

CIRCUIT COURT OF FLORIDA
ELEVENTH JUDICIAL CIRCUIT
MIAMI-DADE COUNTY

THE ARBITRAGE FUND, on behalf of itself and all other similarly situated shareholders of EXACTECH, INC.,

Plaintiff,

v.

WILLIAM PETTY, BETTY PETTY, DAVID PETTY, PRIMA INVESTMENTS, INC., PRIMA INVESTMENTS, L.P., JAMES G. BINCH, ANDREW KRUSEN, JR., WILLIAM B. LOCANDER, RICHARD C. SMITH, and FERN S. WATTS,

Defendants.

Complex Business Litigation Section

Case No. 2018-004061

Section: CA 44

CLASS REPRESENTATION

**NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF
CLASS ACTION AND MOTION FOR ATTORNEYS' FEES AND EXPENSES**

TO: All shareholders of Exactech, Inc. ("Exactech") as of January 12, 2018:

The Court Authorized This Notice. This is Not a Solicitation from a Lawyer.

This Notice is given pursuant to Rule 1.220 of the Florida Rules of Civil Procedure and by Order of the Circuit Court of the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida (the "Court"). The purpose of this Notice is to inform you that, among other things: (1) a Class has been certified in the above-captioned action (the "Action"), of which you may be a member, (2) you may ask the Court to exclude you from the Class by filing a statement with the Court by April 18, 2022, and (3) a settlement has been reached in the Action, which will create a Common Fund from which you may be entitled to receive payment, if you are a Class Member and you complete the enclosed Claim Form and do not ask the Court to exclude you. This Notice is also to inform you that, if you are a Class Member and you do not ask the Court to exclude you from the Class, you may object to the Settlement, or any aspect of the Settlement, including the proposed plan of allocation, Plaintiff's request to drop certain defendants from this Action prior to Judgment, Class Counsel's request for an award of attorneys' fees and reimbursement of litigation expenses and Plaintiff's request for a Service Award.

RECEIPT OF THIS NOTICE DOES NOT NECESSARILY MEAN YOU ARE A CLASS MEMBER. CHECK YOUR INVESTMENT RECORDS

Court-appointed Class Representative, The Arbitrage Fund ("Plaintiff"), on behalf of the Class, has reached a proposed settlement in the amount of \$5,600,000 in cash that will resolve all claims against all defendants (the "Settlement") in the above-captioned class action.

The Settlement resolves all claims in the Action that the defendants breached their fiduciary duties and/or aided and abetted breaches of fiduciary duties, avoids the costs and risks of continuing the Action, pays money to former Exactech shareholders, and releases the defendants and other Released Persons from liability.

This Notice explains important rights you may have, including your possible receipt of cash from the Settlement. Although you are not required to respond to this Notice, if you are a Class Member, your legal rights will be affected whether or not you act. Please read this Notice carefully!

The Court in charge of the Action still has to decide whether to approve the Settlement including the payment of the Settlement Amount into the Common Fund, the dismissal of all claims in an agreed-upon proposed judgment, the proposed plan of allocation, and the dropping of certain defendants prior to judgment. Payments will be made if and only if the Court approves the Settlement and only after any appeals are resolved. Please be patient.

THE CERTIFIED CLASS

By order dated November 16, 2020 (the "Certification Order"), the Court certified this action to proceed as a class action on behalf of the Class described herein. The Arbitrage Fund has been designated as "Class Representative" to represent the Class. The Class is defined as follows:

All Unaffiliated Shareholders who held Exactech common stock shares as of January 12, 2018 and were entitled to vote those shares in favor or against the Merger Agreement with TPG on February 13, 2018, excluding Defendants and all members of their immediate families and excluding Rollover Investors [defined and individually listed herein] and all members of their immediate families.

* * *

The “Rollover Investors” are: William Petty; David Petty; Betty Petty; Prima Investments, L.P.; Miller Holdings, LLC, a Florida limited liability company 100% owned by Gary Miller (Exactech’s co-founder and Exactech’s current EVP of Research and Development) with his wife and children; Bruce Thompson (Exactech’s SVP of Strategic Initiatives); Joel C. Phillips (Exactech’s CFO); Donna Edwards, (Exactech’s VP of Legal); Chris Roche (Exactech’s Director of Engineering); and Steve Szabo (Exactech’s VP of Marketing).

The defendants have appealed the Certification Order to the Third District Court of Appeals and that appeal remains pending. The defendants have agreed to dismiss their appeals as part of the Settlement, if the Settlement is approved.

DEFENDANTS

The defendants are: William Petty, David Petty, Betty Petty, Prima Investments, Inc., and Prima Investments, Limited Partnership (the “Petty Defendants”) and James G. Binch, Andrew Krusen, Jr., William B. Locander, Richard C. Smith, and Fern S. Watts (the “Outside Directors,” and, collectively with the Petty Defendants, “Defendants”).

Under the terms of the Settlement, the claims against the Petty Defendants will be dismissed by the Court in its Order and Final Judgment. Also subject to Court approval, and following a separate hearing, the Outside Directors will be dropped as defendants prior to the Judgment.

FACTUAL AND PROCEDURAL HISTORY OF THE LITIGATION

On October 23, 2017, Exactech announced that it had entered into an Agreement and Plan of Merger with Osteon Holdings, L.P. and Osteon Merger Sub, Inc., affiliates of TPG Capital, L.P. (collectively “TPG”) under which TPG would take Exactech private at a deal price of \$42.00 per share. That is, the Unaffiliated Shareholders of Exactech would receive \$42.00 for each share they held (certain “Rollover Investors” would maintain some of their ownership interest in the new, private entity). As set forth more fully in the Company’s January 16, 2018 definitive proxy statement, on December 3, 2017, Exactech announced an amendment of the Merger Agreement, raising the deal price to \$49.25 per share and also increasing the amount of rollover equity that would be maintained by certain of the Rollover Investors. On January 8, 2018, Exactech revealed that that amendment had been a response to a competing bid by another potential acquirer at a proposed deal price of \$49.00. On February 13, 2018, a special meeting of the shareholders was held. Shareholders as of close of business on January 12, 2018 were entitled to vote. The Merger was approved in a final shareholder vote.

On February 12, 2018, Plaintiff filed a Class Action Complaint in state court in the Eleventh Judicial Circuit in and for Miami-Dade County, Florida (the “Court”) alleging four counts of breach of fiduciary duty and one count of aiding and abetting captioned *The Arbitrage Fund, et al. v. William Petty, et al.*, No. 2018-004061-CA-01. Plaintiff alleged, among other things, that the Petty Defendants and the Company’s Outside Directors breached their fiduciary duties to Exactech’s public shareholders (the Unaffiliated Shareholders) by allowing Company insiders (the Rollover Investors) to exchange some of their shares in Exactech for equity in the post-transaction private company, an opportunity that was not offered or afforded to the Unaffiliated Shareholders.

On February 21, 2018, Plaintiff moved for Class Certification.

The Court held an initial case management conference on May 4, 2018, at which time the Court set briefing deadlines for then-pending and anticipated motions, which are summarized below.

The Petty Defendants filed a Motion to Transfer Venue to Alachua County on April 12, 2018 in which the Outside Directors joined. After full briefing and a hearing on the motion, the Court denied Defendants’ Motion on June 12, 2018. Defendants subsequently appealed to the Third District Court of Appeal (“Third DCA”). On January 25, 2019, following full briefing on the appeal, oral argument was heard in the Third DCA before Judges Fernandez, Lindsey and Hendon. The Third DCA affirmed the Court’s decision *per curiam* on February 13, 2019.

The Petty Defendants and the Outside Director Defendants each filed a motion to dismiss on April 25, 2018. Plaintiff filed a consolidated opposition to Defendants’ motions to dismiss on May 25, 2018. Defendants filed replies on June 25, 2018. The Court heard argument on the motions on August 1, 2018. On September 17, 2018 the Court denied the Outside Directors’ motion to dismiss. The Court has not ruled on the Petty Defendants’ motion to dismiss.

Defendants took discovery related to Plaintiff’s motion for class certification in August, September and October of 2018, including two sets of requests for production of documents, two sets of interrogatories, and a full-day deposition of Plaintiff’s portfolio manager. The Court ordered that merits discovery be stayed until its resolution of the then-pending motion for class certification.

On November 15, 2018, Defendants filed their oppositions to Plaintiff’s motion for class certification. Plaintiff filed its reply in further support of class certification on December 6, 2018, together with supporting affidavits by Plaintiff’s Treasurer and Plaintiff’s outside expert economist. Defendants moved to strike Plaintiff’s supporting affidavits on December 17, 2018, which Plaintiff opposed

on December 20, 2018. The Court held an evidentiary hearing on January 9, 2019, at which it admitted Plaintiff's affidavits into evidence and took the motion for class certification under advisement. On April 1, 2019, the Court denied Plaintiff's motion for class certification and dismissed all claims after concluding that the claims were derivative and, therefore, Plaintiff lacked standing to prosecute them. Plaintiff timely appealed that order to the Third DCA. On July 22, 2020, following full briefing and argument before Judges Salter, Hendon and Lobree, the Third DCA held Plaintiff had standing to pursue direct claims based on one of the harms alleged in the Complaint (the Unaffiliated Shareholders' inability to retain any stock in the new post-closing entity), reversed the dismissal of the claims and remanded for the trial court to consider the Rule 1.220 factors as to whether the Class should be certified. On remand, after further briefing, on November 16, 2020, the trial court certified the following Class:

All Unaffiliated Shareholders who held Exactech common stock shares as of January 12, 2018 and were entitled to vote those shares in favor or against the Merger Agreement with TPG on February 13, 2018, excluding Defendants and all members of their immediate families and excluding Rollover Investors [defined and individually listed herein] and all members of their immediate families.

* * *

The "Rollover Investors" are: William Petty; David Petty; Betty Petty; Prima Investments, Limited Partnership; Miller Holdings, LLC, a Florida limited liability company 100% owned by Gary Miller (Exactech's co-founder and Exactech's current EVP of Research and Development) with his wife and children; Bruce Thompson (Exactech's SVP of Strategic Initiatives); Joel C. Phillips (Exactech's CFO); Donna Edwards, (Exactech's VP of Legal); Chris Roche (Exactech's Director of Engineering); and Steve Szabo (Exactech's VP of Marketing).

Plaintiff served document requests and interrogatories on Defendants on December 17, 2020. Defendants served objections and responses to Plaintiff's document requests, and objections and answers to Plaintiff's interrogatories on September 27, 2021, after several extensions to allow the parties to focus on, variously, then-ongoing settlement negotiations and the pending appeals, discussed in the following paragraphs.

The Petty Defendants and the Outside Director Defendants appealed the Court's order certifying the Class. The two appeals have been fully briefed, consolidated for the purposes of traveling together and oral argument, and remain pending. On December 22, 2021, Plaintiff and Defendants jointly requested that the Third DCA re-calendar the oral argument on these appeals, to allow them time to draft and execute the Stipulation.

On February 4, 2022, a Stipulation and Agreement of Compromise, Settlement and Release ("Stipulation") was executed, which memorialized all of the terms of the proposed Settlement. The Stipulation provides for, among other things, the release of all claims asserted in the Action and other Released Claims against all Defendants and other Released Persons. Plaintiff also agreed to drop the Outside Directors as defendants prior to judgment. As is standard in class action settlements such as this, Plaintiff and the Defendants separately agree the Defendants have the right to terminate the Settlement if Class Members who collectively held, in the aggregate, a certain number of Shares as of the January 12, 2018 Record Date request exclusion from (or "opt-out of") the Class.

On February 20, 2022, the Court preliminarily approved the Settlement and issued the Preliminary Approval Order: (i) authorizing this Notice; (ii) setting a virtual Settlement Fairness Hearing for April 25, 2022 at 2:15 p.m.; and (iii) setting a virtual hearing on a contemplated unopposed motion to drop the Outside Directors pursuant to Rule 1.250(b) Fla. R. Civ. P. prior to the entry of final judgment for April 25, 2022 at 2:00 p.m. These hearings will be held on the Zoom Platform. For information needed to connect to the Rule 1.250(b) Hearing and the Settlement Fairness Hearing, please check the website for the Settlement, www.ExactechShareholderSettlement.com, on the day of the hearings or refer to Judge Fine's webpage.

The time and date of the hearings, and any changes in the event of rescheduling, will also be posted on the Settlement Website, www.ExactechShareholderSettlement.com.

STATEMENT OF CLASS RECOVERY

Subject to Court approval, Plaintiff, on behalf of the Class, has agreed to settle all claims asserted in the Action, or that could have been asserted, in exchange for a payment of \$5,600,000 in cash (the "Settlement Amount") to be deposited into an interest-bearing escrow account (the "Common Fund Account"). Class Members who do not request exclusion from the Class and timely submit Claims Forms that are approved by the Settlement Administrator ("Authorized Claimants") will receive their *pro rata* share of the Net Common Fund, after deduction of Court-approved attorneys' fees and expenses, Taxes, and Notice and Administration Costs. It is anticipated that such Class Members will receive \$0.17 per Share Voted For the Merger and \$0.68 per Share Not Voted For the Merger.

STATEMENT OF POTENTIAL OUTCOME OF THE CASE

The Parties do not agree on whether Plaintiff would have prevailed on the merits of its claims against the Defendants, nor do they agree on the amount of damages per share that might be recoverable if Plaintiff were to prevail on the claims against the Defendants. Defendants deny that they have any liability whatsoever for any of the claims that Plaintiff alleged in its complaint; specifically, Defendants deny that they breached any fiduciary duties and deny that Plaintiff or the other Class Members are entitled to any additional consideration in exchange for their shares of Exactech stock.

IDENTIFICATION OF CLASS COUNSEL

Plaintiff and the Class are being represented by (i) Entwistle & Cappucci LLP, a law firm with offices in Austin, TX and New York, NY; (ii) Labaton Sucharow LLP, a law firm with offices in, among other places, New York, NY and Wilmington, DE; and (iii) Gray Robinson, P.A., a law firm with offices in, among other places, Orlando, Florida and Miami, Florida. Entwistle & Cappucci LLP and Labaton Sucharow LLP are, collectively, court-appointed Class Counsel, and Gray Robinson, P.A. is Court-Appointed Class Liaison Counsel. Any questions regarding the Settlement should be directed to Brendan J. Brodeur, Esq. of Entwistle & Cappucci LLP at (212) 894-7200.

Class Counsel were appointed to represent all Class Members. The Court will determine the amount of Class Counsel's fees and expenses. You will not be separately charged for these lawyers. Any fees and expenses awarded by the Court will be paid from the Common Fund. If you want to be represented by your own lawyer, you may hire one at your own expense.

WHY IS THERE A SETTLEMENT?

The Court did not decide in favor of Plaintiff or the Defendants. The Settlement will end all the claims against the Defendants in the Action and avoid the uncertainties and costs of further litigation and any future trial. Exactech shareholders as of January 12, 2018 who were entitled to vote on the Merger will be able to receive substantial certain compensation, compared to the risk that no recovery or a smaller recovery might be achieved at trial or following pre-trial motions, or on appeal, years in the future. Settlement was reached after almost four years of hard-fought litigation. Plaintiff, through Class Counsel, conducted an extensive investigation of the claims and underlying events and transactions relating to the Action. Class Counsel and Plaintiff participated in protracted and hard-fought arms'-length negotiations, including a mediation session before an experienced mediator, prior to entering into the Settlement. Class Counsel and Plaintiff believe that the Settlement is advisable because it will avert several risks, including the (a) risk of losing the Action, (b) risk of a smaller recovery than achieved in the Settlement, (c) risks on appeal even if the case is won on the trial court level, and (d) risk of the passage of time, possibly years, before any recovery is monetized, especially if an award is appealed. For the Defendants, who deny all allegations of liability and deny that any Class Members were damaged, the principal reason for the Settlement is to eliminate the burden, expense, uncertainty, and risk of further litigation. The Settlement should not be seen as an admission or concession on the part of the Defendants about any of the claims, their fault or liability for damages.

WHO IS ENTITLED TO SETTLEMENT FUNDS?

Class Members who do not exclude themselves from (opt-out of) the Class and who submit valid Claim Forms and sufficient documentation will be deemed "Authorized Claimants" and will be entitled to receive a portion of the Settlement funds. The Court determined that everyone who fits the following description, is a member of the Class, or "Class Member":

All Unaffiliated Shareholders who held Exactech common stock shares as of January 12, 2018 and were entitled to vote those shares in favor or against the Merger Agreement with TPG on February 13, 2018, excluding Defendants and all members of their immediate families and excluding Rollover Investors [defined and individually listed herein] and all members of their immediate families.

* * *

The "Rollover Investors" are: William Petty; David Petty; Betty Petty; Prima Investments, Limited Partnership; Miller Holdings, LLC, a Florida limited liability company 100% owned by Gary Miller (Exactech's co-founder and Exactech's current EVP of Research and Development) with his wife and children; Bruce Thompson (Exactech's SVP of Strategic Initiatives); Joel C. Phillips (Exactech's CFO); Donna Edwards, (Exactech's VP of Legal); Chris Roche (Exactech's Director of Engineering); and Steve Szabo (Exactech's VP of Marketing).

CAN I EXCLUDE MYSELF FROM THE CLASS?

Yes. You may request exclusion from the Class by filing a statement with the Court asking to be excluded no later than April 18, 2022. To be effective, your statement must include (a) an unambiguous request for exclusion from the Class, (b) the legal name of the person or entity requesting exclusion, (c) the country and state of residence or incorporation of the person or entity requesting exclusion and (d) a statement of the number of shares the person or entity requesting exclusion held as of the close of business on January 12, 2018. Please note that, if the Settlement does not become effective, and the Parties return to litigation, the persons and entities who have timely and validly requested exclusion will nevertheless be excluded from the Class going forward.

HOW AND WHEN WILL I RECEIVE PAYMENT?

The Court will hold a virtual hearing on April 25, 2022 at 2:15 p.m., to decide whether to, among other things, approve the Settlement. If the Court approves the Settlement, there may still be appeals which would delay payment. Following the Court's approval, the resolution of any appeals, the submission deadline for claims and the calculation of each Authorized Claimant's *pro-rata* share, the Settlement Administrator will distribute the Net Common Fund among the Authorized Claimants in accordance with the proposed plan of allocation attached as Exhibit 1 hereto, or such other plan of allocation as the Court may direct.

WHAT ARE CLASS MEMBERS GIVING UP IF THE SETTLEMENT IS APPROVED?

Unless you exclude yourself, you will stay in the Class, which means that as of the date that the Settlement becomes effective under the terms of the Stipulation (the “Effective Date”), you will forever give up and release all “Released Claims” (as defined below) against the “Released Persons” (as defined below). You will not in the future be able to bring a case asserting any Released Claim against the Released Persons.

- (a) “Released Claims” mean any and all Unknown Claims and any and all other claims, demands, rights, actions, or causes of action, liabilities, damages, losses, obligations, judgments, suits, fees, expenses, costs, matters, and issues of any kind or nature whatsoever, whether known or unknown, contingent or absolute, suspected or unsuspected, disclosed or undisclosed, hidden or concealed, matured or unmatured, that have been, could have been, or in the future can or might be asserted in the Action or in any court, tribunal, or proceeding (including, but not limited to, any claims arising under federal, state, foreign, or common law relating to alleged fraud, breach of any duty, negligence, the federal securities laws, and any state disclosure law) by or on behalf of any members of the Class, based on or relating to his, her or its ownership of Exactech common stock (whether individual, class, derivative, representative, legal, equitable, or any other type of claim in any other capacity) which have arisen, could have arisen, arise now or hereafter arise out of or relate in any manner to the allegations, facts, events, acquisitions, matters, acts, occurrences, statements, representations, misrepresentations, omissions, or any other matter, thing or cause whatsoever, or any series thereof, embraced, involved or set forth in, or referred to or otherwise related in any way to: (i) the Merger; (ii) the adequacy of the consideration to be paid to Exactech shareholders in connection with the Merger; (iii) the fiduciary obligations, if any, of the Defendants or Released Persons, including, but not limited to, in connection with the Merger; (iv) the negotiations in connection with the Merger; (v) the events and analyses related to or conducted in connection with the Merger; (vi) the disclosures or disclosure obligations of any of the Defendants or Released Persons in connection with the Merger; (vii) the ownership of Exactech stock; (viii) the Petty Defendants’ actions as Board members, shareholders, and/or officers of Exactech at any point in time from the inception of Exactech until the consummation of the Merger or (ix) the negotiation, execution, or approval of the Stipulation, or the Settlement; provided, however, that the Released Claims shall not include any claims to enforce the Stipulation.
- (b) “Released Persons” shall mean Defendants, Exactech, Osteon Holdings, L.P., Osteon Merger Sub, Inc., and TPG, as well as their respective families, associates, affiliates, or subsidiaries, and each and all of their respective past, present, or future officers, directors, stockholders, agents, representatives, employees, attorneys, financial or investment advisors, advisors, consultants, accountants, investment bankers, commercial bankers, trustees, engineers, agents, insurers, co-insurers and reinsurers, heirs, executors, personal or legal representatives, estates, administrators, predecessors, affiliates, subsidiaries, parents, members, general or limited partners, principals, controlling shareholders, successors, and assigns, whether or not any such Released Persons were named as parties, served with process, or appeared in the Action.

STATEMENT OF ATTORNEYS’ FEES AND LITIGATION EXPENSES SOUGHT

Class Counsel and Class Liaison Counsel have not received any payment for their services in pursuing the claims against the Defendants on behalf of the Class, nor have they been reimbursed for their litigation expenses. At the Settlement Fairness Hearing described below, or at such other time as the Court may order, Class Counsel will ask the Court to award them, from the Common Fund, attorneys’ fees of up to, and no more than, One Million, Five Hundred Thousand Dollars (\$1,500,000), plus interest from the date of funding at the same rate as earned by the Common Fund, and to reimburse them for their actual out-of-pocket litigation expenses specific to this Action, such as the cost of experts, transcripts and court costs, mediator costs, online legal and factual research resources (such as Westlaw and Bloomberg), and the cost of travel, that they have incurred in pursuing the Action. The request for reimbursement of expenses will not exceed \$200,000. Class Counsel’s requests for an award of attorneys’ fees and reimbursement of expenses will include all fees payable to, and all expenses incurred by, Class Liaison Counsel. Class Counsel’s overall request for reimbursement of expenses will also include a request for a Service Award to the former Exactech shareholder who served as Plaintiff and Class Representative in an amount that will not exceed \$10,000. Accordingly, all legal fees, reimbursed expenses, and service award combined shall in no event exceed One Million, Seven Hundred Thousand Dollars (\$1,700,000) plus any interest earned thereon, out of the Common Fund of Five Million, Six Hundred Thousand Dollars (\$5,600,000), plus any interest earned thereon, less costs of notice and administration and Taxes.

WHAT TO DO IN THE EVENT YOU DO NOT LIKE SOMETHING ABOUT THE PROPOSED SETTLEMENT

If you are a Class Member and you do not exclude yourself from (opt out of) the Class, you can object to any part of the Settlement, including the proposed plan of allocation, the dropping of the Outside Directors as defendants in the Action prior to Judgment, the application by Class Counsel for attorneys’ fees and reimbursement of expenses and/or the Service Award to Plaintiff. If you would like to object, you must write to the Court setting out your objection, giving reasons why you think the Court should not approve any part or all of the Settlement, or Class Counsel’s request for fees and expenses. To object, you must, not later than April 4, 2022, file with the Court and serve upon counsel listed below: (a) proof of your membership in the Class; (b) a statement of your objection(s) to any matters before the Court; (c) the grounds for such objections and the reasons that you desire to appear and be heard as well as all documents or writings you desire the Court to consider; (d) a statement indicating the number of times in the past three years you (or your counsel) have objected to a class action settlement, listing each one by name of case, jurisdiction, docket number and outcome of the objection;

and (e) if you wish to be heard at the Settlement Fairness Hearing or the Rule 1.250(b) Hearing, a written notice of intention to appear. Such filings shall be served upon the following counsel:

Andrew J. Entwistle, Esq.
ENTWISTLE & CAPPUCCI LLP
500 West 2nd Street, Suite 1900-16
Austin, TX 78701
Telephone: 512-710-5960
Facsimile: 212-894-7272

Attorney for the Class

– and –

Jerry R. Linscott, Esq.
BAKER & HOSTETLER LLP
200 South Orange Avenue SunTrust Center
Suite 2300
Orlando, FL 32801
Telephone: 407-649-4024
Facsimile: 407-841-0168

Attorney for the Petty Defendants

– and –

Joseph C. Coates, III, Esq.
GREENBERG TRAUIG, P.A.
777 South Flagler Drive, Suite 300 E
West Palm Beach, FL 33401
Telephone: 561-650-7900

Attorney for the Outside Directors

Any person who fails to object in the manner described above shall be deemed to have waived the right to object (including any right of appeal) and shall be forever barred from raising such objection in this or in any other action or proceeding.

A virtual hearing will be held before the Honorable Alan Fine, on April 25, 2022 at 2:15 p.m. on the Zoom platform (the “Settlement Fairness Hearing”) to determine whether the Court should: (i) approve the proposed Settlement as fair, reasonable and adequate; (ii) dismiss the Action with prejudice as provided in the Stipulation and Agreement of Compromise, Settlement and Release, dated February 4, 2022 (“Stipulation”); (iii) approve the proposed plan of allocation for distribution of the proceeds of the Settlement (the “Net Common Fund”) among Authorized Claimants and (iv) approve Class Counsel’s Fee and Expense Application.

A virtual hearing will also be held before the Honorable Alan Fine, immediately prior to the Settlement Fairness Hearing, on April 25, 2022, at 2:00 p.m. on the Zoom platform (the “Rule 1.250(b) Hearing”) to determine whether certain defendants (Exactech’s Outside Directors) may be dropped from the case prior to the entry of Final Judgment.

For information needed to connect to the Rule 1.250(b) Hearing and the Settlement Fairness Hearing, please check the website for the Settlement, www.ExactechShareholderSettlement.com, on the day of the hearings or refer to Judge Fine’s webpage.

THE SETTLEMENT FAIRNESS HEARING IS WHERE THE COURT WILL DECIDE WHETHER TO APPROVE THE PROPOSED SETTLEMENT; THE RULE 1.250(b) HEARING IS WHERE THE COURT WILL DECIDE WHETHER TO APPROVE PLAINTIFF’S REQUEST TO DROP THE OUTSIDE DIRECTORS AS DEFENDANTS IN THE ACTION PRIOR TO JUDGMENT

You do not need to attend either the Settlement Fairness Hearing or the Rule 1.250(b) Hearing. Class Counsel will answer any questions the Court may have and present all timely objections. But you are welcome to attend at your own expense. If you validly submit an objection, it will be considered by the Court. You do not have to come to Court to talk about it.

If you file an objection, you may ask the Court for permission to speak at the Settlement Fairness Hearing or Rule 1.250(b) Hearing. To do so, you must include with your objection a statement that it is your “notice of intention to appear.” Persons who object and want to present evidence at the Settlement Fairness Hearing or the Rule 1.250(b) Hearing must also include in their written objection the identity of any witness they may call to testify and exhibits they intend to introduce at either hearing. You cannot speak at either the Settlement Fairness Hearing or the Rule 1.250(b) Hearing if you exclude yourself from the Class or if you have not provided written notice of your intention to speak at either of the hearings according to the procedures described above.

You should also be aware that the Court may change the date and time of the Settlement Fairness Hearing and/or the Rule 1.250(b) Hearing (discussed below) without another notice being sent to Class Members. If you wish to attend the hearing, you should check the Settlement Website (www.ExactechShareholderSettlement.com) to see if the hearing date and time has changed.

ADDITIONAL PROVISIONS

If you are a Class Member and you submit an eligible claim postmarked by July 5, 2022, you will receive your *pro rata* share of the Net Common Fund, after deduction of Court-approved attorneys' fees and expenses, Taxes, and Notice and Administration costs, if the Court approves the Settlement, and you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendants and the Released Persons about the Released Claims in this case (see definitions above). Any Authorized Claimant who does not accept payment after 120 days after payment is sent, for example, failing to cash a settlement check, shall forfeit the right to said monies and the amount shall be distributed to other Authorized Claimants or contributed to a charitable organization.

If you are a Class Member and you do nothing, you will not receive any payment from the Net Common Fund, but you still will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendants and the Released Persons about the Released Claims in this case.

If you request exclusion from ("opt out of") the Class, you will not be entitled to object to any aspect of the Settlement, and you will not receive any payment from the Net Common Fund, but you will not be bound by the releases negotiated by Plaintiff and Class Counsel, so you will retain any rights you may have to pursue the Released Claims.

This Notice summarizes the proposed Settlement. More details are in the Stipulation, dated February 4, 2022, which is available on the Settlement Website (www.ExactechShareholderSettlement.com), along with other important documents. You may also review the Stipulation filed with the Court and all other documents filed in the Action during business hours at the Clerk of the Court's Office, Circuit Court of the Eleventh Judicial Circuit, 73 W. Flagler Street, Room 133, Miami, Florida 33130. You can call the Settlement Administrator within the U.S. and Canada: 414-921-0493, or outside the U.S. and Canada: 877-315-0587; call Class Counsel: Brendan J. Brodeur, Esq., of Entwistle Cappucci LLP at (212) 894-7200; write to Settlement Administrator, c/o A.B. Data, Ltd., P.O. Box 173056, Milwaukee, WI 53217 and ask for copies of this Notice and/or the Stipulation.

Please Do Not Call the Court, Defendants, Defendants' Counsel, or Exactech or TPG with Questions About the Settlement.

If you change your address, or if this Notice was not mailed to your correct address, you should immediately send written notice to the Settlement Administrator at: Exactech Shareholder Litigation Settlement, c/o A.B. Data, Ltd., P.O. Box 173056, Milwaukee, WI 53217.

SPECIAL NOTICE TO SECURITIES BROKERS AND OTHER NOMINEES

If you held shares of Exactech Common stock for the beneficial interest of a person or organization other than yourself as of January 12, 2018, WITHIN SEVEN (7) CALENDAR DAYS OF YOUR RECEIPT OF THIS NOTICE, you are directed to either: (a) provide to the Settlement Administrator the name and last known address of each person or organization for whom or which you purchased or otherwise acquired Exactech common stock (preferably in an MS Excel, .CSV, or .TXT format), setting forth (i) title/registration, (ii) street address, and (iii) city/state/zip; (b) provide a computer-generated mailing label to the Settlement Administrator for each beneficial owner; or (c) request from the Settlement Administrator additional copies of the Notice Packet, which will be provided free of charge, and within seven (7) calendar days of receipt of such copies send them by First-Class Mail directly to the beneficial owners of those Exactech shares. If you choose to follow alternative procedure "(c)" above, the Court has directed that, upon such mailing, you shall send a statement to the Settlement Administrator confirming that the mailing was made as directed. You are entitled to reimbursement from the Common Fund of your reasonable expenses actually incurred in connection with the foregoing, including reimbursement of postage expenses and the cost of the ascertaining the names and addresses of beneficial owners. Those expenses will be paid after request and submission of appropriate supporting documentation. All communications concerning the foregoing should be addressed to the Settlement Administrator: Exactech Shareholder Litigation, FULFILLMENT, c/o A.B. Data, Ltd., P.O. Box 173056, Milwaukee, WI 53217. Phone within the U.S. and Canada: 414-921-0493 phone outside the U.S. and Canada: 877-315-0587 or at www.ExactechShareholderSettlement.com.

DO NOT TELEPHONE THE CLERK OF THE COURT OR THE CLERK'S OFFICE.

DATED: MARCH 4, 2022

**BY ORDER OF THE COURT CIRCUIT COURT
OF THE ELEVENTH JUDICIAL CIRCUIT,
MIAMI-DADE COUNTY, FLORIDA**

Exhibit 1

Proposed Plan of Allocation of Net Common Fund

The Net Common Fund shall be distributed *pro rata* among Authorized Claimants based on their Weighted Claim Values, which depends on the number of Shares they held and how they voted those Shares. However, if an Authorized Claimant would receive less than \$5.00 in the distribution, the Authorized Claimant will not be entitled to receive payment from the Net Common Fund, as the costs associated with the processing of such payments may equal or exceed the benefit the payment would provide.

Each Claimant's Weighted Claim Value shall be equal to:

the number of Shares the Authorized Claimant held at close of business on January 12, 2018 that were voted "FOR" the Merger, multiplied by \$0.20

PLUS

the number of Shares the Authorized Claimant held at close of business on January 12, 2018 that were not voted "FOR" the Merger (including Shares voted "AGAINST," Shares not voted and Shares voted "ABSTAIN"), multiplied by \$0.80.