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The Honorable William K. Suter  
Clerk, Supreme Court of the United States  
One First Street, N.E.  
Washington, DC 20543

Re: *Amgen Inc. et al. v. Connecticut Retirement Plans and Trust Funds*,  
No. 11-1085

Dear Mr. Suter:

This letter responds to Respondent's letter of May 31, 2012, noting that the Fifth Circuit granted the Rule 23(f) petition in *Erica P. John Fund, Inc. v. Halliburton Co.*, No. 12-90007. *See* Order filed May 22, 2012. That action (the possibility of which was noted in the Brief in Opposition and Reply Brief) should not affect this Court's consideration of Amgen's petition.

First, as Judge Dennis noted, there is an unresolved waiver issue in *Erica P. John Fund* that may prevent the Fifth Circuit from reaching any issue concerning rebuttal of the fraud-on-the-market presumption of reliance. *See* Order at 3 (Dennis, J., dissenting); *see also* Pl. Response to Def. Pet. for Permission to Appeal at 9-12 (Feb. 22, 2012). Second, in any event, nothing the Fifth Circuit might do in *Erica P. John Fund* could eliminate the clear and important circuit split, which also involves the Second, Third, Seventh, and Ninth Circuits. Finally, as Amgen has shown, the present case provides an excellent vehicle for resolving the split. The materiality issues were cleanly presented and resolved in the lower courts. Yet there is no assurance that the ultimate outcome in *Erica P. John Fund* would provide this Court a vehicle for addressing the circuit split.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Seth P. Waxman

cc: Counsel of record for Respondent