

The Hon. Marsha J. Pechman

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**AUG - 2 2010**

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON DEPUTY



**07-CV-00800-ORD**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KENNETH MCGUIRE and DAVID  
WILCZYNSKI, on Behalf of Themselves  
and All Others Similarly Situated,

Plaintiffs,

vs.

DENDREON CORPORATION,  
MITCHELL GOLD, and DAVID URDAL,

Defendants.

Case No. C07-800 MJP

**CLASS ACTION**

**ORDER RE: NOTICE AND  
SUMMARY NOTICE OF PENDENCY  
OF CLASS ACTION**

NOTE ON MOTION CALENDAR:  
July 13, 2010

1           Having read the papers submitted concerning the parties' Stipulation re: Notice and  
2 Summary Notice of Pendency of Class Action, the Court hereby ORDERS as follows:

3           1.       The Court approves the form, substance and requirements of the Notice of  
4 Pendency of Class Action (the "Notice") and the Summary Notice of Class Action (the  
5 "Summary Notice"), attached hereto as Exhibits 1 and 2 respectively.

6           2.       The Court approves the appointment of Gilardi & Co., LLC, as the Notice  
7 Administrator.

8           3.       Within seven days from the date of this Order, Dendreon Corporation  
9 ("Dendreon") shall cause its stock transfer agent to provide records and shareholder  
10 information to the Notice Administrator for the purpose of identifying and giving notice to  
11 all potential Class Members. Specifically, Dendreon will direct its transfer agent to respond  
12 to inquiries from the Notice Administrator in furtherance of the Notice Administrator's  
13 efforts to identify and give notice to the Class.

14           4.       The Notice Administrator shall cause the Notice, substantially in the form  
15 annexed hereto, to be mailed, by first class mail, postage prepaid, not later than fourteen  
16 days following their receipt of the records provided by Dendreon, to all Class Members who  
17 can be identified with reasonable effort. The Notice Administrator shall use reasonable  
18 efforts to give notice to nominee purchasers such as brokerage firms and other persons who  
19 purchased Dendreon common stock during the Class Period as record owners but not as  
20 beneficial owners. Such nominee purchasers are directed, within seven days of their receipt  
21 of the Notice, to either forward copies of the Notice to their beneficial owners, or to provide  
22 the Notice Administrator with lists of the names and addresses of the beneficial owners, and  
23 the Notice Administrator is ordered to send the Notice promptly to such identified beneficial  
24 owners. Nominee purchasers who elect to send the Notice to their beneficial owners shall  
25 send a statement to the Notice Administrator confirming that the mailing was made as  
26 directed. Additional copies of the Notice shall be made available to any record holder  
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1 requesting such for the purpose of distribution to beneficial owners, and such record holders  
2 shall be reimbursed, upon receipt by the Notice Administrator of proper documentation, for  
3 the reasonable expense of sending the Notice to beneficial owners.

4 5. Contemporaneously with the mailing, the Notice Administrator shall cause a  
5 copy of the Notice to be posted on a website for this lawsuit constructed and maintained by  
6 the Notice Administrator from which Class Members may print copies of the Notice.

7 6. Plaintiffs' Counsel shall cause a copy of the Summary Notice to be published  
8 in *Investor's Business Daily* and transmitted over *Business Wire* within ten days of the  
9 mailing of the Notice.

10 7. Class Members shall be bound by all determinations and judgments in this  
11 Action, whether favorable or unfavorable, unless such persons request exclusion from the  
12 Class in a timely and proper manner, as hereinafter provided. A Class Member wishing to  
13 make such request shall mail the request in written form by first class mail postmarked no  
14 later than sixty (60) days after the mailing of the Notice to the address designated in the  
15 Notice. Such request for exclusion shall clearly indicate the name, address and telephone  
16 number of the person seeking exclusion, that the sender requests to be excluded from the  
17 Class certified in this action, and must be signed by such person. Such persons requesting  
18 exclusion are also directed to state: the dates, prices, and numbers of shares of all purchases  
19 and sales of Dendreon common stock during the Class Period. The request for exclusion  
20 shall not be effective unless it provides the required information and is made within the time  
21 stated above, or the exclusion is otherwise accepted by the Court.

22 8. Plaintiffs' counsel shall file with the Court proof of mailing of the Notice and  
23 a list of all persons who have requested exclusion from the Class. Plaintiffs' counsel shall  
24 also file with the Court proof of publication of the Summary Notice.

25 9. The form and content of the Notice and Summary Notice, and the methods  
26 and schedule set forth above for giving notice, are reasonable and constitute due and  
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1 sufficient notice to all persons entitled to it. These forms and methods constitute the best  
2 notice practicable under the circumstances, satisfy the requirements of due process, and fully  
3 comply with the requirements of Federal Rule of Civil Procedure 23(c)(2).

4 10. This Order may be modified by the Court upon motion by either or both  
5 parties, for good cause shown.

6 IT IS SO ORDERED.

7 Dated this 2nd day of August, 2010.  
8

9  
10 

11 Marsha J. Pechman  
12 United States District Judge  
13

14 Presented by:

15 /s/ Daniel J. Shih

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28 /s/ Malaika M. Eaton (by Daniel J. Shih, with permission)

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10 *Attorneys for Defendant Mitchell Gold*

# **EXHIBIT 1**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KENNETH MCGUIRE and DAVID WILCZYNSKI, on  
Behalf of Themselves and All Others Similarly Situated,

Plaintiffs,

vs.

DENDREON CORPORATION, a Delaware Corporation,  
MITCHELL GOLD, and DAVID URDAL,

Defendants.

Civil Action No. C07-800 MJP

CLASS ACTION

**NOTICE OF PENDENCY OF CLASS ACTION**

**To: All persons and entities who purchased the common stock of Dendreon Corporation between March 29, 2007 and May 8, 2007, both dates inclusive.**

**PLEASE READ THIS NOTICE CAREFULLY.**

**YOUR RIGHTS WILL BE AFFECTED BY A CLASS ACTION LAWSUIT PENDING IN THIS COURT.**

The purpose of this Notice is to inform you of a class action lawsuit (the "Action") that is now pending in the United States District Court for the Western District of Washington (the "Court"). This Notice is intended only to advise you of the pendency of the Action and of your rights with respect to the Action. This Notice is not, and should not be understood as, an expression of opinion by the Court concerning the merits of the Action.

**YOU ARE HEREBY NOTIFIED** pursuant to Rule 23 of the Federal Rules of Civil Procedure ("Rule 23") and an Order of the Court of the pendency of the Action as a class action.

1. The Court has entered an order certifying the Action as a class action on behalf of a Class and Sub-Class of purchasers of defendant Dendreon Corporation ("Dendreon") common stock.

▪ The "Class" consists of:

All persons and entities who purchased the common stock of Dendreon Corporation between March 29, 2007 and May 8, 2007 (the "Class Period"), both dates inclusive.

▪ The "Sub-Class" consists of:

All persons and entities who purchased the common stock of Dendreon Corporation on April 2, 2007.

Excluded from the Class and Sub-Class are Dendreon and defendants Mitchell Gold and David Urdal (collectively, the "Defendants"), the officers and directors of Dendreon, members of their immediate families, and the heirs, successors, or assigns of any of the foregoing.

2. This Notice is directed to you in the belief that you may be a member of the Class whose rights may be affected by this Action. If you do not fall within the Class definition, this Notice does not apply to you. If you are uncertain whether you are a Class Member, you may contact Lead Counsel for the Class identified in paragraph 20 below or your own attorney.

3. This Notice is not an admission by Defendants or an expression of any opinion of the Court concerning the merits of the Action or a finding by the Court that the claims asserted by Plaintiffs in this case have merit. This Notice is intended to advise you of the pendency of the Action and of your rights in connection with it. Defendants have denied Plaintiffs' claims, asserted several defenses, and contend that they are not liable to Plaintiffs. The Class and Sub-Class definition may be subject to change by the Court pursuant to Rule 23.

**DESCRIPTION AND STATUS OF THE LITIGATION**

4. Commencing in May of 2007, several securities fraud class actions were filed against Dendreon and various individual defendants by, and on behalf of, purchasers of Dendreon securities who purchased such securities during the time period covering March 30, 2007 through May 8, 2007. One action, commenced on June 6, 2007, by Kenneth McGuire and others, initially alleged a longer class period covering March 1, 2007 through

May 8, 2007. These actions alleged violations of the federal securities laws. On October 4, 2007, these actions were consolidated for all purposes by an Order of the Court.

5. Plaintiff Kenneth McGuire (the "Lead Plaintiff") was appointed as the lead plaintiff pursuant to the Private Securities Litigation Reform Act of 1995 ("PSLRA") by an Order of the Court on October 4, 2007.
6. By the same Order of the Court, dated October 4, 2007, Marc M. Seltzer of Susman Godfrey L.L.P. was appointed as Lead Counsel for the Class.
7. On December 21, 2007, Defendants moved to dismiss Lead Plaintiff's complaint. On April 18, 2008, the Court granted Defendants' motion with leave to amend. On June 2, 2008, Lead Plaintiff filed a first amended complaint (the "First Amended Complaint"). On July 2, 2008, Defendants moved to dismiss the First Amended Complaint. On December 5, 2008, the Court granted in part and denied in part Defendants' motion with leave to amend. On January 5, 2009, Lead Plaintiff and David Wilczynski filed a second amended complaint (the "Second Amended Complaint") against Defendants. On January 29, 2009, Defendants moved to dismiss the Second Amended Complaint. On May 21, 2009, the Court granted in part and denied in part Defendants' motion with leave to amend.
8. On June 8, 2009, Lead Plaintiff and David Wilczynski filed their third amended complaint (the "Third Amended Complaint") alleging a class period covering March 29, 2007 through May 8, 2009. Defendants answered the Third Amended Complaint and it is the currently operative complaint in this action.
9. The Third Amended Complaint alleges, among other things, that Dendreon and the individual defendants, who were controlling persons of Dendreon, made a materially false and misleading statement and omission to the investing public, thereby artificially inflating the market price of Dendreon's common stock and damaging members of the Class. The Third Amended Complaint also alleges that Mitchell Gold wrongfully engaged in insider selling of Dendreon common stock.
10. In particular, the Third Amended Complaint alleges that on March 29, 2007, during a conference call with securities analysts and other members of the investing public, Dr. Urdal said that Dendreon had "hosted a good inspection, I think," in response to a question about an inspection by the United States Food and Drug Administration (the "FDA") of Dendreon's manufacturing facility in New Jersey in February 2007 in conjunction with Dendreon's biologics license application for its Provenge (sipuleucel-T) product. Plaintiffs allege that Dr. Urdal's statement was materially false and misleading in that he failed to disclose that the FDA had identified significant objectionable conditions during that inspection and had issued a Form 483 to Dendreon afterwards. Plaintiffs allege that Defendants concealed and misrepresented the result of the FDA inspection and disclosed the fact of the issuance of the Form 483 only at the end of the Class Period.
11. On July 6, 2009, Defendants answered the Third Amended Complaint. Defendants denied Plaintiffs' claims and asserted multiple affirmative defenses. In doing so, Defendants contend that they are not liable to Plaintiffs and the Class and Sub-Class.
12. On January 14, 2010, Lead Plaintiffs and Mr. Wilczynski moved the Court for an order certifying the Class and Sub-Class pursuant to Rule 23. By its Order dated May 27, 2010, the Court certified the Class and Sub-Class and appointed Kenneth McGuire and David Wilczynski as representatives for the Class, David Wilczynski as representative for the Sub-Class, and their counsel of record—Susman Godfrey L.L.P.—as Class Counsel.
13. Pretrial discovery has been completed. Defendants have filed a motion for partial summary judgment, which is currently pending before the Court. A jury trial has been set to commence on October 18, 2010.

#### YOUR RIGHTS AS A CLASS MEMBER

14. If you purchased Dendreon common stock during the Class Period, you may be a member of the Class. If you are a member of the Class, you have the right to decide whether to remain a member of the Class. If you choose to remain a member of the Class, you need do nothing at this time. You will automatically be included in the Class unless you request exclusion in accordance with the procedures set forth in paragraph 17 below. Your decision has important consequences:
  - If you choose to remain in the Class, you will be bound by all orders and judgments in this Action, whether favorable or unfavorable. If the Defendants prevail, you may not pursue a lawsuit on your own with regard

to any of the issues decided in this Action. If you remain in the Class and any money is awarded to the Class, either through a settlement with Defendants or through a judgment of the Court, you may be entitled to share in that award. Your interests are being represented by the representatives of the Class and their counsel. If you remain in the Class, you will not be personally responsible for any attorneys' fees or costs, unless you hire your own individual attorney. Class Counsel have agreed to represent the Class on a contingent fee basis, which means that they will be awarded fees and costs only if they succeed in obtaining money from one or more Defendants. Any attorneys' fees will be awarded by this Court from the settlement or judgment, if any, they obtain on behalf of the Class.

- If you choose to be excluded from the Class, you will not be bound by any judgment in this Action, nor will you be entitled to share in any recovery obtained in this Action, should any recovery be obtained, but you may individually pursue any legal rights you may have against any of the Defendants.
15. This Notice is not intended to suggest any likelihood that Plaintiffs or members of the Class will be entitled to recover any damages. If there is a recovery, Class members may be entitled to share in the proceeds, less such costs, expenses and attorneys' fees as the Court may allow out of any such recovery.
16. If there is a recovery, you will be required to prove your membership in the Class by documenting your purchases and sales of Dendreon common stock and resulting damages. ***Please be sure to keep your records of your transactions in Dendreon common stock.***

HOW TO BE EXCLUDED FROM THE CLASS

17. You will automatically be considered a member of the Class unless you request exclusion. Any member of the Class may request not to be bound by these proceedings. To exclude yourself from the Class, you must send a signed letter by mail stating that you "request exclusion from the Class in *McGuire, et al. v. Dendreon Corporation, et al.*, Civil Action No. C07-800 MJP." Your letter should state the dates, prices, and number of shares of all your purchases and sales of Dendreon common stock during the Class Period. In addition, be sure to include your name, address, telephone number, and sign your request. You must mail your exclusion request postmarked no later than \_\_\_\_\_, 2010, to:

*McGuire, et al. v. Dendreon Corporation, et al.*, Class Action  
EXCLUSIONS  
c/o Gilardi & Co., LLC  
Notice Administrator  
P.O. Box 5100  
Larkspur, California 94977-5100

You cannot exclude yourself by telephone or by e-mail. If your request for exclusion is timely mailed and postmarked pursuant to the procedure described above, you will not be bound by any judgment in this Action, nor will you be entitled to share in any recovery obtained in this Action, should any recovery be obtained, but you may individually pursue any legal rights you may have against any of the Defendants.

18. If you do not request exclusion from the Class by \_\_\_\_\_, 2010 in accordance with the procedures set forth in paragraph 17 above, you will be considered a Class member, and you will be bound by any orders and final judgment entered in the Action.
19. Do not request exclusion if you wish to participate in this Action as a Class member.

ATTORNEYS FOR THE CLASS

20. As a member of the Class, you will be represented by Class Counsel, who are:

Marc M. Seltzer  
Ryan C. Kirkpatrick  
**SUSMAN GODFREY L.L.P.**  
Los Angeles, CA 90067

Drew D. Hansen  
Daniel Jeffrey Shih  
Jordan Connors  
**SUSMAN GODFREY L.L.P.**  
Seattle, WA 98101

If you have any questions, you may contact Class Counsel by calling the following toll-free number: 800-447-7657. You also may email Class Counsel at the following email address: [DendreonClassAction@gilardi.com](mailto:DendreonClassAction@gilardi.com). Any written inquiries about the Action should be addressed to Class Counsel at:

*McGuire, et al. v. Dendreon Corporation, et al.*, Class Action  
CLASS COUNSEL CORRESPONDENCE  
c/o Gilardi & Co., LLC  
P.O. Box 5100  
Larkspur, California 94977-5100

21. By remaining in the Class, you will not subject yourself to any obligations to pay the costs of the litigation. In the event there is any recovery by the Class in this Action, all costs and expenses of the Action, and attorneys' fees, will be paid out of that recovery, subject to approval by the Court.

**ADDITIONAL INFORMATION**

22. This Notice gives only a summary of the lawsuit and the claims asserted by Plaintiffs. For more detailed information, visit [www.gilardi.com/dendreon](http://www.gilardi.com/dendreon), or you may contact Class Counsel identified in paragraph 20 above or examine the official court records of this Action during the regular business hours of the Office of the Clerk of Court, United States District Court for the Western District of Washington, U.S. Courthouse, 700 Stewart Street, Lobby Level, Seattle, Washington 98101.
23. If you have any questions about this Notice or the Action, you may consult Class Counsel or your own attorney.

**PLEASE KEEP YOUR ADDRESS CURRENT**

24. To assist the Court and the parties in maintaining accurate lists of Class members, you are requested to mail notice of any changes in your address to:

*McGuire, et al. v. Dendreon Corporation, et al.*, Class Action  
ADDRESS UPDATES  
c/o Gilardi & Co., LLC  
Notice Administrator  
P.O. Box 5100  
Larkspur, California 94977-5100

25. If this Notice was sent to you at your current address, you do not have to do anything further to receive further notices concerning this Action. If it was forwarded to you by the postal service, or if it was otherwise sent to you at an address which is not current, you should immediately contact the Notice Administrator to provide your correct address. If the Notice Administrator does not have your correct address, you might not receive notice of important developments in this class action lawsuit and you might not receive your share of any money that may be recovered for the benefit of the Class.

**SPECIAL NOTICE TO SECURITIES BROKERS AND OTHER NOMINEES**

26. If you purchased Dendreon common stock (NASDAQ: DNDN) between March 29, 2007 and May 8, 2007, both dates inclusive, for the beneficial interest of a person or entity other than yourself, THE COURT HAS DIRECTED THAT WITHIN SEVEN DAYS OF YOUR RECEIPT OF THIS NOTICE, you either (a) provide to the Notice Administrator identified below the name and last known address of each person or entity for whom or which you purchased Dendreon common stock during such time period or (b) request additional copies of this Notice, which will be provided to you free of charge, and within seven days mail the Notice directly to the beneficial owners of that Dendreon common stock. If you select option (a) above, the Notice Administrator will cause copies of this Notice to be forwarded to the beneficial owners of common stock referred to herein. If you choose to follow alternative procedure (b), the Court has directed that, upon such mailing, you send a statement to the Notice Administrator confirming that the mailing was made as directed. All communications concerning the foregoing should be addressed to the Notice Administrator:

*McGuire, et al. v. Dendreon Corporation, et al., Class Action*

**BROKER-NOMINEE MAILING**

c/o Gilardi & Co., LLC

Notice Administrator

P.O. Box 5100

Larkspur, California 94977-5100

800-447-7657

You are entitled to reimbursement for your reasonable expenses actually incurred in complying with the foregoing, including reimbursement of reasonable postage expenses and the reasonable costs of obtaining the names and addresses of beneficial owners. Those reasonable expenses and costs will be paid upon request and submission of appropriate supporting documentation. All requests for reimbursement should be sent to the Notice Administrator.

***PLEASE DO NOT CONTACT THE COURT REGARDING THIS NOTICE.***

Dated: \_\_\_\_\_, 2010

**BY THE ORDER OF THE UNITED STATES  
DISTRICT COURT FOR THE WESTERN  
DISTRICT OF WASHINGTON**

*McGuire, et al. v. Dendreon Corporation, et al.*, Class Action  
c/o Gilardi & Co., LLC  
Notice Administrator  
P.O. Box 5100  
Larkspur, California 94977-5100

**Important Legal Document.**

**DENDREON**

# **EXHIBIT 2**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

KENNETH MCGUIRE and DAVID WILCZYNSKI, on  
Behalf of Themselves and All Others Similarly Situated,

Plaintiffs,

vs.

DENDREON CORPORATION, a Delaware Corporation,  
MITCHELL GOLD, and DAVID URDAL,

Defendants.

Civil Action No. C07-800 MJP

CLASS ACTION

**SUMMARY NOTICE OF PENDENCY OF CLASS ACTION**

**To: All persons and entities who purchased the common stock of Dendreon Corporation between March 29, 2007 and May 8, 2007, both dates inclusive.**

This Summary Notice is given pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Western District of Washington (the "Court"), dated \_\_\_\_\_. The purpose of this Summary Notice is to inform you of the pendency of the above-entitled class action (the "Action") against defendants Dendreon Corporation, Mitchell Gold, and David Urdal.

If you purchased the common stock of Dendreon Corporation between March 29, 2007 and May 8, 2007 (both dates inclusive), are not otherwise excluded from the Class, and do not file a written request for exclusion by first-class mail so that it is postmarked on or before \_\_\_\_\_, you are a Class member. If you do not timely request exclusion from the Class, you will be bound by all orders and judgments in this Action, whether favorable or unfavorable.

To exclude yourself from the Class, you must send a signed letter by mail stating that you "request exclusion from the Class in *McGuire, et al. v. Dendreon Corporation, et al.*, Civil Action No. C07-800 MJP." Your letter should state the dates, price, and number of shares of all your purchases and sales of Dendreon common stock during the Class Period. In addition, be sure to include your name, address, telephone number, and your signature. You must mail your exclusion request postmarked no later than July 23, 2010 to:

*McGuire, et al. v. Dendreon Corporation, et al.*, Class Action  
EXCLUSIONS  
c/o Gilardi & Co., LLC  
Notice Administrator  
P.O. Box 5100  
Larkspur, California 94977-5100

**PLEASE DO NOT CONTACT THE COURT REGARDING THIS NOTICE.**

This is only a summary notice. The full notice may be accessed at:

**[www.gilardi.com/dendreon](http://www.gilardi.com/dendreon)**

Dated: \_\_\_\_\_, 2010

Marsha J. Pechman  
UNITED STATES DISTRICT JUDGE