

IN THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK

DAN SCHMIDT, on Behalf of Himself and All Others Similarly Situated,)	Master File No. A-15-728234-B
)	
Plaintiff,)	Dept No. XI
)	
vs.)	
)	
LIBERATOR MEDICAL HOLDINGS, INC., et al.,)	<u>CLASS ACTION</u>
)	
Defendants.)	
)	
_____)	
AND ALL CONSOLIDATED ACTIONS.)	
)	
_____)	

PROOF OF CLAIM AND RELEASE

I. GENERAL INSTRUCTIONS

1. To recover as a Member of the Class based on your claims in the action entitled *Dan Schmidt, et al. v. Liberator Medical Holdings, Inc., et al.*, Master File No. A-15-728234-B (the "Litigation"), you must complete and, on page 5 hereof, sign this Proof of Claim and Release. If you fail to submit a properly addressed (as set forth in paragraph 3 below) Proof of Claim and Release, postmarked or received by the date shown below, your claim may be rejected and you may be precluded from any recovery from the Net Settlement Fund created in connection with the proposed Settlement of the Litigation.

2. Submission of this Proof of Claim and Release, however, does not assure that you will share in the proceeds of the Settlement.

3. YOU MUST MAIL OR SUBMIT ONLINE YOUR COMPLETED AND SIGNED PROOF OF CLAIM AND RELEASE, ACCOMPANIED BY COPIES OF THE DOCUMENTS REQUESTED HEREIN, NO LATER THAN OCTOBER 22, 2019, TO THE COURT-APPOINTED CLAIMS ADMINISTRATOR IN THIS CASE, AT THE FOLLOWING ADDRESS:

Liberator Settlement
Claims Administrator
c/o Gilardi & Co. LLC
P.O. Box 404130
Louisville, KY 40233-4130

Online submissions: www.LiberatorSettlement.com

If you are NOT a Member of the Class as defined in the Notice of Proposed Settlement of Class Action (the "Notice"), DO NOT submit a Proof of Claim and Release form.

4. If you are a Member of the Class and you did not timely request exclusion, you will be bound by the terms of any judgment entered in the Litigation, including the releases provided therein, WHETHER OR NOT YOU SUBMIT A PROOF OF CLAIM AND RELEASE FORM.

II. CLAIMANT IDENTIFICATION

If you are a Class Member and held LMH shares in your name, you are the beneficial owner as well as the record owner. If, however, you held LMH common stock and the shares were registered in the name of a third party, such as a nominee or brokerage firm, you are the beneficial owner and the third party is the record owner.

Use Part I of this form entitled "Claimant Identification" to identify each owner of record ("nominee"), if different from the beneficial owner of the common stock which form the basis of this claim. THIS CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL OWNER(S) OR THE LEGAL REPRESENTATIVE OF SUCH OWNER(S) OF THE LMH COMMON STOCK UPON WHICH THIS CLAIM IS BASED.

All joint owners must sign this claim. Executors, administrators, guardians, conservators and trustees must complete and sign this claim on behalf of persons represented by them and their authority must accompany this claim and their titles or capacities must be stated. The Social Security (or taxpayer identification) number and telephone number of the beneficial owner may be used in verifying the claim. Failure to provide the foregoing information could delay verification of your claim or result in rejection of the claim.

If you are acting in a representative capacity on behalf of a Class Member (for example, as an executor, administrator, trustee, or other representative), you must submit evidence of your current authority to act on behalf of that Class Member. Such evidence would include, for example, letters testamentary, letters of administration, or a copy of the trust documents.

NOTICE REGARDING ELECTRONIC FILES: Certain claimants with large numbers of transactions may request to, or may be requested to, submit information regarding their transactions in electronic files. This is different from the online submission process that is available at www.LiberatorSettlement.com. ***All claimants MUST submit a manually signed paper Proof of Claim and Release form listing all their transactions whether or not they also submit electronic copies.*** If you wish to file your claim electronically, you must contact the Claims Administrator at edata@gilardi.com to obtain the required file layout. No electronic files will be considered to have been properly submitted unless the Claims Administrator issues to the claimant a written acknowledgement of receipt and acceptance of electronically submitted data.

III. CLAIM FORM

Use Part II of this form entitled "Schedule of LMH Common Stock Tendered in the Acquisition for \$3.35 Per Share" to supply the number of shares of LMH common stock you held and exchanged for the \$3.35 per share merger consideration in the Acquisition, which closed on January 21, 2016.

Broker confirmations or other documents verifying that you held LMH common stock and tendered it in the Acquisition at the price of \$3.35 per share should be attached to your claim. Failure to do so could delay verification of your claim or result in rejection of your claim.

Must Be Postmarked (if Mailed)
or Received (if Submitted Online)
No Later Than October 22, 2019

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IN THE EIGHTH JUDICIAL COURT
FOR THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK

Dan Schmidt, et al. v. Liberator
Medical Holdings, Inc., et al.,
Master File No. A-15-728234-B

PROOF OF CLAIM AND RELEASE

Please Type or Print in the Boxes Below
Do NOT use Red Ink, Pencil, or Staples

Official
Office
Use
Only

PART I: CLAIMANT IDENTIFICATION

Last Name M.I. First Name

Last Name (Co-Beneficial Owner) M.I. First Name (Co-Beneficial Owner)

IRA Joint Tenancy Employee Individual Other _____

Company Name (Beneficial Owner - If Claimant is not an Individual) or Custodian Name if an IRA (specify)

Trustee/Asset Manager/Nominee/Record Owner's Name (If Different from Beneficial Owner Listed Above)

Account#/Fund# (Not Necessary for Individual Filers)

Last Four Digits of Social Security Number Taxpayer Identification Number

Telephone Number (Primary Daytime) Telephone Number (Alternate)

Email Address

MAILING INFORMATION

Address

Address

City State Zip Code

Foreign Province Foreign Postal Code Foreign Country Name/Abbreviation

FOR CLAIMS PROCESSING ONLY OB CB ATP BE FL OP KE DR ME RE KE DR ME RE ICI EM ND SH MM / DD / YYYY



A. Number of shares of LMH common stock you held and exchanged for the \$3.35 per share merger consideration in the Acquisition, which closed on January 21, 2016:

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Proof Enclosed?
 Y N

Broker confirmations or other documents verifying the number of shares of LMH common stock you held and received consideration in the Acquisition for the price of \$3.35 per share, which closed on January 21, 2016, should be attached to your claim. Failure to do so could delay verification of your claim or result in rejection of your claim.

YOUR SIGNATURE ON PAGE 5 WILL CONSTITUTE YOUR ACKNOWLEDGMENT OF THE RELEASE DESCRIBED IN PART V BELOW.

IV. SUBMISSION TO JURISDICTION OF COURT AND ACKNOWLEDGMENTS

I (We) submit this Proof of Claim and Release under the terms of the Stipulation of Settlement described in the Notice. I (We) also submit to the jurisdiction of the Eighth Judicial District Court of the State of Nevada, Clark County, with respect to my (our) claim as a Class Member and for purposes of enforcing the release set forth herein. I (We) further acknowledge that I am (we are) bound by and subject to the terms of any judgment that may be entered in the Litigation. I (We) agree to furnish additional information to the Claims Administrator to support this claim if requested to do so. I (We) have not submitted any other claim covering the LMH common stock I (we) held for which I (we) received consideration in the Acquisition for the price of \$3.35 per share, which closed on January 21, 2016, and know of no other person having done so on my (our) behalf.

V. RELEASE

1. I (We) hereby acknowledge full and complete satisfaction of, and do hereby fully, finally and forever release, relinquish, and discharge each and all of the Released Defendant Parties from the Released Claims as provided in the Stipulation of Settlement.

2. "Released Defendant Parties" means: (i) Defendant; (ii) Jeannette Corbett, Tyler Wick, Ruben Jose King-Shaw, Jr., and Philip Sprinkle; (iii) any other former directors and officers of LMH; and (iv) all of the respective families, heirs, executors, personal or legal representatives, counsel (including but not limited to Defendant's counsel), insurers, estates, administrators, predecessors, successors and assigns for those persons identified in parts (i), (ii), and (iii) of this paragraph. Specifically excluded from the Released Defendant Parties are JMP and Bard.

3. "Released Claims" means: all claims, demands, rights, actions or causes of action, liabilities, debts, demands, rights, 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, whether based in law or equity, that have been, or could have been, asserted in the Litigation or in any court, tribunal, or proceedings (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 member of the Class, based on, arising out of, or relating to: (A) his, her, or its ownership of LMH stock (whether individual, class, derivative, representative, legal, equitable, or any other type or in any other capacity), against the Released Defendant Parties, whether or not any such Released Defendant Parties were named, served with process, or appeared in the Litigation; and (B) 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 Acquisition; (ii) the adequacy of the consideration paid to LMH shareholders in connection with the Acquisition; (iii) the fiduciary obligations, if any, of the Released Defendant Parties in connection with the Acquisition; (iv) the negotiations in connection with the Acquisition; (v) the processes, events, and analyses leading up to the Acquisition, including but not limited to the process by which LMH and its advisors attempted to locate parties to engage in an acquisition or other strategic transaction with LMH; (vi) the disclosures or disclosure obligations of any of the Released Defendant Parties in connection with the Acquisition, including but not limited to the disclosures in the Proxy Statement; (vii) any events, matters, acts, omissions, statements, or facts alleged or referred to in any complaint filed in any court or tribunal related to any of the foregoing topics; or (viii) the settlement of the claims against the Released Defendant Parties; provided, however, that the Released Claims shall not include any claims to enforce the Settlement. For avoidance of doubt, this release does not include any claims against JMP and/or Bard. Released Claims includes "Unknown Claims" defined below.

4. "Settled Defendant's Released Claims" means: all claims, debts, demands, liabilities, losses, matters, rights, suits and causes of action of any nature whatsoever, known or unknown, contingent or absolute, mature or immature, discoverable or undiscoverable, whether concealed or hidden, suspected or unsuspected, whether based in law or equity, arising under federal, state, common or foreign law, or any other law, rule or regulation, which now exist or heretofore have existed, that have been or could have been asserted in the Litigation or any forum by the Released Defendant Parties or any of them against Plaintiffs, Class Members, or Plaintiffs' counsel, that arise out of or relate in any way to the institution, prosecution, or settlement of the claims against the Released Defendant Parties, provided, however, that this release shall not include any claims to enforce the Settlement.



5. "Unknown Claims" means: any of the Released Claims which Class Representatives or any Class Member does not know or suspect to exist in such party's favor at the time of the release of the Released Defendant Parties, and any of the Settled Defendant's Released Claims that the Released Defendant Parties do not know or suspect to exist in his, her or its favor at the time of the release of Class Representatives, each and all of the Class Members and Class Representatives' Counsel, which, if known by such party, might have affected such party's settlement with and release of the Released Defendant Parties or Class Representatives, each and all of the Class Members and Class Representatives' Counsel, or might have affected such party's decision not to object to this Settlement or seek exclusion. Unknown Claims include those Released Claims in which some or all of the facts comprising the claim may be suspected, or even undisclosed or hidden. With respect to any and all Released Claims and the Settled Defendant's Released Claims, upon the Effective Date, Class Representatives and Defendant shall expressly, and each of the Class Members and Released Defendant Parties shall be deemed to have, and by operation of the Order and Final Judgment shall have, waived to the fullest extent permitted by law, the provisions, rights, and benefits of California Civil Code §1542, which provides:

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

Class Representatives and Defendant shall expressly, and each of the Class Members and Released Defendant Parties shall be deemed to have, and by operation of the Order and Final Judgment shall have, 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 California Civil Code §1542. Class Representatives, Class Members and the Released Defendant Parties may hereafter discover facts in addition to or different from those which such party now knows or believes to be true with respect to the subject matter of the Released Claims and the Settled Defendant's Released Claims, but Class Representatives and Defendant shall expressly, and each Class Member and Released Defendant Parties, upon the Effective Date, shall be deemed to have, and by operation of the Order and Final Judgment shall have, fully, finally, and forever settled and released any and all Released Claims, or the Settled Defendant's Released Claims, as the case may be, 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 that is negligent, reckless, 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, whether or not previously or currently asserted in any action. Class Representatives and Defendant acknowledge, and the Class Members and Released Defendant Parties shall be deemed by operation of the Order and Final Judgment to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement of which this release is a part.

6. This release shall be of no force or effect unless and until the Court approves the Stipulation of Settlement and the Settlement becomes effective on the Effective Date.

7. I (We) hereby warrant and represent that I (we) have not assigned or transferred or purported to assign or transfer, voluntarily or involuntarily, any claim or matter released pursuant to this release or any other part or portion thereof.

8. I (We) hereby warrant and represent that I (we) have included information (including supporting documentation) about all of my (our) holdings of LMH common stock requested in this Proof of Claim and Release form.

9. I (We) hereby warrant and represent that I am (we are) not a person excluded from the Class.

I declare under penalty of perjury under the laws of the United States of America that the foregoing information supplied by the undersigned is true and correct.

Executed this _____ day of _____ in _____
(Month/Year) (City/State/Country)

(Sign your name here)

(Sign your name here)

(Type or print your name here)

(Type or print your name here)

(Capacity of person(s) signing, e.g.,
Beneficial Owner, Executor or Administrator)

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Beneficial Owner, Executor or Administrator)



**ACCURATE CLAIMS PROCESSING TAKES A SIGNIFICANT AMOUNT OF TIME.
THANK YOU FOR YOUR PATIENCE.**

Reminder Checklist:

1. Please sign the above release and declaration.
2. If this claim is being made on behalf of Joint Claimants, then both must sign.
3. Remember to attach copies of supporting documentation, if available.
4. **Do not send** originals of certificates or other documentation as they will not be returned.
5. Keep a copy of your Proof of Claim and Release form and all supporting documentation for your records.
6. If you desire an acknowledgment of receipt of your Proof of Claim and Release form please send it Certified Mail, Return Receipt Requested.
7. If you move, please send your new address to the address below.
8. **Do not use red pen or highlighter** on the Proof of Claim and Release form or supporting documentation.

THIS PROOF OF CLAIM AND RELEASE MUST BE SUBMITTED ONLINE BY OCTOBER 22, 2019, OR, IF MAILED, POSTMARKED NO LATER THAN OCTOBER 22, 2019, ADDRESSED AS FOLLOWS:

Liberator Settlement
Claims Administrator
c/o Gilardi & Co. LLC
P.O. Box 404130
Louisville, KY 40233-4130
www.LiberatorSettlement.com

