

CII Teleconference Tomorrow Morning - Invitation to Support "Friend of the Court" Brief on Critical Issue Affecting the Timeliness of Securities Claims

May 25, 2016

As a matter of significant importance to institutional investors worldwide, we invite your fund to participate as a named party on an amicus curiae ("Friend of the Court") brief of institutional investors in *North Sound Capital v. Merck & Co.*

The federal courts are divided on whether the filing of a class action satisfies, or "tolls," all time periods for bringing individual claims for recovery of damages under the federal securities laws. Over forty years ago, the Supreme Court laid down the class action "tolling" doctrine in the landmark *American Pipe* case. However, a division emerged with the Second Circuit's decision in the *IndyMac* case, which narrowly held that the *American Pipe* rule applies only to the statute of limitations, and not a separate statute of repose governing investors' claims for recovery.

There is now an even 2-2 split among the federal Circuits on this critical issue. This division has created great uncertainty in the institutional investor community and has required investors to incur substantial costs and burdens associated with proactively monitoring hundreds of active securities class action cases across the United States to determine whether to intervene or file opt out actions to prevent their individual claims from expiring.

The Third Circuit is set to decide this question in the *North Sound* case. The decision will break the tie among the federal Circuits, and will likely be reviewed by the Supreme Court. Accordingly, it is essential to ensure the Third Circuit is aware of the institutional investor community's perspective. Over two dozen public pension funds have already committed to support this important institutional investor amicus curiae brief. A draft of the brief is available for your review by clicking [here](#).

Tomorrow - 11:30 am ET CII Teleconference on *North Sound*

The Council for Institutional Investors will host a member teleconference tomorrow, May 26, 2016, at 11:30 am ET to discuss the draft amicus brief in *North Sound*. The teleconference will present an overview of the litigation, the present Circuit split, and the Supreme Court's likely review of the case. The teleconference will also address the practical implications for institutional investors until this critical "tolling" issue is resolved, and how interested CII members can pledge their support for the institutional investor amicus brief. Click the link for details: [CII Teleconference: *North Sound v. Merck* Amicus Curiae Brief](#).

Amicus briefs supporting the investors are due on May 31, 2016 and **the deadline for supporting the brief is May 27th**. There are no costs associated with supporting the brief and each fund will be simply listed as a supporter of the amicus brief.