

# Kimberly Melvin Remarks on Supreme Court Review of Securities Fraud Litigation

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*Business Insurance*

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Insurance Practice partner Kimberly Melvin was quoted commenting on a U.S. Supreme Court decision to review a case involving securities fraud litigation. As the article reports, the case “involves what a plaintiff has to prove before it can obtain class certification on its claims”—which in this particular lawsuit involves allegations against Halliburton that it misrepresented its asbestos liabilities. A panel of judges of the 5th Circuit Court of Appeals “held plaintiffs to a higher standard of proof concerning losses than many other circuits,” according to legal experts. “It’s important to understand that what the Supreme Court holds as the actual standard may be more important than the resolution of the case,” Ms. Melvin said. “The guidance given to the district courts about the level of scrutiny of the merits—especially the loss causation issue—will determine whether class certification provides defendants with a real opportunity to test the merits of a securities class action,” she added. “Historically, class certification was viewed as sort of a *fait accompli* after the Supreme Court adopted the fraud-on-the-market theory,” Ms. Melvin explained. “Now that the courts, including the 2nd Circuit and not just the 5th Circuit, are conducting a more rigorous analysis of the Rule 23 class certification requirements, class certification has become another potential tipping point in a securities class action cases,” she concluded.

## Related Professionals

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## Practice Areas

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