

## Bernstein Shur Business and Commercial Litigation Newsletter

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We are pleased to present the second edition of the Bernstein Shur Business and Commercial Litigation Newsletter. This month, we highlight stories addressed to the U.S. Supreme Court's increasing willingness to accept cases focused on business matters, as well as other developments that will have an impact on business and commerce. We hope that you enjoy the Newsletter.

#### In the News:

**Global Warming Claims Against Power Producers Receive U.S. Supreme Court Review.** The U.S. Supreme Court will hear an appeal by four large power companies challenging the right of eight states to utilize "public nuisance" law as a means of enforcement against companies that emit large amounts of carbon dioxide into the atmosphere. The lawsuits by the states, which were allowed to proceed at the lower court level, seek to impose forced cuts in emissions. In amicus briefs submitted to the Supreme Court, trade groups and the U.S. Chamber of Commerce have urged the Supreme Court to reverse the decision, citing fears of a wave of public nuisance suits.

[Click here for the complete article.](#)

**First Circuit Upholds Large Fine for Illegal Storage of Mercury.** The First Circuit has determined that an \$18 million fine levied against natural gas provider Southern Union for illegally warehousing 140 pounds of mercury without a permit at an abandoned Rhode Island building facility was not excessive. In upholding the fine, the First Circuit relied upon 42 U.S.C. §§ 6921-6939(f) and related provisions, which make it a crime to knowingly store hazardous waste, including mercury, without a permit. Links to story and opinion follow.

[Click here for the complete article.](#)

[Click here for the Court's opinion.](#)

**Several Large National Loan Servicers May Be Poised to Settle Foreclosure Claims.** Five of the largest national loan servicers, including Bank of America, may be poised to settle pending claims with fifty state attorneys general based on foreclosure practices. The state attorneys general have commenced investigations into whether banks and loan servicers used inappropriate practices and false documents in order to support foreclosures. The state attorneys general suggested that potential resolution could include enhancement of the loan modification process, as well as the creation of a fund to assist homeowners who have been subject to improper foreclosure proceedings.

[Click here for complete article.](#)

**Top Ten Employment Law Rulings from the U.S. Supreme Court in 2010.** The United States Supreme Court issued significant rulings in 2010 addressed to employment law, providing guidance on workplace policy, use of arbitration and rules concerning employee claims. The top ten high court rulings of 2010 and description of the underlying cases are included below.

[Click here for the complete article.](#)



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