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Supreme Court and Business: Assessing this Term's Decisions and Looking Forward to Next Term's Docket

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Securities

- OT2009
 - *Morrison v. National Australia Bank*: application of Section 10(b) and Rule 10b-5 to purchases and sales of securities outside the United States
 - *Merck v. Reynolds*: statute of limitations for Section 10(b) private actions
 - *Jones v. Harris Associates*: standard for imposing liability on mutual fund investment advisor in a private action by fund shareholders under Section 36(b) of the Investment Company Act
- OT2010
 - *Janus Capital Group v. First Derivative Traders*: liability of a mutual fund's investment advisor under Section 10(b) for misleading statements in funds' prospectuses
 - *Matrixx Initiatives v. Siracusano*: availability of private action under Section 10(b) based on pharmaceutical company's nondisclosure of "adverse event" reports

Intellectual Property

- OT2009

- *Bilski v. Kappos*: standard for determining whether an invention is eligible to be patentable as a “process”
- *Reed Elsevier v. Muchnick*: effect on federal courts’ power to entertain copyright infringement actions of a copyright holder’s failure to register the work before filing suit

- OT2010

- *Costco v. Omega*: whether the Copyright Act’s “first sale” doctrine permits the importation into the United States, without the copyright owner’s authorization, of goods manufactured abroad

Civil Procedure

- OT2009

- *Hertz Corp. v. Friend*: standard for determining a corporation's principal place of business for purposes of diversity jurisdiction
- *Shady Grove Orthopedic Associates v. Allstate Insurance*: effect of a state law barring class actions based on a particular state cause of action on plaintiffs' ability to maintain a class action in federal court
- *Mohawk Industries v. Carpenter*: appealability of district court decisions rejecting claims of attorney-client privilege
- *Krupski v. Costa Crociere*: timeliness under the Federal Rules' "relation back" standard of an amended complaint adding a new party

- OT2010

- *Ortiz v. Jordan*: appealability post-trial of a pre-trial order denying motion for summary judgment

Arbitration

- OT2009
 - *Rent-A-Center v. Jackson*: parties' ability to authorize arbitrator to decide whether arbitration agreement is unconscionable
 - *Granite Rock v. International Brotherhood of Teamsters*: arbitrator's power to decide whether the parties entered into an arbitration agreement and determine the issues subject to arbitration
 - *Stolt-Nielsen v. AnimalFeeds International*: permissibility of class arbitration in absence of authorization by the parties to the arbitration agreement
- OT2010
 - *AT&T Mobility v. Concepcion*: whether states may condition enforcement of an arbitration agreement on the availability of class-wide procedures, even if those procedures are not necessary to enable the parties to vindicate their claims fairly and effectively

Employment and Labor

- OT2009

- *New Process Steel v. National Labor Relations Board*: National Labor Relations Board's authority to decide cases with only two sitting members
- *Lewis v. City of Chicago*: statute of limitations for employment discrimination claims alleging that a practice has a disparate impact

- OT2010

- *Kasten v. St.-Gobain Performance Plastics Corp.*: whether an oral complaint constitutes conduct protected against retaliation under the Fair Labor Standards Act
- *Staub v. Proctor Hospital*: whether liability for employment discrimination may be based upon the discriminatory intent of a supervisor who did not take the adverse action, on the theory that his intent was a motivating factor
- *Thompson v. NA Stainless*: whether Title VII's anti-retaliation provision protects a third-party associate of the employee who engaged in protected activity

Mail and Wire Fraud

- OT2009
 - Standard governing prosecutions under federal criminal statute prohibiting mail and wire fraud involving a “scheme or artifice to deprive another of the intangible right of honest services”
 - *Skilling v. United States*
 - *Black v. United States*
 - *Weyhrauch v. United States*
 - *Scrushy v. United States*
 - *Siegelman v. United States*

Miscellaneous

- OT2009

- Antitrust

- *American Needle v. National Football League*: standard for distinguishing between concerted action and independent action under Section 1 of the Sherman Act

- Campaign finance

- *Citizens United v. Federal Election Commission*: First Amendment limits on federal regulation of corporations' independent campaign expenditures

- Congressional power

- *United States v. Comstock*: Congress's constitutional power to provide for the civil commitment of "sexually dangerous" persons whose federal prison terms have expired

ERISA

- OT2009

- *Conkright v. Frommert*: standard of review applicable to plan administrator's interpretation of an ERISA plan
- *Hardt v. Reliance Standard Life Insurance*: courts' power to award attorneys' fees in ERISA actions

- OT2010

- *Amara v. Cigna Corp.*: scope of district courts' remedial authority upon finding material misrepresentations in plan descriptions

Preemption

- OT2010
 - *Bruesewitz v. Wyeth*: scope of preemption by the National Childhood Vaccine Injury Act of tort claims arising from the administration of vaccines
 - *Williamson v. Mazda*: preemption by the National Traffic and Motor Vehicle Safety Act of tort claims relating to manufacturer's seatbelt design decisions

Transition on the Court

- The departure of Justice Stevens
- The likely arrival of Elena Kagan

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