Press Release

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WLF Urges Supreme Court to Reverse Certification in Closely Watched Securities Class Action

(*Goldman Sachs Group v. Arkansas Teacher Retirement System*)

> **"Without the ability to rebut class-wide reliance at the class-certification stage, most securities class-action defendants will have no choice but to settle."**
> —Cory Andrews, WLF General Counsel & Vice President of Litigation

WASHINGTON, DC—(Washington, DC)—Washington Legal Foundation (WLF) today asked the U.S. Supreme Court to vacate a decision of the U.S. Court of Appeals for the Second Circuit in a securities class action with far-reaching implications. WLF's *amicus* brief was prepared with the pro bono assistance of Lyle Roberts, Daniel Sachs, and Edmund Saw at Shearman & Sterling LLP.

Under the Supreme Court's decision in *Basic Inc.* v. *Levinson*, a defendant can rebut the presumption of class-wide reliance in a securities class action by showing that an alleged misrepresentation did not affect the stock's market price. The Supreme Court has also made clear, in *Halliburton Co. v. Erica P. John Fund*, that a defendant is entitled to rebut the *Basic* presumption at the class-certification stage.

The Second Circuit violated those precedents in this case. Holding that such an inquiry would go to the merits of materiality, the appeals court barred the defendant from being able to rebut price impact by pointing to the generic nature of the alleged misstatements (*e.g.*, Goldman Sachs's aspirational mission statement). That approach to class-wide reliance makes class certification in a securities class action a near certainty. As WLF contends in its *amicus* brief, the Second Circuit's decision, if ratified by the Supreme Court, would undermine Congress's intent to limit the proliferation of meritless securities class actions.

Celebrating its 44th year, WLF is America's premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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