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*Lucia v. SEC*, No. 17-130

Under the Constitution's Appointments Clause, the President "shall nominate and, by and with the

Advice and Consent of the Senate, shall appoint . . . Officers of the United States." SEC

administrative law judges are generally selected by Commission staff, even though these judges

preside over trial-like adversarial hearings. The Supreme Court has granted certiorari to decide

“[w]hether administrative law judges of the Securities and Exchange Commission are officers of the

United States within the meaning of the appointments clause.” The circuit courts have split 5-5 on

this question.