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15 **UNITED STATES DISTRICT COURT**
16 **SOUTHERN DISTRICT OF CALIFORNIA**

17 OAKLAND COUNTY EMPLOYEES'
RETIREMENT SYSTEM and
18 OAKLAND COUNTY VOLUNTARY
EMPLOYEES' BENEFICIARY
19 ASSOCIATION, Individually and on
Behalf of All Others Similarly Situated,

20 Plaintiffs,

21 v.

22 DEXCOM, INC., KEVIN R. SAYER,
23 JEREME M. SYLVAIN, and SEAN
CHRISTENSEN,

24 Defendants.

Case No. '24CV1804 AJB BLM

CLASS ACTION

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

DEMAND FOR JURY TRIAL

1 **INTRODUCTION**

2 Plaintiffs Oakland County Employees’ Retirement System and Oakland County
3 Voluntary Employees’ Beneficiary Association (together, “Plaintiffs”), individually
4 and on behalf of all others similarly situated, allege the following based upon personal
5 knowledge as to Plaintiffs’ own acts and upon information and belief as to all other
6 matters based on the investigation conducted by and through counsel, which included,
7 among other things, a review of the public U.S. Securities and Exchange Commission
8 (“SEC”) filings of DexCom, Inc. (“DexCom” or the “Company”), Company press
9 releases, conference call transcripts, investor presentations, analyst and media reports,
10 and other public reports and information regarding the Company. Plaintiffs believe
11 that substantial additional evidentiary support exists for the allegations set forth herein,
12 which evidence will be developed after a reasonable opportunity for discovery.

13 **NATURE OF THE ACTION**

14 1. This is a class action brought on behalf of a “Class” of all persons and
15 entities who purchased or otherwise acquired DexCom securities between April 28,
16 2023 and July 25, 2024, inclusive (the “Class Period”). Plaintiffs bring this action
17 seeking to pursue remedies under Sections 10(b) and 20(a) of the Securities Exchange
18 Act of 1934 (the “Exchange Act”), and SEC Rule 10b-5, promulgated thereunder.

19 2. DexCom, headquartered in San Diego, California, is a medical device
20 company that manufactures continuous glucose monitoring systems (“CGMs”) for
21 diabetes management. Over the course of 2022 and in early 2023, DexCom
22 commercially launched its “G7” CGM in Europe and in the United States. As the next
23 generation of its key product line, DexCom’s growth was premised on a successful G7
24 roll-out. To fuel this growth, the Company realigned and expanded its sales force.

25 3. Throughout the Class Period, Defendants (defined herein) investors touted
26 the success of its G7 launch, claiming that “the market’s reception to [DexCom’s latest
27 CGM] has been exceptional” and “[w]e have a really incredible track record of efficient
28 growth.” This action alleges that Defendants intentionally or recklessly misled

1 investors by failing to disclose that: (a) DexCom’s sales force expansion strategy was
2 causing slow customer growth; (b) DexCom’s sales force expansion strategy was
3 undermining relationships with durable medical equipment (“DME”) distributors, its
4 largest sales channel, leading to lower-margin revenue; (c) DexCom’s deteriorating
5 relationships with DME distributors were causing the Company to lose significant
6 market share to competitors; and (d) as a result of the foregoing, Dexcom’s Class
7 Period statements about its business, operations, and prospects were false and
8 misleading. As a result of these materially false and misleading statements and
9 omissions, DexCom stock traded at artificially high prices during the Class Period.

10 4. Beginning on April 25, 2024, investors began to learn about problems
11 with DexCom’s sales force expansion when Defendants revealed that the Company
12 had to further realign its sales force. Despite these issues, DexCom increased its 2024
13 sales forecast. On this news, DexCom’s stock price *declined \$13.67, or 9.9 percent*,
14 to close at \$124.34 per share on April 26, 2024.

15 5. Then, on July 25, 2024, Dexcom reported lower-than-expected sales for
16 the second quarter of 2024 and cut its 2024 sales forecast. Defendant attributed its
17 weak results and reduced guidance to slower-than-expected new customer growth in
18 the DME channel where the Company lost market share. Defendants acknowledged
19 that its sales force realignment and expansion strategies were “disruptive” and had
20 caused eroding relationships with the Company’s DME channel partners. On this
21 news, DexCom’s stock price *dropped \$43.85, or 40.7 percent*, to close at \$64.00 per
22 share on July 26, 2024.

23 6. As a result of Defendants’ wrongful acts and omissions, and the
24 precipitous decline in the market value of the Company’s securities, Plaintiffs and
25 Class members have suffered significant losses and damages.

JURISDICTION AND VENUE

7. The claims asserted herein arise under and pursuant to §§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 under 28 U.S.C. § 1331 and Section 27 of the Exchange Act, 15 U.S.C. § 78aa.

9. Venue is proper in this District under Section 27 of the Exchange Act, 15 U.S.C. § 78aa, and 28 U.S.C. § 1391(b), because DexCom is headquartered in this District, and because many of the acts and conduct that constitute the violations of law complained of herein, including the dissemination to the public of materially false and misleading information, occurred in this District.

10. In connection with the acts alleged in this complaint, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the mails, interstate telephone communications, and the facilities of the national securities markets.

PARTIES

11. Plaintiffs Oakland County Employees’ Retirement System and Oakland County Voluntary Employees’ Beneficiary Association are governmental employee benefit plans for employees and retirees of Oakland County, Michigan. As indicated on the certification submitted herewith, Plaintiffs purchased shares of DexCom common stock at artificially inflated prices during the Class Period and suffered damages as a result of the violations of the federal securities laws alleged herein.

12. DexCom, Inc. is a Delaware corporation with its principal executive offices located at 6340 Sequence Drive, San Diego, CA 92121. During the Class Period, the Company’s common stock traded on the NASDAQ Global Select Market (the “NASDAQ”) under the symbol “DXCM.”

13. Defendant Kevin R. Sayer was, at all relevant times, the Executive Chairman, Chief Executive Officer, and President of DexCom.

1 14. Defendant Jereme M. Sylvain was, at all relevant times, the Executive
2 Vice President, Chief Financial Officer, and Chief Accounting Officer of DexCom.

3 15. Defendant Sean Christensen was, at all relevant times, Vice President,
4 Finance and Investor Relations at DexCom.

5 16. Defendants Sayer, Sylvain, and Christensen are collectively referred to
6 herein as the “Individual Defendants.” The Individual Defendants, because of their
7 positions with the Company, possessed the power and authority to control the contents
8 of DexCom’s reports to the SEC, press releases, and presentations to securities
9 analysts, money and portfolio managers, and institutional investors, *i.e.*, the market.
10 Each Individual Defendant was provided with copies of the Company’s reports and
11 press releases alleged herein to be misleading prior to, or shortly after, their issuance
12 and had the ability and opportunity to prevent their issuance or cause them to be
13 corrected. Because of their positions and access to material non-public information
14 available to them, each of the Individual Defendants knew that the adverse facts
15 specified herein had not been disclosed to, and/or were being concealed from, the
16 public, and that the positive representations which were being made were then
17 materially false and/or misleading.

18 17. DexCom and the Individual Defendants are collectively referred to herein
19 as the “Defendants.”

20 18. DexCom is liable for the acts of the Individual Defendants, and its
21 employees under the doctrine of *respondeat superior* and common law principles of
22 agency as all of the wrongful acts complained of herein were carried out within the
23 scope of their employment with authorization.

24 19. The scienter of the Individual Defendants, and other employees and agents
25 of the Company are similarly imputed to DexCom under *respondeat superior* and
26 common law agency principles.

27
28

1 **COMPANY BACKGROUND**

2 20. Founded in 1999, DexCom develops, manufactures, and distributes CGM
3 systems for diabetes management. DexCom primarily sells CGMs through two sales
4 channels. Traditionally, the largest channel for DexCom’s products has been sales
5 through DME distributors. More recently, pharmacies have become a critical sales
6 channel for DexCom as many insurers have switched patients from DME to pharmacy
7 channels.

8 21. DexCom’s G7 CGM model, designed and distributed as an upgrade over
9 the prior G6 model, received clearance to be sold to people with diabetes in the
10 European Union in early 2022. Thereafter, the Company began to sell the G7 in
11 multiple European countries. The G7 was approved for use in the United States in
12 December 2022, and commercially launched there in early 2023. As a key strategic
13 initiative to grow international and domestic G7 sales, DexCom realigned and
14 expanded its sales force.

15 **MATERIAL MISREPRESENTATIONS AND OMISSIONS**
16 **DURING THE CLASS PERIOD**

17 22. The Class Period begins on April 28, 2023, the day after DexCom issued
18 a press release announcing financial results for the first quarter of 2023, as well as first
19 publishing their 2023 financial guidance, including expected “[r]evenue of
20 approximately \$3.400 - 3.515 billion (17-21% growth).” DexCom also published 2023
21 guidance for three margin metrics: non-GAAP gross profit margin of 62-63%; non-
22 GAAP operating margin of approximately 16.5%; and adjusted EBITDA margin of
23 approximately 26%.

24 23. That same day, Defendants participated in a related call with analysts and
25 investors. On that call, Defendant Sayer touted DexCom’s “big sales force expansion,”
26 along with its relationship with DME customers, stating that:

27 *We continue to evaluate our marketing and our full-on direct*
28 *distribution efforts to see what adjustments need to be made to create*
more awareness. We worked very hard with our channel partners and

1 ***believe we are in a very good position with them to go take on this front.***

2 So it's about creating awareness. It's about making it easier for patients
3 to get their product and use it. I've been out in the field a few times and
4 the one thing I am definitely hearing as I speak with a lot of the primary
5 care physicians who are going to serve this market is G7 is so much easier
6 to use and so easy-to-use versus G6. They view this as a very real and a
7 very strong opportunity for their patients to achieve better outcomes. So
8 we know we have the right product. We'll just work on creating
9 awareness at the proper places to get it out there, but we're comfortable
10 that people will wear it all the time once they get started.

11 24. On July 27, 2023, Defendants issued a press release reporting its financial
12 results for the second quarter of 2023. In the press release, the Company increased its
13 2023 sales guidance in the range of \$3.500 to 3.550 billion (20-22% year-over-year
14 growth). DexCom also published 2023 guidance of non-GAAP gross profit margin of
15 63%; non-GAAP operating margin of approximately 17%; and adjusted EBITDA
16 margin of approximately 26.5%.

17 25. That same day, Defendants participated in a related call with analysts and
18 investors. On that call, when asked about DexCom's sales force, Defendant Sayer
19 stated that:

20 The biggest challenge always is particularly in the Medicare environment
21 is document -- getting the documents and getting to the proper distribution
22 channel to serve these patients because they all pretty much -- all go
23 through -- those who are not in Medicare Advantage, all go through the
24 DME channel. And so, Document gathering, particularly in a PCP office,
25 where they don't see all people with diabetes all the time. And the use of
26 these documents is the biggest challenge, but we anticipated that. And ***we***
27 ***worked very closely with our distributors to streamline that process as***
28 ***best we can. They've done a very good job, helping us get our product***
out and helping us continue to grow. As we talked earlier our biggest
Medicare of new patient add quarter ever, those folks all went through
distributors. So that's a good metric for us and shows that they are
doing very well.

29 I think it's been pretty much as planned. And we don't have a specific PCP
30 sales force. Our reps have geographic territories, and they call on both
31 specialty diabetes clinics and primary-care physicians. ***So they truly have***
32 ***a business to run in their individual territories. And certainly, we know***
33 ***who they call on and where they spend the majority of their time, but it's***
34 ***our job to drive that business and bring those offices along. They do a***
35 ***really good job of that.***

36 26. On October 26, 2023, Defendants issued a press release announcing
37 financial results for the third quarter of 2023 and issuing another increase to its 2023
38

1 sales guidance in the range of \$3.575 - 3.600 billion (for 23-24% year-over-year
2 growth). DexCom also published 2023 guidance of non-GAAP gross profit margin of
3 64%; non-GAAP operating margin of approximately 19%; and adjusted EBITDA
4 margin of approximately 28%.

5 27. That same day, Defendants participated in a related earnings call with
6 analysts and investors. In opening remarks on that call, Defendant Sylvain stated that:

7 ***Between the ongoing success of our G7 launch and significant***
8 ***expansion of coverage for Dexcom this year, our US business is really***
9 ***hitting its stride. This is particularly noticeable when looking at our new***
10 ***customer start trends which again outpaced our expectations for this***
11 ***quarter.***

12 This dynamic has now played out for several quarters in a row, and we are
13 seeing the direct result of that continued momentum. In the third quarter,
14 we saw revenue growth accelerate compared to last quarter and we
15 delivered our fastest quarterly growth rate in over two years. International
16 revenue grew 33% totaling \$261 million in the third quarter. International
17 organic revenue growth was 30% for the third quarter. We continue to
18 execute incredibly well in our international markets. ***Our product***
19 ***portfolio strategy, ongoing access work and growing commercial***
20 ***traction helped us again gain share this quarter.*** We had a particularly
21 strong quarter across our European footprint as we saw growth remained
22 similar to the accelerated level we saw in the second quarter.

23 28. On January 8, 2024, Defendants issued a press release announcing
24 financial results for fourth quarter and the full year 2023, as well as issuing 2024 sales
25 guidance between \$4.15 and \$4.35 billion, representing year-over-year growth of 16%
26 to 21%. DexCom also published 2024 guidance of non-GAAP gross profit margin of
27 63-64% and non-GAAP operating margin of approximately 20%.

28 29. The same day, during the Company's presentation at the J.P. Morgan 42nd
Annual Healthcare Conference 2024, Defendant Sylvain elaborated on DexCom's
justifications for the guidance, stating, in pertinent part:

I think when you think about guidance, there's a couple of different things
in there. So first and foremost, what is now excluded in that number, the
raw top line number is our non-CGM business, with the expectation that,
that comes out of the business. So, there is an assumption there.

In terms of that growth, it does assume another year of record new
patients. So, I think global record new patients. I think you can presume
that there. It does - when Kevin said a modest contribution from our non-

1 insulin product, our 15-day product, we assume about 1 point of revenue
2 associated with that. So that gives you some context around that.

3 And the rest is healthy growth really across the board in basal and the
4 intensive population globally. ***As you move down the line, you think
5 about gross margin, if you rewind back to 2023, we really started 2023
6 with a 62% to 63% gross margin, and we're going to outpace that this
7 year.*** Some of that is just due to the timing of transition from G6 to G7.
8 So Kevin alluded to it earlier. The expectation is, as we move through
9 that transition, there's a little bit of that. So, some of that's embedded. It
10 doesn't change our long-term plans. Ultimately, we are on track for the
11 cost profile we would expect on G7 at \$10 sensor. And I would expect us
12 to continue to make progress.

13 There is no 15-day intensive insulin or G-Series product assumptions on
14 gross margin in there. So hopefully, that's a little bit helpful. And then
15 the continuation of leverage through the P&L, I think you'd expect to
16 continue to see us do that. ***We had a really strong year in 2022, 2023 in
17 terms of driving leverage. That leverage continues as we move into
18 2024.***

19 30. On February 8, 2024, Defendants published their financial results for the
20 fourth quarter and the full year 2023 and reaffirmed the 2024 guidance they issued in
21 January. During the same-day earnings call, Defendant Sylvain stated, in pertinent
22 part:

23 Turning to 2024 guidance. As we stated last month, we anticipate total
24 revenue to be in the range of \$4.15 billion to \$4.35 billion, representing
25 organic growth of 16% to 21% for the year. This guidance assumes
26 continued momentum in the type 2 basal-only population in the U.S., the
27 expansion of Dexcom ONE on the G7 platform into new geographies, and
28 the launch of Stelo in the summer of 2024. It also assumes the divestiture
of our non-diabetes distribution business in Australia and New Zealand
this quarter, which represented around \$30 million of revenue in 2023.

From a margin perspective, we expect full year non-GAAP gross profit
margin to be in a range of 63% to 64%, operating profit margin to be
approximately 20%, and adjusted EBITDA of approximately 29%. ***Our
gross margin guidance reflects the ongoing conversion from G6 to G7
within our customer base and the associated scale that comes with that
process.*** Below gross margin, we'll continue to be very diligent with our
spend in 2024, while investing strategically behind multiple growth
opportunities.

31. On the same call, Defendant Sayer tied the Company's revenue growth to
its sales force expansion strategy, stating:

***There is a direct correlation to G7 launching and the acceleration of
our growth.*** It really was an important event. And the other thing that,
that just as a consequence of what you saw, again, ***this supports what
we're doing in the U.S. with respect to our field sales expansion.***

1 We do need to spend more time with physicians who aren't as familiar
 2 with our technology as they would have been in the past. And as I said
 3 on the call earlier, where we call on somebody, we win. We do very well.
 4 So we need more calls. ***We needed more feet on the street and more
 voice, given the acceleration that we saw and the good things that we
 saw happen over the second half of the year.*** So it all flows together
 nicely.

5 32. On March 5, 2024, Defendants presented at the 45th Annual Raymond
 6 James Institutional Investors Conference 2024. During the presentation, Defendants
 7 again reiterated their 2024 guidance, focusing on their faith in the G7 product. In
 8 pertinent part, DexCom's Director of Corporate Affairs and Head of Investor Relations,
 9 Sean Christensen, stated the following:

10 For 2024, we expect this significant growth to continue. We've guided our
 11 top line growth for the year to 16% to 21% organic growth. Gross margin
 12 for the year is 63% to 64%, which is relatively flat, slightly down versus
 13 2023. ***Really, we're in the process of transitioning from our G6
 hardware platform to our G7. And so as we build volumes, that will help
 us to scale and drive greater margin efficiency at the gross margin level,***
 14 continued operating margin expansion to about 20% and adjusted
 15 EBITDA margin of 29% forecast for this year. You see some of the
 assumptions there. But I think for us, this is a year in which we build on
 the access expansion that we had last year and continue to capitalize both
 within the U.S. and internationally.

16 [...]

17 And at DexCom CGM with G7 is also the most covered CGM in the U.S.
 18 We fought incredibly hard to ensure that our patients not only have access
 19 to the technology, but have as low of an out-of-pocket cost as possible,
 given that they rely on this for managing a complex condition. ***And in
 doing so, we've been able to really expand our coverage and lead the
 industry with robust coverage.***

20 33. The statements contained in ¶¶ 22-32 were materially false and/or
 21 misleading because Defendants failed to disclose that: (a) DexCom's sales force
 22 expansion strategy was causing slow customer growth; (b) DexCom's sales force
 23 expansion strategy was undermining relationships with DME distributors, its largest
 24 sales channel, leading to lower-margin revenue; and (c) DexCom's deteriorating
 25 relationships with DME distributors were causing the Company to lose significant
 26 market share to competitors.
 27
 28

1 regional basis to do more of that work. So we're trying to go broader and deeper
2 at the same time, deeper with our high prescribers in the endocrinology world,
and then broader across all aspects of primary care, including training and
3 supporting patients.

4 36. Despite these revelations, on April 25, 2024, DexCom issued an increase
to its 2024 sales forecast (updated range of \$4.20 to \$4.35 billion for 17-21% year-
5 over-year growth) while Defendant Sayer stated, "Dexcom is off to a great start in
6 2024, delivering another quarter of strong financial results while advancing several key
7 strategic initiatives."

8 37. On this news, DexCom's stock price *fell \$13.67, or 9.9 percent*, to close
9 at \$124.34 per share on April 26, 2024.

10 38. On June 5, 2024, Defendants reaffirmed the updated 2024 sales forecast
11 at the 44th Annual William Blair Growth Stock Conference. During the conference,
12 CFO Sylvain made the following response to an analysts' questions regarding
13 DexCom's progress towards meeting its sale guidance:

14 We don't guide the quarters. So we said things are reasonable. I think it's
15 a reasonable outcome. *And in terms of the full year, as of the last*
16 *quarter, when we issued our earnings, we raised our guidance.* And so
17 that should give -- *we obviously beat the Street expectations in the first*
18 *quarter, raised guidance and continue to do well.* So I think from that
point of view, *I think we're happy with where we are. We're happy with*
our full year guidance. We don't guide to the quarters, but we were very
comfortable with where folks are sitting for the quarter.

19 39. The statements contained in ¶ 36 and ¶ 38 were materially false and/or
20 misleading because Defendants failed to disclose that: (a) DexCom's sales force
21 expansion strategy was causing slow customer growth; (b) DexCom's sales force
22 expansion strategy was undermining relationships with DME distributors, its largest
23 sales channel, leading to lower-margin revenue; and (c) DexCom's deteriorating
24 relationships with DME distributors were causing the Company to lose significant
25 market share to competitors.

26 **THE TRUTH IS FULLY REVEALED**

27 40. The truth about DexCom's failed sales force expansion strategy was fully
28 revealed on July 25, 2024. On that date, the Company issued a press release that

1 reported disappointing financial results for the second quarter of 2024 and a reduction
2 to its 2024 sales forecast with a statement acknowledging that “our execution did not
3 meet our high standards.”

4 41. In the related earnings call held the same day, DexCom explained how
5 operational problems impacted its quarterly revenue and 2024 sales forecast. During
6 the call, Defendant Sylvain explained that “we experienced lower than expected new
7 customer starts in conjunction with our sales force expansion and realignment,
8 particularly in the DME channel.” Defendant Sylvain blamed the poor results on an
9 unfavorable “channel mix,” with many customers coming through the lower-margin
10 pharmacy channel, resulting in lower revenue per customer with an impact of “\$100
11 million over the course of the year.” Defendant Sayer further admitted that DexCom’s
12 attempted sales force expansion had been a “much more disruptive expansion we’ve
13 had in the past,” and that “DME distributors remain important partners for us in our
14 business, and we’ve not executed well this quarter against these partnerships.”

15 42. Defendant Sylvain reiterated the impact of these issues on the Company’s
16 reduced full-year guidance for 2024, stating, in pertinent part:

17 Turning to guidance. Starting with full year 2024, we are decreasing our
18 revenue guidance to a range of \$4.00 billion to \$4.05 billion, representing
19 organic growth of 11% to 13% for the year. As mentioned earlier, **the**
20 **compounding effect of our slower-than-expected new customer**
21 **growth in the U.S. DME channel and international business as well as**
22 **increased pharmacy eligibility resulted in the need to recalibrate the**
23 **guide. Our updated guidance reflects these dynamics and assumes a**
24 **longer ramp in productivity in our U.S. sales force.** For margins, we
25 are reducing our non-GAAP gross profit margin guidance to
26 approximately 63%, while maintaining our prior guidance on non-GAAP
27 operating margin and adjusted EBITDA at approximately 20% and 29%,
28 respectively.

29 43. On this news, DexCom’s stock price *dropped \$43.85, or 40.7 percent*, to
30 close at \$64.00 per share on July 26, 2024.

31 44. Multiple securities analysts who had been following DexCom lowered
32 their price targets in response to these disclosures. For example, J.P. Morgan, while
33 cutting their price target nearly in half, cited the Company’s “significant” shortfall and
34

1 “damaged credibility,” and stated that “we feel very confident that this is due to
2 multiple self-inflicted issues rather than a market growth issue.”

3 45. Similarly, Bank of America noted that the earnings result was a
4 “credibility hit” for DexCom, and that “We still do not fully understand how a business
5 that should be predictable with recurring revenue could see such an outsized surprise
6 in a single quarter.” The analyst further stated that DexCom “admittedly does not even
7 fully understand why the share loss in DME happened” and that it “still needs to unpack
8 what happened in DME over the course of the year.”

9 POST-CLASS PERIOD DISCLOSURES

10 46. Dexcom further revealed the severity of its operational and sales issues
11 during the Wells Fargo Healthcare Conference call held on September 4, 2024. During
12 that call, Defendants addressed the Company’s declining market share loss resulting
13 from its sales execution problems. For example, when asked why competitors like
14 Abbott Laboratories were increasing their market share in the DME channel, Defendant
15 Sayer stated that the sales force realignment caused “a big reduction in referrals from
16 us to the DME providers in the second quarter that didn’t fit very well and didn’t sit
17 very well with our DME partners.” When asked about the steps DexCom was taking
18 to address competitor Abbott Laboratories’ increasingly dominant position in the DME
19 channel, Defendant Sayer responded:

20 With respect to our DME distributor relationships. We are scheduling
21 top-to-top meetings throughout the organization, and I’m personally
22 having phone calls with the CEOs of our top distributors as well, and those
23 phone calls will continue **on a regular basis to make sure we’re doing
what we need to in that channel to get back on the solid ground and
then eventually get back to the place where we’re on equal foot and
where we’re, where we’re supposed to be.**

24 So, we've certainly turned up the intensity. We've learned a lot through
25 this, and **we're putting literally the measures in place to get us back to
where we need to be.** But it's a process, Larry. This is not something
26 we're going to fix in we belong and fix in 2 weeks, it can take us a while
to get back to where we need to get.

CLASS ACTION ALLEGATIONS

1
2 47. Plaintiffs bring this class action under Federal Rule of Civil Procedure 23
3 on behalf of themselves and a class of all persons and entities who purchased or
4 otherwise acquired DexCom securities during the Class Period (the “Class”). Excluded
5 from the Class are Defendants, their agents, directors and officers of DexCom, and
6 their families and affiliates.

7 48. The members of the Class are so numerous that joinder of all members is
8 impracticable. The disposition of their claims in a class action will provide substantial
9 benefits to the parties and the Court. As of July 18, 2024, there were 400,726,824
10 shares of DexCom common stock outstanding, owned by thousands of investors.
11 Throughout the Class Period, DexCom stock was actively traded on the NASDAQ.
12 While the exact number of Class members is unknown to Plaintiffs at this time and can
13 be ascertained only through appropriate discovery, Plaintiffs believe that there are
14 thousands of members in the proposed Class. Record owners and other members of
15 the Class may be identified from records maintained by DexCom or its transfer agent
16 and may be notified of the pendency of this action by mail, using the form of notice
17 similar to that customarily used in securities class actions.

18 49. There is a well-defined community of interest in the questions of law and
19 fact involved in this case. Questions of law and fact common to the members of the
20 Class, which predominate over questions which may affect individual Class members,
21 include:

- 22 (a) Whether Defendants violated the Exchange Act;
- 23 (b) Whether Defendants omitted and/or misrepresented material facts;
- 24 (c) Whether Defendants’ statements omitted material facts necessary
25 in order to make the statements made, in light of the circumstances under which they
26 were made, not misleading;
- 27 (d) Whether Defendants knew or recklessly disregarded that their
28 statements were false and misleading;

- 1 (e) Whether the price of DexCom stock was artificially inflated; and
2 (f) The extent of damage sustained by members of the Class and the
3 appropriate measure of damages.

4 50. Plaintiffs' claims are typical of those of the Class because Plaintiffs and
5 the Class sustained damages from Defendants' wrongful conduct.

6 51. Plaintiffs will adequately protect the interests of the Class and has retained
7 counsel who are experienced in securities class actions. Plaintiffs have no interests that
8 conflict with those of the Class.

9 52. A class action is superior to other available methods for the fair and
10 efficient adjudication of this controversy. Joinder of all Class members is
11 impracticable.

12 **ADDITIONAL SCIENTER ALLEGATIONS**

13 53. As alleged herein, Defendants acted with scienter in that Defendants
14 knew, or recklessly disregarded, that the documents and public statements they issued
15 and disseminated to the investing public in the name of the Company, or in their own
16 name, during the Class Period were materially false and misleading. Defendants
17 knowingly and substantially participated or acquiesced in the issuance or dissemination
18 of such statements and documents as primary violations of the federal securities laws.
19 Defendants, by virtue of their receipt of information reflecting the true facts regarding
20 DexCom, and their control over and/or receipt and/or modification of DexCom's
21 materially false and misleading statements, were active and culpable participants in the
22 fraudulent scheme alleged herein.

23 54. Defendants knew or recklessly disregarded the false and misleading
24 nature of the information they caused to be disseminated to the investing public. The
25 fraudulent scheme described herein could not have been perpetrated during the Class
26 Period without the knowledge and complicity of, or at least the reckless disregard by,
27 personnel at the highest levels of the Company, including the Individual Defendants.

28

- 1 (c) the Company's stock traded in an efficient market;
- 2 (d) the misrepresentations alleged would tend to induce a reasonable
- 3 investor to misjudge the value of the Company's stock; and
- 4 (e) Plaintiffs and other members of the Class purchased DexCom stock
- 5 between the time Defendants misrepresented or failed to disclose material facts and the
- 6 time the true facts were disclosed, without knowledge of the misrepresented or omitted
- 7 facts.

8 58. At all relevant times, the market for DexCom stock was efficient for the

9 following reasons, among others:

10 (a) as a regulated issuer, DexCom filed periodic public reports with the

11 SEC;

12 (b) DexCom regularly communicated with public investors via

13 established market communication mechanisms, including through regular

14 disseminations of press releases on the major newswire services and through other

15 wide-ranging public disclosures, such as communications with the financial press,

16 securities analysts, and other similar reporting services;

17 (c) DexCom was followed by numerous securities analysts employed

18 by major brokerage firms who wrote reports that were distributed to the sales force and

19 certain customers of their respective brokerage firms and that were publicly available

20 and entered the public marketplace; and

21 (d) DexCom stock was actively traded in an efficient market, including

22 its common stock that was traded on the NASDAQ, under the ticker symbol "DXCM."

23 59. As a result of the foregoing, the market for DexCom stock promptly

24 digested current information regarding DexCom from publicly available sources and

25 reflected such information in DexCom stock prices. Under these circumstances, all

26 purchasers of DexCom stock during the Class Period suffered similar injury through

27 their purchase of DexCom stock at artificially inflated prices and the presumption of

28 reliance applies.

1 63. This Count is asserted against Defendants and is based upon Section 10(b)
2 of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder by
3 the SEC.

4 64. During the Class Period, Defendants disseminated or approved the false
5 statements specified above, which they knew or recklessly disregarded were
6 misleading in that they contained misrepresentations and failed to disclose material
7 facts necessary in order to make the statements made, in light of the circumstances
8 under which they were made, not misleading.

9 65. Defendants violated Section 10(b) of the Exchange Act and Rule 10b-5 in
10 that they:

11 (a) Employed devices, schemes, and artifices to defraud;

12 (b) Made untrue statements of material facts or omitted to state
13 material facts necessary in order to make the statements made, in light of the
14 circumstances under which they were made, not misleading; or

15 (c) Engaged in acts, practices, and a course of business that operated
16 as a fraud or deceit upon Plaintiffs and others similarly situated in connection with
17 their purchases of DexCom stock during the Class Period.

18 66. Plaintiffs and the Class have suffered damages in that, in reliance on the
19 integrity of the market, they paid artificially inflated prices for DexCom stock.
20 Plaintiffs and the Class would not have purchased DexCom stock at the prices they
21 paid, or at all, if they had been aware that the market prices had been artificially and
22 falsely inflated by Defendants' misleading statements.

23 67. As a direct and proximate result of these Defendants' wrongful conduct,
24 Plaintiffs and the other members of the Class suffered damages in connection with their
25 purchases of DexCom stock during the Class Period.

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

28

1 **COUNT II**

2 **Violations of Section 20(a) of the Exchange Act**
3 **Against the Individual Defendants**

4 69. Plaintiffs repeat and reallege the allegations contained in the preceding
5 paragraphs.

6 70. The Individual Defendants acted as controlling persons of DexCom within
7 the meaning of Section 20(a) of the Exchange Act. By virtue of their positions and
8 their power to control public statements about DexCom, the Individual Defendants had
9 the power and ability to control the actions of DexCom and its employees. By reason
10 of such conduct, Individual Defendants are liable pursuant to Section 20(a) of the
11 Exchange Act.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs, individually and on behalf of the proposed Class,
14 respectfully prays for judgment against Defendants as follows:

15 A. Determining that this action is a proper class action, designating Plaintiffs
16 as Lead Plaintiff and certifying Plaintiffs as class representatives under Rule 23 of the
17 Federal Rules of Civil Procedure and Plaintiffs' counsel as Lead Counsel;

18 B. Awarding Plaintiffs and the Class compensatory damages against all
19 Defendants, jointly and severally, for all damages sustained as a result of Defendants'
20 wrongdoing, in an amount to be proven at trial, together with pre-judgment interest
21 thereon;

22 C. Awarding Plaintiffs and the Class their reasonable costs and expenses
23 incurred in this action, including, but not limited to, attorneys' fees and costs incurred
24 by consulting and testifying expert witnesses; and

25 D. Granting such other, further, and/or different relief as the Court deems just
26 and proper.

27 **JURY DEMAND**

28 Plaintiffs demand a trial by jury.

1 Dated: October 8, 2024

Respectfully submitted,

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3 **HAGENS BERMAN SOBOL SHAPIRO
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