

## Supreme Court: Federal Courts Have Exclusive Jurisdiction Over Suits “Brought to Enforce” the Securities Exchange Act

12.19.16



(Article from *Securities Law Alert*, December 2016)

For more information, please visit the [Securities Law Alert Resource Center](#)

Section 27 of the Securities Exchange Act confers federal district courts with exclusive jurisdiction over all suits “brought to enforce any liability or duty created by [the Exchange Act] or the rules and regulations thereunder.” On May 16, 2016, the Supreme Court held “the jurisdictional test established by [Section 27] is the same as the one used to decide if a cases ‘arises under’ a federal law” pursuant to 28 U.S.C. § 1331, the general federal question statute.<sup>[1]</sup> *Merrill Lynch, Pierce, Fenner & Smith v. Manning*, 136 S. Ct. 1562 (2016) (Kagan, J.).

Section 1331’s “arising under” test provides for federal jurisdiction when (1) “federal law creates the cause of action asserted[,]” or (2) a state-law claim “necessarily raise[s] a stated federal issue, actually disputed and substantial, which a federal forum may entertain without disturbing any congressionally approved balance of federal and state power.” Applying the second prong of this “arising under” test to Section 27, the Supreme Court stated that federal courts would have exclusive jurisdiction over “a state law cause of action . . . ‘brought to enforce’ a duty created by the Exchange Act because the claim’s very success depends on giving effect to a federal requirement.” The Court further stated that a state-law action “could also fall within § 27’s compass” if it “necessarily depends on a showing that the defendant breached the Exchange Act.” However, the Court found Section 27 “stops short of embracing any complaint that happens to mention a duty established by the Exchange Act.”

---

<sup>[1]</sup> Section 1331 provides federal district courts with “original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.”

## Authors and Contacts

### Paul Gluckow

Partner and General Counsel

[pgluckow@stblaw.com](mailto:pgluckow@stblaw.com)

+1-212-455-2653

### Jonathan Youngwood

Partner

[jyoungwood@stblaw.com](mailto:jyoungwood@stblaw.com)

1-212-455-3539

### Peter Kazanoff

Partner

[pkazanoff@stblaw.com](mailto:pkazanoff@stblaw.com)

+1-212-455-3525

