



## Appeals Court Ruling Clears Overstock's Path for Trial Against Merrill Lynch Brokerage

November 14, 2014

### Company Will Appeal Dismissal of Other Defendants

SALT LAKE CITY, Nov. 14, 2014 (GLOBE NEWSWIRE) — [Overstock.com, Inc.](http://Overstock.com, Inc.) (Nasdaq:DOSTK) announced a California Court of Appeals decision has cleared the way for trial of its stock manipulation case against Merrill Professional Clearing Corporation, a clearing brokerage firm. In its long-standing suit, the company alleged defendants engaged in a naked short selling stock manipulation in an effort to drive down its share price. The company views Merrill Pro as one of the chief defendants in the case.

On Jan. 10, 2012, a California trial court granted a motion for summary judgment and dismissed as to all defendants: Merrill Lynch, Pierce, Fenner & Smith, Inc.; Merrill Lynch Professional Clearing Corporation ("Merrill Pro"); Goldman Sachs & Co.; and Goldman Sachs Execution & Clearing LP.

The trial court had ruled on a technical point that it did not find sufficient California conduct to satisfy the application of California's securities law to the defendants' activities. While reversing that ruling yesterday as to Merrill Pro, the Court sustained the trial court's dismissal of other defendants, but noted in its ruling "there is substantial evidence Goldman Brokerage was, itself," engaging in activities that Overstock alleged amounted to stock manipulation.

"As Hunter S. Thompson noted, 'The Scum Also Rises,'" said Patrick M. Byrne, Overstock CEO. "In this case, the scum has now risen all the way to the California Supreme Court. While it is disappointing that the Appellate Court does not believe that Goldman's concerted activities with others on the Pacific Stock Exchange constitutes sufficient activity within California as to warrant California jurisdiction, it is heartening that they recognize there is 'substantial evidence Goldman Brokerage was, itself,' engaged in the conduct we alleged was manipulative."

Overstock plans to ask the California Supreme Court to review portions of the ruling sustaining the dismissal of other defendants in the case.

The Court of Appeals also ruled that a substantial portion of the documents Overstock filed in support of its claims must be unsealed and available to the public.

#### About Overstock.com

[Overstock.com, Inc.](http://Overstock.com, Inc.) (Nasdaq:DOSTK) is a discount online shopping retailer based in Salt Lake City, Utah that sells a broad range of products including furniture, toys, bedding, electronics, clothing and jewelry. [Overstock.com](http://Overstock.com) is a fair trade department dedicated to selling artisan-crafted products from around the world offers additional unique items. [Overstock.com](http://Overstock.com) supports small businesses across the United States by providing them a national customer base. Forbes ranked Overstock in its list of the Top 100 Most Trustworthy Companies in 2014. The NRF Foundation/American Express 2011 Customer Choice Awards ranked Overstock #4 in customer service among all U.S. retailers. Overstock sells internationally under the name O.co. Overstock Shipping (<http://www.overstock.com> and <http://www.o.co>) regularly posts information about the company and other related matters under [www.o.co](http://www.o.co) on its website.

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This press release contains certain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. Such forward-looking statements include, but are not limited to, statements other than statements of historical fact, including prospective actions and items connected to the litigation. Additional information regarding factors that could materially affect results and the accuracy of the forward-looking statements contained herein may be found in the Company's Form 10-Q for the quarter ended Sept. 30, 2014, which was filed with the SEC on Oct. 28, 2014, and any subsequent filings with the SEC.

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