

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, DC 20549

FORM 8-K

**CURRENT REPORT
Pursuant to Section 13 OR 15(d)
of The Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): July 20, 2023

ImmunityBio, Inc.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

001-37507
(Commission
File Number)

43-1979754
(IRS Employer
Identification No.)

**3530 John Hopkins Court
San Diego, California 92121**
(Address of principal executive offices, including zip code)

Registrant's telephone number, including area code: (844) 696-5235

Not Applicable
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.0001 per share	IBRX	The Nasdaq Global Select Market

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 8.01 Other Events.

Update Regarding Sorrento Therapeutics, Inc. Litigation

A pending settlement involving Sorrento Therapeutics, Inc.'s ("Sorrento") litigation claims against ImmunityBio, Inc.'s (the "Company") wholly-owned subsidiary, NantCell, Inc. ("NantCell") and others is described in detail in a motion before the United States Bankruptcy Court for the Southern District of Texas, *In re Sorrento Therapeutics, Inc., et al.*, Case No. 23-90085 (DRJ), Docket Entry 810. The settlement motion is currently set for hearing before the bankruptcy court on August 14, 2023, and the settlement is subject to bankruptcy court approval. If approved, the settlement will involve two possible scenarios: Either, if Sorrento raises an amount needed to pay its debtor in possession ("DIP") lender and its unsecured creditors by August 31, 2023, Sorrento will pay those obligations, including the judgments held by NantCell, and the Company's joint venture with Sorrento Immunotherapy NANTibody LLC ("NANTibody"), which were previously disclosed in the Company's periodic reports, including its most recent Quarterly Report on Form 10-Q for the quarter ended March 31, 2023, by 2:00 p.m. ET on August 31, 2023 and will be free to proceed with pending litigation; or, failing that, the judgments will be released, the litigation claims will be released including, without limitation, the derivative litigation pending against NantCell in the Superior Court of Los Angeles, Los Angeles County (the "Superior Court Litigation"), Sorrento will relinquish its interests in NANTibody and certain other entities, Sorrento will forfeit its rights to any payments from NantCell arising out of its antibody exclusive license agreement with NantCell (rights to PD-L1), and certain other provisions not impacting the Company will be implemented as described in the motion. As referenced above, the settlement is subject to bankruptcy court approval, and there can be no assurance that such approval will be obtained. Should the settlement not be approved, the Company intends to continue to pursue vigorously, consistent with its rights in light of Sorrento's Chapter 11 filing, the collection of the judgments from Sorrento, but we make no assurances that we will receive any amount or with respect to the timing of our receipt of any funds. As of June 30, 2023, consistent with prior periods, the Company has not determined the amount it is likely to recover, and thus has not recorded any receivables in relation to the judgments. Further, should the settlement not be approved, an estimate of the possible loss or range of loss resulting from the Superior Court Litigation cannot be made at this time.

Securities Class Action

On June 30, 2023, a putative securities class action complaint, captioned *Salzman v. ImmunityBio, Inc. et al.*, No. 3:23-cv-01216-BEN-WVG, was filed in the U.S. District Court for the Southern District of California against the Company and three of its officers and/or directors, asserting violations of Sections 10(b) and 20(a) of the Securities Exchange Act. Stemming from the Company's disclosure on May 11, 2023 that it had received an FDA complete response letter stating, among other things, that it could not approve the Company's Biologics License Application ("BLA") for its product candidate, Ankiva™ (N-803) in combination with BCG for the treatment of patients with BCG-unresponsive non-muscle invasive bladder cancer with carcinoma in situ with or without Ta or T1 disease, in its present form due to deficiencies related to its pre-license inspection of the Company's third-party contract manufacturing organizations, the complaint alleges that the defendants had previously made materially false and misleading statements and/or omitted material adverse facts regarding its third-party clinical manufacturing organizations and the prospects for regulatory approval of the BLA. The Company believes the lawsuit is without merit and intends to defend the case vigorously.

The Company is unable to estimate a range of loss, if any, that could result were there to be an adverse final decision in this action. If an unfavorable outcome were to occur, it is possible that the impact could be material to the Company's results of operations in the period(s) in which any such outcome becomes probable and estimable.

Forward-Looking Statements

This Current Report on Form 8-K contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995, such as statements regarding various litigation proceedings and potential outcomes, among others. Statements that are not statements of historical fact are considered forward-looking statements, which are usually identified by the use of words such as "anticipates," "believes," "continues," "goal," "could," "estimates," "scheduled," "expects," "intends," "may," "plans," "potential," "predicts," "indicate," "projects," "seeks," "should," "will," "strategy," and variations of such words or similar expressions. Forward-looking statements are neither forecasts, promises nor guarantees, and are based on the current beliefs of ImmunityBio's management as well as assumptions made by and information currently available to ImmunityBio. Such information may be limited or incomplete, and ImmunityBio's statements should not be read to indicate that it has conducted a thorough inquiry into, or review of, all potentially available relevant information. Such statements reflect the current views of ImmunityBio with respect to future events and are subject to known and unknown risks, including business, regulatory, economic and competitive risks, uncertainties, contingencies and assumptions about ImmunityBio, including, without limitation, (i) the risks and uncertainties regarding ongoing litigation and the court process, (ii) the risks and uncertainties associated with the regulatory review process, (iii) the ability of ImmunityBio and its third party contract manufacturing organizations to adequately address the issues raised in the FDA's complete response letter, (iv) the ability of ImmunityBio to execute a

partnering relationship with a large biopharmaceutical company for commercialization of N-803 plus BCG for intravesical administration on acceptable terms, if at all, (v) the ability of ImmunityBio to continue its planned preclinical and clinical development of its development programs, and the timing and success of any such continued preclinical and clinical development and planned regulatory submissions, (vi) ImmunityBio's ability to retain and hire key personnel, (vii) ImmunityBio's ability to obtain additional financing to fund its operations and complete the development and commercialization of its various product candidates, (viii) ImmunityBio's ability to successfully commercialize its product candidates and uncertainties around regulatory reviews and approvals, (ix) ImmunityBio's ability to scale its manufacturing and commercial supply operations for its product candidates and future approved products, and (x) ImmunityBio's ability to obtain, maintain, protect and enforce patent protection and other proprietary rights for its product candidates and technologies. More details about these and other risks that may impact ImmunityBio's business are described under the heading "Risk Factors" in the Company's Annual Report on Form 10-K filed with the U.S. Securities and Exchange Commission ("SEC") on March 1, 2023 and the Company's Form 10-Q filed with the SEC on May 11, 2023, and in subsequent filings made by ImmunityBio with the SEC, which are available on the SEC's website at www.sec.gov. ImmunityBio cautions you not to place undue reliance on any forward-looking statements, which speak only as of the date hereof. ImmunityBio does not undertake any duty to update any forward-looking statement or other information.

Item 9.01 Financial Statements and Exhibits.

(d) *Exhibits.*

<u>Exhibit Number</u>	<u>Description of Exhibit</u>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

IMMUNITYBIO, INC.

Registrant

Date: July 20, 2023

By: /s/ David C. Sachs

David C. Sachs

Chief Financial Officer