

Colligan, Quinlivan Examine SCOTUS' Ruling in *Macquarie* and Provide Insight for Public Companies Going Forward

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Stinson LLP Partners [Sean Colligan](#) and [Steve Quinlivan](#) authored an article for *Law360*, "10b-5 Litigation Questions Follow Justices' *Macquarie* Ruling," examining the implications of the recent U.S. Supreme Court decision in *Macquarie Infrastructure Corp. v. Moab Partners L.P.*, which limits the grounds for securities litigation against public companies.

The case involves a publicly traded company who failed to disclose new regulations that would negatively impact its business. The Supreme Court ruled that omitting such information without any accompanying misleading statements cannot support the basis of a lawsuit under Rule 10b-5(b) of the Securities and Exchange Act. The attorneys note that although the *Macquarie* ruling is a favorable decision for public companies, the decision will likely not have a material impact on the volume of Rule 10b-5(b) litigation.

"As a result of *Macquarie*, plaintiffs will have to plead an affirmative statement that omits critical qualifying information and explain why it was misleading," the attorneys write. "This leaves open questions: What can constitute a 'statement made'? What omitted information would qualify to make such a statement a half-truth? *Macquarie* sets the stage for further litigation over these issues."

The attorneys state that *Macquarie* is not a reason for public companies to relax efforts to comply with U.S. Securities and Exchange Commission rules governing disclosures in periodic and other required reports. "Public companies should continue to review compliance with disclosure requirements on a quarterly basis with the preparation of Forms 10-K and 10-Q," they write. "All relevant disclosure requirements should be addressed unless clearly inapplicable or immaterial."

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Colligan has over three decades of experience handling complex commercial disputes, securities litigation and regulatory investigations. He defends directors, officers, financial institutions and public companies and their governing boards in derivative lawsuits and advises them on fiduciary duties.

Quinlivan represents clients in mergers and acquisitions, securities regulation and offerings, ESOPs, REITs, international transactions and financing matters. He assists clients on SEC reporting matters, advises boards of directors in corporate governance and liability issues and works with litigation teams defending officers and directors.

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