

THIS IS AN IMPORTANT LEGAL NOTICE

**THE MATTERS DISCUSSED HEREIN MAY AFFECT
SUBSTANTIAL LEGAL RIGHTS THAT YOU MAY HAVE**

READ THIS NOTICE CAREFULLY

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

ERIC WEINER, Individually and on Behalf of All
Others Similarly Situated,

Plaintiff,

v.

TIVITY HEALTH, INC., *et al.*,

Defendants.

Case No.: 3:17-cv-01469

Chief Judge Crenshaw
Magistrate Judge Newbern

NOTICE OF PENDENCY OF CLASS ACTION

TO: ALL PERSONS AND ENTITIES WHO PURCHASED OR OTHERWISE ACQUIRED THE COMMON STOCK OF TIVITY HEALTH, INC. (“TIVITY”) BETWEEN MARCH 6, 2017 AND NOVEMBER 6, 2017, INCLUSIVE, AND WHO HAVE BEEN DAMAGED THEREBY (THE “CLASS” AND “CLASS PERIOD”).

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. YOUR RIGHTS MAY BE AFFECTED BY THIS LITIGATION.

PURPOSE OF THIS NOTICE

This Notice is being sent to advise Class Members of the pendency of the above-captioned action as a class action under Rule 23 of the Federal Rules of Civil Procedure and their rights with respect thereto. If you are and remain a Class Member, your rights will be affected by the lawsuit referred to as *Weiner v. Tivity Health, Inc.*, Case No. 3:17-cv-01469, which is now pending before the United States District Court for the Middle District of Tennessee, Nashville Division (the “Court”) (the “Action”), brought by Lead Plaintiff and Class Representative Oklahoma Firefighters Pension and Retirement System (“Class Representative” or “Oklahoma Firefighters”) on behalf of itself and others similarly situated against Tivity Health, Inc. (“Tivity”), and its senior executives, Donato Tramuto, Glenn Hargreaves, and Adam Holland (collectively, “Defendants”).

NO JUDGMENT OR SETTLEMENT HAS OCCURRED IN THE ACTION AND YOU ARE NOT CURRENTLY ENTITLED TO RECEIVE A PAYMENT FROM THIS ACTION. THIS NOTICE IS TO INFORM YOU THAT THE ACTION IS PROCEEDING AND THAT YOU MAY BE A MEMBER OF THE CLASS.

By Order dated January 29, 2020, the Court determined that this lawsuit may proceed as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure. You received this Notice because you were identified as a potential member of the Class. This Notice only advises you of the existence of the Action and of your rights if you are a member of the Class. If you received this Notice in error and you are not a member of the Class, you do not need to take any action and your rights will not be affected.

The Class

The Class is defined as:

All persons and entities who purchased or otherwise acquired the common stock of Tivity Healthy, Inc. (“Tivity”) between March 6, 2017 and November 6, 2017, inclusive (the “Class”), and who have been damaged thereby.

Excluded from the Class are Defendants Tivity Health, Inc., Donato Tramuto, Glenn Hargreaves, Adam Holland, the officers and directors of Tivity during the relevant period, members of their immediate families and their legal representatives, heirs, successors or assigns, and any entity in which Defendants have or had a controlling interest. Additionally, any person or entity that timely and validly requests exclusion, as explained in this Notice, will be excluded from the Class.

The ruling by the Court certifying the Class does not in any way address the merits of the litigation. Rather, the certification of the Class means only that the ultimate outcome of the Action whether favorable or unfavorable to the Plaintiff or Defendants—will apply in like manner to each Class Member who does not timely elect to be excluded from the Class.

DESCRIPTION OF THE CLASS ACTION

Plaintiff’s Claims

Class Representative, on behalf of the Class, alleges that the Defendants made false and misleading statements regarding the status of Tivity’s business relationship with its major customer, United Healthcare (“UHC”), which, unbeknownst to the market, had begun in-sourcing certain services previously provided by Tivity, causing Tivity to lose market share in certain states. In particular, the Class has alleged that Defendants violated the Securities Exchange Act of 1934, and Rule 10b-5 promulgated thereunder by the Securities and Exchange Commission, by knowingly or recklessly making false and misleading statements and omissions in several public statements during the period between March 6, 2017 and November 6, 2017. Class Representative further alleges that the false and misleading statements and omissions artificially inflated the price of Tivity’s common stock and that, when UHC later disclosed the truth that it was introducing a product to replace Tivity’s flagship fitness program in certain markets, Tivity’s stock price dropped. The particular false and misleading statements are set forth in Class Representative’s First Amended Complaint (the “Complaint”). You may review a copy of the Complaint and other court filings and orders from this Action by visiting www.TivitySecuritiesLitigation.com.

Defendants’ Denial of Liability

Defendants deny any wrongdoing or liability for the claims alleged. Defendants deny that they made any false and misleading statements regarding Tivity’s business relationship with UHC.

Status of the Litigation

The initial Complaint in this Action was filed on November 20, 2017. On April 3, 2018, the Court appointed Oklahoma Firefighters as Lead Plaintiff. On June 4, 2018, Oklahoma Firefighters filed the Complaint, which sets forth the claims of the Class. Defendants filed a motion to dismiss the Complaint on August 3, 2018. The motion to dismiss was denied in full on March 18, 2019, and Defendants’ motion for reconsideration of that ruling was denied on May 22, 2019.

On April 14, 2019, Defendants filed an answer to the Complaint, denying Oklahoma Firefighter’s claims and asserting various affirmative defenses.

On July 1, 2019, Oklahoma Firefighters filed a motion for class certification, and on January 29, 2020, the Court granted that motion, certifying the case as a class action and appointing Oklahoma Firefighters as Class Representative and appointing Cohen Milstein Sellers & Toll as Class Counsel.

On February 12, 2020, Defendants filed a petition with the Court of Appeals for the Sixth Circuit (“Sixth Circuit”) seeking permission to appeal the Court’s order granting class certification. Class Representative opposed the petition. The Sixth Circuit denied the petition on July 23, 2020.

The parties conducted extensive discovery, including the production of documents by all parties and the deposing of numerous witnesses. The parties are currently briefing motions filed by Defendants. The Court has identified May 18, 2021 as a target trial date.

Selection of Lead Counsel

By Order dated January 29, 2020, the Court appointed the following law firm to serve as Lead Counsel on behalf of Class Representative and the Class in this litigation:

COHEN MILSTEIN SELLERS & TOLL PLLC
Daniel S. Sommers
Christina D. Saler
Josh Handelsman
1100 New York Ave., N.W.
West Tower, Suite 500
Washington, D.C. 20005-3934
Telephone: (202) 408-4600
Fax: (202) 408-4699
TivityClassCounsel@cohenmilstein.com

HOW TO PARTICIPATE IN THIS CLASS ACTION

If you fall within the definition of the Class set forth above, you are a member of the Class. **IF YOU WISH TO REMAIN A MEMBER OF THE CLASS, YOU DO NOT NEED TO DO ANYTHING AT THIS TIME.** As a Class Member, you will be bound by any judgment or settlement, whether favorable or unfavorable, in this Action. Thus, you will have the opportunity to participate in any monetary settlement or judgment rendered in favor of the Class and will receive notice of such a settlement or judgment and may submit a Proof of Claim at that time. **No judgment or settlement has occurred at this time.** You will also be bound by any unfavorable judgment which may be rendered in favor of Defendants. As set forth below, you have the right to exclude yourself from the Class at this time. However, you may not have the right to seek exclusion from the Class at the time of settlement or judgment.

The class representative appointed by the Court will represent the Class on behalf of all Class Members. Class Counsel has agreed to pursue this Action on a contingent fee basis. All attorneys' fees and expenses will be payable only out of the recovery by the Class, if any. Class Members will not have to separately pay lawyers any additional amounts and in no event will individual Class Members be obligated to pay any judgment, court costs, or lawyers' fees for participating in this class action.

Any Class Member who does not request exclusion from the Class may also enter an appearance through their own counsel at their own expense.

HOW TO BE EXCLUDED FROM THE CLASS

If you wish to be excluded from the Class, you must submit a request for exclusion in accordance with the instructions in the next paragraph. If you choose to be excluded: **(1) you will NOT be entitled to share in any recovery from any settlement or judgment, if any, that may be paid to members of the Class as a result of a trial or settlement of this lawsuit;** (2) you will **NOT** be bound by any judgment or release entered in this lawsuit; and (3) at your own expense, you **MAY** pursue any claims that you may have by filing your own lawsuit or taking other action.

To be excluded, a person shall mail, by First-Class Mail, a written request for exclusion from the Class, **postmarked no later than March 1, 2021**, addressed to the Notice Administrator at:

**Tivity Securities Litigation
PO Box 3679
Portland, OR 97208-3679**

In order to be valid, any request for exclusion must set forth the name and address of the person or entity requesting exclusion, and must contain the following statement that such person or entity "requests exclusion from the Class in the *Weiner v. Tivity Health, Inc.*, Case No. 3:17-cv-01469" and must (i) state the name, address, and telephone number of the person or entity requesting exclusion; (ii) state the number of shares of Tivity common stock that the person or entity purchased, acquired, and sold during the Class Period, as well as the dates and prices of each such purchase, acquisition, and sale; and (iii) be signed by the person or entity requesting exclusion or an authorized representative. **Only request exclusion if you do NOT wish to participate in this Action and do not wish to share in any potential recovery that the Class may obtain.**

EXAMINATION OF PAPERS AND INQUIRIES

This Notice contains only a summary of the litigation and your rights as a potential Class Member. For more detailed information regarding the matters involved in this litigation, please refer to the papers on file in this litigation, which may be viewed at the website established for this litigation, www.TivitySecuritiesLitigation.com, or inspected at the Office of the Clerk of Court, Estes Kefauver Federal Building & Courthouse, 801 Broadway, Room 800, Nashville, TN 37203, during business hours of each business day. In addition, inquiries regarding this litigation may be addressed to Class Counsel as identified above.

NOTICE TO BROKERS AND CUSTODIANS

If you hold or held securities covered by the Action on behalf of a beneficial owner or in “street name,” you are directed by the Court to provide this Notice to the beneficial owner. You may obtain additional copies of this Notice by contacting the Notice Administrator in writing, by mail at: Tivity Securities Litigation, c/o Epiq Class Action & Claims Solutions, Inc., PO Box 3679, Portland, OR 97208-3679. As an alternative, you may provide the Notice Administrator with mailing lists of beneficial owners, electronically in MS Word or WordPerfect files or in an MS Excel data table setting forth (a) title/registration, (b) street address, and (c) city/state/ZIP Code. Please contact the Notice Administrator immediately upon receipt of this Notice.

If this Notice was mailed to you at an old address, or if you move, please advise the Notice Administrator of your current address by mail at: Tivity Securities Litigation, c/o Epiq Class Action & Claims Solutions, Inc., PO Box 3679, Portland, OR 97208-3679, so that you can receive any future Notice and/or Proof of Claim forms.

PLEASE DO NOT CALL THE COURT OR THE DISTRICT CLERK’S OFFICE REGARDING THIS NOTICE.

Dated: December 31, 2020

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE