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of the United States

If you have any questions regarding the matters discussed in this memorandum, please contact the following attorneys or your regular Skadden contact.

Jay B. Kasner
New York
212.735.2628

jay.kasner@skadden.com

Matthew J. Matule
Boston
617.573.4887

matthew.matule@skadden.com

Edward B. Micheletti
Wilmington
302.651.3220

edward.micheletti@skadden.com

Peter B. Morrison
Los Angeles
213.687.5304

peter.morrison@skadden.com

Amy S. Park
Palo Alto
650.470.4511

amy.park@skadden.com

Noelle M. Reed
Houston
713.655.5122

noelle.reed@skadden.com

Charles F. Smith
Chicago
312.407.0516

charles.smith@skadden.com

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Supreme Court to Hear Class Action Certification Appeal in *Halliburton*

Today, in a case that could have significant implications for putative federal securities class actions, the Supreme Court granted certiorari in *Halliburton Co. v. Erica P. John Fund, Inc.*, No. 13-317. In its petition for certiorari, Halliburton asked the Court to consider two issues. First, it asked the Court to “overrule or substantially modify” the holding of *Basic Inc. v. Levinson*, 485 U.S. 224 (1988), at least to the extent Basic establishes a presumption of classwide reliance based on a fraud-on-the-market theory. Second, even if the Court is not inclined to revisit its holding in *Basic*, Halliburton urged the Court to nonetheless hold that a defendant may rebut — at the class certification stage — the presumption of classwide reliance by introducing evidence that any alleged misrepresentations did not distort the market price. The Supreme Court did not limit its consideration to either question.

The claims arise out of alleged misrepresentations made by Halliburton and some of its directors. In the opinion below, the Fifth Circuit affirmed the district court’s certification of the plaintiff class. The panel refused to allow Halliburton to present “market price impact” evidence at the class certification stage as a means to rebut the fraud-on-the-market presumption of reliance.

A date for arguments in the case has yet to be set.