

In re Akorn, Inc. Securities Litigation

COURT: United States District Court for the Northern District of Illinois
CASE NUMBER: 1:18-cv-01713
CLASS PERIOD: 11/03/2016 - 01/08/2019
CASE LEADERS: John Rizio-Hamilton

This is a securities fraud class action filed on behalf of a class of all persons and entities who purchased or otherwise acquired Akorn, Inc. (“Akorn” or the “Company”) common stock from November 3, 2016 through January 8, 2019, inclusive (the “Class Period”), against Akorn and certain of its senior executives (together, “Defendants”).

Akorn is a Louisiana-based pharmaceutical company that develops, manufactures, and markets specialized generic and branded pharmaceuticals, over-the-counter drug products, and animal health products in the United States and internationally. This action arises from allegations of pervasive fraud at the highest levels of Akorn involving the Company’s systemic violations of U.S. Food and Drug Administration (“FDA”) data integrity regulations and the efforts of its most senior executives to cover up those violations. The action alleges, among other things, that key Akorn executives directed Company employees to submit fabricated clinical drug data to the FDA in order to secure approval of its drugs. The action also alleges that, outside consultants hired by Akorn during the Class Period pointedly warned Akorn that its systemic data integrity violations were so serious that the Company could face criminal liability, yet Akorn ignored its consultants’ advice and affirmatively instructed employees to refrain from fixing the Company’s data integrity failures. Plaintiffs allege that Akorn and Defendants made numerous materially false and misleading public statements assuring investors that Akorn complied with FDA regulations and touting the Company’s pipeline of new drug applications it had submitted to the FDA, and that when the truth about Akorn’s systemic data integrity failures was finally revealed to the market, the Company’s stock price plummeted, collapsing approximately 60% in just two trading days.

Lead Plaintiffs Have Settled The Action

The Court-appointed Lead Plaintiffs have reached a settlement resolving all claims in the action.

On March 13, 2020, following a hearing, the Court approved the Settlement and entered the Judgment, an order approving the proposed Plan of Allocation, and an order awarding attorneys’ fees and litigation expenses.

In exchange for mutual releases, including the release by the Settlement Class of any claims against the Defendants, the Settlement Class will receive a recovery consisting of cash, common shares, and contingent value rights. The Settlement provides \$27.5 million in cash for the Settlement Class. The value of the Akorn common shares and contingent value rights is not yet determined. The ultimate value of the Settlement will be determined by the price of Akorn common shares on the dates they are issued to (or sold on behalf of) the Settlement Class and whether other conditions are met for the contingent future components of the Settlement.

The Settlement Class consists of:

all persons and entities that purchased or otherwise acquired Akorn’s common stock from November 3, 2016 through January 8, 2019, inclusive, and were damaged thereby, including any and all of their respective successors in interest, predecessors, representatives, trustees, executors, administrators, heirs, assigns or transferees, immediate and remote, and any person or entity acting for or on behalf of, or claiming under, any of them, *except*

for certain persons and entities who are excluded from the Settlement Class by definition (see paragraph 20 of the Notice) or who request exclusion pursuant to the instructions set forth in the Notice.

Please read the Notice to fully understand your rights and options. A copy of the Notice can be found on the **Case Documents** page.

We filed the distribution motion on December 14, 2020. The initial distribution occurred on February 18, 2021. A subsequent distribution occurred during April 2022. Claims administration for this matter has concluded. This case is now officially closed.

Case Documents

- Distribution Order
- Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses ("Notice")
- December 14, 2020 - Lead Plaintiffs' Unopposed Motion for Approval of Distribution Plan
- December 14, 2020 - Memorandum in Support of Lead Plaintiffs' Unopposed Motion for Approval of Distribution Plan
- December 14, 2020 - Declaration of Luiggy Segura in Support of Lead Plaintiffs' Motion for Approval of Distribution Plan
- December 14, 2020 - Exhibit A - Deficiency Notice
- December 14, 2020 - Exhibit B - Deficiency Email
- December 14, 2020 - Exhibit C - Deficiency Spreadsheet
- December 14, 2020 - Exhibit D - Timely Eligibility Claims
- December 14, 2020 - Exhibit E - Late but Eligible Claims
- December 14, 2020 - Exhibit G - JND Invoices
- December 14, 2020 - Exhibit F - Rejected Claims
- March 13, 2020 - Order and Final Judgment Approving Class Action Settlement
- March 13, 2020 - Order Approving Plan of Allocation of Net Settlement Fund
- March 13, 2020 - Order Awarding Attorneys' Fees and Reimbursement of Litigation Expenses
- February 6, 2020 - Order Modifying the Proof of Claim Deadline Established in the Preliminary Approval Order
- December 10, 2020 - Reply Memorandum of Law in Further Support of Lead Plaintiffs' Motion for (I) Final Approval of Class Action Settlement and Plan of Allocation; and (II) Award of Attorneys' Fees and Reimbursement of Litigation Expenses

- December 10, 2020 Declaration of Andrew J. Entwistle in Further Support of Lead Plaintiffs' Motion for (I) Final Approval of Class Action Settlement and Plan of Allocation; and (II) Award of Attorneys' Fees and Reimbursement of Litigation Expenses
- October 29, 2019 - Lead Plaintiffs' Motion for (I) Final Approval of Class Action Settlement and Plan of Allocation; and (II) Award of Attorneys' Fees and Reimbursement of Litigation Expenses
- October 29, 2019 - Notice of Presentment of Lead Plaintiffs' Motion for (I) Final Approval of Class Action Settlement and Plan of Allocation; and (II) Award of Attorneys' Fees and Reimbursement of Litigation Expenses
- October 29, 2019 - Memorandum of Law in Support of Lead Plaintiffs' Motion for Final Approval of Class Action Settlement and Plan of Allocation
- October 29, 2019 - Memorandum of Law in Support of Unopposed Motion for Attorneys' Fees and Reimbursement of Litigation Expenses
- October 29, 2019 - Declaration of Andrew J. Entwistle in Support of Lead Plaintiffs' Motion for (I) Final Approval of Class Action Settlement and Plan of Allocation; and (II) Award of Attorneys' Fees and Reimbursement of Litigation Expenses
- August 26, 2019 - Order Preliminarily Approving Settlement, Approving Form of Class Notice and Setting Hearing Date for Final Approval of Settlement
- August 9, 2019 - Stipulation and Agreement of Settlement
- September 5, 2018 - Consolidated Amended Class Action Complaint for Violations of the Federal Securities Laws