

IN THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK

DAN SCHMIDT, on Behalf of Himself and All Others Similarly Situated,)	Master File No. A-15-728234-B
)	
Plaintiff,)	Dept No. XV
)	<u>CLASS ACTION</u>
vs.)	
LIBERATOR MEDICAL HOLDINGS, INC., et al.,)	
)	
Defendants.)	
)	
AND ALL CONSOLIDATED ACTIONS.)	
)	

**NOTICE OF PENDENCY OF CLASS ACTION
(TO PLAINTIFF CLASS)**

TO: All holders of Liberator Medical Holdings, Inc. (“LMH”) common stock who received consideration for their shares in the acquisition of LMH by C.R. Bard, Inc. (“Bard”) for the price of \$3.35 per share, which closed on January 20, 2016 (the “Acquisition”). Excluded from the Class are defendant Mark A. Libratore, the LMH board of directors at the time of the Acquisition, LMH, and Bard (collectively, the “Excluded Parties”), as well as any person, firm, trust, corporation or other entity related to or affiliated with any of the Excluded Parties.

1. This Notice is given pursuant to Rule 23(c) of the Nevada Rules of Civil Procedure and pursuant to an Order of the Eighth Judicial District Court for the State of Nevada, County of Clark (the “Court”). This Notice is not an expression of any opinion by the Court as to the merits of any of the claims or defenses asserted by any party in this litigation. Moreover, it is not intended to suggest any likelihood that Plaintiffs or any other Class member will obtain any relief. If there is any monetary recovery in the form of damages, Class members may be entitled to share in the proceeds, less such costs, expenses, and attorneys’ fees as the Court may allow. The purpose of this Notice is to inform you of the pendency of this lawsuit, how it may affect your rights, and what steps you may take in relation to it.

2. A class action lawsuit is a lawsuit in which one or more persons sue on behalf of themselves and others who have similar claims. This litigation is a class action on behalf of all holders of LMH common stock who received consideration for their shares in the acquisition of LMH by Bard for the price of \$3.35 per share, which closed on January 20, 2016. Excluded from the Class are defendant Mark A. Libratore, the LMH board of directors at the time of the Acquisition, LMH, and Bard, as well as any person, firm, trust, corporation or other entity related to or affiliated with any of the Excluded Parties. Plaintiffs Peter K. Nagel, Dr. Sidney Crain, and Dr. Lee Smith are the class representatives. Defendant Mark A. Libratore, was a director and officer of LMH at the time of the Acquisition (“Defendant”).

3. Plaintiffs’ Consolidated Post-Acquisition Complaint for Breach of Fiduciary Duty and Aiding and Abetting alleges that Mark A. Libratore, a former director, president

and chief executive officer of LMH, breached his fiduciary duties of loyalty, good faith, and full disclosure owed to the shareholders in connection with the sale of LMH to Bard, by engaging in self-interested conduct to the detriment of LMH's shareholders at large. Defendant has filed an answer denying all material allegations of Plaintiffs' Complaint and has asserted affirmative defenses thereto. On January 29, 2018, after briefing and argument, the Court granted Plaintiffs' Motion for Class Certification and determined that this action may be maintained as a class action.

4. On February 20, 2018, the Court entered an order defining the Class as follows:

All holders of Liberator Medical Holdings, Inc. ("LMH") common stock who received consideration for their shares in the acquisition of LMH by C.R. Bard, Inc. ("Bard") for the price of \$3.35 per share, which closed on January 20, 2016 (the "Acquisition"). Excluded from the Class are defendant Mark A. Libratore, the LMH board of directors at the time of the Acquisition, LMH, and Bard (collectively, the "Excluded Parties"), as well as any person, firm, trust, corporation or other entity related to or affiliated with any of the Excluded Parties.

5. All nominees who are holders of LMH common stock who received consideration for their shares in the acquisition of LMH by Bard for the price of \$3.35 per share, which closed on January 20, 2016, and are not an Excluded Party, are requested to send this Notice to all such beneficial owners no later than ten days after receipt of this Notice. Additional copies of this Notice will be provided to such nominees upon written request sent to the address identified in Paragraph 4 below. In the alternative, all nominees are requested to send an unduplicated list of names and addresses of said beneficial owners to the address identified in Paragraph 4 below. The Notice Administrator will thereafter mail copies of this Notice directly to all such beneficial owners. Plaintiffs' counsel offer to pay the reasonable cost of preparing an unduplicated list of names and addresses of such beneficial owners or of forwarding this Notice to beneficial owners in those cases where a nominee elects to forward this Notice rather than provide a list of names and addresses to the Notice Administrator.

NOW THEREFORE, TAKE NOTICE:

1. If you were a holder of LMH common stock and you are neither a named defendant in this action or any person, firm, trust, corporation or other entity related to or affiliated with any defendant, then you are a member of the Class unless you request exclusion therefrom as provided in Paragraph 3 below.

2. All members of the Class who do not request to be excluded will be bound by any judgment, whether or not favorable to the Class. ***If you wish to remain a member of the Class, you need do nothing*** and your rights in this lawsuit will be represented by Lead Counsel for Plaintiffs and the Class, Robbins Geller Rudman & Dowd LLP, 655 W. Broadway, Suite 1900, San Diego, California, 92101. ***If you wish, you may enter an appearance through your own counsel at your own expense.***

3. You may request to be excluded from the Class by mailing a written request for exclusion to the address below, ***postmarked on or before April 27, 2018***, setting forth

your name and address. Persons who request exclusion will not be entitled to share in the benefits of any judgment or settlement nor will they be bound by any settlement or judgment. If you elect to be excluded from the Class, you may pursue, at your own expense, whatever legal rights you may have.

4. All communications regarding this Notice should be made in writing, should refer to the name and number of this action, *Dan Schmidt v. Liberator Medical Holdings, Inc., et al.*, Master File No. A-15-728234-B, and should be addressed to:

Liberator Medical Holdings, Inc. Shareholder Litigation
c/o Gilardi & Co. LLC
3301 Kerner Blvd.
San Rafael, CA 94901
Tel: 866-629-1057

DO NOT TELEPHONE THE CLERK OF THE COURT REGARDING THIS NOTICE

Dated this 20th day of February, 2018.

HON. JOSEPH HARDY
DISTRICT COURT JUDGE

Liberator Medical Holdings, Inc. Shareholder Litigation
c/o Gilardi & Co. LLC
3301 Kerner Blvd.
San Rafael, CA 94901

LSC

«Barcode»

Postal Service: Please do not mark barcode

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