

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE ENERGY RECOVERY, INC., SECURITIES
LITIGATION

No. 3:15-cv-00265-EMC

**NOTICE OF PENDENCY AND PROPOSED
SETTLEMENT OF CLASS ACTION**

NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF CLASS ACTION

If you purchased shares of Energy Recovery, Inc. (“Energy Recovery” or the “Company”) common stock during the period of March 7, 2013 and March 5, 2015, inclusive (the “Settlement Class”), then you may be able to receive a payment from the proposed settlement of the above-captioned securities class action. The expected average recovery (per share) is \$0.167 per share, *before* the deduction of attorneys’ fees, costs, and expenses and \$0.123 per share, *after* the deduction of attorneys’ fees, costs, and expenses.

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

- This Notice contains summary information with respect to the proposed settlement. The terms and conditions of the proposed settlement (the “Settlement”) are set forth in the Amended Stipulation of Settlement (“Stipulation”), dated April 3, 2017 between and among the following parties in the Action (defined below): (i) Henry Low (“Lead Plaintiff”), and (ii) defendants Energy Recovery; Thomas S. Rooney, Jr.; and Audrey Bold (collectively, the “Defendants”). The Defendants with Lead Plaintiff, each a “Party,” are collectively referred to as the “Parties.” Copies of the Stipulation are available at www.EnergyRecoverySecuritiesLitigation.com or from Lead Counsel at the addresses provided below. Additional information with respect to this Litigation and the Settlement is also available by contacting Lead Counsel.
- The proposed Settlement, if approved by the Court, in *In re Energy Recovery, Inc. Securities Litigation*, 3:15-cv-00265-EMC (N.D. Cal.) (the “Action” or the “Litigation”) provides for a payment \$3,850,000 in cash (the “Settlement Payment”) to pay claims from investors who purchased Energy Recovery common stock on the public market between March 7, 2013 and March 5, 2015, inclusive. If purchasers of all the estimated 23 million damaged shares of Energy Recovery common stock submit claims, this will result in a recovery of approximately \$0.167 per share, *before* the deduction of attorneys’ fees, costs, and expenses, as approved by the Court.
- The Settlement resolves a U.S. lawsuit over whether Defendants disseminated materially false and misleading statements and omissions concerning Energy Recovery’s products and operations. The two sides disagree on whether the investors could have won at trial, and if so, how much money they could have won.
- Court-appointed lawyers for investors have litigated this matter on a contingent basis and advanced all expenses incurred on behalf of the Class. These lawyers will ask the Court for \$962,500 in attorneys’ fees (25% of the Settlement) and reimbursement for expenses of up to \$50,000 for their work litigating the case and negotiating the Settlement. If approved by the Court, these amounts will be deducted from the \$3,850,000 Settlement (totaling \$0.044 per share assuming claims are submitted on behalf of 23 million common stock shares).
- After deducting for any attorneys’ fees and expenses, award to Lead Plaintiff, and administration costs, the estimated average recovery from the Settlement assuming claims are made on behalf of 23 million shares is \$0.117 per share.
- The Court has not yet approved the Settlement. Payments will be made only if the Court approves the Settlement and after any appeals are resolved. Please be patient.
- **Your legal rights are affected *whether you act or do not act*. Please read this notice carefully.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

SUBMIT A CLAIM FORM NO LATER THAN AUGUST 4, 2017	The only way to get a payment is if you have a Recognized Claim.
EXCLUDE YOURSELF NO LATER THAN AUGUST 4, 2017	Get no payment. This is the only option that allows you to ever be part of any other lawsuit against Energy Recovery and the other Released Persons about the Released Claims.
OBJECT NO LATER THAN AUGUST 4, 2017	Write to the Court about why you do not like the Settlement. You may, but are not required to, appear at the Final Approval Hearing. You are still a member of the class if you object and are therefore required to submit a claim to receive a recovery.
DO NOTHING	Get no payment. Give up rights.

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BASIC INFORMATION

1. Why did I get this notice package?

You or someone in your family may have purchased common stock shares of Energy Recovery common stock during the period of March 7, 2013 and March 5, 2015, inclusive ("Settlement Class Period"). The Court directed that this Notice be sent to potential Settlement Class Members because they have a right to know about a proposed settlement of a class action lawsuit, and about all of their options, before the Court decides whether to approve the Settlement. If the Court approves the Settlement and any appeals are resolved, an administrator appointed by the Court will make the payments that the Settlement allows.

2. What is this lawsuit about?

Lead Plaintiff's Second Amended Class Action Consolidated Complaint for Violation of Federal Securities Laws (the "Complaint") filed on May 26, 2016, alleges that Energy Recovery and Mr. Rooney violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5, promulgated thereunder by the United States Securities and Exchange Commission. The Complaint also generally alleges that Energy Recovery and Mr. Rooney made false and misleading statements regarding Energy Recovery's products and operations and seeks unspecified money damages and other relief. When this information became public, the Complaint alleges that the share price fell and shareholders were damaged. The Complaint also asserted "control person" claims against the individual defendants, Mr. Rooney and Ms. Bold, under Section 20(a) of the Securities Exchange Act of 1934. The lawsuit seeks money damages against Defendants for alleged violations of the federal securities laws. Defendants believe that the claims asserted in the action are completely without merit. Defendants have denied and continue to deny any and all wrongdoing whatsoever and maintain that their conduct was at all times proper and in compliance with applicable provisions of law. Defendants have denied and continue to deny each and all of the claims and contentions alleged by Lead Plaintiff in the Litigation and deny that they have committed any of the wrongful acts or violations of law that are alleged in the Litigation, especially the central premise of Plaintiff's claims that Energy Recovery's products remained in the engineering prototype phase during the Class Period. Defendants assert that Plaintiff is unable to prove falsity or scienter in support any of his allegations. Defendants deny all charges of 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 Litigation. Defendants also have denied and continue to deny, among other things, the allegations that Lead Plaintiff or the Settlement Class have suffered damages and that Lead Plaintiff or the Settlement Class were harmed by the conduct alleged in the Consolidated Complaint or its predecessor complaints.

3. Why is this a class action?

In a class action, one or more people called Class Representatives (in this case, the Lead Plaintiff Henry Low), sue on behalf of people who have similar claims. All persons with similar claims are Settlement Class Members, who together constitute the class. Bringing a case, such as this one, as a class action allows the collective adjudication of many similar claims that might be economically too small to bring in individual actions. One court resolves the issues for all class members, except for those who exclude themselves from the class. Judge Edward Chen of the United States District Court for the Northern District of California is overseeing this class action.

4. Why is there a settlement?

The Court did not decide in favor of Lead Plaintiff or Defendants. Instead, both sides agreed to a settlement. In this manner, they avoid the risks of further litigation and trial, including the risk that there would be no recovery by any members of the Settlement Class. The Lead Plaintiff and their attorneys think the Settlement is best for all Settlement Class Members. The settling Defendants in this Litigation, while continuing to deny all allegations of wrongdoing or liability whatsoever, recognize the expense, risks and uncertain outcome of litigation and appeals, especially in a complex action such as this, and wish to avoid the uncertainties, burdens and costs associated with further litigation.

Because of the risks associated with continuing to litigate and proceeding to trial, there was a danger that Lead Plaintiff would not have prevailed on any of his claims, in which case the Settlement Class would receive nothing. The Defendants have asserted that they did not engage in any wrongful conduct and have no liability for any breach of the federal securities laws. Thus, there is a risk that Lead Plaintiff would not have established any liability or damages against the Defendants. Lead Plaintiff and his attorneys think the Settlement is best for all members of the Class.

WHO IS PART OF THE SETTLEMENT

5. How do I know if I am part of the Settlement?

The Court directed that, for the purposes of the proposed Settlement, everyone who fits this description is a Settlement Class Member: *all Persons (as defined in the Stipulation) who purchased the common stock of Energy Recovery during the period March 7, 2013 through March 5, 2015, inclusive.*

6. Are there exceptions to being included?

Excluded from the Settlement Class are Defendants, the officers and directors of Energy Recovery at all relevant times, members of the Defendants' immediate families and their legal representatives, subsidiaries of Energy Recovery, any firm, entity, or corporation in which any Defendant and/or any member(s) of a Defendant's immediate family has or have a controlling interest, any trust of which a Defendant is the settlor or which is for the benefit of a Defendant and/or any member of a Defendant's immediate family, and the legal representatives, heirs, or successors-in-interest or assigns of Defendants. Also excluded from the Settlement Class are those Persons who timely and validly request exclusion from the Settlement Class pursuant to the Notice of Pendency and Proposed Settlement of Class Action to be sent to members of the Settlement Class

If a mutual fund in which you invested purchased Energy Recovery common stock during the Settlement Class Period that does not make you a Settlement Class Member. You are a Settlement Class Member only if you directly purchased or otherwise acquired Energy Recovery common stock during the Settlement Class Period. Contact your broker to see if you purchased or otherwise acquired Energy Recovery common stock during the Settlement Class Period.

If you **sold** but did not purchase Energy Recovery common stock during the Settlement Class Period, you are not a Settlement Class Member. You are a Settlement Class Member only if you **purchased** your Energy Recovery common stock during the Settlement Class Period.

7. What if 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 the Claims Administrator by writing to In re Energy Recovery, Inc. Securities Litigation, c/o GCG, PO Box 10358, Dublin, OH 43017-0358; by faxing to (855) 409-7129; by calling (844) 634-8908; or by visiting the website www.EnergyRecoverySecuritiesLitigation.com for more information. Or you can fill out and return the Proof of Claim and Release Form described in Question 11 on page 5 to see if you qualify.

WHAT ARE THE SETTLEMENT BENEFITS?

8. What does the Settlement provide?

Defendants have agreed to the creation of a \$3.85 million fund to be distributed, after the payment of claims administration and notice costs and Plaintiff's Counsel's attorneys' fees and expenses as awarded by the Court, to all Settlement Class Members who send in a valid and timely Proof of Claim and Release Form.

In return, the Litigation will be dismissed and Lead Plaintiff and all Settlement Class Members who do not timely and validly request exclusion from the Settlement Class agree to release, relinquish and discharge all Released Claims (including Unknown Claims) against the Defendants, Energy Recovery, and their respective Related Persons, whether or not these members of the Settlement Class execute and deliver the Proof of Claim and Release.

9. How will the Settlement be allocated among class members?

The proposed settlement provides for a Settlement Fund of \$3,850,000 in cash. After payment of any attorneys' fees and reimbursement of costs and expenses, and administrative fees ("Net Settlement Fund"), the Net Settlement Fund will be distributed to the Settlement Class according to the Plan of Allocation.

The objective of the Plan of Allocation is to equitably distribute the Net Settlement Fund to those Class members who suffered economic losses as a proximate result of the alleged wrongdoing. The Plan of Allocation generally measures the amount of loss that a Class member can claim for purposes of making *pro rata* allocations of the Net Settlement Fund to Authorized Claimants. The Plan of Allocation is not a formal damage analysis. The calculations made pursuant to the Plan of Allocation are not intended to be estimates of, nor indicative of, the amounts that Class Members might have been able to recover after a trial. Nor are the calculations pursuant to the Plan of Allocation intended to be estimates of the amounts that will be paid to Authorized Claimants pursuant to the Settlement. The computations under the Plan of Allocation are only a method to weigh the claims of Authorized Claimants against one another for the purposes of making *pro rata* allocations of the Net Settlement Fund.

If the sum total of claims of all Authorized Claimants who are entitled to receive payment out of the Net Settlement Fund is greater than the Net Settlement Fund, each Authorized Claimant shall receive his, her, or its *pro rata* share of the Net Settlement Fund. The *pro rata* share shall be the Authorized Claimant's claim divided by the total claims of all Authorized Claimants, multiplied by the total amount in the Net Settlement Fund.

If the Net Settlement Fund exceeds the sum total amount of the claims of all Authorized Claimants entitled to receive payment out of the Net Settlement Fund, the excess amount in the Net Settlement Fund shall be distributed *pro rata* to all Authorized Claimants entitled to receive payment.

The Claims Administrator will use the following plan of allocation to determine how much each claimant is entitled to claim:

For each share of Energy Recovery common stock *purchased during the Class Period*, the amount of the claim will be:

<u>CLAIM AMOUNT</u>		<u>SOLD</u>		
		<u>3/7/2013 - 1/11/2015</u>	<u>1/12/2015 - 3/5/2015</u>	<u>Retained on 3/6/2015</u>
<u>PURCHASED</u>	<u>3/7/13 - 1/11/2015</u>	\$0.00	\$0.08	\$0.55
	<u>1/12/2015 - 3/5/2015</u>	N/A	\$0.00	\$0.47

- i. For any shares of Energy Recovery common stock you sold before January 12, 2015, then your claim is \$0. The alleged truth concerning Defendants' alleged misstatements and omissions did not emerge until January 12, 2015 and, therefore, any loss you may have sustained is not causally related to Defendants' alleged conduct;
- ii. For any shares (purchased during the Class Period) of Energy Recovery common stock you retained on January 11, 2015 but then sold prior to March 6, 2015, then your Recognized Claim is equal to the number of these shares multiplied by the decline in Energy Recovery's Share price immediately following Energy Recovery's disclosures on January 12, 2015, or \$0.08 per Share;
- iii. For any shares of Energy Recovery common stock you purchased after January 11, 2015 and then retained through the end of the Class Period on March 5, 2015, then your Recognized Claim is equal to the number of these shares multiplied by the decline in Energy Recovery's share price immediately following Energy Recovery's disclosures on March 6, 2015, or \$0.47 per Share;
- iv. For any shares of Energy Recovery common stock you purchased after January 11, 2015 but then sold prior to March 6, 2015, then your Recognized Claim is \$0 because you did not retain these shares during a time when the decline in value allegedly was causally related to Defendants' alleged conduct; and
- v. For any shares of Energy Recovery common stock you purchased before January 12, 2015 and then retained through the end of the Class Period on March 5, 2015, then your Recognized Claim is equal to the number of these shares multiplied by the total decline in Energy Recovery's Share price immediately following Energy Recovery's disclosures on January 12, 2015 and March 6, 2015, or \$0.55 per share.

10. How much will my payment be?

If you are entitled to a payment, your share of the Settlement Fund will depend on the number of Settlement Class Members who submit valid Proofs of Claim (the "Authorized Claimants"), how many shares of Energy Recovery common stock you purchased, and when you purchased your shares. Payments will be calculated on a *pro rata* basis. The Claims Administrator will distribute the Settlement Fund, less all administrative costs, including the costs of notice, and attorneys' fees and expenses, as awarded by the Court, on a *pro rata* basis after the deadline for submission of Proof of Claim and Release Forms has passed.

Each Authorized Claimant shall be paid their *pro rata* share of the Settlement Fund, which is the percentage that each Authorized Claimant's Recognized Claim bears to the total of the claims of all Authorized Claimants. Claims which result in payment of

less than \$10 will be deemed to be *de minimis* and will not be issued. The costs associated with issuing payments of less than \$10 to Authorized Claimants would result in increased administration costs and smaller recoveries to Authorized Claimants with Recognized Claims greater than \$10. No Recognized Claim will be calculated for any purchase of Energy Recovery securities to cover a short sale.

To the extent that any amount of the Settlement Fund remains after the Claims Administrator has caused distributions to be made to all Authorized Claimants, whether by reason of uncashed distributions or otherwise, then, after the Claims Administrator has made reasonable and diligent efforts to have Authorized Claimants cash their distributions, any balance remaining in the Settlement Fund six months after the initial distribution of such funds shall be redistributed to Authorized Claimants who have cashed their initial distributions, after payment of any unpaid costs or fees incurred in administering the Settlement Fund for such redistribution if Lead Counsel, in consultation with the Claims Administrator, determines that additional redistributions, after deduction of any additional fees and expenses that would be incurred with respect to such redistribution, would be cost-effective. At such time as it is determined that the redistribution of funds remaining in the Settlement Fund is not cost-effective, the remaining balance in the Settlement Fund shall be contributed to non-sectarian, not-for-profit 501(c)(3) organization(s), to be recommended by Lead Counsel and approved by the Court.

HOW CAN YOU RECEIVE A PAYMENT?

11. How can I get a payment?

To qualify for a payment, you must send in a Proof of Claim and Release Form. A Proof of Claim and Release Form accompanies this Notice. You may also download a Proof of Claim and Release Form from the Claims Administrator's website, www.EnergyRecoverySecuritiesLitigation.com. Read the instructions carefully, fill out the Proof of Claim and Release Form, include all the documents the form asks for, sign it, and mail it postmarked no later than August 4, 2017. You can also fax or e-mail the Proof of Claim and Release Form to (855) 409-7129 or Questions@EnergyRecoverySecuritiesLitigation.com; provided the Proof of Claim and Release Form is submitted no later than August 4, 2017. Any Settlement Class member who fails to submit a Proof of Claim by such date shall be forever barred from receiving any distribution from the Settlement Fund (unless by order of the Court the deadline to submit a Proof of Claim is extended or such Class member's Proof of Claim is accepted), but otherwise shall be bound by all of the terms of the Stipulation and the Settlement, including the releases in the Stipulation, and will be permanently barred and enjoined from commencing or prosecuting any action asserting any Released Claims against any Released Persons.

12. When would I get my payment?

The Court will hold a hearing on August 24, 2017, to decide whether to approve the Settlement. If the Settlement is approved, the Claims Administrator will complete the administration process and determine how much each Authorized Claimant is entitled to receive. Lead Counsel will then seek permission from the Court to distribute the Settlement Amount on a pro rata basis to Authorized Claimants. This may take several months.

13. What am I giving up to get a payment or stay in the Settlement Class?

Unless you exclude yourself, you will remain a member of the Settlement Class, and that means that, upon the "Effective Date," you will release all "Released Claims" against the "Released Persons."

The "Effective Date" will occur when an order entered by the Court approving the Settlement becomes final and not subject to appeal and when all conditions of the Stipulation have been met.

"Released Claims" means any and all manner of claims, demands, rights, liabilities, losses, obligations, potential actions, causes of action, issues and controversies of any kind, nature or description whatsoever, whether known or unknown, disclosed or undisclosed, accrued or unaccrued, apparent or not apparent, foreseen or unforeseen, matured or not matured, suspected or unsuspected, liquidated or not liquidated, fixed or contingent (including Unknown Claims), that Plaintiffs or any or all other members of the Settlement Class ever had, now have, or may have, whether direct, individual, class, derivative, representative, legal, equitable or of any other type, or in any other capacity, based on his, her, or its purchase, sale or ownership of Energy Recovery common stock during the Settlement Class Period, against any of the Released Persons, which, now or hereafter, are based upon, arise out of, relate in any way to, or involve, directly or indirectly any of the statements, representations, misrepresentations, omissions, allegations, facts, or any other matters, alleged in, or that could have been alleged in, the Second Amended Class Action Consolidated Complaint for Violation of Federal Securities Laws dated May 26, 2016; provided, however, that (i) the released claims shall not include the right to enforce the Stipulation; and (ii) Defendants and Insurer shall provide a release of Plaintiff and Plaintiff's Counsel of all claims arising from the institution, prosecution, assertion, settlement, or resolution of this action.

"Released Persons" means each and all of the Defendants and their Related Persons (as defined below).

"Related Persons" means each of the following Persons, whether or not each or all of the following Persons or entities were named, served with process, or appeared in the Litigation: (a) any Person that is or was related to or affiliated or associated with any or all of the Defendants or in which any or all of them has or had a controlling interest; and (b) with respect to the Defendants, and the individuals and entities set forth or described in (a), each of their respective spouses, heirs, trusts, trustees, executors, estates, administrators, beneficiaries, distributees, agents, employees, fiduciaries, partners, control persons, partnerships, general or limited partners or partnerships, joint ventures, member firms, limited liability companies, corporations, parents, subsidiaries, divisions, affiliates, associated entities, principals, officers, managers, directors, managing directors, members, managing members, managing agents, predecessors, predecessors-in-interest, successors, successors-in-interest, assigns, underwriters, brokers, dealers, attorneys, personal or legal representatives, accountants, insurers, co-insurers, reinsurers, and associates, of each and all of the foregoing.

"Unknown Claims" means any claims that the 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 which, if known by him, her or it, would or might have affected his, her or its settlement with and release of the Released Persons, or would or might have affected his, her or its decisions with respect to this Settlement. Plaintiff and Settlement Class Members may hereafter discover facts in addition to or different from those which he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims, but Plaintiff upon the Effective Date shall expressly, fully, finally and forever settle and release, and each Settlement Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Judgment shall have, 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 that 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. With respect to any and all Released Claims, the Settling Parties stipulate and agree that, upon the Effective Date, Plaintiff shall expressly waive, and each of the Settlement Class Members shall be deemed to have waived, and by operation of the Judgment shall have waived, the provisions, rights, and benefits of California Civil 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 in, which if known by him or her must have materially affected his or her settlement with the debtor.

Plaintiff shall expressly waive and relinquish, and each of the Settlement Class Members shall be deemed to have, and by operation of the Judgment shall have, expressly waived and relinquished 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 Section 1542. Plaintiff acknowledges, and the Settlement Class Members shall be deemed by operation of the Judgment to have acknowledged, that the inclusion of Unknown Claims in the definition of Released Claims and the foregoing waiver were separately bargained for and a key element of the Settlement of which this release is a material and essential part. If you remain a member of the Settlement Class, all of the Court's orders will apply to you and legally bind you.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want a payment from this Settlement, but you want to keep any right you may have to sue or continue to sue Defendants on your own about the Released Claims, then you must take steps to exclude yourself—or as it is sometimes referred to, you must “opt out” of the Settlement Class.

14. How do I exclude myself from the proposed Settlement?

To exclude yourself from the Settlement Class, you must send a letter by mail stating that you “request exclusion from the Settlement Class in *In re Energy Recovery, Inc. Securities Litigation*, 3:15-cv-00265-EMC (N.D. Cal.)” Your letter must state the date(s), price(s) and number(s) of shares of all your purchases, acquisitions and sales of Energy Recovery common stock during the Settlement Class Period. In addition, be sure to include your name, address, daytime telephone number and your signature. You must mail your exclusion request **postmarked no later than August 4, 2017** to the Claims Administrator at:

In re Energy Recovery, Inc. Securities Litigation
c/o GCG
PO Box 10358
Dublin, OH 43017-0358

You can also exclude yourself by fax or e-mail, provided you submit your notice of exclusion no later than August 4, 2017. Fax or e-mail your notice of exclusion to (855) 409-7129 or Questions@EnergyRecoverySecuritiesLitigation.com. **You cannot exclude yourself by telephone.**

If you ask to be excluded, you will not receive any payment from the Settlement Fund, and you cannot object to the Settlement. You will not be legally bound by anything that happens in this lawsuit, and you may be able to sue Energy Recovery and the other Released Persons about the Released Claims in the future.

15. If I do not exclude myself, can I sue the Defendants, and the other Released Persons later for the Released Claims?

No. Unless you exclude yourself, you give up any rights to sue Defendants and the other Released Persons, or to enforce any existing judgments against any of the Released Persons, for any and all Released Claims. If you have a pending lawsuit against any of the Defendants or the other Released Persons, speak to your lawyer in that case immediately, to determine if you have to exclude yourself from *this* Settlement Class to continue your own lawsuit. Remember, the exclusion deadline is August 4, 2017.

16. If I exclude myself, can I get money from the proposed Settlement?

No. If you exclude yourself, do not send in a Proof of Claim and Release Form to ask for any money. But, you may exercise any right you may have to sue, continue to sue, or be part of a different lawsuit against Defendants and the other Released Persons about the Released Claims.

THE LAWYERS REPRESENTING YOU

17. Do I have a lawyer in this case?

The Court appointed the law firms of Levi & Korsinsky LLP as Lead Counsel, and Punzalan Law, P.C. as liaison counsel to represent all class members. These lawyers are called Plaintiff's Counsel. You will **not** be separately charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

18. How will the lawyers be paid?

Plaintiff's Counsel are moving the Court to award attorneys' fees from the Settlement Fund in an amount not to exceed twenty-five percent (25%) of the Settlement Fund and for reimbursement of their expenses of approximately \$962,500, plus interest on such fees and expenses at the same rate as earned by the Settlement Fund. Plaintiff's Counsel estimates expenses to be equal or less than \$50,000. Plaintiff's Counsel, without further notice to the Settlement Class, may subsequently apply to the Court for fees and expenses incurred in connection with administering and distributing the Settlement proceeds to the members of the Settlement Class and any proceedings subsequent to the Final Approval Hearing. These amounts do not include costs associated with administering the Settlement Fund. The Claims Administrator will be paid separate and apart from any award of fees and expenses in favor of Lead Counsel. The Claims Administrator estimates administration costs of \$145,000.

The attorneys' fees and expenses requested will be the only payment to Lead Counsel for its efforts in achieving the Settlement and for their risk in undertaking this representation on a wholly contingent basis. To date, Lead Counsel has not been paid for its services for conducting this litigation on behalf of Lead Plaintiff and the Class nor for its substantial out-of-pocket expenses. The fee requested will compensate Lead Counsel for its work in achieving the Settlement Fund. The Court may, however, award less than this amount. In that case, the difference will remain with the Settlement Fund.

Separate and apart from the fees and expenses to be paid to Lead Counsel, Lead Plaintiff will seek an incentive award in the amount of \$5,000 in exchange for his efforts during the course of the litigation.

OBJECTING TO THE SETTLEMENT

19. How do I tell the Court that I do not like the proposed Settlement?

If you are a Settlement Class Member, you can ask the Court to deny approval by filing an objection. You can object to the Settlement or any of its terms, the proposed Plan of Allocation, or the application by Plaintiff's Counsel for an award of fees and reimbursement of expenses. You may write to the Court setting out your objections. You may give reasons why you think the Court should not approve any or all of the settlement terms or arrangements and submit any documentation you believe is appropriate. You can't ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue.

The Court will only consider your views if you file a proper objection within the deadline identified and according to the following procedures. To object, you must send a signed letter or other court submission stating that you object to the proposed Settlement in *In re Energy Recovery, Inc. Securities Litigation*, 3:15-cv-00265-EMC (N.D. Cal.). You must include your name, address, telephone number, and your signature, identify the date(s), price(s) and number(s) of shares of all purchases and sales of the Energy Recovery common stock you made during the Settlement Class Period, and state the reasons why you object to the Settlement. Your objection must be filed with the Court and served on all the following counsel so **that it is actually received not merely postmarked on or before August 4, 2017**:

COURT:

Clerk of the Court
United States District Court Northern District of California
450 Golden Gate Avenue
San Francisco, CA 94102

LEAD PLAINTIFF'S COUNSEL:

Nicholas I. Porritt, Esq.
LEVI & KORSINSKY LLP
1101 30th Street NW, Suite 115
Washington, DC 20007

You can also submit your objection by fax or e-mail, provided you submit the objection no later than August 4, 2017. Fax or e-mail your objection to (855) 409-7129 or Questions@EnergyRecoverySecuritiesLitigation.com.

20. What is the difference between objecting and excluding?

Objecting is simply telling the Court that you do not like something about the proposed Settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself, you cannot object because the case no longer affects you. If you object, you must still submit a Proof of Claim to receive a recovery.

THE COURT'S FINAL APPROVAL HEARING

21. When and where will the Court decide whether to approve the proposed Settlement?

The Court will hold a Final Approval Hearing at 1:30 p.m. on August 24, 2017, at the United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102. At this hearing, the Court will consider whether the Settlement is fair, reasonable and adequate. At the Final Approval Hearing, the Court also will consider the proposed Plan of Allocation for the proceeds of the Settlement and the application of Plaintiff's Counsel for attorneys' fees and reimbursement of expenses. The Court will take into consideration any written objections filed in accordance with the instructions at Question 19. The Court also may listen to people who have properly indicated, within the deadline identified above, an intention to speak at the hearing; but decisions regarding the conduct of the hearing will be made by the Court. (Please refer to Question 23 for more information about speaking at the hearing.) The Court will also decide the amount of attorneys' fees and expenses to award Plaintiff's Counsel. After the hearing, the Court will decide whether to approve the Settlement and to enter the Judgment dismissing the Litigation with prejudice. We do not know how long these decisions will take.

You should be aware that the Court may change the date and time of the Final Approval Hearing. Thus, if you want to come to the hearing, you should check with Lead Counsel or by checking with the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov> before coming to be sure that the date and/or time has not changed.

22. Do I have to come to the hearing?

No. Lead Counsel will answer 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. As long as you filed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but attendance is not mandatory. Settlement Class Members do not need to appear at the hearing or take any other action to indicate their approval.

23. May I speak at the hearing?

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 (see Question 19 above) a statement stating that it is your "Notice of Intention to Appear in *In re Energy Recovery, Inc. Securities Litigation*, 3:15-cv-00265-EMC." Settlement Class Members who intend to object to the Settlement, the Plan of Allocation, or Plaintiff's Counsel's application for an award of attorneys' fees and reimbursement of expenses and desire to present evidence at the Final Approval Hearing must include in their written objections the identities of any witnesses they propose to call to testify and any exhibits they intend to offer into evidence at the Final Approval Hearing. You cannot speak at the hearing if you excluded yourself from the Settlement Class or if you have not provided written notice of your intention to speak at the Final Approval Hearing by the deadline identified, and in accordance with the procedures described in Question 19 above.

IF YOU DO NOTHING

24. What happens if I do nothing at all?

If you do nothing, you will get no money from this Settlement and, unless you exclude yourself, you will not be able to start a lawsuit, continue with a lawsuit or be part of any other lawsuit against Defendants or the Released Persons about the claims being released in the Settlement. All members of the Class who do not submit valid and timely Proof of Claim and Release Forms shall be forever barred from receiving any payments from the Settlement, but will in all other respects be subject to and bound by the provisions of the Stipulation and any Judgment entered.

GETTING MORE INFORMATION

25. Are there more details about the proposed Settlement?

This notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Stipulation available at www.EnergyRecoverySecuritiesLitigation.com or www.zlk.com/news, or by requesting in writing a copy of the Stipulation from Class Counsel Nicholas I. Porritt, Esq., Levi & Korsinsky LLP, 1101 30th Street, NW, Suite 115, Washington, DC 20007. For even more detailed information concerning the matters involved in this Litigation, reference is made to the pleadings the Orders entered by the Court, and to the other papers filed in the Action. You may access these documents on the Court's docket in this case through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

You may also contact the Claims Administrator by mail at In re Energy Recovery, Inc. Securities Litigation, c/o GCG, PO Box 10358, Dublin, OH 43017-0358; by fax at (855) 409-7129; by toll-free phone at (844) 634-8908; or by visiting the website www.EnergyRecoverySecuritiesLitigation.com to obtain a Proof of Claim and Release Form, or other information to help you determine whether you are a Settlement Class Member and whether you may be eligible for a payment. Additionally, requests for information may also be made to Lead Counsel for the Class by writing Nicholas I. Porritt, Esq., Levi & Korsinsky LLP, 1101 30th Street NW, Suite 115, Washington, DC 20007.

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE
TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.**

SPECIAL NOTICE TO NOMINEES

If you hold Energy Recovery common stock pursuant to a transaction that took place within the United States within the Class Period, as nominee for a beneficial owner, then you must either: (1) send a copy of this Notice by first-class mail to all such persons or entities within ten (10) calendar days of receipt of this Notice: or (2) provide a list of the names and addresses of such persons or entities to the Claims Administrator at In re Energy Recovery, Inc. Securities Litigation, c/o GCG, PO Box 10358, Dublin, OH 43017-0358 within ten (10) days of receipt of this Notice.

If you choose to mail this Notice and the Proof of Claim and Release 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 or advancement of reasonable administrative costs actually incurred or expected to be incurred in connection with forwarding this Notice, and which would not have been incurred but for the obligation to forward this Notice, upon submission of appropriate documentation to the Claims Administrator.

Dated: April 11, 2017

BY ORDER OF THE COURT
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA