

08-1191 MORRISON V. NATIONAL AUSTRALIA BANK

DECISION BELOW: 547 F.3d 167

LOWER COURT CASE NUMBER: 07-0583

QUESTION PRESENTED:

I. Whether the antifraud provisions of the United States securities laws extend to transnational frauds where: (a) the foreign-based parent company conducted substantial business in the United States, its American Depositary Receipts were traded on the New York Stock Exchange and its financial statements were filed with the Securities Exchange Commission ("SEC"); and (b) the claims arose from a massive accounting fraud perpetrated by American citizens at the parent company's Florida-based subsidiary and were merely reported from overseas in the parent company's financial statements.

II. Whether this Court, which has never addressed the issue of whether subject matter jurisdiction may extend to claims involving transnational securities fraud, should set forth a policy to resolve the three-way conflict among the circuits (i.e., District of Columbia Circuit versus the Second, Fifth and Seventh Circuits versus the Third, Eighth and Ninth Circuits).

III. Whether the Second Circuit should have adopted the SEC's proposed standard for determining the proper exercise of subject matter jurisdiction in transnational securities fraud cases, as set forth in the SEC's amicus brief submitted at the request of the Second Circuit, and whether the Second Circuit should have adopted the SEC's finding that subject matter jurisdiction exists here due to the "material and substantial conduct in furtherance of" the securities fraud that occurred in the United States.

JUSTICE SOTOMAYOR TOOK NO PART

CERT. GRANTED 11/30/2009