

12-86 WILLIS OF COLORADO INC. V. TROICE

DECISION BELOW: 675 F.3d 503

LOWER COURT CASE NUMBER: 11-11048

QUESTION PRESENTED:

The Securities Litigation Uniform Standards Act of 1998 ("SLUSA") precludes state law class actions that allege a misrepresentation or omission "in connection with" the purchase or sale of a covered security. 15 U.S.C. § 78bb(f)(1). The complaints at issue in this case plainly included such alleged misrepresentations. The district court, applying Eleventh Circuit precedent, recognized as much and dismissed the complaints. However, the Fifth Circuit disagreed and, purporting to apply the Ninth Circuit's test, found the fact that the complaints included alleged misrepresentations in connection with a covered security insufficient to invoke SLUSA because the complaints also included *other* misrepresentations that were not made "in connection with" a covered securities transaction. In doing so, the Fifth Circuit acknowledged that it was departing from the holding of the Eleventh Circuit and several other circuits.

The question presented is whether a covered state law class action complaint that unquestionably alleges "a" misrepresentation "in connection with" the purchase or sale of a SLUSA-covered security nonetheless can escape the application of SLUSA by including other allegations that are farther removed from a covered securities transaction.

CONSOLIDATED WITH 12-79 AND 12-88 FOR ONE HOUR ORAL ARGUMENT.

CERT. GRANTED 1/18/2013