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HRO Alert

GOOD NEWS: U.S. SUPREME COURT ENFORCES STRICT PLEADING REQUIREMENT UNDER PRIVATE SECURITIES LITIGATION REFORM ACT

Yesterday, the U.S. Supreme Court announced its decision in *Tellabs, Inc v. Makor Issues & Rights Ltd* (No. 06-484). It is a welcome development for defendants facing securities fraud claims. The Supreme Court interpreted the Private Securities Litigation Reform Act of 1995 (the "PSLRA") and enforced the strict pleading standard for actions subject to the PSLRA.

The Court concluded that to determine whether a plaintiff's allegations regarding a defendant's culpability "can survive the threshold inspection for sufficiency, a court . . . must engage in a comparative evaluation; it must consider, not only inferences urged by the plaintiff, . . . but also competing inferences rationally drawn from the alleged facts." Previously, lower courts relied on a plaintiff-friendly standard where plaintiff's allegations were deemed sufficiently alleged if "a reasonable person could infer that the defendant acted with the required intent." Following this ruling, lower courts must now "consider plausible *nonculpable* explanations for the defendants' conduct."

The *Tellabs* decision also clarifies the undefined "strong inference" standard which had previously divided federal courts of appeal. After reviewing Congress' intent behind the PSLRA and its goal of curbing frivolous, lawyer-driven litigation, the Court concluded that the "strong inference" standard includes a weighing of opposing inferences by both parties to determine if the allegations meet the requisite standard for pleading the defendant's culpability.

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