

# In re Bristol-Myers Squibb Company Securities Litigation

**COURT:** United States District Court for the Southern District of New York  
**CASE NUMBER:** 1:18-cv-01611-JPO  
**CLASS PERIOD:** 01/27/2015 - 10/09/2016  
**CASE CONTACTS:** Lauren McMillen Ormsbee, Jesse L. Jensen, Robert Kravetz

This is a securities fraud class action filed on behalf of a class of all persons and entities who purchased or otherwise acquired common shares of Bristol-Myers Squibb Company (“Bristol-Myers” or the “Company”) between January 27, 2015 and October 9, 2016, inclusive (the “Class Period”).

Bristol-Myers is a global biopharmaceutical company that develops, licenses, manufactures, markets, and sells pharmaceutical and nutritional products. This action arises from allegations that Defendants made materially false and misleading statements regarding the Company’s business, operational and compliance policies. Specifically, it is alleged that Bristol-Myers failed to disclose material information concerning the Company’s CheckMate-026 study, which was investigating the use of Opdivo (nivolumab) monotherapy as first-line therapy in patients with advanced non-small cell lung cancer (“NSCLC”).

As alleged in the action, the Defendants failed to inform investors that Bristol-Myers’ CheckMate-026 trial was more likely to fail than Defendants were representing. When the Company announced on August 5, 2016 that its CheckMate-026 trial had failed, and that Opdivo it did not meet its primary endpoint of progression-free survival, Defendants’ false and misleading statements and omissions began to be revealed and the Company’s stock price fell 16% that same day, and continued to fall another 4.7% on the next trading day, closing at \$60.30 per share on August 8, 2016.

The Court appointed Arkansas Public Employees’ Retirement Services and Louisiana Sheriffs as Co-Lead Plaintiffs on May 16, 2018.

Plaintiffs filed a Consolidated Amended Complaint on July 16, 2018. On September 10, 2018, Defendants moved to dismiss the Complaint.

On September 30, 2019, the Court granted Defendants’ motion to dismiss, but gave Plaintiffs leave to file an amended complaint within 30 days. On October 29, 2019, we timely filed a Second Amended Complaint, which added additional allegations based on information provided by former Bristol-Myers employees as well as an expert in oncology. After asking for an extension of the briefing schedule, Defendants filed their motion to dismiss on December 13, 2019. We timely filed our opposition on January 27, 2020. On February 5, 2020, the case was reassigned from District Judge Oetken (who had issued the September 30, 2019 ruling dismissing the first amended complaint) to the newly-appointed District Judge Mary Kay Vyskocil. On February 28, 2020, Defendants timely filed their reply brief in further support of their motion to dismiss, but did not issue a ruling. On July 15, 2020, we submitted a letter informing the court of supplemental authority relevant to the motion to dismiss, and on July 20, 2020, Defendants filed a letter in response. On September 30, 2020, the Court issued granted Defendants’ motion to dismiss and dismissed the complaint with prejudice. We plan to appeal. Our notice of appeal is due on October 30, 2020. On November 23, 2020, the Second Circuit assigned this case to the Expedited Appeals Calendar, which required us to file our opening brief no later than December 28, 2020 and Defendants to file their brief 35 days later. On November 27, 2020, we filed a joint motion with Defendants to remove the appeal from the expedited calendar and to schedule the briefing deadlines in accordance with ordinary practice under the Second Circuit local rules. On December 4, 2020, the Court granted our joint motion. On February 4, 2021, we filed our opening brief. Defendants’ brief is due 91 days thereafter.