

# Louisiana Municipal Police Employees' Retirement System v. The Bank of New York Mellon Corporation

**COURT:** Southern District of New York  
**CASE NUMBER:** No. 11-cv-9175  
**CASE CONTACTS:** Gerald H. Silk, Avi Josefson, Michael D. Blatchley

Plaintiffs advance claims for securities fraud pursuant to Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 and Sections 11, 12(a)(2), and 15 of the Securities Act arising from the Bank of New York Mellon's false and misleading statements concerning the character of its foreign currency trading business.

Specifically, Plaintiffs allege that BNY Mellon and certain of its officers and directors failed to disclose that the company illegally rigged the price of foreign currency trading services offered to its clients. While BNY Mellon, one of the largest custodial banks in the world, offered its custodial clients foreign currency exchange services "free of charge" and at "best execution" spreads, it would actually book its clients' transactions at the most unfavorable daily rate, rather than at the prevailing rate at the time the transaction was consummated. This scheme allowed BNY Mellon to extract hundreds of millions of dollars in illicit gains and misleadingly inflate its reported financial results.

On March 29, 2012, the Honorable Lewis A. Kaplan of the United States District Court for the Southern District of New York appointed the State of Oregon lead plaintiff and approved its selection of Bernstein Litowitz Berger & Grossman LLP as lead counsel. On May 11, 2012, Plaintiffs filed their Amended Complaint. On June 22, 2012, Defendants filed their motions to dismiss the complaint. Plaintiffs' filed their motion in opposition to Defendants' motions and they filed their reply on August 17, 2012. Following further briefing, on June 10, 2013, Judge Kaplan denied the motions to dismiss and lifted the discovery stay under the Private Securities Litigation Reform Act. Plaintiffs filed their expert report concerning market efficiency for class certification on November 3, 2014; Defendants did not file a report in response. On January 19 and 20, 2015, Lead Plaintiff participated in a two-day mediation session before the Honorable Lyn R. Phillips, a former federal district court judge with Defendants' counsel and counsel in the rest of the MDL litigation. Following this mediation, Lead Counsel continued to engage in discovery and informal mediation talks. Fact and expert discovery was completed at the end of March 2015. Lead Plaintiff also submitted its motion in support of class certification on March 27, 2015 and Defendants submitted their opposition on April 27, 2015. While Lead Plaintiff's motion for class certification was pending, Lead Plaintiff filed a motion to de-designate various documents that BNYM had marked as confidential and which were cited in Lead Plaintiff's class certification motion, which Judge Kaplan granted in all respects.

During the period from the January 2015 mediation through the briefing on Lead Plaintiff's class certification and de-designation motions, the parties continued to engage in settlement negotiations under the supervision of the mediator, Judge Phillips, who ultimately made a mediator's proposal. On May 12, 2015, Lead Counsel and Defendants' counsel participated in a settlement conference before Judge Kaplan. Shortly thereafter, the parties accepted the mediator's proposal and reached an agreement in principle to settle the action for \$180,000,000. After significant additional negotiations, the parties memorialized their agreement to settle by executing a term sheet on May 21, 2015 and on June 23, 2015, Lead Plaintiff filed a motion for certification of the settlement class, authorization to notify the settlement class of a proposed settlement and for scheduling of a settlement hearing.