

1 BOTTINI & BOTTINI, INC.
Francis A. Bottini, Jr. (SBN 175783)
2 Albert Y. Chang (SBN 296065)
3 Yury A. Kolesnikov (SBN 271173)
7817 Ivanhoe Avenue, Suite 102
4 La Jolla, California 92037
Telephone: (858) 914-2001
5 Facsimile: (858) 914-2002

6 *Attorneys for Plaintiffs*

ENDORSED FILED
SAN MATEO COUNTY

JAN 22 2015

Clerk of the Superior Court

By S. YAMMING
D. / CLERK

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SAN MATEO

10 JAMES SMALL and DWIGHT BUCHER,)
11 Individually and on Behalf of All Others)
12 Similarly Situated,)
13 Plaintiffs,)

Case No. **CIV 532190**

CLASS ACTION

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

14 vs.)

15 MODEL N, INC., ZACK RINAT, SUJAN)
16 JAIN, JAMES W. BREYER, SARAH)
17 FRIAR, MARK GARRETT, CHARLES J.)
18 ROBEL, J.P. MORGAN SECURITIES LLC,)
DEUTSCHE BANK SECURITIES INC.,)
19 STIFEL, NICOLAUS & COMPANY,)
INCORPORATED, PACIFIC CREST)
20 SECURITIES LLC, PIPER JAFFRAY &)
CO., RAYMOND JAMES & ASSOCIATES,)
21 INC., and DOES 1-25, inclusive,)
Defendants.)

DEMAND FOR JURY TRIAL

BY FAX

1 Plaintiffs James Small and Dwight Bucher (“Plaintiffs”) make the following allegations,
2 except the allegations specifically pertaining to Plaintiffs and Plaintiffs’ counsel, based upon
3 the investigation undertaken by Plaintiffs’ counsel, which included a review and analysis of
4 publicly-available news articles and reports, regulatory filings with the U.S. Securities and
5 Exchange Commission (“SEC”), securities analysts’ reports and advisories about Model N,
6 Inc. (“Model N” or the “Company”), press releases and other public statements issued by the
7 Company, and media reports about the Company. Plaintiffs believe that substantial
8 additional evidentiary support will exist for the allegations set forth herein after a reasonable
9 opportunity for discovery.

10 I. NATURE OF THE ACTION

11 1. This is a securities class action on behalf of all persons who acquired common
12 stock of Model N pursuant or traceable to the Company’s false and misleading Registration
13 Statement and Prospectus issued in connection with Model N’s March 20, 2013 initial public
14 offering (the “IPO”).

15 2. This action asserts strict liability claims brought under §§ 11, 12(a)(2), and 15 of
16 the Securities Act of 1933 (the “Securities Act”) against Model N, certain of Model N’s officers
17 and directors, and the investment banks that underwrote Model N’s IPO.

18 3. As detailed below, the Registration Statement and Prospectus for the IPO were
19 inaccurate and misleading, contained untrue statements of material facts, omitted to state
20 other facts necessary to make the statements made not misleading, and omitted to state
21 material facts required to be disclosed.

22 4. Specifically, the Registration Statement failed to disclose that at the time of the
23 IPO, the Company was experiencing significant sales execution challenges. In light of the
24 Company’s lengthy sales cycle for its products and its continued dependence on a relatively
25 small number of customers for a significant portion of its revenue, the sales execution
26 challenges were highly likely to impact the Company’s continuing operations.

27 5. Furthermore, although the Registration Statement purported to warn investors
28 about the lengthy sales cycle for the Company’s products, the Registration Statement failed to

1 disclose that at the time of the IPO, Model N was experiencing sales execution challenges that
2 threatened to further impede and delay the sales process.

3 6. Model N and its officers and directors negligently prepared and disseminated the
4 materially inaccurate and misleading Registration Statement and Prospectus. The
5 Underwriter Defendants (as defined herein) either knew about the omitted facts and failed to
6 require their disclosure or did not know by failing to conduct a reasonable investigation and
7 independently verify the representations in the Registration Statement and Prospectus. The
8 claims in this action are based solely on strict liability and negligence, and are not based on
9 any reckless or intentionally fraudulent conduct by or on behalf of defendants. The claims do
10 not allege, arise from, or sound in fraud. Plaintiffs specifically disclaim any allegations of
11 fraud, scienter, or recklessness in these non-fraud claims.

12 II. JURISDICTION AND VENUE

13 7. The claims alleged arise under §§ 11, 12(a)(2), and 15 of the Securities Act, 15
14 U.S.C. §§ 77k, 77l(a)(2), and 77o. Jurisdiction is conferred by § 22 of the Securities Act and
15 venue is proper pursuant to § 22 of the Securities Act. Section 22 of the Securities Act
16 explicitly states that “[e]xcept as provided in [section 16(c)], no case arising under this
17 subchapter and brought in any State court of competent jurisdiction shall be removed to any
18 court in the United States.” 15 U.S.C. § 77v(a). Section 16(c) refers to “covered class actions,”
19 which are defined as lawsuits brought as class actions or brought on behalf of more than 50
20 persons asserting claims under state or common law. This is an action asserting federal law
21 claims. Thus, this action does not fall within the definition of a “covered class action” under §
22 16(b)-(c) and, therefore, is not removable to federal court under the Securities Litigation
23 Uniform Standards Act of 1998.

24 8. This Court has subject matter jurisdiction over the claims asserted in this action
25 pursuant to the California Constitution, Article VI, § 10, because this case is a cause not given
26 by statute to other courts.

27 9. The Court has personal jurisdiction over each of the defendants because they
28 conducted business in and/or were citizens of California at the time of the IPO. This includes

1 Model N, which maintained its principal place of business in this County at the time of the
2 IPO, and the Individual Defendants (as defined herein), all of whom reside or work in
3 California. Each of the Underwriter Defendants (as defined herein) also has offices and/or
4 conducts significant business in California. Moreover, the violations of law complained of
5 herein also occurred in this County, including the dissemination of materially false and
6 misleading statements complained of herein into this County.

7 10. Venue is proper in this Court because defendants' wrongful acts arose in and
8 emanated from this County. At the time of the IPO, Model N's principal executive offices were
9 located at 1800 Bridge Parkway, Redwood City, CA 94065, and are currently located at Pacific
10 Shores Center, 1600 Seaport Boulevard, Suite 400, Redwood City, CA 94063. Individual
11 Defendants James W. Breyer and Charles J. Robel reside in San Mateo County, and all of the
12 Individual Defendants undertook activities related to the IPO from Model N's headquarters in
13 San Mateo County.

14 **III. PARTIES**

15 11. Plaintiff James Small acquired 82 shares of Model N common stock on March
16 20, 2013 pursuant and/or traceable to the IPO, and was damaged thereby.

17 12. Plaintiff Dwight Bucher acquired 7,000 shares of Model N common stock on
18 March 20, 2013 pursuant and/or traceable to the IPO, and was damaged thereby.

19 13. Defendant Model N is a software company founded in 1999 whose primary focus
20 is revenue management software for pharmaceutical and medical device companies. Model N
21 stock trades on the New York Stock Exchange under the ticker symbol "MODN."

22 14. Defendant Zack Rinat is the Company's founder, Chairman of the Board of
23 Directors, and Chief Executive Officer. Rinat has served as the Chairman of the Board of
24 Directors and as Chief Executive Officer since the Company's inception in December 1999.
25 Defendant Rinat resides in Santa Clara County, California.

26 15. Defendant Sujan Jain was, at the time of the IPO, the Company's Senior Vice
27 President and the Chief Financial Officer ("CFO"). Following Jain's sudden resignation in May
28 2014, Model N brought back its former CFO to replace Jain. Defendant Jain resides in Santa

1 Clara County, California.

2 16. Defendant James W. Breyer was, at the time of the IPO, a director of Model N.
3 Following the IPO, Breyer resigned from the Board on May 2, 2013. Breyer is also a co-
4 founder of Accel-KKR Company LLC (“Accel-KKR”), a pre-IPO venture capital financier of
5 Model N. Defendant Breyer resides in San Mateo County, California.

6 17. Defendant Sarah Friar is a director of Model N and was a director at the time of
7 the IPO. She has served as a member of Model N’s Board of Directors since September 2012.
8 Defendant Friar resides in Marin County, California.

9 18. Defendant Mark Garrett is a director of Model N and was a director at the time of
10 the IPO. He has served as a member of Model N’s Board of Directors since January 2008.
11 Defendant Garrett resides in Santa Clara County, California.

12 19. Defendant Charles J. Robel is a director of Model N and was a director at the
13 time of the IPO. He has served as a member of Model N’s Board of Directors since January
14 2007. Defendant Robel resides in San Mateo County, California.

15 20. Defendant J.P. Morgan Securities LLC (“J.P. Morgan”), a financial holding
16 company, provides various financial services worldwide. J.P. Morgan served as an
17 underwriter and a joint book-running manager of Model N’s IPO, helping to draft and
18 disseminate the offering documents.

19 21. Defendant Deutsche Bank Securities Inc. (“Deutsche Bank”), an indirect wholly
20 owned subsidiary of Deutsche Bank AG, is a financial services company. Deutsche Bank acted
21 as an underwriter and a joint book-running manager of Model N’s IPO, helping to draft and
22 disseminate the offering documents.

23 22. Defendant Stifel, Nicolaus & Company, Incorporated (“Stifel”) is a financial
24 services company. Stifel acted as an underwriter of Model N’s IPO, helping to draft and
25 disseminate the offering documents.

26 23. Defendant Pacific Crest Securities LLC (“Pacific Crest”), based in Portland,
27 Oregon, is a financial services company. Pacific Crest acted as an underwriter of Model N’s
28 IPO, helping to draft and disseminate the offering documents.

1 Model N common stock pursuant or traceable to the Registration Statement issued in
2 connection with the IPO (the "Class"). Excluded from the Class are defendants and their
3 families, the officers and directors and affiliates of defendants, at all relevant times, members
4 of their immediate families and their legal representatives, heirs, successors, or assigns, and
5 any entity in which defendants have or had a controlling interest.

6 30. The members of the Class are so numerous that joinder of all members is
7 impracticable. While the exact number of Class members is unknown to Plaintiffs at this time
8 and can only be ascertained through appropriate discovery, Plaintiffs believe that there are
9 hundreds of members in the proposed Class. Record owners and other members of the Class
10 may be identified from records maintained by Model N or its transfer agent and may be
11 notified of the pendency of this action by mail, using the form of notice similar to that
12 customarily used in securities class actions.

13 31. Plaintiffs' claims are typical of the claims of the members of the Class, as all
14 members of the Class are similarly affected by defendants' wrongful conduct in violation of
15 federal law that is complained of herein.

16 32. Plaintiffs will fairly and adequately protect the interests of the members of the
17 Class and have retained counsel competent and experienced in class and securities litigation.

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

21 (a) whether defendants violated the Securities Act;

22 (b) whether statements made by defendants to the investing public in the
23 Registration Statement and Prospectus misrepresented material facts about the business and
24 operations of Model N;

25 (c) whether the Registration Statement was negligently prepared and
26 contained inaccurate statements of material fact and/or omitted material information
27 required to be stated therein; and

28 (d) to what extent the members of the Class have sustained damages and the

1 proper measure of damages.

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

8 **V. SUBSTANTIVE ALLEGATIONS**

9 35. Model N is the leading provider of Revenue Management solutions for the life
10 sciences and technology industries. The Company helps customers maximize revenues, drive
11 growth, and reduce compliance risks by transforming the revenue lifecycle from inefficient
12 disjointed operations into a strategic end-to-end process.

13 36. Revenue Management is an emerging enterprise application category that
14 attempts to help companies align and improve the processes of pricing and quoting, contract
15 development and management, trade settlements, and channel incentives, in order to
16 eliminate the revenue leakage and reduce the financial regulatory compliance risks that can
17 cost companies millions of dollars per year. According to the Company, Revenue Management
18 has become a core, strategic focus for companies from industries that deal with competitive
19 pricing, complex contracts, and multiple channels.

20 37. Despite competing against better-capitalized firms like Oracle Corporation and
21 HealthStream, Inc., Model N touts itself as offering a unique approach, optimized for life
22 sciences and technology industries, that combines industry specific solutions and best
23 practices expertise to enable Model N's customers to better plan and control the processes that
24 drive the entire revenue lifecycle for their business.

25 38. On December 11, 2012, Model N filed with the SEC a confidential draft of the
26 Registration Statement on Form S-1, which would later be utilized for the IPO following
27 several amendments in response to various rounds of comments by the SEC.

28 39. On February 13, 2013, the Registration Statement was publicly filed with the

1 SEC. On March 19, 2013, the SEC declared the Registration Statement effective.

2 40. On or about March 20, 2013, Model N and the Underwriter Defendants priced
3 the IPO and filed the final Prospectus for the IPO.

4 41. The Registration Statement and Prospectus were negligently prepared and, as a
5 result, contained untrue statements of material facts, omitted to state other facts necessary to
6 make the statements made not misleading, and/or omitted to state material facts required to
7 be disclosed. The Registration Statement and Prospectus were not prepared in accordance
8 with the rules and regulations governing their preparation.

9 42. At the time of the IPO, Model N was experiencing a disruption in its sales force
10 which was negatively impacting its ability to close sales and causing significant sales execution
11 challenges. Given the Company's lengthy sales cycle for its products and its continued
12 dependence on a relatively small number of customers for a significant portion of its revenue,
13 the Company's sales execution challenges were highly likely to impact its continuing
14 operations, as the Company lost sales opportunities or sales were delayed. These issues were
15 required to be disclosed in the Registration Statement and Prospectus, but were not.

16 43. The Registration Statement positively described the Company's sales force and
17 marketing competencies, stating as follows:

18 **Sales and Marketing**

19 Our sales and marketing team is focused on expanding relationships with
20 existing customers and adding new customers. We primarily target large and
21 mid-sized organizations worldwide through our direct sales force. Our sales and
22 marketing programs are also organized by geographic region. We have
23 historically focused our sales efforts in the United States, but we believe markets
24 outside of the United States offer a significant opportunity for growth and
25 intend to make additional investments in sales and marketing to expand in these
26 markets. We augment our sales professionals with solutions, engineers and
27 industry domain experts who work closely with prospective customers during
28 the sales process. Our marketing team supports sales with demand generation,
competitive analysis and sales tools, and contributes to the sales process
through lead generation, brand building, industry analyst relations, press
relations and industry research.

Our sales and marketing efforts are tailored to communicate effectively to senior
executives in our target industries. We believe our industry expertise enables a

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better understanding of our customers’ unique needs, including the specialized business requirements of industry segments, such as pharmaceutical, biotechnology, medical device, semiconductor, consumer electronics and software. As a result, we believe we are able to engage our customers during the sales process using quantitative and qualitative benchmarks built on a combination of comparative data from our customers and from surveys of these industries.

We host an annual user conference, Rainmaker, which plays a significant role in driving sales for our solutions. Customers are invited both as attendees and participants to deliver sessions relevant to the interests and practices of the life science and technology industries. We also invite potential customers to this conference in order to leverage our strong customer references to accelerate sales cycles. In addition, Rainmaker provides a forum to build our eco-system of strategic partner relationships, offering partners the opportunity to work closely with our sales force on joint sales pursuits.

44. The Registration Statement also described the Company’s “competitive strengths” and the demand being experienced for Model N’s Revenue Management services, stating as follows:

Management of the revenue lifecycle is becoming ***a strategic imperative and source of competitive advantage*** for life science and technology companies as they address increasingly globalized markets, sophisticated buyers, complex channels and expanding volumes of data from internal and market sources. ***We believe [the life science and technology] companies are seeking innovative solutions to increase revenues and reduce missed revenue opportunities, or revenue leakage, as the opportunity to capture lost revenues has a significant business impact for life science and technology companies.***

* * *

Our Competitive Strengths

We believe our key competitive strengths include:

- **Comprehensive approach to revenue management.** Our integrated, end-to-end application suites enable our customers to transform their revenue management processes from disjointed operations into a cohesive strategic end-to-end process for decision making and process automation.
- **Deep domain knowledge.** Our expertise in the revenue management needs of life science and technology companies enables us to develop solutions that address the unique demands of these industries.
- **Strong installed customer base.** We have established a reputation for

1 delivering revenue management solutions to leading life science and
2 technology customers. We believe that the use of our products by respected
3 industry leaders also increases the value of our brand in these industries.

- 4 • **Flexible delivery options.** Our modern, web-based platform supports
5 both on-premise and cloud deployments. By offering both delivery options,
6 we are able to reach a larger group of customers, address their unique needs
7 and deliver cost and operational benefits.
- 8 • **Talented team focused on customer success.** We employ experts
9 from the life science and technology industries in key customer-facing and
10 development roles, resulting in close relationships with our customers and a
11 strong reference base for new sales opportunities.

9 * * *

10 ***We have enjoyed renewal rates for maintenance and support in***
11 ***excess of 95% during fiscal years ended September 30, 2010, 2011***
12 ***and 2012.***

12 45. The Registration Statement purported to warn investors about the extended
13 sales cycle for the Company's products but failed to disclose that at the time of the IPO, the
14 Company was experiencing sales execution issues that threatened to further impede and delay
15 the sales process. The Registration Statement stated as follows:

16 Our sales efforts are targeted at larger enterprise customers, and as a
17 result, we face greater costs, must devote greater sales support to individual
18 customers, have longer sales cycles and have less predictability in completing
19 some of our sales. Also, sales to large enterprises often require us to provide
20 greater levels of education regarding the use and benefits of our solutions. We
21 believe that our customers view the purchase of our solutions as a significant
22 and strategic decision. As a result, customers carefully evaluate our solutions,
23 often over long periods with a variety of internal constituencies. In addition, the
24 sales of our solutions may be subject to delays if the customer has lengthy
25 internal budgeting, approval and evaluation processes, which are quite common
26 in the context of introducing large enterprise-wide technology solutions. As a
27 result it is difficult to predict the timing of our future sales.

24 46. Similarly, the Registration Statement purported to warn investors about the
25 importance of the Company's direct sales force, but failed to disclose the sales execution issues
26 facing the Company. The Registration Statement stated as follows:

27 We rely almost exclusively on our direct sales force to sell our solutions.
28 We believe that our future growth will depend, to a significant extent, on the
continued development of our direct sales force and its ability to manage and

1 retain our existing customer base, expand the sales of our solutions to existing
2 customers and obtain new customers. Because our software is complex and
3 often must interoperate with complex computing requirements, it can take
4 longer for our sales personnel to become fully productive compared to other
5 software companies. Our ability to achieve significant growth in revenues in the
6 future will depend, in large part, on our success in recruiting, training and
7 retaining a sufficient number of direct sales personnel. New hires require
8 significant training and may, in some cases, take more than a year before
9 becoming fully productive, if at all. If we are unable to hire and develop
10 sufficient numbers of productive direct sales personnel, and if these sales
11 personnel are unable to achieve full productivity, sales of our solutions will
12 suffer and our growth will be impeded.

13 47. The above-referenced statements were each inaccurate and misleading
14 statements of material fact because they failed to disclose that the Company was then
15 experiencing a disruption in its sales force that was negatively impacting the Company's ability
16 to close sales and causing significant sales execution issues.

17 48. Under the rules and regulations governing the preparation of the Registration
18 Statement and Prospectus, Model N was required to disclose at the time of the IPO that it was
19 experiencing sales execution issues that were highly likely to impact continuing operations.
20 However, the Registration Statement and Prospectus contained no such disclosures.

21 49. Item 303 of SEC Regulation S-K, 17 C.F.R. § 229.303, required defendants to
22 disclose events, uncertainties, or known trends that have had or are reasonably likely to cause
23 the registrant's financial information not to be indicative of future operating results, including
24 those "that have had or that the registrant reasonably expects will have a material favorable or
25 unfavorable impact on net sales or revenues or income from continuing operations."

26 50. At the time of the IPO, Model N was experiencing significant sales execution
27 issues. Given the Company's extended sales cycle for its products, the Company's sales
28 execution issues were highly likely to impact the Company's continuing operations, as the
Company lost sales opportunities or sales were delayed. Under Item 303, these issues were
required to be disclosed in the Registration Statement and Prospectus, but were not.

51. The IPO was very successful for the Company, the Underwriter Defendants, and
Accel-KKR, who collectively sold 7.751 million shares of Model N common stock to the public

1 at \$15.50 per share, raising more than \$108 million in gross proceeds for the Company and
2 \$11.47 million in gross proceeds for Accel-KKR.

3 52. Pursuant to the Securities Act, the Underwriter Defendants are liable for the
4 false and misleading statements in the Registration Statement as follows:

5 (a) The Underwriter Defendants are investment banking houses that
6 specialize, *inter alia*, in underwriting public offerings of securities. The Underwriter
7 Defendants served as the underwriters of the IPO and shared more than \$8.4 million in fees
8 collectively. The Underwriter Defendants determined that in return for their share of the IPO
9 proceeds, they were willing to merchandize Model N stock in the IPO.

10 (b) The Underwriter Defendants also demanded and obtained an agreement
11 from the Company that the Company would indemnify and hold the Underwriter Defendants
12 harmless from any liability under the federal securities laws. They also made certain that the
13 Company had purchased millions of dollars in directors' and officers' liability insurance.

14 (c) Representatives of the Underwriter Defendants also assisted Model N and
15 the Individual Defendants in planning the IPO, and purportedly conducted an adequate and
16 reasonable investigation into the business and operations of Model N, an undertaking known
17 as a "due diligence" investigation. The due diligence investigation was required of the
18 Underwriter Defendants in order to engage in the IPO. During the course of their "due
19 diligence," the Underwriter Defendants had continual access to confidential corporate
20 information concerning Model N's operations and financial prospects.

21 (d) In addition to availing themselves of virtually unbridled access to material
22 corporate documents, agents of the Underwriter Defendants met with Model N's lawyers,
23 management, and top executives, and engaged in "drafting sessions" between at least
24 December 2012 and March 2013. During these sessions, understandings were reached as to:
25 (i) the strategy to best accomplish the IPO; (ii) the terms of the IPO, including the price at
26 which Model N common stock would be sold; (iii) the language to be used in the Registration
27 Statement; (iv) what disclosures about the Company would be made in the Registration
28 Statement; and (v) what responses would be made to the SEC in connection with its review of

1 the Registration Statement. As a result of those constant contacts and communications
2 between the Underwriter Defendants' representatives and Model N's management and top
3 executives, the Underwriter Defendants knew of, or in the exercise of reasonable care should
4 have known of, Model N's existing problems as detailed herein.

5 (e) The Underwriter Defendants caused the Registration Statement to be filed
6 with the SEC and declared effective in connection with the offers and sales of securities
7 registered thereby, including those to Plaintiffs and the other members of the Class.

8 53. At the time of the filing of this action, the price of Model N common stock traded
9 near \$10.80 per share – a decline of 30% from the IPO price.

10 **FIRST CAUSE OF ACTION**

11 **For Violation of § 11 of the Securities Act**
12 **Against All Defendants**

13 54. Plaintiffs incorporate each of the preceding paragraphs by reference.

14 55. This Cause of Action is brought pursuant to § 11 of the Securities Act, 15 U.S.C.
15 §77k, on behalf of the Class, against all defendants.

16 56. This Count does not sound in fraud. Plaintiffs do not allege that the Individual
17 Defendants or the Underwriter Defendants had scienter or fraudulent intent, which are not
18 elements of a § 11 claim.

19 57. The Registration Statement for the IPO was inaccurate and misleading,
20 contained untrue statements of material facts, omitted to state other facts necessary to make
21 the statements made not misleading, and omitted to state material facts required to be stated
22 therein.

23 58. Model N is the registrant for the IPO. The defendants named herein were
24 responsible for the contents and dissemination of the Registration Statement.

25 59. Defendants are strictly liable for the misstatements and omissions.

26 60. None of the defendants named herein made a reasonable investigation or
27 possessed reasonable grounds for the belief that the statements contained in the Registration
28 Statement were true and without omissions of any material facts and were not misleading.

1 misstatements and omissions contained in the Prospectus as set forth above.

2 69. Plaintiffs did not know, nor in the exercise of reasonable diligence could have
3 known, of the untruths and omissions contained in the Prospectus at the time that Plaintiffs
4 acquired Model N common stock.

5 70. By reason of the conduct alleged herein, defendants violated § 12(a)(2) of the
6 Securities Act. As a direct and proximate result of such violations, Plaintiffs and the other
7 members of the Class who purchased Model N common stock pursuant to the Prospectus
8 sustained substantial damages in connection with their purchases of the stock. Accordingly,
9 Plaintiffs and the other members of the Class who hold the common stock issued pursuant to
10 the Prospectus have the right to rescind and recover the consideration paid for their shares,
11 and hereby tender their common stock to defendants sued herein. Class members who have
12 sold their common stock seek damages to the extent permitted by law.

13 **THIRD CAUSE OF ACTION**

14 **For Violation of § 15 of the Securities Act** 15 **Against Model N and the Individual Defendants**

16 71. Plaintiffs incorporate each of the preceding paragraphs by reference.

17 72. This Cause of Action is brought pursuant to § 15 of the Securities Act against
18 Model N and the Individual Defendants.

19 73. The Individual Defendants each were control persons of Model N by virtue of
20 their positions as directors and/or senior officers of Model N. The Individual Defendants each
21 had a series of direct and/or indirect business and/or personal relationships with other
22 directors and/or officers and/or major shareholders of Model N. The Company controlled the
23 Individual Defendants and all of Model N's employees.

24 74. The defendants were each culpable participants in the violations of §§ 11 and
25 12(a)(2) of the Securities Act alleged in the Causes of Action above, based on their having
26 signed or authorized the signing of the Registration Statement and Prospectus and having
27 otherwise participated in the process which allowed the IPO to be successfully completed.
28

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiffs pray for relief and judgment, as follows:

3 A. Declaring this action to be a proper class action and certifying Plaintiffs as Class
4 representatives under § 382 of the California Code of Civil Procedure and Rule 3.764 of the
5 California Rules of Court, and appointing Plaintiffs' counsel as Class Counsel;

6 B. Awarding compensatory damages in favor of Plaintiffs and the other Class
7 members against all defendants, jointly and severally, for all damages sustained as a result of
8 defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

9 C. Awarding Plaintiffs and the Class their reasonable costs and expenses incurred in
10 this action, including counsel fees and expert fees;

11 D. Awarding rescission or a rescissory measure of damages, and

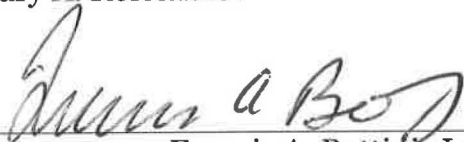
12 E. Awarding such equitable/injunctive or other relief as the Court may deem just
13 and proper.

14 **JURY TRIAL DEMANDED**

15 Plaintiffs hereby demand a trial by jury.

16 DATED: January 22, 2015

BOTTINI & BOTTINI, INC.
Francis A. Bottini, Jr.
Albert Y. Chang
Yury A. Kolesnikov

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Francis A. Bottini, Jr.

21 7817 Ivanhoe Avenue, Suite 102
22 La Jolla, California 92037
23 Telephone: (858) 914-2001
Facsimile: (858) 914-2002

24 *Attorneys for Plaintiffs*