

Cambridge Retirement System v. Invacare Corporation

COURT: United States District Court for the Northern District of Ohio

CASE NUMBER: C.A. No. 1:13-cv-01165

Settlement: On March 24, 2015, the parties reached an agreement to settle the action for \$11 million in cash. On August 10, 2015, the Court granted Lead Plaintiff's motion for preliminary approval of the settlement, which was filed on June 2, 2015. A hearing on final approval of the settlement will be held on November 19, 2015. More information about the settlement can be found at

www.InvacareSecuritiesClassActionSettlement.com. **Description of the Case:** Invacare Corporation ("Invacare") is the world's leading manufacturer of wheelchairs, bariatric equipment, disability scooters, respiratory products and other homecare products. This securities class action is brought against Invacare and its Chairman and Chief Executive Officer on behalf of Invacare investors who purchased or otherwise acquired Invacare common stock between February 27, 2009, and December 7, 2011, inclusive (the "Class Period"). The case arises from Invacare's misrepresentations to investors regarding Invacare's purported compliance with the U.S. Food, Drug, and Cosmetic Act ("FDCA"), related regulations and guidelines issued by the U.S. Food and Drug Administration ("FDA"), and current Good Manufacturing Practices ("CGMP") concerning design and manufacture of the Company's best-selling products, including manual and powered wheelchairs, homecare bed systems, and other medical devices. In particular, Defendants concealed from investors Invacare's receipt of a series of warnings from the FDA – known as Forms 483 – which identified serious regulatory compliance violations at Invacare's two major U.S. manufacturing facilities. After repeatedly failing to remedy these violations, the Company received a Warning Letter from the FDA in December 2010 which identified a host of "repeat" or "recurring" violations that the FDA had previously raised with Invacare on numerous occasions, but which the Company failed to correct. Over the next several months, Defendants continued to falsely assure investors regarding the Company's regulatory compliance while downplaying the scope and significance of the FDA's concerns, despite Invacare's receipt of additional Forms 483, which Defendants further concealed from investors. Ultimately, Invacare stunned the market by disclosing that the FDA intended to seek a consent decree that would shut down operations at the Company's wheelchair manufacturing facilities and related design activities at Invacare's corporate headquarters until the Company became compliant with FDA regulations. News of Invacare's systemic quality and regulatory deficiencies caused Invacare stock to decline nearly 30%, wiping out over \$180 million in shareholders' market capitalization. On October 1, 2013, the Court appointed Government of Guam Retirement Fund as Lead Plaintiff and approved its selection of BLB&G as Lead Counsel. On November 15, 2013, Lead Plaintiff filed the Amended Complaint, which Defendants moved to dismiss on December 23, 2013. On August 18, 2014, the Court denied Defendants' motion to dismiss in its entirety, finding that all of the alleged misstatements were actionable, that the Amended Complaint adequately alleged all other elements of the federal securities fraud claims, and that all of the claims were timely asserted. On October 23, 2014, Defendants filed a motion for partial judgment on the pleadings or in the alternative, for reconsideration of the Court's August 18 Order, which the Court denied in its entirety on December 9, 2014, and discovery commenced. On January 30, 2015, Lead Plaintiff filed its motion for Class Certification.

Case Documents

- June 19, 2018 - Order Approving Distribution Plan
- October 15, 2015 - Memorandum of Law in Support of Plaintiffs' Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses
- October 15, 2015 - Declaration of Benjamin Galdston ISO Final Approval of Class Action Settlement, Approval of Class Action Settlement, Approval of the Plan of Allocation, and Approval of Plaintiffs' Counsel's Motion for an Award of Attorneys' Fees
- October 15, 2015 - Lead Plaintiff's Memorandum of Law in Support of Final Approval of Class Action Settlement and Approval of Plan of Allocation of Settlement Proceeds
- August 10, 2015 - Notice of (I) Pendency of Class Action, Certification of Settlement Class, and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses
- December 9, 2014 - Opinion and Order
- August 18, 2014 - Opinion and Order
- November 15, 2013 - Amended Complaint for Violation of the Federal Securities Laws
- May 24, 2013 - Class Action Complaint for Violations of the Federal Securities Laws