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Eighth Circuit Reverses Class Certification Applying Halliburton II

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On April 12, 2016, the majority of a three-judge panel at the Eighth Circuit U.S. Circuit Court of Appeals held that a class action of Best Buy shareholders, led by the IBEW Local 98 Pension Fund, should not have been certified, and the lower court misapplied the U.S. Supreme Court's 2014 decision in *Halliburton Co. v. Erica P. John*, 134 S.Ct. 2398 (2014). The case is *IBEW Local 98 Pension Fund et al. v. Best Buy Co. Inc. et al.*, case number 14-3178.

In Halliburton II, Chief Justice John Roberts' majority opinion reaffirmed the fraud-on-the-market presumption of reliance established in *Basic Inc. v. Levinson*. Under Basic, courts may presume that if the stock is traded on an efficient market, (1) the market price of a stock generally reflects all public information about the stock, and (2) investors rely on the integrity of the market price. The presumption is rebuttable, however, and Halliburton II settled that defendants are entitled to rebut the presumption at the class certification stage by disproving the fact for which the presumption is a proxy: price impact.

The Eighth Circuit's decision in Best Buy is the first circuit to apply Halliburton II.

In Best Buy's case, at issue were allegedly misleading statements during a September 2010 conference call with analysts. The Eighth Circuit found that the defendants presented strong evidence through economic experts that the two conference call statements at issue in the case were not what elevated the company's share price on a certain day. Rather, the company's shares were driven up by an optimistic projection Best Buy made in a press release issued two hours prior to the conference call. However, the press release statement was deemed not actionable because it was considered a forward-looking statement covered by the safe harbor provisions of the Private Securities Litigation Reform Act.

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