
Supreme Court To Consider The Scope Of Dodd-Frank Whistleblower Provisions

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On June 26, 2017, the United States Supreme Court granted the petition for certiorari of Digital Realty Trust Inc. (“Digital Realty”) to consider whether the anti-retaliation provision for whistleblowers in the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank”) extends to individuals who have not reported alleged misconduct to the Securities and Exchange Commission (“SEC”) and thus arguably fall outside Dodd-Frank’s definition of a “whistleblower.” In March, the United States Court of Appeals for the Ninth Circuit ruled, in a 2-1 decision, that the term “whistleblower” extends protection to employees making internal disclosures of alleged unlawful activity, and does not limit protection under Dodd-Frank to employees reporting potential violations to the SEC. The Ninth Circuit’s decision widened an existing split between the Second and Fifth Circuits, making the issue ripe for review.

Attorneys

- Charles A. Gilman
- Scott B. Singer