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

\_\_\_\_\_, Individually and On  
Behalf of All Others Similarly Situated,

Plaintiff,

v.

FITBIT, INC., JAMES PARK, and  
WILLIAM ZERELLA,

Defendants.

Case No.:

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

**JURY TRIAL DEMANDED**

1 Plaintiff \_\_\_\_\_ (“Plaintiff”), by and through his attorneys, alleges the following  
2 upon information and belief, except as to those allegations concerning Plaintiff, which are alleged  
3 upon personal knowledge. Plaintiff’s information and belief is based upon, among other things, his  
4 counsel’s investigation, which includes without limitation: (a) review and analysis of regulatory  
5 filings made by Fitbit, Inc. (“Fitbit” or the “Company”) with the United States (“U.S.”) Securities  
6 and Exchange Commission (“SEC”); (b) review and analysis of press releases and media reports  
7 issued by and disseminated by Fitbit; and (c) review of other publicly available information  
8 concerning Fitbit.  
9

### 10 **NATURE OF THE ACTION AND OVERVIEW**

11 1. This is a class action on behalf of persons and entities that acquired Fitbit securities  
12 between August 2, 2016 and January 30, 2017, inclusive (the “Class Period”), seeking to pursue  
13 remedies under the Securities Exchange Act of 1934 (the “Exchange Act”).  
14

15 2. Fitbit claims to be a technology company focused on health-related devices. The  
16 Company’s products purportedly include wearable devices—health and fitness trackers and  
17 smartwatches—that enable users to view data about their daily activity, exercise, and sleep, in  
18 real-time.

19 3. On November 2, 2016, Fitbit issued a press release announcing its Q3 2016  
20 financial results. In the press release, Fitbit disclosed that it was lowering its full year 2016  
21 revenue guidance to “between \$2.320 billion and \$2.345 billion,” down from the previously-  
22 announced “\$2.5 to \$2.6 billion.”  
23

24 4. On this news, Fitbit’s share price fell \$4.30 per share, or 33.6%, to close at \$8.51  
25 per share on November 3, 2016, on unusually heavy trading volume.

26 5. On January 30, 2017, Fitbit issued a press release announcing its preliminary fourth  
27 quarter 2016 financial results. In the press release, Fitbit disclosed that it expected fourth quarter  
28

1 of 2016 revenue to be in the range of \$572 million to \$580 million, rather than its previously  
2 announced guidance range of \$725 million to \$750 million. Fitbit also disclosed expected annual  
3 revenue growth of approximately 17%, rather than the previously-announced forecast of 25% to  
4 26%.

5  
6 6. On this news, Fitbit's share price fell \$1.15 per share, or 16%, to close at \$6.06 per  
7 share on January 30, 2017, on unusually heavy trading volume.

8 7. Throughout the Class Period, Defendants made materially false and/or misleading  
9 statements, as well as failed to disclose material adverse facts about the Company's business,  
10 operations, and prospects. Specifically, Defendants failed to disclose: (1) that the company was  
11 struggling to transition its mission and differentiate itself from Apple Inc. and other competitors;  
12 (2) that, as such, the Company was experiencing increased competition; (3) that, as a result,  
13 demand and sell-through for the Company's existing and new products were being negatively  
14 impacted; (4) that, as a result, the Company's sales and financial results were weakening, and  
15 growth was slowing; (5) that the Company's financial guidance was overstated; and (6) that, as a  
16 result of the foregoing, Defendants' statements during the Class Period about Fitbit's business,  
17 operations, financial results and prospects, were materially false and/or misleading and/or lacked a  
18 reasonable basis.  
19

20 8. As a result of Defendants' wrongful acts and omissions, and the precipitous decline  
21 in the market value of the Company's securities, Plaintiff and other Class members have suffered  
22 significant losses and damages.  
23

#### 24 **JURISDICTION AND VENUE**

25 9. The claims asserted herein arise under Sections 10(b) and 20(a) of the Exchange  
26 Act (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder by the SEC (17  
27 C.F.R. § 240.10b-5).  
28



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

## 13 **SUBSTANTIVE ALLEGATIONS**

### 14 **Background**

15 18. Fitbit claims to be a technology company focused on health-related devices. The  
16 Company’s products purportedly include wearable devices—health and fitness trackers and  
17 smartwatches—that enable users to view data about their daily activity, exercise, and sleep, in  
18 real-time.  
19

### 20 **Materially False and Misleading** 21 **Statements Issued During the Class Period**

22 19. The Class Period begins on August 2, 2016. On that day, the Company issued a  
23 press release entitled “Fitbit Reports \$587M Q216 Revenue, \$0.03 GAAP EPS/\$0.12 Non-GAAP  
24 EPS, and Confirms Revenue and Profit Guidance for FY16.” Therein, the Company, in relevant  
25 part, stated:

26 Fitbit, Inc. (NYSE:FIT), the leader in the connected health and fitness market,  
27 today reported revenue of \$586.5 million, GAAP diluted net income per share of  
28 \$0.03, non-GAAP diluted net income per share of \$0.12, GAAP net income of \$6.3  
million, and adjusted EBITDA of \$48.3 million, for its second quarter of 2016.

1 “Second quarter results reflect accelerated unit and revenue growth in the U.S. and  
2 EMEA, our two largest markets, despite an unusually strong Q215 with the full  
3 availability of Fitbit Charge HR fulfilling built-up demand in that quarter,” said  
4 James Park, Fitbitco-founder and CEO. “Our strong profitability reflects careful  
management of operating expenses, while we continue to invest in future growth.  
Based on the progress of our business, against a backdrop of a growing worldwide  
opportunity for our products, we remain confident in our guidance for the year.”

5 \* \* \*

## 6 **Second Quarter 2016 Financial Highlights**

- 7 • Sold 5.7 million devices
- 8 • Q216 revenue increased 46% year-over-year
- 9 • U.S. comprised 76% of Q216 revenue; EMEA 17%, APAC 2%, and Other  
10 Americas 5%
- 11 • U.S. revenue grew 42% year-over-year; EMEA 150%, APAC (54)%, and  
Other Americas 63%
- 12 • APAC was impacted by factors including the progressive shut down of  
13 retailer Dick Smith in Australia and a reduction of channel inventory.  
Excluding the Australia impact, APAC revenue increased 98% year-over-  
14 year.
- 15 • New products, Fitbit Blaze™ and Alta™, including related accessories,  
comprised 54% of Q216 revenue, compared to 50% in Q116
- 16 • Gross margin was affected by an increase in warranty reserves for legacy  
17 products, with an expectation the additional reserves taken will adequately  
cover future warranty liability, allowing a return to more normalized gross  
18 margins beginning in Q316
- 19 • The 120% GAAP and 90% non-GAAP year-over-year increase in operating  
20 expense reflects increased investments in R&D and marketing to drive  
innovation and growth

21 \* \* \*

## 22 **Outlook and Guidance**

23 Fitbit’s outlook for the third quarter of 2016 is as follows:

- 24 • Revenue in the range of \$490 to \$510 million
- 25 • Non-GAAP gross margin of approximately 48% to 49%
- 26 • Adjusted EBITDA in the range of \$70 to \$80 million
- 27 • Non-GAAP diluted net income per share in the range of \$0.17 to \$0.19
- 28 • Non-GAAP diluted share count between 244 and 247 million

- Stock-based compensation expense in the range of \$26 to \$28 million
- Non-GAAP tax rate of approximately 30%

Fitbit's outlook for the full year of 2016 is as follows:

- Revenue in the range of \$2.5 to \$2.6 billion
- Non-GAAP gross margin of approximately 47%
- Adjusted EBITDA in the range of \$430 to \$490 million
- Non-GAAP diluted net income per share in the range of \$1.12 to \$1.24
- Non-GAAP diluted share count between 244 and 250 million
- Stock-based compensation expense in the range of \$92 to \$97 million
- Non-GAAP tax rate of approximately 30%

20. On the same day, August 2, 2016, Fitbit held a conference call to discuss its Q2 2016 results. On the call, Defendants Park and Zerella made multiple representations regarding the Company's growth, demand for Fitbit products, the effects of competition, and the Company's guidance. For example, with respect to growth, Park stated:

I'm excited to report another quarter that demonstrated Fitbit's continued growth and positive impact on health and fitness for consumers around the world. The latest industry reports by IDC show that Fitbit continues to be the leader in the worldwide wearable market by units as of the end of Q1. U.S. unit and dollar growth accelerated over Q1 despite an unusually strong Q2 of last year that benefited from the full availability of Charge HR, and we demonstrated continued growth into an expanding long-term international market opportunity.

In addition, given consumer response to Fitbit Blaze and Alta so far this year, the early positive response from retailers seeing the new products we have for the fall are increasing brand strength and distribution footprints, and network effects from our large active user community and a continuing R&D investments we are making to integrate more deeply into the healthcare ecosystem, which will make our devices essential part of people's lives. I'm confident in the company's future for the rest of this year and beyond.

In fact, I'm so confident that I will not sell any stock till the end of the year. Joining me in that commitment are co-founder and CTO, Eric Friedman; and CFO, Bill Zerella. We continue to lead the wearables category we helped to create and see substantial runway ahead. We continue to have the leading unit market share in the U.S. for connected activity trackers. In fact Charge HR and Alta, our two most popular activity trackers sold in Q2.

\* \* \*

1 Our advantage in broad global distribution and consumer awareness has required  
2 significant and consistent investment over a long period of time. To gain retail  
3 presence requires giving retailers good margins and compelling merchandising  
4 support, including displays in which we are investing substantially. In the same  
5 vein, the strength of the Fitbit brand driven by our significant investments in  
6 marketing activities and advertising has driven our success with products such as  
7 Blaze and Alta and the overall growth of our business in key countries across the  
8 world.

9 \* \* \*

10 I want to wrap up this part of my discussion with a couple of thoughts about  
11 demand and our growth opportunity. We believe that smartphone penetration  
12 provides a reasonable point of comparison for addressable opportunities in different  
13 markets as we believe a significant portion of smartphone users can become Fitbit  
14 users over time. I think it's worth highlighting some of the numbers that quantify  
15 both the size and expected duration of our market opportunity. This year there are  
16 expected to be more than 2 billion smartphones in use around the world. As of the  
17 end of the second quarter 2016, Fitbit has shipped a lifetime total of 35.6 million  
18 Fitbits in the U.S. which represent only 15% of the approximately 230 million  
19 smartphones here.

20 21. On the same call, with respect to demand for the Company's products, Park stated:

21 Fitbit Blaze and Alta have achieved strong rankings on Amazon in the U.S. and  
22 together have earned nearly 7,000 reviews, which is significant given the short time  
23 in market with both products rated four stars or better. Of all the activations of Alta  
24 and Blaze in the second quarter, approximately two-thirds were by new customers  
25 and the other one-third were by people who own or previously owned another Fitbit  
26 device. Similar to last quarter, approximately one-fifth of those repeat purchasers  
27 were reactivations having been inactive for 90 days or more. This demonstrates that  
28 our business is both sustainable and growing, attracting new customers while  
successfully trading existing users up to new devices.

We have additional new products to come this year. The positive response we have  
received from retailers, who have had the chance to preview these new products  
under NDA in recent weeks, strengthens our confidence in our guidance for the  
year. Fitbit will have more new products for consumers to choose from for this  
year's holiday season than we've ever had before.

22 22. On the same call, with respect to competition in the marketplace, Park stated:

23 Earlier this year, we expanded our addressable market opportunity with the Fitbit  
24 Blaze, which has done incredibly well. The number of Fitbit Blaze devices sold  
25 alone was a close second to IDC's estimate for the Apple Watch in the second  
26 quarter. It's exciting to be leading in such a large and expanding category with IDC  
27 predicting at 20% compounded annual growth rate expecting more than 200 million  
28 wearable devices shipping in 2020.

An opportunity of this size will naturally attract a great deal of competition. There  
is a misconception that an increasing number of competitors in the crowded  
marketplace have created a significant headwind for us, with new market entrants  
large and small being called out with some concern. However, it's not the number  
of competitors that is important, but their impact on the market. And the reality is  
that most of these entrants have not altered the competitive dynamics of our

1 industry. That may come as a surprise to casual observers, but the simple answer is,  
2 this is not a simple market to succeed in for a number of reasons.

3 \* \* \*

4 Consumers love our devices, as reflected by ratings on places such as Amazon, but  
5 the device is only one part of the consumers' experience. Significant effort is  
6 required to continually improve the interactive experience for Fitbit users in our  
7 apps, which is reflected in the fact that our apps are currently top ranked in their  
8 categories in the top app stores.

9 The robust social experience in the Fitbit app is another key part of our success and  
10 it's created a competitive moat supported by the network effect of our large active  
11 user community. We believe people are more likely to buy a Fitbit over a  
12 competitor, because their friends and family are more likely to be already  
13 participating in the Fitbit social experience and we believe people are less likely to  
14 leave to a competitor, due to similar dynamics.

15 23. Finally, on the call, with respect to the Company's guidance, Defendant Zerella  
16 elaborated:

17 Our revenue guidance reflects the impact of seasonality combined with clearing the  
18 channel of several legacy products. While we expect to start refilling the channel in  
19 the latter part of Q3 2016 in connection with new products for the holidays,  
20 revenue will be dependent on the production ramp coming out of the factory. This  
21 guidance also reflects further reductions in channel inventory in Asia Pac during  
22 the quarter before an expected resumption of growth in that region in Q4 2016. I  
23 want to emphasize that even with this channel clearing, the midpoint of our  
24 guidance reflects a 22% year-over-year increase in revenue and a 58% sequential  
25 increase in adjusted EBITDA, reflecting the expected improvement in operating  
26 leverage beginning in the second half.

27 24. On August 4, 2016, Fitbit filed its quarterly report with the SEC on Form 10-Q for  
28 the quarterly period ended July 2, 2016. The Company's 10-Q was signed by Defendant Zerella  
and reaffirmed the financial results announced in the press release issued on August 2, 2016.

29 25. On October 6, 2016, Defendant Park participated in an interview with Jim Cramer  
30 on CNBC where he made a variety of positive statements about Fitbit's business, operations, and  
31 prospects. For example, during the interview, Cramer asked Park about competition from Apple  
32 Inc. Park responded that Fitbit's focus is very different from Apple's, in that the Company aims to  
33 encourage users to become healthier and more active. Park added that "[w]e are a fitness social  
34 network that is coupled to hardware, and we are on the cusp of transitioning the mission and  
35 purpose of our company from a consumer electronics company to a digital healthcare company."





1 Preliminary Fourth Quarter 2016 Results.” Therein, the Company announced its preliminary  
2 fourth quarter 2016 financial results. In the press release, Fitbit disclosed that it expected fourth  
3 quarter of 2016 revenue to be in the range of \$572 million to \$580 million, rather than its  
4 previously announced guidance range of \$725 million to \$750 million. Fitbit also disclosed  
5 expected annual revenue growth of approximately 17%, rather than the previously-announced  
6 forecast of 25% to 26%. Fitbit also indicated that it expected its non-GAAP fourth quarter gross  
7 margin to be “materially below its previously issued 46% guidance . . . .” Among other relevant  
8 portions, the Company stated:  
9

10 Fitbit, Inc. (NYSE: FIT), the leader in the connected health and fitness market,  
11 today announced preliminary financial results for the fourth quarter ended  
December 31, 2016.

12 Based upon preliminary financial information, Fitbit expects to report 6.5 million  
13 devices sold and revenue for the fourth quarter of 2016 to be in the range of \$572  
14 million to \$580 million, compared to the company’s previously announced  
15 guidance range of \$725 million to \$750 million. For the full-year 2016, Fitbit  
16 expects annual revenue growth to be approximately 17% from the previous  
17 forecasted growth of 25% to 26%. Non-GAAP diluted net loss per share for the  
18 fourth quarter is expected to be in the range of (\$0.51) to (\$0.56) compared to the  
19 previously announced guidance range of non-GAAP diluted net income per share  
of \$0.14 to \$0.18. The non-GAAP effective tax rate is expected to be materially  
higher than prior guidance. For the full-year 2016, Fitbit expects to earn  
approximately \$32 million in non-GAAP free cash flow and have approximately  
\$700 million in cash, cash equivalents, and marketable securities on its balance  
sheet. Fourth quarter results are subject to change based on the completion of the  
company’s customary year-end audit review process.

20 “Fourth quarter results are expected to be below our prior guidance range; however,  
21 we are confident this performance is not reflective of the value of our brand,  
22 market-leading platform, and company’s long-term potential. While we have  
23 experienced softer-than-expected holiday demand for trackers in our most mature  
24 markets, especially during Black Friday, we have continued to grow rapidly in  
25 select markets like EMEA, where revenue grew 58% during the fourth quarter. To  
26 address this reduction in growth and what we believe is a temporary slowdown and  
27 transition period, we are taking clear steps to reduce operating costs. Looking  
28 forward, we believe Fitbit is in a unique position to stimulate new areas of demand  
by leveraging the data we collect to deliver a more personalized experience while  
developing upgraded versions of existing products and launching additional  
products to expand into new categories,” said James Park, Fitbit co-founder and  
CEO. “As the overall wearable category leader, we exited the year with an engaged  
community of over 23.2 million active users, making us uniquely positioned to be  
the partner of choice for the healthcare ecosystem, which is a key component of our  
long-term strategy.”

1 Fitbit is taking direct action to reduce the expense basis of the company while  
2 maintaining necessary investments to drive future growth and maintain its global  
leadership position in the wearables market.

- 3 • Targeting a reduction in the 2016 exit operating expense run rate of  
4 approximately \$200 million, to approximately \$850 million for 2017, which  
5 includes realigning sales and marketing spend and improved optimization of  
6 research and development investments.
- 7 • Conducting a reorganization of its business, including a reduction in force,  
8 that will impact approximately 110 employees, constituting approximately  
9 6% of the company's global workforce, creating a more focused and  
10 efficient operating model. The cost of these reorganization efforts is  
11 expected to be approximately \$4 million to be recorded in the first quarter  
12 of 2017.

13 “We believe the evolving wearables market continues to present growth  
14 opportunities for us that we will capitalize on by investing in our core product  
15 offerings, while expanding into the smartwatch category to diversify revenue and  
16 capture share of the over \$10 billion global smartwatch market,” said Park. “We  
17 believe we are uniquely positioned to succeed in delivering what consumers are  
18 looking for in a smartwatch: stylish, well-designed devices that combine the right  
19 general purpose functionality with a focus on health and fitness. With the recent  
20 acquisition of assets from Pebble, Vector Watch and Coin, we are taking action to  
21 position the company for long-term success.”

22 \* \* \*

23 For the full year 2017, Fitbit is providing some targeted financial metrics as the  
24 company transitions its business to the next stage of growth. The company expects  
25 a challenging year over year comparison in the first half of 2017 given that new  
26 product introductions represented 52% of revenue in the first half of 2016. In  
27 addition, the company enters 2017 with a higher operating expense run rate than  
28 the first half of 2016, and channel inventory levels that are higher than previously  
anticipated. The company expects stabilization in financial performance in the  
second half of 2017. Considering these factors, the company is providing the  
following guidance:

- 29 • Preliminary 2017 revenue guidance of \$1.5 billion to \$1.7 billion.
- 30 • Preliminary non-GAAP basic net loss per share of (\$0.22) to (\$0.44) per  
31 basic share.
- 32 • Preliminary non-GAAP free cash flow guidance of approximately negative  
33 \$50 to \$100 million.
- 34 • Long-term non-GAAP gross margin of approximately 45% versus previous  
35 50% target.

36 32. On this news, Fitbit's share price fell \$1.15 per share, or 16%, to close at \$6.06 per  
37 share on January 30, 2017, on unusually heavy trading volume.

1 **CLASS ACTION ALLEGATIONS**

2 33. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil  
3 Procedure 23(a) and (b)(3) on behalf of a class, consisting of all persons and entities that acquired  
4 Fitbit securities between August 2, 2016 and January 30, 2017, inclusive, and who were damaged  
5 thereby (the “Class”). Excluded from the Class are Defendants, the officers and directors of the  
6 Company, at all relevant times, members of their immediate families and their legal  
7 representatives, heirs, successors, or assigns, and any entity in which Defendants have or had a  
8 controlling interest.  
9

10 34. The members of the Class are so numerous that joinder of all members is  
11 impracticable. Throughout the Class Period, Fitbit’s common stock actively traded on the NYSE.  
12 While the exact number of Class members is unknown to Plaintiff at this time and can only be  
13 ascertained through appropriate discovery, Plaintiff believes that there are at least hundreds or  
14 thousands of members in the proposed Class. Millions of Fitbit shares were traded publicly during  
15 the Class Period on the NYSE. As of October 31, 2016, Fitbit had 170,120,929 shares of Class A  
16 common stock outstanding. Record owners and other members of the Class may be identified  
17 from records maintained by Fitbit or its transfer agent and may be notified of the pendency of this  
18 action by mail, using the form of notice similar to that customarily used in securities class actions.  
19

20 35. Plaintiff’s claims are typical of the claims of the members of the Class as all  
21 members of the Class are similarly affected by Defendants’ wrongful conduct in violation of  
22 federal law that is complained of herein.  
23

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

26 37. Common questions of law and fact exist as to all members of the Class and  
27 predominate over any questions solely affecting individual members of the Class. Among the  
28

1 questions of law and fact common to the Class are:

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

4 (b) whether statements made by Defendants to the investing public during the Class  
5 Period omitted and/or misrepresented material facts about the business, operations, financial  
6 results, and prospects of Fitbit; and

7 (c) to what extent the members of the Class have sustained damages and the proper  
8 measure of damages.  
9

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

17 **UNDISCLOSED ADVERSE FACTS**

18 39. The market for Fitbit's securities was open, well-developed and efficient at all  
19 relevant times. As a result of these materially false and/or misleading statements, and/or failures  
20 to disclose, Fitbit's securities traded at artificially inflated prices during the Class Period. Plaintiff  
21 and other members of the Class purchased or otherwise acquired Fitbit's securities relying upon  
22 the integrity of the market price of the Company's securities and market information relating to  
23 Fitbit, and have been damaged thereby.  
24

25 40. During the Class Period, Defendants materially misled the investing public, thereby  
26 inflating the price of Fitbit's securities, by publicly issuing false and/or misleading statements  
27 and/or omitting to disclose material facts necessary to make Defendants' statements, as set forth  
28

1 herein, not false and/or misleading. The statements and omissions were materially false and/or  
2 misleading because they failed to disclose material adverse information and/or misrepresented the  
3 truth about Fitbit's business, operations, financial results, and prospects as alleged herein.

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

#### 17 **LOSS CAUSATION**

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

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

#### 26 **SCIENTER ALLEGATIONS**

27           44. As alleged herein, Defendants acted with scienter since Defendants knew that the  
28

1 public documents and statements issued or disseminated in the name of the Company were  
2 materially false and/or misleading; knew that such statements or documents would be issued or  
3 disseminated to the investing public; and knowingly and substantially participated or acquiesced  
4 in the issuance or dissemination of such statements or documents as primary violations of the  
5 federal securities laws. As set forth elsewhere herein in detail, the Individual Defendants, by  
6 virtue of their receipt of information reflecting the true facts regarding Fitbit, their control over,  
7 and/or receipt and/or modification of Fitbit's allegedly materially misleading misstatements and/or  
8 their associations with the Company which made them privy to confidential proprietary  
9 information concerning Fitbit, participated in the fraudulent scheme alleged herein.  
10

11 **APPLICABILITY OF PRESUMPTION OF RELIANCE**  
12 **(FRAUD-ON-THE-MARKET DOCTRINE)**

13 45. The market for Fitbit's securities was open, well-developed and efficient at all  
14 relevant times. As a result of the materially false and/or misleading statements and/or failures to  
15 disclose, Fitbit's securities traded at artificially inflated prices during the Class Period. On  
16 September 23, 2016, the Company's stock price closed at a Class Period high of \$16.98 per share.  
17 Plaintiff and other members of the Class purchased or otherwise acquired the Company's  
18 securities relying upon the integrity of the market price of Fitbit's securities and market  
19 information relating to Fitbit, and have been damaged thereby.  
20

21 46. During the Class Period, the artificial inflation of Fitbit's stock was caused by the  
22 material misrepresentations and/or omissions particularized in this Complaint causing the damages  
23 sustained by Plaintiff and other members of the Class. As described herein, during the Class  
24 Period, Defendants made or caused to be made a series of materially false and/or misleading  
25 statements about Fitbit's business, prospects, and operations. These material misstatements and/or  
26 omissions created an unrealistically positive assessment of Fitbit and its business, operations, and  
27 prospects, thus causing the price of the Company's securities to be artificially inflated at all  
28

1 relevant times, and when disclosed, negatively affected the value of the Company stock.  
2 Defendants' materially false and/or misleading statements during the Class Period resulted in  
3 Plaintiff and other members of the Class purchasing the Company's securities at such artificially  
4 inflated prices, and each of them has been damaged as a result.

5           47. At all relevant times, the market for Fitbit's securities was an efficient market for  
6 the following reasons, among others:  
7

8           (a) Fitbit stock met the requirements for listing, and was listed and actively traded on  
9 the NYSE, a highly efficient and automated market;

10           (b) As a regulated issuer, Fitbit filed periodic public reports with the SEC and/or the  
11 NYSE;

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

16           (d) Fitbit was followed by securities analysts employed by brokerage firms who wrote  
17 reports about the Company, and these reports were distributed to the sales force and certain  
18 customers of their respective brokerage firms. Each of these reports was publicly available and  
19 entered the public marketplace.  
20

21           48. As a result of the foregoing, the market for Fitbit's securities promptly digested  
22 current information regarding Fitbit from all publicly available sources and reflected such  
23 information in Fitbit's stock price. Under these circumstances, all purchasers of Fitbit's securities  
24 during the Class Period suffered similar injury through their purchase of Fitbit's securities at  
25 artificially inflated prices and a presumption of reliance applies.  
26

27           49. A Class-wide presumption of reliance is also appropriate in this action under the  
28

1 Supreme Court’s holding in *Affiliated Ute Citizens of Utah v. United States*, 406 U.S. 128 (1972),  
2 because the Class’s claims are, in large part, grounded on Defendants’ material misstatements  
3 and/or omissions. Because this action involves Defendants’ failure to disclose material adverse  
4 information regarding the Company’s business operations and financial prospects—information  
5 that Defendants were obligated to disclose—positive proof of reliance is not a prerequisite to  
6 recovery. All that is necessary is that the facts withheld be material in the sense that a reasonable  
7 investor might have considered them important in making investment decisions. Given the  
8 importance of the Class Period material misstatements and omissions set forth above, that  
9 requirement is satisfied here.

11 **NO SAFE HARBOR**

12 50. The statutory safe harbor provided for forward-looking statements under certain  
13 circumstances does not apply to any of the allegedly false statements pleaded in this Complaint.  
14 The statements alleged to be false and misleading herein all relate to then-existing facts and  
15 conditions. In addition, to the extent certain of the statements alleged to be false may be  
16 characterized as forward looking, they were not identified as “forward-looking statements” when  
17 made and there were no meaningful cautionary statements identifying important factors that could  
18 cause actual results to differ materially from those in the purportedly forward-looking statements.  
19 In the alternative, to the extent that the statutory safe harbor is determined to apply to any forward-  
20 looking statements pleaded herein, Defendants are liable for those false forward-looking  
21 statements because at the time each of those forward-looking statements was made, the speaker  
22 had actual knowledge that the forward-looking statement was materially false or misleading,  
23 and/or the forward-looking statement was authorized or approved by an executive officer of Fitbit  
24 who knew that the statement was false when made.  
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1 **FIRST CLAIM**  
2 **Violation of Section 10(b) of The Exchange Act and**  
3 **Rule 10b-5 Promulgated Thereunder**  
4 **Against All Defendants**

5 51. Plaintiff repeats and re-alleges each and every allegation contained above as if fully  
6 set forth herein.

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

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

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

24 55. Defendants employed devices, schemes and artifices to defraud, while in  
25 possession of material adverse non-public information and engaged in acts, practices, and a course  
26 of conduct as alleged herein in an effort to assure investors of Fitbit's value and performance and  
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1 continued substantial growth, which included the making of, or the participation in the making of,  
2 untrue statements of material facts and/or omitting to state material facts necessary in order to  
3 make the statements made (about, among others, Fitbit's: business; operations; prospects; sales  
4 and earnings guidance; sales; revenue; earnings; margins; channel inventory; demand; sell-through  
5 of existing and new products; reserves for warranties, inventory, and rebates; active users; supply  
6 chain; internal controls; and declining or weakening growth) in light of the circumstances under  
7 which they were made, not misleading, as set forth more particularly herein, and engaged in  
8 transactions, practices and a course of business which operated as a fraud and deceit upon the  
9 purchasers of the Company's securities during the Class Period.  
10

11           56. Each of the Individual Defendants' primary liability and controlling person liability  
12 arises from the following facts: (i) the Individual Defendants were high-level executives and/or  
13 directors at the Company during the Class Period and members of the Company's management  
14 team or had control thereof; (ii) each of these defendants, by virtue of their responsibilities and  
15 activities as a senior officer and/or director of the Company, was privy to and participated in the  
16 creation, development and reporting of the Company's internal budgets, plans, projections and/or  
17 reports; (iii) each of these defendants enjoyed significant personal contact and familiarity with the  
18 other defendants and was advised of, and had access to, other members of the Company's  
19 management team, internal reports and other data and information about the Company's finances,  
20 operations, and sales at all relevant times; and (iv) each of these defendants was aware of the  
21 Company's dissemination of information to the investing public which they knew and/or  
22 recklessly disregarded was materially false and misleading.  
23  
24

25           57. Defendants had actual knowledge of the misrepresentations and/or omissions of  
26 material facts set forth herein, or acted with reckless disregard for the truth in that they failed to  
27 ascertain and to disclose such facts, even though such facts were available to them. Such  
28

1 defendants' material misrepresentations and/or omissions were done knowingly or recklessly and  
2 for the purpose and effect of concealing Fitbit's financial well-being and prospects from the  
3 investing public and supporting the artificially inflated price of its securities. As demonstrated by  
4 Defendants' overstatements and/or misstatements of the Company's business, operations, financial  
5 well-being, and prospects throughout the Class Period, Defendants, if they did not have actual  
6 knowledge of the misrepresentations and/or omissions alleged, were reckless in failing to obtain  
7 such knowledge by deliberately refraining from taking those steps necessary to discover whether  
8 those statements were false or misleading.

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

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



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

6  
7 **PRAYER FOR RELIEF**

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

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

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

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

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

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18 **JURY TRIAL DEMANDED**

19 Plaintiff hereby demands a trial by jury.

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21 Dated: November 1, 2018  
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