

Bach v. Amedisys, Inc.

COURT: United States District Court for the Middle District of Louisiana
CASE NUMBER: 10-cv-00395-BAJ-CN
CLASS PERIOD: 08/02/2005 - 09/30/2011
CASE LEADERS: Adam H. Wierzbowski

This case was a securities fraud class action filed on behalf of a class of persons and entities who purchased or acquired the securities of Amedisys, Inc. ("Amedisys" or "Company") between August 2, 2005 and September 30, 2011 (the "Class Period"). Defendants include the Company and seven current or former members of the Company's senior management, including William Borne (Founder & CEO) (collectively, "Defendants"). Amedisys is a provider of home health care services for aging and terminally ill patients.

Lead Plaintiffs Settle the Action for \$43.75 Million

Lead Plaintiffs, the Public Employees' Retirement System of Mississippi and the Puerto Rico Teachers' Retirement System, on behalf of themselves and the other members of the Settlement Class (defined below), have reached a settlement of this Action with Defendants Amedisys, Inc. ("Amedisys"), Wendy Stabiler Borne as the Independent Executrix of the Succession of William F. Borne, Jeffrey D. Jeter, Dale E. Redman, Larry R. Graham, Alice Ann Schwartz, Gregory Browne, and John F. Giblin for \$43,750,000.00 in cash (the "Settlement"), which resolves all claims asserted in the Action.

On December 13, 2017, the Court held a hearing to consider final approval of the Settlement and related matters. On December 20, 2017, the Court entered an Order and Final Judgment approving the Settlement as fair, reasonable and adequate, entered an order approving the Plan of Allocation for the proceeds of the Settlement, and entered an order awarding attorneys' fees and reimbursement of litigation expenses to Plaintiffs' Counsel.

If you are a member of the Settlement Class, your rights will be affected. The Settlement Class consists of:

All persons and entities who or which purchased the publicly traded common stock of Amedisys during the period from August 2, 2005 through September 30, 2011, inclusive (the "Class Period"), and were damaged thereby, except for certain persons and entities who are excluded from the Settlement Class by definition (see paragraph 31 of the [Notice](#)).

Please read the [Notice](#) to fully understand your rights. You may also visit the Settlement website, www.AmedisysSecuritiesLitigation.com, for more information about the Settlement.

The deadline for submission of Claim Forms was January 16, 2018, and claim processing has been completed. The Court has approved the distribution of the net settlement funds to eligible Claimants who qualified for an award under the Plan of Allocation. The Claims Administrator conducted an initial distribution of the settlement funds to eligible claimants in March 2019 and additional distributions in March 2022 and March 2024.

Background

On October 21, 2010, the Honorable Brian A. Jackson appointed BLB&G client the Public Employees' Retirement System of Mississippi as co-Lead Plaintiff and BLB&G as co-Lead Counsel for the Class.

Lead Plaintiffs allege that the Defendants employed a fraudulent scheme to improperly inflate the reimbursement payments that Amedisys received from Medicare for providing home health services to the Company's patients, by among other things: (i) pressuring and intimidating Amedisys nurses and therapists into providing medically unnecessary treatment visits to patients for the Company to hit highly-lucrative Medicare reimbursement triggers or targets; (ii) providing false information to Medicare that misrepresented the nature and severity of its patients' medical conditions and functional capabilities in order to obtain higher Medicare reimbursements; (iii) certifying or recertifying patients for medically unnecessary 60-day treatment episodes and certifying or recertifying patients who were no longer homebound as required by Medicare rules; and (iv) paying or otherwise improperly inducing physicians to increase the physicians' patient referrals to Amedisys.

On June 28, 2012, the Court granted the Defendants' motions to dismiss the action (which Plaintiffs had opposed) on loss causation grounds. On July 26, 2012, Plaintiffs moved for reconsideration of the motion to dismiss ruling and asked the Court for leave to amend their Complaint, and the Defendants opposed that motion for reconsideration on August 29, 2012. On April 9, 2013, the Court denied Plaintiffs' motion for reconsideration and to amend the Complaint. On May 3, 2013, Plaintiffs filed a Notice of Appeal with the U.S. Court of Appeals for the Fifth Circuit to appeal the Court's dismissal of the action.

On October 2, 2014, the three-judge panel of the U.S. Court of Appeals for the Fifth Circuit reversed the lower Court's motion to dismiss and ordered that the case proceed. In its decision, the Court of Appeals ruled that the district court's assessment of loss causation was incorrect, writing that the Court "erred in imposing an overly rigid rule that government investigations can never constitute a corrective disclosure in the absence of a discovery of actual fraud." Rather, the Court of Appeals viewed Plaintiffs' allegations of loss causation collectively, which included the resignations of key Amedisys executives, a front-page expose of Amedisys's misconduct in *The Wall Street Journal*, the announcement of government investigations into Amedisys's misconduct, and a dismal earnings report. As the Fifth Circuit wrote in its important decision, given these facts supporting loss causation, "the whole is greater than the sum of its parts."

On April 3, 2015, Plaintiffs filed a motion to amend the Complaint, on April 8, 2015, the Court granted Plaintiffs' motion, and on September 30, 2015, Plaintiffs filed their First Amended Consolidated Securities Class Action Complaint. Defendants moved to dismiss that Complaint on December 15, 2015, and Plaintiffs opposed those motions on January 29, 2016.

On August 19, 2016, the Court denied Defendants' motions to dismiss in part and granted them in part.

On June 12, 2017, following a mediation before the Honorable Layn R. Phillips, a former United States District Judge, the Parties reached an agreement in principle to settle the Action for \$43,750,000. On August 4, 2017, the Parties entered into a Stipulation and Agreement of Settlement (the "Stipulation"). On December 20, 2017, following a hearing, the Court approved the Settlement as fair, reasonable and adequate and approved the Plan of Allocation for the proceeds of the Settlement.

Case Documents

- Notice of (I) Pendency of Class Action and Certification of Settlement Class; (II) Proposed Settlement; (III) Settlement Hearing; and (IV) Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses

- January 28, 2019 - Order Approving Distribution Plan
- December 19, 2017 - Order and Final Judgment
- December 19, 2017 - Order Approving Plan of Allocation
- December 19, 2017 - Order Awarding Attorneys' Fees and Reimbursement of Litigation Expenses
- December 6, 2017 - [Revised] Reply Memorandum of Law
- December 6, 2017 - Supplemental Declaration of Adam Walter Regarding (A) Mailing of Notice and Claim Form; and (B) Report on Requests for Exclusion Received
- November 8, 2017 - Lead Plaintiffs' Motion for Final Approval of Class Action Settlement and Plan of Allocation
- November 8, 2017 - Memorandum of Law in Support of Lead Plaintiffs' Motion for Final Approval of Class Action Settlement and Plan of Allocation
- November 8, 2017 - Lead Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses
- November 8, 2017 - Memorandum of Law in Support of Lead Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses
- November 8, 2017 - Joint Declaration of John C. Browne and Joshua W. Ruthizer in Support of: (A) Lead Plaintiffs' Motion for Final Approval of Class Action Settlement and Plan of Allocation, and (B) Lead Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses
- August 21, 2017 - Order Preliminarily Approving Settlement and Providing for Notice
- August 4, 2017 - Stipulation and Agreement of Settlement
- September 30, 2015 - First Amended Consolidated Securities Class Action Complaint