

Coberly Quoted Regarding NY Law's Strict Limits on Corporate Advisor Liability

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Winston & Strawn partner **Linda Coberly** was quoted in an October 21 *Am Law Litigation Daily* article titled "Auditors Dodge a Bullet: In Hotly-Anticipated Ruling, New York High Court Sets Extremely Strict Limits on Corporate Advisor Liability in Trustee, Derivative Suits." The article discussed the recent New York high court ruling reaffirming New York law's strict limits on corporate advisor liability in trustee and derivative suits.

New York's high court had been asked to consider whether trustees or shareholders of corporations undone by management fraud have causes of action against professional advisers--such as auditors, underwriters, and law firms--that either assisted or negligently overlooked the fraud. The majority decided that the doctrine of *in pari delicto* bars any cause of action in such a case because fraud by corporate officers (except in very narrow circumstances) must be attributed to the corporation itself. The majority also dismissed the plaintiffs' request to expand agency law's "adverse interest" exception and to create new exceptions to the doctrine of *in pari delicto* in suits against auditors.

Coberly argued before the state high court on behalf of Grant Thornton, the auditor defendant in the Refco case. "The opinion reaffirms the doctrine of *in pari delicto* as a complete bar to recovery [against a company's auditors] by wrongdoers. It also reconfirms that the adverse interest exception is a very narrow exception that presumes corporate officers' actions are imputed to the company," she said.

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