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June 25, 2007

SUPREME COURT CURTAILS ABUSIVE SECURITIES LAWSUITS
(*Tellabs, Inc. v. Makor Issues & Rights, Ltd.*)

The Washington Legal Foundation (WLF) scored a major victory last week when the U.S. Supreme Court overturned a court of appeals decision that would have allowed plaintiffs' lawyers to continue filing abusive federal securities complaints against companies without alleging specific facts showing the requisite state of mind as Congress intended under the Private Securities Litigation Reform Act of 1995 (PSLRA).

In an 8-1 opinion written by Justice Ruth Bader Ginsburg, the Court ruled that plaintiffs' attorneys must allege specific facts of wrongdoing by executives that were "cogent and at least as compelling" as explanations by company officials that their statements did not mislead or defraud investors. No longer will plaintiffs' attorneys be allowed to make only general allegations of wrongdoing, which have unfairly forced companies to settle such suits rather than engage in expensive litigation.

In *Tellabs, Inc. v. Makor Issues & Rights, LTD*, the plaintiffs' lawyers made only general allegations in their complaint that the defendants intended to defraud investors in the company. A motion to dismiss was filed on the grounds that the PSLRA required a heightened pleading standard showing a "strong inference" of the defendants' improper intent. WLF argued in its brief that Congress intended that this heightened pleading standard would allow the courts to act as "gatekeepers" to curtail the filing of abusive securities class action lawsuits containing only general allegations of wrongdoing.

WLF also argued that Congress had the authority to establish higher pleading standards for causes of action that it had created such as those under the PSLRA. If the plaintiffs meet that higher pleading standard, a jury will still be allowed to decide at trial whether the evidence adduced supports the plaintiffs' case.

WLF's brief was drafted with the *pro bono* assistance of Steven B. Weisburd, partner in the Austin, Texas office of Dechert LLP, and Michael L. Kichline, Steven B. Feirson, and Michael J. Newman in Dechert's Philadelphia office.

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