

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION
(AT CINCINNATI)

IN RE ATRICURE, INC.
SECURITIES LITIGATION

:
: Civil Action No. 1:08-cv-00867
: (Judge Michael R. Barrett)
:

**ORDER PRELIMINARILY APPROVING SETTLEMENT
AND DIRECTING NOTICE AND SETTLEMENT HEARING**

This matter is before the Court upon the parties' Joint Motion for Entry of Order of Preliminary Approval of the Proposed Settlement, Directing Notice and Scheduling Settlement Hearing. (Doc. 43.)

WHEREAS, on July 30, 2010, the parties to the above-entitled action (the "Action") entered into a Stipulation and Agreement of Settlement (the "Stipulation" or "Settlement") which is subject to review under Rule 23 of the Federal Rules of Civil Procedure and which, together with the exhibits thereto, sets forth the terms and conditions for the proposed settlement of the claims alleged in the Complaint on the merits and with prejudice; and the Court having reviewed the Stipulation and the accompanying documents; and the parties to the Stipulation having consented to the entry of this Order; and all capitalized terms used herein having the meanings defined in the Stipulation;

NOW, THEREFORE, IT IS HEREBY ORDERED this 30th day of July, 2010, that:

1. Pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure, and for the purposes of the Settlement only, this Action is hereby certified as a class action on behalf of all persons who purchased common shares of AtriCure, Inc. during the period May 10, 2007, and October 31, 2008, inclusive. Excluded from the Class are Defendants, other directors and officers of AtriCure, members of their immediate families and their legal representative, heirs, successors or assigns and any entity in which Defendants have or had a controlling interest.

Also excluded from the Class are those Class Members who exclude themselves by filing a valid and timely request for exclusion in accordance with the requirements set forth in the Notice.

2. The Court finds, for the purposes of the Settlement only, that the prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that: (a) the number of Class Members is so numerous that joinder of all members thereof is impracticable; (b) there are questions of law and fact common to the Class; (c) the claims of the named representatives are typical of the claims of the Class they seek to represent; (d) the Lead Plaintiffs and Plaintiffs' Lead Counsel will fairly and adequately represent the interests of the Class; (e) the questions of law and fact common to the members of the Class predominate over any questions affecting only individual members of the Class; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for the purposes of the Settlement only, Lead Plaintiffs Ron DeHart and Brian Halford are certified as Class Representatives.

4. The Settlement is properly before the Court for preliminary approval and Preliminary Approval of the Stipulation and Agreement of Settlement (attached to the Joint Motion for Preliminary Approval and incorporated by reference herein) is hereby GRANTED.

5. A Settlement Hearing shall be held at the United States District Court for the Southern District of Ohio, on October 7, 2010 at 1:30 p.m. or at another date and time set by the Court, to determine: (a) whether the requirements for certification of the Class under Federal Rule of Civil Procedure 23(e) have been satisfied; (b) whether the terms of the Settlement, as set forth in the Stipulation, are fair, reasonable and adequate and should be approved; (c) whether

the proposed Order and Final Judgment should be entered; (d) whether the proposed Plan of Allocation for the proceeds of the Settlement is fair and reasonable and should be approved by the Court; (e) whether to approve Plaintiffs' Lead Counsel's joint request for attorneys' fees and reimbursement of expenses; and (f) any other such other matters as the Court may deem appropriate.

6. The Court reserves the right to approve the Stipulation and Agreement of Settlement with any modifications agreed to by the Settling Parties without further notice. The court also may adjourn the Settlement Hearing without further notice other than to counsel of record.

7. The Court approves the appointment of The Garden City Group as the Claims Administrator, and the payment of those fees and expenses of the Claims Administrator approved by both Plaintiffs' Lead Counsel and the Defendants' Counsel from the Administration Fund.

8. The Court approves the form attached to the Stipulation as Exhibit C and directs that Plaintiffs' Lead Counsel shall cause the Summary Notice to be published once in *Investors' Business Daily* and the *Cincinnati Enquirer* and distributed on the *PRNewswire* within ten (10) days of the mailing of the Notice.

9. The Court approves the form of the Settlement Notice in the form attached to the Stipulation as Exhibit "B" and Proof of Claim Form in the form attached to the Stipulation as Exhibit "D" to the Stipulation. The Claims Administrator shall mail the Notice and Proof of Claim on or before August 16, 2010 by first class mail to the addresses of all Class Members. Defendants shall cooperate in providing AtriCure's transfer records to the Claims Administrator

for the purpose of identifying and providing notice to the Class within seven (7) days of this Order.

10. The manner of giving notice of Settlement to Class Members, as described in the Stipulation, constitutes the best notice practicable under the circumstances and constitutes valid, due and sufficient notice to all Class Members, complying with the requirements of Federal Rules of Civil Procedure 23 and the Private Securities Litigation Reform Act of 1995.

11. Plaintiffs' Lead Counsel, or their designated representative, shall, at or before the Settlement Hearing, file a Declaration with the Court setting forth the actions taken to comply with the notice requirements set forth in this Order.

12. Any Class Member who requests to be excluded from the Class must do so by sending a written request for exclusion to Plaintiffs' Lead Counsel by first-class mail to the address listed in the Notice, signed by the Class Member and providing all information called for in the Notice. A request for exclusion is valid *only if* postmarked no later than September 27, 2010 (*ten days* before the date set for the Settlement Hearing as described in paragraph 5 above). Any Class Member who does not properly and timely request exclusion from the Class shall be included, and if the Settlement is approved and becomes effective, shall be bound by all the terms and provisions of the Stipulation and Agreement of Settlement, including but not limited to the releases and covenants not to sue described therein, whether or not such Class Member has objected to the Settlement.

13. Any objections by any Class Member to (a) the Settlement and/or (b) the application for costs and expenses to be made by Plaintiffs' Lead Counsel shall be heard and any papers submitted in support of said objections shall be considered by the Court at the Settlement Hearing *only if*, on or before September 27, 2010 (*ten days* before the date set for the Settlement

Hearing as described in paragraph 5 above), such objector files with the Clerk of Court a notice of his/her intention to appear, submits documentary proof that he/she is a Class Member, states the basis for his objections, and serves copies of the foregoing papers and all other papers in support of his objections upon Counsel for the Settling Parties, as directed in the Settlement Notice.

IT IS SO ORDERED.

/s/ Michael R. Barrett
Honorable Michael R. Barrett
United States District Judge