

City of Melbourne Firefighters' Retirement System v. ATI Physical Therapy, Inc. f/k/a Fortress Value Acquisition Corp. II

COURT: United States District Court for the Northern District of Illinois
CASE NUMBER: 1:21-cv-05345
CLASS PERIOD: 02/22/2021 - 07/23/2021
CASE LEADERS: Hannah Ross, Avi Josefson, Jeremy P. Robinson, Scott R. Foglietta

On October 7, 2021, Bernstein Litowitz Berger & Grossmann LLP filed a class action lawsuit for violations of the federal securities laws in the U.S. District Court for the Northern District of Illinois against ATI Physical Therapy, Inc. ("ATI" or the "Company") f/k/a Fortress Value Acquisition Corp. II ("FVAC") and certain of the Company's current and former senior executives and the former directors of FVAC (collectively, "Defendants"). The complaint expands the class period that was asserted in a previously-filed related securities class action pending against ATI captioned *Burbige v. ATI Physical Therapy, Inc. f/k/a Fortress Value Acquisition Corp. II*, No. 1:21-cv-04349 (N.D. Ill.), and is brought on behalf of purchasers of ATI securities between February 22, 2021 and July 23, 2021, inclusive (the "Class Period") and/or holders of shares of FVAC Class A common stock as of May 24, 2021 who were eligible to vote at FVAC's June 15, 2021 special meeting.

BLB&G filed this action on behalf of its client, the City of Melbourne Firefighters' Retirement System, and the case is captioned *City of Melbourne Firefighters' Retirement System v. ATI Physical Therapy, Inc. f/k/a Fortress Value Acquisition Corp. II*, No. 1:21-cv-05345 (N.D. Ill.). The complaint is based on an extensive investigation and a careful evaluation of the merits of this case. A copy of the complaint is available under the Case Documents section of this page.

ATI's Alleged Fraud

Headquartered in Bolingbrook, Illinois, ATI is a physical therapy provider, specializing in outpatient rehabilitation and adjacent healthcare services, and operates nearly 900 physical therapy clinics across 24 states. As a provider of rehabilitation services, the Company's ability to recruit and retain enough physical therapists to meet patient demand is vital to the success and growth of ATI's business. On June 17, 2021, ATI became a publicly traded company through the completion of a merger with FVAC (the "Merger"), a special purpose acquisition company, and began trading on the New York State Exchange.

The complaint alleges that, throughout the Class Period, ATI falsely touted the Company's high rate of retention of its physical therapists and adequate clinical staffing levels, and repeatedly affirmed its earnings guidance for 2021. ATI also assured investors that it was poised for growth and expected to open at least 90 new clinics in 2021. The Company also represented that it faced purported risks with regard to increased competition for clinicians in the labor market and its ability to recruit and retain physical therapists. In reality, however, the Company knew that it was experiencing severe attrition among its physical therapists and facing increasing competition for clinicians in the labor market. As a result, ATI could not retain enough physical therapists to serve patient demand and incurred increased labor costs, which negatively impacted its business and limited its ability to open new clinics. As a result of Defendants' misrepresentations, ATI securities traded at artificially inflated prices during the Class Period.

The truth was disclosed on July 26, 2021, less than two months after the Merger closed, when ATI drastically reduced its full-year earnings guidance and revealed that it could only open between 55 and 65 new clinics in 2021. The Company attributed its guidance cut to significant attrition among its physical therapists that prevented it from meeting patient demand, and a competitive hiring market which significantly increased its labor costs. As a result of these disclosures, the price of ATI securities declined precipitously.

The filing of this action does not alter the previously established deadline to seek appointment as Lead Plaintiff. Pursuant to the August 16, 2021 notice published in connection with the *Burbige* action, under the Private Securities Litigation Reform Act of 1995, investors who purchased or otherwise acquired ATI securities during the Class Period and/or held shares of FVAC Class A common stock as of May 24, 2021 may, no later than October 15, 2021, seek to be appointed as Lead Plaintiff for the Class. Any member of the proposed Class may seek to serve as Lead Plaintiff through counsel of their choice, or may choose to do nothing and remain a member of the proposed Class.

If you wish to discuss this action or have any questions concerning this notice or your rights or interests, please contact Scott R. Foglietta of BLB&G at 212.554.1903, or via e-mail at scott.foglietta@blbglaw.com.

Case Documents

- February 8, 2022 - Consolidated Amended Complaint
- October 7, 2021 - Initial Complaint
- October 7, 2021 - PSLRA Notice