

Public Employees' Retirement System of Mississippi v. Mylan N.V.

COURT: United States District Court for the Western District of Pennsylvania
CASE NUMBER: 2:20-cv-955
CLASS PERIOD: 02/16/2016 - 05/07/2019
CASE LEADERS: Katherine M. Sinderson

On June 26, 2020, Bernstein Litowitz Berger & Grossmann LLP ("BLB&G") filed a class action lawsuit for violations of the federal securities laws against Mylan N.V. ("Mylan" or the "Company") and certain of the Company's senior executives (collectively, "Defendants") on behalf of investors in Mylan common stock between February 16, 2016, and May 7, 2019 (the "Class Period"). The case was filed in the U.S. District Court for the Western District of Pennsylvania.

Mylan is the second largest generic drug manufacturer in the world with roughly 55 manufacturing and R&D facilities globally. During the Class Period, Mylan's largest U.S. manufacturing facility was located in Morgantown, West Virginia. The claims against Mylan arise from the Company's misrepresentations and omissions regarding rampant abuses of federal quality control regulations, including at the Morgantown facility. Under a scheme implemented by Mylan's President, Rajiv Malik, Mylan chemists manipulated quality control test data in order to create the facade that Mylan's drugs had achieved passing quality control results. In November 2016, a whistleblower reported Mylan's conduct to the U.S. Food & Drug Administration ("FDA").

The truth began to be revealed on June 27, 2018, when Mylan revealed that the FDA had investigated the Morgantown plant in the Spring of 2018—the second FDA investigation of that plant in less than two years. According to the FDA, the Morgantown plant exhibited "significant deficiencies in [its] cleaning process[es]," "numerous instances of a lack of oversight," and "multiple instances" of Mylan chemists re-cleaning and re-swabbing quality control testing machines "multiple times until passing results were obtained." As a result of these violations, Mylan was ultimately forced to reveal that it would be dramatically "restructuring" its Morgantown facility, including by terminating hundreds of employees, and reported a surprise quarterly loss on May 7, 2019, which the Company attributed, in part, to the Morgantown "restructuring." The disclosures concerning Mylan's misconduct and its impact on the Company's business and financial condition caused the value of Mylan stock to decline dramatically, resulting in significant damages to investors.

The complaint is based on an extensive investigation and a careful evaluation of the merits of this case. To view the complaint, click on the **Case Documents** tab on the left-hand side of the page. BLB&G filed this action on behalf of the Public Employees' Retirement System of Mississippi, and the case is captioned *Public Employees' Retirement System of Mississippi v. Mylan N.V.*, No. 2:20-cv-955 (W.D. Pa.). Plaintiffs' amended complaint was filed November 13, 2020. Defendants filed their motion to dismiss the amended complaint on January 19, 2021, which Plaintiffs opposed on March 16, 2021. Oral argument on Defendants' motion took place on March 14, 2023, and the Court issued its decision—granting in part and denying in part the motion to dismiss—on May 18, 2023. The Court found that Plaintiffs had pled an actionable misrepresentation in their Amended Complaint, but the parties disagree on the extent to which Plaintiffs' scheme liability claims remain. On June 20, 2023, Plaintiffs filed a motion seeking clarification on the Court's decision with respect to their scheme liability claims. On July 17, 2023, Defendants filed

a motion for judgment on the pleadings, seeking to dismiss Plaintiffs' remaining claims under Rule 12(c) of the Federal Rules of Civil Procedure. On August 31, 2023, Plaintiffs opposed Defendants' motion for judgment on the pleadings, and Defendants filed a reply on October 20, 2023.

Case Documents

- May 18, 2023 - Mylan N.V. Opinion
- November 13, 2020 - Consolidated Class Action Complaint
- June 26, 2020 - Mylan N.V. Initial Complaint
- June 26, 2020 - Mylan N.V. PSLRA Notice