

Halliburton v. Erica John P. Fund, Inc., Fraud-on- the-Market Presumption of Reliance Established; What Now?

43 Rutgers L. Rec. 148 (2016) | [WestLaw](#) | [LexisNexis](#) | [PDF](#)

About 25 years ago, the Supreme Court, through its endorsement of the fraud-on-the-market (FOTM) theory in *Basic, Inc. v. Levinson*, paved the way for modern securities-fraud litigation as we know it. That establishment, which effectively represents the principal way through which shareholders can sue companies for securities fraud, however, was on the brink of destruction in the recent *Halliburton Co. v. Erica P. John Fund, Inc. (Halliburton II)* case. Despite years of mounting and, seemingly, never-ending criticism, academic, popular, and otherwise, to the underpinnings of *Basic's* FOTM theory, the *Halliburton II* Court adhered to its precedent. Criticism of FOTM should now be a moot point. Given the historical background of the securities laws, and the current tension between the increase in both the federal enforcement of those laws and corporate compliance efforts, the Supreme Court's decision should not have been surprising.

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