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WLF Victory Will Let Securities Defendants Rebut Presumption of Reliance *Before* Class Certification

(Halliburton Co. v. Erica P. John Fund, Inc.)

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WASHINGTON, DC—The U.S. Supreme Court today issued a decision that will make it much more difficult for plaintiffs’ attorneys to get securities fraud lawsuits certified as class actions. In a victory for Washington Legal Foundation, the Court agreed with WLF that a defendant is entitled to rebut the presumption that all stockholders rely on every statement made by a publicly traded company by proving at the class certification stage that a challenged statement did not impact a stock’s price. The decision overturned the ruling below and many other appeals courts, which had barred defendants from introducing such rebuttal evidence until trial.

In a stock fraud suit, a plaintiff must show that he purchased the defendant corporation’s stock in reliance on the defendant’s misrepresentations. However, in a 1988 decision, the Supreme Court adopted the “fraud-on-the-market” theory, under which the price of a widely traded stock is presumed to reflect every statement made by the issuing corporation. A purchaser who buys at market price is thus presumed to have relied on the fairness of that price and on the accuracy of all a corporation’s public statements. Without such a presumption, it would be impossible for plaintiff shareholders to meet the class requirement that common issues of fact predominate over individual purchasing factors, and securities fraud claims would have to be litigated individually.

By a 6-3 vote, the Court declined defendant Halliburton Co.’s request to rule more broadly and abolish the presumption of reliance altogether. WLF’s brief was drafted with the substantial *pro bono* assistance of Lyle Roberts, a partner in the Washington, D.C. office of Cooley LLP. After the Court’s decision, WLF issued the following statement by Chief Counsel Richard Samp: “Thanks to this ruling, defendants in securities lawsuits have finally been afforded a chance to contest class certification, by introducing evidence that an allegedly misleading statement had no impact on stock price. Until today, the presumption that every shareholder relies on every statement made by a publicly traded company was practically irrebuttable. As a result, defendants were often forced to settle even frivolous securities fraud claims to avoid the expense of defending class actions. The current system has enriched plaintiffs’ lawyers at the expense of stockholders, who ultimately bear the costs yet gain little from such lawsuits.”

WLF is a public interest law firm and policy center that regularly litigates in support of civil justice reform, to ensure that unwarranted lawsuits do not drive up costs for all consumers.