

David E. Bower (SBN 119546)
MONTEVERDE & ASSOCIATES PC
600 Corporate Pointe, Suite 1170
Culver City, CA 90230
Tel: (213) 446-6652
Fax: (212) 202-7880

Counsel for Plaintiff

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

MICHAEL KNAPP Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

v.

PANDORA MEDIA, INC., GREGORY
B. MAFFEI, ROGER FAXON, DAVID J.
FREAR, JASON HIRSCHHORN,
TIMOTHY LEIWEKE, ROGER J.
LYNCH, MICHAEL M. LYNTON, and
JAMES E. MEYER,

Defendant.

Civil Action No. 18-cv-6927

**CLASS ACTION COMPLAINT
DEMAND FOR JURY TRIAL
VIOLATIONS OF THE SECURITIES
EXCHANGE ACT OF 1934**

Plaintiff Michael Knapp ("Plaintiff"), by and through his undersigned attorneys, brings this stockholder class action on behalf of himself and all other similarly situated public stockholders of Pandora Media, Inc. ("Pandora" or the "Company") against Pandora and the members of the Company's board of directors (the "Board" or the "Individual Defendants," and, together with Pandora, the "Defendants") for their violations of Sections 14(a) and 20(a) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §§ 78n(a), 78t(a) respectively, and United States Securities and Exchange Commission ("SEC") Rule 14a-9, 17 C.F.R. § 240.14a-9, in connection with the acquisition of Pandora by Sirius XM Holdings Inc. ("Sirius XM") through a transaction as alleged in detail herein.

NATURE OF THE ACTION

1 1. On September 23, 2018, Pandora and Sirius XM entered into an agreement and plan
 2 of merger and reorganization (the “Merger Agreement”), pursuant to which Sirius XM will acquire
 3 Pandora. On October 25, 2018, as contemplated by the Merger Agreement, Sirius XM Radio Inc.,
 4 a Delaware corporation and wholly-owned subsidiary of Sirius XM (“Sirius XM Radio”),
 5 Billboard Holding Company, Inc., a Delaware corporation and wholly-owned subsidiary of
 6 Pandora (“New Holding Company”), and Billboard Acquisition Sub, Inc., a Delaware corporation
 7 and wholly-owned subsidiary of New Holding Company (“Holdco Merger Sub”) entered into
 8 joinder agreements to become party to the Merger Agreement.

9 2. Pursuant to the terms and conditions of the Merger Agreement, the acquisition of
 10 Pandora will be effected as follows:

- 11 1) Holdco Merger Sub will merge with and into Pandora, with Pandora
 12 surviving the holding company merger as a wholly owned subsidiary
 13 of New Holding Company (the “Holding Company Merger”) and, as a
 14 result thereof:
 a. each share of Pandora common stock will be converted into one
 share of New Holding Company common stock; and
 b. each share of Pandora preferred stock will be converted into one
 share of New Holding company preferred stock, having the same
 terms and conditions as immediately prior to the effective time
 of the Holding Company Merger;
- 17 2) immediately following the holding company merger, Pandora will be
 18 converted into a limited liability company (the “Conversion”);
- 19 3) immediately following the Conversion, Merger Sub will merge with
 20 and into New Holding Company (the “Merger”), with New Holding
 21 Company surviving the Merger as a wholly owned subsidiary of Sirius
 22 XM and, as a result thereof:
 a. each share of New Holding Company common stock will be
 converted into the right to receive 1.44 shares of Sirius XM
 common stock; and
 b. each share of New Holding Company preferred stock will
 remain issued and outstanding and will be unaffected by the
 merger; and
- 24 4) immediately following the Merger, New Holding Company with
 25 merge with and into Sirius XM Radio (the “Sirius XM Radio Merger,”
 26 and together with the Holding Company Merger, the Conversion, and
 27 the Merger, the “Proposed Transaction”), with Sirius XM Radio
 28 surviving the Sirius XM Radio merger, whereupon the separate
 existence of New Holding Company will cease and Pandora will be a
 wholly-owned subsidiary of Sirius XM Radio and, as a result thereof:

- a. each share of Sirius XM Radio will remain issued and outstanding and unaffected by such merger; and
- b. each share of capital stock of New Holding Company (including the shares of New Holding Company preferred stock) will be cancelled for no consideration.

3. In sum, each outstanding share of Pandora will be converted into the right to receive 1.44 shares of Sirius XM common stock (the “Merger Consideration”). Based on the closing price of Sirius XM’s stock on September 21, 2018 of \$6.98, the per share value of Pandora common stock implied by the Merger Consideration was \$10.25, or approximately \$3.5 billion in value.

4. On October 31, 2018, in order to convince Pandora’s public common stockholders to vote in favor of the Proposed Transaction, Defendants authorized the filing of a materially incomplete and misleading Form S-4 Registration Statement (the “Proxy”) with the SEC, in violation of Sections 14(a) and 20(a) of the Exchange Act.

5. In particular, the Proxy contains materially incomplete and misleading information concerning: (i) financial projections for Pandora; and (ii) the valuation analyses conducted by the Company’s financial advisors, Centerview Partners LLC (“Centerview”) and LionTree Advisors LLC (“LionTree,” and together with Centerview, the “Financial Advisors”).

6. The special meeting of Pandora stockholders to vote on the Proposed Transaction is approaching, as the Proposed Transaction is expected to be completed during the first quarter of 2019. It is therefore imperative that the material information that has been omitted from the Proxy is disclosed to the Company’s stockholders prior to the stockholder vote on the Proposed Transaction so that they can properly exercise their corporate suffrage rights.

7. For these reasons, and as set forth in detail herein, Plaintiff asserts claims against Defendants for violations of Sections 14(a) and 20(a) of the Exchange Act and Rule 14a-9. Plaintiff seeks to enjoin Defendants from holding the stockholder vote and taking any steps to consummate the Proposed Transaction unless and until the material information discussed below is disclosed to Pandora’s public common stockholders sufficiently in advance of the stockholder vote or, in the event the Proposed Transaction is consummated, to recover damages resulting from the Defendants’ violations of the Exchange Act.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction pursuant to Section 27 of the Exchange Act (15 U.S.C. § 78aa) and 28 U.S.C. § 1331 (federal question jurisdiction) as Plaintiff alleges violations of Section 14(a) and 20(a) of the Exchange Act.

9. This Court has jurisdiction over the Defendants because each Defendant is either a corporation that is incorporated in, conducts business in, and maintains operations within this District, or is an individual with sufficient minimum contacts with this District so as to make the exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial justice.

10. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because Plaintiff's claims arose in this District, where a substantial portion of the actionable conduct took place, where most of the documents are electronically stored, and where the evidence exists. Pandora is incorporated in this Delaware and is headquartered in this District. Moreover, each of the Individual Defendants, as Company officers or directors, either resides in this District or has extensive contacts within this District.

PARTIES

11. Plaintiff is, and has been at all times relevant hereto, a common stockholder of Pandora.

12. Defendant Pandora is a Delaware corporation and maintains its principal executive offices at 2100 Franklin Street, Suite 700, Oakland, California 94612. Pandora is the world's most powerful music discovery platform, offering a personalized experience for each of Pandora's listeners wherever and whenever they want to listen to music—whether through mobile devices, car speakers or connected devices in the home. Pandora's common stock is listed on the NYSE under the ticker symbol "P."

13. Defendant Gregory B. Maffei is, and has been at all relevant times, a director of Pandora, and currently serves as Chairman of the Board.

14. Defendant Roger Faxon is, and has been at all relevant times, a director of Pandora.

1 15. Defendant David J. Frear is, and has been at all relevant times, a director of
2 Pandora.

3 16. Defendant Jason Hirschhorn is, and has been at all relevant times, a director of
4 Pandora.

5 17. Defendant Timothy Leiweke is, and has been at all relevant times, a director of
6 Pandora.

7 18. Defendant Roger J. Lynch is, and has been at all relevant times, a director of
8 Pandora, and currently serves as the Company's President and Chief Executive Officer.

9 19. Defendant Michael M. Lynton is, and has been at all relevant times, a director of
10 Pandora.

11 20. Defendant James E. Meyer is, and has been at all relevant times, a director of
12 Pandora.

13 21. Defendant Mickie Rosen is, and has been at all relevant times, a director of Pandora.

14 22. The parties identified in paragraphs 13 through 21 are collectively referred to herein
15 as the "Individual Defendants" and/or the "Board," collectively with Pandora the "Defendants."

16 **CLASS ACTION ALLEGATIONS**

17 23. Plaintiff brings this class action pursuant to Fed. R. Civ. P. 23 on behalf of himself
18 and the other public stockholders of Pandora (the "Class"). Excluded from the Class are
19 Defendants herein and any person, firm, trust, corporation, or other entity related to or affiliated
20 with any Defendant.

21 24. This action is properly maintainable as a class action because:

- 22 (a) the Class is so numerous that joinder of all members is impracticable. As of
23 October 31, 2018, there were approximately 269.78 million shares of Pandora
24 common stock outstanding, held by hundreds to thousands of individuals and
25 entities scattered throughout the country. The actual number of public
26 stockholders of Pandora will be ascertained through discovery;

- 1 (b) there are questions of law and fact that are common to the Class that
2 predominate over any questions affecting only individual members, including
3 the following:
- 4 i. whether Defendants have misrepresented or omitted material
5 information concerning the Proposed Transaction in the Proxy, in
6 violation of Section 14(a) of the Exchange Act;
- 7 ii. whether the Individual Defendants have violated Section 20(a) of the
8 Exchange Act; and
- 9 iii. whether Plaintiff and other members of the Class will suffer
10 irreparable harm if compelled to vote their shares regarding the
11 Proposed Transaction based on the materially incomplete and
12 misleading Proxy.
- 13 (c) Plaintiff is an adequate representative of the Class, has retained competent
14 counsel experienced in litigation of this nature, and will fairly and adequately
15 protect the interests of the Class;
- 16 (d) Plaintiff's claims are typical of the claims of the other members of the Class
17 and Plaintiff does not have any interests adverse to the Class;
- 18 (e) the prosecution of separate actions by individual members of the Class would
19 create a risk of inconsistent or varying adjudications with respect to individual
20 members of the Class, which would establish incompatible standards of
21 conduct for the party opposing the Class;
- 22 (f) Defendants have acted on grounds generally applicable to the Class with
23 respect to the matters complained of herein, thereby making appropriate the
24 relief sought herein with respect to the Class as a whole; and
- 25 (g) a class action is superior to other available methods for fairly and efficiently
26 adjudicating the controversy.
- 27
28

SUBSTANTIVE ALLEGATIONS

I. Company Background and the Proposed Transaction

25. Pandora is the world's most powerful music discovery platform, offering a personalized experience for each of Pandora's listeners wherever and whenever they want to listen to music—whether through mobile devices, car speakers or connected devices in the home. Unlike traditional radio that broadcasts the same content at the same time to all of its listeners, the Company enables its listeners to create personalized stations and playlists, as well as search and play songs and albums on-demand. The Music Genome Project, Pandora's content programming algorithms and data collected from its listeners power Pandora's ability to predict listener music preferences, play music content suited to the tastes of each individual listener and introduce listeners to the music it thinks they will love. Founded by musicians, Pandora also empowers artists with valuable data and tools to help grow their audience and connect with their fans.

26. Sirius XM owns Sirius XM Radio, which is a Delaware corporation. Sirius XM Radio is the world's largest radio company measured by revenue and has approximately 33.5 million subscribers. Sirius XM Radio transmits music, sports, entertainment, comedy, talk, news, traffic, and weather channels, as well as infotainment services, in the United States on a subscription fee basis through its two proprietary satellite radio systems. Subscribers can also receive music and other channels, plus features such as Sirius XM On Demand, over its Internet radio service, including through applications for mobile devices, home devices and other consumer electronic equipment. Sirius XM also provides connected vehicle services. Sirius XM's connected vehicle services are designed to enhance the safety, security, and driving experience for vehicle operators while providing marketing and operational benefits to automakers and their dealers.

27. On September 24, 2018, Pandora and Sirius XM issued a joint press release announcing the Proposed Transaction. The press release stated, in relevant part:

**Sirius XM to Acquire Pandora, Creating World's Largest
Audio Entertainment Company**

Sirius XM to Acquire Pandora in All-Stock Transaction

Valuing Pandora at \$3.5 Billion

*Both Sirius XM and Pandora Brands, Products, and Services to
Continue*

*Complementary Transaction Adds Largest U.S. Audio Streaming
Platform to*

Sirius XM's Strong in-Car Presence

*Pandora to Benefit from Sirius XM's Scale, Industry Expertise,
and Financial Resources*

*Sirius XM to Benefit from Pandora's Mobile Strength, Digital
Presence, and Ad Capabilities*

*Investor and Analyst Call Scheduled for This Morning at 8:30 AM
ET*

NEW YORK and OAKLAND, Calif. – September 24, 2018 — Sirius XM Holdings Inc. (NASDAQ: SIRI) and Pandora Media, Inc. (NYSE: P) today announced a definitive agreement under which SiriusXM will acquire Pandora in an all-stock transaction valued at approximately \$3.5 billion. The combination creates the world's largest audio entertainment company, with more than \$7 billion in expected pro-forma revenue in 2018 and strong, long-term growth opportunities.

This strategic transaction builds on Sirius XM's position as the leader in subscription radio and a critically-acclaimed curator of exclusive audio programming with the addition of the largest U.S. audio streaming platform. Pandora's powerful music platform will enable Sirius XM to significantly expand its presence beyond vehicles into the home and other mobile areas. Following the completion of the transaction, there will be no immediate change in listener offerings.

The combined company will drive long-term growth by:

- Capitalizing on cross-promotion opportunities between SiriusXM's base of more than 36 million subscribers across North America and 23 million-plus annual trial listeners and Pandora's more than 70 million monthly active users, which represents the largest digital audio audience in the U.S.
- Leveraging Sirius XM's exclusive content and programming with Pandora's ad-supported and subscription tiers to create unique audio packages, while also utilizing Sirius XM's

extensive automotive relationships to drive Pandora's in-car distribution.

- Continuing investments in content, technology, innovation, and expanded monetization opportunities through both ad-supported and subscription services in and out of the vehicle.
- Supporting and strengthening Pandora's highly relevant brand.
- Creating a promotional platform for emerging and established artists, curated and personalized in ways to deliver the most compelling audio experience that connects artists to their fan bases, as well as new listeners.

Jim Meyer, Chief Executive Officer of Sirius XM, said, "We have long respected Pandora and their team for their popular consumer offering that has attracted a massive audience, and have been impressed by Pandora's strategic progress and stronger execution. We believe there are significant opportunities to create value for both companies' stockholders by combining our complementary businesses. The addition of Pandora diversifies Sirius XM's revenue streams with the U.S.'s largest ad-supported audio offering, broadens our technical capabilities, and represents an exciting next step in our efforts to expand our reach out of the car even further. Through targeted investments, we see significant opportunities to drive innovation that will accelerate growth beyond what would be available to the separate companies, and does so in a way that also benefits consumers, artists, and the broader content communities. Together, we will deliver even more of the best content on radio to our passionate and loyal listeners, and attract new listeners, across our two platforms."

Roger Lynch, Chief Executive Officer of Pandora, said, "We've made tremendous progress in our efforts to lead in digital audio. Together with Sirius XM, we're even better positioned to take advantage of the huge opportunities we see in audio entertainment, including growing our advertising business and expanding our subscription offerings. The powerful combination of Sirius XM's content, position in the car, and premium subscription products, along with the biggest audio streaming service in the U.S., will create the world's largest audio entertainment company. This transaction will deliver significant value to our stockholders and will allow them to participate in upside, given Sirius XM's strong brand, financial resources and track record delivering results."

Transaction Details

Pursuant to the agreement, the owners of the outstanding shares in Pandora that Sirius XM does not currently own will receive a fixed exchange ratio of 1.44 newly issued Sirius XM shares for each share

1 of Pandora they hold. Based on the 30-day volume-weighted
2 average price of \$7.04 per share of Sirius XM common stock, the
3 implied price of Pandora common stock is \$10.14 per share,
4 representing a premium of 13.8% over a 30-day volume-weighted
5 average price. The transaction is expected to be tax-free to Pandora
6 stockholders. Sirius XM currently owns convertible preferred stock
7 in Pandora that represents a stake of approximately 15% on an as-
8 converted basis.

9 The merger agreement provides for a “go-shop” provision under
10 which Pandora and its Board of Directors may actively solicit,
11 receive, evaluate and potentially enter negotiations with parties that
12 offer alternative proposals following the execution date of the
13 definitive agreement. There can be no assurance this process will
14 result in a superior proposal. Pandora does not intend to disclose
15 developments about this process unless and until its Board of
16 Directors has made a decision with respect to any potential superior
17 proposal.

18 Approvals

19 The transaction has been unanimously approved by both the
20 independent directors of Pandora and by the board of directors of
21 Sirius XM.

22 The transaction is expected to close in the first quarter of 2019. It is
23 subject to approval by Pandora stockholders, expiration or
24 termination of any applicable waiting period under the Hart-Scott-
25 Rodino Antitrust Improvements Act and certain competition laws of
26 foreign jurisdictions and other customary closing conditions.

27 Sirius XM Reiterates Full Year 2018 Outlook

28 Sirius XM reiterated its full-year 2018 guidance provided on July
25, 2018, with self-pay net subscriber additions of approximately
1.15 million; revenue over \$5.7 billion; adjusted EBITDA of
approximately \$2.175 billion, and free cash flow of approximately
\$1.5 billion.

Pandora Reiterates Q3 2018 Guidance

Pandora reiterated its third quarter 2018 guidance provided on July
31, 2018, with revenue of \$390 million to \$405 million and Adjusted
EBITDA of (\$25) million to (\$10) million.¹

¹ Pandora Media, Inc., Current Report (Form 8-K), at Exhibit 99.1 (Joint Press Release dated September 24, 2018) (September 24, 2018).

28. The Merger Consideration offered to Pandora stockholders in the Proposed Transaction is unfair and inadequate because, among other things, the intrinsic value of the Company's common stock is materially in excess of the Merger Consideration being offered for those securities in the Proposed Transaction given the Company's prospects for future growth and earnings.

29. For example, on April 29, 2018, the Company announced its First Quarter 2018 ("Q1") financial results. Highlights included Q1 Revenue was \$319.2 million, growing 12% year-over-year excluding ANZ & Ticketfly, and that Q1 Subscription revenue was \$104.7 million, growing 63% year-over-year excluding ANZ & Ticketfly.²

30. Pandora's CEO, Roger Lynch ("Lynch") commented on the Company's strong performance, noting that "[w]e, obviously, **exceeded expectations** for revenue and adjusted EBITDA in principle because we saw strength building later in the quarter."³

31. More recently, on July 31, 2018, the Company announced its Second Quarter 2018 ("Q2") financial results. Notably, the Company announced that Q2 Revenue was \$384.8 million, growing 12% year-over-year excluding Australia, New Zealand & Ticketfly, exceeding top-end of guidance, and that Q2 Subscription revenue was \$113.7 million, growing 67% year-over-year excluding Australia, New Zealand & Ticketfly.⁴

32. Lynch commented on the favorable results, stating:

We made continued progress against our strategy with total revenue growing 12%, subscription revenue up 67% and ad hour trends improving for the third straight quarter. New partnerships with top brands like Snap and AT&T, as well as enhancements to our ad tech

² Pandora Reports Q1 2018 Financial Results, *Seeking Alpha* (April 29, 2018), available at <https://seekingalpha.com/pr/17152047-pandora-reports-q1-2018-financial-results>.

³ Pandora Media (P) Q1 2018 Results - Earnings Call Transcript, *Seeking Alpha* (April 29, 2018), available at <https://seekingalpha.com/article/4169703-pandora-media-p-q1-2018-results-earnings-call-transcript?part=single>.

⁴ Pandora Reports Q2 2018 Financial Results, *Seeking Alpha* (July 29, 2018), available at <https://seekingalpha.com/pr/17231431-pandora-reports-q2-2018-financial-results> (emphasis added).

and programmatic offerings, position us to **further accelerate growth and ownership of the expanding digital audio marketplace.**

Id. (emphasis added).

33. Furthermore, even financial analysts had a favorable outlook on Pandora.

34. In fact, on September 12, 2018—less than 2 weeks before the Proposed Transaction was announced—Needham & Company, LLC financial analyst Laura Martin boosted her price target for Pandora common stock to **\$13** from \$8, **implying 38% upside**, on prospects for faster sub growth from a focus on partnerships, and lower customer acquisition costs.⁵

35. Similarly, Evercore ISI analyst Anthony DiClemente stated that the “level of consistent execution demonstrated by Pandora’s current management team is likely to strike an increasingly positive chord with investors.”⁶

36. In light of the Company’s strong recent financial results and growth potential, it appears that the Merger Consideration is not fair compensation for Pandora stockholders. It is therefore imperative that Defendants disclose the material information they have omitted from the Proxy, discussed in detail below, so that the Company’s stockholders can properly exercise their corporate suffrage rights and make a fully informed decision concerning whether to vote in favor of the Proposed Transaction.

II. The Proxy is Materially Incomplete and Misleading

37. On October 31, 2018, Defendants filed a materially incomplete and misleading Proxy with the SEC and disseminated it to Pandora’s stockholders. The Proxy solicits the Company’s stockholders to vote in favor of the Proposed Transaction. Defendants were obligated to carefully review the Proxy before it was filed with the SEC and disseminated to the Company’s stockholders to ensure that it did not contain any material misrepresentations or omissions.

⁵ Pandora +1.7% as Needham sets Street-high target, *Seeking Alpha* (September 12, 2018), available at <https://seekingalpha.com/news/3389660-pandora-plus-1-7-percent-needham-sets-street-high-target>.

⁶ Pandora stock jumps 20% after CEO talks about partnerships, self-serve ad integration, *MarketWatch, Inc* (August 1, 2018), available at <https://www.marketwatch.com/story/pandora-expects-to-gain-more-listeners-through-partnerships-ceo-says-2018-07-31>.

1 However, the Proxy misrepresents or omits material information that is necessary for the
2 Company's stockholders to make an informed voting decision in connection with the Proposed
3 Transaction.

4 38. First, the Proxy fails to provide sufficient information regarding financial
5 projections for Pandora.

6 39. With respect to the Company, the *Background of the Transactions* section of the
7 Proxy states that on June 28, 2018, the Board met and Pandora's management "discussed projected
8 operating results under **four scenarios**, including the projections previously shared with the
9 Pandora board of directors in October 2017, an updated version of such projections, reflecting both
10 actual results for the interim period and updated assumptions based on new information about
11 trends and company plans, and **two additional scenarios reflecting varying assumptions**
12 **regarding greater achievement of operating efficiencies and greater deployment of capital**
13 **against growth strategies."** See Proxy at 44 (emphasis added).

14 40. However, the *Certain Financial Forecasts* section of the Proxy selectively
15 discloses **two** sets of projections—*Pandora Scenario 1a Forecasts* and *Pandora Scenario 2*
16 *Forecasts*. See Proxy at 55-59.

17 41. Accordingly, it appears that Defendants selectively excised a recent and relevant
18 set of projections that that Board reviewed when considering the Company's strategic alternatives,
19 including remaining a standalone company.

20 42. The omission of the Pandora financial projections renders the *Certain Financial*
21 *Forecasts* section of the Proxy and Centerview's financial analyses materially incomplete and
22 misleading. If a proxy statement discloses financial projections and valuation information, such
23 projections **must be complete and accurate**. The question here is not the duty to speak, but
24 liability for not having spoken enough. With regard to future events, uncertain figures, and other
25 so-called soft information, a company may choose silence or speech elaborated by the factual basis
26 as then known—but it may not choose half-truths.

27 43. Second, the Proxy describes the Financial Advisors' fairness opinions and the
28 various valuation analyses they performed in support of their opinions. However, the description

1 of the Financial Advisors' fairness opinions and analyses fails to include key inputs and
2 assumptions underlying these analyses. Without this information, as described below, Pandora's
3 stockholders are unable to fully understand these analyses and, thus, are unable to determine what
4 weight, if any, to place on the Financial Advisors' fairness opinions in determining whether to vote
5 their shares in favor of the Proposed Transaction. This omitted information, if disclosed, would
6 significantly alter the total mix of information available to Pandora's common stockholders.

7 44. With respect to Centerview's *Discounted Cash Flow Analyses* based on the
8 *Pandora Scenario 1a Forecasts*, the Proxy fails to disclose: (i) the inputs and assumptions
9 underlying the discount rates ranging from 9.50% to 11.50%; (ii) the range of illustrative terminal
10 values for Pandora; (iii) the inputs and assumptions underlying the selection of the terminal value
11 multiples ranging from 10.0x to 12.5x; (iv) Pandora's net operating loss carryforwards as of June
12 30, 2018; and (v) Pandora's net debt. *See* Proxy at 64-65.

13 45. With respect to Centerview's *Discounted Cash Flow Analyses* based on the
14 *Pandora Scenario 2 Forecasts*, the Proxy fails to disclose: (i) the inputs and assumptions
15 underlying the discount rates ranging from 9.50% to 11.50%; (ii) the range of illustrative terminal
16 values for Pandora; (iii) the inputs and assumptions underlying the selection of the terminal value
17 multiples ranging from 10.5x to 13.0x; (iv) Pandora's net operating loss carryforwards as of June
18 30, 2018; and (v) Pandora's net debt. *See* Proxy at 65.

19 46. With respect to LionTree's *DCF Analysis for Pandora on a Stand-Alone Basis*
20 based on the *Pandora Scenario 1a Forecasts*, the Proxy fails to disclose: (i) the range of terminal
21 values for Pandora; (ii) the inputs and assumptions underlying the selection of the terminal value
22 multiples ranging from 9.5x to 11.5x; (iii) the inputs and assumptions underlying the discount rates
23 ranging from 9.00% to 10.50%; and (iv) Pandora's net debt. *See* Proxy at 73.

24 47. With respect to LionTree's *DCF Analysis for Pandora on a Stand-Alone Basis*
25 based on the *Pandora Scenario 2 Forecasts*, the Proxy fails to disclose: (i) the range of terminal
26 values for Pandora; (ii) the inputs and assumptions underlying the selection of the terminal value
27 multiples ranging from 10.0x to 12.0x; (iii) the inputs and assumptions underlying the discount
28 rates ranging from 9.00% to 10.50%; and (iv) Pandora's net debt. *See* Proxy at 73.

48. These key inputs are material to Pandora common stockholders, and their omission renders the summary of the Financial Advisors' discounted cash flow ("DCF") analyses incomplete and misleading. As a highly-respected professor explained in one of the most thorough law review articles regarding the fundamental flaws with the valuation analyses bankers perform in support of fairness opinions, in a discounted cash flow analysis a banker takes management's forecasts, and then makes several key choices "each of which can significantly affect the final valuation." Steven M. Davidoff, *Fairness Opinions*, 55 Am. U.L. Rev. 1557, 1576 (2006). Such choices include "the appropriate discount rate, and the terminal value..." *Id.* As Professor Davidoff explains:

There is substantial leeway to determine each of these, and any change can markedly affect the discounted cash flow value. For example, a change in the discount rate by one percent on a stream of cash flows in the billions of dollars can change the discounted cash flow value by tens if not hundreds of millions of dollars.... This issue arises not only with a discounted cash flow analysis, but with each of the other valuation techniques. This dazzling variability makes it difficult to rely, compare, or analyze the valuations underlying a fairness opinion unless full disclosure is made of the various inputs in the valuation process, the weight assigned for each, and the rationale underlying these choices. The substantial discretion and lack of guidelines and standards also makes the process vulnerable to manipulation to arrive at the "right" answer for fairness. This raises a further dilemma in light of the conflicted nature of the investment banks who often provide these opinions.

Id. at 1577-78 (emphasis added). Without the above-mentioned information, Pandora stockholders cannot evaluate for themselves the reliability of the Financial Advisors' DCF analyses, make a meaningful determination of whether the implied value reference ranges reflect the true value of the Pandora or, instead, are the result of Financial Advisors' unreasonable judgment, and make an informed decision regarding whether to vote their shares in the Proposed Transaction.

49. Similarly, with respect to Centerview's *Illustrative Present Value of Future Share Price Analysis* on an EV / Adjusted EBITDA Multiple Basis based on the *Pandora Scenario 1a Forecasts*, the Proxy fails to disclose: (i) the range of implied enterprise values of Pandora at the end of the year 2024; (ii) the inputs and assumptions underlying the selection of the NTM Adjusted

EBITDA multiples ranging from 10.0x to 12.5x; (iii) Pandora's net operating loss carryforwards at the end of the year 2024; (iv) Pandora's estimated net debt at the end of the year 2024; and (v) the inputs and assumptions underlying the discount rate of 11.5%. *See Proxy at 65.*

50. Likewise, with respect to Centerview's *Illustrative Present Value of Future Share Price Analysis* on an EV / Adjusted EBITDA Multiple Basis based on the *Pandora Scenario 2 Forecasts*, the Proxy fails to disclose: (i) the range of implied enterprise values of Pandora at the end of the year 2024; (ii) the inputs and assumptions underlying the selection of the NTM Adjusted EBITDA multiples ranging from 10.5x to 13.0x; (iii) Pandora's net operating loss carryforwards at the end of the year 2024; (iv) Pandora's estimated net debt at the end of the year 2024; and (v) the inputs and assumptions underlying the discount rate of 11.5%. *See Proxy at 66.*

51. With respect to Centerview's *Illustrative Present Value of Future Share Price Analysis* on an EV / Revenue Multiple Basis based on the *Pandora Scenario 1a Forecasts*, the Proxy fails to disclose: (i) Pandora's implied equity values at the end of 2020, 2021, and 2022; (ii) Pandora's net operating loss carryforwards at the end of 2020, 2021, and 2022; (iii) Pandora's estimated net debt at the end of 2020, 2021, and 2022; (iv) the inputs and assumptions underlying the discount rate of 11.5%; and (v) the inputs and assumptions underlying the selection of the EV / NTM Revenue multiples of 1.50x and 1.75x. *See Proxy at 66.*

52. With respect to Centerview's *Illustrative Present Value of Future Share Price Analysis* on an EV / Revenue Multiple Basis based on the *Pandora Scenario 2 Forecasts*, the Proxy fails to disclose: (i) Pandora's implied equity values at the end of 2020, 2021, and 2022; (ii) Pandora's net operating loss carryforwards at the end of 2020, 2021, and 2022; (iii) Pandora's estimated net debt at the end of 2020, 2021, and 2022; (iv) the inputs and assumptions underlying the discount rate of 11.5%; (v) the inputs and assumptions underlying the selection of the EV / NTM Revenue multiples of 1.75x and 2.00x. *See Proxy at 66.*

53. Given the inherent complexity of a present value analysis, small changes in the integral inputs and assumptions underlying each analysis can "drastically affect the end results of

1 your calculation.”⁷ Consequently, without the above-mentioned information, Pandora’s
 2 stockholders cannot evaluate for themselves the reliability of Centerview’s present value analysis,
 3 make a meaningful determination of whether the implied present value per share ranges reflect the
 4 true value of the Pandora or was the result of Centerview’s unreasonable judgment, and make an
 5 informed decision regarding whether to vote in favor of the Proposed Transaction, thereby
 6 rendering the summary of the analyses materially incomplete and misleading.

7 54. Similarly, with respect to Centerview’s *Illustrative Future Share Price Analysis* of
 8 Sirius XM Pro Forma based on the *Pandora Scenario 1a Forecasts*, the Proxy fails to disclose: (i)
 9 the implied pro forma equity values of Sirius XM at the end of the years 2018, 2019, 2020, and
 10 2021; (ii) Sirius XM pro forma’s net debt at the end of the years 2018, 2019, 2020, and 2021; (iii)
 11 the total number of pro forma outstanding shares of Sirius XM common stock on a fully diluted
 12 basis; and (iv) the inputs and assumptions underlying the selection of the EV / NTM Adjusted
 13 EBITDA multiples of 17.4x and 18.4x. *See* Proxy at 67.

14 55. With respect to Centerview’s *Illustrative Future Share Price Analysis* of Sirius XM
 15 Pro Forma based on the *Pandora Scenario 2 Forecasts*, the Proxy fails to disclose: (i) the implied
 16 pro forma equity values of Sirius XM at the end of the years 2018, 2019, 2020, and 2021; (ii) Sirius
 17 XM pro forma’s net debt at the end of the years 2018, 2019, 2020, and 2021; (iii) the total number
 18 of pro forma outstanding shares of Sirius XM common stock on a fully diluted basis; and (iv) the
 19 inputs and assumptions underlying the selection of the EV / NTM Adjusted EBITDA multiples of
 20 17.4x and 18.4x. *See* Proxy at 67.

21 56. In sum, the omission of the above-referenced information renders statements in the
 22 Proxy materially incomplete and misleading in contravention of the Exchange Act. Absent
 23 disclosure of the foregoing material information prior to the stockholder vote on the Proposed
 24 Transaction, Plaintiff and the other members of the Class will be unable to make a fully-informed
 25 decision regarding whether to vote their shares in favor of the Proposed Transaction, and they are
 26 thus threatened with irreparable harm, warranting the injunctive relief sought herein.

27 ⁷ Amy Gallo, *A Refresher on Net Present Value*, Harvard Business Review (Nov. 19, 2014),
 28 available at <https://hbr.org/2014/11/a-refresher-on-net-present-value>.

COUNT I**(Against All Defendants for Violations of Section 14(a) of the Exchange Act and Rule 14a-9 and 17 C.F.R. § 244.100 Promulgated Thereunder)**

57. Plaintiff incorporates each and every allegation set forth above as if fully set forth herein.

58. Section 14(a)(1) of the Exchange Act makes it “unlawful for any person, by the use of the mails or by any means or instrumentality of interstate commerce or of any facility of a national securities exchange or otherwise, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, to solicit or to permit the use of his name to solicit any proxy or consent or authorization in respect of any security (other than an exempted security) registered pursuant to section 78l of this title.” 15 U.S.C. § 78n(a)(1).

59. Rule 14a-9, promulgated by the SEC pursuant to Section 14(a) of the Exchange Act, provides that proxy communications shall not contain “any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading.” 17 C.F.R. § 240.14a-9.

60. The omission of information from a proxy will violate Section 14(a) and Rule 14a-9 if other SEC regulations specifically require disclosure of the omitted information.

61. Defendants have issued the Proxy with the intention of soliciting the Company’s common stockholders’ support for the Proposed Transaction. Each of the Defendants reviewed and authorized the dissemination of the Proxy, which fails to provide critical information regarding, amongst other things: (i) financial projections for Pandora; and (ii) the valuation analyses conducted by the Financial Advisors.

62. In so doing, Defendants made untrue statements of fact and/or omitted material facts necessary to make the statements made not misleading. Each of the Individual Defendants, by virtue of their roles as officers and/or directors, were aware of the omitted information but failed to disclose such information, in violation of Section 14(a). The Individual Defendants were

1 therefore negligent, as they had reasonable grounds to believe material facts existed that were
2 misstated or omitted from the Proxy, but nonetheless failed to obtain and disclose such information
3 to common stockholders although they could have done so without extraordinary effort.

4 63. The Individual Defendants knew or were negligent in not knowing that the Proxy
5 is materially misleading and omits material facts that are necessary to render it not misleading.
6 The Individual Defendants undoubtedly reviewed and relied upon most if not all of the omitted
7 information identified above in connection with their decision to approve and recommend the
8 Proposed Transaction; indeed, the Proxy states that the Financial Advisors reviewed and discussed
9 their financial analyses with the Board, and further states that the Board considered the financial
10 analyses provided by the Financial Advisors, as well as their fairness opinion and the assumptions
11 made and matters considered in connection therewith. Further, the Individual Defendants were
12 privy to and had knowledge of the projections for the Company and the details surrounding the
13 process leading up to the signing of the Merger Agreement. The Individual Defendants knew or
14 were negligent in not knowing that the material information identified above has been omitted
15 from the Proxy, rendering the sections of the Proxy identified above to be materially incomplete
16 and misleading. Indeed, the Individual Defendants were required to, separately, review the
17 Financial Advisors' analyses in connection with their receipt of their fairness opinions, question
18 the Financial Advisors as to their derivation of fairness, and be particularly attentive to the
19 procedures followed in preparing the Proxy and review it carefully before it was disseminated, to
20 corroborate that there are no material misstatements or omissions.

21 64. The Individual Defendants were, at the very least, negligent in preparing and
22 reviewing the Proxy. The preparation of a proxy statement by corporate insiders containing
23 materially false or misleading statements or omitting a material fact constitutes negligence. The
24 Individual Defendants were negligent in choosing to omit material information from the Proxy or
25 failing to notice the material omissions in the Proxy upon reviewing it, which they were required
26 to do carefully as the Company's directors. Indeed, the Individual Defendants were intricately
27 involved in the process leading up to the signing of the Merger Agreement.

65. Pandora is also deemed negligent as a result of the Individual Defendants' negligence in preparing and reviewing the Proxy.

66. The misrepresentations and omissions in the Proxy are material to Plaintiff and the Class, who will be deprived of their right to cast an informed vote if such misrepresentations and omissions are not corrected prior to the vote on the Proposed Transaction. Plaintiff and the Class have no adequate remedy at law. Only through the exercise of this Court's equitable powers can Plaintiff and the Class be fully protected from the immediate and irreparable injury that Defendants' actions threaten to inflict.

COUNT II

(Against the Individual Defendants for Violations of Section 20(a) of the Exchange Act)

67. Plaintiff incorporates each and every allegation set forth above as if fully set forth herein.

68. The Individual Defendants acted as controlling persons of Pandora within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their positions as officers and/or directors of Pandora, and participation in and/or awareness of the Company's operations and/or intimate knowledge of the incomplete and misleading statements contained in the Proxy, they 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 that Plaintiff contends are materially incomplete and misleading.

69. Each of the Individual Defendants was provided with or had unlimited access to copies of the Proxy by Plaintiff to be misleading prior to the date the Proxy was issued, and had the ability to prevent the issuance of the false and misleading statements or cause the statements to be corrected.

70. In particular, each of the Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company, and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the Exchange Act violations alleged herein, and exercised the same. The Proxy contains the unanimous

1 recommendation of each of the Individual Defendants to approve the Proposed Transaction. They
2 were thus directly involved in preparing this document.

3 71. In addition, as the Proxy sets forth, and as described herein, the Individual
4 Defendants were involved in negotiating, reviewing, and approving the Merger Agreement. The
5 Proxy purports to describe the various issues and information that the Individual Defendants
6 reviewed and considered. The Individual Defendants participated in drafting and/or gave their
7 input on the content of those descriptions.

8 72. By virtue of the foregoing, the Individual Defendants have violated Section 20(a)
9 of the Exchange Act.

10 73. As set forth above, the Individual Defendants had the ability to exercise control
11 over and did control a person or persons who have each violated Section 14(a) and Rule 14a-9 by
12 their acts and omissions as alleged herein. By virtue of their positions as controlling persons, these
13 Defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate
14 result of Individual Defendants' conduct, Plaintiff will be irreparably harmed.

15 74. Plaintiff and the Class have no adequate remedy at law. Only through the exercise
16 of this Court's equitable powers can Plaintiff and the Class be fully protected from the immediate
17 and irreparable injury that Defendants' actions threaten to inflict.

18 **PRAYER FOR RELIEF**

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

20 A. Declaring that this action is properly maintainable as a Class Action and certifying
21 Plaintiff as Class Representative and his counsel as Class Counsel;

22 B. Enjoining Defendants and all persons acting in concert with them from proceeding
23 with the stockholder vote or consummating the Proposed Transaction, unless and until the
24 Company discloses the material information discussed above which has been omitted from the
25 Proxy;

26 C. Directing the Defendants to account to Plaintiff and the Class for all damages
27 sustained as a result of their wrongdoing;
28

1 D. Awarding Plaintiff the costs and disbursements of this action, including reasonable
2 attorneys' and expert fees and expenses; and

3 E. Granting such other and further relief as this Court may deem just and proper.

4 **JURY DEMAND**

5 Plaintiff demands a trial by jury on all issues so triable.

6
7 DATED: November 15, 2018

8 **OF COUNSEL**

9 **MONTEVERDE & ASSOCIATES PC**

10 Juan E. Monteverde
11 The Empire State Building
12 350 Fifth Avenue, Suite 4405
13 New York, NY 10118
14 Tel: (212) 971-1341
15 Fax: (212) 202-7880
16 Email: jmonteverde@monteverdelaw.com

17 *Counsel for Plaintiff*

Respectfully submitted,

/s/ David E. Bower

David E. Bower

David E. Bower SBN 119546
MONTEVERDE & ASSOCIATES PC

600 Corporate Pointe, Suite 1170
Culver City, CA 90230

Tel: (310) 446-6652

Fax: (212) 202-7880

Email: dbower@monteverdelaw.com

Counsel for Plaintiff

CERTIFICATION OF PROPOSED LEAD PLAINTIFF

I, Michael Knapp ("Plaintiff"), declare, as to the claims asserted under the federal securities laws, that:

1. Plaintiff has reviewed a draft of the complaint and has authorized the filing of a complaint substantially similar to the one reviewed.
2. Plaintiff selects Monteverde & Associates PC and any firm with which it affiliates for the purpose of prosecuting this action as my counsel for purposes of prosecuting my claim against defendants.
3. Plaintiff did not purchase the security that is the subject of the complaint at the direction of Plaintiff's counsel or in order to participate in any private action arising under the federal securities laws.
4. Plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary.
5. Plaintiff sets forth in the attached chart all the transactions in the security that is the subject of the complaint during the class period specified in the complaint.
6. In the past three years, Plaintiff has not sought to serve nor has served as a representative party on behalf of a class in an action filed under the federal securities laws, unless otherwise specified below.
7. Plaintiff will not accept any payment for serving as a representative party on behalf of a class beyond Plaintiff's pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the Class as ordered or approved by the Court.

I declare under penalty of perjury under the laws of the United States that the foregoing information is correct to the best of my knowledge.

Signed this 15 day of November, 2018.

DocuSigned by:

Michael Knapp

75E30D149BEA43C...

Signature

[illegible]

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
Michael Knapp

(b) County of Residence of First Listed Plaintiff Salt Lake County, Utah
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
David E. Bower
Monteverde & Associates PC, 600 Corporate Pointe, Suite 1170, Culver City, CA 90230
Tel: (213) 446-6652

DEFENDANTS
Pandora Media, Inc., et al.

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff

☒ 3 Federal Question
(U.S. Government Not a Party)

☐ 2 U.S. Government Defendant

☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<div>110 Insurance</div> <div>120 Marine</div> <div>130 Miller Act</div> <div>140 Negotiable Instrument</div> <div>150 Recovery of Overpayment Of Veteran's Benefits</div> <div>151 Medicare Act</div> <div>152 Recovery of Defaulted Student Loans (Excludes Veterans)</div> <div>153 Recovery of Overpayment of Veteran's Benefits</div> <div>160 Stockholders' Suits</div> <div>190 Other Contract</div> <div>195 Contract Product Liability</div> <div>196 Franchise</div>	<div><div>PERSONAL INJURY</div><div>310 Airplane</div><div>315 Airplane Product Liability</div><div>320 Assault, Libel & Slander</div><div>330 Federal Employers' Liability</div><div>340 Marine</div><div>345 Marine Product Liability</div><div>350 Motor Vehicle</div><div>355 Motor Vehicle Product Liability</div><div>360 Other Personal Injury</div><div>362 Personal Injury -Medical Malpractice</div></div> <div><div>PERSONAL INJURY</div><div>365 Personal Injury – Product Liability</div><div>367 Health Care/ Pharmaceutical Personal Injury Product Liability</div><div>368 Asbestos Personal Injury Product Liability</div></div> <div><div>PERSONAL PROPERTY</div><div>370 Other Fraud</div><div>371 Truth in Lending</div><div>380 Other Personal Property Damage</div><div>385 Property Damage Product Liability</div></div> <div><div>CIVIL RIGHTS</div><div>440 Other Civil Rights</div><div>441 Voting</div><div>442 Employment</div><div>443 Housing/ Accommodations</div><div>445 Amer. w/Disabilities–Employment</div><div>446 Amer. w/Disabilities–Other</div><div>448 Education</div></div> <div><div>PRISONER PETITIONS</div><div>HABEAS CORPUS</div><div>463 Alien Detainee</div><div>510 Motions to Vacate Sentence</div><div>530 General</div><div>535 Death Penalty</div></div> <div><div>OTHER</div><div>540 Mandamus & Other</div><div>550 Civil Rights</div><div>555 Prison Condition</div><div>560 Civil Detainee–Conditions of Confinement</div></div>	<div>625 Drug Related Seizure of Property 21 USC § 881</div> <div>690 Other</div> <div><div>LABOR</div><div>710 Fair Labor Standards Act</div><div>720 Labor/Management Relations</div><div>740 Railway Labor Act</div><div>751 Family and Medical Leave Act</div><div>790 Other Labor Litigation</div><div>791 Employee Retirement Income Security Act</div></div> <div><div>IMMIGRATION</div><div>462 Naturalization Application</div><div>465 Other Immigration Actions</div></div>	<div>422 Appeal 28 USC § 158</div> <div>423 Withdrawal 28 USC § 157</div> <div><div>PROPERTY RIGHTS</div><div>820 Copyrights</div><div>830 Patent</div><div>835 Patent–Abbreviated New Drug Application</div><div>840 Trademark</div></div> <div><div>SOCIAL SECURITY</div><div>861 HIA (1395ff)</div><div>862 Black Lung (923)</div><div>863 DIWC/DIWW (405(g))</div><div>864 SSID Title XVI</div><div>865 RSI (405(g))</div></div> <div><div>FEDERAL TAX SUITS</div><div>870 Taxes (U.S. Plaintiff or Defendant)</div><div>871 IRS–Third Party 26 USC § 7609</div></div>	<div>375 False Claims Act</div> <div>376 Qui Tam (31 USC § 3729(a))</div> <div>400 State Reapportionment</div> <div>410 Antitrust</div> <div>430 Banks and Banking</div> <div>450 Commerce</div> <div>460 Deportation</div> <div>470 Racketeer Influenced & Corrupt Organizations</div> <div>480 Consumer Credit</div> <div>490 Cable/Sat TV</div> <div><input checked="" type="checkbox"/> 850 Securities/Commodities/Exchange</div> <div>890 Other Statutory Actions</div> <div>891 Agricultural Acts</div> <div>893 Environmental Matters</div> <div>895 Freedom of Information Act</div> <div>896 Arbitration</div> <div>899 Administrative Procedure Act/Review or Appeal of Agency Decision</div> <div>950 Constitutionality of State Statutes</div>

V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding

☐ 2 Removed from State Court

☐ 3 Remanded from Appellate Court

☐ 4 Reinstated or Reopened

☐ 5 Transferred from Another District (specify)

☐ 6 Multidistrict Litigation–Transfer

☐ 8 Multidistrict Litigation–Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. §§ 78n(a), 78t(a)

Brief description of cause:
Violations of Sections 14(a) and 20(a) of the Exchange Act and SEC Rule 14a-9

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P.

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE Jon S. Tigar

DOCKET NUMBER 3:18-cv-06847

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)
(Place an "X" in One Box Only)

☒ SAN FRANCISCO/OAKLAND

☐ SAN JOSE

☐ EUREKA-MCKINLEYVILLE

DATE

SIGNATURE OF ATTORNEY OF RECORD /s/David E. Bower

Print

Save As...

Reset

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)
 - c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment).”
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket.
- Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an “X” in this box if you are filing a class action under Federal Rule of Civil Procedure 23.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Pandora Facing Securities Suit Over Proposed Merger with Sirius XM](#)
