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8 **UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

11 _____ on behalf of himself and all others
12 similarly situated,

13 Plaintiff,

14 vs.

15 RESTORATION ROBOTICS, INC.; RYAN
16 RHODES; CHARLOTTE HOLLAND;
17 FREDERIC MOLL; JEFFREY BIRD; GIL
18 KLIMAN; EMMETT CUNNINGHAM, JR.;
19 CRAIG TAYLOR; SHELLEY THUNEN;
20 SUTTER HILL VENTURES, L.P.; CLARUS
21 LIFESCIENCES II, L.P.; CLARUS VENTURES
22 II, LLC; ALLOY VENTURES 2002, L.P.; ALLOY
23 VENTURES 2005, L.P.; ALLOY VENTURES
24 2002, LLC; ALLOY VENTURES 2005, LLC;
25 INTERWEST PARTNERS IV, L.P.; INTERWEST
26 MANAGEMENT PARTNERS IX, LLC;
27 NATIONAL SECURITIES CORPORATION;
28 ROTH CAPITAL PARTNERS, LLC; and CRAIG-
HALLUM CAPITAL GROUP, LLC;

Defendants.

CLASS ACTION

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

DEMAND FOR JURY TRIAL

24 Plaintiff _____ (“Plaintiff”) brings this action pursuant to Sections 11 and 15 of
25 the Securities Act of 1933 (the “Securities Act”) individually and on behalf of all persons or entities
26 other than defendants who purchased common stock issued by Restoration Robotics, Inc.
27 (“Restoration Robotics” or the “Company”) pursuant to or traceable to the Company’s Initial Public
28 Offering (the “IPO” or “Offering”) that commenced on October 12, 2017, and closed on October 16,

1 2017.

2 Plaintiff alleges the following based upon personal knowledge as to himself and his own acts,
3 and upon information and belief as to all other matters. Plaintiff's information and belief is based on
4 the investigation of his undersigned Counsel, which included, among other things, review and
5 analysis of: (i) Restoration Robotics' public filings with the U.S. Securities and Exchange
6 Commission ("SEC"); (ii) Restoration Robotics' other public statements, including press releases;
7 and (iii) reports of securities and financial analysts, news articles, and other commentary and analysis
8 concerning Restoration Robotics and the industry in which it operates. Counsel's investigation into
9 the matters alleged herein is continuing, and many relevant facts are known only to, or are exclusively
10 within the custody or control of, defendants. Plaintiff believes that substantial additional evidentiary
11 support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

12 SUMMARY OF THE ACTION

13 1. For all claims stated herein, Plaintiff expressly disclaims any allegation that could be
14 construed as alleging fraud or intentional or reckless misconduct.

15 2. This securities class action is brought under Sections 11 and 15 of the Securities Act
16 against: (i) Restoration Robotics; (ii) certain members of Restoration Robotics' senior management
17 and its board of directors (the "Board") that signed the Registration Statement (as defined herein) in
18 connection with the Company's IPO; (iii) the Venture Capital Defendants (as defined herein); and
19 (iv) each of the investment banks that participated in the Offering as an underwriter (the "Underwriter
20 Defendants" and, together with Restoration Robotics, the Individual Defendants (as defined herein),
21 and the Venture Capital Defendants, "Defendants").

22 3. Plaintiff alleges that the Registration Statement (as defined herein) (and Prospectus (as
23 defined herein) incorporated therein) contained materially untrue statements of material fact and/or
24 omitted to state material facts required to make the statements in the Registration Statement not
25 misleading.

26 4. Founded in 2002, defendant Restoration Robotics is a medical technology company
27 developing and commercializing a robotic device (the "ARTAS System") that assists physicians in
28 performing many of the repetitive tasks that are a part of a follicular unit extraction ("FUE") surgery,

1 a type of hair restoration procedure.

2 5. On or about September 1, 2017, the Company announced that it had filed a registration
3 statement on Form S-1 with the SEC relating to a proposed initial public offering of shares of its
4 common stock.

5 6. The September 1, 2017 Form S-1 Registration Statement was followed by several
6 amendments, the last of which was filed with the SEC on October 6, 2017 (Registration No. 333-
7 220303), which became effective on October 11, 2017 (as amended, the “Registration Statement”).

8 7. On October 13, 2017, Restoration Robotics filed with the SEC a Prospectus pursuant
9 to Rule 424(b)(4) (the “Prospectus” and, together with the Registration Statement, the “Offering
10 Materials”), commencing the public offering of 3,575,000 shares of Restoration Robotics shares of
11 common stock priced at \$7.00 per share, with an underwriter over-allotment option to purchase up to
12 an additional 536,250 shares.

13 8. In violation of the Securities Act, Defendants negligently issued untrue statements of
14 material facts in, and omitted to state material facts required to be stated from, the Offering Materials
15 filed by the Company with the SEC and presented to the investing public in support of the IPO.

16 9. In their capacities as signers of the Registration Statement and/or as an issuer,
17 statutory seller, offeror, and/or underwriter of the shares sold pursuant to the Offering, each of the
18 Defendants are strictly liable for such misstatements and omissions therefrom.

19 10. Further, because of the materially deficient Registration Statements, Defendants have
20 also violated their independent, affirmative duty to provide adequate disclosures about adverse
21 conditions, risk, and uncertainties. *See* Item 303 of SEC Reg. S-K, 17 C.F.R. § 229.303(a)(3)(ii)
22 (requiring that the materials incorporated in a registration statement disclose all “known trends or
23 uncertainties” reasonably expected to have a material unfavorable impact on the Company’s
24 operations).

25 11. As alleged herein, Defendants failed in their duty by inducing public investment in the
26 Company by means of the materially untrue, inaccurate, misleading, and/or incomplete Offering
27 Materials. As a result of the materially misleading Offering Materials, the Company’s shares were
28 artificially inflated at the time of the October 12, 2017 IPO, through which Restoration Robotics

1 raised approximately \$25 million in gross proceeds.

2 12. Unfortunately for Company stockholders, the Company's stock has consistently traded
3 lower than \$7.00 Offering price, weighed down by the truth regarding the Company's business and
4 financial prospects.

5 13. As alleged herein, Plaintiff, individually and on behalf of similarly situated Class
6 (defined herein) members who also acquired the Company's shares pursuant or traceable to the
7 Offering, now seeks to obtain a recovery for the damages suffered as a result of Defendants'
8 violations of the Securities Act.

9 **JURISDICTION AND VENUE**

10 14. The claims asserted herein arise under Sections 11 and 15 of the Securities Act,
11 15 U.S.C. §§ 77k and 77(o). This Court has subject matter jurisdiction over this action under
12 Section 22 of the Securities Act (15 U.S.C. § 77v).

13 15. Venue is proper in this judicial district pursuant to Section 22 of the Securities Act
14 (15 U.S.C. § 77v) because the false and misleading statements at issue took place and had an effect in
15 this district. Additionally, pursuant to 28 U.S.C. § 1391(b), certain Defendants had sufficient
16 contacts with California, including the Company's principal executive offices being located in this
17 district, Individual Defendants Ryan Rhodes, Charlotte Holland, Jeffrey Bird, Gil Kliman, and
18 Emmett Cunningham, Jr. each reside in this district, and certain of the Venture Capital Defendants
19 and Underwriter Defendants (each defined below) have an office and/or practice in this district, and
20 each maintains substantial and continuous contact with California by conducting significant venture
21 capital and/or investment banking operations in this district and throughout this State.

22 16. In connection with the acts, conduct, and other wrongs alleged in this Complaint,
23 Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce,
24 including but not limited to, the United States mails, interstate telephone communications, and the
25 facilities of the national securities exchange.

26 **PARTIES**

27 17. Plaintiff purchased Restoration Robotics common stock pursuant and/or traceable to
28 the Offering Materials issued in connection with the Company's IPO and has been damaged thereby.

1 **A. Restoration Robotics**

2 18. Restoration Robotics is a medical technology company founded in 2002, organized
3 under the laws of the State of Delaware and headquartered at 128 Bayetch Drive, San Jose, California
4 95134. The Company went public on or about October 12, 2017. The Company’s shares trade on the
5 NASDAQ Global Market under the symbol “HAIR”.

6 **B. The Individual Defendants**

7 19. Ryan Rhodes (“Rhodes”) is, and was at the time of the IPO, Restoration Robotics’
8 President, Chief Executive Officer (“CEO”) and a member of the Restoration Robotics Board.
9 Rhodes has been a Company director and its CEO since 2016. Rhodes signed or authorized the
10 signing of the Company’s Registration Statement. Upon information and belief, defendant Rhodes
11 resides in this district.

12 20. Charlotte Holland (“Holland”) is, and was at the time of the IPO, Restoration
13 Robotics’ Chief Financial Officer (“CFO”). Holland has been the Company’s CFO since 2016.
14 Holland signed or authorized the signing of the Company’s Registration Statement. Upon
15 information and belief, defendant Holland resides in this district.

16 21. Defendants Rhodes and Holland are sometimes collectively referred to herein as the
17 “Management Defendants.”

18 22. Frederic Moll (“Moll”) is, and was at the time of the IPO, Restoration Robotics’
19 Chairman of the Board. Moll has been a Company director since 2002. Moll signed or authorized
20 the signing of the Company’s Registration Statement.

21 23. Jeffrey Bird (“Bird”) is, and was at the time of the IPO, a member of the Restoration
22 Robotics Board and signed or authorized the signing of the Company’s Registration Statement. At
23 the time of the IPO, Bird was also the managing director at Sutter Hill Ventures. Upon information
24 and belief, defendant Bird resides in this district.

25 24. Gil Kliman (“Kliman”) is, and was at the time of the IPO, a member of the Restoration
26 Robotics Board and signed or authorized the signing of the Company’s Registration Statement. At
27 the time of the IPO, Kliman was also the managing director at InterWest Partners, including
28 defendant InterWest Management Partners IX, LLC. Upon information and belief, defendant Kliman

1 resides in this district.

2 25. Emmett Cunningham, Jr. (“Cunningham”) is, and was at the time of the IPO, a
3 member of the Restoration Robotics Board and signed or authorized the signing of the Company’s
4 Registration Statement. At the time of the IPO, Cunningham was also the managing director at
5 Clarus Ventures, LLC and a managing member of Clarus Lifesciences II, L.P. Upon information and
6 belief, defendant Cunningham resides in this district.

7 26. Craig Taylor (“Taylor”) is, and was at the time of the IPO, a member of the
8 Restoration Robotics Board and signed or authorized the signing of the Company’s Registration
9 Statement. At the time of the IPO, Taylor was also the president at Alloy Ventures, Inc. and
10 managing director of Alloy Ventures 2002, LLC and Alloy Ventures 2005, LLC.

11 27. Shelley Thunen (“Thunen”) was at the time of the IPO, a member of the Restoration
12 Robotics Board and signed or authorized the signing of the Company’s Registration Statement.

13 28. Defendants Rhodes, Holland, Moll, Bird, Kliman, Cunningham, Taylor, and Thunen
14 are sometimes collectively referred to herein as the “Individual Defendants.”

15 29. The Individual Defendants each participated in the preparation of and signed (or
16 authorized the signing of) the Registration Statement and the issuance of the Offering Materials.
17 Defendant Restoration Robotics and the Individual Defendants are strictly liable for the materially
18 untrue and misleading statements incorporated into the Registration Statement. By virtue of their
19 positions with the Company, the Individual Defendants possessed the power and authority to control
20 the contents of Restoration Robotics’ reports to the SEC, press releases, and presentations to
21 securities analysts, money and portfolio managers, and market investors.

22 **C. The Venture Capital Defendants**

23 30. Defendants Sutter Hill Ventures, L.P.; Clarus Lifesciences II, L.P.; Clarus Ventures II,
24 LLC; Alloy Ventures 2002, L.P.; Alloy Ventures 2005, L.P.; Alloy Ventures 2002, LLC; Alloy
25 Ventures 2005, LLC; Interwest Partners IV, L.P.; and Interwest Management Partners IX, LLC
26 (collectively, the “Venture Capital Defendants”) are entities that hold a substantial venture capital
27 stake in Restoration Robotics. They precipitated the IPO in part through registration rights obtained
28 contractually by their investment as principal stockholders, as well as through their substantial

1 participation in the Company’s Board through defendants identified herein that were appointed to the
2 Board by the Venture Capital Defendants and who served at their behest. The Venture Capital
3 Defendants beneficially owned, through partnerships they controlled and their related-party
4 defendants, approximately 55.3% of Restoration Robotics shares at the time of the IPO through their
5 control of Series A through Series C convertible Preferred Stock (the “Preferred Stock”). The
6 Preferred Stock automatically converted into publicly tradable common stock immediately prior to
7 the completion of the IPO on a one-to-one basis and represented more than half of the voting power
8 on Restoration Robotics’ Board just prior to the IPO. As set forth herein, defendants Bird,
9 Cunningham, Taylor, and Kliman each controlled certain of the Venture Capital Defendants. Thus,
10 four of the Board’s seven seats were held by the Venture Capital Defendants, allowing them to
11 effectively control Restoration Robotics and cause its IPO.

12 31. Each of the Venture Capital Defendants maintains offices and/or operates in this
13 district.

14 **D. The Underwriter Defendants**

15 32. Defendant National Securities Corporation (“National Securities”) acted as an
16 underwriter for the Company’s IPO. In the offering, National Securities agreed to purchase
17 2,145,000 shares of the Company’s common stock, exclusive any over-allotment option.

18 33. Defendant Roth Capital Partners, LLC (“Roth”) acted as an underwriter for the
19 Company’s IPO. In the offering, Roth agreed to purchase 715,000 shares of the Company’s common
20 stock, exclusive any over-allotment option. Roth maintains a regional office in this district at
21 185 Berry St., Suite 1050, San Francisco, California 94107.

22 34. Defendant Craig-Hallum Capital Group LLC (“Craig-Hallum”) acted as an
23 underwriter for the Company’s IPO. In the Offering, Craig-Hallum agreed to purchase
24 715,000 shares of the Company’s common stock, exclusive any over-allotment option.

25 35. Defendants National Securities, Roth, and Craig-Hallum are referred to herein as the
26 “Underwriter Defendants.” Each of the Underwriter Defendants received commissions for their
27 participation in the IPO, receiving \$0.49 for every share underwritten, totaling approximately
28 \$2 million, inclusive of proceeds from the over-allotment option, which the Underwriter Defendants

1 exercised to purchase an additional 322,910 shares.

2 36. Per the Form of Underwriting Agreement filed as an exhibit to the Registration
3 Statement, each Underwriter Defendant agreed, severally and not jointly, to purchase from the
4 Company the number of firm shares plus any optional shares upon the exercise of the Underwriter
5 Defendants' option.

6 37. In the run-up to the IPO, the Underwriter Defendants: (i) assisted in the preparation
7 and presentation of Restoration Robotics "road show" materials designed to induce investment in the
8 Company; (ii) conducted due diligence on the Company, including, *inter alia*, access to confidential
9 corporate information concerning Restoration Robotics' business operations unknown to the
10 investing public; and (iii) consulted with Company management regarding the content of the
11 Registration Statement.

12 38. Pursuant to the Securities Act, the Underwriter Defendants are liable for the materially
13 untrue and misleading statements in the Offering Documents. The Underwriter Defendants assisted
14 Restoration Robotics and the Individual Defendants in planning the IPO and were required to conduct
15 an adequate and reasonable investigation into the business and operations of Restoration Robotics—a
16 process known as a "due diligence" investigation. The Underwriter Defendants were required to
17 conduct a due diligence investigation in order to participate in the IPO. During the course of their
18 due diligence investigation, the Underwriter Defendants had continual access to confidential
19 corporate information concerning Restoration Robotics' operations and financial prospects.

20 39. In addition to availing themselves of virtually unlimited access to internal corporate
21 documents, agents of the Underwriter Defendants met with Restoration Robotics' lawyers,
22 management, and top executives and made joint decisions regarding: (i) the terms of the IPO,
23 including the price at which Restoration Robotics shares would be sold to the public; (ii) the strategy
24 to best accomplish the IPO; (iii) the information to be included in the Offering Materials; and
25 (iv) what responses would be made to the SEC in connection with its review of the Offering
26 Materials. As a result of those constant contacts and communications between the Underwriter
27 Defendants' representatives and Restoration Robotics' management and top executives, the
28 Underwriter Defendants knew of, or in the exercise of reasonable care should have known of,

1 Restoration Robotics' existing problems as detailed herein.

2 40. The Underwriter Defendants negligently allowed the Offering Materials to contain
3 materially untrue and misleading statements and/or omissions to the extent that they knew or should
4 have known that the Offering Materials were materially misleading, but failed to act in a reasonable
5 manner to prevent the Offering Materials from containing materially misleading statements and/or
6 preventing the materially misleading Offering Materials from being disseminated.

7 41. On this basis, the Underwriter Defendants knew, or should have known, of Restoration
8 Robotics' existing business concerns and shortcomings, as discussed *infra*, and, pursuant to the
9 Securities Act, are liable for the false and misleading statements in the Registration Statement.

10 **CLASS ACTION ALLEGATIONS**

11 42. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil
12 Procedure 23 on behalf of a class consisting of all persons and/or entities who purchased or otherwise
13 acquired the common stock of Restoration Robotics pursuant and/or traceable to the Company's false
14 and/or misleading Registration Statement and Prospectus issued in connection with the Company's
15 IPO, and who were damaged thereby (the "Class"). Excluded from the Class are Defendants and
16 their families, the officers, directors, and affiliates of Defendants, and at all relevant times, members
17 of their immediate families, their legal representatives, heirs, successors or assigns, and any entity in
18 which Defendants have or had a controlling interest.

19 43. The members of the Class are so numerous that joinder of all members is
20 impracticable. During the relevant time period, Restoration Robotics' securities were actively traded
21 on the NASDAQ Global Market under the symbol "HAIR." While the exact number of Class
22 members is unknown to Plaintiff at this time and can only be ascertained through appropriate
23 discovery, Plaintiff believes that there are hundreds of members in the proposed Class. Record
24 owners and other members of the Class may be identified from records maintained by Restoration
25 Robotics or its transfer agent and may be notified of the pendency of this action by mail, using the
26 form of notice similar to that customarily used in securities class actions.

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

1 complained of herein.

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

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

7 (a) whether Defendants violated the Securities Act;

8 (b) whether statements made by Defendants to the investing public in the
9 Registration Statement and Prospectus misrepresented material facts about the
10 business and operations of Restoration Robotics; and

11 (c) to what extent members of the Class have sustained damages, and if so, the
12 proper measure of damages.

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

18 **SUBSTANTIVE ALLEGATIONS**

19 **A. Company Background**

20 48. Restoration Robotics was incorporated in 2002 under the laws of the State of
21 Delaware. At the time of the IPO, the Company also had three wholly-owned subsidiaries:
22 (i) Restoration Robotics, Inc. Limited, incorporated under the laws of Honk Kong, (ii) Restoration
23 Robotics Europe Limited, incorporated under the laws of the United Kingdom, and (iii) Restoration
24 Robotics Korea Yuhan Hoesa, incorporated under the laws of the Republic of Korea.

25 49. As stated in the Offering Materials, the Company describes itself as “developing and
26 commercializing a robotic device, the ARTAS System that assists physicians in performing many of
27 the repetitive tasks that are a part of a follicular unit extraction surgery, a type of hair restoration
28 procedure.”

1 **B. The Company Goes Public By Means of the Materially False and Misleading**
2 **Offering Materials**

3 55. The Registration Statement contained untrue statements of material facts, omitted to
4 state other facts necessary to make the statements made not misleading, and/or was not prepared in
5 accordance with the rules and regulations governing its preparation.

6 56. The Registration Statement described, among others, the Company's efforts to obtain
7 regulatory approval for ARTAS's implantation feature (as opposed to simply the harvesting feature
8 then-approved):

9 To help facilitate implantation, we are developing a robotic implantation
10 functionality. We believe this robotic implantation functionality, if approved, will
11 help further shorten the learning curve, improve the consistency and reproducibility
12 of results by protecting permanent hair and reducing inconsistencies associated with
13 manual implantation, and could potentially reduce the amount of time each graft
14 spends outside of the scalp and decrease the overall time required for implantation.
15 During the clinical development of the robotic implantation functionality, we have
16 explored several options for delivering this new functionality to existing ARTAS
17 customers. While we have not determined how our current ARTAS System will be
18 upgraded for this functionality, we are committed to providing our current
19 customers a means to access the implantation functionality if and when it is
20 approved.

21 This robotic implantation functionality is currently in clinical development and is
22 not approved for commercial use.

23 57. Despite the Company's efforts to paint the robotic implantation functionality as ready-
24 to-go and simply awaiting FDA clearance, the truth was anything but. On March 20, 2018, the
25 Company announced its receipt of FDA 510(k) clearance of the implantation function of the ARTAS
26 system. In this press release, Defendant Rhodes is quoted as saying "We *plan to complete the*
27 *necessary design and engineering work* to launch the implantation functionality by year-end."
28 (Emphasis added.)

 58. This continued delay in the preparation and launch of the now-cleared, but not yet
ready function further amplified struggling ARTAS system sales, as potential customers have
continued to forego the purchase of an existing, limited ARTAS system in favor of waiting for the
forthcoming update. The Company was aware of the possibility, as evidenced by its inclusion in the
Prospectus of a claim that, "we are committed to providing our current customers a means to access
the implantation functionality if and when it is approved," yet entirely omitted any reference to

1 prospective customers choosing to instead wait out the product release cycle.

2 59. The Registration Statement further misrepresented the Company's salesforce and its
3 ability to sell the ARTAS System in the United States, stating:

4 **U.S. Sales**

5 We sell the ARTAS System, provide service and generate procedure based revenue
6 by helping our physician customers build their hair restoration practice, through a
7 direct sales force in the U.S. which, as of May 31, 2017, included seven regional
8 sales managers, or RSMs, seven CTMs and seven PSMs.

9 **Regional Sales Managers**

10 Our RSMs are responsible for coordinating and executing the direct sales of the
11 ARTAS Systems. On average, our RSMs in the U.S. have more than eight years of
12 experience selling aesthetic capital equipment. We target potential customers
13 through marketing events and programs, and we leverage longstanding RSM
14 relationships with dermatologists, plastic surgeons and cosmetic aesthetic surgeons.

15 **Clinical Training Managers**

16 Our CTMs provide high quality, comprehensive training and education to
17 physicians on the use of the ARTAS System and on how to build their hair
18 restoration practices. Our CTM team is comprised of seven highly-skilled
19 professionals with an average of over 12 years of experience in training physician
20 practices in hair restoration or other aesthetics procedures and surgery. We require
21 this initial training to assist physicians and their staffs in performing the ARTAS
22 procedure in accordance with the product's cleared instructions for use. Prior to the
23 installation of the ARTAS System, the CTMs meet with the physician and their
24 technicians to assess the level of training that will be required.

25 Our CTM training programs involve product and procedure training. During this
26 initial training, we typically have one to three CTMs on site. We have found that a
27 key to adoption and utilization of the ARTAS System is clinical confidence in the
28 ARTAS System technology and procedure. We often conduct onsite physician
29 training when we introduce innovations, such as the ARTAS Hair Studio
30 application and our Site Making functionality.

31 **Practice Success Managers**

32 Our PSMs are responsible for helping our physician customers build awareness and
33 market the ARTAS procedure and increase ARTAS brand-awareness. Our PSMs
34 average over ten years of experience in developing hair restoration practices and
35 aesthetics practices. They form strong relationships with our customers and consult
36 on how to integrate the ARTAS System into their practices, while raising awareness
37 of the procedure among potential patients. This process often begins before the
38 ARTAS System is installed at the customer site. Our PSMs work closely with the
39 team that will manage the ARTAS business at the practice level to establish goals
40 and develop detailed strategies to achieve these goals. This includes extensive
41 training and coaching with respect to the patient consultation process. We provide
42 easily implemented marketing tools allowing practices to create individually
43 tailored website content, direct mail advertisements, print ads for magazines and
44 newspapers and brochures. In addition, PSMs consult on methods to raise
45 awareness of the ARTAS procedure through practice events, public relations,
46 television, and radio advertising and other channels.

47
48 60. The truth, however, was that the Company was not equipped with a sufficient

1 salesforce to effectively grow the business in the United States. This would come to light when, on
2 the May 14, 2018 earnings call discussing Restoration Robotics' financial results for the first quarter
3 ended March 30, 2018 (just months after the IPO), defendant Rhodes touted the bolstering of the
4 Company's sales staff in that quarter while stating that "[i]n the near-term, we expect some level of
5 softness as we further optimize and expand our sales teams as the new U.S sales reps take time to
6 become more productive." This expansion of the Company's sales team so soon after the IPO belies
7 any claim at the time of the IPO that the Company was well-positioned to grow its domestic business
8 through increased sales.

9 61. The misstatements related to the domestic sales staff are exacerbated by the false and
10 misleading statements regarding the Company's purported focus on "[e]xpand[ing] our international
11 business by adding distributors and sales support staff to increase sales and strengthen physician
12 relationships in our international markets":

13 *Expand Our International Business.* According to ISHRS, the size of the
14 international hair restoration market is larger than the U.S. market and in certain
15 markets FUE is already believed to be the preferred method for hair restoration
16 surgery. We are focused on increasing our market penetration overseas and building
17 global brand recognition. In 2016, approximately 57% of our revenues were
18 generated outside of the US. We intend to add distributors and sales support staff to
19 increase sales and strengthen physician relationships in our international markets.

20 62. The Registration Statement further stated:

21 Since launching the ARTAS System in 2011, we have obtained clearance to sell our
22 products in a total of 61 countries. In June 2012, we obtained our CE mark to sell
23 our product into the European Economic Area, or EEA. We have sold into
24 30 countries and sell directly into the U.S., Korea, Hong Kong, Singapore, Spain,
25 Poland, Benelux and Scandinavia, and through distributors in the other countries.
26 Most recently, we obtained clearance to sell in China in September 2016.

27 A significant portion of our revenues come from markets outside of the U.S. We
28 believe that this trend will continue as a result of increased penetration in the
countries where we sell the ARTAS System, as well as expansion into new
international markets. . . . We expect our operating expenses to increase as a result
of increased sales and marketing activity to promote penetration in markets outside
the U.S. where we already sell the ARTAS System and geographic expansion into
new markets.

63. Rather than focusing on expanding the Company's international business (from where
the majority of revenue was received, according to the Registration Statement), shortly after the IPO,
the Company announced a "pivot to a more U.S. centric strategy," as described by defendant Rhodes

1 on the May 14, 2018 earnings call. Thus, the above-identified statements were materially false and
2 misleading when made.

3 64. Finally, the Registration Statement made false and misleading statements about the
4 Company's liquidity position and future capital needs, claiming that:

5 We have financed our operations principally through private placements of our
6 capital stock, secured debt financing, and payments from customers. We anticipate
7 that the proceeds from this offering, together with our existing cash and cash
8 equivalents and cash generated from sales of our products will last through
9 12 months from the date of this offering.

10 65. Despite this false and misleading claim that the proceeds from the offering would fund
11 the Company's operations for a full year after the IPO, by the end of the first quarter of 2018 (ended
12 March 31, 2018) the Company admitted that it did "not have sufficient capital to fund its planned
13 operations," and that it would need to obtain additional financing. That additional liquidity infusion
14 would come in the form of a \$20 million Loan and Security Agreement with Solar Capital Ltd. and
15 Bridge Bank announced by the Company on May 11, 2018. In connection with this loan, Restoration
16 Robotics also issued a ten year warrant to purchase Restoration Robotics common stock at a
17 \$3.71 per share price.

18 66. Because of the materially deficient Registration Statements, Defendants have also
19 violated their independent, affirmative duty to provide adequate disclosures about adverse conditions,
20 risk, and uncertainties by withholding from Plaintiff and the investing public, *inter alia*, the truth
21 about the status of the development of the implantation facility of the ARTAS System, including the
22 fact that many prospective customers were refraining from purchasing in anticipation of a new model
23 that the Company had yet to completely design and engineer; the existence of issues in the
24 Company's salesforce that would require significant additional investment in the United States,
25 particularly as Restoration Robotics was abandoning its focus on expanding internationally and
26 instead focusing on domestic sales; and that the cash raised in the IPO would not fund the Company
27 for a full year, as represented, but instead Restoration Robotics would have to seek out a loan
28 agreement just months after the IPO related to which it would provide a convertible warrant capable
of significantly diluting Plaintiff's and the Class' Company holdings.

C. Each Defendant Was Financially Motivated to Conduct the IPO Pursuant to the False and Misleading Registration Statement

67. As alleged herein, each of the Defendants had a distinct financial motivation on conducting the IPO and taking the Company public at an artificially inflated price.

68. Each of the Individual Defendants and the Venture Capital Defendants maintained large blocks of otherwise illiquid shares in Restoration Robotics that would be converted into tradable stock upon the completion of the IPO:

Name of Beneficial Owner	Beneficial Ownership Prior to this Offering				Beneficial Ownership After this Offering	
	Number of Outstanding Shares Beneficially Owned	Number of Shares Exercisable Within 60 Days	Number of Shares Beneficially Owned	Percentage of Beneficial Ownership	Number of Shares Beneficially Owned	Percentage of Beneficial Ownership
5% and Greater Stockholders						
Sutter Hill Ventures L.P.(1)	3,628,704	—	3,628,704	14.9%	3,821,309	13.4%
Clarus Lifesciences II, L.P. (2)	3,389,105	—	3,389,105	13.9%	3,569,000	12.5%
Entities affiliated with Alloy Ventures(3)	3,253,010	—	3,253,010	13.4%	3,425,680	12.0%
InterWest Partners IX, L.P. (4)	3,185,758	—	3,185,758	13.1%	3,354,859	11.7%
Named Executive Officers and Directors						
Ryan Rhodes(5)	—	259,187	259,187	1.1%	259,187	*
Gabe Zingaretti(6)	13,060	152,395	165,455	*	165,455	*
Charlotte Holland(7)	11,562	109,895	121,457	*	121,457	*
James McCollum	638,510	—	638,510	2.6%	638,510	2.3%
Lisa Edone	—	—	—	*	—	*
Frederic Moll, M.D.(8)	596,476	—	596,476	2.5%	596,476	2.1%
Jeffrey Bird, M.D., Ph.D.(9)	3,628,704	—	3,628,704	14.9%	3,821,309	13.4%
Emmett Cunningham, Jr., M.D., Ph.D.	—	—	—	*	—	*
Gil Kliman, M.D. (10)	3,185,758	—	3,185,758	13.1%	3,354,859	11.7%
Craig Taylor(11)	3,253,010	—	3,253,010	13.4%	3,425,680	12.0%
Shelley Thunen(12)	—	59,250	59,250	*	59,250	*
All directors and executive officers as a group (14 persons)(13)	10,688,579	746,560	11,435,130	45.7%	11,803,673	40.6%

69. Following the IPO, these privately held shares became tradable assets with actual value for their holders:

	Number of Shares Beneficially Owned Following the Offering	Cash Value of Holdings @ \$7.00 per share
Sutter Hill Ventures L.P / Jeffrey Bird	3,821,309	\$26,749,163.00
Clarus Lifesciences II, L.P. / Emmett Cunningham, Jr.	3,569,000	\$24,983,000.00
Entities Affiliated with Alloy Ventures / Craig Taylor	3,425,680	\$23,979,760.00
InterWest Partners IX, L.P. / Gil Kliman	3,354,859	\$23,484,013.00
Ryan Rhodes	259,187	\$1,814,309.00
Charlotte Holland	121,457	\$850,199.00

	Number of Shares Beneficially Owned Following the Offering	Cash Value of Holdings @ \$7.00 per share
Frederic Moll	596,476	\$4,175,332.00
Shelley Thunen	59,250	\$414,750.00

70. Further, each of the Individual Defendants and Venture Capital Defendants was motivated to conduct the Offering in order to finance the ongoing operations of Restoration Robotics to ensure that their investment in the Company (both financially for the Venture Capital Defendants and professional for the Management Defendants) did not evaporate upon the Company being unable to secure future financing.

71. Similarly, the Underwriter Defendants were financially motivated by their interest in conducting the Offering and reaping the pecuniary benefits associated with the discounts and commissions:

Underwriter	Number of Shares Underwritten in Offering	Portion of Over- Allotment	Fees collected from commission and discount
National Securities Corporation	2,145,000	193,746	\$1,145,985.54
Roth Capital Partners, LLC	715,000	64,582	\$381,995.18
Craig-Hallum Capital Group LLC	715,000	64,582	\$381,995.18
<i>Total</i>	3,575,000	322,910	\$1,909,975.90

72. As announced by the Company on October 16, 2017, Restoration Robotics closed its IPO on that day, selling 3,897,910 shares at a public offering price of \$7.00 per share, raising cash proceeds for the Company of approximately \$22.7 million after deducting underwriting discounts, commissions, and expenses.

73. As set forth herein, the Company's statements in the Registration Statement, taken individually and collectively, were materially false and misleading because they failed to disclose and misrepresented adverse facts that existed at the time of the IPO.

74. Since the IPO, the Company's common stock has traded down at a greater than 50%

1 discount to the \$7.00 IPO price.

2 75. Plaintiff and members of the Class have been injured.

3 **FIRST CAUSE OF ACTION**

4 **Violations of Section 11 of the Securities Act of 1933**
5 **Against All Defendants**

6 76. Plaintiff incorporates each preceding paragraph by reference.

7 77. This Cause of Action is brought pursuant to Section 11 of the Securities Act, 15 U.S.
8 C. § 77k, on behalf of Plaintiff and the Class, against all Defendants.

9 78. The Registration Statement for the IPO was inaccurate and misleading, contained
10 untrue statements of material facts, omitted to state other facts necessary to make the statements made
11 not misleading, and omitted to state material facts required to be stated therein.

12 79. The Company is the issuer of the securities purchased by Plaintiff and the Class. As
13 such, the Company is strictly liable for the materially untrue statements contained in the Registration
14 Statement and the failure of the Registration Statement to be complete and accurate.

15 80. The Individual Defendants each signed the Registration Statement or authorized the
16 signing of the Registration Statement on their behalf. As such, each is strictly liable for the materially
17 inaccurate statements contained therein and the failure of the Registration Statement to be complete
18 and accurate, unless they are able to carry their burden of establishing an affirmative “due diligence”
19 defense. The Individual Defendants each had a duty to make a reasonable and diligent investigation
20 of the truthfulness and accuracy of the statements contained in the Registration Statement, to ensure
21 that they were true and accurate, that there were no omissions of material facts that would make the
22 Registration Statement misleading, and that the document contained all facts required to be stated
23 therein. In the exercise of reasonable care, the Individual Defendants should have known of the
24 material misstatements and omissions contained in the Registration Statement and also should have
25 known of the omissions of material fact necessary to make the statements made therein not
26 misleading. Accordingly, the Individual Defendants are liable to Plaintiff and the Class.

27 81. The Underwriter Defendants each served as underwriters in connection with the
28 Offering. As such, each is strictly liable for the materially inaccurate statements contained in the

1 Registration Statement and the failure of the Registration Statement to be complete and accurate,
2 unless they are able to carry their burden of establishing an affirmative “due diligence” defense.
3 These defendants each had a duty to make a reasonable and diligent investigation of the truthfulness
4 and accuracy of the statements contained in the Registration Statement. They had a duty to ensure
5 that they were true and accurate, that there were no omissions of material facts that would make the
6 Registration Statement misleading, and that the documents contained all facts required to be stated
7 therein. In the exercise of reasonable care, the Underwriter Defendants should have known of the
8 material misstatements and omissions contained in the Registration Statement and also should have
9 known of the omissions of material facts necessary to make the statements made therein not
10 misleading. Accordingly, each of the Underwriter Defendants is liable to Plaintiff and the Class.

11 82. The Venture Capital Defendants controlled the Company through their significant
12 stock holdings and majority control over the Restoration Robotics Board, thus they each had duty to
13 make a reasonable and diligent investigation of the truthfulness and accuracy of the statements
14 contained in the Registration Statement, to ensure that they were true and accurate, that there were no
15 omissions of material facts that would make the Registration Statement misleading, and that the
16 document contained all facts required to be stated therein. In the exercise of reasonable care, the
17 Venture Capital Defendants should have known of the material misstatements and omissions
18 contained in the Registration Statement and also should have known of the omissions of material fact
19 necessary to make the statements made therein not misleading. Accordingly, the Venture Capital
20 Defendants are liable to Plaintiff and the Class.

21 83. By reason of the conduct herein alleged, each defendant named herein violated
22 Section 11 of the Securities Act.

23 84. Plaintiff acquired Restoration Robotics common stock pursuant or traceable to the
24 Registration Statement used for the IPO and without knowledge of the material omissions or
25 misrepresentations alleged herein.

26 85. Plaintiff and the Class have sustained damages, as the value of Restoration Robotics
27 common stock has declined substantially subsequent to and due to Defendants’ violations.

28 86. This claim was brought within one year after the discovery of the untrue statements

1 and omissions and within three years of the date of the Offering.

2 87. By virtue of the foregoing, Plaintiff and the other members of the Class are entitled to
3 damages under Section 11 as measured by the provisions of Section 11(e), from Defendants and each
4 of them, jointly and severally.

5 **SECOND CAUSE OF ACTION**

6 **For Violation of Section 15 of the Securities Act of 1933**
7 **Against Restoration Robotics, the Individual Defendants, and the Venture Capital Defendants**

8 88. Plaintiff incorporates each preceding paragraph by reference.

9 89. This Cause of Action is brought pursuant to Section 15 of the Securities Act against
10 Restoration Robotics, the Individual Defendants, and the Venture Capital Defendants.

11 90. The Individual Defendants each were control persons of Restoration Robotics by
12 virtue of their positions as directors and/or senior officers of Restoration Robotics. Each of the
13 Individual Defendants had a series of direct and/or indirect business and/or personal relationships
14 with other directors and/or officers and/or major stockholders of Restoration Robotics. The Venture
15 Capital Defendants each had control over the Company by virtue of their majority stockholdings in
16 the Company and their affiliated Board members. Restoration Robotics controlled the Individual
17 Defendants and all of its employees.

18 91. The Venture Capital Defendants had a financial interest in taking the Company's stock
19 public in order to increase the holding value and marketability of the Venture Capital Defendants'
20 investment in Restoration Robotics.

21 92. Restoration Robotics, the Venture Capital Defendants, and the Individual Defendants
22 each were culpable participants in the violations of Section 11 of the Securities Act alleged in the
23 First Cause of Action above, based on their having signed or authorized the signing of the
24 Registration Statement and having otherwise participated in the process which allowed the IPO to be
25 successfully completed.

26 **PRAYER FOR RELIEF**

27 WHEREFORE, Plaintiff demands judgment as follows:

28 (A) Declaring this action to be a class action and certifying Plaintiff as a representative of

1 the Class under Rule 23 of the Federal Rules of Civil Procedure and his counsel as Class counsel;

2 (B) Awarding Plaintiff and the members of the Class damages, including interest;

3 (C) Awarding Plaintiff and the Class their reasonable costs and expenses incurred in this
4 action, including and attorneys' fees;

5 (D) Awarding rescission or a rescissory measure of damages; and

6 (E) Awarding such equitable/injunctive or other relief as the Court may deem just and
7 proper.

8 **JURY DEMAND**

9 Plaintiff demands a trial by jury.

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