

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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No. 10-13633

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FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT APRIL 11, 2011
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D. C. Docket No. 1:07-cv-02660-CAP

JOHN LEY CLERK
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WASHTENAW COUNTY EMPLOYEES  
RETIREMENT SYSTEM, on behalf of  
itself and all others similarly situated,  
CLARA R. SMITH,

Plaintiffs-Appellees,

versus

PIEDMONT OFFICE REALTY TRUST, INC.,  
f.k.a. Wells Real Estate Investment Trust, Inc.,  
W. WAYNE WOODY, et al.,

Defendants-Appellants.

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Appeal from the United States District Court  
for the Northern District of Georgia

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(April 11, 2011)

Before MARTIN, FAY and BLACK, Circuit Judges.

PER CURIAM:

This appeal challenges the certification of a class in a securities fraud case. Appellant challenges three rulings of the district court which can be summarized as: (1) That the presumption of reliance as set forth in Affiliated Ute Citizens v. United States, 406 U.S. 128, 92 S. Ct. 1456 (1972), is applicable; (2) The plaintiffs are “typical” as required by Fed. R. Civ. P. 23(a)(3); and (3) The plaintiffs will adequately represent the class as required by Fed. R. Civ. P. 23(a)(4).

After studying the briefs and the record and hearing oral argument, we affirm the rulings as to numbers (2) and (3). The problem with number (1) is that the complaint does not support the ruling made by the district court on the presumption of reliance. We do not decide whether a class is supportable without the presumption of reliance nor whether a class would be supportable under allegations in an amended complaint consistent with the arguments presented to the district court and this court.

We vacate the certification of the class and remand for further proceedings.

VACATED AND REMANDED.