circuit opinion.</a>
Docket No.	Date Filed	Pending Petitions	Subject	Status	Questions Presented
14-189	8/14/14	<a href="#">Esquenazi v. U.S.</a>	FCPA	Certiorari <a href="#">denied</a> (10/6/14)	Whether the 11th Circuit's definition of "instrumentality" under the FCPA as "an entity controlled by the government of a foreign country that performs the function the controlling government treats as its own" (1) fails to satisfy the constitutional requirement of adequate notice of what specific conduct violates the FCPA, and (2) is erroneously derived from commentary to an unrelated treaty that postdates the FCPA's enactment.
14-135	7/23/14	Haines v. Tremont Group Holdings	Settlements	Certiorari <a href="#">denied</a> (10/6/14)	Whether an unaccepted settlement offer that fully satisfies a plaintiff's claim is sufficient to render the claim moot.

14-45	7/11/14	<a href="#">O'Callaghan v. The New York Stock Exchange LLC</a>	Section 10(b)	Certiorari <a href="#">denied</a> (10/6/14)	Whether the NYSE deliberately hide five years of illegal stock trading from the American public, which caused illegal plus and minus ticks, in violation of the Securities laws.
14-32	7/11/14	Watts v. Wells Fargo Advisors, LLC	Arbitration/Due Process	Certiorari <a href="#">denied</a> (10/6/14)	Whether arbitrators' failure to comply with FINRA arbitration rules and failure to enforce orders compelling discovery denied Fifth Amendment Due Process rights and warrant vacating an arbitration award as being procured by fraudulent or undue means.
14-29	7/8/14	Whitman v. U.S.	Insider trading		Whether, in a prosecution for insider trading, the relevant inside information must have been a "significant factor" in the defendant's decision to buy or sell, or whether mere "knowing possession" of inside information suffices for a criminal conviction.
14-19	7/3/14	<a href="#">Teo v. SEC</a>	Disgorgement		Whether a court in an SEC civil enforcement action can order defendants to disgorge profits that were not attributable to their violations of the securities laws but were instead earned as a result of an intervening event unrelated to those violations.  <a href="#">Third Circuit opinion.</a>
13-1460	6/5/14	Dammeyer v. Municipal Mortgage & Equity, LLC	Statute of Repose	Certiorari <a href="#">denied</a> (10/6/14)	Whether the phrase "after the security is bona fide offered to the public" that commences the statute of repose of Securities Act Section 13 for claims under Section 11, means the date a registration statement is declared effective by the SEC, regardless of whether the subject securities are actually offered to, or available for purchase by, the public on that date.  <a href="#">Fourth Circuit decision.</a>
13-791	12/30/13	Moore v. Hildes	Securities Act Section 11	Certiorari <a href="#">denied</a> (10/6/14)	Whether a plaintiff may state a claim under Section 11 of the Securities Act of 1933, which provides for strict liability "on account of" defective registration statements, where he

					made an irrevocable investment decision to acquire his securities before a registration statement covering the issuance of those securities existed.  <a href="#">Ninth Circuit opinion.</a>
13-640	11/22/13	<a href="#">Public Employees' Retirement System of Mississippi v. IndyMac MBS, Inc.</a>	Statute of limitations / American Pipe tolling	Certiorari <a href="#">dismissed</a> as improvidently granted (9/29/14)  Certiorari <a href="#">granted</a> (3/10/14)	Whether the filing of a putative class action serves, under the <i>American Pipe</i> , rule to satisfy the three-year time limitation in Sec. 13 of the Securities Act with respect to the claims of putative class members.  <a href="#">Sixth Circuit opinion.</a>
13-576	11/8/13	<a href="#">Nomura Home Equity Loan, Inc. v. National Credit Union Administration Board</a>	Statute of repose	Certiorari granted and judgment vacated and remanded ( <a href="#">6/16/14</a> )	Whether 12 U.S.C. Sec. 1787(b)(14), which sets the "statute of limitations" for "contract" and "tort" claims included in any action brought by the National Credit Union Administration Board, displaces the absolute three-year statute of repose established by Congress in Sec. 13 of the Securities Act.  <a href="#">Tenth Circuit decision.</a>
14-88	7/24/14	Grady v. U.S.	Federal regulatory powers	Certiorari <a href="#">denied</a> (10/6/14)	Wide-ranging questions about federal power to regulate stock markets.