

Godinez et al v. Alere Inc. et al

COURT: United States District Court for the District of Massachusetts
CASE NUMBER: 1:16-cv-10766-PBS
CLASS PERIOD: May 9, 2013 - April 20, 2016
CASE LEADERS: Gerald H. Silk, Adam H. Wierzbowski

This is a securities class action on behalf of all persons and entities who purchased or acquired the securities of Alere Inc. (“Alere” or the “Company”) between May 9, 2013 and April 20, 2016, inclusive (the “Class Period”). This action asserts claims under the federal securities laws against Alere and some of the Company’s current and former officers.

The action alleges that the Company, a pharmaceutical device manufacturer that provides diagnostic tests for infectious disease, cardiometabolic disease, and toxicology, as well as the other defendants made materially false and misleading statements and/or failed to disclose that: (1) Alere improperly recognized and reported revenue in violation of Generally Accepted Accounting Principles; (2) the filing of Alere’s 2015 Form 10-K with the Securities and Exchange Commission would be delayed; (3) as a result of the foregoing, the completion of Alere’s previously announced \$5.8 billion planned merger with Abbott Laboratories (“Abbott”) was in doubt; and (4) the Company lacked adequate internal controls over accounting and financial reporting.

Investors began to learn the truth about the Company’s financial condition through a series of corrective disclosures. On February 26, 2016, Alere disclosed that it was “conducting an analysis of certain aspects of revenue recognition in Africa and China” and potential implications on its internal controls over financial reporting for the year ending December 31, 2015 and, as a result, Alere would not be able to file its 2015 Form 10-K in a timely manner.

On March 15, 2016, Alere filed a Form 8-K in which it disclosed that it would be unable to file its 2015 Form 10-K within the extension period because it was continuing to analyze its revenue recognition, particularly revenue cutoff, in Africa and China for the years ended December 31, 2013, 2014 and 2015 (and each of the quarters in those annual periods). Alere further disclosed in the Form 8-K that it was analyzing whether a material weakness existed as of December 31, 2015, and that on March 11, 2016, it had received a grand jury subpoena from the United States Department of Justice seeking documents concerning, among other things, Alere’s sales, sales practices and dealings with third-parties in Africa, Asia and Latin America and the U.S. Foreign Corrupt Practices Act. The Company has since admitted that it suffered from material weaknesses in internal controls over financial reporting concerning its accounting for income taxes for fiscal years ended December 31, 2014 and 2015 and its revenue recognition for the fiscal year ended December 31, 2015.

After the Court denied in part the Defendants’ motion to dismiss the action, and the parties engaged in fact discovery, the parties negotiated and agreed to a \$20 million settlement of Plaintiffs’ claims. The Court granted final approval of the settlement on June 6, 2019.

Case Documents

- January 4, 2017 - Supplemental and Amended Consolidated Class Action Complaint for Violations of the Federal Securities Laws