UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

[redacted] Individually and On Behalf of All Others Similarly Situated, Plaintiff, v. ATRICURE, INC., DAVID J. DRACHMAN, and JULIE A. PITON, Defendants.	CIVIL ACTION NO. 1:08-cv-867 CLASS ACTION **COMPLAINT FOR VIOLATIONS OF THE FEDERAL SECURITIES LAWS** DEMAND FOR JURY TRIAL

Plaintiff [redacted] by and through his attorneys, alleges the following upon information and belief, except as to those allegations concerning Plaintiff, which are alleged upon personal knowledge. Plaintiff's information and belief is based upon, among other things, the investigation of Plaintiff's counsel, which includes without limitation: (a) review and analysis of regulatory filings made by AtriCure, Inc. ("AtriCure or the "Company) with the United States Securities and Exchange Commission ("SEC); (b) review and analysis of press releases and media reports issued by and disseminated by AtriCure; and (c) review of other publicly available information concerning AtriCure.

NATURE OF THE ACTION AND OVERVIEW

1. This is a federal class action on behalf of purchasers of AtriCure's securities between May 10, 2007 and October 31, 2008, inclusive (the "Class Period"), seeking to pursue remedies under the Securities Exchange Act of 1934 (the "Exchange Act").

2. AtriCure is a medical device company engaged in the development, manufacture, and sale of cardiac surgical ablation systems designed to create precise lesions, or scars, in cardiac tissue. The Company sells its products to hospitals and medical clinics primarily through its direct sales force in the United States, as well as through distributors in Asia, Europe, South America, and Canada.

3. Plaintiff alleges that Defendants fraudulently inflated AtriCure's securities prices by illegally promoting its products to physicians and illegally causing the filing of false claims for reimbursement. As a result, AtriCure fraudulently misled investors as to its own profitability and inflated its securities price. Specifically, Defendants made false and/or misleading statements and/or failed to disclose: (1) that the Company was illegally promoting its products to physicians; (2) that the Company was illegally causing the filing of false claims for reimbursement; (3) that AtriCure's publicly reported revenue and earnings had been improperly inflated due to the illegal activities during the Class Period; (4) that as a result of Defendants' illegal activities, AtriCure's revenue and earnings reports and forward-looking forecasts issued during the Class Period were false and misleading; (5) that the Company's financial statements and results were not prepared in accordance with Generally Accepted Accounting Principles ("GAAP "); (6) that the Company lacked adequate internal controls; and (7) that the Company knew that its financial results would be materially impacted if the Company were either forced to stop its illegal behavior or unable to continue the illegal behavior.

4. On October 31, 2008 AtriCure shocked investors when the Company revealed that that it had received a letter from the U.S. Department of Justice-Civil Division (the "DOJ) informing the Company that the DOJ was conducting an investigation for potential False Claims Act and common law violations relating to the Company's surgical ablation devices. AtriCure

further disclosed that specifically, the DOJ was investigating the Company's marketing practices utilized in connection with AtriCure's surgical ablation system to treat atrial fibrillation, a specific use outside the Federal Food and Drug Administration's 510(k) clearance. Moreover, the Company revealed that the DOJ was investigating whether AtriCure instructed hospitals to bill Medicare for surgical ablation using incorrect billing codes.

5. On this news, the Company's shares declined $2.53 per share, or 39.41 percent, to close on November 3, 2008 at $3.89 per share, on unusually heavy trading volume.

6. As a result of Defendants' wrongful acts and omissions, and the precipitous decline in the market value of the Company's securities, Plaintiff and other Class Members have suffered significant losses and damages.

JURISDICTION AND VENUE

7. The claims asserted herein arise under and pursuant to Sections 10(b) and 20(a) of the Exchange Act, (15 U.S.C. §§ 78j(b) and 78t(a)), and Rule 10b-5 promulgated thereunder (17 C.F.R. § 240.10b-5).

8. This Court has jurisdiction over the subject matter of this action pursuant to Section 27 of the Exchange Act (15 U.S.C. § 78aa) and 28 U.S.C. § 1331.

9. Venue is proper in this Judicial District pursuant to Section 27 of the Exchange Act, 15 U.S.C. § 78aa and 28 U.S.C. § 1391(b). Many of the acts and transactions alleged herein, including the preparation and dissemination of materially false and misleading information, occurred in substantial part in this Judicial District. Additionally, the Company's principal executive offices are located within this Judicial District.

10. In connection with the acts, conduct and other wrongs alleged in this Complaint, defendants, directly or indirectly, used the means and instrumentalities of interstate commerce,

including but not limited to, the United States mails, interstate telephone communications and the facilities of the national securities exchange.

PARTIES

11. Plaintiff [redacted], as set forth in the accompanying certification, incorporated by reference herein, purchased AtriCure's securities at an artificially inflated price during the Class Period and has been damaged thereby.

12. Defendant AtriCure is a Delaware corporation with its principal executive offices located at 6033 Schumacher Park Drive, West Chester, Ohio, 45069.

13. Defendant David J. Drachman ("Drachman) was, at all relevant times, President, Chief Executive Officer ("CEO), and a director of AtriCure.

14. Defendant Julie A. Piton ("Piton) was, at all relevant times, Chief Financial Officer ("CFO) and Vice President of Finance and Administration of AtriCure.

15. Defendants Drachman and Piton are collectively referred to hereinafter as the "Individual Defendants. The Individual Defendants, because of their positions with the Company, possessed the power and authority to control the contents of AtriCure's reports to the SEC, press releases and presentations to securities analysts, money and portfolio managers and institutional investors, *i.e.*, the market. Each defendant was provided with copies of the Company's reports and press releases alleged herein to be misleading prior to, or shortly after, their issuance and had the ability and opportunity to prevent their issuance or cause them to be corrected. Because of their positions and access to material non-public information available to them, each of these defendants knew that the adverse facts specified herein had not been disclosed to, and were being concealed from, the public, and that the positive representations which were being made were then materially false and/or misleading. The Individual

Defendants are liable for the false statements pleaded herein, as those statements were each "group-published information, the result of the collective actions of the Individual Defendants.

SUBSTANTIVE ALLEGATIONS

Background

16. AtriCure is a medical device company, engaged in the development, manufacture, and sale of cardiac surgical ablation systems designed to create precise lesions, or scars, in cardiac tissue. Among others, the Company provides AtriCure Isolator, which consists of an ablation sensing unit, a compact power generator that delivers bipolar radio-frequency energy; and AtriCure switch box, a compact switch box, which provides the technology needed for the dual pulsing electrodes, and ability to connect and toggle between multiple devices, including clamps and multifunctional pen. The Company sells its products to hospitals and medical clinics primarily through its direct sales force in the United States, as well as through distributors in Asia, Europe, South America, and Canada.

Materially False and Misleading Statements Issued During the Class Period

17. The Class Period begins on May 10, 2007. On this day, AtriCure issued a press release entitled, "AtriCure Reports First Quarter 2007 Financial Results. Therein, in relevant part, the Company stated:

Highlights

- Record consolidated revenues of $10.8 million
- Record domestic open revenues of $6.6 million
- Full commercial release of our open Isolator Synergy(TM) ablation system
- Achievement of key regulatory milestones

AtriCure, Inc. (Nasdaq: ATRC), a medical device company focused on developing, manufacturing and selling innovative

surgical devices, today announced record revenues for the first quarter ended March 31, 2007.

"We are pleased with our first quarter financial results and extremely encouraged regarding our achievement of a series of product and regulatory milestones, including the full commercial release of our open Isolator Synergy(TM) ablation system," said David Drachman, President and Chief Executive Officer. "Additional achievements included a FDA regulatory filing in support of a cardiac ablation indication for our Isolator(R) bipolar ablation clamps and our FDA filing to support our left atrial appendage occlusion clip. Importantly, we filed an extension for a new arm of our minimally invasive clinical trial, RESTORE-SR IIB, designed to investigate our endoscopic Isolator Synergy(TM) system and our multifunctional bipolar Pen for treating patients with persistent and permanent atrial fibrillation. We are confident that the achievement of these major milestones will facilitate the increased adoption of our open and MIS products."

First Quarter 2007 Financial Results

First quarter 2007 consolidated revenues were $10.8 million, a 24.5% year-over-year increase compared to revenues of $8.6 million for the first quarter of 2006 and a 1.4% sequential increase compared to revenues of $10.6 million for the fourth quarter of 2006. First quarter 2007 revenues from domestic products used in open procedures were $6.6 million, a 17.8% year-over-year increase compared to revenues of $5.6 million for the first quarter of 2006 and a 3.2% sequential increase. Revenues from domestic minimally invasive products were $3.0 million, a 32.5% year-over-year increase compared to revenues of $2.2 million for the first quarter of 2006 and a 9.8% sequential decrease. International revenues were $1.2 million, a 47.4% year-over-year increase compared to revenues of $0.8 million for the first quarter of 2006 and a 28.4% sequential increase.

First quarter 2007 gross profit was $8.5 million, resulting in a gross margin of 79.4%, compared to a gross margin of 81.5% for the first quarter of 2006 and 77.8% for the fourth quarter of 2006. The change in gross margin as compared to the first quarter of 2006 was primarily due to the introduction of new products, which initially carry a higher product cost. The change in gross margin as compared to the fourth quarter of 2006 was primarily due to a fourth quarter inventory valuation charge of $0.2 million.

> Research and development expenses for the first quarter of 2007 were $3.1 million, a 7.5% increase over the first quarter of 2006 and a decrease of 2.4% as compared to the fourth quarter of 2006. Selling, general and administrative expenses, or SG&A, were $10.3 million, a 37.2% increase as compared to $7.5 million in the first quarter of 2006 and an 8.3% increase over $9.5 million in the fourth quarter of 2006. The increase in SG&A as compared to the first quarter of 2006 was primarily due to increased selling and marketing expenses, increased stock-based compensation expense and $0.3 million in costs associated with the proposed settlement of a legal dispute with a former European distributor.
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> Operating loss for the first quarter of 2007 was $4.9 million as compared to $3.4 million for the first quarter of 2006 and $4.5 million for the fourth quarter of 2006. Interest and other income for the first quarter of 2007 included $0.3 million of grant income. Loss per share was $0.35 for the first quarter of 2007 as compared to $0.26 for the first quarter of 2006 and $0.35 for the fourth quarter of 2006. First quarter 2007 results include stock- based compensation expense of $0.6 million, or $0.05 per share, including a valuation adjustment of $0.2 million, or $0.02 per share. First quarter 2006 results included $0.2 million of stock-based compensation expense, or $0.01 per share.
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> Cash, cash equivalents and investments at March 31, 2007 were $16.0 million. Cash used in operations was $3.0 million for the first quarter of 2007 as compared to $3.8 million for the first quarter of 2006.
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> **Financial Guidance**
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> The Company is confirming its full year 2007 guidance of $48 to $50 million for revenues and an expected net loss per share between $0.95 and $1.05. For the second quarter of 2007, the Company expects revenues to be between $11.6 and $12.3 million.

(Emphasis in original).

18. On May 15, 2007 AtriCure filed its Quarterly Report with the SEC on Form 10-Q for the 2007 fiscal first quarter. The Company's 10-Q was signed by Defendants Drachman and Piton, and reaffirmed the Company's financial results announced on May 10, 2007.

19. The Company's 10-Q filed on May 15, 2007 also contained Sarbanes-Oxley required certifications, signed by Defendants , who certified:

1. I have reviewed this quarterly report on Form 10-Q of AtriCure, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:

   a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b. evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   c. disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a. all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

20. On August 9, 2007 AtriCure issued a press release entitled, "AtriCure Reports Record Second Quarter 2007 Financial Results. Therein, in relevant part, the Company stated:

Highlights

- Total revenues increased to $12.4 million - up 28% over second quarter 2006
- Record domestic MIS revenues of $4.0 million - up 47% over second quarter 2006
- Record 83 medical centers perform MIS procedures during the quarter
- Domestic open-heart revenues of $6.8 million - up 21% over second quarter 2006
- Frigitronics(R) cardiac product line acquired - expands technology platform
- Isolator(R) bipolar ablation clamp system receives 510(k) clearance for cardiac use

AtriCure, Inc. (Nasdaq: ATRC), a medical device company focused on developing, manufacturing and selling innovative cardiac surgical devices, today announced record revenues of $12.4 million for the second quarter ended June 30, 2007, with each business sector setting new revenue records.

"We are pleased with our financial results and confident that we are building momentum across all sectors of our business. We are well positioned to expand the treatment alternatives for patients and grow the markets for our products," said David J. Drachman,

President and Chief Executive Officer. "Based on encouraging clinical reports using our minimally invasive platform, our products are being more broadly adopted and our Isolator Synergy(TM) system is fueling favorable growth trends in our open-heart business. The Isolator Synergy(TM) system demonstrates our Company's commitment to innovation and superior patient outcomes. Being first with a 510(k) cardiac tissue clearance in support of bipolar ablation clamps is a competitive advantage and demonstrates our Company's commitment to finding solutions that stimulate growth."

Second Quarter 2007 Financial Results

Second quarter 2007 revenues were $12.4 million, a 28.0% increase over second quarter 2006 revenues of $9.6 million and a 14.9% increase over first quarter 2007 revenues of $10.8 million. Revenues from domestic open-heart products were $6.8 million, a 20.6% increase compared to $5.7 million in the second quarter of 2006 and a 4.4% increase over first quarter 2007 revenues of $6.6 million. Revenues from domestic minimally invasive products were $4.0 million, representing a 47.0% increase over second quarter 2006 revenues of $2.7 million and a $1.0 million, or 34.1%, increase over first quarter 2007 revenues of $3.0 million. International revenues were $1.5 million, a 20.5% increase over second quarter 2006 revenues and a 24.6% sequential increase.

Gross profit was $9.8 million and gross margin was 79.4%, compared to gross profit of $7.9 million and a gross margin of 81.5% for the second quarter of 2006. For the first quarter of 2007, gross margin was 79.4%. The decrease in gross margin as compared to the second quarter of 2006 was primarily due to the introduction of new products, which initially carry a higher product cost.

Operating expenses were $13.0 million for the second quarter of 2007 as compared with $11.4 million for the second quarter of 2006. The increase in operating expenses was primarily due to an increase in sales and marketing expenses. The net loss for the second quarter of 2007 was $2.8 million as compared to $3.2 million for the second quarter of 2006 and $4.3 million for the first quarter of 2007. Loss per share was $0.22 for the second quarter of 2007 on 12.9 million average shares outstanding as compared with a net loss of $0.26 per share on 12.1 million average shares outstanding for the second quarter of 2006. The net loss for the first quarter of 2007 was $4.3 million, or $0.35 per share, on 12.3 million average shares outstanding. The increase in average shares

outstanding was primarily due to the issuance of 1.8 million shares on May 30, 2007 in a private placement transaction.

Cash, cash equivalents and short-term investments were $28.7 million at June 30, 2007 and there were 14.1 million shares of common stock outstanding. Cash used in operations was $5.6 million for the first six months of 2007 compared with $6.2 million for the first six months of 2006.

Acquisition of Frigitronics(R) CCS-200 Product Line for Cardiac Ablation

On August 7, 2007, AtriCure acquired the Frigitronics(R) cryogenic product line for use in cardiac surgical ablation procedures and certain related assets from CooperSurgical, Inc., a unit of The Cooper Companies, Inc. (NYSE: COO), for an aggregate purchase price of $3,661,536. The acquired product line includes the Frigitronics(R) console, which is currently used in combination with a variety of reusable cardiac ablation probes. Prior to the acquisition, AtriCure was a worldwide distributor of the product line.

"We are enthusiastic about this acquisition and we believe that the Frigitronics(R) system represents the gold standard for cryogenic cardiac surgical ablation. It has a long successful history and broad adoption in cardiac surgery which we attribute to its superior thermal dynamics. We estimate that there are more than 400 installed consoles in cardiac centers throughout the United States," said David Drachman. "There is a growing market opportunity for cryogenic ablation probes during concomitant open-heart procedures. We are in the process of developing disposable cryogenic ablation probes, which we plan to use with the Frigitronics(R) console to capitalize on this growing market opportunity. Additionally these assets will broaden our technology platform and complement our existing open-heart products, which we believe will create a significant competitive advantage."

Financial Guidance

The Company is confirming its full year 2007 guidance of $48 to $50 million in anticipated revenues and an expected net loss per share between $0.95 and $1.05. For the third quarter of 2007, which is a seasonally light quarter, the Company expects revenues between $11.3 and $12.0 million. "We are maintaining our full year net loss per share guidance. This reflects the impact of our anticipated expenses to support our cryogenic disposable probe

> development offset by the benefit to the loss per share calculation that results from the additional shares issued in the private placement offering," said David Drachman.

(Emphasis in original).

21. On August 14, 2007 AtriCure filed its Quarterly Report with the SEC on Form 10-Q for the 2007 fiscal second quarter. The Company's 10-Q was signed by Defendants Drachman and Piton, and reaffirmed the Company's financial results announced on August 9, 2007. The Company's 10-Q also contained Sarbanes-Oxley required certifications signed by Defendants Drachman and Piton, substantially similar to the certifications contained in ¶19, *supra*.

22. On November 6, 2007 AtriCure issued a press release entitled, "AtriCure Reports Third Quarter 2007 Financial Results. Therein, in relevant part, the Company stated:

> **Highlights**
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> - Total revenues of $12.1 million - up 29% over third quarter 2006
> - Net loss narrows to $2.6 million - record performance
> - Domestic open-heart revenues of $6.7 million - up 22% over third quarter 2006
> - Domestic minimally invasive product revenues of $3.5 million - up 28% over third quarter 2006
> - Record international revenues of $1.8 million - up 65% over third quarter of 2006
> - Initial human implants - left atrial appendage clip system
> - Minimally invasive Isolator Synergy(TM) system released
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> AtriCure, Inc. (Nasdaq: ATRC), a medical device company and leader in cardiac surgical ablation systems, today announced revenues of $12.1 million for its third quarter ended September 30, 2007. The net loss for the quarter was $2.6 million, the most favorable performance since becoming a public company.
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> "We are encouraged by our momentum, operating leverage and overall financial performance during the third quarter. The men and women of AtriCure have amassed greater penetration and stronger market presence in each of our current business sectors. Additionally, we believe that our left atrial appendage clip system

will develop into a new business sector and represents a new high growth opportunity for our Company," said David J. Drachman, President and Chief Executive Officer. "We strongly believe that no other atrial fibrillation company is better prepared or positioned than AtriCure to deliver results for patients, physicians and shareholders."

Third Quarter 2007 Financial Results

Third quarter 2007 revenues were $12.1 million, a 28.8% increase over third quarter 2006 revenues of $9.4 million and, impacted by seasonality, a 2.4% decrease as compared to second quarter 2007 revenues of $12.4 million. Revenues from domestic open-heart products were $6.7 million, a 21.9% increase compared to $5.5 million in the third quarter of 2006 and relatively consistent with revenues for the second quarter of 2007. Revenues from domestic minimally invasive products were $3.5 million, representing a 28.0% increase over third quarter 2006 revenues of $2.8 million and a $0.5 million decrease over second quarter 2007 revenues of $4.0 million. International revenues were a record $1.8 million, a 64.6% increase over third quarter 2006 revenues and a 20.3% sequential quarter increase.

Third quarter 2007 gross profit was $9.3 million and gross margin was 77.1%, compared to gross profit of $7.5 million and a gross margin of 79.8% for the third quarter of 2006. The gross margin for the second quarter of 2007 was 79.4%. The decrease in gross margin as compared to the third quarter of 2006 and sequentially, was primarily due to an increased mix of international revenues which generally provide a lower gross margin than domestic revenues, and the introduction of new products which initially drive a higher product cost.

Operating expenses were $12.2 million for the third quarter of 2007 as compared with $10.9 million for the third quarter of 2006. The increase in operating expenses was primarily due to an increase in sales and marketing expenses. The net loss for the third quarter of 2007 was $2.6 million as compared to $3.2 million for the third quarter of 2006 and $2.8 million for the second quarter of 2007. Net loss per share was $0.18 for the third quarter of 2007 as compared with a loss per share of $0.26 for the third quarter of 2006. The net loss for the second quarter of 2007 was $2.8 million, or $0.22 per share.

> Cash, cash equivalents and short-term investments were $21.2 million at September 30, 2007 and there were 14.1 million shares of common stock outstanding.
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> **Financial Guidance**
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> For the full year 2007, the Company is narrowing its revenue guidance range and lowering its net loss per share guidance. The Company expects annual 2007 revenues to be in the range of $48.0 to $48.7 million and net loss per share to be in the range of $0.92 to $0.97 per share. For the fourth quarter 2007, revenues are expected to be between $12.8 and $13.5 million.

(Emphasis in original).

23. On November 14, 2007 AtriCure filed its Quarterly Report with the SEC on Form 10-Q for the 2007 fiscal third quarter. The Company's 10-Q was signed by Defendants Drachman and Piton, and reaffirmed the Company's financial results announced on November 6, 2007. The Company's 10-Q also contained Sarbanes-Oxley required certifications signed by Defendants Drachman and Piton, substantially similar to the certifications contained in ¶19, *supra*.

24. On February 14, 2008 AtriCure issued a press release entitled, "AtriCure Reports Fourth Quarter and Full Year 2007 Record Financial Results. Therein, in relevant part, the Company stated:

> **Highlights**
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> - Record 2007 revenues of $48.3 million - up 26% over 2006
> - Record 2007 domestic open-heart revenues of $27.3 million - up 18%
> - Record 2007 minimally invasive product revenues of $14.4 million - up 31%
> - Record 2007 international revenues of $6.6 million - up 58%
> - Fourth quarter 2007 net loss narrows to record low of $1.6 million
> - ABLATE clinical trial initiated

AtriCure, Inc. (Nasdaq: ATRC), a medical device company and leader in cardiac surgical ablation systems, today announced record revenues for 2007 of $48.3 million and record quarterly revenues of $13.2 million for its fourth quarter 2007. The net loss for the quarter was $1.6 million, a $2.7 million, or 63.3 %, improvement over the fourth quarter of 2006 and the most favorable performance since becoming a public company.

"We are very encouraged by our 2007 performance and financial results. We have achieved high revenue growth in all of our business sectors and we are demonstrating strong operating leverage. Importantly, there are several key market indicators which we believe suggest that our minimally invasive business sector is positioned to gain rapid and increasing physician adoption," said David J. Drachman, President and Chief Executive Officer. "During 2007, the extraordinary men and women of AtriCure have further positioned our Company to make significant contributions toward improving and preserving human life. We strongly believe that no other atrial fibrillation company is better prepared or positioned than AtriCure to deliver results for patients, physicians and shareholders."

Record 2007 Financial Results

Revenues for 2007 were a record $48.3 million, a 26.3% increase over 2006 revenues of $38.2 million. Revenues from domestic open-heart products were $27.3 million, an 18.5% increase when compared with domestic open-heart product revenues of $23.1 million for 2006. Revenues from domestic minimally invasive products were $14.4 million, representing a 30.6% increase over 2006 revenues of $11.0 million. International revenues grew to $6.6 million, a 58.5% increase over 2006 revenues of $4.2 million.

Gross profit for 2007 was $38.2 million and gross margin was 79.0%, compared to gross profit of $30.6 million and gross margin of 80.1% for 2006. The decrease in gross margin for 2007 as compared to 2006 was primarily due to an increased mix of international revenues which generally provide a lower gross margin than domestic revenues. Operating expenses were $50.7 million for 2007 as compared with $45.4 million for 2006. The increase in operating expenses was primarily due to an increase in sales and marketing expenses. The net loss for 2007 was $11.3 million as compared to $13.7 million for 2006. Net loss per share was $0.84 for 2007 as compared with a net loss per share of $1.13 for 2006.

Cash, cash equivalents and short-term investments were $20.0 million at December 31, 2007 and 14.1 million shares of common stock were outstanding.

Record Fourth Quarter 2007 Financial Results

Revenues for the fourth quarter of 2007 were a record $13.2 million, a 24.1% increase over the fourth quarter of 2006 and a sequential increase of 9.1% over the third quarter of 2007. Revenues from domestic open-heart products were $7.3 million, a 14.2% increase over the fourth quarter of 2006 of $6.3 million and an 8.4% sequential increase. Revenues from domestic minimally invasive products were $3.9 million, representing a 17.9% increase over fourth quarter 2006 revenues of $3.3 million and a sequential increase of 10.1%. International revenues grew to a record $2.0 million for the fourth quarter of 2007, a 111.3% increase over fourth quarter 2006 revenues of $1.0 million and a sequential increase of 9.8%.

Gross profit for the fourth quarter of 2007 was $10.5 million and gross margin was 80.1%, compared to gross profit of $8.2 million and a gross margin of 77.8% for the fourth quarter of 2006. The improvement in gross margin was primarily associated with a fourth quarter 2006 inventory valuation adjustment. Operating expenses were $12.2 million for the fourth quarter of 2007, a decrease of $0.5 million or 4.2%, as compared with fourth quarter 2006 operating expenses of $12.7 million and, sequentially, operating expenses were comparable with the third quarter of 2007. The decrease in operating expenses as compared with the fourth quarter of 2006 was primarily due to a reduction in administrative related expenses.

The net loss for the fourth quarter of 2007 was $1.6 million, a record low since becoming a public company and a $2.7 million, or 63.3%, improvement as compared with the fourth quarter 2006 net loss of $4.3 million. Sequentially, the net loss improved by $1.0 million, or 39.8%, driven primarily by increased revenues and gross profit on comparable total operating expenditures. Net loss per share was a record low of $0.11, an improvement of 68.6% or $0.24 per share, as compared to the fourth quarter 2006 net loss per share of $0.35. The improvement in the net loss per share for the fourth quarter of 2007 as compared with the fourth quarter of 2006 was primarily due to increased revenues and gross profit combined with a slight reduction in operating expenses. Sequentially, net loss per share improved by 38.9% or $0.07 per share over the third quarter of 2007.

> **Financial Guidance**
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> For 2008, the Company expects annual revenues to be in the range of $58 to $60 million and net loss per share to be in the range of $0.55 to $0.70. "As we look forward to 2008, we believe AtriCure is well positioned to further develop and gain share in each of the markets in which we compete," said David J. Drachman. "The AF market continues to evolve and we look forward to continued execution of our strategy and further expanding on our strong leadership position."

(Emphasis in original).

25. On March 17, 2008 AtriCure filed its Annual Report with the SEC on Form 10-K for the 2007 fiscal year. The Company's 10-K was signed by Defendants Drachman and Piton, and reaffirmed the Company's financial results announced on February 14, 2008. The Company's 10-K also contained Sarbanes-Oxley required certifications signed by Defendants Drachman and Piton, substantially similar to the certifications contained in ¶19, *supra*.

26. The Company's 10-K filed on March 17, 2008, in relevant part, stated therein:

> Because the [Food and Drug Administration (the "FDA)] has not cleared our products for the treatment of [atrial fibrillation ("AF)], **we and others acting on our behalf may not promote our products for the treatment of AF, make any claim that they are safe and effective for the treatment of AF or train doctors to use them for the treatment of AF outside of the clinical trial setting**. However, these restrictions do not prevent doctors from choosing to use our Isolator® system and other products for the treatment of AF or prevent us from engaging in sales and marketing efforts that focus only on the general attributes of our products and their FDA-cleared uses and not on the treatment of AF. **Although we educate and train doctors as to the general skills involved in the proper use of our products, it is our policy not to educate or train them to use our products for the treatment of AF**. We provide information to physicians in response to their unsolicited requests, and also consider requests and often support physician training by providing educational grants to be used for university and physician training programs, the content for which is intended to be developed independently of AtriCure.

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Sales, Marketing and Medical Education

Our United States sales and marketing efforts focus on educating doctors concerning our unique technologies and the technical benefits of our Isolator® system for the ablation of cardiac tissue. **It is our policy not to market or promote our products for the treatment of AF**. Our sales personnel visit cardiac surgeons, electrophysiologists and other doctors to discuss the general attributes of our Isolator® system to ablate cardiac tissue, and they also promote our multifunctional pen for temporary pacing, sensing, stimulating and recording during the evaluation of cardiac arrhythmias during cardiac surgical ablation procedures and our Lumitip™ dissector for the dissection of soft tissues during general, thoracic and certain other surgical procedures. We train our sales force on the use of our Isolator® system to treat AF so that they are able to respond to unsolicited requests from doctors for information on the use of our Isolator® system for the treatment of AF. In addition, medically trained clinical applications specialists attend surgical procedures to discuss the use of our Isolator® system to ablate cardiac tissue and to respond in a non-promotional manner to unsolicited requests for information on the use of our Isolator® system for the treatment of AF.

We have entered into consulting agreements with leading scientists, cardiothoracic surgeons and electrophysiologists who assist us with the design, clinical testing and evaluation of our products, education of doctors on the use of our technologies and provide advice concerning regulatory submissions. We work closely with these thought leaders to understand unmet needs and emerging applications related to the ablation of cardiac tissues and the treatment of AF. We also provide educational grants to several leading medical centers. These institutions have used these grants to sponsor activities to evaluate the effectiveness of our Isolator® system and our other products and technology, which has increased the number of peer-review publications that cite the use of our Isolator® system. These grants have also been used by these institutions to sponsor independent educational programs relating to AF, including programs which focus on the surgical treatment of AF using our Isolator® system. We provide some guidance to physicians and medical institutions regarding what physicians are available and qualified for training other physicians in the use of our Isolator® system in the treatment of AF.

We have formed a healthcare compliance committee in support of our ongoing compliance efforts with applicable federal and state healthcare laws and regulations. This committee has instituted standard operating procedures relating to our marketing and promotional activities, grant review and funding procedures, and the training and education of our sales force. Our training and educational programs include training on federal and state requirements for marketing medical devices and we maintain continuous oversight of our grant application and funding procedures and requirements.

***

Third-Party Reimbursement

Payment for patient care in the United States is generally made by third-party payors. These payors include private insurers and government insurance programs, such as Medicare or Medicaid. The Medicare program, the largest single payor in the United States, is a federal health benefit program administered by the Centers for Medicare and Medicaid Services, or CMS, and covers certain medical care items and services for eligible beneficiaries, such as individuals over 65 years old, as well as chronically disabled individuals. Reimbursement under Part A of the Medicare program includes hospitals and other institutional services, while Part B of Medicare includes doctors' services. Because Medicare beneficiaries comprise a large percentage of the populations for which our Isolator® system is used, and private insurers may follow the coverage and payment policies for Medicare, Medicare's coverage and payment policies are significant to our operation.

Medicare's Part A program pays hospitals for inpatient services under the Inpatient Prospective Payment System, which provides a pre-determined payment based on the patient's discharge diagnosis. Discharge diagnoses are grouped into Diagnosis Related Groups, or DRGs. Effective October 2007, Medicare hospital reimbursement moved to a severity-adjusted DRG system. This severity-based DRG system considers a patient's co-morbidities and procedural complications in determining the DRG assignment, or code. We do not expect these changes to have a material impact on our business or revenues. There are several cardiac surgery DRGs associated with the surgical treatment of AF with and without a concomitant open-heart procedure. When an ablation device is used during a

concomitant open-heart procedure, its reimbursement is included in the primary open-heart DRG. Reimbursement for sole-therapy minimally invasive AF treatment is represented by unique cardiac surgery DRGs. Each year, Medicare's inpatient coding, coverage, and payment polices are subject to change. As a result, the continuance of current coverage, coding or payment determinations cannot be guaranteed, and any change may have an adverse impact on our operations.

Doctors are reimbursed for their services separately under the Medicare Part B physician fee schedule. When surgically treating AF with and without a concomitant open-heart procedure, surgeons must select the appropriate Current Procedural Terminology, or CPT, codes to receive payment. These billing codes identify the procedure or procedures performed and are relied upon to determine third-party payor amounts. In terms of physician reimbursement for surgical ablation procedures, on January 1, 2007 several new CPT codes for sole-therapy surgical ablation procedures were published by the American Medical Association, or AMA, in the CPT coding book for 2007. The "one-size fits all maze CPT code was deleted effective December 31, 2006. In its place, surgeons now have the choice of five different CPT codes for sole-therapy ablation procedures depending on the extent of the procedure and ablation performed.

During 2007 when an ablation was performed during an open-heart concomitant procedure, per AMA guidelines, surgeons were directed to use the miscellaneous CPT code for cardiac surgery. Generally, payors require surgeons to submit documentation that establishes the medical necessity for the ablation procedure when a miscellaneous CPT code is used. However, reimbursement is determined solely by the payor. Based on this change, we expected and believe that the reimbursement for open-heart concomitant procedures was less during 2007 when compared to the preceding year and we believe this had a negative impact on the demand for our open-heart products during 2007. Effective January 1, 2008, three new CPT codes were introduced for cardiac ablation when performed concomitantly. The 2008 codes are "add-on codes and will allow the physician to obtain full reimbursement for the ablation procedure and the primary procedure. Prior to 2007, the reimbursement for the ablation under the "one-size fits all maze CPT code was reduced by at least 50% when the ablation was performed concomitantly during open-heart surgery. We believe this is change could have a positive impact on the demand for our products which are used during open-heart procedures during 2008.

Currently, we believe that the AF treatment reimbursement rates are adequate for hospitals to cover the use of our Isolator® system. In 2007, we estimate that the national Medicare average hospital payment rate for an open-heart procedure, whether or not the AF treatment was included, was approximately $17,500 to $40,000 depending on the type of open-heart procedure being performed, the geographic region and the type of facility. The cost of AF treatment performed during open-heart surgical procedures is not reimbursed separately by the Medicare program. For example, reimbursement for open-heart surgical procedures include supplies, such as an ablation device, but exclude doctor's fees for these procedures, which payors remit to doctors in addition to the amounts paid to hospitals. We estimate that Medicare's national average reimbursement to hospitals for AF treatment performed as a sole-therapy minimally invasive treatment was approximately $28,000 in 2007. Effective October 2007, Medicare hospital reimbursement moved to a severity-adjusted DRG system. Although we currently expect a modest decline in the average reimbursement for hospitals as a result of this change, we do not expect these changes to have a material impact on our business or revenues. Reimbursement rates from other third-party payors may be the same as or higher or lower than Medicare rates, depending on their particular reimbursement methodology.

In addition to the Medicare program, many private payors look to CMS policies as a guideline in setting their coverage policies and payment amounts. The current coverage policies of these private payors may differ from the Medicare program, and the payment rates they make may be higher, lower, or the same as the Medicare program. If CMS or other agencies decrease or limit reimbursement payments to doctors and hospitals, this may negatively affect coverage and reimbursement determinations by many private payors. Additionally, some private payors do not follow the Medicare guidelines, and those payors may reimburse only a portion of the cost of AF treatment, or not at all.

Our Isolator® system and multifunctional pen have received FDA clearance for the ablation of cardiac tissue. However, because the FDA generally does not regulate the practice of medicine, doctors may use our Isolator® system and other products in circumstances where they deem it medically appropriate, even though the FDA has not approved or cleared our products for that indication. In these circumstances, some government or private payors, including some Medicare carriers, may make coverage and payment determinations on a case-by-case

> basis. Additionally, some government or private payors may deem the treatment of AF using our products for indications not approved or cleared by the FDA to be experimental or not medically necessary and, as such, may not provide coverage or payment.

(Emphasis added).

27. On May 6, 2008 AtriCure issued a press release entitled, "AtriCure Reports First Quarter 2008 Financial Results. Therein, in relevant part, the Company stated:

> **Highlights**
>
> - Record consolidated revenues of $13.5 million - up 26% over 2007
> - Record revenues from minimally invasive products - $4.9 million - up 65%
> - Record number of minimally invasive procedures performed in 92 U.S. centers
> - Release of Coolrail(TM) linear ablation device and ORLab(TM) mapping system
>
> AtriCure, Inc. (Nasdaq: ATRC), a medical device company and a leader in cardiac surgical ablation systems, today announced record first quarter 2008 revenues of $13.5 million and record revenues from minimally invasive products of $4.9 million, a 65.3% increase over the first quarter of 2007.
>
> "We are pleased with our first quarter financial results. Adoption of our minimally invasive platform is growing rapidly, evidenced by increased physician adoption and a record 92 U.S. medical centers performing procedures during the first quarter. Minimally invasive results for the quarter confirm the power of our strategy and our capacity to quickly develop and commercialize innovative cardiac ablation systems," said David Drachman, President and Chief Executive Officer. "Moving forward, we believe that our recently released Coolrail(TM) linear ablation device and ORLab(TM) mapping system, when used with our other leading minimally invasive products, will accelerate the adoption and growth of our minimally invasive business."
>
> **First Quarter 2008 Financial Results**
>
> Revenues for the first quarter of 2008 were a record $13.5 million, a 25.9% increase over the first quarter of 2007 and a sequential

> increase of 2.9% over the fourth quarter of 2007. Revenues from domestic open-heart products were $7.0 million, a 6.1% increase over first quarter 2007 revenues of $6.6 million and a $0.3 million sequential decrease. Revenues from domestic minimally invasive products were a record $4.9 million, representing a 65.3% increase over first quarter 2007 revenues of $3.0 million and a sequential increase of $1.0 million, or 26.5%. International revenues were $1.7 million for the first quarter of 2008, a 35.6% increase over first quarter 2007 revenues of $1.2 million and a sequential decrease of $0.3 million.
>
> Gross profit for the first quarter of 2008 was $10.3 million and gross margin was 76.1%, compared to gross profit of $8.5 million and gross margin of 79.4% for the first quarter of 2007. The decrease in gross margin was due primarily to the introduction of new products. Operating expenses were $14.2 million for the first quarter of 2008, a 5.8% increase over first quarter 2007 operating expenses of $13.4 million. The increase in operating expenses as compared with the first quarter of 2007 was primarily driven by an increase in selling expenses.
>
> The net loss for the first quarter of 2008 was $3.6 million as compared to a $4.3 million net loss for the first quarter of 2007, an improvement of 16.2%. Net loss per share was $0.25, an improvement of 28.6%, or $0.10 per share, as compared to the first quarter 2007 net loss per share of $0.35. The improvement in the net loss per share for the first quarter of 2008 as compared with the first quarter of 2007 was primarily due to increased net income and an increase in shares outstanding, due primarily to the issuance of 1.8 million shares of our common stock in a May 2007 private placement transaction.
>
> Cash, cash equivalents and investments at March 31, 2008 were $14.9 million.
>
> **Financial Guidance**
>
> The Company is confirming its full year 2008 guidance of $58 to $60 million for revenues and an expected net loss per share between $0.55 and $0.70.

(Emphasis in original).

28. On May 8, 2008 AtriCure filed its Quarterly Report with the SEC on Form 10-Q for the 2008 fiscal first quarter. The Company's 10-Q was signed by Defendants Drachman and

Piton, and reaffirmed the Company's financial results announced on May 6, 2008. The Company's 10-Q also contained Sarbanes-Oxley required certifications signed by Defendants Drachman and Piton, substantially similar to the certifications contained in ¶19, *supra*.

29. On August 5, 2008 AtriCure issued a press release entitled, "AtriCure Reports Record Second Quarter 2008 Financial Results. Therein, in relevant part, the Company stated:

Highlights

- Record consolidated revenues of $14.9 million
- Record revenues from domestic MIS products - $5.1 million
- Record international revenues of $2.3 million - 49% growth
- Net loss improves 43% to $1.6 million
- Secured $10 million credit facility - expands capital resources
- Reported MIS procedure times of 60 minutes and hospital stays of two days or less

AtriCure, Inc. (Nasdaq: ATRC), a medical device company and a leader in cardiac surgical ablation systems, today announced record second quarter 2008 revenues of $14.9 million and record revenues for each line of business.

"Based on our encouraging financial trends, available cash and newly secured credit facility, we are well positioned to drive toward profitability," said David J. Drachman, President and Chief Executive Officer. "Importantly, minimally invasive procedure times of 60 minutes and patients discharged from the hospital at two days or less, combined with our reported clinical results are clear indicators of our progress and the large and growing opportunity for our products."

Second Quarter 2008 Financial Results

Revenues for the second quarter of 2008 were a record $14.9 million, a 20.3% increase over the second quarter of 2007 and a sequential increase of 9.8% over the first quarter of 2008. Revenues from domestic open-heart products were a record $7.4 million, an 8.9% increase over second quarter 2007 revenues of $6.8 million and a 7.2% sequential increase. Revenues from domestic minimally invasive products were a record $5.1 million, representing a 28.8% increase over second quarter 2007 revenues of $4.0 million and a sequential increase of 4.5%. International revenues were a record $2.3 million for the second quarter of 2008,

> a 48.9% increase over second quarter 2007 revenues of $1.5 million and a sequential increase of 36.9%.
>
> Gross profit for the second quarter of 2008 was $11.4 million and gross margin was 76.5%, compared to gross profit of $9.8 million and gross margin of 79.4% for the second quarter of 2007. The decrease in gross margin was due primarily to the introduction of new products and an increased mix of international business. Operating expenses were $13.2 million for the second quarter of 2008, a 1.7% increase over second quarter 2007 operating expenses of $13.0 million. The increase in operating expenses was primarily due to an increase in selling expenses and market development activities to support revenue growth, partially offset by an overall reduction in administrative costs.
>
> The net loss for the second quarter of 2008 was $1.6 million as compared to a $2.8 million net loss for the second quarter of 2007, an improvement of 42.7%. Net loss per share was $0.11, an improvement of 50.0%, or $0.11 per share, as compared to the second quarter 2007 net loss per share of $0.22.
>
> Cash, cash equivalents and investments at June 30, 2008 were $11.9 million. On July 1, 2008, the Company entered into a $10.0 million, two-year revolving credit facility.
>
> **Financial Guidance**
>
> The Company is reaffirming its full year 2008 guidance of $58 to $60 million for revenues and an expected net loss per share between $0.55 and $0.70.

(Emphasis in original).

30. On August 11, 2008 AtriCure filed its Quarterly Report with the SEC on Form 10-Q for the 2008 fiscal second quarter. The Company's 10-Q was signed by Defendants Drachman and Piton, and reaffirmed the Company's financial results announced on August 5, 2008. The Company's 10-Q also contained Sarbanes-Oxley required certifications signed by Defendants Drachman and Piton, substantially similar to the certifications contained in ¶19, *supra*.

31. The statements contained in ¶¶17-30 were materially false and/or misleading when made because defendants failed to disclose and/or indicate the following: (1) that the Company was illegally promoting its products to physicians; (2) that the Company was illegally causing the filing of false claims for reimbursement; (3) that AtriCure's publicly reported revenue and earnings had been improperly inflated due to the illegal activities during the Class Period; (4) that as a result of Defendants' illegal activities, AtriCure's revenue and earnings reports and forward-looking forecasts issued during the Class Period were false and misleading; (5) that the Company's financial statements and results were not prepared in accordance with GAAP; (6) that the Company lacked adequate internal controls; and (7) that the Company knew that its financial results would be materially impacted if the Company were either forced to stop its illegal behavior or unable to continue the illegal behavior.

Disclosures at the End of the Class Period

32. After the market closed on Friday, October 31, 2008, AtriCure issued a press release entitled, "AtriCure Announces Investigation by the Department of Justice. Therein, the Company, in relevant part, stated:

> AtriCure, Inc. (Nasdaq: ATRC), received a letter on October 27, 2008 from the U.S. Department of Justice-Civil Division (the "DOJ") informing the Company that the DOJ is conducting an investigation for potential False Claims Act and common law violations relating to the Company's surgical ablation devices. Specifically, the letter states that the DOJ is investigating the Company's marketing practices utilized in connection with its surgical ablation system to treat atrial fibrillation, a specific use outside the Federal Food and Drug Administration's 510(k) clearance. The letter also states that the DOJ is investigating whether AtriCure instructed hospitals to bill Medicare for surgical ablation using incorrect billing codes.
>
> The Company understands that the DOJ is in the process of compiling a document request. The Company intends to cooperate

with the DOJ in its investigation and operate its business in the ordinary course during the investigation.

33. On this news, the following Monday, the Company's shares declined $2.53 per share, or 39.41 percent, to close on November 3, 2008 at $3.89 per share, on unusually heavy trading volume.

ATRICURE'S VIOLATION OF GAAP RULES IN ITS FINANCIAL STATEMENTS FILED WITH THE SEC

34. To inflate the price of AtriCure's common stock, Defendants caused the Company to falsely report its results during fiscal 2007 and 2008 through AtriCure's illegal promoting of its products to physicians and causing the filing of false claims for reimbursement in violation of U.S. law.

35. The fiscal 2007 and 2008 results were included in the Form 10-Q's/10-K's filed with the SEC. The results were also included in press releases.

36. AtriCure improperly accounted for inflated revenue and earnings associated with its sales of surgical ablation devices in the 2007-2008 financial statements, such that its 2007 and 2008 financial statements were not a fair presentation of AtriCure's results and were presented in violation of GAAP and SEC Rules.

37. GAAP are those principles recognized by the accounting profession as the conventions, rules and procedures necessary to define accepted accounting practice at a particular time. Regulation S-X (17 C.F.R. § 210.4 01(a) (1)) states that financial statements filed with the SEC which are not prepared in compliance with GAAP are presumed to be misleading and inaccurate. Regulation S-X requires that interim financial statements must also comply with GAAP, with the exception that interim financial statements need not include disclosure which

would be duplicative of disclosures accompanying annual financial statements. 17 C.F.R. § 210.10-01(a).

38. During the Class Period, AtriCure inflated its earnings by illegally promoting its products to physicians and causing the filing of false claims for reimbursement in violation of U.S. law.

39. Due to these accounting irregularities, the Company presented financial results and statements that were in violation of GAAP and the following principles:

(a) The principle that "interim financial reporting should be based upon the same accounting principles and practices used to prepare annual financial statements" was violated (APB No. 28, ¶10);

(b) The principle that "financial reporting should provide information that is useful to present to potential investors and creditors and other users in making rational investment, credit, and similar decisions" was violated (FASB Statement of Concepts No. 1, ¶34);

(c) The principle that "financial reporting should provide information about the economic resources of an enterprise, the claims to those resources, and effects of transactions, events, and circumstances that change resources and claims to those resources" was violated (FASB Statement of Concepts No. 1, ¶40);

(d) The principle that "financial reporting should provide information about an enterprise's financial performance during a period" was violated (FASB Statement of Concepts No. 1, ¶42);

(e) The principle that "financial reporting should provide information about how management of an enterprise has discharged its stewardship responsibility to owners

(stockholders) for the use of enterprise resources entrusted to it" was violated (FASB Statement of Concepts No. 1, ¶50);

(f) The principle that "financial reporting should be reliable in that it represents what it purports to represent" was violated (FASB Statement of Concepts No. 2, ¶¶ 58-59);

(g) The principle that "completeness, meaning that nothing is left out of the information that may be necessary to insure that it validly represents underlying events and conditions" was violated (FASB Statement of Concepts No. 2, ¶79); and

(h) The principle that "conservatism be used as a prudent reaction to uncertainty to try to ensure that uncertainties and risks inherent in business situations are adequately considered" was violated (FASB Statement of Concepts No. 2, ¶95).

40. The adverse information concealed by Defendants during the Class Period and detailed above was in violation of Item 303 of Regulation S-K under the federal securities law (17 C.F.R. §229.303).

41. Further, the undisclosed adverse information concealed by Defendants during the Class Period is the type of information which, because of SEC regulations, regulations of the national stock exchanges, and customary business practice, is expected by investors and securities analysts to be disclosed and is known by corporate officials and their legal and financial advisors to be the type of information which is expected to be and must be disclosed.

CLASS ACTION ALLEGATIONS

42. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a Class, consisting of all those who purchased AtriCure's securities between May 10, 2007 and October 31, 2008, inclusive and who were damaged

thereby. Excluded from the Class are Defendants, the officers and directors of the Company, at all relevant times, 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.

43. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, AtriCure's securities were actively traded on the National Association of Securities Dealers Automated Quotations Market ("NASDAQ"). While the exact number of Class members is unknown to Plaintiff at this time and can only be ascertained through appropriate discovery, Plaintiff believes that there are hundreds or thousands of members in the proposed Class. Millions of AtriCure shares were traded publicly during the Class Period on the NASDAQ and as of August 5, 2008, AtriCure had 14,200,096 shares of common stock outstanding. Record owners and other members of the Class may be identified from records maintained by AtriCure or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

44. Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendants' wrongful conduct in violation of federal law that is complained of herein.

45. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class actions and securities litigation.

46. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

(a) whether the federal securities laws were violated by Defendants' acts as alleged herein;

(b) Whether statements made by Defendants to the investing public during the Class Period omitted and/or misrepresented material facts about the business, operations, and prospects of AtriCure; and

(c) To what extent the members of the Class have sustained damages and the proper measure of damages.

47. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation makes it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

UNDISCLOSED ADVERSE FACTS

48. The market for AtriCure's securities was open, well-developed and efficient at all relevant times. As a result of these materially false and/or misleading statements, and/or failures to disclose, AtriCure's securities traded at artificially inflated prices during the Class Period. Plaintiff and other members of the Class purchased or otherwise acquired AtriCure's securities relying upon the integrity of the market price of the Company's securities and market information relating to AtriCure, and have been damaged thereby.

49. During the Class Period, Defendants materially misled the investing public, thereby inflating the price of AtriCure's securities, by publicly issuing false and/or misleading statements and/or omitting to disclose material facts necessary to make Defendants' statements,

as set forth herein, not false and/or misleading. Said statements and omissions were materially false and/or misleading in that they failed to disclose material adverse information and/or misrepresented the truth about the Company, its operations, and prospects as alleged herein.

50. At all relevant times, the material misrepresentations and/or omissions particularized in this Complaint directly or proximately caused or were a substantial contributing cause of the damages sustained by Plaintiff and other members of the Class. As described herein, during the Class Period, Defendants made or caused to be made a series of materially false and/or misleading statements about AtriCure's financial well-being and prospects. These material misstatements and/or omissions had the cause and effect of creating in the market an unrealistically positive assessment of the Company and its financial well-being and prospects, thus causing the Company's securities to be overvalued and artificially inflated at all relevant times. Defendants' materially false and/or misleading statements during the Class Period resulted in Plaintiff and other members of the Class purchasing the Company's securities at artificially inflated prices, thus causing the damages complained of herein.

LOSS CAUSATION

51. Defendants' wrongful conduct, as alleged herein, directly and proximately caused the economic loss suffered by Plaintiff and the Class.

52. During the Class Period, Plaintiff and the Class purchased AtriCure's securities at artificially inflated prices and were damaged thereby. The price of the Company's securities significantly declined when the misrepresentations made to the market, and/or the information alleged herein to have been concealed from the market, and/or the effects thereof, were revealed, causing investors' losses.

SCIENTER ALLEGATIONS

53. As alleged herein, Defendants acted with scienter in that Defendants knew that the public documents and statements issued or disseminated in the name of the Company were materially false and/or misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the federal securities laws. As set forth elsewhere herein in detail, Defendants, by virtue of their receipt of information reflecting the true facts regarding AtriCure, his/her control over, and/or receipt and/or modification of AtriCure's allegedly materially misleading misstatements and/or their associations with the Company which made them privy to confidential proprietary information concerning AtriCure, participated in the fraudulent scheme alleged herein.

54. Additionally, during the Class Period, and with the Company's securities trading at artificially inflated prices, on May 30, 2007, the Company completed a private placement in which AtriCure issued certain institutional investors 1,789,649 shares of common stock for gross proceeds of $16.5 million.

55. Additionally, during the Class Period, and with the Company's securities trading at artificially inflated prices, a Company insider sold more than 175,000 shares of the Company's stock for gross proceeds in excess of $1.9 million. The insider sales are set forth in the following chart:

INSIDER / RELATION	TRANS. DATE	SHARES	PRICE	MARKET VALUE
Wrubel, Lee R. Director	8/15/2007	-13,890	$10.11 - $10.12	$140,518
	8/16/2007	-1,010	$10.06 - $10.07	$10,167
	8/17/2007	-9,600	$10.06 - $10.25	$98,201
	8/20/2007	-11,500	$10.15 - $10.37	$117,845
	8/21/2007	-13,000	$10.23 - $10.30	$133,455
	11/28/2007	-13,000	$11.00 - $11.06	$143,055
	11/29/2007	-5,000	$11.00	$55,000
	3/5/2008	-4,990	$12.05	$60,130
	3/7/2008	-5,010	$11.69	$58,567
	3/10/2008	-1,400	$11.56	$16,184
	3/13/2008	-18,600	$11.14	$207,204
	3/14/2008	-15,467	$11.03	$170,601
	5/8/2008	-22,433	$11.55	$259,101
	5/9/2008	-12,100	$11.45	$138,545
	5/12/2008	-9,650	$11.02	$106,343
	5/13/2008	-5,350	$11.14	$59,599
	5/14/2008	-5,000	$11.04	$55,200
	5/15/2008	-8,810	$11.11	$97,879
TOTAL		-175,810	***	$1,927,594

Applicability of Presumption of Reliance:
Fraud On The Market Doctrine

56. The market for AtriCure's securities was open, well-developed and efficient at all relevant times. As a result of the materially false and/or misleading statements and/or failures to disclose, AtriCure's securities traded at artificially inflated prices during the Class Period. On January 16, 2008 the Company's common stock closed at a Class Period high of $14.05 per share. Plaintiff and other members of the Class purchased or otherwise acquired the Company's securities relying upon the integrity of the market price of AtriCure's securities and market information relating to AtriCure, and have been damaged thereby.

57. During the Class Period, the artificial inflation of AtriCure's stock was caused by the material misrepresentations and/or omissions particularized in this Complaint causing the damages sustained by Plaintiff and other members of the Class. As described herein, during the Class Period, Defendants made or caused to be made a series of materially false and/or

misleading statements about AtriCure's business, prospects, and operations. These material misstatements and/or omissions created an unrealistically positive assessment of AtriCure and its business, operations, and prospects, thus causing the price of the Company's securities to be artificially inflated at all relevant times, and when disclosed, negatively affected the value of the Company stock. Defendants' materially false and/or misleading statements during the Class Period resulted in Plaintiff and other members of the Class purchasing the Company's securities at such artificially inflated prices, and each of them has been damaged as a result.

58. At all relevant times, the market for AtriCure's securities was an efficient market for the following reasons, among others:

(a) AtriCure stock met the requirements for listing, and was listed and actively traded on the NASDAQ, a highly efficient and automated market;

(b) As a regulated issuer, AtriCure filed periodic public reports with the SEC and the NASDAQ;

(c) AtriCure regularly communicated with public investors *via* established market communication mechanisms, including through regular dissemination of press releases on the national circuits of major newswire services and through other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services; and

(d) AtriCure was followed by securities analysts employed by major brokerage firms who wrote reports about the Company, and these reports were distributed to the sales force and certain customers of their respective brokerage firms. Each of these reports was publicly available and entered the public marketplace.

59. As a result of the foregoing, the market for AtriCure's securities promptly digested current information regarding AtriCure from all publicly available sources and reflected such information in AtriCure's stock price. Under these circumstances, all purchasers of AtriCure's securities during the Class Period suffered similar injury through their purchase of AtriCure's securities at artificially inflated prices and a presumption of reliance applies.

NO SAFE HARBOR

60. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the allegedly false statements pleaded in this Complaint. The statements alleged to be false and misleading herein all relate to then-existing facts and conditions. In addition, to the extent certain of the statements alleged to be false may be characterized as forward looking, they were not identified as "forward-looking statements when made and there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements. In the alternative, to the extent that the statutory safe harbor is determined to apply to any forward-looking statements pleaded herein, Defendants are liable for those false forward-looking statements because at the time each of those forward-looking statements was made, the speaker had actual knowledge that the forward-looking statement was materially false or misleading, and/or the forward-looking statement was authorized or approved by an executive officer of AtriCure who knew that the statement was false when made.

FIRST CLAIM
Violation of Section 10(b) of
The Exchange Act and Rule 10b-5
Promulgated Thereunder Against All Defendants

61. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

62. During the Class Period, Defendants carried out a plan, scheme and course of conduct which was intended to and, throughout the Class Period, did: (i) deceive the investing public, including Plaintiff and other Class members, as alleged herein; and (ii) cause Plaintiff and other members of the Class to purchase AtriCure's securities at artificially inflated prices. In furtherance of this unlawful scheme, plan and course of conduct, defendants, and each of them, took the actions set forth herein.

63. Defendants (i) employed devices, schemes, and artifices to defraud; (ii) made untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading; and (iii) engaged in acts, practices, and a course of business which operated as a fraud and deceit upon the purchasers of the Company's securities in an effort to maintain artificially high market prices for AtriCure's securities in violation of Section 10(b) of the Exchange Act and Rule 10b-5. All Defendants are sued either as primary participants in the wrongful and illegal conduct charged herein or as controlling persons as alleged below.

64. Defendants, individually and in concert, directly and indirectly, by the use, means or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous course of conduct to conceal adverse material information about AtriCure's financial well-being and prospects, as specified herein.

65. These defendants employed devices, schemes and artifices to defraud, while in possession of material adverse non-public information and engaged in acts, practices, and a course of conduct as alleged herein in an effort to assure investors of AtriCure's value and performance and continued substantial growth, which included the making of, or the participation in the making of, untrue statements of material facts and/or omitting to state material facts necessary in order to make the statements made about AtriCure and its business

operations and future prospects in light of the circumstances under which they were made, not misleading, as set forth more particularly herein, and engaged in transactions, practices and a course of business which operated as a fraud and deceit upon the purchasers of the Company's securities during the Class Period.

66. Each of the Individual Defendants' primary liability, and controlling person liability, arises from the following facts: (i) the Individual Defendants were high-level executives and/or directors at the Company during the Class Period and members of the Company's management team or had control thereof; (ii) each of these defendants, by virtue of their responsibilities and activities as a senior officer and/or director of the Company, was privy to and participated in the creation, development and reporting of the Company's internal budgets, plans, projections and/or reports; (iii) each of these defendants enjoyed significant personal contact and familiarity with the other defendants and was advised of, and had access to, other members of the Company's management team, internal reports and other data and information about the Company's finances, operations, and sales at all relevant times; and (iv) each of these defendants was aware of the Company's dissemination of information to the investing public which they knew and/or recklessly disregarded was materially false and misleading.

67. The defendants had actual knowledge of the misrepresentations and/or omissions of material facts set forth herein, or acted with reckless disregard for the truth in that they failed to ascertain and to disclose such facts, even though such facts were available to them. Such defendants' material misrepresentations and/or omissions were done knowingly or recklessly and for the purpose and effect of concealing AtriCure's financial well-being and prospects from the investing public and supporting the artificially inflated price of its securities. As demonstrated by Defendants' overstatements and/or misstatements of the Company's business, operations,

financial well-being, and prospects throughout the Class Period, Defendants, if they did not have actual knowledge of the misrepresentations and/or omissions alleged, were reckless in failing to obtain such knowledge by deliberately refraining from taking those steps necessary to discover whether those statements were false or misleading.

68. As a result of the dissemination of the materially false and/or misleading information and/or failure to disclose material facts, as set forth above, the market price of AtriCure's securities was artificially inflated during the Class Period. In ignorance of the fact that market prices of the Company's securities were artificially inflated, and relying directly or indirectly on the false and misleading statements made by Defendants, or upon the integrity of the market in which the securities trades, and/or in the absence of material adverse information that was known to or recklessly disregarded by Defendants, but not disclosed in public statements by Defendants during the Class Period, Plaintiff and the other members of the Class acquired AtriCure's securities during the Class Period at artificially high prices and were damaged thereby.

69. At the time of said misrepresentations and/or omissions, Plaintiff and other members of the Class were ignorant of their falsity, and believed them to be true. Had Plaintiff and the other members of the Class and the marketplace known the truth regarding the problems that AtriCure was experiencing, which were not disclosed by Defendants, Plaintiff and other members of the Class would not have purchased or otherwise acquired their AtriCure securities, or, if they had acquired such securities during the Class Period, they would not have done so at the artificially inflated prices which they paid.

70. By virtue of the foregoing, Defendants have violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

71. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their respective purchases and sales of the Company's securities during the Class Period.

SECOND CLAIM
Violation of Section 20(a) of
The Exchange Act Against the Individual Defendants

72. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

73. The Individual Defendants acted as controlling persons of AtriCure within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions, and their ownership and contractual rights, participation in and/or awareness of the Company's operations and/or intimate knowledge of the false financial statements filed by the Company with the SEC and disseminated to the investing public, the Individual Defendants had the power to influence and control and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the various statements which Plaintiff contends are false and misleading. The Individual Defendants were provided with or had unlimited access to copies of the Company's reports, press releases, public filings and other statements alleged by Plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

74. In particular, each of these Defendants had direct and supervisory involvement in the day-to-day operations of the Company and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same.

75. As set forth above, AtriCure and the Individual Defendants each violated Section 10(b) and Rule 10b-5 by their acts and/or omissions as alleged in this Complaint. By virtue of their positions as controlling persons, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and other members of the Class suffered damages in connection with their purchases of the Company's securities during the Class Period.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

(a) Determining that this action is a proper class action under Rule 23 of the Federal Rules of Civil Procedure;

(b) Awarding compensatory damages in favor of Plaintiff and the other Class members against all defendants, jointly and severally, for all damages sustained as a result of defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

(c) Awarding Plaintiff and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

(d) Such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

Dated: December 12, 2008