



Rebutting Price Impact In Securities Class Actions

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Defendants litigating securities cases historically faced long odds in defeating class certification. This stems in part from the [US Supreme Court's](#) 1988 decision in *Basic v. Levinson*, which created a rebuttable presumption of classwide reliance on a defendant's alleged misrepresentations.

For years, *Basic's* presumption was rebuttable in name only. That paradigm began to shift with the Supreme Court's 2014 decision in *Halliburton Co. v. Erica P. John Fund Inc.*, which allowed defendants to present evidence that the alleged misrepresentations did not affect the issuer's stock price.

The true seeds of a course correction, though, came four years ago in the Supreme Court case of *Goldman Sachs Group Inc. v. Arkansas Teacher Retirement System*, or GSG, which [identified](#) the type of price impact evidence courts should consider at the class certification stage.

The [US Court of Appeals for the Second Circuit's](#) August 2023 [decision](#) in *Arkansas Teacher Retirement System v. Goldman Sachs Group Inc.*, or ATRS, sharpened GSG's application to reinvigorate the rebuttable aspect of *Basic's* presumption. While ATRS creates a blueprint for defeating class certification, as the [US Court of Appeals for the Third Circuit](#) recently made clear in its July 30 [decision](#) in *San Diego County Employees Retirement Association v. Johnson & Johnson*, ATRS's framework is not a one-size-fits-all defense.

An examination of cases post-ATRS illustrates how its successful application turns on the evidence in each case.

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* Jessica Violone, Katten summer associate, contributed to this article.

CONTACTS

For more information, contact your Katten attorney or any of the following attorneys.



Kevin P. Broughel

+1.212.940.6343

kevin.broughel@katten.com



Sarah Eichenberger

+1.212.940.8788

sarah.eichenberger@katten.com



Zoe Lo

+1.212.940.6577

zoe.lo@katten.com

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