The Problem of Reliance in Securities Fraud Class Actions

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This Essay analyzes the Supreme Court's decision in Halliburton II. *I argue that, although the opinion appears to do little other than establish a minor change in the class certification procedure, the probable impacts are subtler and more significant. Among other consequences, the opinion may spark congressional efforts to repeal or cut back the fraud-on-the-market presumption; reduce plaintiffs' bargaining leverage and prospects for success; open new avenues for certification of state law cases; influence the rate of filing and the types of cases that are filed; increase the frequency of settlement classes; and increase litigation costs.*

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Introduction

The Supreme Court's grant of certiorari in *Halliburton Co. v. Erica P. John Fund, Inc.* ("*Halliburton II*") signaled a threat to upend securities class action litigation as we know it.[1] The Court's willingness to revisit the presumption of

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1. *See* Petition for Writ of Certiorari at *I, Halliburton Co. v. Erica P. John Fund, Inc. (*Halliburton II*), 134 S. Ct. 2398 (2014) (No. 13-317). The petition sought review, *inter alia*, of the following issue: "Whether this Court should overrule or substantially modify the holding of [*Basic, Inc. v. Levinson*] to the extent that it recognizes a

reliance on the market price[2] highlighted a profoundly important public policy issue.[3] However, in the end, the *Halliburton II* opinion was a bit anticlimactic—the Court declined to jettison the fraud-on-the-market presumption and instead produced a limited holding that the defendant must be allowed to litigate the issue of price impact at the class certification stage.[4]

Yet the impact of *Halliburton II* should not be underestimated. While the opinion will not radically change securities class action litigation—as some had feared and others hoped—it is likely to influence class action litigation in important ways, some of which are not immediately obvious. This Essay explores these impacts. It considers the Court's analysis of whether the fraud-on-the-market presumption should be abandoned, analyzes the majority's reasons for allowing defendants to introduce evidence of lack of price impact at the certification stage, evaluates the impact on settlements, and offers thoughts on how the opinion will impact litigation expenses and the timing of certification rulings.

I. RETAINING THE FRAUD-ON-THE-MARKET PRESUMPTION

The majority opinion's discussion of its reasons for declining to jettison the fraud-on-the-market presumption carries interesting implications for the future of securities-fraud litigation and, indeed, class action litigation in general. This Part discusses three of those implications. First, while the Court is not going to revisit the presumption any time soon, the opinion invites Congress to take up that issue. Second, the opinion signaled that the plaintiffs' burden of showing market efficiency does not require proof based on financial economics, but rather can be satisfied with common-sense evidence that the price of the security in question was

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presumption of classwide reliance derived from the fraud-on-the-market theory." The Court's decision to take up this issue was not unexpected. Several of the Justices had publicly expressed doubts about the fraud-on-the-market theory in *Amgen Inc. v. Conn. Ret. Plans & Trust Funds*, 133 S. Ct. 1184 (2013). *See Halliburton II*, 134 S. Ct. at 1204 (Alito, J., concurring); *id.* at 1208 n.4 (Thomas, J., dissenting). Even the majority opinion in *Amgen*, while not questioning the viability of the theory, nevertheless recognized that the theory presented important ambiguities that, by implication, might be a basis for future Supreme Court review. *See id.* at 1197 n.6 ("[M]odern economic research tend[s] to show that market efficiency is not 'a binary, yes or no question.' Instead, this research suggests, differences in efficiency can exist within a single market. For example, a market may more readily process certain forms of widely disseminated and easily digestible information, such as public merger announcements, than information more difficult to acquire and understand, such as obscure technical data buried in a filing with the [SEC].") (internal citations omitted).

2. *See* Basic, Inc. v. Levinson, 485 U.S. 224, 245 (1988). For a sampling of the vast literature on the fraud-on-the-market presumption, see, e.g., Barbara Black, *The Strange Case of Fraud on the Market: A Label in Search of a Theory*, 52 ALB. L. REV. 923 (1988); Bradford Cornell & James C. Rutten, *Market Efficiency, Crashes, and Securities Litigation*, 81 TUL. L. REV. 443, 449 (2006); Larry E. Ribstein, *Fraud on a Noisy Market*, 10 LEWIS & CLARK L. REV. 137 (2006).

3. *See* James D. Cox, *Understanding Causation in Private Securities Lawsuits: Building on* Amgen, 66 VAND. L. REV. 1719, 1721 (2013) ("a potentially mortal blow to the securities class action"); Donald C. Langevoort, *Judgment Day for Fraud-on-the-Market?: Reflections on* Amgen *and the Second Coming of* Halliburton, 57 ARIZ. L. REV. 37 (2015).

4. *Halliburton II*, 134 S. Ct. at 2417.

followed by informed traders. Third, although the opinion has no direct or technical bearing on state law cases, the opinion's analysis of market efficiency may support more liberal certification of ordinary state law consumer-fraud claims.

A. Prospects for Congressional Action

It is perhaps not surprising that the Court in *Halliburton II* declined to repudiate the fraud-on-the-market presumption, simply because the consequences of doing so were momentous. In the absence of a presumption of reliance, it would be exceedingly difficult for plaintiffs to prosecute a securities-fraud damages case on a class-wide basis. Under Rule 26 of the Federal Rules of Civil Procedure, in order for a class to be certified, the common issues must "predominate" over class members' individual issues.[5] Without a presumption of reliance, each plaintiff would be required to prove she relied on the defendant's statements—rendering certification of a class action all but impossible. Absent compelling reasons to act, it was unlikely for the Court to favor such a revolutionary change.

The Court in *Halliburton II* failed to identify any sufficient reason to overturn settled law. Defense interests encouraged the Court to reject the presumption of reliance on a variety of public policy grounds, including the alleged weakness of the empirical premise of efficient markets; the problem of circular recoveries for class members who continue to hold stock; and the concern that defendants are effectively coerced to settle certified cases because they cannot tolerate the risk of a ruinous verdict.[6] Having heard this litany of complaints, the Court declined to act, on the theory that a doctrine so firmly entrenched should not be overruled absent "special justification."[7] In holding that no special justification had been shown, Chief Justice Roberts made it clear that the Court is not going to take the issue up again any time soon.

This does not mean, however, that the fraud-on-the-market theory is on safe legal ground. In *Halliburton II*, the Court suggested that defendants should turn to Congress for relief. Chief Justice Roberts was hardly subtle on this point; he pointedly reminded his readers that Congress "remains free to alter what we have done."[8] Noting that lawmakers had already curtailed private securities litigation in other respects in response to complaints from the business community,

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5. FED. R. CIV. P. 26(b)(3).

6. For discussion of some of these problems, see, e.g., John C. Coffee, Jr., *Reforming the Securities Class Action: An Essay on Deterrence and its Implementation*, 106 COLUM. L. REV. (2006); Patrick M. Garry et al., *The Irrationality of Shareholder Class Action Lawsuits: A Proposal for Reform*, 49 SAN DIEGO L. REV. 275, 282–83 (2004); Amanda M. Rose, *Reforming Securities Litigation Reform: Restructuring the Relationship Between Public and Private Enforcement of Rule 10b-5*, 108 COLUM. L. REV. 1301 (2008).

7. *Halliburton II*, 134 S. Ct. at 2407 (quoting Dickerson v. United States, 530 U.S. 428, 443 (2000)).

8. *Id.* at 2411 (quoting John R. Sand & Gravel Co. v. United States, 552 U.S. 130, 139 (2008) (quoting Patterson v. McLean Credit Union, 491 U.S. 164, 172–73 (1989))).

Roberts suggested that it might well do so again.[9] These comments carried a message for the defense side of securities class action litigation: you might get a more receptive audience if you take your complaints to the legislative branch.[10]

If further encouragement was needed, defense interests could take comfort from the Court's conspicuous lack of enthusiasm for the doctrine that it was rescuing from oblivion. Chief Justice Roberts refused to sign the death warrant, but did not display much sympathy for the prisoner. The Chief Justice did not highlight the virtues of private securities fraud litigation, did not endorse the empirical foundations of the *Basic* opinion,[11] and did not deny the force of recent challenges to claims of market efficiency.[12] He rested the decision to retain current doctrine solely on the inability of the petitioner to establish something so terrible as to outweigh the policy of stare decisis.[13] Opponents of the fraud-on-the-market presumption can point to the Court's lack of endorsement as a reason why Congress should reform the law.

B. Proving Market Efficiency

Chief Justice Roberts made it clear that, to qualify for the fraud-on-the-market presumption, a securities-fraud plaintiff must establish, *inter alia*, that the market on which the security was bought or sold is "efficient."[14] In this respect

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9. *Id.* at 2413 (suggesting that Congress might be "willing[] to consider policy concerns of the sort that Halliburton says should lead us to overrule *Basic*").

10. The dissenting Justices, for their part, also endorsed the idea of legislative action: Justice Thomas remarked that "the [*Basic*] Court's attempt to revise securities law to fit the alleged 'new realities of financial markets' should have been left to Congress"—thus suggesting that Congress can usefully rectify the problem, given that the Court is unwilling to do so. *Id.* at 2427 (Thomas, J., dissenting) (quoting Basic, Inc. v. Levinson, 485 U.S. 224, 254 (1988) (White, J., concurring in part and dissenting in part)).

11. The closest the majority came to voicing approval of the efficient markets hypothesis is its remark that, even though the idea may have attracted substantial criticism in the years since the *Basic* decision was announced, the petitioner had not established the existence of a "fundamental shift in economic theory." *See id.* at 2410. This is hardly a nomination for the Nobel Prize.

12. Examples of research challenging the degree to which securities markets accurately and promptly incorporate information in price include Cox, *supra* note 3, at 1732; Donald Langevoort, *Taming the Animal Spirits of the Stock Markets: A Behavioral Approach to Securities Regulation*, 97 NW. U. L. REV. 135 (2002); Baruch Lev & Meiring de Villiers, *Stock Price Crashes and 10b–5 Damages: A Legal, Economic and Policy Analysis*, 47 STAN. L. REV. 7 (1994).

13. The dissenting Justices, meanwhile, offered even more ammunition to opponents of securities-fraud class actions. Justice Thomas, joined by Justices Scalia and Alito, said: "Logic, economic realities, and our subsequent jurisprudence have undermined the foundations of the *Basic* presumption, and stare decisis cannot prop up the façade that remains. *Basic* should be overruled." *Halliburton II*, 134 S. Ct. at 2418 (Thomas, J., dissenting). In the dissenters' view, the *Basic* presumption creates an "unrecognizably broad cause of action" jerry-rigged for the specific purpose of preserving class certification. *Id.* at 2427. The decision, they assert, was "error," and one which the Court, having committed the offense, should take on itself to correct. *Id.*

14. *Id.* at 2413.

Halliburton II is consistent with prior law. But what did the Court mean when it declared that the market must be "efficient?"

The question of what constitutes market efficiency has been much discussed by finance economists.[15] But the majority opinion casts doubt on whether the "efficiency" needed to trigger the fraud-on-the-market presumption is properly defined with the tools of corporate finance.[16] The presumption of reliance, Chief Justice Roberts said, does not presuppose "the use of sophisticated statistical analysis and the application of economic theory."[17] It is grounded instead on the "modest premise" that "market professionals generally consider most publicly announced material statements about companies, thereby affecting stock market prices."[18]

If the presumption of reliance derives from such a modest premise, then the concept of efficiency under the fraud-on-the-market theory should not be defined by the standards of corporate finance. What is required is not a formal econometric analysis but rather a simple demonstration that "false statements affect [the market], and cause loss."[19] This reformulation of the concept of market efficiency is significant. In light of *Halliburton II*, it should be sufficient for the plaintiff to demonstrate that the security is followed by informed traders and market professionals, so that material, false statements by corporate insiders are likely to distort the price. In this respect, *Halliburton II* makes class certification easier in the range of cases where doubts could be raised about the efficiency of the market from the perspective of corporate finance.

C. Implications for State Law Class Actions

The Court's discussion of the fraud-on-the-market theory has implications for the law of class certification generally. In an ordinary consumer case, the plaintiff often alleges that the manufacturer falsely represented the quality of its product. Such an allegation could support a claim of common law fraud by an individual who asserts that she relied on the defendant's false representation.[20] But

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15. On the idea of efficient markets within corporate finance, see, e.g., Eugene F. Fama, *Efficient Capital Markets: A Review of Theory and Empirical Work*, 25 J. FIN. 383 (1970); Donald Langevoort, *Theories, Assumptions, and Securities Regulation: Market Efficiency Revisited*, 140 U. PA. L. REV. 851, 853 (1992). For discussion both explaining and celebrating the concept of market efficiency, see, e.g., Ronald J. Gilson & Reinier H. Kraakman, *The Mechanisms of Market Efficiency*, 70 VA. L. REV. 549 (1983). For a more qualified analysis, see Ronald J. Gilson & Reinier Kraakman, *The Mechanisms of Market Efficiency Twenty Years Later: The Hindsight Bias*, 28 J. CORP. L. 715 (2003).

16. *Halliburton II*, 134 S. Ct. at 2410.

17. *Id.* (citing Basic, Inc. v. Levinson, 485 U.S. 224, 246–47, n. 24 (1988)).

18. *Id.*

19. *Id.* (quoting Schleicher v. Wendt, 618 F.3d 679, 685 (7th Cir. 2010) (Easterbrook, C.J.)).

20. *See, e.g.*, Forbis v. Neal, 649 S.E.2d 382, 387 (N.C. 2007) (civil fraud consists of "(1) False representation or concealment of a material fact, (2) reasonably calculated to deceive, (3) made with intent to deceive, (4) which does in fact deceive, (5) resulting in damage to the injured party. Additionally any reliance on the allegedly false representations must be reasonable.") (internal citations omitted); Weidner v. Karlin, 932 N.E.2d 602, 605 (Ill. App. 2010) (To prevail on its fraud claim, the plaintiff must establish

class action treatment for such claims will ordinarily be unavailable for the reason identified in *Basic*: if reliance is a part of the plaintiff's prima facie case, then the need to establish that element for each class member will swamp out the common issues and thus defeat certification.[21]

A fraud-on-the-market-type presumption might serve to rescue class action treatment in such cases. To date, however, state courts and legislatures have not recognized a presumption of reliance in such cases.[22] However, *Halliburton II* suggests a possible route towards certifying consumer-fraud cases. Consider the market for canned tuna in grocery stores. Although this market is not efficient in a corporate finance sense, it does seem to satisfy the "modest" requirements for efficiency outlined in Chief Justice Roberts' opinion, in the sense that the manufacturer's statements about product quality will likely influence the price.[23] If the label announces that the can contains solid white albacore, for example, the item is likely to command a higher price than if the label states that the can contains chunk light tuna. The same premises that the Court used in *Halliburton II* to justify the fraud-on-the-market theory in securities fraud cases could apply, with minor modification, to a variety of mass-market consumer goods and services.

To be sure, private consumer-fraud litigation is brought under state law in state courts, and thus is not governed by a Supreme Court opinion interpreting federal securities laws. Nevertheless, the Supreme Court's opinions can be influential in state courts on state law issues.[24] If the nation's highest court is willing to recognize a presumption of reliance in the case of securities markets that are only modestly efficient, plaintiffs may cite to that opinion as authority for the proposition that that state law should likewise recognize a fraud-on-the-market type presumption in mass-market consumer-fraud cases.

The reasoning of *Halliburton II* also has another implication for class actions generally. Defense counsel may oppose certification in any given case by pointing to the existence of *potential* individual issues. With a degree of logic, defense counsel can argue that because there are potential individual issues involving every class member, each of which would need to be established by individual proof, the trial court cannot reasonably conclude that the plaintiff has met the burden of establishing that the common issues predominate over the individual ones.

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that (1) defendant made a false statement or omission of material fact, (2) defendant knew of or believed in its falsity, (3) the defendant intended to induce plaintiff to act, (4) the plaintiff acted in reliance on the truth of the defendant's statements, and (5) damages resulted from the plaintiff's reliance).

21. See *Halliburton II*, 134 S. Ct. at 2408 (quoting *Basic*, 485 U.S. at 242 ("If every plaintiff had to prove direct reliance on the defendant's misrepresentation, 'individual issues then would . . . overwhelm[ ] the common ones,' making certification under Rule 23(b)(3) inappropriate.")).

22. *See, e.g.*, Mirkin v. Wasserman, 858 P.2d 568, 573 (Cal. 1993) ("California courts have always required plaintiffs in actions for deceit to plead and prove the common law element of actual reliance.").

23. *See Halliburton II*, 134 S. Ct. at 2410.

24. *See, e.g.*, Rasheed v. Chrysler Corp., 517 N.W.2d 19, 33 n.46 (Mich. 1994) ("[F]ederal precedent, although not binding, is persuasive authority.").

Halliburton II supplies an answer to this problem. The petitioner in *Halliburton II* attacked the presumption of reliance on the ground that many investors do not rely on the market price.[25] Chief Justice Roberts' sensible response was to recognize the truth of the observation that some class members do not rely on the market price, but to deny that the presence of such investors detracts from the general utility of the fraud-on-the-market presumption. Given that most class members do rely on the market price, it was reasonable for the Court to craft a presumption that all do so, subject to rebuttal in individual cases.[26]

The same logic—whether or not expressed in terms of "presumptions"—applies in class action litigation generally. If a court can say with reasonable confidence, based on common-sense judgment and the facts and circumstances then known, that the large majority of class member claims will involve common issues, it is appropriate for the court to certify the case over the objection that the claim of any class member might raise individual issues. In this respect, Chief Justice Roberts' opinion offers potentially valuable learning that can be applied in the context of class actions generally.

II. REBUTTING THE PRESUMPTION WITH EVIDENCE OF LACK OF PRICE IMPACT

In the second part of the *Halliburton II* opinion, the Court held that the defendant was entitled to introduce evidence of price impact at the class certification stage, and that the fraud-on-the-market presumption would be rebutted as to all plaintiffs if the defendant demonstrated the lack of price impact.[27] In the coming years, courts will need to wrestle with the practical implications of this rule.

First, what must the defendant show when introducing evidence demonstrating lack of price impact? Is it necessary for the defendant to bring forth evidence sufficient to persuade a trier of fact that the defendant's statements had no impact at all? What if the evidence showed that the statements had an impact but that the impact was small? Defendants may argue that courts should not recognize a presumption of reliance in such cases because plaintiffs cannot be presumed to rely on statements that have only a small impact on price. But how small does the impact have to be?

Second, what happens when the defendant introduces evidence showing that the price of the security was not impacted when the truth came out, but the plaintiff responds with evidence showing that the price was impacted when the false statement was originally made? In such a case involving competing evidence, should the court credit the defendant's proof, or adopt the policy that a tie goes to the plaintiff?

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25. *Halliburton II*, 134 S. Ct. at 2410.

26. *See id.* at 2411 (quoting Amgen, Inc. v. Conn. Ret. Plans & Trust Funds, 133 S. Ct. 1184, 1192 (2013) ("[I]t is reasonable to presume that most investors—knowing that they have little hope of outperforming the market in the long run based solely on their analysis of publicly available information—will rely on the security's market price as an unbiased assessment of the security's value in light of all public information.")).

27. *Id.* at 2417.

Third, what is the relevance of evidence of price impact for later stages of the litigation, assuming the case is certified? Can the plaintiff claim that a judicial rejection of the defendant's attempt to rebut the presumption of reliance carries forward to the merits, so that the defendant will be precluded from contesting the existence of price impact after class certification? Or should the different burdens—defendant's burden to establish lack of price impact at certification, plaintiff's burden to establish presence of price impact on the merits—require that the issue be relitigated in whole or in part? And, if the issue of damages is to be presented to a jury, can the judge's prior determination on price impact have any impact at all?

III. IMPACT ON FILINGS AND SETTLEMENTS

There are certain broader issues, beyond these practical questions, that go to the balance of power and settlement leverage between the parties. On the one hand, as Chief Justice Roberts suggested, the impact of *Halliburton II* may not be large.[28] Price impact will usually be litigated at the merits stage, so the principal effect of *Halliburton II* is to advance the issue to an earlier stage of the lawsuit, not to introduce a new topic for adjudication.[29] But this is just a change in timing. Meanwhile, because the defendant bears the burden of rebutting the fraud-on-the-market presumption by producing evidence of lack of impact, the plaintiff is not seriously prejudiced by the acceleration of this issue to the certification stage.[30] If the defendant establishes a lack of price impact at certification, it follows logically that the defendant would prevail at trial by presenting the same evidence to contest plaintiff's proof of damages. In this case, the timing of adjudication would not affect the ultimate disposition of the lawsuit. Alternatively, suppose the defendant fails to establish lack of price impact at the certification stage. In this case, the defendant will also usually (although not always) fail to rebut plaintiff's proof of price impact at a trial on the merits. Again the ultimate disposition would be the same. Accordingly, one might surmise that the Court's ruling on price impact would have only a minimal effect on outcomes and on settlements agreed to in the shadow of expected outcomes.

Despite the cogency of these observations, it is likely that the Court's ruling on price impact will have greater importance than may at first appear. Compared with the alternative rule that remits litigation over price impact to the merits stage, the *Halliburton II* rule is likely to reduce the plaintiff's chance of obtaining a favorable outcome.

First, there is a question of judicial attitudes. *Halliburton II* signals that a majority of the Justices on the Supreme Court harbor concerns about the too-ready

28. *Id.* at 2416–17.

29. *Id.*

30. It was on this ground that three Justices on the liberal wing of the Court—Ginsburg, Breyer and Sotomayor—joined the majority opinion. *See id.* at 2417 (Ginsburg, J., concurring) ("Advancing price impact consideration from the merits stage to the certification stage may broaden the scope of discovery available at certification . . . . But the Court recognizes that it is incumbent upon the defendant to show the absence of price impact . . . . The Court's judgment, therefore, should impose no heavy toll on securities-fraud plaintiffs with tenable claims. On that understanding, I join the Court's opinion.").

certification of securities class actions. The mood of the majority opinion was one of caution, especially in marginal cases involving weak claims.[31] Sensing this attitude, trial judges who share the Justices' misgivings are likely to rule against certification in doubtful cases even though they might previously have certified the claims.

Second, *Halliburton II* does more than merely affect the timing of proof on an issue that would be litigated in any event. When proof of price impact is deferred to trial, the defendant may find it expedient to settle the matter even if the defendant feels confident it will win on the merits. Settlement conserves resources because the defendant does not have to prepare other issues in the case for trial. On the other hand, when—as permitted under *Halliburton II*—the defendant introduces evidence of lack of price impact at the certification stage, the court may refuse to certify the class. For many smaller claimants, this is effectively the end of the matter because their claims are not large enough to be cost-effectively litigated on an individual basis.

The upshot is that there are likely to be cases where the plaintiff suffers an outright loss under *Halliburton II*, because the court denies class certification based on finding a lack of price impact, but where, on identical facts, the plaintiff would obtain a settlement under the alternative rule. Even when plaintiffs obtain a settlement under *Halliburton II*, moreover, the amount the defendant pays is likely to be lower than under the alternative rule. The reason is that the plaintiff will demand less to settle the case in order to avoid the risk of denial of class certification.

These impacts may not show up in case outcome statistics because selection effects are likely to change the makeup of cases that are filed. Under *Halliburton II*, plaintiffs' attorneys are likely to refrain from filing marginal cases that they would have found desirable to file under the alternative rule. In particular, plaintiffs' attorneys will be less likely to go forward with cases where proof of price impact is weak. Because of this selection effect, the observed success rate in filed cases may not be significantly affected by *Halliburton II* simply because weaker cases are not filed.

Halliburton II is likely to influence securities class action cases in ways that go beyond its impact on settlement leverage. For example, litigation costs are likely to increase for both parties as a result of the decision. Under *Halliburton II*, defendants will often raise price impact at the certification phase. In consequence, certification will sometimes evolve into a mini trial. Under the alternative regime, the parties would often settle without addressing price impact, thus avoiding costs that would be incurred under *Halliburton II.*

Settlement classes are also likely to increase under *Halliburton II* as compared with the alternative rule. *Halliburton II* increases the cost to both parties to the extent that it triggers expensive disputes over price impact at certification. Rather than incur this cost, it may be mutually beneficial for the parties to defer the certification decision until they have settled the case on the merits. The parties can

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31. *See, e.g.*, *id.* at 2415 (explaining the bizarre results that arise if price impact evidence submitted with the purpose of rebutting the *Basic* presumption is disallowed).

then present the court with a settlement in which the defendant agrees not to contest certification and both parties agree to class compensation.

CONCLUSION

Halliburton II is one of those Supreme Court decisions that appears to do little, but, in the long run, may change the rules of the game. The decision is likely to impact strategies in the ongoing battle between defense and plaintiff interests, including the possibility of a campaign for congressional action. The role of finance economics in defining market efficiency may diminish and, concomitantly, plaintiffs' counsel may find it easier to obtain certification of cases in thinly traded markets. Counsel may seize on the Court's reasoning to argue for liberalizing class certification in other types of cases. Meanwhile the Court's ruling on price impact may impact the volume and mix of securities-fraud case filings, the frequency of settlement classes, the settlement consideration, and the amount of overall litigation costs.