

Supreme Court Determines that Class Certification Does Not Require Proof of Loss Causation in Securities Fraud Cases

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On June 6, 2011, the Supreme Court issued a unanimous decision in *Erica P. John Fund, Inc. v. Halliburton Co.* (No. 09-1403), holding that it is not necessary for plaintiffs in federal securities fraud cases to establish “loss causation” in order for their cases to proceed as class actions. While this ruling will affect how class-action securities fraud cases are litigated in the Fifth Circuit, it should have little impact in other Circuits that have already rejected proof of loss causation as a prerequisite for class certification. The Supreme Court’s decision did not address how evidence regarding the price impact of alleged misstatements may be used in litigating whether the element of reliance is susceptible to class-wide treatment and thus left unaltered the law in several other Circuits, including the Second Circuit, on that issue.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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