



riskINSIGHTS

U.S. Supreme Court Declines to Overturn the Decision in *Basic, Inc. v. Levinson*; Allows Defendants to Rebut Presumption of Reliance

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Halliburton: U.S. Supreme Court Declines to Overturn the Decision in *Basic, Inc. v. Levinson*; Allows Defendants to Rebut Presumption of Reliance

On June 23, 2014, the U.S. Supreme Court released its long-awaited decision in *Halliburton Co. v. Erica P. John Fund, Inc.*, in which the Court had taken up the question of whether to set aside the presumption of reliance based on the fraud on the market theory that the Court first recognized in its 1988 decision in *Basic, Inc. v. Levinson*. The case was closely watched because its outcome had the potential to transform securities class action litigation in the United States.

In the end, the Court in an opinion written by Chief Justice John Roberts and joined by the other justices, declined to overturn *Basic*. Nor did it allow securities class action defendants to rebut the presumption of reliance at the class certification stage to try to rebut the presumption by showing that the alleged misrepresentation did not impact the defendant company's share price.

presumption of reliance based on the theory of price impact could have an effect on securities litigation. Defendants were already allowed to rebut this kind of evidence at the merits stage and at the class certification stage to counter a plaintiff's showing of market efficiency. But they were not allowed to rely on that same evidence to rebut the presumption of reliance a mere time before the High Court said "fraud is not fraud" if any event, the class certification phase will likely become more costly as the parties dispute the merits surrounding the impact of the alleged misrepresentation on the share price.



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