

PUBLIC JUSTICE E-LERT

AMERICA'S PUBLIC INTEREST LAW FIRM

June 7, 2011

Good news from the U.S. Supreme Court! The Court issued two unanimous decisions Monday rejecting defendants' attempts to change the law to limit access to justice. In both cases, the Court overruled decisions from the U.S. Court of Appeals for the Fifth Circuit. In both cases, Public Justice filed briefs urging the Court to rule as it did.

First, in [*Erica P. John Fund, Inc. v. Halliburton Co.*](#), the Court held unanimously that securities fraud plaintiffs do not have to prove "loss causation" -- i.e., that the alleged fraud caused a drop in the stock price -- for the case to proceed as a class action. The Court's opinion, written by Chief Justice Roberts, explained, as our *amicus* brief argued, that the Fifth Circuit's ruling to the contrary violated the Court's 1988 decision in *Basic Inc. v. Levinson* and would improperly preclude stockholders from pursuing their claims.



To read the Court's decision, [click here](#).

To read our *amicus* brief, [click here](#).

Congratulations and thanks to Charles Pearsall Goodwin of [Berger & Montague, P.C.](#), who authored the brief, with assistance from Yael May, also of Berger & Montague, P.C.; Lisa M. Mezzetti and S. Douglas Bunch of [Cohen Milstein Sellers & Toll, PLLC](#); Public Justice's [Brayton-Thornton Attorney Melanie Hirsch](#); and me. Congratulations and thanks, too, to plaintiffs' counsel David Boies of [Boies, Schiller & Flexner LLP](#).

Second, in [*Fox v. Vice*](#), the Court held unanimously that, when a civil rights plaintiff's suit involves both non-frivolous and frivolous claims, a court may only award attorneys' fees to a prevailing defendant to the extent the fees requested would not have accrued "but for" the frivolous claims. The Court's opinion, written by Justice Kagan, explained, as our *amici* brief argued, that the Fifth Circuit's ruling to the contrary violated Congress's intent and would effectively allow defendants to punish plaintiffs for bringing meritorious claims.

To read the Court's decision, [click here](#).

To read our *amici* brief, [click here](#).

Congratulations and thanks, to Andrew G. Celli, Jr., O. Andrew F. Wilson, and Debra L. Greenberger of [Emery Celli Brinckerhoff & Abady LLP](#), who authored the brief on behalf of a coalition of groups including Public Justice, [American Civil Liberties Union](#), [Americans United for Separation of Church and State](#), [Impact Fund](#), [Lawyers' Committee for Civil Rights Under Law](#), [The Legal Aid Society](#), [National Employment Lawyers Association](#), [National Fair Housing Alliance](#), and [People For the American Way](#). Congratulations and thanks, as well, to plaintiffs' counsel E. Joshua Rosenkranz of [Orrick, Herrington & Sutcliffe, LLP](#).

Finally and most of all, congratulations and thanks to you for making this critically important work possible. Together, we must keep fighting for access to justice for all.

Arthur Bryant

Executive Director
Public Justice and the
Public Justice Foundation