Pembroke Pines Firefighters & Police Officers Pension Fund v. Abbott Laboratories

COURT: United States District Court for the Northern District of Illinois
CASE NUMBER: 1:22-cv-4661
CLASS PERIOD: 02/19/2021 - 06/08/2022
CASE LEADERS: Hannah Ross, Avi Josefson, Scott R. Foglietta, Salvatore J. Graziano
CASE TEAM: Emily A. Tu, Timothy G. Fleming

This is a securities class action alleging that between February 19, 2021 and October 19, 2022, inclusive (the "Class Period"), Abbott Laboratories ("Abbott" or the "Company") and certain of the Company's current and former senior executives (collectively, "Defendants"), defrauded persons and entities that purchased Abbott common stock (the "Class") in violation of Sections 10(b) and 20(a) of the Exchange Act of 1934, 15 U.S.C. §§ 78j(b), 78t(a), and U.S. Securities and Exchange Commission Rule 10b-5 promulgated thereunder, 17 C.F.R. § 240.10b-5.

Abbott is an international health care products conglomerate with roots going back to 1888. Prior to the events at issue in the action, Abbott's Nutritional Products segment controlled 40% of the United States infant formula market. A fifth of American formula-fed babies relied on formula produced from one Abbott facility: an infant formula plant in Sturgis, Michigan.

Given the importance of Abbott's formula to America's most vulnerable population, the safety and quality of that product should have been of paramount importance. And throughout the Class Period, Abbott and the other Defendants assured investors that it was. Public statements asserted, for example, that the Company's "high-tech quality processes ensure safety and quality throughout every stage of the manufacturing process," that Abbott's "facilities are designed and maintained to the highest Good Manufacturing Practice Standards, and that Abbott "monitor[ed] and verif[ied] microbiology, packaging integrity, and nutrient and lot control." Abbott also assured investors that its employees were encouraged to report any issues and that such issues would be investigated and resolved. These representations, along with others, were false.

In fact, Abbott's Sturgis facility failed to meet basic cleanliness standards and violated food safety laws and regulations, all the while being understaffed by overworked employees and operated with equipment that was outdated, broken down, or simply inappropriate for what it was being used for. These conditions, which Abbott worked to conceal from the FDA and other inspectors, created a breeding ground for contamination, including *Cronobacter*, a bacteria that is generally harmless to adults but potentially fatal to the infants that relied on formula produced at Sturgis. Employees were not actually encouraged to report these issues; in fact, they were urged to remain silent and retaliated against when they did not.

Senior executives at Abbott became aware of the problems at Sturgis no later than the start of the Class Period through in-person visits to the plant, pleas for more resources from plant employees, the results of prior FDA inspections, and a February 2021 complaint filed with OSHA by a whistleblower who was terminated for his frequent expressions of concern about the conditions at Sturgis, which was circulated to Abbott's executives beginning days after the complaint was first filed. Rather than trying to fix the issues at Sturgis, Abbott executives allowed them to continue until the FDA, concerned over reports of infants who had fallen ill and even died after consuming Abbott formula, as well as the results of successive inspections in September 2021 and January and

February 2022, issued a consumer advisory on February 17, 2022 warning consumers about Abbott's products and privately pressured Abbott to initiate a voluntary recall, which it did following the advisory.

Even after the recall, however, Abbott and the other Defendants continued to mislead investors. In public and sometimes sworn statements, Abbott insisted that the recall was "proactive" in nature rather than at the FDA's urging, that *Cronobacter* had not been found in areas of the plant where it could have come into contact with infant formula, that there was no link between Abbott's formula and the babies who fell ill, and that Abbott had not known about the whistleblower's claims until April 2022. The truth about Sturgis leaked out over the ensuing months, as government officials directly contradicted Abbott's claims. The full extent of the damage to the Company was not revealed until October 19, 2022, when Abbott announced the extent of the formula sales decline and that it was making "leadership changes at both our Sturgis site and in our quality organization." Between the date of the recall and the end of the Class Period, Abbott suffered a market capitalization loss of over $40 billion.

On April 21, 2023, Lead Plaintiffs Quoniam Asset Management GmbH and KBC Asset Management NV filed the Amended Class Action Complaint. Defendants filed their motion to dismiss on June 20, Plaintiffs filed their response on August 7, and Defendants replied on September 8, 2023. Oral argument has not been scheduled as of this date.

Case Documents

- April 21, 2023 - Amended Class Action Complaint
- August 31, 2022 - Initial Complaint
- August 31, 2022 - PSLRA Notice