

Ciarciello v. Bioventus Inc.

U.S. Securities Litigation

Role	BFA is sole Lead Counsel representing Court-appointed Lead Plaintiff Wayne County Employees' Retirement System and the putative class.
Background	Plaintiff alleges that from February 11, 2021 to March 30, 2023, defendants misrepresented and concealed deficiencies in Bioventus's internal controls over financial reporting and disclosure controls and procedures; that Bioventus improperly accounted for rebates, and that Bioventus had successfully offset the impact of a Medicare pricing shift on its key products.
Court	U.S. District Court for the Middle District of North Carolina
Case Number	1:23-CV-32
Status	Settled

BFA is sole Lead Counsel representing Court-appointed Lead Plaintiff Wayne County Employees' Retirement System and the putative class.

Plaintiff alleges that in violation of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934, from February 11, 2021 to March 30, 2023, defendants misrepresented and concealed: (1) deficiencies in Bioventus's internal controls over financial reporting and disclosure controls and procedures; (2) that Bioventus improperly accounted for rebates, in violation of Generally Accepted Accounting Principles, leading to materially inflated financial statements; and (3) that Bioventus had successfully offset the impact of a Medicare pricing shift on its key products.

The Court appointed BFA as Lead Counsel to represent Lead Plaintiff Wayne County Employees' Retirement System on April 12, 2023. BFA filed an amended complaint on June 12, 2023, which Defendants moved to dismiss on July 17, 2023. In response, BFA filed a second amended complaint on July 31, 2023. On November 6, 2023, the Court denied defendants' motion to dismiss the Exchange Act claims.

On August 13, 2024, the Court granted preliminary approval of the \$15.25 million proposed class action settlement. The Settlement secured by BFA represents a recovery of over 10.8% of the maximum estimated damages, and as much as 27% of potential triable damages. The recovery is more than double the 4.5–4.8% average recovery in Section 10(b) cases between 2014-2023.

On December 18, 2024, the Court granted final approval of the settlement. Judge Eagles noted that BFA’s attorneys “are recognized nationally in the field of securities litigation” and that they “pursued the interests of the class zealously,” specifically highlighting their efforts to ensure timely payment of the full settlement amount “when one of the defendants’ insurers failed to pay settlement funds on time.”

The Court further noted that “[s]ecurities fraud cases like this one raise difficult and complex questions” and “require highly skilled attorneys,” and that to secure the settlement, BFA had to “understand technical details of healthcare benefits and analyze an extensive and complex record.”

The Court also commended BFA for “concentrat[ing] its efforts among a small number of attorneys to ensure work was done efficiently and without unnecessary duplication.”

The Court also noted that Lead Plaintiff Wayne County has “been actively involved in the litigation process” and “obtained a good result for all the class members.”