

NEWS & INSIGHTS

BLOOMBERG LAW QUOTES LIGHTFOOT'S BRANDON ESSIG ON IMPLICATIONS OF SUPREME COURT'S KOUSISIS RULING FOR DEFENDANTS

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Lightfoot, Franklin & White LLC partner **Brandon K. Essig** was quoted in a recent [*Bloomberg Law* article](#) examining the impact of the U.S. Supreme Court's *Kousisis* ruling on future government prosecutions. In its decision, SCOTUS clarified that prosecutors are not required to demonstrate economic harm to establish wire fraud, reversing the court's previous tendency to favor defendants.

While the decision was widely viewed as a victory for government prosecutors, the court left unresolved issues of materiality and injury, which could provide avenues for defendants to challenge prosecutions. In his comments to *Bloomberg Law*, Essig noted that the concurring opinions from Justices Neil M. Gorsuch and Clarence Thomas highlighted potential vulnerabilities in the government's approach after *Kousisis*. For example, Essig noted, Gorsuch introduced a benefit-of-the-bargain injury standard for courts to use as a framework in distinguishing everyday misrepresentations from prosecutable lies.

"I don't think Gorsuch's standard makes the lower courts' decisions any easier," Essig told *Bloomberg Law*. "What it does is give them a new framework to use if a prosecution doesn't pass the smell test."

Essig is a partner in Lightfoot's White-Collar Criminal Defense and Corporate Investigations practice. He represents clients in high-stakes regulatory and enforcement matters, including those involving complex financial disclosures and securities law.