

THE HONORABLE MARSHA J. PECHMAN

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KENNETH McGUIRE, On Behalf of Himself and
All Others Similarly Situated,

Plaintiffs,

v.

DENDREON CORPORATION, et al.,

Defendants.

CASE NO.: C07-800-MJP

Consolidated Class Action

**DEFENDANTS' ANSWER TO THE
THIRD AMENDED COMPLAINT
FOR VIOLATIONS OF FEDERAL
SECURITIES LAWS**

JURY TRIAL DEMANDED

This document relates to:

All Actions.

1 Defendants Dendreon Corp. (“Dendreon” or “Company”), Dr. Mitchell Gold, and Dr.
2 David Urdal hereby answer plaintiffs’ Third Amended Complaint for Violations of Federal
3 Securities Laws (“Complaint”). **To the extent not expressly admitted, defendants deny each
4 and every allegation of the Complaint.**¹

5 1. Defendants admit that this purports to be a class action on behalf of all persons who
6 purchased or otherwise acquired shares of the common stock of Dendreon between March 29,
7 2007, and May 8, 2007, inclusive (the “Class Period”), and that it seeks to pursue remedies under
8 the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. § 78a. Defendants deny the
9 remaining allegations in paragraph 1.

10 2. Defendants admit that Dendreon is a biotechnology company focused on the
11 development and commercialization of therapeutics that harness the immune system to fight
12 cancer. Defendants further admit that Dendreon’s most advanced product candidate is Provenge
13 (sipuleucel-T), an active cellular immunotherapy for the treatment of asymptomatic, metastatic,
14 androgen-independent prostate cancer. Defendants lack knowledge or information sufficient to
15 form a belief as to the truth of the allegations regarding analyst estimates as to the potential market
16 for Provenge.

17 3. Defendants admit that on November 9, 2006, Dendreon submitted a Biologics
18 License Application (“BLA”) for Provenge to the United States Food and Drug Administration
19 (“FDA”). Defendants further admit that the FDA granted the Provenge BLA priority review,
20 which set May 15, 2007, as the target date for FDA action.

21 4. Defendants admit that a Chemistry, Manufacturing, and Controls (“CMC”)
22 inspection of a company’s manufacturing facility and related processes is part of the FDA’s review
23 of a BLA. Defendants admit that on March 14, 2007, Dendreon filed a Form 10-K for the year
24 ended December 31, 2006, with the Securities and Exchange Commission (“SEC”). This
25 document speaks for itself and defendants refer the Court thereto for its true and correct contents.

26 _____
27 ¹ To the extent the Complaint’s headings constitute allegations that require a response, defendants deny these allegations.

1 The remainder of paragraph 4 includes plaintiffs' characterizations and legal conclusions, to which
2 no response is required. To the extent that the remaining allegations in paragraph 4 require a
3 response, defendants deny these allegations.

4 5. Defendants admit that the FDA conducted a CMC inspection of Dendreon's New
5 Jersey manufacturing facility in February 2007, and thereafter issued to the Company an FDA
6 Form 483. No response is required to plaintiffs' characterizations of the boilerplate language from
7 the Form 483 or of the contents of Dendreon's Form 10-K for the year ended December 31, 2006.
8 These documents speak for themselves, and defendants refer the Court to these documents for their
9 true and correct contents. Defendants deny that the issuance of the Form 483 was a material,
10 adverse event, and in any event, defendants did not believe that the issuance of the Form 483 was a
11 material, adverse event. Defendants deny the remaining allegations in paragraph 5.

12 6. Defendants admit that the FDA mentioned the inspectional observations noted on
13 the FDA Form 483 in the Complete Response Letter issued to Dendreon in May 2007. Defendants
14 deny the remaining allegations in paragraph 6.

15 7. Defendants admit that on March 29, 2007, the FDA's Cellular, Tissue and Gene
16 Therapies Advisory Committee ("FDA Advisory Committee") voted that Provenge was reasonably
17 safe and that there was substantial evidence of its efficacy. Defendants further admit that
18 Dendreon held a conference call on March 29, 2007, with investors and analysts. The audio
19 recording and transcript of that call speak for themselves, and defendants refer the Court thereto
20 for the true and correct contents of the call. The remaining allegations in paragraph 7 are
21 plaintiffs' characterizations, to which no response is required. To the extent that the remaining
22 allegations in paragraph 7 require a response, defendants deny these allegations.

23 8. Deny.

24 9. Defendants admit that Dendreon's stock is now, and on March 30, 2007, was,
25 traded on NASDAQ. The public record of the price and volume of trading in Dendreon stock
26 speaks for itself, and plaintiffs' characterization requires no response.

1 10. Defendants admit that Dr. Gold sold Dendreon stock on April 2, 2007. The details
2 of Dr. Gold's transactions in Dendreon stock are available in public records filed with the SEC,
3 which speak for themselves. Plaintiffs' characterization of these records requires no response. To
4 the extent that the remaining allegations in paragraph 10 require a response, defendants deny these
5 allegations.

6 11. Defendants admit that the FDA issued a Complete Response Letter to Dendreon on
7 May 8, 2007, in which it requested additional information in support of the Provenge BLA, and
8 mentioned the inspectional observations noted on the Form 483. The public record of the price
9 and volume of trading in Dendreon stock speaks for itself, and plaintiffs' characterization requires
10 no response. To the extent that the remaining allegations in paragraph 11 require a response,
11 defendants deny these allegations.

12 12. Defendants admit that Dendreon held conference calls with analysts and investors
13 on May 10, 2007, and March 13, 2008. The transcripts of these conference calls speak for
14 themselves, and defendants refer the Court to these transcripts for their true and correct contents.
15 Plaintiffs' characterization of these calls requires no response. Defendants admit that the FDA
16 issued a Form 483 in February 2007 following an inspection of the Provenge manufacturing
17 facility; that the FDA issued a Complete Response Letter on May 8, 2007, that mentioned the
18 inspectional observations contained in the Form 483; and that defendants have not disclosed the
19 precise content of these inspectional observations. Defendants deny the remaining allegations in
20 paragraph 12, including those in the listed bullet points following the numbered paragraph.

21 13. Deny.

22 14. Deny.

23 15. Deny.

24 16. Deny.

25 **JURISDICTION AND VENUE**

26 17. Defendants admit that this action purports to bring claims under sections 10(b),
27 20(a), and 20A of the Exchange Act and rules promulgated thereunder by the SEC.

1 18. Defendants admit this Court has jurisdiction over this action.

2 19. Defendants admit that venue is proper in this district. Defendants admit that
3 Dendreon maintains its principal executive offices at 3005 First Avenue, Seattle, Washington,
4 and that defendants prepared and disseminated public statements in this district. Defendants
5 deny the remaining allegations in paragraph 19.

6 20. Paragraph 20 includes plaintiffs' characterizations and legal conclusions, to which
7 no response is required. To the extent that the allegations in paragraph 20 require a response,
8 defendants deny that they used the means and instrumentalities of interstate commerce in
9 connection with any wrongful conduct.

10 **THE PARTIES**

11 21. Defendants lack knowledge or information sufficient to form a belief as to the
12 truth of the allegations relating to plaintiff Kenneth McGuire's residency and stock ownership.
13 Defendants deny the remaining allegations in paragraph 21.

14 22. Defendants lack knowledge or information sufficient to form a belief as to the
15 truth of the allegations relating to plaintiff David Wilczynski's residency and stock ownership.
16 Defendants deny the remaining allegations in paragraph 22.

17 23. Defendants admit that defendant Dendreon is a Delaware corporation, which
18 maintains its principal executive offices at 3005 First Avenue, Seattle, Washington 98121.
19 Defendants admit that Dendreon maintains a website at www.dendreon.com, the content of
20 which speaks for itself. Defendants admit that Dendreon's common stock is traded on the
21 NASDAQ stock exchange under the symbol "DNDN."

22 24. Admit.

23 25. Admit.

24 26. Defendants admit that Dr. Gold and Dr. Urdal participated in the day-to-day
25 management of Dendreon, and participated in developing certain of Dendreon's official public
26 statements and regulatory filings. The remainder of paragraph 26 includes plaintiffs'
27

1 characterizations and legal conclusions, to which no response is required. To the extent that the
2 remaining allegations in paragraph 26 require a response, defendants deny these allegations.

3 27. Deny.

4 28. Deny.

5 29. Paragraph 29 contains plaintiffs' characterizations and legal conclusions, to which
6 no response is required. To the extent that the allegations in paragraph 29 require a response,
7 defendants deny these allegations.

8 **CLASS ACTION ALLEGATIONS**

9 30. Defendants admit plaintiffs purport to bring a class action pursuant to Rule
10 23(b)(3) of the Federal Rules of Civil Procedure, on behalf of themselves and those who
11 purchased Dendreon common stock between March 29, 2007, and May 8, 2007, excluding
12 defendants, officers and directors of Dendreon, and other associated parties. Defendants deny
13 the remaining allegations in paragraph 30.

14 31. Defendants admit Mr. Wilczynski purports to bring a class action pursuant to
15 Rule 23(b)(3) on behalf of a sub-class of entities that purchased Dendreon common stock on
16 April 2, 2007. Defendants deny the remaining allegations in paragraph 31.

17 32. Defendants admit that Dendreon stock is traded on NASDAQ. The public record
18 of the price and volume of trading in Dendreon stock speaks for itself, and plaintiffs'
19 characterization requires no response. The remainder of paragraph 32 contains plaintiffs'
20 characterizations and legal conclusions, to which no response is required. To the extent that the
21 remaining allegations in paragraph 32 require a response, defendants deny these allegations.

22 33. Paragraph 33 contains plaintiffs' characterizations and legal conclusions, to which
23 no response is required. To the extent that the allegations in paragraph 33 require a response,
24 defendants deny these allegations

25 34. Defendants deny that Mr. McGuire's claims are typical of the alleged Class.
26 Defendants lack knowledge or information sufficient to form a belief as to the allegations related
27 to plaintiffs' stock ownership. The remaining allegations in paragraph 34 contain plaintiffs'

1 characterizations and legal conclusions, to which no response is required. To the extent that the
2 remaining allegations in paragraph 34 require a response, defendants deny these allegations.

3 35. Paragraph 35 contains plaintiffs' characterizations and legal conclusions, to which
4 no response is required. To the extent that the allegations in paragraph 35 require a response,
5 defendants deny these allegations.

6 36. Paragraph 36 contains plaintiffs' characterizations and legal conclusions, to which
7 no response is required. To the extent that the allegations in paragraph 36 require a response,
8 defendants deny these allegations.

9 37. Paragraph 37 contains plaintiffs' characterizations and legal conclusions, to which
10 no response is required. To the extent that the allegations in paragraph 37 require a response,
11 defendants deny these allegations.

12 38. Defendants lack knowledge or information sufficient to form a belief as to the
13 truth of plaintiffs' allegations relating to plaintiffs' stock ownership. The remaining allegations
14 in paragraph 38 contain plaintiffs' characterizations and legal conclusions, to which no response
15 is required. To the extent that the remaining allegations in paragraph 38 require a response,
16 defendants deny these allegations.

17 39. Paragraph 39 contains plaintiffs' characterizations and legal conclusions, to which
18 no response is required. To the extent that the allegations in paragraph 39 require a response,
19 defendants deny these allegations.

20 40. Defendants admit on information and belief that the Company's transfer agent has
21 access to the names and addresses of the record owners of Dendreon common stock. The
22 remaining allegations in paragraph 40 are legal conclusions to which no response is required.

23 **FACTUAL ALLEGATIONS**

24 41. Defendants admit that Dendreon is a biotechnology company focused on the
25 development and commercialization of therapeutics that harness the immune system to fight
26 cancer. Defendants admit that Dendreon's most advanced product candidate is Provenge
27 (sipuleucel-T), an active cellular immunotherapy for the treatment of asymptomatic, metastatic,

1 androgen-independent prostate cancer. Defendants admit prostate cancer is the most prevalent
2 non-skin cancer in the United States, with hundreds of thousands of new cases diagnosed every
3 year.

4 42. Defendants admit that Provenge is a treatment for asymptomatic, metastatic,
5 androgen-independent prostate cancer. A description of the clinical trials conducted regarding
6 Provenge is available in the Company's Forms 10-K, Forms 8-K, press releases, and other
7 publicly available documents. These documents speak for themselves, and defendants refer the
8 Court to them for a correct description of Provenge and the data collected from the Provenge
9 clinical trials. Defendants lack knowledge or information sufficient to form a belief as to views
10 of others regarding Provenge and its potential market.

11 43. A description of the review process for the Provenge BLA is available in the
12 Company's Forms 10-K, Forms 8-K, press releases, and other publicly available documents.
13 These documents speak for themselves, and defendants refer the Court to them for a correct
14 description of this process.

15 44. A description of the review process for the Provenge BLA is available in the
16 Company's Forms 10-K, Forms 8-K, press releases, and other publicly available documents.
17 These documents speak for themselves, and defendants refer the Court to them for a complete
18 and correct description of this process. No response is required to plaintiffs' characterizations
19 and legal conclusions regarding this process.

20 45. Paragraph 45 contains plaintiffs' characterizations, interpretation of FDA
21 regulations, and legal conclusions, to which no response is required. To the extent that the
22 allegations in paragraph 45 require a response, defendants deny these allegations.

23 46. Regulations and guidelines promulgated by the FDA provide a description of the
24 use of the FDA Form 483. Defendants refer the Court to these regulations and guidelines, which
25 speak for themselves.

26 47. The FDA's Investigations Operations Manual speaks for itself and defendants
27 refer the Court thereto for its true and correct contents.

1 48. The FDA's Investigations Operations Manual speaks for itself and defendants
2 refer the Court thereto for its true and correct contents.

3 49. Paragraph 49 contains plaintiffs' characterizations, interpretation of FDA
4 regulations, and legal conclusions, to which no response is required. The statement made by
5 Kathryn Zoon, Ph.D., during July 12, 2000 testimony before the United States Senate Armed
6 Services Committee speaks for itself and defendants refer the Court thereto for its true and
7 correct contents.

8 50. Paragraph 50 contains plaintiffs' characterizations, interpretation of FDA
9 regulations, and legal conclusions, to which no response is required. The statement made by
10 Kathryn Zoon, Ph.D., during July 12, 2000 testimony before the United States Senate Armed
11 Services Committee speaks for itself and defendants refer the Court thereto for its true and
12 correct contents.

13 51. Paragraph 51 contains plaintiffs' characterizations, interpretation of FDA
14 regulations, and legal conclusions, to which no response is required.

15 52. Defendants admit that Dendreon held a conference call with analysts and
16 investors on May 10, 2007. The transcript of this conference call speaks for itself, and
17 defendants refer the Court to this transcript for its true and correct contents. The remainder of
18 paragraph 52 contains plaintiffs' characterizations, to which no response is required. To the
19 extent that paragraph 52 contains assertions requiring a response, defendants deny these
20 allegations.

21 53. Paragraph 53 contains plaintiffs' characterizations, interpretation of FDA
22 regulations, and legal conclusions, to which no response is required. To the extent that
23 paragraph 53 contains assertions requiring a response, defendants deny these allegations.

24 54. Paragraph 54 contains plaintiffs' characterizations, interpretation of FDA
25 regulations, and legal conclusions, to which no response is required. To the extent that
26 paragraph 54 contains assertions requiring a response, defendants deny these allegations.
27

1 55. Defendants admit that on March 14, 2006, Dendreon filed a Form 10-K with the
2 SEC, for the year ended December 31, 2005. This document speaks for itself and defendants
3 refer the Court to this document for its true and correct contents. Plaintiffs' characterization of
4 this document requires no response. Defendants lack knowledge or information sufficient to
5 form a belief as to the truth of plaintiffs' allegations relating to the importance of the speed of
6 FDA approval to companies other than Dendreon.

7 56. Defendants lack knowledge or information sufficient to form a belief as to the
8 truth of plaintiffs' allegations relating to general knowledge in the biotechnology industry, or the
9 operations of other companies. The remainder of Paragraph 56 contains plaintiffs'
10 characterizations and legal conclusions, to which no response is required. To the extent that the
11 remaining allegations in paragraph 56 require a response, defendants deny these allegations.

12 57. Dendreon's Form 10-K for the year ended December 31, 2005, speaks for itself,
13 and defendants refer the Court to this document for its true and correct contents. Plaintiffs'
14 characterization of this document requires no response. Defendants deny the remaining
15 allegations in paragraph 57.

16 58. Dendreon's Form 10-K for the year ended December 31, 2005, speaks for itself,
17 and defendants refer the Court to this document for its true and correct contents.

18 59. Defendants lack knowledge or information sufficient to form a belief as to the
19 truth of plaintiffs' allegations regarding the knowledge and beliefs of investors and analysts.
20 Defendants deny the remaining allegations in paragraph 59.

21 60. Defendants admit that during the week of February 12, 2007, FDA personnel
22 inspected Dendreon's manufacturing facility in New Jersey, and issued a Form 483 to the
23 Company upon the conclusion of the inspection. Defendants deny the remaining allegations in
24 paragraph 60.

25 61. Defendants lack knowledge or information sufficient to form a belief as to the
26 truth of plaintiffs' allegations relating to importance of a facility inspection to other companies.
27 Defendants deny the remaining allegations in paragraph 61.

1 62. Defendants admit that Dendreon issued a press release on March 1, 2007. This
2 press release speaks for itself, and defendants refer the Court thereto for its true and correct
3 contents. Plaintiffs' characterization of this document requires no response.

4 63. Dendreon's 2006 Form 10-K speaks for itself, and defendants refer the Court
5 thereto for its true and correct contents. Plaintiffs' characterization of this document requires no
6 response.

7 64. Defendants admit that Dendreon filed a Form 8-K on March 14, 2007, along with
8 a related press release. These documents speak for themselves, and defendants refer the Court
9 thereto for their true and correct contents. Plaintiffs' characterization of these documents
10 requires no response.

11 65. Defendants admit that the FDA Advisory Committee was scheduled to consider
12 the safety and efficacy of Provenge on March 29, 2007. The public record of the price and
13 volume of trading in Dendreon stock speaks for itself, and plaintiffs' characterization requires no
14 response.

15 66. Admit.

16 67. Defendants admit that Dendreon issued a press release on March 29, 2007. This
17 press release speaks for itself, and defendants refer the Court thereto for its true and correct
18 contents. Plaintiffs' characterization of this document requires no response.

19 68. The public record of the price and volume of trading in Dendreon stock speaks for
20 itself. Plaintiffs' characterization of this information, and of the practices of the FDA, requires
21 no response. Defendants lack knowledge or information sufficient to form a belief as to the truth
22 of plaintiffs' assertions relating to the knowledge or beliefs of Dendreon investors. To the extent
23 that the remaining allegations in paragraph 68 require a response, defendants deny these
24 allegations.

25 69. Defendants admit that Dendreon held a conference call on March 29, 2007, with
26 investors and analysts. The audio recording and transcript of that call speak for themselves, and
27 defendants refer the Court thereto for the true and correct contents of the call.

1 70. The audio recording and transcript of Dendreon's March 29, 2007 conference call
2 speak for themselves, and defendants refer the Court thereto for the true and correct contents of
3 the call. Defendants admit that the Company had not disclosed the February 2007 facility
4 inspection in advance of this conference call. Defendants lack knowledge or information
5 sufficient to form a belief as to the truth of plaintiffs' allegations regarding the thoughts and
6 beliefs of analysts participating in the conference call.

7 71. The audio recording and transcript of Dendreon's March 29, 2007 conference call
8 speak for themselves, and defendants refer the Court thereto for the true and correct contents of
9 the call. Plaintiffs' characterization of statements made during this call requires no response.
10 To the extent that the remaining allegations in paragraph 71 require a response, defendants deny
11 these allegations.

12 72. Deny.

13 73. Deny.

14 74. Dendreon's 2006 Form 10-K and the audio recording and transcript of
15 Dendreon's March 29, 2007 conference call speak for themselves, and defendants refer the Court
16 thereto for their true and correct contents. The remaining allegations in paragraph 74 are
17 plaintiffs' characterizations, interpretation of FDA regulations, and legal conclusions, to which
18 no response is required. To the extent that the remaining allegations in paragraph 74 require a
19 response, defendants deny these allegations.

20 75. Defendants lack knowledge or information sufficient to form a belief as to the
21 truth of plaintiffs' allegations regarding the knowledge or beliefs of analysts participating in the
22 March 29, 2007 conference call. Defendants admit on information and belief that Needham &
23 Company filed a report regarding Dendreon on or about March 30, 2007. This document speaks
24 for itself and defendants refer the Court thereto for its true and correct contents.

25 76. Deny.

26 77. Defendants admit that Dr. Gold and Dr. Urdal participated in Dendreon's March
27 29, 2007 conference call. The audio recording and transcript of this conference call speak for

1 themselves, and defendants refer the Court thereto for the true and correct contents of the call.
2 Plaintiffs' characterizations of this call and legal conclusions require no response. Defendants
3 deny the remaining allegations in paragraph 77.

4 78. The audio recording and transcript of Dendreon's March 29, 2007, conference
5 call speak for themselves, and defendants refer the Court thereto for the true and correct contents
6 of the call. Plaintiffs' characterizations of this call require no response. Defendants deny the
7 remaining allegations in paragraph 78.

8 79. The audio recording and transcript of Dendreon's March 29, 2007, conference
9 call speak for themselves, and defendants refer the Court thereto for the true and correct contents
10 of the call. Plaintiffs' characterizations of this call and legal conclusions require no response.
11 To the extent that the remaining allegations in paragraph 79 contain assertions requiring a
12 response, defendants deny these allegations.

13 80. Defendants admit that Dr. Gold sold Dendreon stock on April 2, 2007. The details
14 of Dr. Gold's transactions in Dendreon stock are available in public records filed with the SEC,
15 which speak for themselves. Plaintiffs' characterization of these records requires no response.
16 Defendants admit that Dr. Gold did not disclose the existence of the Form 483 at the time that he
17 made this sale. To the extent that the remaining allegations in paragraph 80 require a response,
18 defendants deny these allegations.

19 81. Defendants lack knowledge or information sufficient to form a belief as to the
20 truth of plaintiffs' allegations in paragraph 81.

21 82. Defendants admit that Dr. Gold sold Dendreon stock on April 2, 2007, and that
22 Dr. Gold has been Dendreon's CEO since January 2003. The details of Dr. Gold's transactions in
23 Dendreon stock are available in public records filed with the SEC, which speak for themselves.
24 The remaining allegations in paragraph 82 are plaintiffs' characterizations and legal conclusions,
25 to which no response is required. To the extent that the remaining allegations in paragraph 82
26 require a response, defendants deny these allegations.

1 83. No response is required to plaintiffs' characterizations and legal conclusions
2 regarding Dr. Gold's sale of Dendreon stock. Defendants lack knowledge or information
3 sufficient to form a belief as to the truth of plaintiffs' allegations regarding the statements of an
4 unnamed financial commentator. To the extent that the remaining allegations in paragraph 83
5 contain assertions requiring a response, defendants deny these allegations.

6 84. Defendants admit Dendreon stock is publicly traded on NASDAQ. Public records
7 of trading on NASDAQ of Dendreon and other stocks speak for themselves, and defendants refer
8 the Court thereto for their true and correct contents.

9 85. Deny.

10 86. Deny.

11 87. Defendants admit that Dendreon issued a press release on May 9, 2007,
12 discussing the Complete Response Letter issued by the FDA on May 8, 2007, and that Dendreon
13 did not disclose the precise contents of the Complete Response Letter. This press release speaks
14 for itself, and defendants refer the Court thereto for its true and correct contents. Plaintiffs'
15 characterization of this press release requires no response.

16 88. The public record of the price and volume of trading in Dendreon stock speaks for
17 itself, and plaintiffs' characterization requires no response. Defendants deny the remaining
18 allegations in paragraph 88.

19 89. Defendants admit that Dendreon held a conference call on May 10, 2007. The
20 transcript of the May 10, 2007 conference call speaks for itself, and defendants refer the Court
21 thereto for its true and correct contents. Plaintiffs' characterization of this call requires no
22 response.

23 90. The transcript of Dendreon's May 10, 2007 conference call speaks for itself, and
24 defendants refer the Court thereto for its true and correct contents. No response is required to
25 plaintiffs' characterization of this call and legal conclusions. To the extent that the remaining
26 allegations in paragraph 90 require a response, defendants deny these allegations.

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1 91. Paragraph 91 contains plaintiffs' characterizations, interpretation of FDA
2 guidelines, and legal conclusions, to which no response is required. To the extent that the
3 allegations in paragraph 91 require a response, defendants deny these allegations.

4 92. The transcript of Dendreon's May 10, 2007 conference call speaks for itself, and
5 defendants refer the Court thereto for its true and correct contents. Plaintiffs' characterization of
6 this call requires no response.

7 93. Deny.

8 94. Deny.

9 95. The transcript of Dendreon's May 10, 2007 conference call speaks for itself, and
10 defendants refer the Court thereto for its true and correct contents. Plaintiffs' characterization of
11 this call requires no response. To the extent that the remaining allegations in paragraph 95
12 require a response, defendants deny these allegations.

13 96. Deny.

14 97. Defendants admit that Dendreon held a conference call with analysts and
15 investors on March 13, 2008. The transcript of the March 13, 2008 conference call speaks for
16 itself, and defendants refer the Court thereto for its true and correct contents. Plaintiffs'
17 characterization of the content of this call requires no response.

18 98. Defendants lack knowledge or information sufficient to form a belief as to the
19 truth of plaintiffs' allegations regarding disclosures made by parties outside Dendreon.
20 Plaintiffs' characterization of FDA regulations and policies requires no response.

21 99. Deny.

22 100. Paragraph 100 contains plaintiffs' characterizations and legal conclusions, to
23 which no response is required. Defendants admit that Dendreon's stock is listed and actively
24 traded on NASDAQ, that Dendreon files periodic public reports with the SEC, and that
25 Dendreon regularly communicates with its public investors by various means.
26
27

1 101. Paragraph 101 contains plaintiffs' legal conclusions, to which no response is
2 required. To the extent that the allegations in paragraph 101 require a response, defendants deny
3 these allegations.

4 102. Paragraph 102 contains plaintiffs' legal conclusions, to which no response is
5 required.

6 **FIRST CLAIM FOR RELIEF**
7 **(For Violations of § 10(b) of the Exchange Act**
8 **and Rule 10b-5, Brought By Plaintiffs and the Class)**

9 103. Defendants incorporate each and every response set forth above in paragraphs 1
10 through 102.

11 104. Deny.

12 105. Deny.

13 106. Deny.

14 107. Deny.

15 108. Deny.

16 109. Deny.

17 110. Deny.

18 111. Deny.

19 **SECOND CLAIM FOR RELIEF**
20 **(For Violations of § 20(a) of the Exchange Act**
21 **By The Individual Defendants, Brought By Plaintiffs and the Class)**

22 112. Defendants incorporate each and every response set forth above in paragraphs 1
23 through 111.

24 113. Deny.

25 114. Deny.

26 **THIRD CLAIM FOR RELIEF**
27 **(For Violations of § 10(b) of the Exchange Act and SEC Rules 10b-5 and 10b5-1 By**
28 **Gold, Brought by Wilczynski and the Subclass)**

29 115. Defendants incorporate each and every response set forth above in paragraphs 1
30 through 114.

1 116. Defendants admit that Dr. Gold sold Dendreon stock on April 2, 2007, at which
2 time he was the CEO and President of Dendreon. The details of Dr. Gold's transactions in
3 Dendreon stock are available in public records filed with the SEC, which speak for themselves.

4 117. Deny.

5 118. Deny.

6 119. Defendants lack knowledge or information sufficient to form a belief as to the
7 truth of plaintiffs' allegations in paragraph 119.

8 120. Deny.

9 **FOURTH CLAIM FOR RELIEF**
10 **(For Violations of §20A of the Exchange Act by Gold,
Brought by Wilczynski and the Subclass)**

11 121. Defendants incorporate each and every response set forth above in paragraphs 1
12 through 120.

13 122. Defendants admit that Dr. Gold sold Dendreon stock on April 2, 2007, at which
14 time he was the CEO and President of Dendreon. The details of Dr. Gold's transactions in
15 Dendreon stock are available in public records filed with the SEC, which speak for themselves.

16 123. Deny.

17 124. Deny.

18 125. Defendants lack knowledge or information sufficient to form a belief as to the
19 truth of plaintiffs' allegations in paragraph 125.

20 126. Deny.

21 **PRAYER FOR RELIEF**

22 This section contains legal conclusions and requests to which no response is required.

23 **AFFIRMATIVE DEFENSES**

24 Defendants allege the following separate and affirmative defenses to the Complaint, and
25 in so doing, do not assume the burden to establish any fact or proposition necessary to that
26 affirmative defense where that burden is properly imposed on plaintiffs. Defendants do not in
27 any way waive or limit any defenses which are or may be raised by their denials, allegations, and

1 averments set forth herein. These defenses are pled in the alternative, and are raised to preserve
2 the rights of defendants to assert such defenses, and are without prejudice to their ability to raise
3 other and further defenses.

4 **First Affirmative Defense**

5 (Failure to State a Claim)

6 Plaintiffs fail to state a claim upon which relief can be granted.

7 **Second Affirmative Defense**

8 (Failure to Comply with Pleading Requirements)

9 Plaintiffs fail to comply with the pleading requirements of the Federal Rules of Civil
10 Procedure.

11 **Third Affirmative Defense**

12 (No Material Misstatement or Omission)

13 Plaintiffs' claims are barred, in whole or in part, because any and all allegedly actionable
14 statements and/or omissions attributed to defendants were immaterial.

15 **Fourth Affirmative Defense**

16 (Reasonable Belief)

17 Plaintiffs' claims cannot be maintained because Dr. Gold and Dr. Urdal had, after
18 reasonable investigation, reasonable ground to believe and did believe, at the time they made any
19 statements, that their statements were true and that there was no omission of any material fact
20 required to be stated or necessary to make their actions or statements in compliance with
21 applicable law.

22 **Fifth Affirmative Defense**

23 (No Causation)

24 A portion or all of the alleged damages by plaintiffs and members of the putative plaintiff
25 class are attributable to causes other than the depreciation in value of the stock resulting from
26 any alleged false and misleading statements or omissions made during the putative Class Period.

27

1 **Sixth Affirmative Defense**

2 (Truth on the Market)

3 Some of the matters now claimed by the Complaint to be the subject of
4 misrepresentations or omissions were publicly disclosed or were in the public domain and, as
5 such, were available to plaintiffs and other members of the putative plaintiff class and were at all
6 times reflected in the price of Dendreon's stock.

7 **Seventh Affirmative Defense**

8 (Assumption of Risk)

9 Plaintiffs and members of the putative plaintiff class were expressly advised in
10 Dendreon's public filings and otherwise regarding the material facts concerning their
11 investments. Plaintiffs therefore assumed the risk of any loss and are estopped from recovering
12 any relief.

13 **Eighth Affirmative Defense**

14 (Good Faith)

15 Plaintiffs' claims are barred, in whole or in part, because defendants acted in good faith
16 and the belief they were in conformity with all applicable federal statutes, including the
17 Securities Exchange Act of 1934, as amended, the Private Securities Litigation Reform Act of
18 1995, and all applicable rules and regulations promulgated thereunder.

19 **Ninth Affirmative Defense**

20 (Superseding or Intervening Events)

21 Plaintiffs' claims cannot be maintained because superseding or intervening events caused
22 some or all of the alleged damages.

23 **Tenth Affirmative Defense**

24 (Equitable Defenses)

25 Plaintiffs' claims are barred in whole or in part by the doctrines of waiver, estoppel,
26 ratification and/or unclean hands.

27

1 **Eleventh Affirmative Defense**

2 (Tax Benefit Offset of Any Damages)

3 Any recovery for damages allegedly incurred by plaintiffs and members of the putative
4 plaintiff class, if any, is subject to offset in the amount of any tax benefits or other benefits
5 received by plaintiffs or members of the putative plaintiff class through their investments.

6 **Twelfth Affirmative Defense**

7 (Apportionment of Damages)

8 With respect to plaintiffs' claims under Section 10(b) of the Exchange Act, any recovery
9 for damages allegedly incurred by plaintiffs, if any, is limited to the percentage of responsibility
10 of the defendants in proportion to the total fault of all persons, named as parties to this action or
11 not, who caused or contributed to plaintiffs' alleged damages, pursuant to the Proportionate
12 Liability provisions of the Private Securities Litigation Reform Act of 1995, codified as 15
13 U.S.C. § 78u-4(f)(2)(a).

14 **Thirteenth Affirmative Defense**

15 (Standing)

16 Plaintiffs' claims, in whole or in part, cannot be maintained because plaintiffs lack
17 standing to bring such claims.

18 **Fourteenth Affirmative Defense**

19 (Undiscovered Defenses)

20 Defendants reserve the right to assert any further or additional defense upon receiving
21 more complete information regarding the matters alleged in the Complaint, through discovery or
22 otherwise.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Defendants pray that this Court enter judgment as follows:

25 1. That judgment be entered in favor of defendants Dendreon Corporation, Dr.
26 Mitchell Gold, and Dr. David Urdal;

27

CERTIFICATE OF SERVICE

I hereby certify that on July 6, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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Dated: July 6, 2009

s/ Barry M. Kaplan
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