

# *In re Penn West Petroleum Ltd. Securities Litigation*

**COURT:** United States District Court for the Southern District of New York  
**CASE NUMBER:** 14-cv-6046  
**CASE LEADERS:** John Rizio-Hamilton

## **Background**

On July 29, 2014, Penn West Petroleum Ltd. (“Penn West” or the “Company”) announced that its financial statements filed with the SEC for multiple years should no longer be relied upon and had to be restated. According to Penn West, the Company had materially misstated its financial results because its senior management had improperly reclassified hundreds of millions of dollars’ worth of operating expenses as capital expenditures, which had the effect of reducing the Company’s reported expenses and artificially inflating several other key financial metrics. On the trading day immediately following this disclosure, the Company’s stock price fell 15% on extremely high volume, causing substantial losses to investors.

On December 19, 2014, Lead Plaintiffs filed a Consolidated Amended Class Action Complaint (the “Complaint”) alleging that Penn West and its senior executives misled investors by issuing materially misstated financial results, and making numerous other false and/or misleading statements, throughout the Class Period. The action seeks to recover the damages caused by the Defendants’ misconduct.

On March 6, 2015, Defendants moved to dismiss the Complaint. On April 24, 2015, Lead Plaintiffs filed an opposition brief. The motions to dismiss were fully briefed on May 15, 2015, and were pending before the Court at the time the Parties reached an agreement to settle the case. Thereafter, the Court dismissed the motions to dismiss without prejudice to renewal if the proposed settlement does not become effective.

## **Settlement of the Action**

On June 28, 2016, the Court granted final approval of the settlement of the Action for Can\$26,500,000 in cash (the “Settlement”), which equated to US\$19,759,282 on the date of payment.

The Settlement Class consists of:

All persons or entities who or which (i) purchased or otherwise acquired Penn West common stock or trust units on an open market located within the United States, including but not limited to the New York Stock Exchange (“NYSE”) or another domestic exchange, or (ii) purchased or otherwise acquired Penn West call options, or sold or wrote Penn West put options, on an open market located within the United States, including but not limited to the NYSE or another domestic exchange, from February 18, 2010 through July 29, 2014, inclusive (the “Class Period”), and who were damaged thereby, except for certain persons and entities who are excluded from the Settlement Class by definition (see paragraph 24 of the [Settlement Notice](#)) or who request exclusion pursuant to the instructions set forth in the Notice.

Please read the [Settlement Notice](#) to fully understand your rights. A copy of the [Settlement Notice](#) can be found on the **Case Documents** page.

The claims administration was completed in July 2018. On August 3, 2018, the Motion for Approval of Distribution Plan was filed. On September 15, 2018, the Court entered the Order Approving the Distribution Plan. The first

distribution of the net settlement fund occurred in October 2018. The second distribution occurred in November 2019. The third distribution occurred in September 2020. The claims administration process has concluded and the net settlement fund has been fully disbursed. This matter is closed.

**Please note:** There is a separate settlement for persons who acquired the securities of Penn West on the Toronto Stock Exchange, on an alternative trading market in Canada, or otherwise in Canada from March 17, 2011 through July 29, 2014, inclusive, and/or July 30, 2014 through September 18, 2014, inclusive, and held some or all of those securities at the close of trading on July 29, 2014 or September 18, 2014 (the “Canadian Class”). This website only discusses the rights and options of members of the Settlement Class in the U.S. Action.

## Case Documents

- 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
- September 15, 2018 - Order Approving Distribution Plan
- June 28, 2016 - Judgment Approving Class Action Settlement
- June 28, 2016 - Order Awarding Attorneys' Fees and Reimbursement of Litigation Expenses
- June 28, 2016 - Order Approving Plan of Allocation of Net Settlement Fund
- June 3, 2016 - Brief in Support of Motion for Final Settlement Approval
- June 3, 2016 - Motion for Final Settlement Approval
- June 3, 2016 - Brief in Support of Motion for Fees and Expenses
- June 3, 2016 - Motion for Fees and Expenses
- June 3, 2016 - Joint Declaration and Exhibits
- February 12, 2016 - Stipulation and Agreement of Settlement
- May 15, 2015 - Defendants' Reply in Further Support of Their Motion to Dismiss the Consolidated Amended Class Action Complaint
- May 15, 2015 - Reply Memorandum of Law in Further Support of William E. Andrew's Motion to Dismiss the Consolidated Amended Class Action Complaint
- March 6, 2015 - William E. Andrew's Memorandum of Law in Support of Motion to Dismiss Consolidated Amended Class Action Complaint
- March 6, 2015 - Defendants' Memorandum of Law in Support of their Motion to Dismiss the Consolidated Amended Class Action Complaint
- May 15, 2015 - Reply Memorandum of Law of Defendant Murray Nunns in Support of his Motion to Dismiss
- April 24, 2015 - Lead Plaintiffs' Omnibus Memorandum of Law in Opposition to Defendants' Motions to Dismiss

- March 6, 2015 - Memorandum of Law in Support of Motion to Dismiss of Defendant Murray Nunns
- December 19, 2014 - Consolidated Amended Class Action Complaint