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IN THE MEDIA

Linda Coberly Discusses Upcoming Supreme Court SLUSA Case

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Winston & Strawn partner Linda Coberly was recently quoted in a *National Law Journal* article, "Firms Sweat Liability" by Supreme Court reporter Tony Mauro, published September 4, 2013. The article discusses an important set of securities cases to be decided in the upcoming Supreme Court term: *Chadbourne & Parke v. Troice*, *Proskauer Rose v. Troice*,and *Willis v. Troice*. Ms. Coberly and Winston & Strawn LLP submitted an amicus brief in these cases on behalf of DRI—the Voice of the Defense Bar.

The cases arise out of Allen Stanford's $7 billion Ponzi scheme. The plaintiffs had targeted law firms and insurers that they claimed aided and abetted Stanford's fraud. The suits were filed under Texas law, and the defendants moved to dismiss, arguing that the lawsuits were barred by the federal Securities Litigation Uniform Standards Act (SLUSA). The U.S. Court of Appeals for the Fifth Circuit held that SLUSA did not apply, and the Supreme Court agreed to review that decision.

SLUSA was enacted by Congress to prevent the use of state law to circumvent the stringent limitations that federal law places on private securities litigation. The Supreme Court will address the standards a court should apply in deciding whether SLUSA bars a lawsuit.

According to Ms. Coberly, the problem with expanded state liability for aiding and abetting securities fraud "is that the third-party professional becomes the insurer for the entire fraud." If an auditor or attorney can be sued for any losses that its clients cause, the resulting uncertainty and risk "drives up the cost of doing business in the United States and reduces the competitiveness of U.S. capital markets." Ms. Coberly explained that existing federal law gives the government all the tools needed to prosecute legitimate cases against participants in a fraud—including third-party professionals—without allowing class actions to proliferate at the state level.

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