

Supreme Court Set To Hear Major Case On Securities Lawsuits Vs. Third Parties

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It's being called the financial Roe v. Wade: a Supreme Court case whose decision could reverberate for years to come.

At issue is whether investor lawsuits can go beyond defendant firms to include third parties such as banks and accounting firms.

The justices will hear Stoneridge Investment Partners v. Scientific-Atlanta on Tuesday. It's widely seen as a proxy for the Enron collapse.

Since then, plaintiff lawyers have argued that in cases of business fraud, investors should be able to sue third parties that allegedly made the fraud possible -- even if they were not directly involved.

The financial world is keeping a close watch. Should the high court rule in favor of the plaintiffs, then the attorneys, accountants and Wall Street firms that advise companies could be on the hook in the next major fraud case.

Who's Accountable?

Some key Democratic politicians say third parties should bear part of the responsibility.

House Judiciary Committee Chairman John Conyers and House Financial Services Committee Chairman Barney Frank filed legal briefs arguing that third parties should not be immune in these cases.

Conyers cited the impact that "the case will have on the integrity of the financial markets in general, and on whether the professionals upon whom we rely to keep our markets honest can be called to account when they betray that trust."

Business groups are urging the Supreme Court to reject the argument. The Chamber of Commerce noted that Congress has already let the Securities and Exchange Commission pursue cases against third parties.

"The Supreme Court should not upset that legislative decision by allowing class-action lawyers to increase

litigation risk and further hamper the competitiveness of American markets," Robin Conrad, vice president for the chamber's National Chamber Litigation Center, said in a statement.

The specific case involves a group of investors, Stoneridge, seeking damages against Scientific-Atlanta -- now owned by Cisco cisco -- and Motorola (NYSE:MEU) (NYSE:MOT) mot. The investors allege Charter Communications (NASDAQ:CHTR) ' chtr suppliers aided the cable operator in a set-top box scheme that inflated Charter's revenue in 2000 as part of broader accounting fraud by Charter.

A lower court ruled that because the two companies did not directly participate in the fraud or make public statements about the deals, they were not liable. The decision cited a 1994 Supreme Court ruling. An appeals court upheld it.

"These are two vendors at arms length from the bad guy in this case, Charter Communications," said Richard Samp, chief counsel for the Washington Legal Foundation, a free market legal group.

The companies made no false statements or reports. Their contracts with Charter amounted to only a few hundred thousand dollars, while the alleged fraud ran into the billions.

"Companies say, 'How can we do business if every time we accommodate a customer, you are going to tell us we are liable for billions in securities fraud?'" Samp said.

The dollar value of securities-related class-action suits soared to \$9.6 billion in 2004 from \$150 million seven years earlier, says the [Washington Legal Foundation](#).

A House Divided

The Stoneridge case has actually caused a split in the Bush administration. The SEC originally sided with the plaintiffs. But in an unusual move, the White House publicly disagreed, and Solicitor General Paul Clement, in a brief, argued against third-party lawsuits. The Treasury Department and Federal Reserve have taken similar stands.

The case has prompted two recusals: Chief Justice John Roberts and Justice **Stephen Breyer**. Neither gave an explanation. Roberts later said he would rule on the case, apparently having sold stock connected to the case.

The Roberts court is generally seen as pro-business, with several recent cases decided by lopsided margins. Last year the court threw out a \$79.5 million punitive damages award vs. Altria Group's (NYSE:MO) mo Philip Morris tobacco unit. And in June it ruled 8-1 that plaintiffs must show solid evidence of fraud before initiating a class-action suit.

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