

The Supreme Court Update - June 17, 2024

by Ian Blodger, Jessica M. Leano, and Brock Huebner

Today, the Supreme Court of the United States granted certiorari in four cases:

NVIDIA Corp. v. E. Ohman J:or Fonder AB, No. 23-970: This securities case addresses the Private Securities Litigation Reform Act's ("PSLRA") heightened pleading requirements for securities fraud class actions. To state a claim under the PSLRA, plaintiffs must "state with particularity all facts" supporting their allegations of falsity. The questions presented are: (1) Whether plaintiffs seeking to allege scienter under the PSLRA based on allegations about internal company documents must plead with particularity the contents of those documents; and (2) whether plaintiffs can satisfy the PSLRA's falsity requirement by relying on an expert opinion to substitute for particularized allegations of fact.

Wisconsin Bell, Inc. v. United States, ex rel. Todd Heath, No. 23-1127: This case concerns the intersection between the False Claims Act and the Telecommunications Act of 1996. Under the Telecommunications Act, the Federal Communications Commission established the "E-rate" program to provide discounted services to eligible schools and libraries. The program is administered by a private, non-profit corporation and is funded entirely by contributions from private telecommunications carriers. After a telecommunications carrier provides services, schools and libraries can submit a request for reimbursement to the private corporation. The question presented is: Whether reimbursement requests submitted to the E-rate program are "claims" under the False Claims Act.

E.M.D. Sales, Inc. v. Carrera, No. 23-217: This employment law case addresses the standard of proof that an employer must meet to utilize one of the minimum wage and overtime exemptions in the Fair Labor Standards Act of 1938 ("FLSA"). The question presented is: Whether the burden of proof that employers must satisfy to demonstrate the applicability of a FLSA exemption is a mere preponderance of the evidence or clear and convincing evidence.

Related People

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Related Capabilities

- Appellate

Kousisis v. United States, No. 23-909: This criminal law case interprets the elements necessary to sustain a federal mail or wire fraud claim. In this case, while the defendant used a front company fraudulently posing as a “disadvantaged business enterprise,” that company performed no actual work. The questions presented are: (1) Whether deception to induce a commercial exchange can constitute mail or wire fraud, even if inflicting economic harm on the alleged victim was not the object of the scheme; (2) whether a sovereign’s statutory, regulatory, or policy interest is a property interest when compliance is a material term of payment for goods or services; and (3) whether all contract rights are “property.”