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9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**

11
12 _____, Individually and on Behalf of
All Others Similarly Situated,

13
14 Plaintiff,

15 v.

16 NVIDIA CORPORATION, JEN-HSUN
HUANG, and COLETTE M. KRESS,

17 Defendant.
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Case No. DRAFT

**CLASS ACTION COMPLAINT FOR
VIOLATIONS OF THE FEDERAL
SECURITIES LAWS**

1 Plaintiff _____ (“Plaintiff”), individually and on behalf of all others
2 similarly situated, by and through his attorneys, alleges the following upon information and belief,
3 except as to those allegations concerning Plaintiff, which are alleged upon personal knowledge.
4 Plaintiff’s information and belief is based upon, among other things, his counsel’s investigation,
5 which includes without limitation: (a) review and analysis of regulatory filings made by Nvidia
6 Corporation (“Nvidia” or the “Company”) with the United States (“U.S.”) Securities and Exchange
7 Commission (“SEC”); (b) review and analysis of press releases and media reports issued by and
8 disseminated by Nvidia; and (c) review of other publicly available information concerning Nvidia.

9 **NATURE OF THE ACTION AND OVERVIEW**

10 1. This is a class action on behalf of persons and entities that purchased or otherwise
11 acquired Nvidia securities between March 18, 2024 and August 2, 2024, inclusive (the “Class
12 Period”). Plaintiff pursues claims against the Defendants under the Securities Exchange Act of 1934
13 (the “Exchange Act”).

14 2. Nvidia provides graphics, computing, and networking solutions in the United States,
15 Taiwan, China, Hong Kong, and internationally. In March of 2024, Nvidia unveiled its Grace
16 Blackwell GPU architecture, a flagship line designed to speed generative artificial intelligence
17 applications. The Blackwell system includes, among other things, the “B200” chip, and the Grace-
18 Blackwell Superchip (“GB200”).

19 3. On August 2, 2024, after the market closed, *The Information* reported that the release
20 of Nvidia Blackwell series chips would be delayed “by three months or more” due to “design flaws”
21 that were discovered “unusually late in the production process.” *The Information* reported Nvidia
22 had informed select customers of the delay, and that shipments of the chip were not likely until early
23 2025.

24 4. On this news, the Company’s share price fell \$6.82, or 6.4%, to close at \$100.45 per
25 share on August 5, 2024, on unusually heavy trading volume.

26 5. Throughout the Class Period, Defendants made materially false and/or misleading
27 statements, as well as failed to disclose material adverse facts about the Company’s business,
28 operations, and prospects. Specifically, Defendants failed to disclose to investors: (1) a design flaw

1 in the Company's Blackwell series microchips had been identified; (2) as a result, the shipping of
2 the Company's Blackwell series microchips would be delayed; (3) as a result, it is unlikely
3 Blackwell products would be available starting in 2024; and (4) that, as a result of the foregoing,
4 Defendants' positive statements about the Company's business, operations, and prospects were
5 materially misleading and/or lacked a reasonable basis.

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

9 **JURISDICTION AND VENUE**

10 7. The claims asserted herein arise under Sections 10(b) and 20(a) of the Exchange Act
11 (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder by the SEC (17 C.F.R. §
12 240.10b-5).

13 8. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C.
14 § 1331 and Section 27 of the Exchange Act (15 U.S.C. § 78aa).

15 9. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391(b) and Section
16 27 of the Exchange Act (15 U.S.C. § 78aa(c)). Substantial acts in furtherance of the alleged fraud
17 or the effects of the fraud have occurred in this Judicial District. Many of the acts charged herein,
18 including the dissemination of materially false and/or misleading information, occurred in
19 substantial part in this Judicial District. In addition, the Company's principal executive offices are
20 located in this District.

21 10. In connection with the acts, transactions, and conduct alleged herein, Defendants
22 directly and indirectly used the means and instrumentalities of interstate commerce, including the
23 United States mail, interstate telephone communications, and the facilities of a national securities
24 exchange.

25 **PARTIES**

26 11. Plaintiff _____, as set forth in the accompanying certification,
27 incorporated by reference herein, purchased Nvidia securities during the Class Period, and suffered
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1 damages as a result of the federal securities law violations and false and/or misleading statements
2 and/or material omissions alleged herein.

3 12. Defendant Nvidia is incorporated under the laws of Delaware with its principal
4 executive offices located in Santa Clara, California. Nvidia’s common stock trades on the NASDAQ
5 exchange under the symbol “NVDA.”

6 13. Defendant Jen-Hsun Huang (“Huang”) was the Company’s Chief Executive Officer
7 (“CEO”) at all relevant times.

8 14. Defendant Colette M. Kress (“Kress”) was the Company’s Chief Financial Officer
9 (“CFO”) at all relevant times.

10 15. Defendants Huang and Kress (collectively the “Individual Defendants”), because of
11 their positions with the Company, possessed the power and authority to control the contents of the
12 Company’s reports to the SEC, press releases and presentations to securities analysts, money and
13 portfolio managers and institutional investors, i.e., the market. The Individual Defendants were
14 provided with copies of the Company’s reports and press releases alleged herein to be misleading
15 prior to, or shortly after, their issuance and had the ability and opportunity to prevent their issuance
16 or cause them to be corrected. Because of their positions and access to material non-public
17 information available to them, the Individual Defendants knew that the adverse facts specified
18 herein had not been disclosed to, and were being concealed from, the public, and that the positive
19 representations which were being made were then materially false and/or misleading. The
20 Individual Defendants are liable for the false statements pleaded herein.

21 **SUBSTANTIVE ALLEGATIONS**

22 **Background**

23 16. Nvidia provides graphics, computing, and networking solutions in the United States,
24 Taiwan, China, Hong Kong, and internationally. In March of 2024, Nvidia unveiled its Grace
25 Blackwell GPU architecture, a flagship line designed to speed generative artificial intelligence
26 applications. The Blackwell system includes, among other things, the “B200” chip, and the Grace-
27 Blackwell Superchip (“GB200”).

1 **Materially False and Misleading**

2 **Statements Issued During the Class Period**

3 17. The Class Period begins on March 18, 2024.¹ On that day, Nvidia issued a press
4 release entitled “NVIDIA Blackwell Platform Arrives to Power a New Era of Computing” which
5 stated “***Blackwell-based products will be available from partners starting later this year.***”

6 18. On March 18, 2024, Nvidia provided a comment to *The Register* which stated “the
7 B100, ***B200, and GB200 will all ship in the second half of the year***[.]”

8 19. On May 14, 2024, the Company submitted its Annual Report to Security Holders on
9 a Form ARS filed with the SEC, which stated, in relevant part:

10 ***Blackwell- based products [are] expected to be rolled out by our partners later this***
11 ***year.***

12 20. On May 22, 2024, the Company reported first quarter 2025 financial results in a
13 press release for the period ended April 28, 2024, which reported “[r]ecord quarterly revenue of
14 \$26.0 billion, up 18% from Q4 and up 262% from a year ago” and “GAAP earnings per diluted
15 share was \$5.98, up 21% from the previous quarter and up 629% from a year ago.” The press release
16 further stated “***[t]he Blackwell platform is in full production***[.]”

17 21. On May 22, 2024, the Company provided a presentation on first quarter 2025
18 financial results which stated, in relevant part, that “***Blackwell products will be available starting***
19 ***later in 2024.***”

20 22. On May 29, 2024, the Company submitted its quarterly report for the period ended
21 April 28, 2024 on a Form 10-Q filed with the SEC, affirming the previously reported financial
22 results. The quarterly report also stated the following, in relevant part:

23 ***Our next generation data center architecture, Blackwell, is in production, and we plan***
24 ***on shipping customer samples in the second quarter. We expect to ramp customer***
25 ***shipments of Blackwell in the second half of the fiscal year.***

26 23. The above statements identified in ¶¶ 17-22 were materially false and/or misleading,
27 and failed to disclose material adverse facts about the Company’s business, operations, and
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¹ Unless otherwise stated, all emphasis in bold and italics hereinafter is added.

1 prospects. Specifically, Defendants failed to disclose to investors: (1) a design flaw in the
2 Company's Blackwell series microchips had been identified; (2) as a result, the shipping of the
3 Company's Blackwell series microchips would be delayed; (3) as a result, it is unlikely Blackwell
4 products would be available starting in 2024; and (4) that, as a result of the foregoing, Defendants'
5 positive statements about the Company's business, operations, and prospects were materially
6 misleading and/or lacked a reasonable basis..

7 **Disclosures at the End of the Class Period**

8 24. On August 2, 2024, after the market closed, *The Information* reported that the release
9 of Nvidia Blackwell series chips would be delayed "by three months or more" due to "design flaws"
10 that were discovered "unusually late in the production process." *The Information* reported Nvidia
11 had informed select customers of the delay, and that shipments of the chip were not likely until early
12 2025.

13 25. On this news, the Company's share price fell \$6.82, or 6.4%, to close at \$100.45 per
14 share on August 5, 2024, on unusually heavy trading volume.

15 **CLASS ACTION ALLEGATIONS**

16 26. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil
17 Procedure 23(a) and (b)(3) on behalf of a class, consisting of all persons and entities that purchased
18 or otherwise acquired Nvidia securities between March 18, 2024 and August 2, 2024, inclusive, and
19 who were damaged thereby (the "Class"). Excluded from the Class are Defendants, the officers and
20 directors of the Company, at all relevant times, members of their immediate families and their legal
21 representatives, heirs, successors, or assigns, and any entity in which Defendants have or had a
22 controlling interest.

23 27. The members of the Class are so numerous that joinder of all members is
24 impracticable. Throughout the Class Period, Nvidia's shares actively traded on the NASDAQ.
25 While the exact number of Class members is unknown to Plaintiff at this time and can only be
26 ascertained through appropriate discovery, Plaintiff believes that there are at least hundreds or
27 thousands of members in the proposed Class. Millions of Nvidia shares were traded publicly during
28 the Class Period on the NASDAQ. Record owners and other members of the Class may be identified

1 from records maintained by Nvidia or its transfer agent and may be notified of the pendency of this
2 action by mail, using the form of notice similar to that customarily used in securities class actions.

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

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

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

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

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

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

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

23 **UNDISCLOSED ADVERSE FACTS**

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

3 33. During the Class Period, Defendants materially misled the investing public, thereby
4 inflating the price of Nvidia's securities, by publicly issuing false and/or misleading statements
5 and/or omitting to disclose material facts necessary to make Defendants' statements, as set forth
6 herein, not false and/or misleading. The statements and omissions were materially false and/or
7 misleading because they failed to disclose material adverse information and/or misrepresented the
8 truth about Nvidia's business, operations, and prospects as alleged herein.

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

20 **LOSS CAUSATION**

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

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

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1 and/or misleading statements during the Class Period resulted in Plaintiff and other members of the
2 Class purchasing the Company's securities at such artificially inflated prices, and each of them has
3 been damaged as a result.

4 40. At all relevant times, the market for Nvidia's securities was an efficient market for
5 the following reasons, among others:

6 (a) Nvidia shares met the requirements for listing, and was listed and actively
7 traded on the NASDAQ, a highly efficient and automated market;

8 (b) As a regulated issuer, Nvidia filed periodic public reports with the SEC
9 and/or the NASDAQ;

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

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

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

23 42. A Class-wide presumption of reliance is also appropriate in this action under the
24 Supreme Court's holding in *Affiliated Ute Citizens of Utah v. United States*, 406 U.S. 128 (1972),
25 because the Class's claims are, in large part, grounded on Defendants' material misstatements and/or
26 omissions. Because this action involves Defendants' failure to disclose material adverse
27 information regarding the Company's business operations and financial prospects—information that
28 Defendants were obligated to disclose—positive proof of reliance is not a prerequisite to recovery.

1 All that is necessary is that the facts withheld be material in the sense that a reasonable investor
2 might have considered them important in making investment decisions. Given the importance of
3 the Class Period material misstatements and omissions set forth above, that requirement is satisfied
4 here.

5 **NO SAFE HARBOR**

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

19 **FIRST CLAIM**

20 **Violation of Section 10(b) of The Exchange Act and**

21 **Rule 10b-5 Promulgated Thereunder**

22 **Against All Defendants**

23 44. Plaintiff repeats and re-alleges each and every allegation contained above as if fully
24 set forth herein.

25 45. During the Class Period, Defendants carried out a plan, scheme and course of conduct
26 which was intended to and, throughout the Class Period, did: (i) deceive the investing public,
27 including Plaintiff and other Class members, as alleged herein; and (ii) cause Plaintiff and other
28 members of the Class to purchase Nvidia’s securities at artificially inflated prices. In furtherance

1 of this unlawful scheme, plan and course of conduct, Defendants, and each defendant, took the
2 actions set forth herein.

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

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

14 48. Defendants employed devices, schemes and artifices to defraud, while in possession
15 of material adverse non-public information and engaged in acts, practices, and a course of conduct
16 as alleged herein in an effort to assure investors of Nvidia's value and performance and continued
17 substantial growth, which included the making of, or the participation in the making of, untrue
18 statements of material facts and/or omitting to state material facts necessary in order to make the
19 statements made about Nvidia and its business operations and future prospects in light of the
20 circumstances under which they were made, not misleading, as set forth more particularly herein,
21 and engaged in transactions, practices and a course of business which operated as a fraud and deceit
22 upon the purchasers of the Company's securities during the Class Period.

23 49. Each of the Individual Defendants' primary liability and controlling person liability
24 arises from the following facts: (i) the Individual Defendants were high-level executives and/or
25 directors at the Company during the Class Period and members of the Company's management team
26 or had control thereof; (ii) each of these defendants, by virtue of their responsibilities and activities
27 as a senior officer and/or director of the Company, was privy to and participated in the creation,
28 development and reporting of the Company's internal budgets, plans, projections and/or reports;

1 (iii) each of these defendants enjoyed significant personal contact and familiarity with the other
2 defendants and was advised of, and had access to, other members of the Company's management
3 team, internal reports and other data and information about the Company's finances, operations, and
4 sales at all relevant times; and (iv) each of these defendants was aware of the Company's
5 dissemination of information to the investing public which they knew and/or recklessly disregarded
6 was materially false and misleading.

7 50. Defendants had actual knowledge of the misrepresentations and/or omissions of
8 material facts set forth herein, or acted with reckless disregard for the truth in that they failed to
9 ascertain and to disclose such facts, even though such facts were available to them. Such defendants'
10 material misrepresentations and/or omissions were done knowingly or recklessly and for the purpose
11 and effect of concealing Nvidia's financial well-being and prospects from the investing public and
12 supporting the artificially inflated price of its securities. As demonstrated by Defendants'
13 overstatements and/or misstatements of the Company's business, operations, financial well-being,
14 and prospects throughout the Class Period, Defendants, if they did not have actual knowledge of the
15 misrepresentations and/or omissions alleged, were reckless in failing to obtain such knowledge by
16 deliberately refraining from taking those steps necessary to discover whether those statements were
17 false or misleading.

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

27 52. At the time of said misrepresentations and/or omissions, Plaintiff and other members
28 of the Class were ignorant of their falsity, and believed them to be true. Had Plaintiff and the other

1 members of the Class and the marketplace known the truth regarding the problems that Nvidia was
2 experiencing, which were not disclosed by Defendants, Plaintiff and other members of the Class
3 would not have purchased or otherwise acquired their Nvidia securities, or, if they had acquired
4 such securities during the Class Period, they would not have done so at the artificially inflated prices
5 which they paid.

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

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

11 **SECOND CLAIM**

12 **Violation of Section 20(a) of The Exchange Act**

13 **Against the Individual Defendants**

14 55. Plaintiff repeats and re-alleges each and every allegation contained above as if fully
15 set forth herein.

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

27 57. In particular, Individual Defendants had direct and supervisory involvement in the
28 day-to-day operations of the Company and, therefore, had the power to control or influence the

1 particular transactions giving rise to the securities violations as alleged herein, and exercised the
2 same.

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

9 **PRAYER FOR RELIEF**

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

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

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

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

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

19 **JURY TRIAL DEMANDED**

20 Plaintiff hereby demands a trial by jury.
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1 DATED: _____, 2024

GLANCY PRONGAY & MURRAY LLP

By: _____

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