

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF PENNSYLVANIA

*Frater v. Hemispherx Biopharma, Inc., et al.*

No. 2:12-CV-07152 WY

**NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT,  
SETTLEMENT FAIRNESS HEARING, AND MOTION FOR AWARD OF  
ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES**

**TO:** All persons and entities who purchased or otherwise acquired Hemispherx Biopharma, Inc. (“Hemispherx”) common stock trading under ticker symbol HEB from March 14, 2012 through and including December 20, 2012 (the “Class Period”).

**Excluded from the Class are Hemispherx, the Individual Defendants, current and former officers and directors of Hemispherx, their immediate families, any entity in which any of the foregoing have or had a controlling interest, and the legal representatives, heirs, successors, or assigns of any of them. Purchases of Hemispherx common stock traded on a foreign exchange under ticker symbol HXB are not covered by this settlement and therefore no person shall by virtue of purchasing foreign-listed stock under ticker symbol HXB be considered a Member of the Class.**

PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED BY LEGAL PROCEEDINGS IN THIS LITIGATION. IF YOU ARE A MEMBER OF THE CLASS, YOU MAY BE ENTITLED TO RECEIVE A PAYMENT PURSUANT TO THE PROPOSED SETTLEMENT DESCRIBED BELOW. TO CLAIM YOUR SHARE OF THE SETTLEMENT FUND, YOU MUST SUBMIT A VALID PROOF OF CLAIM AND RELEASE FORM POSTMARKED ON OR BEFORE **AUGUST 21, 2015**.

Please be advised that the Court-appointed Lead Plaintiff, the Hemispherx Investor Group (“Lead Plaintiff”), has reached a Settlement of the above-captioned action (the “Action”) that will resolve all claims of Lead Plaintiff and the Settlement Class (as defined below) against all defendants (the “Settlement”), as described below. This Notice has been sent to you pursuant to an Order of the United States District Court, Eastern District of Pennsylvania (the “Court”) in the Action. This Notice explains important rights you may have, including your possible receipt of a cash distribution from the Settlement. Your legal rights are affected whether or not you act.

**A federal court authorized this Notice. This is not a solicitation from a lawyer.**

**CLASS RECOVERY:** The Settlement of this Action is contingent upon approval by the Court. The amount of the proposed Settlement in this Action is \$2.75 million. The amount you receive will depend upon the number of shares of Hemispherx common stock that you, and other Class Members who file claims, purchased and sold and the prices at which you, and other Class Members who file claims, purchased and sold those shares. For purposes of the \$2.75 million Settlement only, Lead Plaintiff estimates that 99.8 million shares have been impacted by the events alleged in this Action, and that if purchasers of 100% of affected shares participate in the Settlement, pursuant to the Plan of Allocation (see Section III below), the average recovery per share could be \$0.0275 before deduction of any fees, expenses, costs, and compensatory awards. The actual amount disbursed to members of the Class who participate in the Settlement may be more or less than this figure.

**POTENTIAL OUTCOME OF THE CASE:** The parties vigorously disagree on both liability and damages, and do not agree on the average amount of damages per share that would be recoverable if Lead Plaintiff prevailed on each claim alleged under the Securities Exchange Act of 1934. Lead Plaintiff's damages expert has estimated that the maximum amount of damages recoverable at trial, in the aggregate, if Lead Plaintiff prevails on all claims, is \$20.4 million. Lead Plaintiff continues to believe that the claims in this Action, which have survived a motion to dismiss on the pleadings, have merit. However, Lead Plaintiff and Lead Counsel recognize that numerous factual, legal and practical hurdles remain, including: (a) the possibility that the Court would deny class certification and/or the appointment of Marc Verheyen as class representative; (b) the likelihood that Defendants would move for summary judgment on some or all claims; (c) the uncertainty and expense of trial; (d) the uncertainty of an appeal of any favorable verdict; (e) the uncertainty of collection of any favorable verdict that is upheld on appeal; and (f) the possibility that Hemispherx would seek to enforce a fee-shifting bylaw. After considering these risks, and the uncertainty and delay of continued litigation, Lead Plaintiff and Lead Counsel believe the Settlement is in the best interests of the Class. The Defendants continue to deny that they are liable to Lead Plaintiff or the Class, deny that the proposed class should be certified or that Marc Verheyen should be appointed as class representative, and deny that Lead Plaintiff or the Class have suffered any damages. The Settlement is not any admission of wrongdoing or liability.

**ATTORNEYS' FEES AND COSTS SOUGHT:** Lead Counsel has not received any payment for its services in conducting this litigation on behalf of Lead Plaintiff and the Class, nor has it been reimbursed for its out-of-pocket expenditures. If the Settlement is approved by the Court, Lead Counsel will apply to the Court for attorneys' fees not to exceed 30% of the Settlement Amount, and reimbursement of expenses not to exceed \$100,000. If the amount requested by counsel is approved by the Court, the average cost would be \$0.0092 per share. In addition, Lead Plaintiff may request that the Court grant an award for the reasonable costs and expenses incurred by Lead Plaintiff member Marc Verheyen, not to exceed \$5,000.

**DEADLINES:** The following is a list of deadlines by which you must take any action you wish to take with respect to the Settlement:

Submit Claim: August 21, 2015

Request Exclusion: July 8, 2015

File Objection: July 8, 2015

Court Hearing on Final Approval of Settlement: July 22, 2015

#### YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

<b>SUBMIT A CLAIM FORM</b>	The only way to receive a payment.
<b>EXCLUDE YOURSELF</b>	Receive no payment. This is the only option that allows you to ever be part of any other lawsuit against Defendants about the legal claims in this case.
<b>OBJECT BUT REMAIN IN THE SETTLEMENT</b>	Write to the Court about why you don't like the Settlement, the Plan of Allocation or Lead Counsel's request for attorneys' fees and reimbursement of expenses.
<b>GO TO A HEARING</b>	Ask to speak in Court about the fairness of the Settlement. A hearing will be held on <u>July 22, 2015</u> and is open to the public. To speak to the Court, you need to give advance written notice to the Court and the parties.
<b>DO NOTHING</b>	Receive no payment from the Settlement Fund. Give up your rights with regard to the claims in this lawsuit.

You can obtain additional information about the Action and this Notice by contacting the Claims Administrator, KCC Class Action Services, by mail at Hemispherx Securities Settlement, c/o KCC Class Action Services, P.O. Box 30172 College Station, TX 77842-3172, by telephone: 1-866-374-7219, by e-mail at Info@HemispherxSettlement.com, by visiting the Settlement website at: www.HemispherxSettlement.com, or by contacting Lead Plaintiff's Counsel: Joshua B. Silverman, Pomerantz LLP, 10 South LaSalle St., Suite 3505, Chicago, Illinois 60603, Telephone: (312) 377-1181.

## **I. THE CLASS INVOLVED IN THE PROPOSED SETTLEMENT**

The proposed Settlement affects the rights of the members of the Class. Subject to the exclusions listed on page 1 of this Notice, the Class consists of:

All persons and entities who purchased or otherwise acquired Hemispherx common stock trading under ticker symbol HEB from March 14, 2012 through and including December 20, 2012.

*The sending of this Notice should not be construed as any indication of the Court's view as to the merits of any claims or defenses asserted by any party to this Action.*

## **II. THE LITIGATION**

### **Summary of the Litigation**

The Court handling this Action is the United States District Court for the Eastern District of Pennsylvania, and the case is known as *Frater v. Hemispherx Biopharma, Inc., et al.*, No. 2:12-CV-07152 WY. The Hemispherx Investor Group, consisting of Marc A. Verheyen and Ronald Van Och (along with another individual who has since withdrawn for medical reasons) was appointed by the Court to be the Lead Plaintiff. The Defendants in this Action are Hemispherx, William A. Carter, M.D., David R. Strayer, M.D., and Wayne Pambianchi.

This Action alleges violations of the Federal Securities Laws (specifically Sections 10(b) and 20(a) of the Exchange Act (15 U.S.C. § 78j(b) and 78(t)(a)) and Rule 10b-5 promulgated thereunder (17 C.F.R. § 240.10b-5)) against Defendants. The lawsuit claims that Defendants misled investors by issuing press releases and other statements that contained false and misleading information about their communications with the United States Food and Drug Administration ("FDA") and their clinical trials for Hemispherx's drug Ampligen®. The lawsuit claims that, as a result of these alleged false and misleading statements, the value of Hemispherx's common stock was inflated, and that investors who purchased Hemispherx common stock at these inflated prices were damaged. All Defendants have denied, and continue to deny, all allegations of any wrongdoing or liability against them arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Action.

This Action is currently in the discovery stage. Lead Plaintiff has filed a motion to certify the Action as a class action, but that motion has not yet been fully briefed and the Court has not yet determined whether this Action should be permitted to proceed as a class action.

### **Discovery, investigation, and research of Lead Counsel:**

Before agreeing to the Settlement, Lead Plaintiff and Lead Counsel conducted extensive discovery, investigation and research into the merits of the Action. Lead Counsel has: obtained and reviewed over 130,000 pages of confidential documents; deposed a former Hemispherx employee; defended the deposition of Lead Plaintiff member Marc Verheyen; conducted a detailed review of publicly available FDA materials regarding Ampligen, Hemispherx's public filings, press releases, and other public statements; retained and consulted with an expert regarding the amount of damages; retained and consulted with an expert regarding the efficiency of

the market for Hemispherx shares during the Class Period; and researched the applicable law with respect to the claims asserted in the complaints filed in the Action and potential defenses. Lead Plaintiff also developed and filed an amended complaint, successfully defeated motions to dismiss filed by all Defendants, researched and prepared a motion for class certification, and engaged in substantial other motion practice in connection with this Action.

### **III. THE SETTLEMENT**

#### **How and why the proposed settlement was reached:**

Lead Counsel and Defendants' Counsel reached the Settlement after protracted negotiations that began in December 2013 with the assistance of a nationally-recognized mediator, Hunter R. Hughes, III, Esquire. Settlement talks progressed at an in-person mediation session on October 14, 2014 and continued until the parties reached an agreement in principle to this Settlement on December 31, 2014. During these negotiations, the parties discussed, among other things, the respective claims and defenses, damage analyses, legal analyses, the evidence to be offered by the parties at trial, and other important factual and legal issues. These negotiations resulted in the agreement to settle all claims of the Class against the Defendants as reflected in the Stipulation and Agreement of Settlement ("Stipulation"), entered into on February 25, 2015.

Lead Counsel believes that the claims asserted in the Action have merit and that the evidence developed to date in the Action supports the claims asserted therein. Lead Counsel believes the Class would present supporting evidence at trial establishing liability against the Defendants under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934. However, Lead Counsel recognizes and acknowledges the expense and length of continued proceedings, trial, and appeals, and have taken into account the uncertain outcome and the risk of any litigation, especially complex actions such as this one, and the uncertainty of collecting any award that may be achieved. Lead Counsel is also mindful of the inherent problems of proof under, as well as the defenses to, the federal securities laws violations asserted in this Action, including the defenses asserted or that may be asserted by Defendants. For these reasons, Lead Counsel believes that the Settlement set forth in the Stipulation confers a meaningful benefit upon the Class and is in the best interests of the Class.

#### **The Release:**

Unless you exclude yourself, you are staying in the Settlement Class, and that means you cannot sue, continue to sue, or be part of any other lawsuit against the Defendants about the transactions at issue and the claims that were or could have been raised in the Action. To receive the payment under the Settlement, if the Settlement is approved, you must release all "Released Claims," including "Unknown Claims," against the "Released Persons."

**"Released Claims"** means any and all manner of actions, causes of actions, suits, obligations, claims, debts, demands, agreements, promises, liabilities, damages, losses, controversies, costs, expenses, rights, and attorneys' fees whatsoever, whether in law or in equity and whether based on any federal law, state law, common law or foreign law, local law, statutory law or any other law, rule or regulation, right of action or of any other type or form, foreseen or unforeseen, actual or potential, matured or unmatured, known or unknown, accrued or not accrued, liquidated or unliquidated, fixed or contingent, whether class or individual in nature, which Lead Plaintiff and each Settlement Class Member, or any of them, ever had, now have, or can have, or shall or may hereafter have, either individually, or as a member of a class, against any and all Released Persons for, based on, by reason of, or arising from or relating to the conduct alleged in the Action, including but not limited to: (i) claims that could have been asserted in any forum that directly or indirectly arise out of any of the facts, transactions, events, occurrences, acts or omissions mentioned or referred to in the Consolidated Complaint or other matters that are or could have been set forth, alleged, embraced or otherwise referred to in the Consolidated Complaint or that could have been brought against Defendants, or any person who could have been named a Defendant, relating to a Settlement Class Member's purchase or other acquisition of Hemispherx

common stock during the Class Period, including all matters encompassed within the releases and covenants not to sue set forth in the Stipulation, and (ii) claims arising out of the prosecution or defense of the Action, or either of them, including, but not limited to, claims for fraud in the inducement, negligent misrepresentation, or fraud; except that nothing in the Stipulation releases any claim arising out of a violation or breach of the terms of such Stipulation.

Defendants have also released Lead Plaintiff and the Class from any counterclaims that could have been alleged in the Action, including any claims that Lead Plaintiff and/or the Class are responsible for Defendants' legal fees and expenses.

**"Released Persons"** means any and all of the Defendants, and with respect to each of the Defendants or any person who could have been named a Defendant, their past and present directors, officers, employees, partners, principals, agents, underwriters, issuers, insurers, co-insurers, reinsurers, shareholders, attorneys, accountants, auditors, banks or investment bankers, advisors, divisions, segments, consultants, assigns, personal and legal representatives, predecessors, successors, indemnitors, indemnitees, parents, subsidiaries, joint ventures, spouses, heirs, estates, related or affiliated entities, any entity in which any of them has a controlling interest, any members of any Individual Defendant's immediate family, any trust of which any Defendant is the settlor or that is for the benefit of any Individual Defendant and/or member(s) of any Individual Defendant's families, and anyone claiming by, through or under any of the foregoing, whether by statute, rule, contract or otherwise.

**"Unknown Claims"** means any and all Released Claims that Lead Plaintiff or any Settlement Class Member does not know or suspect to exist in his, her or its favor at the time of the release of the Released Persons, and any Settled Defendants' Claims which Defendants do not know or suspect to exist in their favor, which if known, might have affected their decision(s) with respect to the Settlement. With respect to any and all Released Claims, the parties stipulate and agree that upon the Effective Date, Lead Plaintiff and Defendants shall expressly, and each Settlement Class Member shall be deemed to have, and by operation of the Judgment shall have, expressly waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to Cal. Civ. Code Section 1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his settlement with the debtor.

Lead Plaintiff and Settlement Class Members may hereafter discover facts in addition to or different from those which he, she, or it knows or believes to be true with respect to the subject matter of the Released Claims, but Lead Plaintiff shall expressly and each Settlement Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Judgment, fully, finally, and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts. The Released Persons and Lead Plaintiff acknowledge, and Settlement Class Members shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver was separately bargained for and a material element of the Settlement of which the release is a part.

### **Proposed Plan of Allocation:**

The \$2,750,000 settlement amount and any interest earned thereon shall be the Settlement Fund. The Settlement Fund less taxes, approved costs, fees, expenses and any compensatory award (the "Net Settlement Fund") shall be distributed to members of the Class who submit valid Proofs of Claim ("Authorized Claimants").

The Settlement Administrator shall determine each Authorized Claimant's pro rata share of the Net Settlement Fund based upon each Authorized Claimant's "Recognized Loss." The Recognized Loss formula is not intended to be an estimate of the amount of what a Class Member lost or might have been able to recover after a trial; nor is it an estimate of the amount that will be paid to Authorized Claimants pursuant to the Settlement. The Recognized Loss formula is simply the basis upon which the Net Settlement Fund will be proportionately allocated to Authorized Claimants.

The Plan of Allocation has taken into consideration the Limitation on Damages provision of the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4(e), as well as the principles of economic loss articulated by the Supreme Court in *Dura Pharmaceuticals, Inc. v. Broudo*, 544 U.S. 336 (2005). For purposes of this Settlement, the Recognized Loss shall be calculated as follows:

For Hemispherx shares (symbol: HEB) purchased between March 14, 2012 and December 20, 2012, both dates inclusive:

1. All shares purchased and sold on or before December 17, 2012, the Recognized Loss is \$0.00 per share.
2. All shares purchased on or before December 17, 2012 and sold between December 18 and December 20, 2012, the Recognized Loss is the lesser of (a) the difference between the purchase price and the sales price or (b) \$0.27 per share.
3. All shares purchased on or before on or before December 17, 2012 and sold or held on December 21, 2012 or later, the Recognized Loss is the lesser of (a) the difference between the purchase price and the sales price (if sold on or before March 20, 2013) or (b) \$0.36 per share.
4. All shares purchased and sold between December 18 and December 20, 2012, the Recognized Loss is \$0.00 per share.
5. All shares purchased between December 18 and December 20, 2012, and sold or held on December 21, 2012 or later, the Recognized Loss is the lesser of (a) the difference between the purchase price and the sales price (if sold on or before March 20, 2013) or (b) \$0.09 per share.

General Provisions:

1. There shall be no Recognized Loss attributed to any Hemispherx securities other than common stock, or to any Hemispherx common stock purchased on a foreign exchange.
2. The date of a purchase or sale is the "trade" date, and not the "settlement" date.
3. The first-in, first-out basis ("FIFO") will be applied to both purchases and sales.
4. The date of covering a "short sale" is deemed to be the date of purchase, and the date of a "short sale" is deemed to be the date of sale. Shares originally sold short will have a Recognized Loss of zero.
5. Exercise of option contracts or the conversion of preferred stock into common stock will be considered to be purchases or sales of common stock as of the date of the exercise or conversion. Option premiums and the conversion price for preferred stock will be incorporated into the purchase/sale price of the common stock accordingly.
6. No cash payment will be made on a claim where the potential distribution amount is less than \$20. Please be advised that if you did not incur a Recognized Loss as defined in the Plan of Allocation you will not receive a cash distribution from the Net Settlement Fund, but you will be bound by all determinations and judgments of the Court in connection with the Settlement, including being barred from asserting any of the Released Claims against the Released Parties.
7. No person shall have any claim against Lead Counsel, the claims administrator, or any Defendants' Counsel based on the distribution made substantially in accordance with the Stipulation and this Plan of Allocation, or further orders of the Court.
8. Class Members who do not submit valid Proofs of Claim will not share in the settlement proceeds. Class Members who do not either submit a Request for Exclusion or submit a valid Proof of Claim will nevertheless be bound by the settlement and the Order and Final Judgment of the Court dismissing this Action.

#### **IV. EXCLUDING YOURSELF FROM THE SETTLEMENT**

To exclude yourself from the Settlement, you must send a letter by mail stating that you want to be excluded from *Frater v. Hemispherx Biopharma, Inc.*, No. 2:12-CV-07152 WY. Be sure to include your name, address, telephone number, and your signature. You must also include information concerning your purchase(s), acquisition(s) and sale(s) of Hemispherx common stock during the Class Period, including the number of shares and the dates of each purchase, acquisition, and sale. You must mail your exclusion request so that it is **postmarked no later than July 8, 2015**, to:

Hemispherx Securities Settlement  
EXCLUSIONS  
75 Rowland Way, Suite 250  
Novato, CA 94945  
Telephone: 1-866-374-7219

**You cannot exclude yourself on the phone or by e-mail.** If you do not send your request for exclusion on time, you will be legally bound by all the proceedings in this lawsuit, including all court orders and judgments in the lawsuit, even if you have a lawsuit pending against the Released Persons that covers Released Claims, or if you subsequently start a lawsuit or an arbitration or any other proceeding against any of the Released Persons that are covered by the Released Claims.

Unless you exclude yourself, you give up any right to sue Defendants for the claims that this Settlement resolves. If you have a pending lawsuit, speak to your lawyer in that case immediately. You must exclude yourself from *this* Class to continue your own lawsuit. Remember, the exclusion deadline is **July 8, 2015**.

Once you exclude yourself, you will receive no cash payment even if you also submit a claim form, unless you withdraw your notice of exclusion before the deadline.

#### **V. STATEMENT OF ATTORNEYS' FEES AND COSTS**

The Court approved Lead Plaintiff's selection of Pomerantz LLP (formerly Pomerantz Grossman Hufford Dahlstrom & Gross LLP) to serve as Lead Counsel for Lead Plaintiff and the other Settlement Class Members, including you. You will not be charged for these lawyers' work. If you want to be represented by your own lawyer, you may hire one at your own expense.

Lead Counsel has spent extensive time and effort in prosecuting this litigation on a contingent fee basis, and has advanced the expenses of the litigation, in the expectation that if it was successful in obtaining a recovery for the Settlement Class, it would be paid from such recovery. In this type of litigation, it is customary for counsel to be awarded a percentage of a settlement fund as their attorneys' fees and reimbursement of their out-of-pocket expenses. Lead Counsel will ask the Court for attorneys' fees of not more than 30% of the Settlement Fund, plus out-of-pocket expenses incurred in the prosecution of the action in an amount not to exceed \$100,000. The Court may award less than these amounts.

#### **VI. OBJECTIONS AND FINAL APPROVAL HEARING**

##### **Objecting to the settlement:**

If you are a member of the Settlement Class (and you have not excluded yourself), you can object to the proposed Settlement if you do not like any part of it or the request for attorneys' fees and reimbursement of expenses. You may state why you think the Court should not approve the Settlement. The Court will consider your views. To object, you must send a written objection stating that you object to the Settlement in

*Frater v. Hemispherx Biopharma, Inc.*, No. 2:12-CV-07152 WY. Be sure to include your name, address, telephone number, and your original signature (no copies). You must also include proof of the number of shares you purchased and sold during the Class Period, including the number of shares and dates of each purchase, acquisition, and sale, and the reasons you object to the Settlement or any part of it. Your objection must be filed with the Clerk of Court at the address set forth below and received by Lead Counsel and Defense' Counsel no later than July 8, 2015.

COURT	LEAD COUNSEL	DEFENDANTS' COUNSEL
Clerk of the Court United States District Court Eastern District of Pennsylvania 601 Market Street Room 2609 Philadelphia, PA 19106	Joshua B. Silverman Pomerantz LLP 10 South LaSalle St. Suite 3505 Chicago, IL 60603 Telephone: (312) 377-1181	Robert L. Hickok Pepper Hamilton LLP 3000 Two Logan Square Eighteenth & Arch Streets Philadelphia, PA 19103 Telephone: (215) 981-4000  and  David C. Franceski, Jr. Stradley Ronon Stevens & Young LLP 2005 Market Street Suite 2600 Philadelphia, PA 19103 Telephone: (215) 564-8000

You may object either on your own or through an attorney that you hire at your own expense. If you do hire an attorney to represent you, your attorney must file a notice of appearance with the Clerk of the Court and deliver a copy of that notice to Lead Counsel and Defendants' Counsel no later than July 8, 2015.

If you exclude yourself, you have no basis to object because the case no longer applies to you.

If you object to the Settlement, you may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must include with your objection a statement saying that it is your "Notice of Intention to Appear in *Frater v. Hemispherx Biopharma, Inc.*, No. 2:12-CV-07152 WY." Persons who intend to object to any part of the Settlement and wish to present evidence at the hearing must also include in their written objection the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the hearing.

You cannot speak at the hearing if you exclude yourself.

#### **Final Approval Hearing:**

The Final Approval Hearing shall be held before the Honorable William H. Yohn Jr. on July 22, 2015 at 9:30 a.m. in Courtroom 14-B of the United States District Court for the Eastern District of Pennsylvania, 601 Market Street, Philadelphia, PA 19106, to determine: (1) whether a Settlement Class should be certified for purposes of the Settlement and whether Lead Plaintiff and its counsel have adequately represented the Class Members; (2) whether the proposed Settlement of the Class's claims against the Defendants for \$2,750,000.00 should be approved as fair, reasonable and adequate; (3) whether the proposed Plan of Allocation is fair, just, reasonable, and adequate; (4) whether the Court should permanently enjoin the assertion of any claims that arise

from or relate to the subject matter of the Action; (5) whether the Action should be dismissed with prejudice against the Defendants as set forth in the Stipulation of Settlement filed with the Court; (6) whether the application by Lead Counsel for an award of attorneys' fees and expenses should be approved; and (7) whether an application for reimbursement of reasonable costs and expenses of Lead Plaintiff Member Marc Verheyen should be granted.

*The Final Approval Hearing may be adjourned or continued from time to time by the Court without further notice to the Class other than an announcement at such Final Approval Hearing or at any adjournment or continuance thereof, or notification on the docket.*

## **VII. PROOF OF CLAIM AND RELEASE FORM**

**To be eligible to receive a cash distribution from the Settlement Fund, you must timely complete, sign and file a Proof of Claim and Release Form.** A Proof of Claim is annexed to this Notice. You may receive more than one copy of this Notice and the Proof of Claim, but you should **submit only one Proof of Claim** for each differently named account or ownership, such as an individual account, an IRA account, a joint account, a custodial account, etc.

The Proof of Claim (1) **must** be completed in accordance with the Instructions on the Proof of Claim, (2) **must** enclose all documentation required by the Instructions, and (3) **must** be filed with the Court-appointed Claims Administrator **postmarked on or before August 21, 2015** at the following address:

Hemispherx Securities Settlement  
c/o KCC Class Action Services  
P.O. Box 30172  
College Station, TX 77842-3172

Telephone: 1-866-374-7219. A Proof of Claim will be deemed filed when mailed via first-class mail, sufficient postage prepaid. A Proof of Claim can also be filed online at [www.HemispherxSettlement.com](http://www.HemispherxSettlement.com).

Members of the Class who do not exclude themselves from the Class and who fail to submit a valid and timely Proof of Claim will nevertheless be bound by the Settlement if finally approved, and all orders and judgments entered by the Court in connection therewith.

By Order of the Court, the Proof of Claim provides for and requires a Release of all Released Claims as described in Section III, above, by all members of the Class who file Proofs of Claim. The Release will become effective on the Effective Date of the Settlement.

Each person or entity submitting a Proof of Claim thereby submits to the jurisdiction of the Court for purposes of the Litigation, the Settlement and any proceedings relating to such Proof of Claim, and agrees that such a filed Proof of Claim will be subject to review and further inquiry as to such person's or entity's status as a member of the Class and the allowable amount of the claim.

If you would like acknowledgment of the receipt of your Proof of Claim by the Claims Administrator, please send it by certified mail, return requested, or its equivalent. **No other formal acknowledgment will be provided, and you will bear all risks of delay or non-delivery of your claim.**

If you do not send in a Proof of Claim before **August 21, 2015**, you will not receive any payments from this Settlement. However, unless you exclude yourself, you will be bound by the terms of the Settlement.

## **VIII. SPECIAL NOTICE TO BROKERS AND OTHER NOMINEES**

Brokerage firms, banks, financial institutions and other nominees (“Nominees”) who, during the Class Period, purchased or sold Hemispherx common stock, CUSIP # 42366C1036, in the name of the Nominees on behalf of beneficial owners of such securities who may be members of the Class, are requested to provide the Claims Administrator with the name and last known address of each such person or entity for whom the Nominee executed such transactions, **preferably in an MS Excel data table, or, alternatively, in an MS Word file (label size Avery #5162) or on computer generated mailing labels, setting forth: (1) title/registration, (2) street address, (3) city/state/zip.** The Claims Administrator will then cause the Notice and the Proof of Claim to be mailed promptly to said beneficial owners. Alternatively, Nominees may request additional copies of this Notice and the Proof of Claim from the Claims Administrator, in which case the Nominees are required to promptly mail the Notice and the Proof of Claim directly to the persons for whom the transactions were made and provide the Claims Administrator with written confirmation of having done so. For either alternative, contact the Claims Administrator by mail, telephone, or by e-mail at Nominees@HemispherxSettlement.com (for brokers and nominees only).

After receipt of a timely request for reimbursement and detailed supporting documentation, the Claims Administrator will reimburse the Nominee for all costs reasonably incurred in gathering and forwarding the names and addresses of beneficial owners to the Claims Administrator, or forwarding the Notice and the Proof of Claim to beneficial owners, as the case may be. Requests for reimbursement without details on the actual expenses incurred may not be considered.

## **IX. FURTHER INFORMATION**

This Notice merely provides a brief summary of the Action and the proposed Settlement and is qualified by and subject in all respects to the full terms and conditions in the Stipulation. For a more detailed statement of the matters involved in the Action, you should refer to the pleadings, the Stipulation, and the orders entered by the Court and to the other papers filed in the Action. These papers may be inspected at the Office of the Clerk of the United States District Court for the Eastern District of Pennsylvania, 601 Market Street, Room 2609, Philadelphia, PA 19106 or online through the Public Access to Court Electronic Records (“PACER”) system, available through the Court’s website, <http://www.paed.uscourts.gov/>. If you have any questions regarding the information contained in this Notice, you may contact Lead Counsel **in writing** at this address: Joshua B. Silverman, Pomerantz LLP, 10 South LaSalle St., Suite 3505, Chicago, Illinois 60603.

You may also visit the Settlement website at [www.HemispherxSettlement.com](http://www.HemispherxSettlement.com) to find the Stipulation and/or download copies of the Notice and Proof of Claim. In addition, you may request additional copies of the Notice and Proof of Claim by contacting the Claims Administrator at the address and telephone number set forth in Section VI above.

**INQUIRIES SHOULD NOT BE DIRECTED TO THE COURT,  
THE CLERK'S OFFICE, THE DEFENDANTS, OR DEFENDANTS' COUNSEL**

**DATED: April 8, 2015**

**BY ORDER OF THE UNITED STATES  
DISTRICT COURT FOR THE EASTERN  
DISTRICT OF PENNSYLVANIA**