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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF SANTA CLARA

16 ERIK WESTGAARD, derivatively on
behalf of Yahoo! Inc.,

17 Plaintiff,

18 vs.

19 MARISSA MAYER, DAVID FILO,
20 ERIC BRANDT, MAYNARD WEBB, JR.,
TOR BRAHAM, CATHERINE
21 FRIEDMAN, EDDY HARTENSTEIN,
RICHARD HILL, THOMAS
22 MCINERNEY, JANE E. SHAW, JEFFREY
SMITH, RONALD S. BELL, KENNETH A.
23 GOLDMAN, SUSAN M. JAMES, H. LEE
24 SCOTT, JR., VERIZON
COMMUNICATIONS INC.

25 Defendants,

26 and

27 YAHOO! INC.,

28 Nominal Defendant.

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Case No.: **17CV307377**

SHAREHOLDER CLASS ACTION AND
DERIVATIVE COMPLAINT FOR
BREACH OF FIDUCIARY DUTIES,
INSIDER TRADING, UNJUST
ENRICHMENT, AND CORPORATE
WASTE

DEMAND FOR JURY TRIAL

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1 Plaintiff Erik Westgaard, by and through his undersigned attorneys, hereby submits this
2 verified Shareholder Class Action and Derivative Complaint against certain directors and officers
3 of nominal defendant Yahoo! Inc. (“Yahoo” or the “Company”), in connection with their breaches
4 of fiduciary duties. In support of these claims, Plaintiff alleges the following (1) upon personal
5 knowledge with respect to the matters pertaining to himself; and (2) upon information and belief
6 with respect to all other matters, based upon, *inter alia*, the investigations undertaken by counsel.
7 Plaintiff believes that substantial additional evidentiary support will exist for the allegations set forth
8 below after a reasonable opportunity for discovery.

9 **I. NATURE AND SUMMARY OF THE ACTION**

10 1. An Internet-based Fortune 500 company headquartered in Sunnyvale, California,
11 Yahoo provides search, communication, and entertainment services to hundreds of millions of
12 Internet users worldwide. It is estimated that Yahoo’s websites attract a billion visitors per month.
13 In connection with providing its Internet-based services, Yahoo collects and stores massive amounts
14 of confidential, sensitive personal information with regard to its users, including their names, email
15 addresses, telephone numbers, birth dates, gender, ZIP codes, occupations, industries, and personal
16 interests.

17 2. This action asserts direct and derivative claims against the Individual Defendants for
18 breaches of fiduciary duty, insider trading, unjust enrichment, and corporate waste, and direct claims
19 against Verizon for aiding and abetting breach of fiduciary duty. Once valued at more than \$44
20 billion, the Company is soon set to be acquired by Verizon for \$4.48 billion, which, as set forth
21 herein, reflects a recent \$350 million price cut due to Yahoo's serious security problems over the
22 past few years.

23 3. On July 23, 2016, Yahoo and Verizon announced the transaction pursuant to which
24 Verizon Communications Inc. (“Verizon”) will purchase Yahoo’s operating assets (hereinafter the
25 “Purchase Agreement”).

26 4. The transaction is conditioned on a majority of Yahoo’s shareholders voting in favor
27 of the transaction. To that end, Yahoo and Verizon filed a Preliminary Proxy with the SEC on
28 September 9, 2016 soliciting Yahoo’s shareholders to vote in favor of two items: (1) the transaction

1 itself; and (2) golden parachute payments will be paid to certain of the Individual Defendants if the
2 transaction is approved.

3 5. The Proxy was reviewed and approved by the entire Board, and signed by Defendants
4 Marissa Mayer and Maynard Webb, Jr. The Proxy attached and incorporated a Stock Purchase
5 Agreement and Reorganization Agreement (the “Stock Purchase Agreement”) expressly
6 representing, among other things, that there had been no security breaches of Yahoo’s systems. The
7 representations in the Stock Purchase Agreement were consistent with Yahoo’s previous public
8 filings, which made no disclosure of any security breaches of Yahoo’s networks.

9 6. On September 22, 2016 — less than two weeks after the Proxy was filed, Yahoo
10 issued a press release, announcing that, in 2014, the confidential, sensitive personal information of
11 approximately 500 million Yahoo users — including names, email addresses, telephone numbers,
12 birth dates, passwords, and security questions (referred to as “Personal Information” or “PI”) — was
13 stolen by online hackers:¹

14 A recent investigation by Yahoo has confirmed that a copy of *certain*
15 *user account information was stolen from the company’s network in*
16 *late 2014* by what it believes is a state-sponsored actor. The account
17 information may have included *names, email addresses, telephone*
18 *numbers, dates of birth, hashed passwords* (the vast majority with
19 bcrypt) and, in some cases, encrypted or unencrypted *security*
20 *questions and answers*. The ongoing investigation suggests that stolen
information did not include unprotected passwords, payment card
data, or bank account information; payment card data and bank
account information are not stored in the system that the investigation
has found to be affected. Based on the ongoing investigation, Yahoo
believes that *information associated with at least 500 million user*
21 *accounts was stolen* and the investigation has found no evidence that
22 the state-sponsored actor is currently in Yahoo’s network.²

23 7. In this September 22, 2016 press release, Yahoo failed to disclose the point in time
24 it discovered the data breach. ***The next day, on September 23, 2016, the Financial Times reported***
25 ***that Yahoo’s Chief Executive Officer (“CEO”) and director, Marissa A. Mayer had known about***
26 ***the data breach since at least July — around the time when the Verizon acquisition was***

27 ¹ AN IMPORTANT MESSAGE ABOUT YAHOO USER SECURITY, Sept. 22, 2016, *available at*
28 <https://yahoo.tumblr.com/post/150781911849/an-importantmessage-about-yahoo-user-security>
(last visited Mar. 3, 2017).

² All emphases are added unless otherwise noted.

1 **announced.**³ On the same day, Verizon stated that it was first notified of Yahoo’s 2014 data breach
2 just two days before, on September 20, 2016.

3 8. Subsequent information has revealed that the data intrusion occurred in September
4 2014, was promptly discovered by Yahoo, and was internally code named the “Siberia Intrusion”
5 by Yahoo – an apparent reference to the fact that Yahoo believed Russia to be behind the hack.⁴ On
6 March 15, 2017, the United States Department of Justice announced charges against four men,
7 including two Russian intelligence agents, for their roles in a conspiracy that led to the 2014 Data
8 Breach. Two agents of Russia’s Federal Security Service, known as the F.S.B., were charged --
9 Dmitry Aleksandrovich Dokuchaev, 33, a Russian national and resident, and Igor Anatolyevich
10 Sushchin, 43, a Russian national and resident. The other two defendants who were charged are
11 Alexsey Alexseyevich Belan, 29, a Russian national and resident; and Karim Baratov, 22, a
12 Canadian and Kazakh national and a resident of Canada. *See* Vindu Goel, “U.S. Charges Two
13 Russian Spies and Two Others in Yahoo Hacking,” *The N.Y. Times*, Mar. 15, 2017.

14 9. Despite promptly discovering the “Siberia Intrusion” when it occurred in September
15 2014, Yahoo did not disclose the massive data breach at the time and did not notify its users of the
16 intrusion.

17 10. Yahoo’s delayed disclosure of the 2014 data breach reveals that (a) for two years,
18 Yahoo failed to securely store its users’ confidential, sensitive personal information; and (b) Yahoo
19 failed to timely notify its users of the 2014 data breach. However, as demonstrated below, less than
20 two months later Yahoo would make yet another belated disclosure admitting that it had been subject
21 to a much more massive data breach in 2013 affecting over one billion users.

22
23
24 ³ Madhumita Murgia, Tim Bradshaw & David J. Lynch, *Marissa Mayer Knew of Yahoo*
25 *Breach Probe in July*, *FINANCIAL TIMES*, Sept. 23, 2016, *available at*
<https://www.ft.com/content/d0d07444-81aa-11e6-bc52-0c7211ef3198> (last visited Mar. 3, 2017).

26 ⁴ After the data breach was belatedly disclosed two years later, it was reported that a hacker
27 named ‘Peace’ had been claiming to sell leaked information on 200 million Yahoo users in hacker
28 forums. This was allegedly the same hacker that was also selling LinkedIn leaked information and
has claimed to be a former member of a Russian cybercrime organization.

1 11. Two months later – late in the day on December 14, 2016 -- Yahoo disclosed that it
2 had suffered yet another breach of user data in 2013 (the “2013 Breach”) that compromised the
3 personal information of over one billion Yahoo users – one of the largest information hacks in
4 history. Yahoo said the 2013 Breach was twice as large as the September 2014 data breach. *See*,
5 *e.g.*, Robert McMillan, “Yahoo Discloses New Breach of 1 Billion User Accounts,” THE WALL
6 STREET JOURNAL, Dec. 15, 2016.

7 12. The Individual Defendants knew about these data breaches, failed to timely disclose
8 the data breaches, signed SEC filings falsely stating that they were not aware of any material data
9 breaches, and then attempted to cover up the data breaches when news reports began to suggest that
10 data breaches may have occurred at Yahoo. Such conduct by directors constitutes bad faith and
11 disloyal conduct which cannot be indemnified. As a result, the Defendants named herein face a
12 substantial likelihood of liability and any demand on them to bring this case would be a futile and
13 useless act. Plaintiff is therefore excused from making any demand prior to filing this complaint.

14 13. Moreover, the Individual Defendants engaged in self-dealing in connection with the
15 failure to timely disclose the data breaches. First, some Individual Defendants sold Yahoo stock at
16 inflated prices prior to disclosure of the data breaches. Second, Yahoo has foundered for years,
17 significantly underperforming the market and failing to deliver results to its shareholders. Back in
18 2008, this attracted the attention of Microsoft, which offered to buy Yahoo for \$33 per share.
19 Defendant Filo, along with Jerry Yang, rejected the offer as too low and said they would not even
20 consider any offer below \$37. After a Saturday meeting in Seattle between Steve Ballmer, Filo, and
21 Yang, Microsoft withdrew its offer. Yahoo’s stock never surpassed \$33 for the next five years.
22 After surpassing this price in 2013 and 2014, Yahoo’s stock price plummeted back down to below
23 \$29 per share in August 2015. At this point, Yahoo’s Board and management basically threw in the
24 towel, conceding that they could not increase revenues and profits in such a manner as to deliver
25 any more value than what Microsoft had offered back in 2008. The Board had also failed to execute
26 a planned tax-free distribution to shareholders of Yahoo’s significant stake in Alibaba due to a
27 failure to obtain a comfort letter from the IRS that such distribution would be tax-free.

28

1 14. When the Defendants were not able to deliver results, they sought to sell the
2 Company. However, no suitors were willing to pay a premium price for Yahoo. Indeed, the offer
3 from Softbank Japan that Yahoo received in 2016 offered no premium. As a result, Defendants
4 were eventually forced to sell just part of Yahoo to Verizon in an asset sale. Despite being a mere
5 asset sale, the Individual Defendants negotiated for themselves full “change of control” and “golden
6 parachute” provisions that typically apply only in merger transactions.

7 15. Defendant Mayer alone was estimated in July 2016 to receive \$122,578,795 in total
8 compensation as a result of the closing of the Verizon deal. *See* Stephen Gandel, Marissa Mayer’s
9 Payday Is Even More Insane Than You Think,” FORTUNE, July 26, 2016.⁵ Those estimates,
10 however, were based on Yahoo’s stock price as of July 25, 2016 of \$38.76. Since then, Yahoo’s
11 stock has increased to \$45.94 as of March 2, 2017, significantly increasing the value to be received
12 by Mayer from exercising her stock options and restricted stock units.

13 16. In March 2017, Mayer was forced to forfeit her 2016 annual bonus because of her
14 wrongdoing. In a post on Tumblr in March 1, 2017, Mayer wrote: “I am the CEO of the company
15 and since this incident happened during my tenure, I have agreed to forgo my annual bonus and my
16 annual equity grant this year and have expressed my desire that my bonus be redistributed to our
17 company’s hardworking employees, who contributed so much to Yahoo’s success in 2016.”
18 However, the Board has still not forced Mayer to claw back or forfeit any of well over \$122 million
19 in severance benefits she will receive upon consummation of the asset sale to Verizon.

20 17. While Mayer's action might seem like a generous gesture, the hallmark of a true
21 leader, a review of the company's SEC filing reveals another story. The same day that Mayer made
22 her post on Tumblr, Yahoo filed its 2016 Annual Report. That filing reveals that, far from being
23 some “gift” by Mayer to forfeit her 2016 annual bonus, she was involuntarily stripped of it by the
24 Board: "In response to the Independent Committee's findings related to the 2014 Security Incident,
25 the Board determined not to award to the Chief Executive Officer a cash bonus for 2016 that was
26 otherwise expected to be paid to her," according to the filing. In another sentence, the filing states

27
28 ⁵ Available at <http://fortune.com/2016/07/26/marissa-mayers-verizon-yahoo-pay/>, last visited Mar. 3, 2017.

1 that it appears certain senior executives did not properly comprehend or investigate and therefore
2 failed to act sufficiently upon the full extent of knowledge known internally by the company's
3 information security team.

4 18. By failing to disclose the data breaches in connection with the press releases and SEC
5 filings Yahoo made concerning the asset sale to Verizon, the Individual Defendants breached their
6 fiduciary duties out of a desire to preserve their significant personal payments in the Verizon
7 transaction.

8 19. The Individual Defendants never did “come clean” voluntarily. Instead, Verizon
9 asked Yahoo about the data breaches after the deal was signed, when information was brought to
10 Verizon’s attention that Yahoo may have been the subject of a significant hack or hacks. When
11 Verizon brought the information to Yahoo’s attention, the Individual Defendants had no choice but
12 to publicly disclose the September 2014 data intrusion. Yahoo did not, however, disclose the 2013
13 data intrusion at the same time, and continues to assert that it only discovered the 2013 data breach
14 on November 7, 2016 when it was contacted by law enforcement agents.

15 20. When Yahoo was forced to reveal the truth about the massive September 2014 data
16 breach, Verizon continued its due diligence, which involved the review of substantial pages of
17 Yahoo internal documents, meetings and interviews with Yahoo’s executives, directors, and
18 employees, and further investigation by Verizon’s investment bankers and lawyers. As part of this
19 due diligence, Verizon discovered that Yahoo’s executives and directors had known about the 2014
20 data breach for years, but had failed to properly disclose and respond to the data intrusion, thus
21 breaching their fiduciary duties.

22 21. Armed with knowledge of the significant breaches of fiduciary duty that had been
23 committed by Yahoo’s officers and directors, Verizon sought to use such information to gain a
24 bargaining advantage in the negotiations. Verizon told Yahoo that the newly-discovered
25 information constituted a “material adverse event” under the Purchase Agreement and thus told
26 Yahoo it was considering canceling the deal or requiring significant concessions and an amendment
27 of the deal. *See, e.g.*, “Verizon Sees Yahoo Data Breach as ‘Material’ to Takeover” THE WALL
28 STREET JOURNAL, Oct. 13, 2016. *See also* “Verizon Puts Yahoo on Notice After Data Breach,” THE

1 WALL STREET JOURNAL, Oct. 13, 2016 (citing an Oct. 13, 2016 meeting at Verizon’s Washington,
2 D.C. office at which General Counsel Craig Silliman said it was “reasonable” to believe that
3 Yahoo’s 2014 data breach would constitute a “material adverse event” under the Purchase
4 Agreement with Yahoo). *See also* David Jones, “Verizon Signals Cold Feet Over Yahoo Deal,
5 ECOMMERCE TIMES, Oct. 17, 2016 (quoting Verizon General Counsel Craig Stillman as stating "I
6 think we have a reasonable basis to believe right now that the impact is material, and we're looking
7 to Yahoo to demonstrate to us the full impact," he said. "If they believe that it's not, then they'll need
8 to show us that."

9 22. As Verizon was digesting this new information, Yahoo dropped the further
10 bombshell about the October 2013 Breach on December 14, 2016. *See, e.g.*, Elizabeth Weise, “It’s
11 New and It’s Bad: Yahoo Discloses 1B Account Breach,” USA TODAY, Dec. 14, 2016.

12 23. As the negotiations between Verizon and Yahoo unfolded, it was reported that
13 Verizon was requesting a \$250 million reduction in the purchase price. The additional negotiations
14 regarding the deal also caused the parties to delay the closing date, which was originally schedule
15 to occur in Q1 2017.

16 24. Ultimately, Verizon was able to utilize its knowledge of the significant breaches of
17 fiduciary duty committed by Yahoo’s officers and directors to obtain an even greater bargaining
18 advantage – forcing Yahoo to reduce the purchase price by \$350 million. By using its knowledge
19 of the significant breaches of fiduciary duty that had been committed by Yahoo’s officers and
20 directors to gain a bargaining advantage in the negotiations, Verizon aided and abetted the breaches
21 of fiduciary duty committed by the Individual Defendants.

22 25. There can be no doubt that that \$350 million reduction in the consideration to be
23 received by Yahoo in the asset sale was the direct result of a re-negotiation of the deal mandated by
24 Verizon after the data breaches were disclosed. On February 28, 2017, Matt Ellis, Verizon
25 Communications Inc.’s EVP and CFO, stated the following in response to a question from Morgan
26 Stanley analyst Simon Flannery at the Morgan Stanley Technology, Media & Telecom Conference:

27
28 **Simon Flannery: *So you have a new agreement on Yahoo where you've got a new purchase price; you've had some arrangements around the liabilities. Can you just update***

1 us on that and what's the timeline now to closing? Then what's the opportunity financially,
2 both in terms of accretion but also in terms of the ability to drive digital advertising revenue,
combine it with AOL, and so forth?

3 **Matt Ellis:** If you read the announcement last week, *we had the price renegotiation as a*
4 *result of the breach*, as we also have a liability sharing arrangement as we go forward here
5 so if there are future liabilities related to those breaches we will share in those. The original
agreement would've assumed that we had all of those liabilities going forward.

6 26. Thus, Yahoo and its shareholders have been harmed in at least two distinct ways.
7 First, Yahoo will receive \$350 million less from Verizon. Second, Yahoo is being forced to assume
8 more than half the liabilities resulting from the data breaches. It is actually much more than half
9 because the Amended Purchase Agreement states that Yahoo is responsible for all the damages
10 resulting from the SEC investigation and also the shareholder lawsuits which have been filed against
11 Yahoo and its officers and directors. With respect to the liabilities surrounding the data breaches,
12 as Matt Ellis of Verizon stated on February 28, 2017, any such liabilities were attributed to Verizon
13 under the original Purchase Agreement. Thus, because of the Individual Defendants' wrongdoing,
14 those costs are being reassessed to Yahoo.

15 27. The \$350 million reduction in the purchase price is drastic when compared to the
16 much smaller costs incurred by Yahoo to-date related to the data breach. According to Yahoo's
17 2016 Annual Report, filed March 1, 2017, Yahoo has spent \$16 million on costs related to the data
18 breach: "We recorded expenses of \$16 million related to the Security Incidents in the year ended
19 December 31, 2016, of which \$5 million was associated with the ongoing forensic investigation and
20 remediation activities and \$11 million was associated with nonrecurring legal costs."

21 28. After concluding an internal investigation, the Board blamed the wrongdoing on
22 Yahoo's main in-house counsel, Defendant Bell, and fired Bell, but did not take meaningful action
23 against itself or other culpable executives. Yahoo's 2016 Form 10-K states: "Based on its
24 investigation, the Independent Committee concluded that the Company's information security team
25 had contemporaneous knowledge of the 2014 compromise of user accounts, as well as incidents by
26 the same attacker involving cookie forging in 2015 and 2016. *In late 2014, senior executives and*
27 *relevant legal staff were aware that a state-sponsored actor had accessed certain user accounts*
28 *by exploiting the Company's account management tool.* The Company took certain remedial

1 actions, notifying 26 specifically targeted users and consulting with law enforcement. While
2 significant additional security measures were implemented in response to those incidents, *it appears*
3 *certain senior executives did not properly comprehend or investigate, and therefore failed to act*
4 *sufficiently upon, the full extent of knowledge known internally by the Company's information*
5 *security team*. Specifically, as of December 2014, the information security team understood that the
6 attacker had exfiltrated copies of user database.”

7 29. As noted *supra*, Mayer was required to forfeit her 2016 bonus and 2017 stock award,
8 but was not sued or held accountable for the massive damages caused to Yahoo. It is not apparent
9 that the Board has taken any other meaningful action, and has not acknowledged its own liability in
10 the matter. Instead, the Board largely just decided to throw Mr. Bell under the bus. *See* Kara
11 Swisher, “Yahoo’s head lawyer is taking the fall for its hacking, while CEO Marissa Mayer is
12 getting her pay docked,” RECODE, March 1, 2017 (“So when is the lawyer the one who gets dinged
13 for hacking screw-ups? Never. Let’s be clear, most people inside Yahoo think Mayer and the board
14 should have shouldered the bulk of the blame for the breach.”).

15 30. Ultimately, *these significant liabilities will be directly borne by Yahoo’s*
16 *shareholders* because of the unique nature of the Verizon deal. The deal is an asset sale, not a
17 merger, and Yahoo is selling all its operating assets and businesses to Verizon but not its “non-
18 operating assets” such as its significant stake in Alibaba and some of its patents. As a result Yahoo
19 will cease to be an operating company after the Verizon deal closes and it will be solely a holding
20 company, with its main assets consisting of the \$4,475,800,000 in cash to be received from Verizon,
21 the Alibaba shares, shares in Yahoo Japan, and patents. After the sale, Yahoo will change its
22 corporate structure to that of a holding company and register as such under the Investment Company
23 Act of 1940. Ultimately, Yahoo expects to liquidate the patents and its Alibaba stake and then
24 distribute cash to Yahoo’s shareholders. However, the amount to be received by Yahoo’s
25 shareholders will be directly reduced on a dollar-for-dollar basis by the \$350 million reduction in
26 the asset sale price that Yahoo has already been forced to accept plus the amount of liabilities it has
27 to pay out for the data breach and shareholder lawsuit liabilities Yahoo has been forced to assume.

28

1 37. Defendant Verizon Communications Inc. (“Verizon”) is a corporation and is a
2 broadband telecommunications company and the largest U.S. wireless communications service
3 provider. Verizon is headquartered in New York, NY at 1095 Avenue of the Americas. On July
4 23, 2016, Verizon announced an agreement to purchase certain assets of Yahoo in a transaction that
5 requires the approval of Yahoo’s shareholders.

6 38. Defendant Marissa Mayer (“Mayer”) is the CEO and President of Yahoo. Mayer has
7 served as a member of the Board since July 2012.

8 39. Defendant David Filo (“Filo”) is the Co-Founder of Yahoo. Filo has served as a
9 member of the Board since June 2014. Filo is a substantial shareholder of Yahoo who owns
10 70,711,390, or 7.4%, of Yahoo’s outstanding shares and thus is able to exert significant control and
11 influence over Yahoo.

12 40. Defendant Ronald S. Bell (“Bell”) was, until March 1, 2017, Yahoo’s General
13 Counsel. According to Yahoo’s Proxy Statement, Bell became Yahoo’s General Counsel in August
14 2012 and Secretary in July 2012 and served as a Vice President of Yahoo from 2001 until March
15 2017. Mr. Bell served as Yahoo’s interim General Counsel in July 2012; Yahoo’s Deputy General
16 Counsel, Americas Region from March 2010 to July 2012; Yahoo’s Deputy General Counsel, North
17 America Region from January 2008 to March 2010; Yahoo’s Deputy General Counsel, Transactions
18 and Business Counseling from June 2001 to January 2008; and in various other positions in the
19 Yahoo legal department from July 1999 to June 2001. Prior to joining Yahoo, Mr. Bell served as
20 senior corporate counsel at Apple Computer, Inc. and as an associate at the law firm of Sonnenschein
21 Nath & Rosenthal. Mr. Bell serves on the board of directors of Yahoo Japan Corporation, a Japanese
22 Internet company. After an investigation by a committee of Yahoo’s Board into the issues
23 referenced in this complaint concerning Yahoo’s 2013 and 2014 data breaches and the failure of
24 Yahoo to disclose such breaches at the time they occurred and in connection with the announcement
25 of the Purchase Agreement with Verizon, Mr. Bell was fired or asked to resign effective March 1,
26 2017.

27 41. Defendant Eric Brandt (“Brandt”) is the Chairman of the Board since January 2017,
28 and has served as a member of the Board since March 2016. Brandt is also the Chair of the Audit

1 and Finance Committee of the Board.

2 42. Defendant Maynard Webb, Jr. (“Webb”) is the Chairman Emeritus of the Board, and
3 has been a member of the Board since February 2012. Webb served as interim Chairman of the
4 Board from April 2013 to August 2013, and as Chairman of the Board from August 2013 to January
5 2017. Webb is also a member of the Compensation and Leadership Development Committee of the
6 Board.

7 43. Defendant Tor Braham (“Braham”) is a member of the Board since April 2016.
8 Braham is also a member of the Audit and Finance Committee of the Board.

9 44. Defendant Catherine Friedman (“Friedman”) is a member of the Board since March
10 2016. Friedman is also the Chair of the Nominating and Corporate Governance Committee, and a
11 member of the Compensation and Leadership Development Committee of the Board.

12 45. Defendant Eddy Hartenstein (“Hartenstein”) is a member of the Board since April
13 2016. Hartenstein is also a member of the Compensation and Leadership Development Committee
14 of the Board.

15 46. Defendant Kenneth A. Goldman is the Chief Financial Officer of Yahoo and signed
16 many of the false and misleading SEC filings which failed to disclose data breaches at Yahoo and
17 which also falsely stated that Yahoo had effective internal controls in place regarding privacy, user
18 data, and data breach security measures.

19 47. Defendant Richard Hill (“Hill”) is a member of the Board since April 2016. Hill is
20 also a member of the Nominating and Corporate Governance Committee of the Board.

21 48. Defendant Thomas McInerney (“McInerney”) is a member of the Board since April
22 2012. McInerney is also a member of the Audit and Finance Committee of the Board.

23 49. Defendant Susan M. James (“James”) was a member of Yahoo’s Board of Directors
24 from January 2010 until June 30, 2016. James signed several of the SEC filings which failed to
25 disclose the 2014 data breach, including Yahoo’s 2015 Annual Report. James served as Chair of
26 Yahoo’s Audit and Finance Committee until her resignation from the Board. Ms. James joined
27 Ernst & Young LLP, a global accounting services firm, in 1975, serving as a partner from 1987 until
28 her retirement in June 2006, and as a consultant from June 2006 to December 2009. During her

1 tenure with Ernst & Young, she was the lead partner or partner-in-charge of audit work for a number
2 of significant technology companies, including Intel Corporation, Sun Microsystems, Inc.,
3 Amazon.com, Inc., Autodesk, Inc., and Hewlett-Packard Company.

4 50. Defendant H. Lee Scott, Jr. (“Scott”) was a member of Yahoo’s Board of Directors
5 from June 2014 until June 30, 2016. Scott signed several of the SEC filings which failed to disclose
6 the 2014 data breach, including Yahoo’s 2015 Annual Report.

7 51. Defendant Jane E. Shaw (“Shaw”) is a member of the Board since June 2014. Shaw
8 is also the Chair of the Compensation and Leadership Development Committee, and a member of
9 the Nominating and Corporate Governance Committee of the Board.

10 52. Defendant Jeffrey Smith (“Smith”) is a member of the Board since April 2016. Smith
11 is also a member of the Compensation and Leadership Development Committee of the Board.

12 53. Collectively, Defendants Mayer, Filo, Brandt, Webb, Braham, Friedman,
13 Hartenstein, Hill, McInerney, Shaw, Scott, James, Bell, Goldman, and Smith are referred to herein
14 as the “Individual Defendants.” All such defendants except Bell and Goldman are referred to as the
15 “Director Defendants.”

16 **IV. CLASS ACTION ALLEGATIONS**

17 54. Plaintiff brings this action individually and as a class action pursuant to California
18 Code of Civil Procedure §382 on behalf of all current holders of Yahoo stock who are being and
19 will be harmed by defendants’ actions described below (the “Class”). Excluded from the Class are
20 defendants herein and any person, firm, trust, corporation, or other entity related to or affiliated with
21 any defendants.

22 55. This action is properly maintainable as a class action.

23 56. The Class is so numerous that joinder of all members is impracticable. According to
24 Yahoo’s SEC filings, there were 956,487,217 shares of Yahoo common stock outstanding as of
25 February 10, 2017, held by 8,762 shareholders of record.

26 57. There are questions of law and fact which are common to the Class and which
27 predominate over questions affecting any individual Class member. The common questions include,
28 inter alia, the following:

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- (a) whether the Individual Defendants have breached their fiduciary duties of undivided loyalty, independence, or due care with respect to plaintiff and the other members of the Class in connection with the Verizon Purchase Agreement;
- (b) whether defendants are engaging in self-dealing in connection with the Verizon Purchase Agreement;
- (c) whether defendants have disclosed all material facts to Yahoo’s shareholders in connection with soliciting their vote in support of the Verizon Purchase Agreement;
- (c) whether the Individual Defendants have breached their fiduciary duty to secure and obtain the best value reasonable under the circumstances for the benefit of Yahoo and its shareholders in connection with the Verizon Purchase Agreement;
- (d) whether defendants are unjustly enriching themselves and other insiders or affiliates of Yahoo;
- (e) whether the Individual Defendants have breached any of their other fiduciary duties to plaintiff and the other members of the Class in connection with the Verizon Purchase Agreement, including the duties of good faith, diligence, honesty and fair dealing;
- (f) whether the defendants, in bad faith and for improper motives, have preferred their own interests over those of Yahoo and its shareholders;
- (g) whether plaintiff and the other members of the Class will suffer irreparable injury unless defendants’ conduct is enjoined.

40. Plaintiff’s claims are typical of the claims of the other members of the Class and Plaintiff does not have any interests adverse to the Class.

41. Plaintiff is an adequate representative of the Class, has retained competent counsel experienced in litigation of this nature, and will fairly and adequately protect the interests of the Class.

42. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for the party opposing the Class.

43. Plaintiff anticipates that there will be no difficulty in the management of this litigation. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

1 44. Defendants have acted on grounds generally applicable to the Class with respect to
2 the matters complained of herein, thereby making appropriate the relief sought herein with respect
3 to the Class as a whole.

4 **V. DERIVATIVE AND DEMAND FUTILITY ALLEGATIONS**

5 58. Plaintiff also brings this action derivatively in the right and for the benefit of Yahoo
6 to redress injuries suffered, and to be suffered, by Yahoo and its stockholders as a direct result of
7 the breaches of fiduciary duty by the Individual Defendants.

8 59. Yahoo is named as a nominal defendant solely in a derivative capacity.

9 60. This is not a collusive action to confer jurisdiction on this Court that it would not
10 otherwise have.

11 61. At the time this action was commenced, Yahoo's Board consisted of the following
12 eleven (11) persons: Defendants Mayer, Filo, Brandt, Hill, Friedman, Smith, Shaw, McInerney,
13 Braham, Webb, and Hartenstein.

14 62. Plaintiff has not made any demand on Yahoo to institute this action because such a
15 demand would be a futile, wasteful, and useless act for the reasons set forth below.

16 **A. Demand Is Futile as to Mayer and Filo Because They are Interested**

17 63. Demand is futile as to Defendants Mayer and Filo because they are interested. Both
18 Mayer and Filo sold substantial amounts of their personal Yahoo stock while in possession of
19 material, non-public information about the data breaches. They profited by millions of dollars
20 through such sales and thus have received an improper financial benefit.

21 64. Mayer and Filo are also interested because they will receive hundreds of millions of
22 dollars in change of control payments upon consummation of the Verizon Purchase Agreement.
23 Defendants Mayer and Filo secured these personal benefits to themselves, yet their wrongful
24 conduct has harmed Yahoo by over \$350 million since Verizon forced Yahoo to reduce the purchase
25 price for the Yahoo assets by \$350 million, in addition to requiring Yahoo to assume 50% of future
26 liabilities relating to the data breaches, which obligations were originally ascribed to Verizon under
27 the original version of the Purchase Agreement dated July 2016. After defendants' wrongdoing
28 became public thereafter, Verizon and Yahoo signed an amended Purchase Agreement which forced

1 Yahoo to pay for 50% of the data breach liabilities and 100% of all liabilities relating to shareholder
2 lawsuits and SEC investigation related to the data breaches.

3 65. Despite causing Yahoo well over \$366 million in damages to-date (\$350 million in
4 the reduced purchase price and \$16 million in data breach investigation and remediation costs, as
5 disclosed in Yahoo's 2016 Annual Report filed March 1, 2017), Mayer and Filo have not been
6 required to forfeit any of the change of control and "golden parachute" payments they will receive
7 upon completion of the Verizon Purchase Agreement. Because their wrongdoing caused the
8 damages to Yahoo, Mayer and Filo should not be allowed to retain the full amount, or any, of their
9 change of control and golden parachute payments. These improper financial benefits to Mayer and
10 Filo make them interested in the subject matter of this action. As a result, demand is futile as to
11 them.

12 66. Demand is also futile as to Mayer and Filo because they are members of Yahoo's
13 management. As such, they rely upon their jobs at Yahoo for their income and are neither
14 independent nor disinterested for the purpose of considering a demand. Yahoo itself concedes in its
15 proxy statements filed with the SEC that Mayer and Filo are not independent directors.

16 67. Filo is also interested and not independent because he is a substantial shareholder of
17 Yahoo who owns 70,711,390, or 7.4%, of Yahoo's outstanding shares and thus is able to exert
18 significant control and influence over Yahoo and the Board.

19 **B. Demand Is Futile as to the Entire Board Because They Acted in Bad Faith and**
20 **Breached Their Duty of Candor by Actively Concealing the Data Breaches**

21 68. The entire Board is *interested* because Yahoo is currently subject to ongoing
22 investigations by the SEC, DOJ, and state attorney generals. The Company's 2016 Form 10-K, filed
23 March 1, 2017 states: "The Company is cooperating with federal, state, and foreign governmental
24 officials and agencies seeking information and/or documents about the Security Incidents and
25 related matters, including the U.S. Securities and Exchange Commission ("SEC"), the U.S. Federal
26 Trade Commission, the U.S. Attorney's Office for the Southern District of New York, and two State
27 Attorneys General." Given the ongoing nature of these investigations, none of the current Board
28 members can objectively consider a demand to sue themselves since suing themselves could subject

1 them to potential criminal liability in the DOJ investigation, and substantial civil damages in the
2 SEC, foreign, and state attorney general investigations. The pendency of an active DOJ
3 investigation makes this case particularly unique given the directors' potential for criminal liability.

4 69. Indeed, the Board itself conducted an internal investigation and determined that
5 senior executives had actual knowledge of the 2014 data breach yet failed to timely disclose the
6 breach or take appropriate action. Yahoo's 2016 Form 10-K states: "Based on its investigation, the
7 Independent Committee concluded that the Company's information security team had
8 contemporaneous knowledge of the 2014 compromise of user accounts, as well as incidents by the
9 same attacker involving cookie forging in 2015 and 2016. ***In late 2014, senior executives and***
10 ***relevant legal staff were aware that a state-sponsored actor had accessed certain user accounts***
11 ***by exploiting the Company's account management tool.*** The Company took certain remedial
12 actions, notifying 26 specifically targeted users and consulting with law enforcement. While
13 significant additional security measures were implemented in response to those incidents, ***it appears***
14 ***certain senior executives did not properly comprehend or investigate, and therefore failed to act***
15 ***sufficiently upon, the full extent of knowledge known internally by the Company's information***
16 ***security team.*** Specifically, as of December 2014, the information security team understood that the
17 attacker had exfiltrated copies of user database."

18 70. A fair inference from the facts disclosed by the Board is that the senior executives
19 and the Company's main in-house lawyer, Mr. Bell, advised the Board of the relevant facts
20 concerning the 2014 data breach. This inference is particularly plausible given the admission in the
21 2016 Annual Report that "The Company took certain remedial actions, notifying 26 specifically
22 targeted users and consulting with law enforcement." It is completely implausible to conclude that
23 Yahoo would have taken certain remedial actions and consulted with law enforcement without fully
24 informing the Board of these major decisions, especially given the fact that *Yahoo's Board took a*
25 *direct and active role in monitoring data breaches.*

26 71. Based on these facts and the reasonable inferences that can and must be drawn in
27 Plaintiff's favor from those facts, the Board knew about the data breach in 2014 and *"failed to act*
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1 *sufficiently upon the full extent of knowledge known internally by the Company's information*
2 *security team" and relayed to the Board by the security team and/or Mr. Bell.*

3 72. As such, the entire Board failed to act in the face of a known duty to act. Such
4 conduct constitutes bad faith, thus excusing demand. Demand is therefore excused as to the entire
5 Board.

6 73. Moreover, the Board itself approved the change of control payments and golden
7 parachutes to management, including Mayer, Bell and Filo, notwithstanding their knowledge that
8 Mayer, Bell and Filo bore substantial liability for the damages to Yahoo from the data breaches and
9 the failure to promptly report the breaches and taken necessary and prompt remedial measures.⁶ As
10 such, the entire Board breached its duty of loyalty to Yahoo by subjugating Yahoo's best interests
11 to those of Mayer, Filo, and Bell. Quite simply, the Board knowingly approved payments of millions
12 of dollars to Mayer notwithstanding knowledge of the massive damage caused to Yahoo. This is
13 the epitome of disloyal conduct by a fiduciary and also constitutes bad faith, thus excusing demand.

14 **C. Demand is Futile as to the Audit Committee Defendants**

15 74. Defendants Brandt, Braham, and McInerney are members of the Audit and Finance
16 Committee of the Board. Pursuant to the Audit and Finance Committee Charter, these defendants
17 had the responsibility to oversee legal matters that could have a significant impact on the Company's
18 financial condition and to oversee the Company's compliance with legal or regulatory requirements.
19 Brandt, Braham, and McInerney knew or were reckless in not knowing the facts identified herein
20 about the data breaches. By failing to act in the face of a known duty to act, Brandt, Braham, and
21 McInerney acted in bad faith and breached their duty of loyalty to Yahoo. Demand is thus excused
22 as to Brandt, Braham, and McInerney.

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⁶ It is not clear whether Mr. Bell will receive his golden parachute payments in light of the fact that he was fired or forced to resign effective Mar. 1, 2017.

1 **VI. SUBSTANTIVE ALLEGATIONS**

2 **A. Yahoo Collects Massive Personal Information from Users and Promises to**
3 **Safeguard Such Information**

4 75. A publicly-traded company with billions of dollars in market capitalization, Yahoo
5 maintains Internet websites for searches, email, shopping, and news. According to its 2015 annual
6 report to shareholders,⁷ “Yahoo is focused on informing, connecting, and entertaining our users
7 with our search (Yahoo Search), communications (including Yahoo Mail and Yahoo Messenger),
8 and digital content products (including Tumblr), and [Yahoo’s] 4 core verticals: Yahoo News,
9 Yahoo Sports, Yahoo Finance, and Yahoo Life Style.”

10 76. With over a billion visitors to its websites every month, Yahoo has collected
11 confidential, personal information from hundreds of millions of Internet users. For example, for
12 each new user who signs up for an email account on Yahoo.com, Yahoo requires that the new user
13 provide first and last names, date of birth, telephone number, and account name and password.
14 Yahoo also asks new users to identify their gender and to provide alternative email addresses for
15 “account recovery” purposes. In addition, Yahoo collects massive amounts of personal information
16 regarding its users’ transactions. According to Yahoo’s own Privacy Policy:

17 **Information Collection & Use**

18 **General**

19 Yahoo collects personal information when you register with Yahoo,
20 when you use Yahoo products or services, when you visit Yahoo
21 pages or the pages of certain Yahoo partners, and when you enter
22 promotions or sweepstakes. Yahoo may combine information about
23 you that we have with information we obtain from business partners
24 or other companies.

25 *When you register we ask for information such as your name, email
26 address, birth date, gender, ZIP code, occupation, industry, and
27 personal interests. For some financial products and services we might
28 also ask for your address, Social Security number, and information
about your assets. When you register with Yahoo and sign in to our
services, you are not anonymous to us.*

*Yahoo collects information about your transactions with us and with
some of our business partners, including information about your use*

27 ⁷ YAHOO! 2015 ANNUAL REPORT, Feb. 16, 2016, available at http://files.shareholder.com/downloads/YHOO/2958064783x0x893458/96E76DB6-C10F-4514-AAB0-24BFC488B422/yahoo_ar15_annual_report.pdf (last visited Mar. 3, 2017).

1 *of financial products and services that we offer.*

2 *Yahoo analyzes and stores all communications content, including*
3 *email content from incoming and outgoing email.*

4 *Yahoo automatically receives and records information from your*
5 *computer and browser, including your IP address, Yahoo cookie*
6 *information, software and hardware attributes, and the page you*
7 *request.*

8 Yahoo uses information for the following general purposes: *to*
9 *customize the advertising and content you see, fulfill your requests for*
10 *products and services, improve our services, contact you, conduct*
11 *research, and provide anonymous reporting for internal and external*
12 *clients.*

13 77. In its Privacy Policy, Yahoo promises users that it takes their privacy “seriously” and
14 implements systems and procedures to safeguard users’ personal information:

15 **Confidentiality & Security**

16 *We limit access to personal information about you to employees who*
17 *we believe reasonably need to come into contact with that information*
18 *to provide products or services to you or in order to do their jobs.*

19 *We have physical, electronic, and procedural safeguards that comply*
20 *with federal regulations to protect personal information about you.*

21 **B. Yahoo’s Board Was Aware of the Duty to Notify Its Customers and Law**
22 **Enforcement Upon Becoming Aware of a Data Breach**

23 78. Yahoo’s 2015 Annual Report, filed Feb. 29, 2016 and signed by the entire Board of
24 Directors at the time, acknowledged Yahoo’s duty to notify its customers and law enforcement
25 promptly upon learning of any data breach at Yahoo. The Annual Report on Form 10-K
26 acknowledged that “[m]any states have passed laws requiring notification to users where there is a
27 security breach for personal data, such as California’s Information Practices Act.”

28 79. Thus, the entire Yahoo Board knew that, if Yahoo experienced a data breach and
failed to advise its users, Yahoo would be violated the law and exposing itself to significant
damages. Indeed, most states that have data breach notification laws provide for treble damages.

80. Because of the importance to Yahoo’s operations and financial results of
cybersecurity and compliance with applicable laws, the Board or its Audit and Finance Committee
received detailed updates from management about the Company’s cybersecurity, including
information about any data breaches, at all Board and Board Committee meetings.

1 81. The Board or the Audit and Finance Committee received consistent updates on a
2 quarterly basis from Yahoo’s Chief Information Security Officer (“CISO”). Those updates included
3 a review of data security breaches, both large and small.

4 82. The Audit and Finance Committee received updates from the CISO at a minimum of
5 eight meetings, including those held on June 24, 2014, October 15, 2014, April 15, 2015, June 23,
6 2015, October 14, 2015, December 2, 2015, February 22, 2016, and April 3, 2016.

7 83. The Audit and Finance Committee’s Charter states that it is responsible for briefing
8 the Board on important matters: “The Committee shall regularly report to the Board on Committee
9 findings, recommendations, or other matters the Committee deems appropriate or the Board
10 requests. In connection therewith, the Committee should review with the Board any issues that arise
11 with respect to . . . the Company’s compliance with legal or regulatory requirements.”

12 84. Moreover, the full Board received updates from the CISO at a minimum of six
13 meetings, including those held on April 8, 2014, June 25, 2014, October 16, 2014, June 23, 2015,
14 October 14-15, 2015, and April 13-14, 2016.

15 85. As noted herein, with respect to the 2014 Siberia Intrusion, Yahoo was notified about
16 the data breach shortly after it occurred in September 2014 and yet failed to notify users of the
17 breach, in violation of these laws.

18 **C. Yahoo Failed to Protect Users’ Personal Information from Theft by Hackers**

19 86. According to a September 28, 2016 article from the *New York Times*,⁸ “Yahoo’s
20 computer systems and customer email accounts were penetrated by Chinese military hackers” in
21 2010.

22 87. Although the 2010 data breach also occurred at Google, Inc. (“Google”) and a
23 number of other technology companies, the responses from those companies to the data breach were
24 substantially different from Yahoo’s response. For example, Yahoo never publicly admitted that it
25 had been hacked. In contrast, Google’s response was public and swift. In fact, Google’s co-founder
26 publicly announced that he regarded the attack on Google’s systems as “a personal affront” and

27 ⁸ Nicole Perlroth & Vindu Goel, *Defending Against Hackers Took a Back Seat at Yahoo,*
28 *Insiders Say*, N.Y. TIMES, Sept. 28, 2016, available at <http://www.nytimes.com/2016/09/29/technology/yahoo-data-breach-hacking.html> (last visited March 4, 2017).

1 responded by making security a top corporate priority. As a result, Google hired hundreds of security
2 engineers with six-figure signing bonuses, invested hundreds of millions of dollars in security
3 infrastructure and adopted a new internal motto, “Never Again,” to signal that it would never again
4 allow anyone — be they spies or criminals — to hack into Google customers’ accounts.

5 88. By comparison, Yahoo was slower to invest in the kinds of defenses necessary to
6 thwart sophisticated hackers, such as state actors, that are now considered standard in Silicon Valley.
7 Instead of making security a top priority, Yahoo called its own security team “The Paranoids,”
8 allowed the team’s requests to be overridden, and opted to focus on other competing priorities. All
9 told, Yahoo’s security efforts fell short, when compared with those of other technology companies.

10 **D. On September 22, 2016, Yahoo Disclosed a Massive Data Breach by a State-**
11 **Sponsored Actor That Took Place Two Years Before — in 2014**

12 89. On September 22, 2016, Yahoo informed its users that they were victims of a massive
13 data breach, dating back to 2014.

14 90. In its September 22, 2016 press release, Yahoo stated that “the account information
15 may have included names, email addresses, telephone numbers, dates of birth, hashed passwords
16 (the vast majority with bcrypt) and, in some cases, encrypted or unencrypted security questions and
17 answers.” Such types of information are highly valuable to perpetrators of identity theft.

18 91. Yahoo further stated that a “state-sponsored actor” — an individual or entity acting
19 on behalf of a foreign government — was believed to be behind the data breach. It is estimated that
20 at least 500 million user accounts have been stolen.

21 92. Yahoo’s data breach has long-lasting, potentially devastating consequences to its
22 users. In addition to compromising existing accounts, the stolen personal information can be used
23 to open new financial accounts, incur charges, originate loans, and initiate other unauthorized
24 activities in the names of class members. The personal information can also be used to harm Yahoo
25 users through blackmail or harassment.

26 93. As reported in a study conducted by the President’s Identity Theft Task Force in
27 April 2007, headed by the Attorney General of the United States and the Chairman of the Federal
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1 Trade Commission, massive data breaches, such as the one announced by Yahoo, are costly to users
2 both financially and emotionally:⁹

3 In addition to the losses that result when identity thieves fraudulently
4 open accounts or misuse existing accounts, ... individual victims
5 often suffer indirect financial costs, including the costs incurred in
6 both civil litigation initiated by creditors and in overcoming the many
7 obstacles they face in obtaining or retaining credit. Victims of
8 nonfinancial identity theft, for example, health-related or criminal
9 record fraud, face other types of harm and frustration.

10 *In addition to out-of-pocket expenses that can reach thousands of
11 dollars for the victims of new account identity theft, and the emotional
12 toll identity theft can take, some victims have to spend what can be a
13 considerable amount of time to repair the damage caused by the
14 identity thieves. Victims of new account identity theft, for example,
15 must correct fraudulent information in their credit reports and monitor
16 their reports for future inaccuracies, close existing bank accounts and
17 open new ones, and dispute charges with individual creditors.*

18 94. In addition to the massive scale, Yahoo's data breach is particularly egregious due to
19 the two-year delay in discovery and disclosure. Indeed, six United States Senators — the Honorable
20 Patrick Leahy (of Vermont), the Honorable Al Franken (of Minnesota), the Honorable Elizabeth
21 Warren (of Massachusetts), the Honorable Richard Blumenthal (of Connecticut), the Honorable Ron
22 Wyden (of Oregon), and the Honorable Edward J. Markey (of Massachusetts) — sent a letter to
23 Mayer, Yahoo's CEO, on September 27, 2016, expressing outrage in Yahoo's delays:¹⁰

24 *We are even more disturbed that user information was first
25 compromised in 2014, yet the company only announced the breach
26 last week. That means millions of Americans' data may have been
27 compromised for two years. This is unacceptable. This breach is the
28 latest in a series of data breaches that have impacted the privacy of
millions of American consumers in recent years, but it is by far the
largest. Consumers put their trust in companies when they share
personal and sensitive information with them, and they expect all
possible steps be taken to protect that information.*

25 ⁹ The President's Identity Theft Task Force, *Combating Identity Theft: A Strategic Plan*, at
26 11 (April 2007), available at [https://www.ftc.gov/sites/default/
27 files/documents/reports/combating-identity-theft-strategic-plan/strategicplan.pdf](https://www.ftc.gov/sites/default/files/documents/reports/combating-identity-theft-strategic-plan/strategicplan.pdf) (last visited
28 Mar. 4, 2017).

¹⁰ Available at [https://www.leahy.senate.gov/imo/media/doc/9-27-16%20Yahoo%
20Breach%20Letter.pdf](https://www.leahy.senate.gov/imo/media/doc/9-27-16%20Yahoo%20Breach%20Letter.pdf) (last visited Oct. 10, 2016).

1 **E. The Individual Defendants Were Well Aware of Yahoo’s Duty to Promptly Disclose**
2 **All Material Facts Regarding Data Breaches and Cyber-Attacks, and Yet Caused**
3 **Yahoo to File False and Misleading Statements with the SEC That Failed to Disclose**
4 **the Data Breaches**

5 95. The Individual Defendants – Yahoo’s officers and directors – were well aware of
6 their obligation to cause Yahoo to disclose all material facts regarding any data breach at Yahoo.
7 They knew that, as an Internet company whose email accounts were utilized by millions of
8 consumers, Yahoo was at a heightened risk of data breaches and cyber-attacks. The Individual
9 Defendants knew that Yahoo’s customers would be negatively impacted in the event of a data
10 breach, and Yahoo would face substantial liability in the event that it did not maintain the security
11 of its users’ personal information.

12 96. On November 12, 2013, Yahoo filed a Quarterly Report on Form 10-Q with the
13 SEC, announcing the Company's financial and operating results for the quarter ended September
14 30, 2013. The Quarterly Report acknowledged the potential harm that might result from a data
15 breach. Despite acknowledging the materiality of a data breach to the Company, the Form 10-Q
16 does not mention that Yahoo was victim to the largest ever data breach. In particular, Yahoo stated:

17 *If our security measures are breached*, our products and services may be perceived as not
18 being secure, users and customers may curtail or stop using our products and services, and
19 we may incur significant legal and financial exposure.

20 Our products and services involve the storage and transmission of Yahoo's users' and
21 customers' personal and proprietary information in our facilities and on our equipment,
22 networks and corporate systems. *Security breaches expose us to a risk of loss of this*
23 *information, litigation, remediation costs, increased costs for security measures, loss of*
24 *revenue, damage to our reputation, and potential liability*. Our user data and corporate
25 systems and security measures have been and may in the future be breached due to the
26 actions of outside parties (including cyber attacks), employee error, malfeasance, a
27 combination of these, or otherwise, allowing an unauthorized party to obtain access to our
28 data or our users' or customers' data. Additionally, outside parties may attempt to
fraudulently induce employees, users, or customers to disclose sensitive information in order
to gain access to our data or our users' or customers' data. *Any breach or unauthorized*
access could result in significant legal and financial exposure, increased remediation and
other costs, damage to our reputation and a loss of confidence in the security of our products,
services and networks that could potentially have an adverse effect on our business. Because
the techniques used to obtain unauthorized access, disable or degrade service, or sabotage
systems change frequently or may be designed to remain dormant until a predetermined
event and often are not recognized until launched against a target, we may be unable to
anticipate these techniques or implement adequate preventative measures. *If an actual or*

1 ***perceived breach of our security occurs***, the market perception of the effectiveness of our
2 security measures could be harmed and we could lose users and customers.

3 97. Defendants Mayer, Goldman, Webb, James, and McInerney made the same
4 statements without acknowledging the 2013 data breach in the Company's Annual Report on Form
5 10-K filed with the SEC on February 28, 2014.

6 98. In fact, for the next three years, every one of the Company's quarterly filings and
7 yearly filings contains nearly the exact same language. Despite Yahoo's knowledge of the 2014
8 Siberia Intrusion data breach, no mention of it ever occurs until September 2016.

9 99. In particular, the following public filings are misleading, Yahoo's: (a) Quarterly
10 Report on Form 10-Q announcing the Company's financial and operating results for the quarter
11 ended March 31, 2014; (b) Quarterly Report on Form 10-Q announcing the Company's financial
12 and operating results for the quarter ended June 30, 2014; (c) Quarterly Report on Form 10-Q
13 announcing the Company's financial and operating results for the quarter ended September 30, 2014;
14 (d) Annual Report on Form 10-K announcing the Company's financial and operating results for the
15 quarter and year ended December 31, 2014, which was signed by defendants Mayer, Goldman,
16 Webb, Filo, James, McInerney, Scott, and Shaw; (e) Quarterly Report on Form 10-Q announcing
17 the Company's financial and operating results for the quarter ended March 31, 2015 (signed by
18 Mayer and Goldman); (f) Quarterly Report on Form 10-Q announcing the Company's financial
19 and operating results for the quarter ended June 30, 2015 (signed by Mayer and Goldman); (g)
20 Quarterly Report on Form 10-Q announcing the Company's financial and operating results for the
21 quarter ended September 30, 2015 (signed by Mayer and Goldman); (h) Annual Report on Form
22 10-K announcing the Company's financial and operating results for the quarter and year ended
23 December 31, 2015, signed by defendants Mayer, Goldman, Webb, Filo, McInerney, Scott, James
24 and Shaw; (i) Quarterly Report on Form 10-Q announcing the Company's financial and operating
25 results for the quarter ended March 31, 2016; and (j) Quarterly Report on Form 10-Q announcing
26 the Company's financial and operating results for the quarter ended June 30, 2016.

27 100. For example, Yahoo's Annual Report for the fiscal year ended December 31, 2015,
28 which was reviewed, approved, and signed by Defendants Mayer, Goldman, Webb, Filo,
McInerney, Scott, James and Shaw, stated the following:

1 ***If our security measures are breached, our products and services may be***
2 ***perceived as not being secure, users and customers may curtail or stop using our***
3 ***products and services, and we may incur significant legal and financial exposure.***

4 Our products and services involve the storage and transmission of Yahoo's
5 users' and customers' personal and proprietary information in our facilities and on
6 our equipment, networks and corporate systems. ***Security breaches expose us to a***
7 ***risk of loss of this information, litigation, remediation costs, increased costs for***
8 ***security measures, loss of revenue, damage to our reputation, and potential***
9 ***liability.*** Outside parties may attempt to fraudulently induce employees, users, or
10 customers to disclose sensitive information to gain access to our data or our users'
11 or customers' data. In addition, hardware, software or applications we procure from
12 third parties may contain defects in design or manufacture or other problems that
13 could unexpectedly compromise network and data security. Additionally, some third
14 parties, such as our distribution partners, service providers and vendors, and app
15 developers, may receive or store information provided by us or by our users through
16 applications integrated with Yahoo. If these third parties fail to adopt or adhere to
17 adequate data security practices, or in the event of a breach of their networks, our
18 data or our users' data may be improperly accessed, used or disclosed. ***Security***
19 ***breaches or unauthorized access have resulted in and may in the future result in a***
20 ***combination of significant legal and financial exposure, increased remediation***
21 ***and other costs, damage to our reputation and a loss of confidence in the security***
22 ***of our products, services and networks that could have an adverse effect on our***
23 ***business.*** We take steps to prevent unauthorized access to our corporate systems,
24 however, because the techniques used to obtain unauthorized access, disable or
25 degrade service, or sabotage systems change frequently or may be designed to remain
26 dormant until a triggering event, we may be unable to anticipate these techniques or
27 implement adequate preventative measures. If an actual or perceived breach of our
28 security occurs, the market perception of the effectiveness of our security measures
could be harmed and we could lose users and customers.

18 101. The 2015 Annual Report was false and misleading for failing to disclose the 2013
19 and 2014 data breaches at Yahoo, and for failing to disclose that Yahoo did not have adequate
20 internal controls in place to safeguard its users' data and to remedy a data breach.

21 102. In addition, the Individual Defendants were aware that the SEC has adopted rules
22 mandating full disclosure of data breaches. On October 13, 2011, the SEC issued CF Disclosure
23 Guidance: Topic No. 2 (the "SEC Disclosure Guidance"), which contains guidance regarding
24 disclosures that must be made by publicly-traded companies concerning data breaches. The SEC
25 Disclosure Guidance states that if a company experiences a "material cyber-attack" it "would not
26 be sufficient" to merely disclose that a risk exists, and that the company may be required to disclose
27 specific information regarding any such attack.

1 103. The SEC Disclosure Guidance mandates that companies address cyber-security risks
2 and incidents in their public filings “if the costs or other consequences associated with one or more
3 known incidents or the risk of potential incidents represents a material event, trend, or uncertainty
4 that is reasonably likely to have a material effect” on the company’s financial results.

5 **F. Yahoo Discloses That, Contrary to the Representations in the Preliminary Proxy**
6 **Regarding the Purchase Agreement, It Was Aware of the 2014 Breach**

7 104. On September 22, 2016, less than two weeks after filing the Proxy, Yahoo issued a
8 press release that contradicted its prior representations. Yahoo disclosed that in 2014 there had been
9 a breach of its users’ personal information by what it believed to be a “state-sponsored actor” who
10 had stolen certain user account information. Yahoo revealed that the security breach affected at least
11 500 million user accounts.

12 105. Although it did not publicly disclose it at the time, Yahoo had even given a code
13 name to the September 2014 breach – the “Siberia Intrusion.”

14 106. As noted *supra*, in response to this disclosure, six United States Senators — the
15 Honorable Patrick Leahy (of Vermont), the Honorable Al Franken (of Minnesota), the Honorable
16 Elizabeth Warren (of Massachusetts), the Honorable Richard Blumenthal (of Connecticut), the
17 Honorable Ron Wyden (of Oregon), and the Honorable Edward J. Markey (of Massachusetts) —
18 sent a letter to Mayer, Yahoo’s CEO, on September 27, 2016, expressing outrage in Yahoo’s delay
19 in reporting the data breaches.

20 107. On November 9, 2016, Yahoo filed with the SEC its Q3 2016 10-Q, which was
21 signed by Defendant Mayer and the Company’s Chief Financial Officer (“CFO”) Kenneth Goldman
22 (“Goldman”). The Q3 2016 10-Q stated that the Company knew about the 2014 data breach prior
23 to entering into the Purchase Agreement with Verizon. The Form 10-Q stated:

24 In late July 2016, a hacker claimed to have obtained certain Yahoo user data. After
25 investigating this claim with the assistance of an outside forensic expert, the
26 Company could not substantiate the hacker’s claim. Following this investigation,
27 the Company intensified an ongoing broader review of the Company’s network and
28 data security, including a review of prior access to the Company’s network by a state-
sponsored actor that the Company *had identified in late 2014*. Based on further
investigation with an outside forensic expert, the Company disclosed the Security
Incident on September 22, 2016, and began notifying potentially affected users,
regulators, and other stakeholders.

1 The Company, with the assistance of outside forensic experts, continues to
2 investigate the Security Incident and related matters. The Company is actively
working with U.S. law enforcement authorities on this matter.

3 As described above, the Company had identified that a state-sponsored actor had
4 access to the Company's network in late 2014. An Independent Committee of the
5 Board, advised by independent counsel and a forensic expert, is investigating, among
6 other things, the scope of knowledge within the Company in 2014 and thereafter
regarding this access, the Security Incident, the extent to which certain users' account
information had been accessed, the Company's security measures, and related
incidents and issues.

7 In addition, the forensic experts are currently investigating certain evidence and
8 activity that indicates an intruder, believed to be the same state-sponsored actor
9 responsible for the Security Incident, created cookies that could have enabled such
intruder to bypass the need for a password to access certain users' accounts or
account information.

10 Separately, on November 7, 2016, law enforcement authorities began sharing certain
11 data that they indicated was provided by a hacker who claimed the information was
12 Yahoo user account data. Yahoo will, with the assistance of its forensic experts,
analyze and investigate the hacker's claim that the data is Yahoo user account data.

13 108. On December 14, 2016, Yahoo issued another press release, this time disclosing that
14 in 2013 an unauthorized third party had stolen data associated with "more than one billion user
15 accounts." The 2013 data breach was one of the largest, if not the largest, cyber-security breach in
16 history. The press release stated:

17 As Yahoo previously disclosed in November, law enforcement provided the company with
18 data files that a third party claimed was Yahoo user data. The company analyzed this data
19 with the assistance of outside forensic experts and found that it appears to be Yahoo user
20 data. Based on further analysis of this data by the forensic experts, ***Yahoo believes an
21 unauthorized third party, in August 2013, stole data associated with more than one billion
22 user accounts. The company has not been able to identify the intrusion associated with
23 this theft. Yahoo believes this incident is likely distinct from the incident the company
24 disclosed on September 22, 2016.***

25 For potentially affected accounts, the stolen user account information may have
26 included names, email addresses, telephone numbers, dates of birth, hashed passwords
27 (using MD5) and, in some cases, encrypted or unencrypted security questions and answers.
28 The investigation indicates that the stolen information did not include passwords in clear
text, payment card data, or bank account information. Payment card data and bank account
information are not stored in the system the company believes was affected.

29 Yahoo is notifying potentially affected users and has taken steps to secure their accounts,
30 including requiring users to change their passwords. Yahoo has also invalidated unencrypted
31 security questions and answers so that they cannot be used to access an account.

1 109. On January 5, 2017, news reports indicated that Verizon considered the data breaches
2 to be a “Material Adverse Event” under the contract, thereby giving Verizon the right to cancel the
3 deal.

4 110. On January 23, 2017, Yahoo announced that it had delayed consummation of the
5 Purchase Agreement until the second quarter of 2017, despite previously announced plans to close
6 the deal during the first quarter of 2017.

7 111. On January 23, 2017, it was also reported that the SEC was investigating whether
8 Yahoo should have disclosed the two major data breaches sooner. *See* Aruna Viswanatha and
9 Robert McMillan, “Yahoo Faces SEC Probe Over Data Breaches, The Wall Street Journal, Jan. 23,
10 2017.

11 112. On January 24, 2017, Yahoo, Marissa Mayer, and Kenneth A. Goldman were sued
12 for securities fraud in a class action lawsuit filed in the United States District Court for the Northern
13 District of California, styled *Madrack v. Yahoo! Inc. et al.*, Case No. 5:17-cv-00373-LHK. The
14 lawsuit alleges that the defendants’ SEC filings and press releases were fraudulent due to failure to
15 disclose the data breaches and the fact that Yahoo did not have adequate internal controls in place
16 to safeguard its users’ private information.

17 113. Meanwhile, the U.S. Senate continued to request additional information from Yahoo
18 about the data breaches. Yahoo was scheduled to brief congressional staffers about its data breaches
19 on Jan. 31, 2017, but Yahoo abruptly cancelled the meeting on Jan. 28, 2017. Thereafter, Sen. John
20 Thune and Sen. Jerry Moran reprimanded Defendant Marissa Mayer in a Feb. 10, 2017 letter for not
21 being more forthcoming about the security problems.

22 114. “Yahoo!’s recent, last-minute cancellation of a planned congressional staff briefing,
23 originally scheduled for January 31, 2017, has prompted concerns about the company’s willingness
24 to deal with Congress with complete candor,” the letter stated. The senators presented a list of
25 questions about the breaches to Yahoo and demanded an answer no later than Feb. 23, 2017.

26 115. Then, on March 15, 2017, the U.S. Department of Justice announced criminal
27 charges against four individuals related to the 2014 Data Breach, including indictments of two
28 Russian spies and two criminal hackers, marking the first U.S. criminal cyber charges ever against

1 Russian government officials and the largest hacking case brought by the United States. The
2 indictments grew out of a nearly two-year investigation by the San Francisco FBI with the aid of
3 international law enforcement.

4 116. Two agents of Russia’s Federal Security Service, known as the F.S.B., were charged
5 -- Dmitry Aleksandrovich Dokuchaev, 33, a Russian national and resident, and his supervisor Igor
6 Anatolyevich Sushchin, 43, a Russian national and resident. The other two defendants who were
7 charged are Alexsey Alexseyevich Belan, 29, a Russian national and resident;¹¹ and Karim Baratov,
8 22, a Canadian and Kazakh national and a resident of Canada.

9 117. The compromised accounts may have affected more than just email. Breaking into a
10 Yahoo account would give the hackers access to users’ activity on Flickr, Tumblr, fantasy sports
11 and other Yahoo applications. *See* Ellen Nakashima, “Justice Department Charges Russian Spies
12 and Criminal Hackers in Yahoo Intrusion,” *The Washington Post*, Mar. 15, 2017. In the 2014 hack,
13 the FSB — Russia’s Federal Security Service, and a successor to the KGB — sought the information
14 for intelligence purposes, targeting journalists, dissidents and U.S. government officials, but allowed
15 the criminal hackers to use the email cache for the officials’ and the hackers’ financial gain, through
16 spamming and other operations. *Id.*

17 118. Dokuchaev, whose hacker alias was “Forb,” was arrested in December in Moscow,
18 according to the news agency Interfax, on charges of state treason for passing information to the
19 CIA. He had reportedly agreed to work for the FSB to avoid prosecution for bank card fraud.

20 **G. Verizon Obtains Actual Knowledge of Breaches of Fiduciary Duty Committed By**
21 **Yahoo’s Officers and Directors and Then Uses Such Information to Gain an**
22 **Advantage in the Bargaining Negotiations**

23 119. During this time, Verizon and Yahoo held numerous meetings to discuss the data
24 breaches, which Verizon stated constituted a Material Adverse Event (“MAE”) under the Purchase
25 Agreement. As such, Verizon had the right to back out of the deal. To attempt to prevent Verizon

26
27 ¹¹ Belan is on the list of most-wanted cyber criminals and has been charged twice before, in
28 connection with intrusions into three major tech firms in Nevada and California in 2012 and
2013. He was in custody in Greece for a time, but made his way back to Russia, where he is
being protected by authorities, according to U.S. officials.

1 from doing so, the Individual Defendants shared the details of Yahoo’s investigation into the data
2 breaches with Verizon.

3 120. As revealed in Yahoo’s 2016 Annual Report, at a minimum those details which were
4 shared with Verizon during January and February 2017 included the fact that Yahoo’s information
5 security team had contemporaneous knowledge of the 2014 compromise of user accounts, as well
6 as incidents by the same attacker involving cookie forging in 2015 and 2016, and that *in late 2014,*
7 *senior executives and relevant legal staff of Yahoo were aware that a state-sponsored actor had*
8 *accessed certain user accounts by exploiting the Company’s account management tool.*

9 121. Verizon was also told by Yahoo prior to amendment of the Purchase Agreement that
10 *certain senior executives of Yahoo did not properly comprehend or investigate, and therefore*
11 *failed to act sufficiently upon, the full extent of knowledge known internally by the Company’s*
12 *information security team.* Verizon was also told that Yahoo’s Independent Committee had
13 decided to fire Defendant Bell and strip Defendant Mayer of her 2016 bonus and 2017 stock equity
14 award based on their involvement in and response to the data breaches.

15 122. Verizon also had full access to all of Yahoo’s books, records, and information, since
16 the Purchase Agreement explicitly obligated Yahoo to provide Verizon full access to all such
17 information from the date of the execution of the Purchase Agreement on July 23, 2016 to the closing
18 of the transaction. Section 4.03 of the Purchase Agreement states: “From the date hereof until the
19 Closing (or until the earlier termination of this Agreement in accordance with Section 6.01), upon
20 reasonable notice, Seller shall, as promptly as reasonably practicable: (i) afford Purchaser and its
21 Representatives reasonable access to the personnel, properties and Books and Records of the
22 Business.” Verizon thus had full access to Yahoo’s ongoing information and data regarding
23 Yahoo’s investigation into the data breaches. Indeed, as demonstrated below, it could not have
24 agreed to amend the Purchase Agreement and pick a specific number for the reduction in the
25 purchase price (\$350 million) without performing a full, complete, and extensive analysis of the
26 data breach, the liabilities expected to be incurred from such breach, and all related matters prior to
27 agreeing to amend the Purchase Agreement.

28

1 123. In fact, when Verizon signed the Amended Purchase Agreement with Yahoo, it did
2 not disclaim knowledge of the breaches of fiduciary duty committed by the Individual Defendants,
3 but instead only professed “uncertainty” regarding the breach of candor committed by such
4 executives at the time of the signing of the original purchase agreement. For example, the settlement
5 agreement which is attached as an exhibit to the Amended Purchase Agreement states “Purchaser
6 hereby *expressly acknowledges present uncertainty* about the facts concerning the Knowledge of
7 Seller and the knowledge of any of Seller’s directors, officers, employees or independent
8 contractors, or any recklessness or negligence by Seller or any of its directors, officers, employees
9 or independent contractors with respect to the existence of Data Breaches at the time of the signing
10 of the Purchase Agreement. . . “ See Amended Purchase Agreement, Ex. 10.1, at Section 2(c).
11 Explicitly expressing “uncertainty” implies at a minimum some knowledge, and obviously Verizon
12 had enough information in its possession about the lack of candor of Yahoo’s executives at the time
13 the original purchase agreement was signed to exact a \$350 million reduction in the purchase price.

14 124. Moreover, upon information and belief, Verizon was fully advised of and approved
15 the decisions regarding Mayer’s forfeiture of her 2016 bonus and the firing of Bell. The Purchase
16 Agreement itself contains customary and broad-ranging restrictions on what action Yahoo can take
17 with respect to its operations pending completion of the transaction. Thus, pursuant to Section 4.01
18 of the Purchase Agreement, Yahoo has been restrained since July 23, 2016 from taking a broad
19 range of actions without the prior consent of Verizon. While firing an employee is not necessarily
20 one of those actions, hiring a replacement employee whose salary exceeds \$225,000 per year is
21 specifically prohibited. Because Bell earned more than \$225,000 per year (his salary was \$600,000
22 in 2015), Yahoo cannot hire a replacement for Bell without Verizon’s consent. Thus, it is likely
23 that Yahoo had to fully inform Verizon about the decision to fire Bell and obtain Verizon’s consent
24 to such action before taking it.

25 125. Verizon thereafter proceeded to use such knowledge of the breaches of fiduciary duty
26 which had been committed by Yahoo’s officers and directors to gain a bargaining advantage in its
27 negotiations with Yahoo. On February 20, 2017, Yahoo and Verizon entered into an Amendment
28 to Stock Purchase Agreement amending the Original Stock Purchase Agreement (the “SPA

1 Amendment” and, together with the Original Stock Purchase Agreement, the “Amended Stock
2 Purchase Agreement”), and, concurrently with the execution of the SPA Amendment, Yahoo and
3 Yahoo Holdings entered into an Amendment to Reorganization Agreement amending the Original
4 Reorganization Agreement (the “RA Amendment”). Additionally, concurrently with the execution
5 of the SPA Amendment and the RA Amendment, Yahoo, Yahoo Holdings, and Verizon entered
6 into a Settlement and Release Agreement (the “Settlement and Release Agreement”).

7 126. The SPA Amendment, among other things, (i) reduced the consideration to be paid
8 by Verizon to Yahoo in connection with the Sale by \$350,000,000 to \$4,475,800,000, (ii) provided
9 that certain data security incidents to which Yahoo has been subject will be disregarded for purposes
10 of determining whether certain closing conditions have been satisfied and in determining whether a
11 “Business Material Adverse Effect” has occurred, and (iii) provided that the date after which each
12 of Yahoo and Verizon may terminate the Amended Stock Purchase Agreement if the Closing (as
13 defined in the Amended Stock Purchase Agreement) has not occurred has been extended to July 24,
14 2017.

15 127. The RA Amendment provides, among other things, that Yahoo and Verizon will each
16 be responsible for 50 percent of certain post-closing cash liabilities related to certain data security
17 incidents and other data breaches incurred by the Company.

18 128. Under the terms of the Settlement and Release Agreement, among other things,
19 *Verizon released certain claims, subject to certain exceptions, it (and its affiliates and*
20 *representatives) may have against the Company (or its affiliates and representatives) relating to*
21 *certain data security incidents and other data breaches incurred by the Company.*

22 129. Upon completion of the Sale, Verizon will also receive for its benefit and that of its
23 current and certain of its future affiliates, a non-exclusive, worldwide, perpetual, royalty-free license
24 to certain intellectual property not core to the operating business held by Excalibur IP, LLC, a
25 wholly-owned subsidiary of the Company (“Excalibur”), that is not being transferred to Yahoo
26 Holdings with the operating business.

27 130. Thus, in agreeing to amend the Purchase Agreement, Verizon carved the data
28 breaches out of the definition of the MAE, released Yahoo and its executives from liability relating

1 to the data breaches, and in exchange procured substantial benefits for itself including but not limited
2 to a reduction of \$350 million in the purchase price, forcing Yahoo to assume 50% of the liabilities
3 relating to the data breach, and forcing Yahoo to assume 100% of the liabilities relating to
4 shareholder lawsuits related to the data breaches.

5 131. Upon information and belief, the \$350 million benefit Verizon procured for itself in
6 the Amended Purchase Agreement significantly exceeds Verizon's estimate of its own liabilities
7 with respect to the data breaches, since Yahoo will continue to be separately liable for 50% of all
8 future damages related to the data breach and will be liable for 100% of any fines or damages in the
9 SEC investigation and the shareholder lawsuits.

10 132. However, having received what it wanted, Verizon gave Yahoo's executives officers
11 what they wanted: (1) a full release from Verizon for their conduct; and (2) a guarantee that they
12 would receive their full Golden Parachute Payments and other change of control payments which
13 were called for in the original Purchase Agreement. None of those payments were reduced in any
14 way in the Amended Purchase Agreement, notwithstanding the finding by Yahoo's Independent
15 Committee that "certain senior executives of Yahoo did not properly comprehend or investigate,
16 and therefore failed to act sufficiently upon, the full extent of knowledge known internally by the
17 Company's information security team" relating to the data breaches.

18 133. Because of their liability for the damages caused to Yahoo and its shareholders by
19 the data breaches, Yahoo's executives should not be entitled to receive their golden parachutes and
20 other change of control agreements.

21 **H. Yahoo Continues to Provide Incomplete and In Some Cases Inconsistent**
22 **Information About When It Knew of the Data Breaches**

23 134. The U.S. Senate has stated that Yahoo has provided inconsistent information and
24 disclosures relating to the data breaches and when Yahoo learned of them, and that Yahoo still has
25 not answered important questions about the data breaches.
26
27
28

1 135. Yahoo says it did not know about the 2013 breach until it was approached by law
2 enforcement in Nov. 2016, but the company learned about the 2014 incident the same year it
3 happened — leading to questions about why the breach wasn't announced until two years later.

4 136. Yahoo admits some employees knew about the breach in “late 2014,” according to a
5 November filing with the Securities and Exchange Commission. But Yahoo claimed in a September
6 proxy statement that it had no knowledge of any security breaches. The discrepancy led Sen. Mark
7 Warner to call on the SEC to investigate Yahoo. “Yahoo’s September filing asserting lack of
8 knowledge of security incidents involving its IT systems creates serious concerns about truthfulness
9 in representations to the public,” Warner said.
10

11 137. Yahoo did not clear up the timeline in its response to questions from Thune and
12 Moran. Here is all that Yahoo’s vice president April Boyd had to say about it:

13 “On September 22, 2016, Yahoo disclosed the 2014 Incident. Following the September 22,
14 2016 disclosure, the company, with the assistance of outside forensic experts, continued to
15 investigate the 2014 Incident and related matters. The company has also actively been
16 working with U.S. law enforcement agencies on this matter.”

17 138. The Board’s allegedly independent committee is investigating the timeline, but has
18 not provided important details. A spokesperson for Thune’s office said the newly announced
19 briefing with the board’s independent committee is not yet scheduled, but that it will be an important
20 part of the Senate inquiry.

21 139. Defendants McInerney, Brandt, and Smith are the Yahoo directors who were
22 appointed to the special committee of the Board to explore the sale of Yahoo’s operating company.
23 Upon information and belief, these same directors constitute the so-called Independent Committee
24 of the Board investigating the data breaches.

25 140. McInerney, Brandt, and Smith have all been promised a seat on Yahoo’s Board after
26 the transaction with Verizon closes, even though a majority of current directors will not keep their
27 seats. Defendants Mayer, Filo, Webb, Shaw, Hartenstein and Hill will not retain their director
28 positions.

141. Yahoo will be renamed Altaba after the Verizon transaction closes.

1 142. In its 2016 Annual Report, Yahoo admitted that its internal controls were not
 2 effective as of December 31, 2016: “The Company’s principal executive officer and principal
 3 financial officer have concluded (based on the findings and recommendations of the Independent
 4 Committee set forth in Item 7—“Management’s Discussion and Analysis of Financial Condition
 5 and Results of Operations—Security Incidents”) that, due exclusively to deficiencies in the
 6 Company’s existing security incident response protocols related to the 2014 Security Incident, the
 7 Company’s disclosure controls and procedures were not effective at December 31, 2016.”

8 **VII. SOME OF THE INDIVIDUAL DEFENDANTS ENGAGED IN UNLAWFUL**
 9 **INSIDER SELLING WHILE IN POSSESSION OF MATERIAL NON-PUBLIC**
 10 **INFORMATION ABOUT THE DATA BREACHES**

11 143. While in possession of material non-public information about Yahoo, the Individual
 12 Defendants identified below engaged in unlawful insider selling as reflected in their SEC filings and
 13 reported disposition of shares below:

14 **RONALD S. BELL**

| <i>SALE DATE</i> | <i>SHARES SOLD</i> | <i>PRICE PER SHARE</i> | <i>TOTAL SALE VALUE</i> |
|------------------|--------------------|------------------------|-------------------------|
| 1/17/2014 | 5,750 | \$39.7448 | \$228,532.60 |
| 1/17/2014 | 5,750 | \$39.9485 | \$229,703.88 |
| 2/25/2014 | 1,879 | \$37.2600 | \$70,011.54 |
| 2/25/2014 | 2,254 | \$37.2600 | \$83,984.04 |
| 2/27/2014 | 9,884 | \$38.4700 | \$380,237.48 |
| 2/27/2014 | 1,879 | \$38.4700 | \$72,285.13 |
| 2/28/2014 | 19,085 | \$38.6700 | \$738,016.95 |
| 3/11/2014 | 13,500 | \$37.8776 | \$511,347.60 |
| 3/11/2014 | 13,500 | \$37.8739 | \$511,297.65 |
| 3/17/2014 | 26,000 | \$39.1000 | \$1,016,600.00 |
| 3/28/2014 | 1,590 | \$35.9000 | \$57,081.00 |
| 4/28/2014 | 1,590 | \$33.9900 | \$54,044.10 |
| 5/28/2014 | 1,590 | \$34.7800 | \$55,300.20 |
| 6/28/2014 | 1,590 | \$34.2500 | \$54,457.50 |
| 7/28/2014 | 1,590 | \$35.9000 | \$57,081.00 |
| 8/28/2014 | 1,590 | \$38.3100 | \$60,912.90 |
| 9/28/2014 | 1,590 | \$40.6600 | \$64,649.40 |
| 10/28/2014 | 1,590 | \$45.8700 | \$72,933.30 |
| 11/28/2014 | 1,590 | \$51.7400 | \$82,266.60 |

| | | | | |
|----|------------|-------|-----------|--------------|
| 1 | 12/28/2014 | 1,590 | \$50.8600 | \$80,867.40 |
| | 1/28/2015 | 1,220 | \$46.4600 | \$56,681.20 |
| 2 | 2/25/2015 | 2,254 | \$44.4300 | \$100,145.22 |
| 3 | 2/27/2015 | 1,879 | \$44.2800 | \$83,202.12 |
| | 2/27/2015 | 3,865 | \$44.2800 | \$171,142.20 |
| 4 | 2/28/2015 | 1,590 | \$44.2800 | \$70,405.20 |
| 5 | 3/6/2015 | 6,870 | \$43.4400 | \$298,432.80 |
| | 3/6/2015 | 1,830 | \$43.4400 | \$79,495.20 |
| 6 | 3/27/2015 | 423 | \$45.1000 | \$19,077.30 |
| 7 | 3/28/2015 | 1,590 | \$45.1000 | \$71,709.00 |
| | 4/6/2015 | 375 | \$43.6700 | \$16,376.25 |
| 8 | 4/27/2015 | 423 | \$44.3600 | \$18,764.28 |
| 9 | 4/28/2015 | 1,590 | \$44.3400 | \$70,500.60 |
| 10 | 5/6/2015 | 375 | \$41.6600 | \$15,622.50 |
| | 5/27/2015 | 425 | \$43.3800 | \$18,436.50 |
| 11 | 5/28/2015 | 1,591 | \$43.0700 | \$68,524.37 |
| | 6/6/2015 | 376 | \$42.8100 | \$16,096.56 |
| 12 | 6/27/2015 | 424 | \$40.0600 | \$16,985.44 |
| 13 | 6/28/2015 | 1,591 | \$40.0600 | \$63,735.46 |
| | 7/6/2015 | 376 | \$38.6100 | \$14,517.36 |
| 14 | 7/27/2015 | 424 | \$37.8350 | \$16,042.04 |
| 15 | 7/28/2015 | 1,591 | \$37.7200 | \$60,012.52 |
| 16 | 8/6/2015 | 376 | \$36.4600 | \$13,708.96 |
| | 8/27/2015 | 425 | \$33.6900 | \$14,318.25 |
| 17 | 8/28/2015 | 1,591 | \$33.1400 | \$52,725.74 |
| 18 | 9/6/2015 | 376 | \$31.5800 | \$11,874.08 |
| | 9/27/2015 | 424 | \$29.1300 | \$12,351.12 |
| 19 | 9/28/2015 | 1,591 | \$27.6000 | \$43,911.60 |
| 20 | 10/6/2015 | 376 | \$30.9550 | \$11,639.08 |
| | 10/27/2015 | 424 | \$34.3000 | \$14,543.20 |
| 21 | 10/28/2015 | 1,591 | \$35.1850 | \$55,979.34 |
| 22 | 11/6/2015 | 375 | \$34.2000 | \$12,825.00 |
| | 11/27/2015 | 425 | \$32.9400 | \$13,999.50 |
| 23 | 11/28/2015 | 1,591 | \$32.9400 | \$52,407.54 |
| 24 | 12/6/2015 | 376 | \$34.9100 | \$13,126.16 |
| | 12/27/2015 | 424 | \$34.1100 | \$14,462.64 |
| 25 | 12/28/2015 | 1,591 | \$33.6000 | \$53,457.60 |
| 26 | 1/6/2016 | 315 | \$32.1600 | \$10,130.40 |
| | 1/27/2016 | 356 | \$29.6900 | \$10,569.64 |
| 27 | 1/28/2016 | 1,167 | \$28.7500 | \$33,551.25 |
| 28 | 2/6/2016 | 266 | \$27.9700 | \$7,440.02 |

| | | | | |
|----|------------|-------|-----------|-------------|
| 1 | 2/27/2016 | 1,880 | \$31.3700 | \$58,975.60 |
| | 2/27/2016 | 306 | \$31.3700 | \$9,599.22 |
| 2 | 2/28/2016 | 1,146 | \$31.3700 | \$35,950.02 |
| 3 | 3/6/2016 | 271 | \$33.8600 | \$9,176.06 |
| | 3/7/2016 | 1,925 | \$33.9600 | \$65,373.00 |
| 4 | 3/7/2016 | 513 | \$33.9600 | \$17,421.48 |
| 5 | 3/7/2016 | 454 | \$33.9600 | \$15,417.84 |
| | 3/27/2016 | 306 | \$34.8600 | \$10,667.16 |
| 6 | 3/28/2016 | 1,146 | \$35.2300 | \$40,373.58 |
| 7 | 4/6/2016 | 271 | \$36.6600 | \$9,934.86 |
| | 4/7/2016 | 1,153 | \$36.1700 | \$41,704.01 |
| 8 | 4/27/2016 | 306 | \$36.9500 | \$11,306.70 |
| 9 | 4/28/2016 | 1,146 | \$36.5900 | \$41,932.14 |
| 10 | 5/6/2016 | 271 | \$37.2300 | \$10,089.33 |
| | 5/7/2016 | 1,203 | \$37.2300 | \$44,787.69 |
| 11 | 5/27/2016 | 425 | \$37.8200 | \$16,073.50 |
| | 5/28/2016 | 1,591 | \$37.8200 | \$60,171.62 |
| 12 | 6/6/2016 | 376 | \$37.0700 | \$13,938.32 |
| 13 | 6/7/2016 | 1,601 | \$36.7300 | \$58,804.73 |
| | 6/27/2016 | 424 | \$35.2200 | \$14,933.28 |
| 14 | 6/28/2016 | 1,591 | \$36.0400 | \$57,339.64 |
| 15 | 7/6/2016 | 376 | \$37.5100 | \$14,103.76 |
| | 7/7/2016 | 1,601 | \$37.5200 | \$60,069.52 |
| 16 | 7/27/2016 | 424 | \$38.6600 | \$16,391.84 |
| 17 | 7/28/2016 | 1,591 | \$38.5200 | \$61,285.32 |
| 18 | 8/6/2016 | 376 | \$38.9900 | \$14,660.24 |
| | 8/7/2016 | 1,601 | \$38.9900 | \$62,422.99 |
| 19 | 8/27/2016 | 425 | \$42.2700 | \$17,964.75 |
| 20 | 8/28/2016 | 1,591 | \$42.2700 | \$67,251.57 |
| 21 | 9/6/2016 | 376 | \$44.7100 | \$16,810.96 |
| | 9/7/2016 | 1,601 | \$44.3500 | \$71,004.35 |
| 22 | 9/27/2016 | 424 | \$43.3700 | \$18,388.88 |
| | 9/28/2016 | 1,591 | \$43.6900 | \$69,510.79 |
| 23 | 10/6/2016 | 376 | \$43.6800 | \$16,423.68 |
| | 10/7/2016 | 1,601 | \$43.2200 | \$69,195.22 |
| 24 | 10/27/2016 | 424 | \$41.8700 | \$17,752.88 |
| 25 | 10/28/2016 | 1,591 | \$41.7800 | \$66,471.98 |
| 26 | 11/6/2016 | 376 | \$40.2800 | \$15,145.28 |
| | 11/7/2016 | 1,601 | \$41.0500 | \$65,721.05 |
| 27 | 11/27/2016 | 425 | \$40.8700 | \$17,369.75 |
| | 11/28/2016 | 1,591 | \$41.4500 | \$65,946.95 |
| 28 | 12/6/2016 | 376 | \$39.9700 | \$15,028.72 |

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|----|------------------|----------------|-----------------|-----------------------|
| 1 | 12/7/2016 | 1,601 | \$40.5200 | \$64,872.52 |
| | 12/27/2016 | 424 | \$38.9200 | \$16,502.08 |
| 2 | 12/28/2016 | 1,591 | \$38.7300 | \$61,619.43 |
| 3 | 1/6/2017 | 316 | \$41.2300 | \$13,028.68 |
| | 1/7/2017 | 1,275 | \$41.2300 | \$52,568.25 |
| 4 | 1/27/2017 | 306 | \$44.4200 | \$13,592.52 |
| 5 | 1/28/2017 | 1,146 | \$44.4200 | \$50,905.32 |
| | 2/6/2017 | 271 | \$44.4200 | \$12,037.82 |
| 6 | 2/7/2017 | 1,153 | \$44.3700 | \$51,158.61 |
| 7 | 2/27/2017 | 306 | \$45.7100 | \$13,987.26 |
| | 2/28/2017 | 1,146 | \$45.6600 | \$52,326.36 |
| 8 | TOTAL | 208,701 | TOTAL | \$8,166,024.61 |
| 9 | NUMBER OF | | VALUE OF | |
| 10 | SHARES | | SHARES | |

MARISSA A. MAYER

| <i>SALE DATE</i> | <i>SHARES SOLD</i> | <i>PRICE PER SHARE</i> | <i>TOTAL SALE VALUE</i> |
|------------------|--------------------|------------------------|-------------------------|
| 2/7/2014 | 36,000 | 18.8700 | \$679,320.00 |
| 2/7/2014 | 36,000 | 36.8308 | \$1,325,908.80 |
| 2/21/2014 | 36,000 | 18.8700 | \$679,320.00 |
| 2/21/2014 | 36,000 | 37.3989 | \$1,346,340.40 |
| 2/27/2014 | 29,010 | 34.8600 | \$1,011,288.60 |
| 2/28/2014 | 50,387 | 38.6700 | \$1,948,465.29 |
| 3/4/2014 | 36,000 | 18.8700 | \$679,320.00 |
| 3/4/2014 | 36,000 | 39.5437 | \$1,423,573.20 |
| 3/17/2014 | 36,000 | 18.8700 | \$679,320.00 |
| 3/17/2014 | 36,000 | 38.8829 | \$1,399,784.40 |
| 4/1/2014 | 36,000 | 18.8700 | \$679,320.00 |
| 4/1/2014 | 36,000 | 36.3353 | \$1,308,070.80 |
| 4/15/2014 | 36,000 | 18.8700 | \$679,320.00 |
| 4/15/2014 | 36,000 | 33.6913 | \$1,212,886.80 |
| 4/28/2014 | 4,241 | 33.9900 | \$144,151.59 |
| 4/30/2014 | 36,000 | 18.8700 | \$679,320.00 |
| 4/30/2014 | 36,000 | 35.8599 | \$1,290,956.40 |
| 5/15/2014 | 36,000 | 18.8700 | \$679,320.00 |
| 5/15/2014 | 36,000 | 33.7879 | \$1,216,364.40 |
| 5/17/2014 | 8,256 | 33.4100 | \$275,832.96 |
| 5/28/2014 | 4,241 | 34.7800 | \$147,501.98 |
| 5/30/2014 | 36,000 | 18.8700 | \$679,320.00 |
| 5/30/2014 | 36,000 | 34.5592 | \$1,244,131.20 |
| 6/10/2014 | 36,000 | 18.8700 | \$679,320.00 |
| 6/10/2014 | 36,000 | 36.0406 | \$1,297,461.60 |
| 6/17/2014 | 8,256 | 34.4300 | \$284,254.08 |
| 6/26/2014 | 36,000 | 18.8700 | \$679,320.00 |
| 6/26/2014 | 36,000 | 33.5978 | \$1,209,520.80 |
| 6/28/2014 | 4,241 | 34.2500 | \$145,254.25 |
| 7/10/2014 | 36,000 | 18.8700 | \$679,320.00 |
| 7/10/2014 | 36,000 | 34.8575 | \$1,254,870.00 |
| 7/17/2014 | 8,256 | 33.2100 | \$274,181.76 |
| 7/23/2014 | 36,000 | 18.8700 | \$679,320.00 |
| 7/23/2014 | 36,000 | 33.8102 | \$1,217,167.20 |
| 7/26/2014 | 66,050 | 36.1200 | \$2,385,726.00 |
| 7/26/2014 | 99,075 | 36.1200 | \$3,578,589.00 |
| 7/28/2014 | 7,241 | 35.9000 | \$259,951.90 |
| 8/5/2014 | 9,229 | 18.8700 | \$174,151.23 |

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|----|------------|--------|---------|----------------|
| 1 | 8/5/2014 | 26,771 | 18.8700 | \$505,168.77 |
| | 8/5/2014 | 36,000 | 36.1036 | \$1,299,729.60 |
| 2 | 8/17/2014 | 8,256 | 36.4700 | \$301,096.32 |
| 3 | 8/18/2014 | 36,000 | 18.8700 | \$679,320.00 |
| 4 | 8/18/2014 | 36,000 | 37.5086 | \$1,350,309.60 |
| | 8/28/2014 | 4,241 | 38.3100 | \$162,472.71 |
| 5 | 9/5/2014 | 36,000 | 18.8700 | \$679,320.00 |
| | 9/5/2014 | 36,000 | 39.3710 | \$1,417,356.00 |
| 6 | 9/15/2014 | 36,000 | 18.8700 | \$679,320.00 |
| 7 | 9/15/2014 | 36,000 | 42.4386 | \$1,527,789.60 |
| | 9/17/2014 | 8,256 | 42.5900 | \$351,623.04 |
| 8 | 9/28/2014 | 4,241 | 40.6600 | \$172,439.06 |
| 9 | 10/2/2014 | 36,000 | 18.8700 | \$679,320.00 |
| | 10/2/2014 | 36,000 | 39.9960 | \$1,439,856.00 |
| 10 | 10/16/2014 | 36,000 | 18.8700 | \$679,320.00 |
| 11 | 10/16/2014 | 36,000 | 37.7738 | \$1,359,856.80 |
| | 10/17/2014 | 8,255 | 38.4500 | \$317,404.75 |
| 12 | 10/28/2014 | 4,241 | 45.8700 | \$194,534.67 |
| 13 | 10/31/2014 | 36,000 | 18.8700 | \$679,320.00 |
| | 10/31/2014 | 36,000 | 45.8899 | \$1,652,036.40 |
| 14 | 11/12/2014 | 36,000 | 18.8700 | \$679,320.00 |
| 15 | 11/12/2014 | 36,000 | 50.5483 | \$1,819,738.80 |
| | 11/17/2014 | 8,255 | 52.3700 | \$432,314.35 |
| 16 | 11/25/2014 | 36,000 | 18.8700 | \$679,320.00 |
| 17 | 11/25/2014 | 36,000 | 51.7935 | \$1,864,566.00 |
| | 11/28/2014 | 4,241 | 51.7400 | \$219,429.34 |
| 18 | 12/8/2014 | 36,000 | 18.8700 | \$679,320.00 |
| 19 | 12/8/2014 | 36,000 | 49.4542 | \$1,780,351.20 |
| | 12/17/2014 | 8,255 | 50.1200 | \$413,740.60 |
| 20 | 12/22/2014 | 36,000 | 18.8700 | \$679,320.00 |
| 21 | 12/22/2014 | 36,000 | 51.1627 | \$1,841,857.20 |
| | 12/28/2014 | 4,241 | 50.8600 | \$215,697.26 |
| 22 | 1/8/2015 | 36,000 | 18.8700 | \$679,320.00 |
| 23 | 1/8/2015 | 36,000 | 49.6421 | \$1,787,115.60 |
| | 1/20/2015 | 36,000 | 18.8700 | \$679,320.00 |
| 24 | 1/20/2015 | 36,000 | 47.6226 | \$1,714,413.60 |
| 25 | 1/28/2015 | 4,241 | 46.4600 | \$197,036.86 |
| 26 | 2/27/2015 | 27,127 | 44.2800 | \$1,201,183.56 |
| | 2/28/2015 | 4,241 | 44.2800 | \$187,791.48 |
| 27 | 3/6/2015 | 18,322 | 43.4400 | \$795,907.68 |
| | 3/6/2015 | 9,766 | 43.4400 | \$424,235.04 |
| 28 | 3/27/2015 | 2,620 | 45.1000 | \$118,162.00 |

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|----|------------|---------|---------|----------------|
| 1 | 3/28/2015 | 4,241 | 45.1000 | \$191,269.10 |
| | 4/6/2015 | 2,001 | 43.6700 | \$87,383.67 |
| 2 | 4/9/2015 | 250,000 | 18.8700 | \$4,717,500.00 |
| 3 | 4/9/2015 | 200,000 | 46.0000 | \$9,200,000.00 |
| 4 | 4/16/2015 | 125,000 | 18.8700 | \$2,358,750.00 |
| 4 | 4/16/2015 | 100,000 | 46.0000 | \$4,600,000.00 |
| 5 | 4/27/2015 | 2,260 | 44.3600 | \$100,253.60 |
| | 4/28/2015 | 4,241 | 44.3400 | \$188,045.94 |
| 6 | 5/6/2015 | 2,002 | 41.6600 | \$83,403.32 |
| 7 | 5/27/2015 | 2,261 | 43.3800 | \$98,082.18 |
| | 5/1/2815 | 4,242 | 43.0700 | \$182,702.94 |
| 8 | 6/6/2015 | 2,003 | 42.8100 | \$85,748.43 |
| 9 | 6/27/2015 | 2,261 | 40.0600 | \$90,575.66 |
| | 6/28/2015 | 4,242 | 40.0600 | \$169,934.52 |
| 10 | 7/6/2015 | 2,002 | 38.6100 | \$77,297.22 |
| 11 | 7/26/2015 | 66,052 | 38.8500 | \$2,566,120.20 |
| | 7/26/2015 | 99,076 | 38.8500 | \$3,849,102.60 |
| 12 | 7/27/2015 | 2,261 | 37.8350 | \$85,544.94 |
| 13 | 7/28/2015 | 4,242 | 37.7200 | \$160,008.24 |
| | 8/6/2015 | 2,003 | 36.4600 | \$73,029.38 |
| 14 | 8/27/2015 | 2,261 | 33.6900 | \$76,173.09 |
| 15 | 8/28/2015 | 4,242 | 33.1400 | \$140,579.88 |
| 16 | 9/6/2015 | 2,003 | 31.5800 | \$63,254.74 |
| 16 | 9/27/2015 | 2,261 | 29.1300 | \$65,862.93 |
| 17 | 9/28/2015 | 4,242 | 27.6000 | \$117,079.20 |
| 18 | 10/6/2015 | 2,002 | 30.9550 | \$61,971.91 |
| | 10/27/2015 | 2,261 | 34.3000 | \$77,552.30 |
| 19 | 10/28/2015 | 4,242 | 35.1850 | \$149,254.77 |
| 20 | 11/6/2015 | 2,002 | 34.2000 | \$68,468.40 |
| | 11/27/2015 | 2,261 | 32.9400 | \$74,477.34 |
| 21 | 11/28/2015 | 4,242 | 32.9400 | \$139,731.48 |
| 22 | 12/6/2015 | 2,003 | 34.9100 | \$69,924.73 |
| | 12/27/2015 | 2,261 | 34.1100 | \$77,122.71 |
| 23 | 12/28/2015 | 4,242 | 33.6000 | \$142,531.20 |
| 24 | 1/6/2016 | 1,665 | 32.1600 | \$53,546.40 |
| | 1/27/2016 | 1,628 | 29.6900 | \$48,335.32 |
| 25 | 1/28/2016 | 3,055 | 28.7500 | \$87,831.25 |
| 26 | 2/6/2016 | 1,442 | 27.9700 | \$40,332.74 |
| | 2/27/2016 | 1,629 | 31.3700 | \$51,101.73 |
| 27 | 2/28/2016 | 3,055 | 31.3700 | \$95,835.35 |
| 28 | 3/6/2016 | 1,939 | 33.8600 | \$65,654.54 |
| | 3/7/2016 | 7,126 | 33.9600 | \$241,998.96 |

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|----|------------------|------------------|--------------------|-------------------------|
| 1 | 3/7/2016 | 3,798 | 33.9600 | \$128,980.08 |
| | 3/7/2016 | 3,364 | 33.9600 | \$114,241.44 |
| 2 | 3/27/2016 | 2,261 | 34.8600 | \$78,818.46 |
| 3 | 4/6/2016 | 2,003 | 36.6600 | \$73,429.98 |
| | 4/7/2016 | 2,561 | 36.1700 | \$92,631.37 |
| 4 | 4/27/2016 | 2,261 | 36.9500 | \$83,543.95 |
| 5 | 5/6/2016 | 2,002 | 37.2300 | \$74,534.46 |
| | 5/7/2016 | 2,561 | 37.2300 | \$95,346.03 |
| 6 | 5/27/2016 | 2,261 | 37.8200 | \$85,511.02 |
| 7 | 6/6/2016 | 2,003 | 37.0300 | \$74,171.09 |
| | 6/7/2016 | 2,561 | 36.7300 | \$94,065.53 |
| 8 | 6/27/2016 | 2,261 | 35.2200 | \$79,632.42 |
| 9 | 7/6/2016 | 2,003 | 37.5100 | \$75,132.53 |
| | 7/7/2016 | 2,561 | 37.5200 | \$96,088.72 |
| 10 | 7/26/2016 | 99,077 | 38.7600 | \$3,840,224.52 |
| 11 | 7/27/2016 | 2,261 | 33.6600 | \$76,105.26 |
| | 8/6/2016 | 2,002 | 38.9900 | \$78,057.98 |
| 12 | 8/7/2016 | 2,561 | 38.9900 | \$99,853.39 |
| 13 | 8/27/2016 | 2,261 | 42.2700 | \$95,572.47 |
| | 9/6/2016 | 2,003 | 44.7100 | \$89,554.13 |
| 14 | 9/7/2016 | 2,561 | 44.3500 | \$113,580.35 |
| 15 | 9/27/2016 | 2,261 | 43.3700 | \$98,059.57 |
| 16 | 10/6/2016 | 2,003 | 43.6800 | \$87,491.04 |
| | 10/7/2016 | 2,561 | 43.2200 | \$110,686.42 |
| 17 | 10/27/2016 | 2,261 | 41.8700 | \$94,668.07 |
| 18 | 11/6/2016 | 2,002 | 40.2800 | \$80,640.56 |
| | 11/7/2016 | 2,561 | 41.0500 | \$105,129.05 |
| 19 | 11/27/2016 | 2,261 | 40.8700 | \$92,407.07 |
| 20 | 12/6/2016 | 2,003 | 39.9700 | \$80,059.91 |
| | 12/7/2016 | 2,561 | 40.5200 | \$103,771.72 |
| 21 | 12/27/2016 | 2,261 | 38.9200 | \$87,998.12 |
| 22 | 1/6/2017 | 1,609 | 41.2300 | \$66,339.07 |
| | 1/7/2017 | 1,836 | 41.2300 | \$75,698.28 |
| 23 | 1/27/2017 | 1,628 | 44.4200 | \$72,315.76 |
| 24 | 2/6/2017 | 1,442 | 44.4200 | \$64,053.64 |
| | 2/7/2017 | 1,845 | 44.3700 | \$81,862.65 |
| 25 | 2/27/2017 | 2,073 | 45.7100 | \$94,756.83 |
| 26 | TOTAL | 3,412,862 | TOTAL VALUE | \$109,432,984.38 |
| 27 | NUMBER OF | | OF SHARES | |
| 28 | SHARES | | | |

1 **DAVID FILO**

2

| <i>SALE DATE</i> | <i>SHARES SOLD</i> | <i>PRICE PER SHARE</i> | <i>TOTAL SALE VALUE</i> |
|-------------------------------|--------------------|------------------------------|-------------------------|
| 10/29/2014 | 300,000 | 45.4300 | 13,629,000 |
| 10/28/2015 | 50,000 | 35.1850 | 1,759,250.00 |
| 12/16/2016 | 45,000 | 38.6100 | 1,737,450.00 |
| TOTAL NUMBER OF SHARES | 395,000 | TOTAL VALUE OF SHARES | 17,125,700.00 |

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8 **KENNETH A. GOLDMAN**

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| <i>SALE DATE</i> | <i>SHARES SOLD</i> | <i>PRICE PER SHARE</i> | <i>TOTAL SALE VALUE</i> |
|------------------|--------------------|------------------------|-------------------------|
| 2/25/2014 | 2,828 | 37.2600 | \$105,371.28 |
| 2/28/2014 | 12,724 | 38.6700 | \$492,037.08 |
| 3/25/2014 | 3,926 | 35.9300 | \$141,061.18 |
| 3/28/2014 | 1,060 | 35.9000 | \$38,054.00 |
| 4/25/2014 | 3,927 | 34.4800 | \$135,402.96 |
| 4/28/2014 | 1,060 | 33.9900 | \$36,029.40 |
| 5/23/2014 | 3,927 | 35.0200 | \$137,523.54 |
| 5/28/2014 | 1,060 | 34.7800 | \$36,866.80 |
| 6/13/2014 | 3,000 | 36.9400 | \$110,820.00 |
| 6/25/2014 | 3,926 | 33.2500 | \$130,539.50 |
| 6/27/2014 | 1,060 | 34.2500 | \$36,305.00 |
| 7/25/2014 | 3,927 | 36.1200 | \$141,843.24 |
| 7/28/2014 | 1,060 | 35.9000 | \$38,054.00 |
| 8/25/2014 | 3,926 | 37.7100 | \$148,049.46 |
| 8/28/2014 | 1,060 | 38.3100 | \$40,608.60 |
| 9/25/2014 | 3,927 | 38.9500 | \$152,956.65 |
| 9/26/2014 | 1,060 | 40.6600 | \$43,099.60 |
| 10/24/2014 | 3,927 | 43.5000 | \$170,824.50 |
| 10/28/2014 | 1,060 | 45.8700 | \$48,622.20 |
| 11/25/2014 | 3,626 | 51.7200 | \$187,536.72 |
| 11/28/2014 | 1,060 | 51.7400 | \$54,844.40 |
| 12/24/2014 | 3,927 | 50.6500 | \$198,902.55 |
| 12/26/2014 | 1,060 | 50.8600 | \$53,911.60 |
| 1/23/2015 | 2,896 | 48.9500 | \$141,759.20 |
| 1/28/2015 | 763 | 46.4600 | \$35,448.98 |
| 2/25/2015 | 2,828 | 44.4300 | \$125,648.04 |
| 2/27/2015 | 5,477 | 44.2800 | \$242,521.56 |
| 3/25/2015 | 3,926 | 44.2000 | \$173,529.20 |

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|----|------------|--------|---------|----------------|
| 1 | 3/27/2015 | 1,483 | 45.1000 | \$66,883.30 |
| | 4/6/2015 | 375 | 43.6700 | \$16,376.25 |
| 2 | 4/24/2015 | 3,927 | 44.5200 | \$174,830.04 |
| | 4/27/2015 | 423 | 44.3600 | \$18,764.28 |
| 3 | 4/28/2015 | 1,060 | 44.3400 | \$47,000.40 |
| | 5/6/2015 | 375 | 41.6600 | \$15,622.50 |
| 4 | 5/22/2015 | 3,927 | 43.4850 | \$170,765.60 |
| | 5/27/2015 | 425 | 43.3800 | \$18,436.50 |
| 5 | 5/28/2015 | 1,061 | 43.0700 | \$45,697.27 |
| | 6/5/2015 | 376 | 42.8100 | \$16,096.56 |
| 6 | 6/25/2015 | 3,927 | 41.0650 | \$161,262.26 |
| | 6/26/2015 | 1,485 | 40.0600 | \$59,489.10 |
| 7 | 7/6/2015 | 376 | 38.6100 | \$14,517.36 |
| | 7/24/2015 | 3,928 | 38.8500 | \$152,602.80 |
| 8 | 7/27/2015 | 424 | 37.8350 | \$16,042.04 |
| 9 | 7/28/2015 | 1,061 | 37.7200 | \$40,020.92 |
| 10 | 8/6/2015 | 376 | 36.4600 | \$13,708.96 |
| | 8/25/2015 | 3,927 | 31.7400 | \$124,642.98 |
| 11 | 8/27/2015 | 425 | 33.6900 | \$14,318.25 |
| | 8/28/2015 | 1,061 | 33.1400 | \$35,161.54 |
| 12 | 9/4/2015 | 376 | 31.5800 | \$11,874.08 |
| | 9/25/2015 | 4,352 | 29.1300 | \$126,773.76 |
| 13 | 9/28/2015 | 1,061 | 27.6000 | \$29,283.60 |
| | 10/6/2015 | 376 | 30.9550 | \$11,639.08 |
| 14 | 10/23/2015 | 3,928 | 33.1700 | \$130,291.76 |
| | 10/27/2015 | 424 | 34.3000 | \$14,543.20 |
| 15 | 10/28/2015 | 1,061 | 35.1850 | \$37,331.29 |
| | 11/6/2015 | 375 | 34.2000 | \$12,825.00 |
| 16 | 11/25/2015 | 3,927 | 33.1600 | \$130,219.32 |
| | 11/27/2015 | 1,486 | 32.9400 | \$48,948.84 |
| 17 | 12/4/2015 | 376 | 34.9100 | \$13,126.16 |
| | 12/16/2015 | 3,027 | 33.7800 | \$102,252.06 |
| 18 | 12/24/2015 | 5,803 | 34.1100 | \$197,940.33 |
| | 12/28/2015 | 1,061 | 33.6000 | \$35,649.60 |
| 19 | 1/6/2016 | 315 | 32.1600 | \$10,130.40 |
| | 1/25/2016 | 2,894 | 29.7800 | \$86,183.32 |
| 20 | 1/27/2016 | 306 | 29.6900 | \$9,085.14 |
| | 1/28/2016 | 764 | 28.7500 | \$21,965.00 |
| 21 | 2/5/2016 | 271 | 27.9700 | \$7,579.87 |
| | 2/25/2016 | 4,461 | 31.3600 | \$139,896.96 |
| 22 | 2/26/2016 | 1,071 | 31.3700 | \$33,597.27 |
| | 3/4/2016 | 271 | 33.8600 | \$9,176.06 |
| 23 | 3/8/2016 | 90,194 | 32.9300 | \$2,970,088.42 |
| 24 | 3/9/2016 | 2,000 | 33.5100 | \$67,020.00 |

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|----|------------|-------|---------|--------------|
| 1 | 3/24/2016 | 3,723 | 34.8600 | \$129,783.78 |
| | 3/28/2016 | 1,061 | 35.2300 | \$37,379.03 |
| 2 | 4/6/2016 | 376 | 36.6600 | \$13,784.16 |
| | 4/7/2016 | 1,601 | 36.1700 | \$57,908.17 |
| 3 | 4/25/2016 | 3,928 | 37.2300 | \$146,239.44 |
| 4 | 4/27/2016 | 424 | 36.9500 | \$15,666.80 |
| | 4/28/2016 | 1,061 | 36.5900 | \$38,821.99 |
| 5 | 5/6/2016 | 1,977 | 37.2300 | \$73,603.71 |
| 6 | 5/25/2016 | 3,928 | 35.5900 | \$139,797.52 |
| | 5/27/2016 | 1,486 | 37.8200 | \$56,200.52 |
| 7 | 6/6/2016 | 376 | 37.0700 | \$13,938.32 |
| | 6/7/2016 | 1,601 | 36.7300 | \$58,804.73 |
| 8 | 6/24/2016 | 3,927 | 36.2400 | \$142,314.48 |
| 9 | 6/27/2016 | 424 | 35.2200 | \$14,933.28 |
| 10 | 6/28/2016 | 1,061 | 36.0400 | \$38,238.44 |
| | 7/6/2016 | 376 | 37.5100 | \$14,103.76 |
| 11 | 7/7/2016 | 1,601 | 37.5200 | \$60,069.52 |
| | 7/25/2016 | 3,928 | 38.3200 | \$150,520.96 |
| 12 | 7/27/2016 | 424 | 38.6600 | \$16,391.84 |
| 13 | 7/28/2016 | 1,061 | 38.5200 | \$40,869.72 |
| | 8/5/2016 | 1,977 | 38.9900 | \$77,083.23 |
| 14 | 8/25/2016 | 3,927 | 42.0300 | \$165,051.81 |
| 15 | 8/26/2016 | 1,486 | 42.2700 | \$62,813.22 |
| | 9/6/2016 | 376 | 44.7100 | \$16,810.96 |
| 16 | 9/7/2016 | 1,601 | 44.3500 | \$71,004.35 |
| 17 | 9/23/2016 | 3,928 | 42.8000 | \$168,118.40 |
| | 9/27/2016 | 424 | 43.3700 | \$18,388.88 |
| 18 | 9/28/2016 | 1,061 | 43.6900 | \$46,355.09 |
| 19 | 10/6/2016 | 376 | 43.6800 | \$16,423.68 |
| | 10/7/2016 | 1,601 | 43.2200 | \$69,195.22 |
| 20 | 10/25/2016 | 3,928 | 42.5500 | \$167,136.40 |
| 21 | 10/27/2016 | 424 | 41.8700 | \$17,752.88 |
| | 10/28/2016 | 1,061 | 41.7800 | \$44,328.58 |
| 22 | 11/4/2016 | 376 | 40.2800 | \$15,145.28 |
| | 11/7/2016 | 1,601 | 41.0500 | \$65,721.05 |
| 23 | 11/25/2016 | 425 | 40.8700 | \$17,369.75 |
| 24 | 11/28/2016 | 1,061 | 41.4500 | \$43,978.45 |
| | 12/6/2016 | 376 | 39.9700 | \$15,028.72 |
| 25 | 12/7/2016 | 1,601 | 40.5200 | \$64,872.52 |
| 26 | 12/27/2016 | 424 | 38.9200 | \$16,502.08 |
| | 12/28/2016 | 1,061 | 38.7300 | \$41,092.53 |
| 27 | 12/29/2016 | 2,000 | 38.6400 | \$77,280.00 |
| 28 | 1/6/2017 | 1,591 | 41.2300 | \$65,596.93 |
| | 1/27/2016 | 1,070 | 44.4200 | \$47,529.40 |

| | | | | |
|---|-------------------------------|----------------|------------------------------|------------------------|
| 1 | 2/6/2017 | 271 | 44.4200 | \$12,037.82 |
| 2 | 2/7/2017 | 1,153 | 44.3700 | \$51,158.61 |
| 3 | 2/27/2017 | 306 | 45.7100 | \$13,987.26 |
| 4 | 2/28/2017 | 765 | 45.6600 | \$34,929.90 |
| | TOTAL NUMBER OF SHARES | 315,205 | TOTAL VALUE OF SHARES | \$11,659,893.83 |

5 **VIII. YAHOO’S PRELIMINARY PROXY FAILS TO DISCLOSE MATERIAL FACTS**
6 **CONCERNING THE DATA BREACHES, DEFENDANTS’ INTERESTS IN THE SALE,**
7 **AND THE ASSET SALE TO VERIZON**

8 144. On September 9, 2016, Yahoo filed with the SEC a Preliminary Proxy Statement,
9 which was reviewed and approved by the entire Board and signed by Defendants Mayer and Webb.
10 The Proxy attaches as an exhibit and incorporated the Purchase Agreement between Verizon and
11 Yahoo. On March 13, 2017, the Director Defendants caused Yahoo to file a revision to the
12 Preliminary Proxy (together with the original Preliminary Proxy, the “Proxy”).

13 145. The Proxy was issued because the Purchase Agreement requires, as a condition
14 precedent, the affirmative vote of a majority of Yahoo’s shareholders in support of the transaction
15 due to the fact that the fundamental nature of Yahoo’s business is changing – from that of an
16 operating company to that of a mere holding company under the Investment Company Act of 1940.
17 Thus, even though the assets being sold to Verizon do not constitute a majority of Yahoo’s assets,
18 the transaction, if approved, will effectuate a fundamental and substantial change in the nature of
19 Yahoo’s operations for which shareholder approval is required pursuant to SEC rules and
20 regulations.

21 146. The Proxy is materially misleading and false. For example, it contains several
22 affirmatively false statements. The Proxy falsely states that Yahoo’s SEC filings “complied in all
23 material aspects with the Securities Act, the Exchange Act or the Sarbanes Oxley Act, as the case
24 may be, and the applicable rules and regulations promulgated thereunder,” and that none of Yahoo’s
25 SEC filings contained any “untrue statement of material fact or omitted to state any material fact.”
26 *See, e.g.*, Purchase Agreement at § 2.07(a) (attached as Ex. A to the Proxy).

27 147. This statement was knowingly false because Yahoo’s SEC filings failed to disclose
28 the relevant data breaches, which Yahoo has now admitted it knew about since 2014.

1 148. The Proxy is also false and misleading because it affirmatively misrepresented that
2 Yahoo was not aware of any undisclosed data breaches as of the date of the filing of the Proxy. The
3 Proxy misrepresented that:

4 To the Knowledge of [Yahoo], there have not been any incidents of, or third party
5 claims alleging, (i) Security Breaches, unauthorized access or unauthorized use of
6 any of [Yahoo]'s or the Business Subsidiaries' information technology systems or
7 (ii) loss, theft, unauthorized access or acquisition, modification, disclosure,
8 corruption, or other misuse of any Personal Data in [Yahoo]'s or the Business
9 Subsidiaries' possession, or other confidential data owned by [Yahoo] or the
10 Business Subsidiaries (or provided to [Yahoo] or the Business Subsidiaries by their
11 customers) in [Yahoo]'s or the Business Subsidiaries' possession, in each case (i)
12 and (ii) that could reasonably be expected to have a Business Material Adverse
13 Effect. Neither [Yahoo] nor the Business Subsidiaries have notified in writing, or to
14 the Knowledge of [Yahoo], been required by applicable Law or a Governmental
15 Authority to notify in writing, any Person of any Security Breach. To the Knowledge
16 of [Yahoo], neither [Yahoo] nor the Business Subsidiaries have received any notice
17 of any claims, investigations (including investigations by a Governmental
18 Authority), or alleged violations of Laws with respect to Personal Data possessed by
19 [Yahoo] or the Business Subsidiaries, in each case that could reasonably be expected
20 to have a Business Material Adverse Effect.

21 *See* Proxy, Ex. A, at § 2.16(p).

22 149. The Proxy is also false and misleading because it misrepresents that management
23 had completed an assessment of the Company's internal controls and that those controls were
24 effective. As Yahoo recently admitted in its 2016 Form 10-K, due to deficiencies in the Company's
25 existing security incident response protocols related to the 2014 Security Incident, the Company's
26 disclosure controls and procedures were not effective at December 31, 2016. As a result, the
27 Company's internal controls were obviously also not effective as of the date of the filing of the
28 Proxy.

150. The Proxy is also false and misleading regarding the security of consumers' personal
data, since Yahoo represented that:

To the Knowledge of [Yahoo], [Yahoo] and the Business Subsidiaries are, and in the past
have made themselves, in compliance, in all material respects with: (i) all applicable Privacy
Laws; (ii) all of [Yahoo]'s and the Business Subsidiaries' written public facing policies
regarding privacy and data security; and (iii) any existing and currently effective written
contractual commitment made by [Yahoo] or the Business Subsidiaries with respect to
Personal Data; in each case (i), (ii) and (iii) except where the failure to be in compliance

would not, individually or in the aggregate, reasonably be expected to have a Business Material Adverse Effect.

See Proxy, Ex. A, at § 2.16(l).

A. The Proxy Fails to Disclose All Material Facts Concerning the Golden Parachute Payments to Yahoo’s Executives

151. The Proxy fails to disclose many material facts regarding the Golden Parachute Payments to the Company’s executives and the other change of control payments. The Proxy discloses that the following table presents the value of the benefits that each of Yahoo’s named executive officers would receive in connection with the Purchase Agreement, assuming that the Purchase Agreement were consummated and each executive officer experienced a qualifying termination on March 8, 2017 (which is the assumed closing date of the Purchase Agreement solely for purposes of this transaction-related compensation disclosure). The amounts below are based on multiple assumptions that may or may not actually occur or be accurate, according to Yahoo, and as a result the Proxy states that the actual amounts, if any, to be received by a named executive officer may materially differ from the amounts set forth below.

152.

| Name | Cash (\$) ⁽¹⁾ | Equity (\$) ⁽²⁾ | Benefits (\$) ⁽³⁾ | Total (\$) |
|-------------------------------|--------------------------|----------------------------|------------------------------|---------------|
| Marissa A. Mayer | \$ 3,015,000 | \$ 19,971,367 | \$ 24,958 | \$ 23,011,325 |
| Ken Goldman | \$ 1,695,000 | \$ 7,766,508 | \$ 17,060 | \$ 9,478,568 |
| David Filo ⁽³⁾ | \$ 15,002 | \$ 0 | \$ 51,413 | \$ 66,415 |
| Lisa Utzschneider | \$ 1,855,000 | \$ 14,656,405 | \$ 24,958 | \$ 16,536,363 |
| Ronald S. Bell ⁽⁴⁾ | | | | 0 |
| | \$ 0 | \$ 0 | \$ 0 | \$ |

(1) The values in this column represent the cash payments to which the executive officer would be entitled under either the Change-in-Control Plan or under the Severance Agreement, whichever is greater. Amounts for Mr. Filo reflect benefits under the Change-in-Control Plan and amounts for the other named executive officers reflect benefits under the Severance Agreement. Mr. Filo’s cash benefits under the Change-in-Control Plan are equal to the sum of (i) 24 months of annual base salary and (ii) reimbursement of outplacement services in the maximum amount of \$15,000. The other named executive officers’ cash benefits under the Severance Agreement are equal to the sum of (a) one year of base salary; (b) one year’s target annual bonus (plus any unpaid bonus from the prior year, which would be applicable in the case of a hypothetical March 8, 2017 termination); and (c) payments equal to the premiums required to continue medical benefits under COBRA for twelve months after termination (for presentation purposes, the benefit described in this clause (c) is presented under “Benefits” above). These amounts are payable upon any qualifying termination under the Severance Agreement, whether before or after a change in control. Payments under the Severance Agreement are neither “single trigger” (i.e., payable upon a change of control) or “double-trigger” (i.e., payable upon a qualifying termination that occurs within 12 months after a change of control) because they are not contingent on the occurrence of a change in control but are included in this table because the amounts payable to certain officers under the Severance Agreement are greater than the amounts that would be payable to her under the Change-in-Control-Plan, which does provide for “double-trigger” benefits. Mr. Goldman’s and Ms. Utzschneider’s amounts presented in “Bonus Payment” below include unpaid bonus payments from the prior year, in the amounts of \$540,000 and \$700,000, respectively. For Ms. Mayer, Ms. Utzschneider and Mr. Goldman, cash amounts also include reimbursement of outplacement services in the maximum amount of \$15,000, which are

“double-trigger.” For Mr. Filo, the amounts in this column are “double-trigger” payments. The cash amounts in this column are calculated as follows:

| <u>Name</u> | <u>Base Salary</u> | <u>Bonus Payment</u> | <u>Outplacement Services</u> | <u>Value of All Cash Payments</u> |
|-------------------------------|--------------------|----------------------|------------------------------|-----------------------------------|
| Marissa A. Mayer | \$1,000,000 | \$2,000,000 | \$ 15,000 | \$ 3,015,000 |
| Ken Goldman | \$ 600,000 | \$1,080,000 | \$ 15,000 | \$ 1,695,000 |
| David Filo ⁽³⁾ | \$ 2 | \$ 0 | \$ 15,000 | \$ 15,002 |
| Lisa Utzschneider | \$ 600,000 | \$1,240,000 | \$ 15,000 | \$ 1,855,000 |
| Ronald S. Bell ⁽⁴⁾ | \$ 0 | \$ 0 | \$ 0 | \$ 0 |

(2) This column reports the intrinsic value of the portions of the executive officer’s unvested Yahoo stock options and Yahoo RSU awards that would accelerate in the circumstances described above, which do not include any already vested portions of any such awards, as of the presumed closing date. This value is calculated by multiplying the number of shares subject to the accelerated portion of each award by \$38.59 (which is the average closing market price of Yahoo common stock over the first five business days following the first public announcement of the transaction on July 25, 2016), less the applicable exercise price in the case of the unvested Yahoo stock options. Upon a qualifying termination described above in “—Other Arrangements with Executive Officers,” unvested Yahoo stock options and unvested time-based Yahoo RSU awards would accelerate in full (other than the March 2017 time-based RSU awards, which do not provide for acceleration), and unvested performance-based Yahoo RSU awards would accelerate at target (other than the March 2017 performance-based RSU awards, which do not provide for acceleration), subject to a cap in the case of the Yahoo RSU awards granted in March 2016. For time-based Yahoo RSU awards granted in March 2016, acceleration is capped at the number of shares otherwise scheduled to vest during the 24 months following the employment termination, and for performance-based Yahoo RSU awards granted in March 2016, acceleration is capped at the target number of shares for the performance year in which the termination occurs and the immediately following performance year, if any. The Yahoo RSU acceleration is a “double-trigger” benefit, as described above. Under the terms of the Stock Purchase Agreement, the Yahoo stock option acceleration is a “single-trigger” benefit.

| <u>Name</u> | <u>Value of Stock Option Acceleration</u> | <u>Value of RSU Acceleration</u> | <u>Value of All Equity Acceleration</u> |
|-------------------------------|---|----------------------------------|---|
| Marissa A. Mayer | \$ 0 | \$19,971,367 | \$19,971,367 |
| Ken Goldman | \$ 0 | \$ 7,766,508 | \$ 7,766,508 |
| David Filo ⁽³⁾ | \$ 0 | \$ 0 | \$ 0 |
| Lisa Utzschneider | \$ 0 | \$14,656,405 | \$14,656,405 |
| Ronald S. Bell ⁽⁴⁾ | \$ 0 | \$ 0 | \$ 0 |

(3) The values in this column represent the estimated premiums required to continue medical benefits under COBRA for 24 months (in the case of Mr. Filo) or for 12 months (in the case of the other named executive officers) covering each executive officer and all of his or her eligible dependents receiving coverage as of the assumed closing date. For executives other than Mr. Filo, this benefit would be payable in cash upon any qualifying termination under the Severance Agreement, whether before or after a change in control (as explained in note (1) above). For Mr. Filo, these are “double-trigger” benefits as described above and would be provided in the form of continued coverage under his employer’s group health and dental plans, if practicable, or with equivalent health and dental benefits under an alternative arrangement.

(4) On March 1, 2017, Ronald S. Bell resigned as the Company’s General Counsel and Secretary and from all other positions with the Company. No payments are being made to Mr. Bell in connection with his resignation or otherwise in connection with the Sale Transaction.

153. These disclosures in the Proxy are misleading and incomplete. First, the Proxy does not disclose the executive officers’ knowledge of and involvement in the data breaches, including their involvement in failing to timely disclose the breaches and their involvement in failing to

1 disclose such matters in the original Preliminary Proxy itself. The Company's partial disclosures
2 regarding these matters have not cured the omissions in the Proxy because the Company's recent
3 disclosures have not disclosed all material facts regarding the executives' involvement in the data
4 breaches and other matters.

5 154. For example, among other things, the Proxy states that Defendant Bell will not
6 receive any Golden Parachute payments, but fails to explain why Defendant Mayer, who was
7 stripped of her 2016 bonus and 2017 stock award, will still receive her Golden Parachute payments,
8 and fails to disclose any facts regarding Mayer's knowledge of and involvement in the Data
9 Breaches.

10 155. The U.S. Senate committee investigating the Yahoo data breaches has stated that
11 many material questions remain unanswered, even after the additional information provided by
12 Yahoo's Independent Committee in the Form 10-K filed March 1, 2017.

13 156. Significantly, the Proxy asks Yahoo's shareholders to vote in favor of the Golden
14 Parachute Payments. Plaintiff and the Class cannot do so without full information regarding the
15 data breaches, including the role and involvement of the Company's senior executives in the
16 breaches and the failure to timely disclose the breaches. Because the recent decisions by the
17 Independent Committee concerning Bell and Mayer were adverse, and made in direct connection
18 with a review of such Defendants' role in the data breaches, additional information regarding such
19 executives' role and involvement in the data breaches is necessary to fully inform shareholders' vote
20 as to whether to approve the Golden Parachute Payments and other compensation to such
21 individuals.

22 **B. The Proxy Fails to Disclose All Material Facts Concerning the Expected Operations**
23 **and Plans of the Holding Company (Altaba) After the Transaction Closes**

24 157. The Proxy contains only vague and undefined statements concerning what Yahoo,
25 which will be renamed Altaba, will do after the transaction closes. The Proxy states:

26 Although Yahoo has no current intention of selling, prior to the closing of the Sale
27 Transaction, any of the assets that are not included in the Sale Transaction, Yahoo reserves
28 the right to sell any such assets prior to the closing of the Sale Transaction. There is no
assurance that the Fund's Initial Assets will consist of all of the assets described above. . . .

1 There is also no assurance as to the value of the consideration Yahoo might receive in the
2 event of any such disposition.

3 158. While the Proxy states that Altaba intends to distribute “most” of the cash received
4 from Verizon to Yahoo’s shareholders after the transaction closes, absolutely no details about the
5 amount of the distribution, its timing, or other facts are disclosed in the Proxy. Instead, the Proxy
6 merely states that “The amount, method, and timing of these payment(s), if any, will be determined
7 by the Board in its discretion.”

8 159. Facts concerning Altaba’s distribution of the cash received from Verizon and about
9 Altaba’s expected future operations and plans are very important because the fundamental nature of
10 Yahoo will be changed if the transaction is approved. Yahoo will cease to exist as the Company
11 has been known since its inception – as an operating company with a famous search engine, web
12 portal, and Internet operations. Instead, it will become a mere holding company whose main assets
13 will be cash, stock in Alibaba and Yahoo Japan, and patents.

14 160. The Proxy is false and misleading because it does not disclose what Yahoo intends
15 to do with its Alibaba stake. Yahoo shareholders need to know this information in order to make a
16 fully informed decision as to whether to approve the transaction and eliminate Yahoo as an operating
17 company. The Alibaba stake is Yahoo’s most valuable asset. Yahoo previously attempted to
18 distribute Alibaba shares to Yahoo’s shareholders, but abandoned that effort when it failed to obtain
19 a favorable ruling from the IRS that the distribution would be tax-free.

20 161. Yahoo shareholders naturally want to know whether and when Altaba intends to try
21 to distribute the Alibaba shares and other valuable assets of the holding company. The Proxy sheds
22 no light on these crucial matters.

23 162. The Proxy necessarily does not contain important details regarding Verizon and
24 Yahoo’s determination that \$350 million was a fair and appropriate reduction in the purchase
25 consideration; what the expected liabilities are for Yahoo pre-closing and for Verizon post-closing
26 relating to the data breaches; what information the Independent Committee reviewed prior to coming
27 to its conclusions; what the negotiations were back and forth between Yahoo and Verizon
28 concerning the Amended Purchase Agreement and its terms; and many other highly material terms.

1 163. Moreover, the Proxy contains forecasts regarding Yahoo’s expected financial results
2 for 2017-2019 which were updated in February 2017, but that information omits many material facts
3 necessary to assess the Data Breach’s true effect on the Company and the Purchase Agreement. For
4 example, the revised Proxy states that the February 2017 updated forecasted financial information
5 differed from the forecasted financial information provided to the Financial Advisors in July 2016
6 as follows:

- 7
- 8 • total revenue (ex-traffic acquisition costs) (“ex-TAC”) for 2017 was reduced from
9 \$3,507 million to \$3,460 million and for 2018 was reduced from \$3,688 million to \$3,550
10 million;
- 11 • revenue (ex-TAC) (excluding selected non-recurring items) for 2017 was reduced from
12 \$3,361 million to \$3,303 million and for 2018 was reduced from \$3,619 million to
13 \$3,480 million;
- 14 • EBITDA (excluding SBC) for 2017 was increased from \$850 million to \$900 million and
15 for 2018 remained at \$950 million;
- 16 • recurring EBITDA (excluding selected non-recurring items and SBC) for 2017 was
17 increased from \$704 million to \$743 million and for 2018 remained at \$880 million;
- 18 • SBC for 2017 was reduced from \$430 million to \$406 million and for 2018 was reduced
19 from \$400 million to \$350 million;
- 20 • capital expenditures for 2017 were reduced from \$400 million to \$300 million and for
21 2018 were reduced from \$400 million to \$350 million;
- 22 • earnings before interest after taxes for 2017 increased from negative \$153 million to
23 negative \$91 million and for 2018 increased from \$61 million to \$101 million; and
- 24 • free cash flow for 2017 increased from \$20 million to \$139 million and for 2018 increased
25 from \$143 million to \$149 million.

26 164. These numbers, however, “did not include estimates of potential non-recurring costs
27 and expenses related to the Security Incidents.” The Proxy defines “Security Incidents” as
28 encompassing the 2013 and 2014 Data Breaches. While the revised forecasts for 2017-2019

1 excluded the costs related to the Data Breaches, the Proxy fails to identify the full expected costs of
2 the Data Breaches. Plaintiff and the Class need to know this information in order to assess whether
3 the \$350 million reduction in the purchase price is fair and reasonable.

4 165. Specifically, the updated 2017-2019 forecasts prepared in February 2017 actually
5 show an improvement in Yahoo's expected cash flows for 2017, from \$20 million to \$139 million,
6 and for 2018 an increase from \$143 million to \$149 million. Given these increased cash flows, and
7 the fact that the Proxy fails to disclose the expected costs of the Data Breaches, shareholders are not
8 able to determine the reasonableness of why the Individual Defendants agreed to reduce the
9 purchase price by \$350 million despite the fact that Yahoo's forecasts do not seem to reveal a
10 negative effect on Yahoo's business from the Data Breaches.

11 166. In addition, when the Amended Purchase Agreement was announced, Yahoo
12 disclosed certain limited User Engagement Trends, which purported to show the effect on Yahoo's
13 customers' utilization of Yahoo's services in the aftermath of the December 14, 2016 disclosure of
14 the 2013 Incident. Yahoo shareholders need significant additional and updated User Engagement
15 data in order to be able to meaningfully analyze the effect of the data breaches on Yahoo's
16 operations. Because the Proxy contains no information about these issues, it is materially misleading
17 and incomplete.

18 167. Without full and fair disclosure of the material information set forth above,
19 shareholders should not be asked to vote to approve the Amended Purchase Agreement.

20 168. In sum, and as described in further detail herein, by agreeing to the Amended
21 Purchase Agreement, each of the defendants breached their fiduciary duties of loyalty, due care,
22 independence, candor, good faith and fair dealing, and/or has aided and abetted such breaches.
23 Rather than acting in the best interests of the Company's shareholders, defendants spent substantial
24 effort tailoring the structural terms of the Amended Purchase Agreement to aggrandize their own
25 personal interests and to meet the specific needs of Verizon, which efforts will eliminate the equity
26 interest of Yahoo's public shareholders in Yahoo's operating business.

27 169. In essence, the Amended Purchase Agreement is the product of a flawed process that
28 is designed to ensure the sale of Yahoo's operating assets to Verizon, on terms preferential to

1 Verizon and defendants, and detrimental to plaintiff and Yahoo's shareholders. Plaintiff seeks to
2 enjoin the Amended Purchase Agreement.

3 **IX. CAUSES OF ACTION**

4 **FIRST CAUSE OF ACTION**

5 **DERIVATIVE CLAIM FOR BREACH OF FIDUCIARY DUTY**

6 **(AGAINST THE INDIVIDUAL DEFENDANTS)**

7 170. Plaintiff incorporates by reference and realleges each and every allegation contained
8 above, as though fully set forth herein.

9 171. The Individual Defendants owed the Company a fiduciary duty and obligation of
10 good faith, fair dealing, loyalty, due care, reasonable inquiry, oversight and supervision. The
11 Individual Defendants breached these fiduciary duties.

12 172. The Individual Defendants each knowingly, recklessly, or negligently failed to
13 protect Yahoo's data, failed to investigate and remediate data breaches after they occurred, failed to
14 investigate and remediate instances of improper insider stock sales in violation of California law,
15 approved compensation packages and golden parachute payments despite such data breaches, and
16 issued false statements that misrepresented and failed to disclose material information concerning
17 the Company. These actions could not have been a good faith exercise of prudent business judgment
18 to protect and promote the Company's corporate interests.

19 173. As a direct and proximate result of the Individual Defendants' failure to perform their
20 fiduciary obligations, Yahoo has sustained significant damages which include, but are not limited
21 to costs to remedy data breaches, costs to comply with heightened regulatory oversight, harm to the
22 Company's reputation, goodwill and market capitalization, costs to defend and resolve any
23 additional civil and/or regulatory actions, payment of unearned compensation, and loss in brand
24 value. As a result of the misconduct alleged herein, the Defendants are liable to the Company.

25 **SECOND CAUSE OF ACTION**

26 **DERIVATIVE CLAIM FOR CORPORATE WASTE**

27 **(AGAINST THE DIRECTOR DEFENDANTS)**

28 174. Plaintiff incorporates by reference and realleges each and every allegation contained
above as though fully set forth herein.

1 175. The Director Defendants had a fiduciary duty to protect Yahoo’s assets from loss or
2 waste.

3 176. By failing to promptly disclose the data breaches and advise Yahoo’s users of the
4 data breaches, and by approving the compensation packages to other Directors and senior
5 executives, and permitting insider sales while in possession of material, non-public information, and
6 not seeking the immediate clawback of such compensation, the Director Defendants breached this
7 fiduciary duty and have caused Yahoo to waste its corporate assets.

8 177. As a result of the Director Defendants’ corporate waste, the Company has suffered
9 substantial damages.

10 **THIRD CAUSE OF ACTION**

11 **DERIVATIVE CLAIM FOR VIOLATION OF CAL. CORP. CODE §§ 25402**

12 **(AGAINST THE SELLING DEFENDANTS)**

13 178. Plaintiff incorporates by reference and realleges each and every allegation contained
14 above, as though fully set forth herein.

15 179. During the Relevant Period, Defendants Bell, Mayer and Filo (the “Selling
16 Defendants”), by virtue of their position and relationship with Yahoo, including as officers and/or
17 directors, had access, directly or indirectly, to material information about Yahoo that was not
18 generally available to the public, as described above, including the true nature and extent of past
19 data breaches, and the failure to investigate and remediate such breaches.

20 180. The Selling Defendants sold their Yahoo common stock in California at a time when
21 they knew such material, non-public information about Yahoo gained from their relationship which
22 would significantly affect the market price of that security and which was not generally available to
23 the public, and which they knew was not intended to be so available, and with no reason to believe
24 that the person buying such securities was also in possession of that information, in violation of
25 California Corporations Code § 25402. Had such information been generally available, it would
26 have significantly reduced the market price of Yahoo shares at that time.

27 181. Yahoo has total assets in excess of one million dollars and has a class of equity
28 security held of record by 500 or more persons. According to Yahoo’s SEC filings, there were

1 956,487,217 shares of Yahoo common stock outstanding as of February 10, 2017, held by 8,762
2 shareholders of record.

3 182. The Selling and Director Defendants are liable for damages in an amount up to three
4 times the difference between the sales price and the true market value, as well as for reasonable
5 attorney's fees and costs under California Corporations Code § 25502.5.

6 **FOURTH CAUSE OF ACTION**

7 **(DERIVATIVE CLAIM AGAINST THE INDIVIDUAL DEFENDANTS AND VERIZON**
8 **FOR VIOLATION OF CAL. BUS. & PROF. CODE §17200**

9 183. Plaintiff incorporates by reference and realleges each and every allegation contained
10 above, as though fully set forth herein.

11 184. The Unfair Trade Practices Act defines unfair competition to include any "unfair,"
12 "unlawful," or "fraudulent" business act or practice. CAL. BUS. & PROF. CODE § 17200. Unfair
13 competition also includes "unfair, deceptive, untrue or misleading advertising." *Id.* The Act
14 provides for restitution for violations. *Id.* § 17203.

15 185. By the nature of their conduct as alleged herein, the Defendants engaged in
16 "unlawful, unfair, and fraudulent" conduct, as those terms are defined and understood under Cal.
17 Bus. & Prof. Code Section 17200.

18 186. By the nature of their conduct as alleged herein, the Defendants violated Cal. Corp.
19 Code Section 25404, which provides: "It is unlawful for any person to knowingly alter, destroy,
20 mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object
21 with the intent to impede, obstruct, or influence the administration or enforcement of this division."
22 The Defendants violated this section by knowingly covering up and concealing the data breaches.

23 187. The Selling Defendants violated Cal. Corp. Code Section 25402 and also breached
24 their state law fiduciary duties of good faith, candor, care, and loyalty.

25 188. The Director Defendants, who through their positions, possessed control and
26 influence over the Selling Defendants and their sale of Yahoo stock, and had knowledge of such
27 sales, and had knowledge of the same material, non-public information, are liable to the same extent
28 the Selling Defendants are liable under California Corporations Code § 25403, which they breached

1 through their conduct as alleged herein, and in addition breached their state law fiduciary duties of
2 care, loyalty, good faith, and candor.

3 189. All the Individual Defendants engaged in “unfair” and “fraudulent” conduct
4 prohibited by Cal. Bus. & Prof. Code Section 17200 by failing to promptly disclose and by
5 concealing Yahoo’s 2013 and 2014 data breaches notwithstanding knowing, or recklessly
6 disregarding, such data breaches. The Individual Defendants also knowingly or recklessly prepared,
7 authorized, and/or signed Yahoo’s Preliminary Proxy which concealed and failed to disclose the
8 data breaches, under circumstances where the Individual Defendants stand to receive substantial
9 personal benefits if the Purchase Agreement is approved by Yahoo’s shareholders.

10 190. Verizon engaged in “unfair” and “fraudulent” conduct prohibited by Cal. Bus. &
11 Prof. Code Section 17200 by aiding and abetting the Individual Defendants’ breaches of fiduciary
12 duty in order to gain a bargaining advantage in negotiations regarding the Purchase Agreement, and
13 by engaging in other “unfair, unlawful and fraudulent” conduct, as alleged herein.

14 191. Yahoo was injured and lost money or property as a result of Defendants' violations
15 of Business & Professions Code § 17200.

16 192. Plaintiff, on behalf of Yahoo, seeks all available relief under the UCL, including
17 declaratory, injunctive, and restitutionary relief. Since Defendants' violations of law are ongoing,
18 Plaintiff seeks a declaration that Defendants' conduct is unlawful, unfair and/or fraudulent and an
19 injunction ordering Defendants to cease and desist from engaging in the secret profit scheme.

20 **FIFTH CAUSE OF ACTION**

21 **(DERIVATIVE CLAIM AGAINST THE SELLING DEFENDANTS FOR BREACH OF**
22 **FIDUCIARY DUTY FOR INSIDER SELLING AND MISAPPROPRIATION OF**
23 **INFORMATION)**

24 193. Plaintiff incorporates by reference and realleges each and every allegation contained
25 above, as though fully set forth herein.

26 194. During the Relevant Period, Defendants Bell, Mayer and Filo (the “Selling
27 Defendants”), by virtue of their position and relationship with Yahoo, including as officers and/or
28 directors, had access, directly or indirectly, to material information about Yahoo that was not

1 generally available to the public, as described above, including the true nature and extent of past
2 data breaches, and the failure to investigate and remediate such breaches.

3 195. The information described above was proprietary non-public information concerning
4 the Company's unlawful conduct associated with the 2013 and 2014 Data Breaches. It was a
5 proprietary asset belonging to the Company, which the Insider Selling Defendants used for their
6 own benefit when they sold Yahoo common stock.

7 196. The insider Selling Defendants' sales of Yahoo common stock while in possession
8 and control of this material adverse non-public information was a breach of their fiduciary duties of
9 loyalty and good faith.

10 197. Since the use of the Company's proprietary information for their own gain constitutes
11 a breach of the insider Selling Defendants' fiduciary duties, the Company is entitled to the imposition
12 of a constructive trust on any profits the insider Selling Defendants obtained thereby.

13 **SIXTH CAUSE OF ACTION**

14 **DIRECT CLASS CLAIM FOR BREACH OF FIDUCIARY DUTY**

15 **(AGAINST THE INDIVIDUAL DEFENDANTS)**

16 198. Plaintiff repeats and realleges each allegation set forth above, except for the
17 derivative causes of action.

18 199. The Individual Defendants have violated fiduciary duties of care, loyalty, candor,
19 and independence owed under applicable law to the public shareholders of Yahoo and have acted to
20 put their personal interests ahead of the interests of Yahoo's shareholders.

21 200. By the acts, transactions and courses of conduct alleged herein, defendants,
22 individually and acting as a part of a common plan, are attempting to advance their interests at the
23 expense of plaintiff and other members of the Class.

24 201. The Individual Defendants have violated and continue to violate their fiduciary
25 duties by approving the Verizon Purchase Agreement and agreeing to pay substantial personal
26 benefits to Yahoo's executives who caused the damage which forced Yahoo to reduce the purchase
27 price by \$350 million and assume 50% of the liability for the data breaches and 100% of the liability
28 for the SEC investigation and the shareholder litigation relating to the data breaches.
Notwithstanding such large damages which were caused directly by breaches of fiduciary duty

1 committed by the Individual Defendants, the Board is allowing the Individual Defendants to retain
2 their full change of control payments and golden parachutes.

3 202. As demonstrated by the allegations above, the Individual Defendants failed to
4 exercise the care required, and breached their duties of loyalty, good faith, candor and independence
5 owed to the shareholders of Yahoo because, among other reasons:

6 (a) They have failed to disclose all material facts to Plaintiff and the Class
7 about the Purchase Agreement and data breaches in the Proxy; and

8 (b) They ignored or did not protect against the numerous conflicts of interest
9 resulting from their own interrelationships or connection with the Purchase
10 Agreement.

11 102. Because the Individual Defendants dominate and control the business and corporate
12 affairs of Yahoo, and are in possession of private corporate information concerning Yahoo's assets,
13 business and future prospects, there exists an imbalance and disparity of knowledge and economic
14 power between them and the public shareholders of Yahoo which makes it inherently unfair for
15 them to pursue any proposed transaction wherein they will reap disproportionate benefits to the
16 exclusion of maximizing stockholder value.

17 103. By reason of the foregoing acts, practices and course of conduct, the Individual
18 Defendants have failed to exercise ordinary care and diligence in the exercise of their fiduciary
19 obligations toward plaintiff and the other members of the Class.

20 104. As a result of the actions of defendants, plaintiff and the Class will suffer irreparable
21 injury as a result of defendants' self-dealing and breach of the duty of candor.

22 105. Unless enjoined by this Court, the Individual Defendants will continue to breach their
23 fiduciary duties owed to plaintiff and the Class and may consummate the Purchase Agreement
24 without disclosure of all material facts to Yahoo's shareholders.

25 106. The Individual Defendants are engaging in self-dealing, are not acting in good faith
26 toward plaintiff and the other members of the Class, and have breached and are breaching their
27 fiduciary duties to the members of the Class.

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X. PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment and preliminary and permanent relief, including injunctive relief, in their favor and on behalf of Yahoo and the Class, and against the Individual Defendants and Verizon, as follows:

A. Against the Individual Defendants and in favor of the Company for the amount of damages sustained by the Company as a result of the Individual Defendants’ breaches of fiduciary duties;

B. On the class claims, an injunction enjoining consummation of the Purchase Agreement until all material facts about the data breaches and the Individual Defendants’ involvement in, and responsibility for, the data breaches are disclosed to Plaintiff and the Class;

C. Extraordinary equitable and/or injunctive relief as permitted by law, equity, and the statutory provisions sued hereunder;

D. Declaring that the Individual Defendants have breached their fiduciary duties to Yahoo and its stockholders;

E. Certifying the class claims;

D. Awarding to Plaintiff the costs, expenses, and disbursements in connection with this action, including reasonable attorneys’ fees, experts’ and consultants’ fees and expenses, and, if applicable, pre-judgment and post-judgment interest; and

E. Awarding to Plaintiff such other and further relief as the Court deems just and proper.

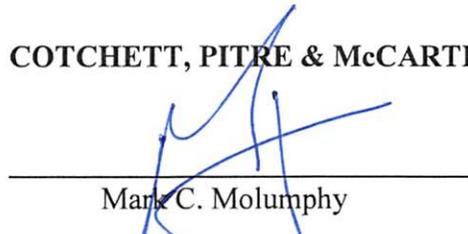
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XI. JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: March 16, 2017

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