



For Immediate Release

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WLF URGES SUPREME COURT TO CURB SECURITIES CLASS ACTION ABUSE

(Dura Pharmaceuticals v. Broudo)

The Washington Legal Foundation (WLF) filed a brief in the U.S. Supreme Court urging it to reverse a ruling from the U.S. Court of Appeals for the Ninth Circuit that allows a more relaxed pleading standard for attorneys filing securities class action cases against publicly-held companies. Unless reversed by the Supreme Court, the court of appeals decision would invite windfall damage awards and would be particularly damaging to smaller companies such as those in the life sciences industry.

In *Dura Pharmaceuticals v. Broudo*, the company released a report in February, 1998 indicating that its earnings would be down. Consequently, the price of the stock dropped approximately 47%. Ten months later, the company reported that the Food and Drug Administration (FDA) refused to approve an inhaler that the company had intended to market; however, the price of the stock did not decline on the bad news. Nevertheless, noted class action attorney Bill Lerach sued on behalf of shareholders claiming that the company knew about the FDA problems months ago but failed to disclose that information in a timely fashion. He argued that his clients should be compensated for the original drop in the price of the stock, even though that price drop was caused by other factors.

WLF argued that Congress enacted the Private Securities Litigation Reform Act (PSLRA) in 1995 to prevent class action attorneys from filing such abusive securities fraud cases against a company simply because the price of the stock went down. The PSLRA requires counsel to show that the loss from the drop in stock price was due directly to the alleged misrepresentation by the company rather than simply to claim that the plaintiffs purchased the stock during the time of the alleged misrepresentation.

WLF's brief was drafted with the *pro bono* assistance of Michael L. Kichline, David A. Kotler, and John J. Sullivan of Dechert LLP from both the Philadelphia, Pennsylvania and Princeton, New Jersey offices.

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