**UNITED STATES DISTRICT COURT**
**NORTHERN DISTRICT OF TEXAS**

______, Individually and on Behalf of All Others Similarly Situated,

Plaintiff,

v.

DAVE & BUSTER'S ENTERTAINMENT, INC., CHRIS MORRIS, and DARIN HARPER,

Defendants.

Case No.

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

**DEMAND FOR JURY TRIAL**

Plaintiff _____ ("Plaintiff"), individually and on behalf of all others similarly situated, by and through his attorneys, alleges the following upon information and belief, except as to those allegations concerning Plaintiff, which are alleged upon personal knowledge. Plaintiff's information and belief is based upon, among other things, his counsel's investigation, which includes without limitation: (a) review and analysis of regulatory filings made by Dave & Buster's Entertainment, Inc. ("D&B" or the "Company") with the United States ("U.S.") Securities and Exchange Commission ("SEC"); (b) review and analysis of press releases and media reports issued by and disseminated by D&B; and (c) review of other publicly available information concerning D&B.



## NATURE OF THE ACTION AND OVERVIEW

1. This is a class action on behalf of persons and entities that purchased or otherwise acquired D&B securities between June 12, 2024 and December 10, 2024, inclusive (the "Class Period"). Plaintiff pursues claims against the Defendants under the Securities Exchange Act of 1934 (the "Exchange Act").

2. D&B owns and operates entertainment and dining venues in North America. At the Company's 2023 Investor Day, D&B outlined a number of strategic initiatives designed to support market penetration including a customizable footprint to drive economics in each market, menu localization, a proprietary, dynamic pricing model, and global marketing programs.

3. On December 10, 2024, after the market closed, D&B released its third quarter 2024 financial results, significantly missing consensus estimates and revealing that the Company's much-touted strategic initiatives had failed to improve financial results. The Company reported third quarter revenue had declined 3% year over year, that comparable store sales decreased 7.7% year over year, and adjusted EBITDA decreased 16.3%, or $13.3 million, year over year. The Company further revealed that Chris Morris, the Company's Chief Executive Officer ("CEO"),

tendered his resignation on December 8, 2024, and that "[t]he Board has been working with [] a global executive search firm, for the last few months to assist in identifying the Company's next permanent CEO"

4. On this news, the Company's share price fell $7.39 or 20.08% per share to close at $29.41 per share on December 11, 2024, on unusually heavy trading volume. The Company's stock continued to fall the next day, declining $3.92 or 13.33% per share to close at $25.49 per share on December 12, 2024, on unusually heavy trading volume.

5. Throughout the Class Period, Defendants made materially false and/or misleading statements, as well as failed to disclose material adverse facts about the Company's business, operations, and prospects. Specifically, Defendants failed to disclose to investors: (1) that the Company misrepresented the efficacy and progress of its strategic initiatives; (2) that the Company had been working for several months to identify a new CEO; and (3) that, as a result of the foregoing, Defendants' positive statements about the Company's business, operations, and prospects were materially misleading and/or lacked a reasonable basis.

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



## JURISDICTION AND VENUE

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

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

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

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



## PARTIES

11. Plaintiff ____, as set forth in the accompanying certification, incorporated by reference herein, purchased D&B securities during the Class Period, and suffered damages as a result of the federal securities law violations and false and/or misleading statements and/or material omissions alleged herein.

12. Defendant D&B is incorporated under the laws of Delaware with its principal executive offices located in Coppell, Texas. D&B's common shares trade on the NASDAQ exchange under the symbol "PLAY."

13. Defendant Chris Morris ("Morris") was the Company's Chief Executive Officer ("CEO") at all relevant times.

14. Defendant Darin Harper ("Harper") was the Company's Chief Financial Officer ("CFO") at all relevant times.

15. Defendants Morris and Harper (together, the "Individual Defendants"), because of their positions with the Company, possessed the power and authority to control the contents of the

Company's reports to the SEC, press releases and presentations to securities analysts, money and portfolio managers and institutional investors, i.e., the market. The Individual Defendants were provided with copies of the Company's reports and press releases alleged herein to be misleading prior to, or shortly after, their issuance and had the ability and opportunity to prevent their issuance or cause them to be corrected. Because of their positions and access to material non-public information available to them, the Individual Defendants knew that the adverse facts specified herein had not been disclosed to, and were being concealed from, the public, and that the positive representations which were being made were then materially false and/or misleading. The Individual Defendants are liable for the false statements pleaded herein.

## SUBSTANTIVE ALLEGATIONS

### Background

16. D&B owns and operates entertainment and dining venues in North America. At the Company's 2023 Investor Day, D&B outlined a number of strategic initiatives designed to support market penetration including a customizable footprint to drive economics in each market, menu localization, a proprietary, dynamic pricing model, and global marketing programs.

### Materially False and Misleading Statements Issued During the Class Period

17. The Class Period begins on June 12, 2024. [1] On that day, D&B announced its first quarter 2024 financial results in a press release for the period ended May 5, 2024. The press release reported first quarter revenue of $588.1 million and net income totaled $41.4 million, or $0.99 per diluted share with adjusted EBITDA of $159.1 million. The press release further touted the Company's "material progress" in "advancing [the Company's] key organic growth initiatives"

[1] Unless otherwise stated, all emphasis in bold and italics hereinafter is added, and all footnotes are omitted.

including its “meaningful success” with its “new marketing engine.” Specifically, the press release stated, in relevant part:

> "We continue to make material progress advancing our key organic growth initiatives. We have seen meaningful success growing our loyalty database through our new marketing engine, highlighting our enhanced food and beverage offering through compelling promotions, refining our games pricing strategy, driving incremental special events and clear outperformance in our remodel initiative which we expect will lead to substantial improvement in revenue and profitability over the medium term. We also continued to open new stores at highly attractive returns on our investment and have continued to opportunistically return capital to shareholders via our share repurchase program in a highly accretive manner” said Chris Morris, Dave & Buster's Chief Executive Officer.

18. On June 12, 2024, the Company submitted its quarterly report for the period ended May 5, 2024 on a Form 10-Q filed with the SEC, affirming the previously reported financial results and stating that the Company “monitor and analyze several key performance measures to manage our business and evaluate financial and operating performance.”

19. On June 20, 2024, D&B hosted a presentation for investors entitled “Update on progress on initiatives outlined in 2023 Investor Day.” The presentation touted that “***[a]ll initiatives are meeting or exceeding expectations***,” and that the Company was “[s]caling / rolling out ***successfully-tested initiatives***.” The presentation continued, stating the Company’s “***[h]yper-targeted promotions and data-driven insights leading to substantial engagement growth***” with “[c]ontinued success in loyalty member acquisition and engagement.” The Presentation touted the Company’s “[n]ew menu phases and new hospitality model ***significantly improve*** operator efficiency and customer experience” with “***[s]ignificant improvement across important F&B metrics***.” The presentation concluded, reiterating that “***[s]ignificant progress made on each of [the Company’s] initiatives***.” Specifically, the presentation stated, in relevant part:

## Executive Summary

- Meaningful progress on all initiatives
  - All initiatives are meeting or exceeding expectations
- New opportunities / initiatives identified
  - F&B pricing, remodel strategy, incremental cost savings
- Substantive impact expected over the next several months
  - Scaling / rolling out successfully-tested initiatives
- Remain confident in our target of ~$1 billion Adj. EBITDA

2

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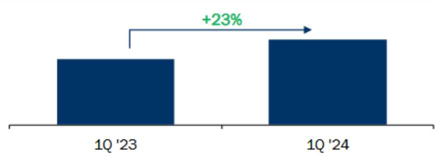
## 1 Significant improvement in consumer engagement

**Hyper-targeted promotions and data-driven insights leading to substantial engagement growth**

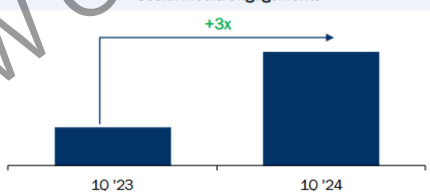
**Continued success in loyalty member acquisition and engagement**

**Unique website visitors**

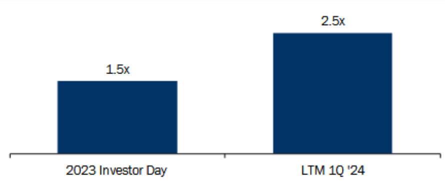

**Active loyalty members**




**Social media engagements** [(a)]




**Loyalty Member Visitation vs Non-Members**




(a) Social media engagements reflects likes, comments and shares across major social media platforms including TikTok, Instagram, Facebook, Snapchat and LinkedIn

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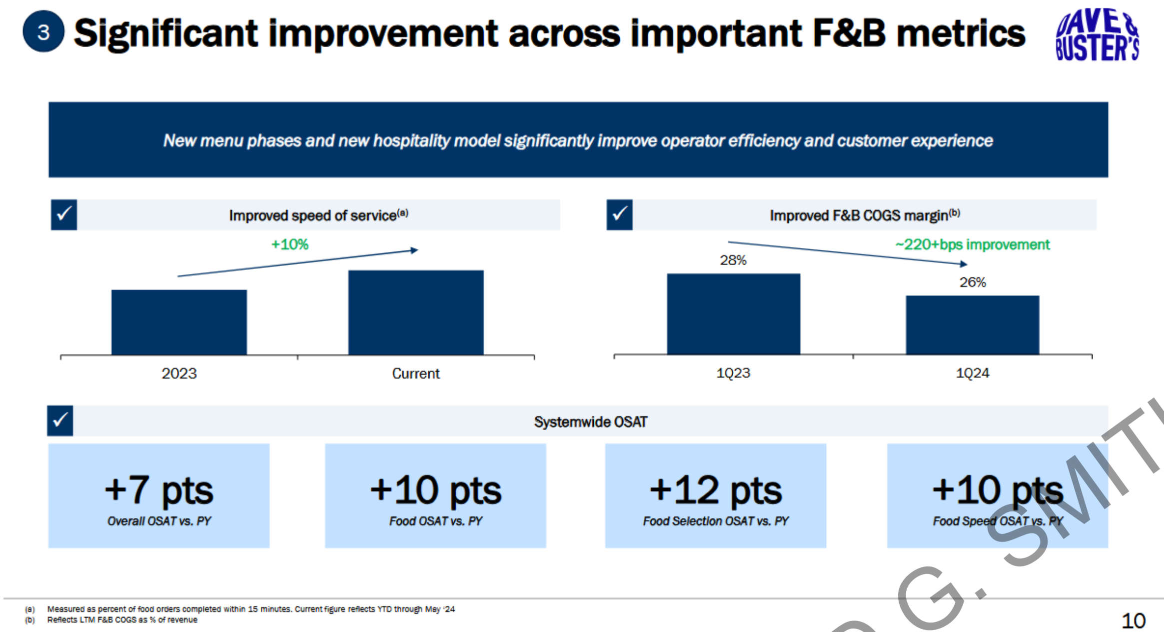


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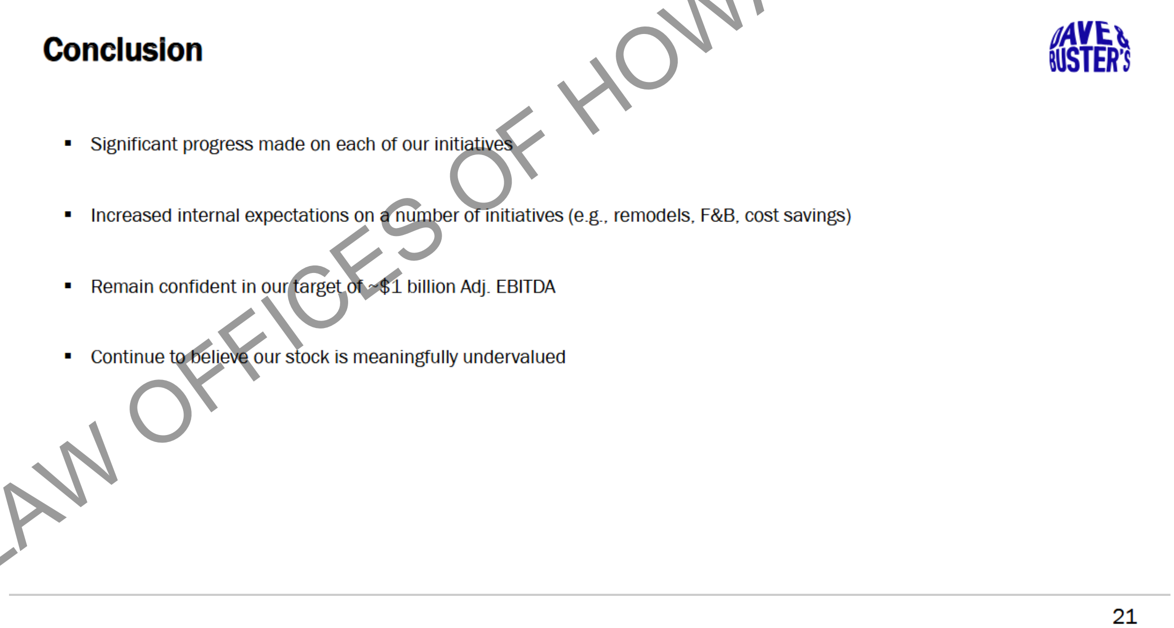




20. On September 10, 2024, the Company announced its second quarter 2024 financial results in a press release for the period ended August 6, 2024. The press release reported second quarter revenue of $557.1 million and net income totaled $40.3 million, or $0.99 per diluted share with adjusted EBITDA of $151.6 million. The press release further touted the Company

"***continued to make significant progress toward [its] strategic goals***" with "***improving F&B performance and guest satisfaction scores***" and success in "optimiz[ing its] pricing strategies" and a "***material improvement in [its] special events business***." Specifically the press release stated, in relevant part:

> "We are pleased with the progress we are making on our strategic initiatives and on the strong financial results achieved during the quarter. During the quarter, we grew Revenue and Adjusted EBITDA, expanded our Adjusted EBITDA margins and generated strong operating cash flow which allowed us to invest in the business and return cash to shareholders. We have also continued to make significant progress toward our strategic goals. Our fully programmed remodels continue to perform well and we are excited about the remodels that have recently opened and will open throughout the remainder of Fiscal 2024 and beyond," said Chris Morris, Dave & Buster's Chief Executive Officer.
>
> "Our new menu continues to be well received by our guests, as indicated by our improving F&B performance and guest satisfaction scores. We continue to refine our menu and are excited about the next phase of our menu rollout that just occurred in August. We have also continued to test our games and F&B pricing levels which have benefited our top line and margins and which we expect to bear more fruit going forward as we optimize our pricing strategies. Additionally, we have seen material improvement in our special events business with substantial growth in same store sales in the quarter and year to date and our forward bookings for fiscal 2024 are currently significantly above the prior year. Further, we have continued to open up new domestic stores which have consistently performed in line with or above expectations. We have also managed our cost structure well which has enabled us to expand our Adjusted EBITDA margins while still delivering a high-quality experience to our customers.
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> *　　　*　　　*
>
> We fully expect the impact of our initiatives to lead to growth in same store sales, revenue, EBITDA and cash flow in the coming quarters."

21. On September 10, 2024, the Company submitted its quarterly report for the period ended August 6, 2024 on a Form 10-Q filed with the SEC, affirming the previously reported financial results and stating that the Company "monitor and analyze several key performance measures to manage our business and evaluate financial and operating performance."

22. On November 13, 2024, the Company submitted an amendment to its quarterly report for the period ended August 6, 2024 on a Form 10-Q/A filed with the SEC, filed solely to correct a scrivener's error in the signature block on Exhibit 32.2 to reflect Darin Harper as Chief Financial Officer of the Company. The amended quarterly report similarly affirmed the previously reported financial results and stated that the Company "monitor and analyze several key performance measures to manage our business and evaluate financial and operating performance."

23. The above statements identified in ¶¶ 17-22 were materially false and/or misleading, and failed to disclose material adverse facts about the Company's business, operations, and prospects. Specifically, Defendants failed to disclose to investors: (1) that the Company misrepresented the efficacy and progress of its strategic initiatives; (2) that the Company had been working for several months to identify a new CEO; and (3) that, as a result of the foregoing, Defendants' positive statements about the Company's business, operations, and prospects were materially misleading and/or lacked a reasonable basis.

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

24. On December 10, 2024, after the market closed, D&B released its third quarter 2024 financial results, significantly missing consensus estimates and revealing that the Company's much-touted strategic initiatives had failed to improve financial results. The Company reported third quarter revenue had declined 3% year over year, that comparable store sales decreased 7.7% year over year, and adjusted EBITDA decreased 16.3%, or $13.3 million, year over year. The Company further revealed that Chris Morris, the Company's CEO, tendered his resignation on December 8, 2024, and that "[t]he Board has been working with [] a global executive search firm, for the last few months to assist in identifying the Company's next permanent CEO." Specifically, the press release reported, in relevant part:

Third Quarter 2024 Financial Summary

- Third quarter revenue of $453.0 million decreased 3.0% from the third quarter of fiscal 2023.

- Comparable store sales decreased 7.7% compared to the same calendar period in fiscal 2023.

- Net loss totaled $32.7 million, or $(0.84) per diluted share, compared with a net loss of $5.2 million, or $(0.12) per diluted share in the third quarter of fiscal 2023. Adjusted Net loss totaled $17.5 million, or $(0.45) per diluted share, compared with an Adjusted Net income of $0.4 million, or $0.01 per diluted share in the third quarter of fiscal 2023.

- Adjusted EBITDA of $68.3 million decreased 16.3%, or $13.3 million, from the third quarter of fiscal 2023.

Additional Events and Commentary

Chris Morris, the Company's Chief Executive Officer ("CEO"), has tendered his resignation as CEO and Director to pursue other interests. The Board has been working with Heidrick & Struggles, a global executive search firm, for the last few months to assist in identifying the Company's next permanent CEO and has already started meeting potential candidates. In the interim, Kevin Sheehan, the Company's current Chair of the Board, will also serve as the Company's interim CEO until the appointment by the Board of a permanent CEO. In addition, the Board has appointed James Chambers, current Director, as Vice Chair of the Board. During this transition, Michael Griffith, current Director, will temporarily assume the role of Lead Independent Director of the Board.

25. On this news, the Company's share price fell $7.39 or 20.08% per share to close at $29.41 per share on December 11, 2024, on unusually heavy trading volume. The Company's stock continued to fall the next day, declining $3.92 or 13.33% per share to close at $25.49 per share on December 12, 2024, on unusually heavy trading volume.



## CLASS ACTION ALLEGATIONS

26. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a class, consisting of all persons and entities that purchased or otherwise acquired D&B securities between June 12, 2024 and December 10, 2024, inclusive, and who were damaged thereby (the "Class"). Excluded from the Class are Defendants, the officers and directors of the Company, at all relevant times, members of their immediate families

and their legal representatives, heirs, successors, or assigns, and any entity in which Defendants have or had a controlling interest.

27. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, D&B's shares actively traded on the NASDAQ. While the exact number of Class members is unknown to Plaintiff at this time and can only be ascertained through appropriate discovery, Plaintiff believes that there are at least hundreds or thousands of members in the proposed Class. Millions of D&B shares were traded publicly during the Class Period on the NASDAQ. Record owners and other members of the Class may be identified from records maintained by D&B or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

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

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

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

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

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

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

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

**UNDISCLOSED ADVERSE FACTS**

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

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

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

**LOSS CAUSATION**

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

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

**SCIENTER ALLEGATIONS**

37. As alleged herein, Defendants acted with scienter since Defendants knew that the public documents and statements issued or disseminated in the name of the Company were materially false and/or misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated or acquiesced

in the issuance or dissemination of such statements or documents as primary violations of the federal securities laws. As set forth elsewhere herein in detail, the Individual Defendants, by virtue of their receipt of information reflecting the true facts regarding D&B, their control over, and/or receipt and/or modification of D&B's allegedly materially misleading misstatements and/or their associations with the Company which made them privy to confidential proprietary information concerning D&B, participated in the fraudulent scheme alleged herein.

## APPLICABILITY OF PRESUMPTION OF RELIANCE

## (FRAUD-ON-THE-MARKET DOCTRINE)

38. The market for D&B's securities was open, well-developed and efficient at all relevant times. As a result of the materially false and/or misleading statements and/or failures to disclose, D&B's securities traded at artificially inflated prices during the Class Period. On June 12, 2024, the Company's share price closed at a Class Period high of $50.35 per share. Plaintiff and other members of the Class purchased or otherwise acquired the Company's securities relying upon the integrity of the market price of D&B's securities and market information relating to D&B, and have been damaged thereby.

39. During the Class Period, the artificial inflation of D&B's shares was caused by the material misrepresentations and/or omissions particularized in this Complaint causing the damages sustained by Plaintiff and other members of the Class. As described herein, during the Class Period, Defendants made or caused to be made a series of materially false and/or misleading statements about D&B's business, prospects, and operations. These material misstatements and/or omissions created an unrealistically positive assessment of D&B and its business, operations, and prospects, thus causing the price of the Company's securities to be artificially inflated at all relevant times, and when disclosed, negatively affected the value of the Company shares. Defendants' materially false and/or misleading statements during the Class Period resulted in

Plaintiff and other members of the Class purchasing the Company's securities at such artificially inflated prices, and each of them has been damaged as a result.

40. At all relevant times, the market for D&B's securities was an efficient market for the following reasons, among others:

(a) D&B shares met the requirements for listing, and was listed and actively traded on the NASDAQ, a highly efficient and automated market;

(b) As a regulated issuer, D&B filed periodic public reports with the SEC and/or the NASDAQ;

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

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

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

42. A Class-wide presumption of reliance is also appropriate in this action under the Supreme Court's holding in *Affiliated Ute Citizens of Utah v. United States*, 406 U.S. 128 (1972),

because the Class's claims are, in large part, grounded on Defendants' material misstatements and/or omissions. Because this action involves Defendants' failure to disclose material adverse information regarding the Company's business operations and financial prospects—information that Defendants were obligated to disclose—positive proof of reliance is not a prerequisite to recovery. All that is necessary is that the facts withheld be material in the sense that a reasonable investor might have considered them important in making investment decisions. Given the importance of the Class Period material misstatements and omissions set forth above, that requirement is satisfied here.

**NO SAFE HARBOR**

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

## FIRST CLAIM

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

**Rule 10b-5 Promulgated Thereunder**

**Against All Defendants**

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

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

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

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

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

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

50. Defendants had actual knowledge of the misrepresentations and/or omissions of material facts set forth herein, or acted with reckless disregard for the truth in that they failed to

ascertain and to disclose such facts, even though such facts were available to them. Such defendants' material misrepresentations and/or omissions were done knowingly or recklessly and for the purpose and effect of concealing D&B's financial well-being and prospects from the investing public and supporting the artificially inflated price of its securities. As demonstrated by Defendants' overstatements and/or misstatements of the Company's business, operations, financial well-being, and prospects throughout the Class Period, Defendants, if they did not have actual knowledge of the misrepresentations and/or omissions alleged, were reckless in failing to obtain such knowledge by deliberately refraining from taking those steps necessary to discover whether those statements were false or misleading.

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

52. At the time of said misrepresentations and/or omissions, Plaintiff and other members of the Class were ignorant of their falsity, and believed them to be true. Had Plaintiff and the other members of the Class and the marketplace known the truth regarding the problems that D&B was experiencing, which were not disclosed by Defendants, Plaintiff and other members of the Class would not have purchased or otherwise acquired their D&B securities, or, if they had

acquired such securities during the Class Period, they would not have done so at the artificially inflated prices which they paid.

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

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

**SECOND CLAIM**

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

**Against the Individual Defendants**

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

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

57. In particular, Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company and, therefore, had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same.

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

## PRAYER FOR RELIEF

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

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

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

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

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

## JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

Dated: ______, 2024

____________________________________


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