

In re Merit Medical Systems, Inc. Securities Litigation

COURT: United States District Court for the Central District of California
CASE NUMBER: 8:19-cv-02326-DOC-ADS
CLASS PERIOD: 02/26/2019 - 10/30/2019
CASE LEADERS: Jonathan D. Uslaner, Michael D. Blatchley
CASE TEAM: Lauren M. Cruz, Ryan McCurdy

This is a securities fraud class action that was brought on behalf of a class of persons and entities who purchased common stock of Merit Medical Systems, Inc. ("Merit" or the "Company") between February 26, 2019 and October 30, 2019, inclusive.

Lead Plaintiffs Have Settled the Action for \$18.25 Million

The Court-appointed Lead Plaintiffs, City of Atlanta Police Officers' Pension Fund, City of Atlanta Firefighters' Pension Fund, and Employees' Retirement System of the City of Baton Rouge and Parish of East Baton Rouge ("Lead Plaintiffs"), on behalf of themselves and the Settlement Class, have settled the Action for \$18,250,000 in cash (the "Settlement").

On April 13, 2022, the Court held a hearing to consider final approval of the Settlement and related matters. Following the hearing, the Court entered a final Judgment approving the Settlement, an Order approving the Plan of Allocation for the proceeds of the Settlement, and an Order awarding attorney's fees and litigation expenses.

You may visit the case website, [MeritMedicalSecuritiesLitigation.com](https://www.MeritMedicalSecuritiesLitigation.com), for more information about the Settlement.

The Litigation

On February 24, 2020, the Honorable David O. Carter appointed Employees' Retirement System of the City of Baton Rouge and Parish of East Baton Rouge as co-Lead Plaintiff and BLB&G as co-Lead Counsel for the Class.

The complaint alleges that during the Class Period, Defendants made false and misleading statements and/or failed to disclose adverse information concerning Merit's business and prospects. Specifically, Defendants failed to disclose that: (a) the integrations of Cianna and Vascular Insights, including their products, sales people, and R&D facilities, had caused operational disruptions and reduced sales and were months behind schedule; (b) sales of acquired company products had slowed substantially due to pre-acquisition pipeline fill, in particular for Vascular Insights products which, as late as July 2019, had zero orders during fiscal 2019; and (c) in light of the foregoing, the Company's reported financial guidance for fiscal 2019 and 2020 was made without a reasonable basis. As a result of Defendants' material misrepresentations and omissions, Merit stock traded at artificially inflated prices of more than \$62 per share.

On July 25, 2019, Merit announced disappointing second quarter 2019 financial results and cut its fiscal 2019 sales and earnings per share outlook. Defendants attributed the reductions to a variety of factors, including "slower than anticipated conversion and uptake of acquired products." On this news, the Company's stock price declined more than 25%. Then, on October 30, 2019, the Company announced its third quarter 2019 financial results, reporting adjusted earnings per share well below consensus estimates, and slashed fiscal 2019 revenue and earnings per share guidance by 20%. Furthermore, Defendants stated that, in addition to the fiscal 2019 guidance cut, "2020 guidance [was] off the table" until they had reasonable confidence in their forecasting ability, and reported

significant operational issues in all aspects of Merit's business, conceding that many of these failures were due to their "own overestimation and forecasting." Following these disclosures, Merit's stock price declined more than 29%, from a close of \$29.11 per share on October 30, 2019, to a close of \$20.66 per share on October 31, 2019.

Lead Plaintiffs filed their amended complaint on June 30, 2020. Defendants moved to dismiss the amended complaint on August 14, 2020. Lead Plaintiffs opposed Defendants' motion on September 28, 2020. Defendants filed their reply on October 22, 2020.

On March 16, 2021, the Magistrate Judge assigned to the case, the Honorable Autumn D. Spaeth, issued a report and recommendation that the District Judge issue an order denying, in large part, Defendants' Motion to Dismiss. On March 29, 2021, the Honorable David O. Carter adopted Judge Spaeth's order. On March 30, 2021, Defendants filed an objection to the Report and Recommendation, to which Lead Plaintiffs responded.

On May 4, 2021, the Court entered an order adopting Judge Spaeth's Report and Recommendation in full. On May 24, 2021, Defendants served and filed their Answer and Affirmative Defenses to the Complaint.

Discovery in this Action commenced in May 2021. Lead Plaintiffs prepared and served initial disclosures, document requests, and interrogatories on Defendants. Additionally, Lead Plaintiffs prepared and served document subpoenas on five non-parties. Lead Plaintiffs exchanged numerous letters and held numerous meet and confers with Defendants and third parties concerning discovery issues. Defendants and non-parties produced over a half-million pages of documents to Lead Plaintiffs.

The Parties agreed to engage in private mediation and retained Michelle Yoshida to act as mediator in the Action. Pursuant to a schedule set by Ms. Yoshida, the Parties exchanged mediation statements on September 24, 2021, and participated in a full-day, in-person mediation session in Newport Beach, California on October 5, 2021. The October 5, 2021 mediation session ended without resolution. Following extensive, additional negotiations overseen by the mediator, Ms. Yoshida made a mediator's recommendation, on a double-blind basis, that the Parties settle the Action for \$18,250,000.00, which the Parties accepted on November 16, 2021.

On December 21, 2021, the Parties entered into the Stipulation and Agreement of Settlement, which sets forth the full terms and conditions of the Settlement. On January 3, 2022, the Court preliminarily approved the Settlement, authorized notice of the Settlement to potential Settlement Class Members and scheduled the Settlement Hearing to consider whether to grant final approval of the Settlement for April 13, 2022.

Following the April 13, 2022 hearing, the Court approved the Settlement. The claims administration concluded in November 2022. We filed the distribution motion on November 29, 2022. On January 5, 2023 the Court entered the Order Approving the Distribution Plan. The initial distribution occurred on February 10, 2023. The second distribution occurred in July 2024. Subsequent distributions will occur on a rolling basis provided that net settlement funds are available.

Case Documents

- Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Hearing; and (III) Motion for Attorneys' Fees and Litigation Expenses ("Notice")
- January 5, 2023 - Order Approving Distribution Plan
- November 29, 2022 - Unopposed Motion for Approval of Distribution Plan

- April 18, 2022 - Judgment Approving Class Action Settlement
- April 15, 2022 - Order Approving Plan of Allocation of Net Settlement Fund
- April 15, 2022 - Order Awarding Attorneys' Fees and Litigation Expenses
- April 6, 2022 - Reply in Further Support of (I) Motion for Final Approval of Settlement and Plan of Allocation and (II) Motion for Attorneys' Fees & Expenses
- March 9, 2022 - Notice of Motion and Motion for Final Approval of Proposed Class Action Settlement and Plan of Allocation
- March 9, 2022 - Lead Plaintiffs' Memorandum In Support of Motion For Final Approval of Proposed Class Action Settlement and Plan of Allocation
- March 9, 2022 - Notice of Motion and Motion for Attorneys' Fees and Litigation Expenses
- March 9, 2022 - Lead Counsel's Memorandum in Support of Motion for Attorneys' Fees and Litigation Expenses
- March 9, 2022 - Joint Declaration of David R. Kaplan and Jonathan D. Uslaner in Support of Motion for Settlement and Motion for Fees & Expenses
- January 3, 2022 - Order Preliminarily Approving Settlement and Providing for Notice of the Settlement
- December 21, 2021 - Stipulation and Agreement of Settlement
- May 3, 2021 - Amended Order Accepting Report & Recommendation of United States Magistrate Judge Denying Motion to Dismiss
- March 29, 2021 - Order Accepting Report & Recommendation of United States Magistrate Judge Denying Motion to Dismiss
- June 30, 2020 - Amended Complaint
- February 24, 2020 - Merit Medical Order Appointing Lead Plaintiff, Counsel