

The Hon. Marsha J. Pechman

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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, et al.,

Defendants.

Case No. C07-800 MJP

CLASS ACTION

**ORDER GRANTING
PRELIMINARY APPROVAL OF
SETTLEMENT AND PROVIDING
FOR NOTICE**

1 This class action comes before the Court on the Plaintiffs' Unopposed Motion for
2 Preliminary Approval of Class Action Settlement and Approval of Notice ("Motion") and on
3 the Stipulation of Settlement dated October 25, 2010 (the "Stipulation") entered into by the
4 Class Representatives and Defendants (collectively, the "Settling Parties"). The Court has
5 reviewed the Motion and the Stipulation and attached exhibits, and finds that the Motion is
6 due to be granted.

7 The Settling Parties have applied, pursuant to Federal Rule of Civil Procedure 23(e),
8 for an order preliminarily approving the settlement of the Action in accordance with the
9 Stipulation which, together with its exhibits, sets forth the terms and conditions for a
10 proposed settlement of and for dismissal of the Action with prejudice upon the terms and
11 conditions of the Stipulation. The Court has read and considered the Stipulation and its
12 exhibits and finds that the application for preliminary approval is well taken.

13 All defined terms used in this Order shall have the same meanings as set forth in the
14 Stipulation.
15

16 NOW, THEREFORE, the Court hereby ORDERS:

17 1. The Court does hereby preliminarily approve the Stipulation and the
18 Settlement, subject to further consideration at the Settlement Hearing described below.
19 Therefore, it GRANTS the motion for preliminary approval of the proposed class settlement.

20 2. A hearing (the "Settlement Hearing") shall be held before this Court on
21 **December 17, 2010 at 1:30 p.m.** to determine: whether the proposed settlement of the
22 Action on the terms and conditions provided for in the Stipulation is fair, reasonable, and
23 adequate to the Class and Subclass and should be approved by the Court; whether a
24 Judgment as provided in ¶ 1.13 of the Stipulation should be entered and whether any
25 applications for attorneys' fees or expenses should be approved. The Court may adjourn the
26 Settlement Hearing without further notice to Members of the Class.
27
28

1 3. The Court approves, as to form and content, the Notice of Proposed
2 Settlement of Class Action (the “Notice”), the Summary Notice for publication, and the
3 Proof of Claim Form and Release annexed as Exhibits A-1 to A-3 hereto, and finds that the
4 mailing and distribution of the Notice and publishing of the Summary Notice substantially in
5 the manner and form set forth in ¶ 4 of this Order meet the requirements of Federal Rule of
6 Civil Procedure 23, the Securities Exchange Act of 1934, 15 U.S.C. §78u-4(a)(7), as
7 amended, including by the Private Securities Litigation Reform Act of 1995, and due
8 process, and is the best notice practicable under the circumstances and shall constitute due
9 and sufficient notice to all Persons entitled to notice.

10 4. The firm of Gilardi & Company, LLC (“Claims Administrator”), is hereby
11 appointed to supervise and administer the notice procedure as well as the processing of
12 claims as more fully set forth below:

13 (a) Dendreon shall cooperate, to the extent necessary, in making its
14 transfer records and shareholder information available to the Claims Administrator for the
15 purpose of identifying and giving notice to the Class;

16 (b) Class Counsel shall make reasonable efforts to identify all persons
17 and entities who are potential Members of the Class and, not later than **November 10, 2010**
18 (the “Notice Date”), the Claims Administrator shall cause a copy of the Notice substantially
19 in the form annexed as Exhibit A-1 to be mailed by first class mail to all potential Class
20 Members who can be identified with reasonable effort;

21 (c) Not later than **November 15, 2010**, the Claims Administrator shall
22 cause the Summary Notice in the form annexed as Exhibit A-2 to be published once in
23 *Investor’s Business Daily* and once over the *PR Newswire*; and

24 (d) At least three calendar days prior to the Settlement Hearing, Class
25 Counsel shall cause to be served on counsel for Defendants and filed with the Court proof,
26 by affidavit or declaration, of such mailing and publishing.

1 5. Nominees who purchased the common stock or options of Dendreon for the
2 beneficial ownership of Class Members during the Class Period shall send the Notice to all
3 beneficial owners of such Dendreon securities within seven days after receipt thereof, or
4 send a list of the names and addresses of such beneficial owners to the Claims Administrator
5 within seven days of receipt thereof, in which event the Claims Administrator shall promptly
6 mail the Notice to such beneficial owners. The Claims Administrator shall, if requested,
7 reimburse banks, brokerage houses or other nominees solely for their reasonable out-of-
8 pocket expenses incurred in providing notice to beneficial owners who are potential Class
9 Members out of the Settlement Fund, which expenses would not have been incurred except
10 for the sending of such Notice, subject to further order of this Court with respect to any
11 dispute concerning such compensation.
12

13 6. All Members of the Class, except those who are found by the Court to have
14 previously timely and validly requested exclusion from the Class, shall be bound by all
15 determinations in the Action concerning the Settlement, whether favorable or unfavorable.

16 7. Pending final determination of whether the Stipulation should be approved,
17 Class Counsel, Class Representatives, and Class Members are barred and enjoined from
18 commencing or prosecuting any action asserting any Released Claims against any Released
19 Persons.

20 8. Class Members who did not previously timely and validly request exclusion
21 from the Class may complete and submit Proof of Claim and Release forms in accordance
22 with the instructions contained therein and in the Notice. Unless the Court orders otherwise,
23 all Proof of Claim and Release forms, if required, must be postmarked no later than one
24 hundred-twenty (120) days from the Notice Date. Any Class Member who does not submit
25 a Proof of Claim and Release form within the time provided for shall be barred from sharing
26 in the distribution of the proceeds of the Net Settlement Fund, unless otherwise ordered by
27 the Court. Notwithstanding the foregoing, Class Counsel shall have discretion to accept
28

1 late-submitted claims for processing by the Claims Administrator so long as the distribution
2 of the Net Settlement Fund is not materially delayed thereby.

3 9. Any Class Member may enter an appearance in the Action, at their own
4 expense, individually or through counsel of their own choice, in which case such counsel
5 must file with the Clerk of the Court and deliver to Class Counsel and counsel for
6 Defendants a notice of such appearance. If they do not enter an appearance, they will be
7 represented by Class Counsel.

8 10. All papers in support of the settlement shall be filed and served no later than
9 twenty-one calendar days prior to the Settlement Hearing. All papers in support of the
10 request for attorneys' fees and expenses shall be filed and served no later than the Notice
11 Date. Any reply papers in further support of the above-noted motions shall be served and
12 filed no later than seven calendar days prior to the Settlement Hearing.

13 11. All Persons found by this Court to have previously validly and timely
14 excluded themselves from the Class shall have no rights under the Stipulation, shall not
15 share in the distribution of the Net Settlement Fund, and shall not be bound by the
16 Stipulation or the Judgment entered as to Defendants in the Action.

17 12. Any Class Member may appear and show cause, if he, she, or it has any, why
18 the proposed settlement with Defendants should not be approved as fair, reasonable, and
19 adequate, or why a judgment should not be entered thereon; provided, however, that no
20 Person shall be heard or entitled to contest such matters, unless that Person has delivered by
21 hand or sent by first class mail written objections and copies of any papers and briefs such
22 that they are received on or before **December 10, 2010**, by each of the following:
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25 Clerk of the Court
26 Western District of Washington
27 U.S. Courthouse, Lobby Level
28 700 Stewart Street
Seattle, Washington 98101

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Any Person who does not make his, her, or its objection in the manner provided in the Notice shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed settlement as set forth in the Stipulation, unless otherwise ordered by the Court.

13. All funds held by the Escrow Agent shall be deemed and considered to be *in custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

14. Neither Defendants nor their Related Parties nor counsel for Defendants shall have any responsibility for the Plan of Allocation or any application for attorneys' fees or expenses submitted by Class Counsel or the Class Representatives, and such matters will be considered separately from the fairness, reasonableness, and adequacy of the Settlement.

15. All reasonable expenses incurred in identifying and notifying class members, as well as administering the Settlement Fund, shall be paid as set forth in the Stipulation. In the event the Settlement is not approved by the Court, or otherwise fails to become effective, neither the Class Representatives nor Class Counsel shall have any obligation to repay any amounts incurred or properly disbursed pursuant to ¶¶ 2.3, 2.4, 2.6, or 2.7 of the Stipulation.

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44 *ORDER GRANTING PRELIM. APPROVAL OF*
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46 No. 2:07-cv-0800-MJP

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