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Second Circuit Adheres to Supreme Court Precedent in Prominent Securities Class-Action Appeal

(Arkansas Teachers Retirement System v. Goldman Sachs)

“The Court’s decision today clarifies that generic corporate statements of aspiration, commitment, or risk are no basis for a securities-fraud class action.”

—Cory Andrews, WLF General Counsel and Vice President of Litigation

WASHINGTON, DC—The U.S. Court of Appeals for the Second Circuit reversed a securities class-certification order today, faithfully applying a recent U.S. Supreme Court precedent for securities class actions. The decision was a victory for WLF, which filed an amicus brief in the appeal urging reversal. WLF’s brief was prepared with the pro bono assistance of Lyle Roberts, George Anhang, and William Marsh of Shearman & Sterling LLP.

The appeal arises on remand from the Supreme Court’s decision in *Goldman Sachs Group v. Arkansas Teacher Retirement System*. There, the Supreme Court established a “mismatch” test to exclude from liability generic corporate statements made by virtually every public company. On remand, the district court misconstrued the “mismatch” test to require only a finding that the supposedly corrective disclosures generally “implicate” the same subject matter as the purported misrepresentations. And the district court expanded the inflation-maintenance theory by premising price impact on the effect of a disclosure differing in kind from the alleged misstatement itself.

WLF’s brief contended that the district court’s application of *Goldman*, if allowed to stand, would leave defendants with no meaningful ability to defeat class certification for failure to prove price impact, thus undermining Supreme Court precedent and congressional policy aimed at limiting meritless securities class actions and coercive settlements. The Second Circuit agreed. The Court held that because Goldman’s statements about its ability to prevent conflicts of interest were not closely linked to SEC and DOJ enforcement actions against Goldman in 2010, Goldman had established that those statements did not affect the stock price. As a result, Goldman had rebutted any presumption of reliance.

Celebrating its 46th 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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