

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE DELCATH SYSTEMS, INC.  
SECURITIES LITIGATION

13 Civ. 3116 (LGS)

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

**IF YOU PURCHASED OR OTHERWISE ACQUIRED COMMON STOCK OF DELCATH SYSTEMS INC. ("DELCATH") BETWEEN (i) APRIL 21, 2010 AND APRIL 29, 2013, AND CONTINUED TO HOLD SUCH SHARES AS OF THE END OF TRADING ON APRIL 29, 2013; AND (ii) APRIL 30, 2013 THROUGH MAY 2, 2013, AND CONTINUED TO HOLD SUCH SHARES AS OF THE END OF TRADING ON MAY 2, 2013 (THE "SETTLEMENT CLASS"), YOU COULD RECEIVE A PAYMENT FROM A CLASS ACTION SETTLEMENT.**

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

Your legal rights are affected whether you act, or don't act. Read this Notice carefully.

**SUMMARY OF KEY PROVISIONS AND REASONS FOR SETTLEMENT**

- The Settlement resolves a lawsuit over whether Delcath misled investors about the outcome of clinical trials for its principal product, the Melblez Kit. Delcath and its officers deny they did anything wrong.
- The Settlement will provide \$8,500,000 to pay claims for Class members, as well as attorneys' fees and expenses to the Court-appointed Class Counsel for the Settlement Class, claims administration expenses, and compensatory awards to the Lead Plaintiffs.
- Class Counsel estimates that the per-share recovery from the Settlement for Class Members, following deduction of attorneys' fees, awards to Lead Plaintiffs, and administration costs, will average \$0.09 per outstanding share, though the actual recovery for each Class Member who files an eligible claim may be higher or lower than that amount.
- Class Counsel will request that the Court award up to 25% of the recovery (\$2,125,000 or \$0.02 per share) in attorneys' fees, and reimbursement of up to \$200,000 for litigation costs. The Court will also be asked to pay the four members of the Lead Plaintiffs (identified herein) up to \$12,500 each for their contributions to this lawsuit.
- The two sides disagree on how much Delcath would have been liable for if the investors had won at trial, as well as how much investors would have been able to collect given Delcath's financial condition.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
SUBMIT A CLAIM FORM	The only way to get a payment as part of this Settlement. <b>MUST BE DONE BY November 6, 2015</b>
EXCLUDE YOURSELF	Get no Payment as part of this Settlement. This is the only option that allows you to ever be part of any other lawsuit against Delcath about the legal claims that were at issue in this case. <b>MUST BE DONE BY September 28, 2015</b>
OBJECT	Write to the Court about why you do not like the Settlement. <b>MUST BE DONE BY September 28, 2015</b>
GO TO A HEARING	Ask to speak in Court about the fairness of the Settlement at the Settlement Hearing, to take place on October 19, 2015.
DO NOTHING	Get no payment. You give up your right to bring an individual action.

These rights and options are explained in this Notice.

The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made if the Court approves the Settlement, orders distribution of such monies, and all appeals are resolved. Please be patient.

This case has been pending since May 2013. The Lead Plaintiffs and Class Counsel believe that the Settlement provides the Class with a substantial benefit now, in lieu of engaging in years of further litigation with the possibility of no recovery at all, or inability to collect any sizable judgment. By settling the Action, the Defendants do not concede they engaged in any wrongdoing, that the Action had merit or that Class Members ultimately would have recovered any damages.

**More Information: [www.delcathsecuritieslitigation.com](http://www.delcathsecuritieslitigation.com)**

Claims Administrator:

In re Delcath Systems, Inc. Securities Litigation  
c/o GCG  
PO Box 10189  
Dublin, OH 43017-3189  
Tel: (888) 470-0243

Class Counsel:

Robert Willoughby  
Investor Relations Manager  
Pomerantz LLP  
600 Third Avenue  
New York, NY 10016  
Tel: (212) 661-1100

- You may submit a claim, object, do both, or do nothing. You may also exclude yourself from the Settlement. However, if you timely exclude yourself, that is the **only** thing you can do: you cannot then also object in writing, appear at the Settlement Hearing to be held on October 19, 2015 to state any objections, or submit a claim.
- If you object and do not request exclusion, you will remain a Class Member, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object. If you object to the Settlement, you must still submit a claim by the deadline set forth in the table above. Submission of a claim will not waive your objection.
- Unless you timely request exclusion from the Settlement Class, or unless the Court rejects the proposed Settlement, you are bound by the Stipulation and Agreement of Settlement, whether or not you submit a claim or object.
- These rights are explained in this Notice. ***Please take careful note of the deadlines to exercise them, set forth in the table above.***
- The Court presiding over this case must decide whether to approve the Settlement, which it will do at the Settlement Hearing on October 19, 2015. Payments will be made thereafter only if the Court approves the Settlement and, if there are any appeals, after appeals are resolved. Please be patient.

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## BASIC INFORMATION

### 1. Why Did I Receive This Notice Package?

You or someone in your family may have purchased or otherwise acquired Delcath common stock during the Class Period April 21, 2010 through May 2, 2013. This Notice is being sent because you have a right to know about a proposed settlement of a class action lawsuit, and about all of your options, before the Court decides whether to approve the Settlement. If the Court approves the Settlement, and after any objections or appeals are resolved, the Claims Administrator appointed by the Court will make the payments to those persons who timely submit claims by November 6, 2015 in the manner described below (See Question 10).

The Court in charge of the case is the United States District Court for the Southern District of New York, U.S. District Judge Lorna G. Schofield presiding, and the case is known as *In re Delcath Systems, Inc. Securities Litigation*, 13 Civ. 3116 (LGS). Lead Plaintiffs are Delcath Investor Group, Inc. and members of the Lead Plaintiff Group, Bahman Teimourian, Sam Etheridge, Peter Sutherland, and Robert Howard.<sup>1</sup> Defendants are Delcath and its former CEO Eamonn Hobbs.

### 2. What Is This Lawsuit About?

Delcath is a pharmaceutical company. During the Class Period, it sought FDA approval to market its sole product, the “Melblez Kit,” a device designed to treat liver metastases caused by ocular melanoma. The Melblez Kit consists of a pump that feeds concentrated doses of melphalan (a toxic chemotherapeutic drug) to the liver, and a filter that is supposed to remove the toxins before they can enter the blood stream.

The Amended Class Action Complaint (the “Complaint”) alleged that Defendants failed to disclose certain details relating to the results of the clinical trials and the specifications of the Company’s New Drug Application (“NDA”). Specifically, Lead Plaintiffs claimed that Defendants failed to disclose that: (i) the Melblez Kit resulted in the deaths of 7% of patients treated versus zero deaths in the best alternative care (non-drug) group, (ii) nearly 24% of the patients treated with the Melblez Kit suffered from serious adverse events (“SAEs”), and (iii) the Company refiled its NDA with a different filter without having performed clinical trials. Lead Plaintiffs also challenge Defendants’ statements about Delcath’s NDA for the approval of the Melblez Kit, the FDA approval process, and certain other allegedly misleading statements.

The Complaint further asserted that investors did not learn about the comparative safety data until the FDA Staff posted its “Briefing Book” on April 30, 2013, in advance of a FDA Advisory Committee Meeting to consider Delcath’s NDA for approval to market the Melblez Kit. Following the posting of the Briefing Book, Delcath’s shares fell from \$1.39 to \$0.83. Shortly thereafter, on May 2, 2013, the FDA Advisory Committee voted unanimously to reject Delcath’s application.

This lawsuit followed. By order dated August 2, 2013, the Court appointed the Lead Plaintiffs and Pomerantz LLP as their Lead Counsel. An Amended Complaint was filed October 1, 2013. Claims were asserted for violations of the Federal Securities Laws (specifically Sections 10(b) and 20(a) of the Exchange Act, and Rule 10b-5 promulgated thereunder). The Court granted in part and denied in part Defendants’ Motion to Dismiss by order dated June 14, 2014.

Thereafter Defendants produced hundreds of thousands of pages of documents and deposed each of the Lead Plaintiffs, as well as their market efficiency expert, Professor Steven Feinstein of Crowninshield Financial Research. Lead Plaintiffs deposed Defendants’ market efficiency expert, Professor Rene Stulz. Plaintiffs also issued subpoenas for documents to be produced by seven firms that provided consultation services for Delcath in connection with the Melblez Kit NDA. Lead Plaintiffs’ motion for class certification was fully briefed but undecided at the time the proposed Settlement was reached.

On March 31 and April 14, 2015, the parties voluntarily participated in full day mediation sessions presided over by Bruce Friedman, Esq. of Judicial Arbitration and Mediation Services (“JAMS”), which resulted in an agreement to resolve the claims asserted in the Action for payment of \$8,500,000 in return for a release of all securities fraud related claims against the Defendants, as further detailed below.

The Defendants have denied and continue to deny that they engaged in any wrongdoing, including, without limitations, that their public statements were misleading; that they failed to disclose any material information from investors; that they acted in any deceitful manner; and that any investment losses sustained by Lead Plaintiffs and the Class were caused by Defendants’ alleged misconduct.

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<sup>1</sup> The Order appointing Lead Plaintiffs, and hence the Amended Complaint, denominated them as the “Delcath Systems Group, Inc.,” but Delcath Systems Group is not an incorporated entity.

### **3. Why Is This A Class Action?**

Classes are generally used in lawsuits that affect a large number of individuals. The class action consolidates into a single action all of the claims of individuals allegedly harmed by the same conduct or course of conduct in the same period of time, thus removing the need for members of the class to file their own individual lawsuits to separately seek to recover for the harm alleged. Once the class is certified, the Court is empowered to resolve all issues on behalf of members of the class, except for those members of the class, if any, who specifically choose to exclude themselves from the class.

In this case, Lead Plaintiffs moved for class certification. Each were deposed, along with their market expert. The motion for class certification was fully briefed and under consideration by the Court when the settlement was reached.

The Court subsequently certified a Class for settlement purposes only, which is defined as follows;

All persons who purchased or otherwise acquired Delcath common stock between (i) April 21, 2010 and April 29, 2013, and held as of the end of trading on April 29, 2013; and (ii) April 30, 2013 through May 2, 2013 and held as of the end of trading on May 2, 2013. Excluded from the Class are Defendants, all current and former directors and officers of Delcath during the Class Period, and any family member, trust, company, entity or affiliate controlled or owned by any of the excluded persons and entities referenced above.

### **4. Why Is There a Settlement?**

The Court did not decide in favor of the Lead Plaintiffs or Defendants. Instead, both sides agreed to a Settlement. This permits the parties to avoid the cost, delay, and uncertainty of a trial, and permits eligible Class Members who submit valid claims to receive some compensation rather than risk ultimately receiving nothing.

Lead Plaintiffs and Class Counsel recognize the expense and length of continued prosecution of the Action against Defendants through completion of discovery, trial, and any subsequent appeals, particularly given uncertainty regarding how Defendants could ultimately pay any Judgment. Lead Plaintiffs and Class Counsel also believe that the Settlement confers substantial benefits upon the Class, and is fair, reasonable, adequate, and in the best interests of the Class and represents a reasonable compromise of the claims.

Defendants, having taken into account the uncertainty and risks inherent in any litigation, especially in complex cases such as this one, have concluded that further litigation of the action would be protracted, burdensome, and expensive, and that it is desirable and beneficial that the claims asserted in the action be fully and finally settled and terminated in the manner and upon the terms and conditions called for by the Settlement.

## **WHO IS IN THE SETTLEMENT**

To see if you will receive money from this Settlement, you first have to determine if you are a possible Class Member.

### **5. How Do I Know if I Am Part of the Settlement?**

The Court directed, for the purpose of the proposed Settlement, that everyone who fits this description is a Class Member unless they are an excluded person or they take steps to exclude themselves (see below):

All persons who purchased or otherwise acquired Delcath common stock between (i) April 21, 2010 and April 29, 2013, held as of the end of trading on April 29, 2013; and (ii) April 30, 2013 through May 2, 2013 and held as of the end of trading on May 2, 2013. Excluded from the Class are Defendants, all current and former directors and officers of Delcath during the Class Period, and any family member, trust, company, entity or affiliate controlled or owned by any of the excluded persons and entities referenced above.

### **6. What Are the Exceptions to Being Included?**

You are also not a member of the Settlement Class if you are the Defendant, an officer or director of Delcath, a former officer or director of Delcath, and a member of any of their immediate families or their legal representatives, heirs, successors or assigns or any entity in which Defendants have or had a controlling interest.

### **7. I am Still Not Sure if I Am Included.**

If you are still not sure whether you are included, you can ask for free help. You can contact your broker or the Claims Administrator at (888) 470-0243 for more information. Or you can fill out and return the claim form described in Question 10, to see if you qualify.

## THE SETTLEMENT BENEFITS — WHAT YOU GET

### 8. What Does the Settlement Provide?

The Settlement will result in a fund of \$8,500,000. The balance of this fund, after payment of Court-approved attorneys' fees and expenses, and the costs of claims administration, including the costs of printing and mailing this Notice and the cost of publishing notice, and any incentive award granted to the Lead Plaintiffs (the "Net Settlement Fund"), will be allocated on a pro rata basis among all eligible Class Members who send in valid claim forms according to the Plan of Allocation set forth herein. **See Question # 19.**

### 9. How Much Will My Payment Be?

Your share of the Net Settlement Fund will depend on the number of Delcath shares that you purchased or otherwise acquired between (i) April 21, 2010 and April 29, 2013, and continued to hold as of the end of trading on April 29, 2013 (the day before the FDA Briefing Book was posted); and April 30, 2013 through May 2, 2013 and held as of the end of trading on May 2, 2013 (the day before the FDA Advisory Panel voted to recommend rejection of Delcath's application to market the Melblez Kit); and the number of Delcath shares similarly purchased or acquired and held by other Class Members who file valid claims. **See Question # 19.** You will not receive a payment, however, if your proportionate share of the Net Settlement Fund is less than \$10.00.

## HOW YOU OBTAIN A PAYMENT — SUBMITTING A CLAIM FORM

### 10. How Will I Obtain a Payment?

To qualify for payment, you must be an eligible Class Member, send in a valid Proof of Claim and Release form by November 6, 2015, and properly document your claim as requested in the Proof of Claim and Release Form. A Proof of Claim and Release form is enclosed with this Notice. You may also get a Proof of Claim and Release form on the internet at [www.delcathsecuritieslitigation.com](http://www.delcathsecuritieslitigation.com). Read the instructions carefully, fill out the Proof of Claim and Release form, include the documents required by that form, sign it, and mail it postmarked no later than November 6, 2015.

### 11. When Will I Receive My Payment?

The Court will hold a hearing on October 19, 2015, to decide whether to approve the Settlement. If the Court approves the Settlement, there may be an appeal of such approval. It is always uncertain whether there will be an appeal and when any appeal will be resolved, and resolving an appeal can take time, perhaps more than a year. Even if no appeals are filed, it will take several months for the Claims Administrator to process all of the Proof of Claim and Release forms and determine the ultimate distribution amounts. Please be patient.

### 12. What Am I Giving Up to Receive a Payment?

As a Class Member, you will be giving up certain rights that you currently have if the Court approves the Settlement. Unless you timely exclude yourself from the Settlement Class by September 28, 2015, you are a Class Member and will be bound by the Release of claims against the Released Parties *even if you do not file a claim*. That means that you cannot sue, continue to sue, or be part of any other lawsuit against the Released Parties about the claims in this action. It also means that all of the Court's orders will apply to you and legally bind you, and you will release your claims in this action against the Released Parties. The terms of the Release are included in the Proof of Claim and Release form that is enclosed.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want a payment from the Settlement, but you want to keep the right to sue or continue to sue the Defendants on your own, then you must take steps to get out of the Class. This is called excluding yourself, or is sometimes referred to as "opting out" of the class.

### 13. How Do I Get Out of the Settlement Class?

You cannot exclude yourself on the phone or by e-mail. To exclude yourself from the Class, you must send a letter by mail which is postmarked no later than September 28, 2015 to:

Delcath Systems, Inc. Securities Litigation – OPT OUT  
c/o GCG  
PO Box 10189  
Dublin, OH 43017-3189

The letter must state that you want to be excluded from *In re Delcath Systems, Inc. Securities Litigation*, 13. Civ. 3116 (LGS) You must include your name, address, telephone number, your signature, and the number of shares of Delcath common stock you purchased or acquired between (i) April 21, 2010 and April 29, 2013, and held as of the end of trading on April 29, 2013; and (ii) April 30, 2013 through May 2, 2013 and held as of the end of trading on May 2, 2013.

If you ask to be excluded, and your request is processed, you are not eligible to receive any settlement payment, and you cannot object to the Settlement. You will not be legally bound by anything that happens in the action.

**14. If I Do Not Exclude Myself, Can I Sue the Released Parties for the Same Thing Later?**

No. Unless you exclude yourself from the Class, you give up any right to sue the Released Parties for Released Claims. **If you have a pending lawsuit against the Settling Defendants, speak to your lawyer in that case immediately.**

**15. If I Exclude Myself, Can I Receive Money from the Net Settlement Fund?**

No. If you exclude yourself, you will not be eligible to receive money from the Net Settlement Fund. Do not send in a Proof of Claim and Release form. However, you may submit a written revocation of your Request for Exclusion up until October 14, 2015 and still be eligible to receive payments provided you also submit a valid Proof of Claim and Release form prior to the Settlement Hearing.

**THE LAWYERS REPRESENTING YOU**

**16. Do I Have a Lawyer in This Case?**

The Court appointed the law firm Pomerantz LLP to represent you and other Class Members. These lawyers are referred to as Class Counsel. You will not be personally liable for the fees and expenses incurred by these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

**17. How Will the Lawyers Be Paid?**

Class Counsel will ask the Court for attorneys' fees of 25% of the Settlement Fund and for reimbursement of expenses up to \$200,000 which were advanced in connection with the action. Such sums as may be approved by the Court will be paid from the Settlement Fund. Class Members are not personally liable for any such fees or expenses.

The attorneys' fees and expenses requested will be the only payment to Class Counsel for their substantial efforts in achieving this Settlement and for their multi-year risk in undertaking this representation on a wholly contingent basis. Since the case began in 2013, Class Counsel and other plaintiffs' counsel conducted all of the investigation, briefing, and motion practice necessary to prepare the case for trial, analyzed hundreds of thousands of pages of documents, and consulted experts regarding the calculation of damages and issues relating to class certification.

To date, Class Counsel and the other plaintiffs' counsel have not been paid for their services or out-of-pocket expenses in prosecuting this action on behalf of the Lead Plaintiffs and the Class. Class Counsel and other plaintiffs' counsel have expended to date more than 2400 hours of attorney time in prosecuting the Class's claims and will ask the Court for an award of attorneys' fees, as well as reimbursement of actual expenses in prosecuting the Action. The fee requested will compensate Class Counsel and other plaintiffs' counsel for their efforts in achieving the recovery.

Class Counsel will file a formal motion with the District Court for approval of the Settlement, the Plan of Allocation (set forth in Question #19), and the request for attorneys' fees and reimbursement of expenses no later than September 21, 2015. That motion will argue that Class Counsel's requested fees are well within the range of fees awarded to class counsel under similar circumstances in other cases of this type. The Court will determine what counsel should receive from the Settlement Fund for fees and expenses, and may award less than the requested amount.

## **18. Compensatory Awards for Lead Plaintiffs**

In addition, Class Counsel will request that the Court grant up to \$12,500 in Compensatory Awards to each of the four Lead Plaintiffs. Each contributed a significant amount of personal time for the benefit of the Class, and thereby contributed to the successful resolution of this action. Among other things, each Lead Plaintiff consulted with Class Counsel regarding litigation and settlement strategy; produced personal documents related to their investments in Delcath, and appeared for depositions. The Lead Plaintiffs' personal claims will otherwise be subject to the same Plan of Allocation as all other claimants.

### **UNDERSTANDING YOUR PAYMENT/PLAN OF ALLOCATION**

## **19. Understanding Your Payment/The Plan of Allocation**

The Net Settlement Fund (that is, the \$8,500,000 less court awarded payment of Attorney Fees, Expenses, Notice and Claims Administration Costs, and Lead Plaintiffs' Compensatory Awards) shall be distributed to Class Members who submit acceptable Proofs of Claim and Release forms ("Authorized Claimants"), in the following manner:

The Claims Administrator shall determine each Authorized Claimant's share of the Net Settlement Fund based upon (i) the number of Delcath shares purchased or acquired between April 21, 2010 and April 29, 2013 and held as of April 29, 2013 times \$0.558 (the decline in the price of Delcath shares immediately following the posting of the FDA Staff Briefing Book on the Melblez Kit); and (ii) the number of Delcath shares purchased or acquired between April 21, 2010 and May 2, 2013, and held as of the end of trading on May 2, 2013 times \$0.034 (10% of the decline in the price of Delcath shares immediately following the FDA Advisory Panel's vote to recommend rejection of Delcath's application to market the Melblez Kit)(the "Recognized Losses").

The Recognized Losses formula is intended to equitably apportion the Net Settlement Fund among Authorized Claimants. The Recognized Losses formula is not an estimate of what an Authorized Claimant would have recovered after trial; nor is it the amount that the Authorized Claimant will be paid pursuant to the Settlement. An Authorized Claimant's actual share of the Net Settlement Fund will be determined by the ratio of the Authorized Claimant's Recognized Losses divided by the aggregate of the Recognized Losses of all Authorized Claimants.

The Claims Administrator will use its best efforts to administer and distribute the Net Settlement Fund to the extent that it is equitably and economically feasible. If there is any balance remaining in the Net Settlement Fund after good faith efforts of distribution, such remaining balance shall then be donated to an appropriate non-profit organization selected by Class Counsel and approved by the Court.

### **OBJECTING TO THE SETTLEMENT, FEES AND OTHER MATTERS**

## **20. Objecting to the Settlement, Fees and Other Matters**

If you are a Class Member, you can object to the Settlement, the Plan of Allocation, the request for attorneys' fees and expenses, or grant of Compensatory Awards to the Lead Plaintiffs.

You can state the reasons why you think the Court should not approve it, and the Court will consider your views. To object, you must send a letter to the address listed below stating your objection to the Settlement or other matters in *In re Delcath Systems, Inc. Securities Litigation*, 13. Civ. 3116 (LGS). Be sure to include your name, address, telephone number, your signature; whether you are a Class Member; whether you submitted a Request for Exclusion; the particular matters that are the subject of your objection; the specific reason for such objection; whether you or your representative (with the name and address of the representative) seek to appear and be heard at the Settlement Hearing; and documentation sufficient to establish the amount of Delcath common stock purchased, acquired and sold from April 21, 2010 through May 2, 2013 (including the number of shares, dates and prices), as well as all such shares held as of the end of trading on April 29, 2013 and May 2, 2013. Failure to provide such information and documentation may be grounds to void the objection.

The motions in support of the Settlement and the request for attorneys' fees will be filed no later than September 21, 2015 and they will be available to you from Class Counsel, the Claims Administrator, or the Court. (The Claims Administrator's contact information is listed in **Question # 25**, below.) Any objection must be post-marked or received by the following not later than September 28, 2015:



Class Counsel:

Marc I. Gross, Esq.  
Tamar A. Weinrib, Esq.  
Pomerantz LLP  
600 Third Avenue  
New York, NY 10016

## THE COURT'S SETTLEMENT HEARING

The Court will hold a hearing to decide whether to approve the Settlement. You may attend and you may ask to speak, but you do not have to.

### **21. When and Where Will the Court Decide Whether to Approve the Settlement and Related Matters?**

The Court will hold a Settlement Hearing at 11:00 a.m. on, October 19, 2015, at the Courthouse for the United States District Court, Southern District of New York, Courtroom 1106, Thurgood Marshall United States Courthouse, 40 Foley Square, New York, New York 10007. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will also consider how much money from the Settlement Fund will be allocated to pay Class Counsel and other plaintiffs' counsel for their work on the Action and to reimburse their expenses; whether to grant Compensatory Awards to Lead Plaintiffs; and whether the Plan of Allocation is fair, reasonable and adequate. If there are objections, the Court will consider them. The Court may decide these issues at the hearing or take them under consideration for a later decision.

The Court may alter the time or the date of the Settlement Hearing without further notice to the Class Members, provided that the time or the date of the Settlement Hearing shall not be set at a time or date earlier than the time and date set forth above, and retains jurisdiction to consider all further applications arising out of or connected with the Settlement.

### **22. Do I Have to Come to the Hearing?**

No. Class Counsel will answer any questions the Court may have. But you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it, though you are welcome to do so. You may also pay your own lawyer to attend, but it is not necessary.

### **23. May I Speak at the Hearing?**

You may ask the Court for permission to speak at the Settlement Hearing. To do so, you must send a letter to the Class Counsel listed in Question # 20 saying that it is your intention to appear in *In re Delcath Systems, Inc. Securities Litigation*, 13. Civ. 3116 (LGS). Be sure to include your name, address, telephone number, your signature; whether you are a Class Member, and if not, your relationship to this matter; whether you have submitted a Request for Exclusion; and the particular matters on which you seek to be heard. Your notice of intention to appear must be received no later than September 28, 2015, by the Class Counsel at the address listed in **Question # 20**.

## IF YOU DO NOTHING

### **24. What Happens if I Do Nothing at All?**

If you do nothing, all of your claims against the Released Parties will be released, but you will not receive any money from this Settlement, because it is necessary to submit a Proof of Claim and Release form to share in the Settlement proceeds.

## GETTING MORE INFORMATION

### **25. Are There More Details About the Settlement?**

This Notice summarizes the proposed Settlement. More details are in the Stipulation dated as of May 21, 2015. **You can obtain a copy of the Stipulation or more information about the Settlement by visiting [www.delcathsecuritieslitigation.com](http://www.delcathsecuritieslitigation.com).**

You can also contact the Claims Administrator:

In re Delcath Systems Inc. Securities Litigation  
c/o GCG  
PO Box 10189  
Dublin, OH 43017-3189  
(888) 470-0243

or Class Counsel

Robert Willoughby  
Investor Relations Manager  
Pomerantz LLP  
600 Third Avenue  
New York, NY 10016  
Tel: (212) 661-1100  
rswilloughby@pomlaw.com

You can also obtain a copy from the Clerk's office during regular business hours:

Clerk of the Court  
United States District Court  
Southern District of New York  
Daniel Patrick Moynihan U.S. Courthouse  
500 Pearl St.  
New York, New York 10007-1312

***DO NOT TELEPHONE THE COURT REGARDING THIS NOTICE***

**SPECIAL NOTICE TO NOMINEES**

The Court has ordered that if you held any Delcath common stock purchased or acquired between April 21, 2010, and May 2, 2013, inclusive, as nominee for a beneficial owner, then, within ten (10) days after you receive this Notice, you must either: (1) send a copy of this Notice by first class mail to all such beneficial owners; or (2) provide a list of the names and addresses of such beneficial owners to the Claims Administrator:

In re Delcath Systems Inc. Securities Litigation  
c/o GCG  
PO Box 10189  
Dublin, OH 43017-3189  
(888) 470-0243

If you choose to mail the Notice and Proof of Claim and Release form yourself, you may obtain from the Claims Administrator (without cost to you) as many additional copies of these documents as you will need to complete the mailing.

Regardless of whether you choose to complete the mailing yourself or elect to have the mailing performed for you, you may obtain reimbursement for administrative costs actually incurred in connection with forwarding the Notice and which would not have been incurred but for the obligation to forward the Notice, upon submission of appropriate documentation to the Claims Administrator.

DATED: July 7, 2015

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BY ORDER OF THE COURT  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK