

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION**

IN RE MERIT MEDICAL SYSTEMS,  
INC. SECURITIES LITIGATION

Case No. 8:19-cv-02326-DOC-ADS

**ORDER APPROVING  
DISTRIBUTION PLAN [121]**

1 WHEREAS, Lead Plaintiffs moved this Court for an order approving a  
2 distribution plan for the Net Settlement Fund in the above-captioned securities class  
3 action (“Action”). Having reviewed and considered all the materials and arguments  
4 submitted in support of the motion, including Lead Plaintiffs’ Memorandum of  
5 Points and Authorities in Support of Unopposed Motion for Approval of Distribution  
6 Plan and the Declaration of Eric J. Miller in Support of Unopposed Motion for  
7 Approval of Distribution Plan (“Miller Declaration”),

8 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

9 1. This Order incorporates by reference the definitions in the Stipulation  
10 and Agreement of Settlement dated December 21, 2021 (ECF No. 105-1)  
11 (“Stipulation”), and the Miller Declaration, and all terms used in this Order shall  
12 have the same meanings as defined in the Stipulation and the Miller Declaration.

13 2. This Court has jurisdiction over the subject matter of the Action and  
14 over all parties to the Action, including all Settlement Class Members.

15 3. Lead Plaintiffs’ plan for distribution of the Net Settlement Fund to  
16 Authorized Claimants is **APPROVED**. Accordingly:

17 (a) The administrative determinations of the Court-approved Claims  
18 Administrator, A.B. Data, Ltd.’s Class Action Administration Company  
19 (“A.B. Data”), to accept the Timely Eligible Claims set forth in Exhibit D to  
20 the Miller Declaration and the Late But Otherwise Eligible Claims set forth in  
21 Exhibit E to the Miller Declaration are adopted.

22 (b) The Claims Administrator’s administrative determinations to  
23 reject the Rejected Claims, as set forth in Exhibit F to the Miller Declaration,  
24 are adopted.

25 (c) A.B. Data is directed to conduct the Initial Distribution of the Net  
26 Settlement Fund after deducting all payments previously allowed, payments  
27 approved by this Order, and any estimated taxes, the costs of preparing  
28 appropriate tax returns, and any escrow fees, while maintaining a 5% reserve

1 from the Net Settlement Fund to address any tax liability or claims  
2 administration-related contingencies that may arise.

3 Specifically, as set forth in paragraph 39(a) of the Miller Declaration:

4 (1) A.B. Data will calculate award amounts for all Authorized  
5 Claimants as if the entire Net Settlement Fund were to be distributed  
6 now. A.B. Data will calculate each Authorized Claimant's *pro rata*  
7 share of the Net Settlement Fund based on the amount of the Authorized  
8 Claimant's Recognized Claim in comparison to the total Recognized  
9 Claims of all Authorized Claimants; (2) A.B. Data will then eliminate  
10 from the Initial Distribution any Authorized Claimant whose total *pro*  
11 *rata* share of the Net Settlement Fund is less than \$10.00. These  
12 Claimants will not receive any payment from the Net Settlement Fund  
13 and will be so notified by A.B. Data; (3) After eliminating Claimants  
14 who would have received less than \$10.00, A.B. Data will recalculate  
15 the *pro rata* shares of the Net Settlement Fund for Authorized  
16 Claimants who would have received \$10.00 or more based on the  
17 amount of the Authorized Claimant's Recognized Claim in comparison  
18 to the total Recognized Claims of all Authorized Claimants who would  
19 have received \$10.00 or more. This *pro rata* share is the Authorized  
20 Claimant's "Distribution Amount"; (4) Authorized Claimants whose  
21 Distribution Amount calculates to less than \$200.00 will be paid their  
22 full Distribution Amount in the Initial Distribution ("Claims Paid in  
23 Full"). These Authorized Claimants will receive no additional funds in  
24 subsequent distributions; and (5) 95% of the remaining balance of the  
25 Net Settlement Fund will be distributed *pro rata* to Authorized  
26 Claimants whose Distribution Amount calculates to \$200.00 or more.  
27 The remaining 5% of the Net Settlement Fund will be held in the  
28 Reserve to address any tax liability or claims administration-related

1 contingencies that may arise following the Initial Distribution. To the  
2 extent the Reserve is not depleted, the remainder will be distributed in  
3 the Second Distribution described in subparagraph (f) below.

4 (d) To encourage Authorized Claimants to cash their checks  
5 promptly, all distribution checks will bear the following notation: "CASH  
6 PROMPTLY. VOID AND SUBJECT TO REDISTRIBUTION IF NOT  
7 CASHED BY [DATE 90 DAYS AFTER ISSUE DATE]." Lead Counsel and  
8 A.B. Data are authorized to take appropriate action to locate and contact  
9 Authorized Claimants who have not cashed their checks within said time as  
10 detailed in paragraph 39(b) of the Miller Declaration.

11 (e) Authorized Claimants who do not cash their Initial Distribution  
12 checks within the time allotted or on the conditions set forth in paragraph  
13 39(b) of the Miller Declaration will irrevocably forfeit all recovery from the  
14 Settlement, and the funds allocated to these stale-dated checks will be  
15 available to be distributed to other Authorized Claimants in the Second  
16 Distribution. Similarly, Authorized Claimants who do not cash their  
17 distribution checks in the Second Distribution or subsequent distributions,  
18 should such distributions occur, within the time allotted or on the conditions  
19 set forth in paragraph 39(b) of the Miller Declaration will irrevocably forfeit  
20 any further recovery from the Net Settlement Fund.

21 (f) After A.B. Data has made reasonable and diligent efforts to have  
22 Authorized Claimants cash their Initial Distribution checks (as provided in  
23 paragraph 39(b) of the Miller Declaration), but not earlier than seven (7)  
24 months after the Initial Distribution, A.B. Data will, after consulting with  
25 Lead Counsel, conduct the Second Distribution, in which any amount  
26 remaining in the Net Settlement Fund, after deducting any unpaid fees and  
27 expenses incurred, will be distributed to all Authorized Claimants (other than  
28 Claims Paid in Full) who cashed their Initial Distribution check and are

1 entitled to receive at least \$10.00 from the Second Distribution based on their  
2 *pro rata* share of the remaining funds. If any funds remain in the Net  
3 Settlement Fund after the Second Distribution, and if cost-effective,  
4 subsequent distributions will take place at six-month intervals.

5 (g) When Lead Counsel, in consultation with A.B. Data, determine  
6 that further distribution of the funds remaining in the Net Settlement Fund is  
7 not cost-effective, if sufficient funds remain to warrant the processing of  
8 Claims received after November 28, 2022, those Claims will be processed,  
9 and any otherwise valid Claims received after November 28, 2022, as well as  
10 any earlier received Claims for which an upward adjustment was received  
11 after November 28, 2022, will be paid in accordance with subparagraph (h)  
12 below. If any funds remain in the Net Settlement Fund after payment of these  
13 Claims and unpaid fees or expenses, the remaining funds will be contributed  
14 to the Investor Protection Trust (“IPT”).

15 (h) No new Claims may be accepted after November 28, 2022, and  
16 no further adjustments to Claims received on or before November 28, 2022,  
17 that would result in an increased Recognized Claim amount may be made for  
18 any reason after November 28, 2022, subject to the following exception. If  
19 Claims are received or modified after November 28, 2022, that would have  
20 been eligible for payment or additional payment pursuant to the Court-  
21 approved Plan of Allocation if timely received, then, at the time that Lead  
22 Counsel, in consultation with A.B. Data, determine a distribution is not cost-  
23 effective as provided in subparagraph (g) above, and after payment of any  
24 unpaid fees or expenses incurred in connection with administering the Net  
25 Settlement Fund and after deducting the payment of any estimated taxes, the  
26 costs of preparing appropriate tax returns, and any escrow fees, these  
27 Claimants, at the discretion of Lead Counsel and to the extent possible, may  
28 be paid their distribution amounts or additional distribution amounts on a *pro*

1        *rata* basis that would bring them into parity with other Authorized Claimants  
2        who have cashed all their prior distribution checks.

3        4.        The Court finds that the administration of the Settlement and the  
4        proposed distribution of the Net Settlement Fund comply with the terms of the  
5        Stipulation and Plan of Allocation approved by this Court and that all persons  
6        involved in the review, verification, calculation, tabulation, or any other aspect of  
7        the processing of the Claims submitted, or who are otherwise involved in the  
8        administration or taxation of the Settlement Fund or the Net Settlement Fund, are  
9        hereby released and discharged from any and all claims arising out of that  
10       involvement, and all Settlement Class Members and other Claimants, whether or not  
11       they receive payment from the Net Settlement Fund, are hereby barred from making  
12       any further claims against the Net Settlement Fund, Lead Plaintiffs, Lead Counsel,  
13       the Claims Administrator, the Escrow Agent or any other agent retained by Lead  
14       Plaintiffs or Lead Counsel in connection with the administration or taxation of the  
15       Settlement Fund or the Net Settlement Fund, or any other person released under the  
16       Settlement beyond the amounts allocated to Authorized Claimants.

17       5.        All of A.B. Data's fees and expenses incurred in the administration of  
18       the Settlement and estimated to be incurred in connection with the Initial  
19       Distribution of the Net Settlement Fund as set forth in the invoices attached as  
20       Exhibit G to the Miller Declaration are approved, and Lead Counsel is directed to  
21       pay the outstanding balance of \$22,778.41 out of the Settlement Fund to A.B. Data.

22       6.        Unless otherwise ordered by the Court, A.B. Data may destroy the  
23       paper copies of the Claims and all supporting documentation one (1) year after the  
24       Initial Distribution, and one (1) year after all funds have been distributed may  
25       destroy the electronic copies of the same.

26       7.        This Court retains jurisdiction to consider any further applications  
27       concerning the administration of the Settlement, and any other and further relief that  
28       this Court deems appropriate.

1 SO ORDERED this 5th day of January 2023.

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The Honorable David O. Carter  
5 United States District Judge  
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