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Pharma Co. Verrica Faces Derivative Suit Over FDA Inspection

By **Emilie Ruscoe**

Law360 (October 22, 2024, 8:58 PM EDT) -- Current and former officers and directors of dermatological medication maker Verrica Pharmaceuticals Inc. face a shareholder derivative action alleging the company concealed a "litany of issues" with a manufacturer's facility that ultimately delayed U.S. Food and Drug Administration approval for a skin treatment.

In a **complaint** filed Monday in federal court in Philadelphia, Ivan S. Cohen claimed that company brass breached their fiduciary duties by allegedly concealing FDA findings about the manufacturing facility.

When the company eventually acknowledged the regulatory scrutiny, those announcements pushed down trading prices for its shares, Cohen claims.

Cohen says Verrica makes a commercial product for treating a contagious skin disease caused by a pox virus and started to seek FDA approval for its treatment in September 2019, contracting with the manufacturer to produce the therapy.

Cohen claims the Pennsylvania-based company didn't initially tell shareholders that the FDA investigated the manufacturer in May 2021 and made note of certain problems after inspecting its facility.

When the company disclosed those FDA findings in September 2021, the announcement caused trading prices for Verrica shares to drop from \$12 to \$11, Cohen says. And in May 2022, the announcement of a second FDA letter sent the company's trading prices down from about \$5.50 to about \$2, according to the suit.

The investor accuses the Verrica officers and directors of leaving the company vulnerable to liability in connection with their handling of the FDA matters, noting the company faces a proposed investor class action over the same alleged misrepresentations.

Verrica never told investors that "the foregoing FDA investigations and identified deficiencies posed significant risks to FDA approval" for Verrica's skin treatment, Cohen claimed, adding that the alleged omissions made certain positive statements about the company's business misleading.

The proposed shareholder class action **is proceeding** after a Pennsylvania federal judge, ruling last month on a motion to dismiss, found, among other things, that the company's senior management got "daily updates" on the February 2022 inspection.

Representatives for the parties did not immediately respond to requests for comment Tuesday.

Cohen is represented by Seth D. Rigrotsky, Timothy J. MacFall and Vincent A. Licata of Rigrotsky Law PA and Joshua H. Grabar of the Grabar Law Office.

Counsel information for the Verrica defendants wasn't immediately available Tuesday.

The case is Cohen v. Manning et al., case number 2:24-cv-05561, and the proposed securities class action is Gorlamari v. Verrica Pharmaceuticals Inc. et al., case number 2:22-cv-02226, both in the U.S. District Court for the Eastern District of Pennsylvania.

--Additional reporting by Katryna Perera. Editing by Linda Voorhis.

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