

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MATTHEW HOPKINS,

Plaintiff,

v.

BIOHAVEN PHARMACEUTICAL
HOLDING COMPANY LTD., VLAD
CORIC, IRINA A. ANTONIJEVIC,
GREGORY H. BAILEY, JOHN W. CHILDS,
DOUGLAS GRAY, JULIA P. GREGORY,
MICHAEL T. HEFFERNAN, ROBERT J.
HUGIN, and KISHEN MEHTA,

Defendants.

)
) **COMPLAINT FOR VIOLATION OF THE**
) **SECURITIES EXCHANGE ACT OF 1934**

)
) Case No. _____

)
) **JURY TRIAL DEMANDED**

Plaintiff, by his undersigned attorneys, for this complaint against defendants, alleges upon personal knowledge with respect to himself, and upon information and belief based upon, *inter alia*, the investigation of counsel as to all other allegations herein, as follows:

NATURE OF THE ACTION

1. On May 10, 2022, Biohaven Pharmaceutical Holding Company Ltd. (“Biohaven” or the “Company”) announced that it will be acquired by Pfizer Inc. (“Pfizer”) (the “Proposed Transaction”).

2. On May 9, 2022, Biohaven’s Board of Directors (the “Board” or “Individual Defendants”) caused the Company to enter into an agreement and plan of merger (the “Merger Agreement”) with Pfizer and Bulldog (BVI) Ltd. Pursuant to the terms of the Merger Agreement, Biohaven’s stockholders will receive \$148.50 in cash for each share of Biohaven common stock they own.

3. On July 1, 2022, defendants filed a proxy statement (the “Proxy Statement”) with the United States Securities and Exchange Commission (the “SEC”) in connection with the Proposed Transaction.

4. The Proxy Statement omits material information with respect to the Proposed Transaction, which renders the Proxy Statement false and misleading, in violation of Sections 14(a) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”).

JURISDICTION AND VENUE

5. This Court has jurisdiction over the claims asserted herein pursuant to Section 27 of the Exchange Act because the claims asserted herein arise under Sections 14(a) and 20(a) of the Exchange Act and Rule 14a-9.

6. This Court has jurisdiction over defendants because each defendant is either a corporation that conducts business in and maintains operations within this District, or is an individual with sufficient minimum contacts with this District so as to make the exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial justice.

7. Venue is proper under 28 U.S.C. § 1391(b) because a portion of the transactions and wrongs complained of herein occurred in this District.

THE PARTIES

8. Plaintiff is and has been continuously throughout all times relevant hereto the owner of Biohaven common stock.

9. Defendant Biohaven is a British Virgin Islands business company. The Company’s principal executive offices are located at 215 Church Street, New Haven, CT 06510. Biohaven’s common stock is traded on the NYSE, which is headquartered in New York, NY, under the ticker symbol “BHVN.”

10. Defendant Vlad Coric is Chairman of the Board and Chief Executive Officer of the Company.
11. Defendant Irina A. Antonijevic is a director of the Company.
12. Defendant Gregory H. Bailey is a director of the Company.
13. Defendant John W. Childs is a director of the Company.
14. Defendant Douglas Gray is a director of the Company.
15. Defendant Julia P. Gregory is a director of the Company.
16. Defendant Michael T. Heffernan is a director of the Company.
17. Defendant Robert J. Hugin is a director of the Company.
18. Defendant Kishen Mehta is a director of the Company.
19. The defendants identified in paragraphs 10 through 18 are collectively referred to herein as the “Individual Defendants.”

SUBSTANTIVE ALLEGATIONS

20. Biohaven is a commercial-stage biopharmaceutical company with a portfolio of innovative, best-in-class therapies to improve the lives of patients with debilitating neurological and neuropsychiatric diseases, including rare disorders.

21. On May 9, 2022, Biohaven’s Board caused the Company to enter into the Merger Agreement.

22. As set forth in the press release announcing the Proposed Transaction:

Pfizer Inc. (NYSE: PFE) and Biohaven Pharmaceutical Holding Company Ltd. (NYSE: BHVN) today announced that the companies have entered into a definitive agreement under which Pfizer will acquire Biohaven, the maker of NURTEC® ODT, an innovative dual-acting migraine therapy approved for both acute treatment and episodic prevention of migraine in adults.

Under the terms of the agreement, Pfizer will acquire all outstanding shares of Biohaven not already owned by Pfizer for \$148.50 per share in cash. Biohaven

common shareholders, including Pfizer, will also receive 0.5 of a share of New Biohaven, a new publicly traded company that will retain Biohaven's non-CGRP development stage pipeline compounds, per Biohaven common share. The boards of directors of both Biohaven and Pfizer have unanimously approved the transaction. Pfizer will pay transaction consideration totaling approximately \$11.6 billion in cash. Pfizer will also make payments at closing to settle Biohaven's third party debt and for the redemption of all outstanding shares of Biohaven's redeemable preferred stock. The \$148.50 cash consideration represents a premium of approximately 33% to Biohaven's volume weighted average selling price of \$111.70 over the three months prior to the announcement of the transaction.

The proposed transaction includes the acquisition of Biohaven's calcitonin gene-related peptide (CGRP) programs including:

Rimegepant:

Approved in the United States (U.S.) under the trade name, NURTEC® ODT, for both the acute treatment of migraine and preventive treatment of episodic migraine

Approved in the European Union under the trade name, VYDURA®, for both acute treatment of migraine and prophylaxis of episodic migraine

Zavegepant:

On track for a 2Q2022 acceptance (based on March 2022 submission) in the U.S. as an intranasal spray for the acute treatment of migraine and in development as an oral soft gel for chronic migraine prevention

A portfolio of five pre-clinical CGRP assets

"Today's announcement builds on our legacy of delivering breakthroughs for patients living with complex pain disorders and diseases that disproportionately impact women," said Nick Lagunowich, Global President, Pfizer Internal Medicine. "NURTEC® ODT, which is already the #1 prescribed migraine medicine in its class in the United States, coupled with Biohaven's CGRP pipeline, offers hope for patients suffering from migraine worldwide. We believe Pfizer is uniquely positioned to help the portfolio reach its full potential given our leading scale and capabilities, including comprehensive field force engagement with Primary Care Physicians, specialists and health systems delivering the right information at the right time."

This agreement follows on the November 9, 2021 collaboration for the commercialization of rimegepant and zavegepant outside the United States, in connection with which Pfizer invested \$350 million to acquire 2.6% of Biohaven's common stock at \$173 per share.

“We are excited to announce Pfizer’s proposed acquisition of Biohaven, recognizing the market leadership of NURTEC® ODT, our breakthrough all in one migraine therapy, and the untapped potential of our CGRP franchise,” said Vlad Coric, MD, Chairman and Chief Executive Officer of Biohaven. “Pfizer’s capabilities will accelerate our mission to deliver our migraine medicines to even more patients, while the new R&D company is well positioned to bring value to patients and shareholders by focusing on our innovative pipeline for neurological and other disorders. We believe this transaction represents significant future value creation for patients and our collective shareholders.”

Following the closing, New Biohaven will continue to operate under the Biohaven name. New Biohaven will be led by Vlad Coric, MD, as Chairman and CEO, and include other members of the current management team of Biohaven. Biohaven common shareholders will receive, for each Biohaven share, 0.5 of a share of New Biohaven distributed via a pro rata distribution of SEC-registered, publicly listed shares. At distribution, New Biohaven will be capitalized with \$275 million of cash. New Biohaven will also have the right to receive tiered royalties from Pfizer on any annual net sales of rimegepant and zavegepant in the United States in excess of \$5.25 billion.

Pfizer expects to finance the transaction with existing cash on hand.

Pfizer’s acquisition of Biohaven is subject to the completion of the New Biohaven spin-off transaction and other customary closing conditions, including receipt of regulatory approvals and approval by Biohaven’s shareholders. The companies expect the transaction to close by early 2023.

Due to the proposed transaction, Biohaven will not hold a conference call to discuss its first quarter 2022 financial results and will issue a press release and file a quarterly report on Form 10-Q with the U.S. Securities and Exchange Commission announcing those results on May 10, 2022.

J.P. Morgan acted as Pfizer’s financial advisor for the transaction with Ropes & Gray LLP acting as its legal advisor. Centerview Partners acted as Biohaven’s financial advisor for the transaction with Sullivan & Cromwell LLP acting as its legal advisor.

23. Defendants filed the Proxy Statement with the SEC in connection with the Proposed Transaction, which omits material information.

Financial Projections

24. The Proxy Statement omits material information regarding Biohaven’s financial projections, specifically: the line items underlying the financial projections.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.