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## **SECURITIES PLAINTIFFS ATTORNEYS COMMENT ON TELLABS SUPREME COURT DECISION**

### **Tellabs Decision Establishes Uniform Standard for Tough Pleading Standards in 1995 Law**

#### **But Meritorious Securities Fraud Class Action Lawsuits Will Survive**

Washington, DC, June 22 – The National Association of Shareholder and Consumer Attorneys today issued the following statement on the Supreme Court’s June 21 decision in Makor v. Tellabs, Inc.:

*“The Private Securities Litigation Reform Act of 1995 introduced tough new pleading standards for investors filing securities fraud class action lawsuits. Yesterday, in its Tellabs, Inc decision, the Supreme Court promulgated a national test for applying those standards, providing further guidance on the pleading burden that investors must meet before they can litigate their cases and recover damages incurred by those who defraud them.”*

*“Fortunately, the Supreme Court declined to adopt the draconian standards recommended by the U.S. Chamber of Commerce, a business lobbying group, and its allies.”*

*“We are confident that our clients, institutional and small investors alike who have been damaged by various forms of corporate deception, will be able to meet the newly articulated standard when pleading their claims. We continue to be concerned, however, that the combined effect of restrictions unnecessarily placed on shareholder litigation may result in dismissal of certain meritorious claims.”*

*“No doubt, opponents of our current investor protection system and vigorous public and private securities law enforcement will continue waging war on investors’ legal rights.”*

The Supreme Court Tellabs case focused on varying interpretations of a provision of the Private Securities Litigation Reform Act of 1995 that requires investors to allege that a “defendant acted with a particular state of mind . . . giving rise to a strong inference that the defendant” intended to violate the law. Congress, however, did not define “strong inference.”

Yesterday, the Supreme Court established a uniform standard. For securities fraud complaints to survive, investors will need to make “cogent and compelling” allegations to demonstrate the required intent on the part of defendants. In particular, trial courts will be required to consider explanations by defendants providing an innocent rationale for conduct but will survive, the Court said, if a reasonable person would deem the inference of scienter cogent and at least as compelling as any opposing inference one could draw from the facts alleged.

Although declining in number, securities fraud class actions lawsuits, which must be filed and heard in federal courts, remain the primary vehicle for investors to recover legitimate fraud losses. In 2006, 118 suits securities fraud class actions were filed, down from 185 in 2005 and 235 in 2004.

The National Association of Securities and Consumer Law Attorneys is a nonprofit organization comprised of about 100 law firms representing consumers and investors – including pension funds and individuals – in cases of securities fraud and other forms of “white collar” wrong doing and criminal activity.

For more on the impact of the Supreme Court’s Tellabs decision and the investor protection role played by private securities litigation, journalists may wish to contact the independent authorities listed below. They include a former U.S. Securities and Exchange Commissioner and general counsel, a former SEC deputy general counsel, and a former chief accountant for the SEC:

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