

## Opinion of the Court

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**SUPREME COURT OF THE UNITED STATES**

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No. 06–484

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TELLABS, INC., ET AL., PETITIONERS *v.* MAKOR  
ISSUES & RIGHTS, LTD., ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
APPEALS FOR THE SEVENTH CIRCUIT

[June 21, 2007]

JUSTICE GINSBURG delivered the opinion of the Court.

This Court has long recognized that meritorious private actions to enforce federal antifraud securities laws are an essential supplement to criminal prosecutions and civil enforcement actions brought, respectively, by the Department of Justice and the Securities and Exchange Commission (SEC). See, *e.g.*, *Dura Pharmaceuticals, Inc. v. Broudo*, 544 U. S. 336, 345 (2005); *J. I. Case Co. v. Borak*, 377 U. S. 426, 432 (1964). Private securities fraud actions, however, if not adequately contained, can be employed abusively to impose substantial costs on companies and individuals whose conduct conforms to the law. See *Merrill Lynch, Pierce, Fenner & Smith Inc. v. Dabit*, 547 U. S. 71, 81 (2006). As a check against abusive litigation by private parties, Congress enacted the Private Securities Litigation Reform Act of 1995 (PSLRA), 109 Stat. 737.

Exacting pleading requirements are among the control measures Congress included in the PSLRA. The Act requires plaintiffs to state with particularity both the facts constituting the alleged violation, and the facts evidencing scienter, *i.e.*, the defendant’s intention “to deceive, ma-

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nipulate, or defraud.” *Ernst & Ernst v. Hochfelder*, 425 U. S. 185, 194, and n. 12 (1976); see 15 U. S. C. §78u–4(b)(1),(2). This case concerns the latter requirement. As set out in §21D(b)(2) of the PSLRA, plaintiffs must “state with particularity facts giving rise to a strong inference that the defendant acted with the required state of mind.” 15 U. S. C. §78u–4(b)(2).

Congress left the key term “strong inference” undefined, and Courts of Appeals have divided on its meaning. In the case before us, the Court of Appeals for the Seventh Circuit held that the “strong inference” standard would be met if the complaint “allege[d] facts from which, if true, a reasonable person could infer that the defendant acted with the required intent.” 437 F. 3d 588, 602 (2006). That formulation, we conclude, does not capture the stricter demand Congress sought to convey in §21D(b)(2). It does not suffice that a reasonable factfinder plausibly could infer from the complaint’s allegations the requisite state of mind. Rather, to determine whether a complaint’s scienter allegations can survive threshold inspection for sufficiency, a court governed by §21D(b)(2) must engage in a comparative evaluation; it must consider, not only inferences urged by the plaintiff, as the Seventh Circuit did, but also competing inferences rationally drawn from the facts alleged. An inference of fraudulent intent may be plausible, yet less cogent than other, nonculpable explanations for the defendant’s conduct. To qualify as “strong” within the intendment of §21D(b)(2), we hold, an inference of scienter must be more than merely plausible or reasonable—it must be cogent and at least as compelling as any opposing inference of nonfraudulent intent.

## I

Petitioner Tellabs, Inc., manufactures specialized equipment used in fiber optic networks. During the time period relevant to this case, petitioner Richard Notebaert

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was Tellabs' chief executive officer and president. Respondents (Shareholders) are persons who purchased Tellabs stock between December 11, 2000, and June 19, 2001. They accuse Tellabs and Notebaert (as well as several other Tellabs executives) of engaging in a scheme to deceive the investing public about the true value of Tellabs' stock. See 437 F. 3d, at 591; App. 94–98.<sup>1</sup>

Beginning on December 11, 2000, the Shareholders allege, Notebaert (and by imputation Tellabs) “falsely reassured public investors, in a series of statements . . . that Tellabs was continuing to enjoy strong demand for its products and earning record revenues,” when, in fact, Notebaert knew the opposite was true. *Id.*, at 94–95, 98. From December 2000 until the spring of 2001, the Shareholders claim, Notebaert knowingly misled the public in four ways. 437 F. 3d, at 596. First, he made statements indicating that demand for Tellabs' flagship networking device, the TITAN 5500, was continuing to grow, when in fact demand for that product was waning. *Id.*, at 596, 597. Second, Notebaert made statements indicating that the TITAN 6500, Tellabs' next-generation networking device, was available for delivery, and that demand for that product was strong and growing, when in truth the product was not ready for delivery and demand was weak. *Id.*, at 596, 597–598. Third, he falsely represented Tellabs' financial results for the fourth quarter of 2000 (and, in connection with those results, condoned the practice of “channel stuffing,” under which Tellabs flooded its customers with unwanted products). *Id.*, at 596, 598. Fourth, Notebaert made a series of overstated revenue projections,

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<sup>1</sup>The Shareholders brought suit against Tellabs executives other than Notebaert, including Richard Birck, Tellabs' chairman and former chief executive officer. Because the claims against the other executives, many of which have been dismissed, are not before us, we focus on the allegations as they relate to Notebaert. We refer to the defendant-petitioners collectively as “Tellabs.”

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when demand for the TITAN 5500 was drying up and production of the TITAN 6500 was behind schedule. *Id.*, at 596, 598–599. Based on Notebaert’s sunny assessments, the Shareholders contend, market analysts recommended that investors buy Tellabs’ stock. See *id.*, at 592.

The first public glimmer that business was not so healthy came in March 2001 when Tellabs modestly reduced its first quarter sales projections. *Ibid.* In the next months, Tellabs made progressively more cautious statements about its projected sales. On June 19, 2001, the last day of the class period, Tellabs disclosed that demand for the TITAN 5500 had significantly dropped. *Id.*, at 593. Simultaneously, the company substantially lowered its revenue projections for the second quarter of 2001. The next day, the price of Tellabs stock, which had reached a high of \$67 during the period, plunged to a low of \$15.87. *Ibid.*

On December 3, 2002, the Shareholders filed a class action in the District Court for the Northern District of Illinois. *Ibid.* Their complaint stated, *inter alia*, that Tellabs and Notebaert had engaged in securities fraud in violation of §10(b) of the Securities Exchange Act of 1934, 48 Stat. 891, 15 U. S. C. §78j(b), and SEC Rule 10b–5, 17 CFR §240.10b–5 (2006), also that Notebaert was a “controlling person” under §20(a) of the 1934 Act, 15 U. S. C. §78t(a), and therefore derivatively liable for the company’s fraudulent acts. See App. 98–101, 167–171. Tellabs moved to dismiss the complaint on the ground that the Shareholders had failed to plead their case with the particularity the PSLRA requires. The District Court agreed, and therefore dismissed the complaint without prejudice. App. to Pet. for Cert. 80a–117a; see *Johnson v. Tellabs, Inc.*, 303 F. Supp. 2d 941, 945 (ND Ill. 2004).

The Shareholders then amended their complaint, adding references to 27 confidential sources and making further,

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more specific, allegations concerning Notebaert's mental state. See 437 F. 3d, at 594; App. 91–93, 152–160. The District Court again dismissed, this time with prejudice. 303 F. Supp. 2d, at 971. The Shareholders had sufficiently pleaded that Notebaert's statements were misleading, the court determined, *id.*, at 955–961, but they had insufficiently alleged that he acted with scienter, *id.*, at 954–955, 961–969.

The Court of Appeals for the Seventh Circuit reversed in relevant part. 437 F. 3d, at 591. Like the District Court, the Court of Appeals found that the Shareholders had pleaded the misleading character of Notebaert's statements with sufficient particularity. *Id.*, at 595–600. Unlike the District Court, however, the Seventh Circuit concluded that the Shareholders had sufficiently alleged that Notebaert acted with the requisite state of mind. *Id.*, at 603–605.

The Court of Appeals recognized that the PSLRA “un- equivocally raise[d] the bar for pleading scienter” by requiring plaintiffs to “plea[d] sufficient facts to create a strong inference of scienter.” *Id.*, at 601 (internal quotation marks omitted). In evaluating whether that pleading standard is met, the Seventh Circuit said, “courts [should] examine all of the allegations in the complaint and then . . . decide whether collectively they establish such an inference.” *Ibid.* “[W]e will allow the complaint to survive,” the court next and critically stated, “if it alleges facts from which, if true, a reasonable person could infer that the defendant acted with the required intent . . . . If a reasonable person could not draw such an inference from the alleged facts, the defendants are entitled to dismissal.” *Id.*, at 602.

In adopting its standard for the survival of a complaint, the Seventh Circuit explicitly rejected a stiffer standard adopted by the Sixth Circuit, *i.e.*, that “plaintiffs are entitled only to the most plausible of competing inferences.”

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*Id.*, at 601, 602 (quoting *Fidel v. Farley*, 392 F. 3d 220, 227 (CA6 2004)). The Sixth Circuit’s standard, the court observed, because it involved an assessment of competing inferences, “could potentially infringe upon plaintiffs’ Seventh Amendment rights.” 437 F. 3d, at 602. We granted certiorari to resolve the disagreement among the Circuits on whether, and to what extent, a court must consider competing inferences in determining whether a securities fraud complaint gives rise to a “strong inference” of scienter.<sup>2</sup> 549 U. S. \_\_\_\_ (2007).

## II

Section 10(b) of the Securities Exchange Act of 1934 forbids the “use or employ, in connection with the purchase or sale of any security . . . , [of] any manipulative or deceptive device or contrivance in contravention of such rules and regulations as the [SEC] may prescribe as necessary or appropriate in the public interest or for the protection of investors.” 15 U. S. C. §78j(b). SEC Rule 10b–5 implements §10(b) by declaring it unlawful:

“(a) To employ any device, scheme, or artifice to defraud,

“(b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made . . . not misleading, or

“(c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security.” 17 CFR §240.10b–5.

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<sup>2</sup>See, e.g., 437 F. 3d 588, 602 (CA7 2006) (decision below); *In re Credit Suisse First Boston Corp.*, 431 F. 3d 36, 49, 51 (CA1 2005); *Ottmann v. Hanger Orthopedic Group, Inc.*, 353 F. 3d 338, 347–349 (CA4 2003); *Pirraglia v. Novell, Inc.*, 339 F. 3d 1182, 1187–1188 (CA10 2003); *Gompper v. VISX, Inc.*, 298 F. 3d 893, 896–897 (CA9 2002); *Helwig v. Vencor, Inc.*, 251 F. 3d 540, 553 (CA6 2001) (en banc).

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Section 10(b), this Court has implied from the statute's text and purpose, affords a right of action to purchasers or sellers of securities injured by its violation. See, e.g., *Dura Pharmaceuticals*, 544 U. S., at 341. See also *id.*, at 345 ("The securities statutes seek to maintain public confidence in the marketplace . . . by deterring fraud, in part, through the availability of private securities fraud actions."); *Borak*, 377 U. S., at 432 (private securities fraud actions provide "a most effective weapon in the enforcement" of securities laws and are "a necessary supplement to Commission action"). To establish liability under §10(b) and Rule 10b–5, a private plaintiff must prove that the defendant acted with scienter, "a mental state embracing intent to deceive, manipulate, or defraud." *Ernst & Ernst*, 425 U. S., at 193–194, and n. 12.<sup>3</sup>

In an ordinary civil action, the Federal Rules of Civil Procedure require only "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. Rule Civ. Proc. 8(a)(2). Although the rule encourages brevity, the complaint must say enough to give the defendant "fair notice of what the plaintiff's claim is and the grounds upon which it rests." *Dura Pharmaceuticals*, 544 U. S., at 346 (internal quotation marks omitted). Prior to the enactment of the PSLRA, the sufficiency of a complaint for securities fraud was governed not by Rule 8, but by the heightened pleading standard set forth in Rule 9(b). See *Greenstone v. Cambex Corp.*, 975 F.2d 22, 25 (CA1

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<sup>3</sup>We have previously reserved the question whether reckless behavior is sufficient for civil liability under §10(b) and Rule 10b–5. See *Ernst & Ernst v. Hochfelder*, 425 U. S. 185, 194, n. 12 (1976). Every Court of Appeals that has considered the issue has held that a plaintiff may meet the scienter requirement by showing that the defendant acted intentionally or recklessly, though the Circuits differ on the degree of recklessness required. See *Ottmann*, 353 F.3d, at 343 (collecting cases). The question whether and when recklessness satisfies the scienter requirement is not presented in this case.

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1992) (Breyer, J.) (collecting cases). Rule 9(b) applies to “all averments of fraud or mistake”; it requires that “the circumstances constituting fraud . . . be stated with particularity” but provides that “[m]alice, intent, knowledge, and other condition of mind of a person, may be averred generally.”

Courts of Appeals diverged on the character of the Rule 9(b) inquiry in §10(b) cases: Could securities fraud plaintiffs allege the requisite mental state “simply by stating that scienter existed,” *In re GlenFed, Inc. Securities Litigation*, 42 F. 3d 1541, 1546–1547 (CA9 1994) (en banc), or were they required to allege with particularity facts giving rise to an inference of scienter? Compare *id.*, at 1546 (“We are not permitted to add new requirements to Rule 9(b) simply because we like the effects of doing so.”), with, *e.g.*, *Greenstone*, 975 F. 2d, at 25 (were the law to permit a securities fraud complaint simply to allege scienter without supporting facts, “a complaint could evade too easily the ‘particularity’ requirement in Rule 9(b)’s first sentence”). Circuits requiring plaintiffs to allege specific facts indicating scienter expressed that requirement variously. See 5A C. Wright & A. Miller, *Federal Practice and Procedure* §1301.1, pp. 300–302 (3d ed. 2004) (hereinafter Wright & Miller). The Second Circuit’s formulation was the most stringent. Securities fraud plaintiffs in that Circuit were required to “specifically plead those [facts] which they assert give rise to a *strong inference* that the defendants had” the requisite state of mind. *Ross v. A. H. Robins Co.*, 607 F. 2d 545, 558 (1979) (emphasis added). The “strong inference” formulation was appropriate, the Second Circuit said, to ward off allegations of “fraud by hindsight.” See, *e.g.*, *Shields v. Citytrust Bancorp, Inc.*, 25 F. 3d 1124, 1129 (1994) (quoting *Denny v. Barber*, 576 F. 2d 465, 470 (CA2 1978) (Friendly, J.)).

Setting a uniform pleading standard for §10(b) actions was among Congress’ objectives when it enacted the



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PSLRA. Designed to curb perceived abuses of the §10(b) private action—“nuisance filings, targeting of deep-pocket defendants, vexatious discovery requests and manipulation by class action lawyers,” *Dabit*, 547 U. S., at 81 (quoting H. R. Conf. Rep. No. 104–369, p. 31 (1995) (hereinafter H. R. Conf. Rep.))—the PSLRA installed both substantive and procedural controls.<sup>4</sup> Notably, Congress prescribed new procedures for the appointment of lead plaintiffs and lead counsel. This innovation aimed to increase the likelihood that institutional investors—parties more likely to balance the interests of the class with the long-term interests of the company—would serve as lead plaintiffs. See *id.*, at 33–34; S. Rep. No. 104–98, p. 11 (1995). Congress also “limit[ed] recoverable damages and attorney’s fees, provide[d] a ‘safe harbor’ for forward-looking statements, . . . mandate[d] imposition of sanctions for frivolous litigation, and authorize[d] a stay of discovery pending resolution of any motion to dismiss.” *Dabit*, 547 U. S., at 81. And in §21D(b) of the PSLRA, Congress “impose[d] heightened pleading requirements in actions brought pursuant to §10(b) and Rule 10b–5.” *Ibid.*

Under the PSLRA’s heightened pleading instructions, any private securities complaint alleging that the defendant made a false or misleading statement must: (1) “specify each statement alleged to have been misleading [and] the reason or reasons why the statement is misleading,” 15 U. S. C. §78u–4(b)(1); and (2) “state with particularity facts giving rise to a strong inference that the defendant acted with the required state of mind,” §78u–4(b)(2). In the instant case, as earlier stated, see *supra*, at 5, the

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<sup>4</sup>Nothing in the Act, we have previously noted, casts doubt on the conclusion “that private securities litigation [i]s an indispensable tool with which defrauded investors can recover their losses”—a matter crucial to the integrity of domestic capital markets. See *Merrill Lynch, Pierce, Fenner & Smith Inc. v. Dabit*, 547 U. S. 71, 81 (2006) (internal quotation marks omitted).

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District Court and the Seventh Circuit agreed that the Shareholders met the first of the two requirements: The complaint sufficiently specified Notebaert's alleged misleading statements and the reasons why the statements were misleading. 303 F. Supp. 2d, at 955–961; 437 F. 3d, at 596–600. But those courts disagreed on whether the Shareholders, as required by §21D(b)(2), “state[d] with particularity facts giving rise to a strong inference that [Notebaert] acted with [scienter],” §78u–4(b)(2). See *supra*, at 5.

The “strong inference” standard “unequivocally raise[d] the bar for pleading scienter,” 437 F. 3d, at 601, and signaled Congress’ purpose to promote greater uniformity among the Circuits, see H. R. Conf. Rep., p. 41. But “Congress did not . . . throw much light on what facts . . . suffice to create [a strong] inference,” or on what “degree of imagination courts can use in divining whether” the requisite inference exists. 437 F. 3d, at 601. While adopting the Second Circuit’s “strong inference” standard, Congress did not codify that Circuit’s case law interpreting the standard. See §78u–4(b)(2). See also Brief for United States as *Amicus Curiae* 18. With no clear guide from Congress other than its “inten[tion] to strengthen existing pleading requirements,” H. R. Conf. Rep., p. 41, Courts of Appeals have diverged again, this time in construing the term “strong inference.” Among the uncertainties, should courts consider competing inferences in determining whether an inference of scienter is “strong”? See 437 F. 3d, at 601–602 (collecting cases). Our task is to prescribe a workable construction of the “strong inference” standard, a reading geared to the PSLRA’s twin goals: to curb frivolous, lawyer-driven litigation, while preserving investors’ ability to recover on meritorious claims.

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## III

## A

We establish the following prescriptions: *First*, faced with a Rule 12(b)(6) motion to dismiss a §10(b) action, courts must, as with any motion to dismiss for failure to plead a claim on which relief can be granted, accept all factual allegations in the complaint as true. See *Leatherman v. Tarrant County Narcotics Intelligence and Coordination Unit*, 507 U. S. 163, 164 (1993). On this point, the parties agree. See Reply Brief 8; Brief for Respondents 26; Brief for United States as *Amicus Curiae* 8, 20, 21.

*Second*, courts must consider the complaint in its entirety, as well as other sources courts ordinarily examine when ruling on Rule 12(b)(6) motions to dismiss, in particular, documents incorporated into the complaint by reference, and matters of which a court may take judicial notice. See 5B Wright & Miller §1357 (3d ed. 2004 and Supp. 2007). The inquiry, as several Courts of Appeals have recognized, is whether *all* of the facts alleged, taken collectively, give rise to a strong inference of scienter, not whether any individual allegation, scrutinized in isolation, meets that standard. See, e.g., *Abrams v. Baker Hughes Inc.*, 292 F. 3d 424, 431 (CA5 2002); *Gompper v. VISX, Inc.*, 298 F. 3d 893, 897 (CA9 2002). See also Brief for United States as *Amicus Curiae* 25.

*Third*, in determining whether the pleaded facts give rise to a “strong” inference of scienter, the court must take into account plausible opposing inferences. The Seventh Circuit expressly declined to engage in such a comparative inquiry. A complaint could survive, that court said, as long as it “alleges facts from which, if true, a reasonable person could infer that the defendant acted with the required intent”; in other words, only “[i]f a reasonable person could not draw such an inference from the alleged facts” would the defendant prevail on a motion to dismiss. 437 F. 3d, at 602. But in §21D(b)(2), Congress did not

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merely require plaintiffs to “provide a factual basis for [their] scienter allegations,” *ibid.* (quoting *In re Cerner Corp. Securities Litigation*, 425 F.3d 1079, 1084, 1085 (CA8 2005)), *i.e.*, to allege facts from which an inference of scienter rationally *could* be drawn. Instead, Congress required plaintiffs to plead with particularity facts that give rise to a “strong”—*i.e.*, a powerful or cogent—inference. See American Heritage Dictionary 1717 (4th ed. 2000) (defining “strong” as “[p]ersuasive, effective, and cogent”); 16 Oxford English Dictionary 949 (2d ed. 1989) (defining “strong” as “[p]owerful to demonstrate or convince” (definition 16b)); cf. 7 *id.*, at 924 (defining “inference” as “a conclusion [drawn] from known or assumed facts or statements”; “reasoning from something known or assumed to something else which follows from it”).

The strength of an inference cannot be decided in a vacuum. The inquiry is inherently comparative: How likely is it that one conclusion, as compared to others, follows from the underlying facts? To determine whether the plaintiff has alleged facts that give rise to the requisite “strong inference” of scienter, a court must consider plausible nonculpable explanations for the defendant’s conduct, as well as inferences favoring the plaintiff. The inference that the defendant acted with scienter need not be irrefutable, *i.e.*, of the “smoking-gun” genre, or even the “most plausible of competing inferences,” *Fidel*, 392 F.3d, at 227 (quoting *Helwig v. Vencor, Inc.*, 251 F.3d 540, 553 (CA6 2001) (en banc)). Recall in this regard that §21D(b)’s pleading requirements are but one constraint among many the PSLRA installed to screen out frivolous suits, while allowing meritorious actions to move forward. See *supra*, at 9, and n. 4. Yet the inference of scienter must be more than merely “reasonable” or “permissible”—it must be cogent and compelling, thus strong in light of other explanations. A complaint will survive, we hold, only if a reasonable person would deem the inference of scienter co-

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gent and at least as compelling as any opposing inference one could draw from the facts alleged.<sup>5</sup>

## B

Tellabs contends that when competing inferences are considered, Notebaert's evident lack of pecuniary motive will be dispositive. The Shareholders, Tellabs stresses, did not allege that Notebaert sold any shares during the class period. See Brief for Petitioners 50 ("The absence of any allegations of motive color all the other allegations putatively giving rise to an inference of scienter."). While it is

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<sup>5</sup>JUSTICE SCALIA objects to this standard on the ground that "[i]f a jade falcon were stolen from a room to which only A and B had access," it could not "*possibly* be said there was a 'strong inference' that B was the thief." *Post*, at 1 (opinion concurring in judgment) (emphasis in original). I suspect, however, that law enforcement officials as well as the owner of the precious falcon would find the inference of guilt as to B quite strong—certainly strong enough to warrant further investigation. Indeed, an inference at least as likely as competing inferences can, in some cases, warrant recovery. See *Summers v. Tice*, 33 Cal. 2d 80, 84–87, 199 P. 2d 1, 3–5 (1948) (in bank) (plaintiff wounded by gunshot could recover from two defendants, even though the most he could prove was that each defendant was at least as likely to have injured him as the other); Restatement (Third) of Torts §28(b), Comment *e*, p. 504 (Proposed Final Draft No. 1, Apr. 6, 2005) ("Since the publication of the Second Restatement in 1965, courts have generally accepted the alternative-liability principle of [*Summers v. Tice*, adopted in] §433B(3), while fleshing out its limits."). In any event, we disagree with JUSTICE SCALIA that the hardly stock term "strong inference" has only one invariably right ("natural" or "normal") reading—his. See *post*, at 3.

JUSTICE ALITO agrees with JUSTICE SCALIA, and would transpose to the pleading stage "the test that is used at the summary-judgment and judgment-as-a-matter-of-law stages." *Post*, at 3 (opinion concurring in judgment). But the test at each stage is measured against a different backdrop. It is improbable that Congress, without so stating, intended courts to test pleadings, unaided by discovery, to determine whether there is "no genuine issue as to any material fact." See Fed. Rule Civ. Proc. 56(c). And judgment as a matter of law is a post-trial device, turning on the question whether a party has produced evidence "legally sufficient" to warrant a jury determination in that party's favor. See Rule 50(a)(1).

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true that motive can be a relevant consideration, and personal financial gain may weigh heavily in favor of a scienter inference, we agree with the Seventh Circuit that the absence of a motive allegation is not fatal. See 437 F. 3d, at 601. As earlier stated, *supra*, at 11, allegations must be considered collectively; the significance that can be ascribed to an allegation of motive, or lack thereof, depends on the entirety of the complaint.

Tellabs also maintains that several of the Shareholders' allegations are too vague or ambiguous to contribute to a strong inference of scienter. For example, the Shareholders alleged that Tellabs flooded its customers with unwanted products, a practice known as "channel stuffing." See *supra*, at 3. But they failed, Tellabs argues, to specify whether the channel stuffing allegedly known to Notebaert was the illegitimate kind (*e.g.*, writing orders for products customers had not requested) or the legitimate kind (*e.g.*, offering customers discounts as an incentive to buy). Brief for Petitioners 44–46; Reply Brief 8. See also *id.*, at 8–9 (complaint lacks precise dates of reports critical to distinguish legitimate conduct from culpable conduct). But see 437 F. 3d, at 598, 603–604 (pointing to multiple particulars alleged by the Shareholders, including specifications as to timing). We agree that omissions and ambiguities count against inferring scienter, for plaintiffs must "state with particularity facts giving rise to a strong inference that the defendant acted with the required state of mind." §78u–4(b)(2). We reiterate, however, that the court's job is not to scrutinize each allegation in isolation but to assess all the allegations holistically. See *supra*, at 11; 437 F. 3d, at 601. In sum, the reviewing court must ask: When the allegations are accepted as true and taken collectively, would a reasonable person deem the inference of scienter at least as strong as any opposing inference?<sup>6</sup>

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<sup>6</sup>The Seventh Circuit held that allegations of scienter made against

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## IV

Accounting for its construction of §21D(b)(2), the Seventh Circuit explained that the court “th[ought] it wis[e] to adopt an approach that [could not] be misunderstood as a usurpation of the jury’s role.” 437 F. 3d, at 602. In our view, the Seventh Circuit’s concern was undue.<sup>7</sup> A court’s comparative assessment of plausible inferences, while constantly assuming the plaintiff’s allegations to be true, we think it plain, does not impinge upon the Seventh Amendment right to jury trial.<sup>8</sup>

Congress, as creator of federal statutory claims, has power to prescribe what must be pleaded to state the claim, just as it has power to determine what must be proved to prevail on the merits. It is the federal law-

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one defendant cannot be imputed to all other individual defendants. 437 F. 3d, at 602–603. See also *id.*, at 603 (to proceed beyond the pleading stage, the plaintiff must allege as to each defendant facts sufficient to demonstrate a culpable state of mind regarding his or her violations) (citing *Phillips v. Scientific-Atlanta, Inc.*, 374 F. 3d 1015, 1018 (CA11 2004)). Though there is disagreement among the Circuits as to whether the group pleading doctrine survived the PSLRA, see, e.g., *Southland Securities Corp. v. Inspire Ins. Solutions Inc.*, 365 F. 3d 353, 364 (CA5 2004), the Shareholders do not contest the Seventh Circuit’s determination, and we do not disturb it.

<sup>7</sup>The Seventh Circuit raised the possibility of a Seventh Amendment problem on its own initiative. The Shareholders did not contend below that dismissal of their complaint under §21D(b)(2) would violate their right to trial by jury. Cf. *Monroe Employees Retirement System v. Bridgestone Corp.*, 399 F. 3d 651, 683, n. 25 (CA6 2005) (noting possible Seventh Amendment argument but declining to address it when not raised by plaintiffs).

<sup>8</sup>In numerous contexts, gatekeeping judicial determinations prevent submission of claims to a jury’s judgment without violating the Seventh Amendment. See, e.g., *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U. S. 579, 589 (1993) (expert testimony can be excluded based on judicial determination of reliability); *Neely v. Martin K. Eby Constr. Co.*, 386 U. S. 317, 321 (1967) (judgment as a matter of law); *Pease v. Rathbun-Jones Engineering Co.*, 243 U. S. 273, 278 (1917) (summary judgment).

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maker's prerogative, therefore, to allow, disallow, or shape the contours of—including the pleading and proof requirements for—§10(b) private actions. No decision of this Court questions that authority in general, or suggests, in particular, that the Seventh Amendment inhibits Congress from establishing whatever pleading requirements it finds appropriate for federal statutory claims. Cf. *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 512–513 (2002); *Leatherman*, 507 U.S., at 168 (both recognizing that heightened pleading requirements can be established by Federal Rule, citing Fed. Rule Civ. Proc. 9(b), which requires that fraud or mistake be pleaded with particularity).<sup>9</sup>

Our decision in *Fidelity & Deposit Co. of Md. v. United States*, 187 U.S. 315 (1902), is instructive. That case concerned a rule adopted by the Supreme Court of the District of Columbia in 1879 pursuant to rulemaking power delegated by Congress. The rule required defendants, in certain contract actions, to file an affidavit “specifically stating . . . , in precise and distinct terms, the grounds of his defen[s]e.” *Id.*, at 318 (internal quotation marks omitted). The defendant’s affidavit was found insufficient, and judgment was entered for the plaintiff, whose declaration and supporting affidavit had been found satisfactory. *Ibid.* This Court upheld the District’s rule against the contention that it violated the Seventh Amendment. *Id.*, at 320. Just as the purpose of §21D(b) is to screen out frivolous complaints, the purpose of the prescription at issue in *Fidelity & Deposit Co.* was to “preserve the courts from frivolous defen[s]es,” *ibid.* Ex-

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<sup>9</sup>Any heightened pleading rule, including Fed. Rule Civ. Proc. 9(b), could have the effect of preventing a plaintiff from getting discovery on a claim that might have gone to a jury, had discovery occurred and yielded substantial evidence. In recognizing Congress’ or the Federal Rule makers’ authority to adopt special pleading rules, we have detected no Seventh Amendment impediment.



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plaining why the Seventh Amendment was not implicated, this Court said that the heightened pleading rule simply “prescribes the means of making an issue,” and that, when “[t]he issue [was] made as prescribed, the right of trial by jury accrues.” *Ibid.*; accord *Ex parte Peterson*, 253 U. S. 300, 310 (1920) (Brandeis, J.) (citing *Fidelity & Deposit Co.*, and reiterating: “It does not infringe the constitutional right to a trial by jury [in a civil case], to require, with a view to formulating the issues, an oath by each party to the facts relied upon.”). See also *Walker v. New Mexico & Southern Pacific R. Co.*, 165 U. S. 593, 596 (1897) (Seventh Amendment “does not attempt to regulate matters of pleading”).

In the instant case, provided that the Shareholders have satisfied the congressionally “prescribe[d] . . . means of making an issue,” *Fidelity & Deposit Co.*, 187 U. S., at 320, the case will fall within the jury’s authority to assess the credibility of witnesses, resolve any genuine issues of fact, and make the ultimate determination whether Notebaert and, by imputation, Tellabs acted with scienter. We emphasize, as well, that under our construction of the “strong inference” standard, a plaintiff is not forced to plead more than she would be required to prove at trial. A plaintiff alleging fraud in a §10(b) action, we hold today, must plead facts rendering an inference of scienter *at least as likely as* any plausible opposing inference. At trial, she must then prove her case by a “preponderance of the evidence.” Stated otherwise, she must demonstrate that it is *more likely* than not that the defendant acted with scienter. See *Herman & MacLean v. Huddleston*, 459 U. S. 375, 390 (1983).

\* \* \*

While we reject the Seventh Circuit’s approach to §21D(b)(2), we do not decide whether, under the standard we have described, see *supra*, at 11–14, the Shareholders’

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allegations warrant “a strong inference that [Notebaert and Tellabs] acted with the required state of mind,” 15 U. S. C. §78u–4(b)(2). Neither the District Court nor the Court of Appeals had the opportunity to consider the matter in light of the prescriptions we announce today. We therefore vacate the Seventh Circuit’s judgment so that the case may be reexamined in accord with our construction of §21D(b)(2).

The judgment of the Court of Appeals is vacated, and the case is remanded for further proceedings consistent with this opinion.

*It is so ordered.*