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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JAMES MCLEOD, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

vs.

ILLUMINA, INC., FRANCIS A.
DESOUZA, and MARC A.
STAPLEY,

Defendants

Case No.: '17CV0053 DMS NLS

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

JURY TRIAL DEMANDED

Plaintiff James McLeod (“Plaintiff”), by and through his attorneys, allege the following upon information and belief, except as to those allegations concerning Plaintiff, which are alleged upon personal knowledge. Plaintiff’s information and belief is based upon, among other things, his counsel’s investigation, which includes without limitation: (a) review and analysis of regulatory filings made by Illumina, Inc. (“Illumina” or the “Company”), with the U.S. Securities and Exchange Commission (“SEC”); (b) review and analysis of press releases and media reports issued by and

1 disseminated by Illumina; and (c) review of other publicly available information
2 concerning Illumina.

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4 **NATURE OF THE ACTION AND OVERVIEW**

5 1. This is a class action on behalf of persons and entities that acquired Illumina
6 securities between July 26, 2016, and October 10, 2016, inclusive (the “Class Period”),
7 against Defendants, seeking to pursue remedies under the Securities Exchange Act of
8 1934 (the “Exchange Act”).

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10 2. Illumina purportedly provides sequencing- and array-based solutions for
11 genetic analysis. The Company claims that its customers include genomic research
12 centers, academic institutions, government laboratories, hospitals, pharmaceutical,
13 biotechnology, agrigenomics, commercial molecular diagnostic laboratories, and
14 consumer genomics companies.
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17 3. On October 10, 2016, Illumina issued a press release entitled “Illumina
18 Announces Preliminary Revenue for Third Quarter of Fiscal Year 2016.” Therein, the
19 Company announced estimated third quarter revenue of approximately \$607 million,
20 which was lower than the Company’s third quarter revenue guidance of \$625 million to
21 \$630 million. The Company attributed the shortfall to “larger than anticipated year-
22 over-year decline in high throughput sequencing instruments.” The Company also
23 announced that it expected fourth quarter revenue to be flat to slightly up sequentially.
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1 4. On this news, Illumina’s stock price fell \$45.86 per share, or 24.8%, to
2 close at \$138.99 per share on October 11, 2016, on unusually heavy trading volume.

3 5. On November 1, 2016, Illumina announced third quarter 2016 revenue of
4 \$607 million and reiterated that the Company expected fourth quarter revenue to be flat
5 to slightly up. On an investor conference call held the same day, Defendant deSouza
6 stated that the third quarter shortfall was partly attributable to “lower-than-anticipated
7 HiSeq 2500 and 4000 orders, which we believe was driven by legacy HiSeq customers
8 favoring the HiSeq X and NextSeq platforms.” deSouza also stated that “some high-
9 throughput customers have been adopting NextSeq, given its flexible workflow, which
10 enables batching fewer samples and attractive operating costs. As a result, we will not
11 see the second half uptick in high-throughput instrument placements we had previously
12 expected.” deSouza also stressed the Company was taking steps to improve its forecasts,
13 stating “to better identify trends like this earlier, we have initiated a global forecast
14 improvement project, which I have asked Marc to lead, that will enhance both our
15 visibility and forecast accuracy.” On the same call, Defendant Stapley backed up
16 deSouza’s remarks, stating “I would like to spend a minute on the forecast process
17 improvement project that Francis mentioned. We have already started the initial phase,
18 which is expected to run until mid-December, and we’ll identify key opportunities for
19 improvement including any immediate changes that we can make to enhance our
20 visibility.”
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1 6. Throughout the Class Period, Defendants made false and/or misleading
2 statements, as well as failed to disclose material adverse facts about the Company's
3 business, operations, and prospects. Specifically, Defendants made false and/or
4 misleading statements and/or failed to disclose that: (i) the Company was experiencing a
5 large decline in high throughput sequencing instrument sales; (ii) the decline was
6 negatively impacting the Company's revenue; (iii) the Company lacked visibility into
7 trends that could have a substantial impact on the Company's financial results; (iv) as
8 such, the Company's revenue guidance was unreliable and overstated; and (v) as a result
9 of the foregoing, Defendants' positive statements about Illumina's business, operations,
10 and prospects, were false and misleading and/or lacked a reasonable basis.
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12 7. As a result of Defendants' wrongful acts and omissions, and the precipitous
13 decline in the market value of the Company's securities, Plaintiff and other Class
14 members suffered significant losses and damages.
15

16 **JURISDICTION AND VENUE**

17 8. The claims asserted herein arise under Sections 10(b) and 20(a) of the
18 Exchange Act (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder
19 by the SEC (17 C.F.R. § 240.10b-5).
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21 9. This Court has jurisdiction over the subject matter of this action pursuant to
22 28 U.S.C. §1331 and Section 27 of the Exchange Act (15 U.S.C. § 78aa).
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1 10. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391(b) and
2 Section 27 of the Exchange Act (15 U.S.C. § 78aa(c)). Substantial acts in furtherance of
3 the alleged fraud or the effects of the fraud have occurred in this Judicial District. Many
4 of the acts charged herein, including the dissemination of materially false and/or
5 misleading information, occurred in substantial part in this Judicial District. In addition,
6 the Company's headquarters are located in this Judicial District.
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9 11. In connection with the acts, transactions, and conduct alleged herein,
10 Defendants directly and indirectly used the means and instrumentalities of interstate
11 commerce, including the United States mail, interstate telephone communications, and
12 the facilities of a national securities exchange.
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14
15 **PARTIES**

16 12. Plaintiff, as set forth in the accompanying certification, incorporated by
17 reference herein, purchased Illumina securities during the Class Period, and suffered
18 damages as a result of the federal securities law violations and false and/or misleading
19 statements and/or material omissions alleged herein.
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21 13. Defendant Illumina, Inc. is a Delaware corporation with its principal
22 executive offices located at 5200 Illumina Way, San Diego, California 92122. During the
23 Class Period, the Company's common stock traded on the NASDAQ Stock Market (the
24 "NASDAQ") under the symbol "ILMN."
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1 14. Defendant Francis A. deSouza (“deSouza”) was, at all relevant times, the
2 President and Chief Executive Officer (“CEO”) of Illumina.

3 15. Defendant Marc A. Stapley (“Stapley”) was, at all relevant times, the
4 Executive Vice President, Chief Administrative Officer and Chief Financial Officer
5 (“CFO”) of Illumina.
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7 16. Defendants deSouza and Stapley are collectively referred to hereinafter as
8 the “Individual Defendants.”
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10 **SUBSTANTIVE ALLEGATIONS**

11 17. Illumina purportedly provides sequencing- and array-based solutions for
12 genetic analysis. The Company claims that its customers include genomic research
13 centers, academic institutions, government laboratories, hospitals, pharmaceutical,
14 biotechnology, agrigenomics, commercial molecular diagnostic laboratories, and
15 consumer genomics companies.
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19 **Materially False and Misleading**
20 **Statements Issued During the Class Period**

21 18. The Class Period begins on July 26, 2016. On that day, Illumina issued a
22 press release entitled “Illumina Reports Financial Results for Second Quarter of Fiscal
23 Year 2016.” Therein, the Company stated, in relevant part:
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25 SAN DIEGO--(BUSINESS WIRE)--Jul. 26, 2016-- Illumina,
26 Inc. (NASDAQ:ILMN) today announced its financial results
27 for the second quarter of fiscal year 2016.

28 **Second quarter 2016 results:**

- 1 • Revenue of \$600 million, an 11% increase compared to
2 \$539 million in the second quarter of 2015
- 3
- 4 • GAAP net income attributable to Illumina stockholders
5 for the quarter of \$120 million, or \$0.82 per diluted
6 share, compared to \$102 million, or \$0.69 per diluted
7 share, for the second quarter of 2015
- 8 • Non-GAAP net income attributable to Illumina
9 stockholders for the quarter of \$127 million, or \$0.86 per
10 diluted share, compared to \$120 million, or \$0.80 per
11 diluted share, for the second quarter of 2015 (see the
12 table entitled “Itemized Reconciliation Between GAAP
13 and Non-GAAP Net Income Attributable to Illumina
14 Stockholders” for a reconciliation of these GAAP and
15 non-GAAP financial measures)
- 16 • Cash flow from operations of \$217 million and free cash
17 flow of \$149 million for the quarter, compared to \$171
18 million and \$130 million in the prior year

16 Gross margin in the second quarter of 2016 was 70.6%
17 compared to 69.8% in the prior year period. Excluding the
18 effect of non-cash stock compensation expense and
19 amortization of acquired intangible assets, non-GAAP gross
20 margin was 72.8% for the second quarter of 2016 compared to
21 72.4% in the prior year period.

21 Research and development (R&D) expenses for the second
22 quarter of 2016 were \$124.6 million compared to \$96.2 million
23 in the prior year period. R&D expenses included \$10.7 million
24 of non-cash stock compensation expense in the second quarters
25 of 2016 and 2015. Excluding these charges and contingent
26 compensation, R&D expenses as a percentage of revenue were
27 19.0%, including 1.4% attributable to GRAIL and Helix. This
28 compares to 15.8% in the prior year period.

27 Selling, general and administrative (SG&A) expenses for the
28 second quarter of 2016 were \$148.5 million compared to

1 \$124.4 million in the prior year period. SG&A expenses
2 included \$18.9 million and \$19.6 million of non-cash stock
3 compensation expense in the second quarters of 2016 and 2015,
4 respectively. Excluding these charges, amortization of acquired
5 intangible assets, and contingent compensation, SG&A
6 expenses as a percentage of revenue were 21.2%, including
7 1.1% attributable to GRAIL and Helix. This compares to 19.2%
8 in the prior year period.

9 Depreciation and amortization expenses were \$34.4 million and
10 capital expenditures for free cash flow purposes were \$67.8
11 million during the second quarter of 2016, which excludes a
12 \$75.4 million increase in property & equipment recorded under
13 build-to-suit lease accounting since such expenses were paid for
14 by the landlord. The company repurchased \$100.0 million of
15 common stock under the previously announced discretionary
16 program. At the close of the quarter, the company held \$1.43
17 billion in cash, cash equivalents and short-term investments,
18 compared to \$1.39 billion as of January 3, 2016.

19 “We delivered solid second quarter financial results with
20 notable strength across our sequencing consumable and array
21 portfolios,” stated Francis deSouza, President and CEO. “We
22 will continue to focus on our execution to deliver the sequential
23 growth we are forecasting in the second half of the year. I
24 would like to thank Jay Flatley for his leadership and strategic
25 vision as CEO for the past 17 years and I look forward to his
26 continued contribution in his new role as Executive Chairman
27 of the Board of Directors.”

28 **Updates since our last earnings release:**

- Received orders for more than 3 million samples of the new Infinium® Global Screening Array, a highly economical tool for genetic risk screening of large global populations
- Received a product approval certificate for the MiSeqDx® Instrument and the MiSeqDx Universal Kit

1 with the Ministry of Food and Drug Safety (MFDS) in
2 South Korea

- 3 • Appointed Jay Flatley Executive Chairman of the Board
4 of Directors of Illumina and Francis deSouza President
5 and CEO
- 6 • Appointed Paula Dowdy Senior Vice President and
7 General Manager of commercial operations for Europe,
8 the Middle East and Africa

9 **Financial outlook and guidance**

10 The non-GAAP financial guidance discussed below reflects
11 certain pro forma adjustments to assist in analyzing and
12 assessing our core operational performance. Please see our
13 Reconciliation of Non-GAAP Financial Guidance included in
14 this release for a reconciliation of the GAAP and non-GAAP
15 financial measures.

16 For fiscal 2016, the company continues to project
17 approximately 12% revenue growth and non-GAAP earnings
18 per diluted share attributable to Illumina stockholders of \$3.48
19 to \$3.58. For the third quarter 2016, the company is projecting
20 revenue of \$625 million to \$630 million.

21 19. On August 2, 2016, Illumina filed its Quarterly Report with the SEC on
22 Form 10-Q for the fiscal quarter ended July 3, 2016. The Company's Form 10-Q was
23 signed by Defendant Stapley, and reaffirmed the Company's financial results announced
24 in the press release issued on July 26, 2016.

25 20. The statements referenced in ¶¶18-19 were materially false and/or
26 misleading, and failed to disclose material adverse facts about the Company's business,
27 operations, and prospects. Specifically, these statements were false and/or misleading
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1 and/or failed to disclose that: (i) the Company was experiencing a large decline in high
2 throughput sequencing instrument sales; (ii) the decline was negatively impacting the
3 Company's revenue; (iii) the Company lacked visibility into trends that could have a
4 substantial impact on the Company's financial results; (iv) as such, the Company's
5 revenue guidance was unreliable and overstated; and (v) as a result of the foregoing,
6 Defendants' positive statements about Illumina's business, operations, and prospects,
7 were false and misleading and/or lacked a reasonable basis.
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10 **Disclosures at the End of the Class Period**
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12 21. On October 10, 2016, Illumina issued a press release entitled "Illumina
13 Announces Preliminary Revenue for Third Quarter of Fiscal Year 2016." Therein, the
14 Company disclosed:
15

16 San Diego -- (BUSINESS WIRE) - October 10, 2016 -
17 Illumina, Inc. (NASDAQ: ILMN) today announced estimated
18 third quarter revenue of approximately \$607 million, a 10%
19 increase compared to \$550 million in the third quarter of 2015.
20 This unaudited estimate, based on management's preliminary
21 financial analysis, is lower than the third quarter revenue
22 guidance of \$625 million to \$630 million.

23 The shortfall in quarterly revenue was driven by a larger than
24 anticipated year-over-year decline in high throughput
25 sequencing instruments. As a result, the company expects
26 fourth quarter revenue will be flat to slightly up sequentially.

27 22. On this news, Illumina's stock price fell \$45.86 per share, or 24.8%, to
28 close at \$138.99 per share on October 11, 2016, on unusually heavy trading volume.

1 23. On November 1, 2016, Illumina announced third quarter 2016 revenue of
2 \$607 million and reiterated that the Company expected fourth quarter revenue to be flat
3 to slightly up. On an investor conference call held the same day, Defendant deSouza
4 stated:
5

6 We have identified the factors we believe drove our Q3 miss
7 and lower fourth quarter revenue guidance. . . . The other factor
8 that contributed to the second half shortfall was lower-than-
9 anticipated HiSeq 2500 and 4000 orders, which we believe was
10 driven by legacy HiSeq customers favoring the HiSeq X and
11 NextSeq platforms. The introduction of HiSeq X Ten – HiSeq
12 X in January 2014 enabled whole-genome sequencing to be
13 performed much more economically. And as a result, samples
14 have shifted to whole-genome sequencing at the expense of
15 other applications. Whole-genome sequencing on HiSeq X now
16 represents approximately 15% of all high-throughput runs
17 compared to 2% just two years ago. Additionally, the release of
18 NextSeq’s v2 reagents in 2015 brought the quality on par with
19 HiSeq. As a result, some high-throughput customers have been
20 adopting NextSeq, given its flexible workflow, which enables
21 batching fewer samples and attractive operating costs. As a
22 result, we will not see the second half uptick in high-throughput
23 instrument placements we had previously expected. To better
24 identify trends like this earlier, we have initiated a global
25 forecast improvement project, which I have asked Marc to lead,
26 that will enhance both our visibility and forecast accuracy.

27 On the same call, Defendant Stapley backed up deSouza’s remarks, stating:
28

29 In closing, I would like to spend a minute on the forecast
30 process improvement project that Francis mentioned. We have
31 already started the initial phase, which is expected to run until
32 mid-December, and we’ll identify key opportunities for
33 improvement including any immediate changes that we can
34 make to enhance our visibility. We will fold the good work
35 already underway in Europe into this process and identify areas
36 for improving global consistency, taking the best of the best

1 practices from each region and adding best-in-class practices
2 where needed. This will inevitably lead to a second stage of the
3 project next year which we anticipate will incorporate longer-
4 term tool and process implementations. I look forward to
5 updating you on our progress periodically.

6 **CLASS ACTION ALLEGATIONS**

7 24. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil
8 Procedure 23(a) and (b)(3) on behalf of a class, consisting of all persons and entities that
9 acquired Illumina securities between July 26, 2016, and October 10, 2016, inclusive (the
10 “Class Period”) and who were damaged thereby (the “Class”). Excluded from the Class
11 are Defendants, the officers and directors of the Company, at all relevant times, members
12 of their immediate families and their legal representatives, heirs, successors or assigns
13 and any entity in which Defendants have or had a controlling interest.
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16 25. The members of the Class are so numerous that joinder of all members is
17 impracticable. Throughout the Class Period, Illumina’s securities were actively traded
18 on the NASDAQ. While the exact number of Class members is unknown to Plaintiff at
19 this time and can only be ascertained through appropriate discovery, Plaintiff believes
20 that there are hundreds or thousands of members in the proposed Class. Millions of
21 Illumina shares were traded publicly during the Class Period on the NASDAQ. As of
22 October 21, 2016, Illumina had 146.9 million shares of common stock outstanding.
23 Record owners and other members of the Class may be identified from records
24 maintained by Illumina or its transfer agent and may be notified of the pendency of this
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1 action by mail, using the form of notice similar to that customarily used in securities
2 class actions.

3 26. Plaintiff's claims are typical of the claims of the members of the Class as all
4 members of the Class are similarly affected by Defendants' wrongful conduct in
5 violation of federal law that is complained of herein.
6

7 27. Plaintiff will fairly and adequately protect the interests of the members of
8 the Class and has retained counsel competent and experienced in class and securities
9 litigation.
10

11 28. Common questions of law and fact exist as to all members of the Class and
12 predominate over any questions solely affecting individual members of the Class.
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14 Among the questions of law and fact common to the Class are:
15

16 (a) whether the federal securities laws were violated by Defendants' acts
17 as alleged herein;
18

19 (b) whether statements made by Defendants to the investing public
20 during the Class Period omitted and/or misrepresented material facts about the business,
21 operations, and prospects of Illumina; and
22

23 (c) to what extent the members of the Class have sustained damages and
24 the proper measure of damages.
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26 29. A class action is superior to all other available methods for the fair and
27 efficient adjudication of this controversy since joinder of all members is impracticable.
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1 Furthermore, as the damages suffered by individual Class members may be relatively
2 small, the expense and burden of individual litigation makes it impossible for members
3 of the Class to individually redress the wrongs done to them. There will be no difficulty
4 in the management of this action as a class action.
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6 **UNDISCLOSED ADVERSE FACTS**
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8 30. The market for Illumina's securities was open, well-developed and efficient
9 at all relevant times. As a result of these materially false and/or misleading statements,
10 and/or failures to disclose, Illumina's securities traded at artificially inflated prices
11 during the Class Period. Plaintiff and other members of the Class purchased or
12 otherwise acquired Illumina's securities relying upon the integrity of the market price of
13 the Company's securities and market information relating to Illumina, and have been
14 damaged thereby.
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17 31. During the Class Period, Defendants materially misled the investing public,
18 thereby inflating the price of Illumina's securities, by publicly issuing false and/or
19 misleading statements and/or omitting to disclose material facts necessary to make
20 Defendants' statements, as set forth herein, not false and/or misleading. Said statements
21 and omissions were materially false and/or misleading in that they failed to disclose
22 material adverse information and/or misrepresented the truth about Illumina's business,
23 operations, and prospects as alleged herein.
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SCIENTER ALLEGATIONS

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2 35. As alleged herein, Defendants acted with scienter in that Defendants knew
3 that the public documents and statements issued or disseminated in the name of the
4 Company were materially false and/or misleading; knew that such statements or
5 documents would be issued or disseminated to the investing public; and knowingly and
6 substantially participated or acquiesced in the issuance or dissemination of such
7 statements or documents as primary violations of the federal securities laws. As set forth
8 elsewhere herein in detail, Defendants, by virtue of their receipt of information reflecting
9 the true facts regarding Illumina, his/her control over, and/or receipt and/or modification
10 of Illumina’s allegedly materially misleading misstatements and/or their associations
11 with the Company which made them privy to confidential proprietary information
12 concerning Illumina, participated in the fraudulent scheme alleged herein.
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17 **APPLICABILITY OF PRESUMPTION OF RELIANCE**
18 **(FRAUD-ON-THE-MARKET DOCTRINE)**

19 36. The market for Illumina’s securities was open, well-developed and efficient
20 at all relevant times. As a result of the materially false and/or misleading statements
21 and/or failures to disclose, Illumina’s securities traded at artificially inflated prices
22 during the Class Period. On October 5, 2016, the Company’s stock closed at a Class
23 Period high of \$186.17 per share. Plaintiff and other members of the Class purchased or
24 otherwise acquired the Company’s securities relying upon the integrity of the market
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1 price of Illumina's securities and market information relating to Illumina, and have been
2 damaged thereby.

3 37. During the Class Period, the artificial inflation of Illumina's stock was
4 caused by the material misrepresentations and/or omissions particularized in this
5 Complaint causing the damages sustained by Plaintiff and other members of the Class.
6 As described herein, during the Class Period, Defendants made or caused to be made a
7 series of materially false and/or misleading statements about Illumina's business,
8 prospects, and operations. These material misstatements and/or omissions created an
9 unrealistically positive assessment of Illumina and its business, operations, and
10 prospects, thus causing the price of the Company's securities to be artificially inflated at
11 all relevant times, and when disclosed, negatively affected the value of the Company
12 stock. Defendants' materially false and/or misleading statements during the Class Period
13 resulted in Plaintiff and other members of the Class purchasing the Company's securities
14 at such artificially inflated prices, and each of them has been damaged as a result.

15 38. At all relevant times, the market for Illumina's securities was an efficient
16 market for the following reasons, among others:

17 (a) Illumina stock met the requirements for listing, and was listed and
18 actively traded on the NASDAQ, a highly efficient and automated market;

19 (b) As a regulated issuer, Illumina filed periodic public reports with the
20 SEC and/or the NASDAQ;

1 (c) Illumina regularly communicated with public investors via
2 established market communication mechanisms, including through regular dissemination
3 of press releases on the national circuits of major newswire services and through other
4 wide-ranging public disclosures, such as communications with the financial press and
5 other similar reporting services; and/or
6

7 (d) Illumina was followed by securities analysts employed by brokerage
8 firms who wrote reports about the Company, and these reports were distributed to the
9 sales force and certain customers of their respective brokerage firms. Each of these
10 reports was publicly available and entered the public marketplace.
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13 39. As a result of the foregoing, the market for Illumina's securities promptly
14 digested current information regarding Illumina from all publicly available sources and
15 reflected such information in Illumina's stock price. Under these circumstances, all
16 purchasers of Illumina's securities during the Class Period suffered similar injury
17 through their purchase of Illumina's securities at artificially inflated prices and a
18 presumption of reliance applies.
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21 40. A Class-wide presumption of reliance is also appropriate in this action
22 under the Supreme Court's holding in *Affiliated Ute Citizens of Utah v. United States*,
23 406 U.S. 128 (1972), because the Class's claims are, in large part, grounded on
24 Defendants' material misstatements and/or omissions. Because this action involves
25 Defendants' failure to disclose material adverse information regarding the Company's
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1 business operations and financial prospects—information that Defendants were obligated
2 to disclose—positive proof of reliance is not a prerequisite to recovery. All that is
3 necessary is that the facts withheld be material in the sense that a reasonable investor
4 might have considered them important in making investment decisions. Given the
5 importance of the Class Period material misstatements and omissions set forth above,
6 that requirement is satisfied here.
7
8

9 **NO SAFE HARBOR**

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

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4 **FIRST CLAIM**
5 **Violation of Section 10(b) of The Exchange Act and**
6 **Rule 10b-5 Promulgated Thereunder**
7 **Against All Defendants**

8 42. Plaintiff repeats and realleges each and every allegation contained above as
9 if fully set forth herein.

10 43. During the Class Period, Defendants carried out a plan, scheme and course
11 of conduct which was intended to and, throughout the Class Period, did: (i) deceive the
12 investing public, including Plaintiff and other Class members, as alleged herein; and (ii)
13 cause Plaintiff and other members of the Class to purchase Illumina's securities at
14 artificially inflated prices. In furtherance of this unlawful scheme, plan and course of
15 conduct, Defendants, and each of them, took the actions set forth herein.
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18 44. Defendants (i) employed devices, schemes, and artifices to defraud; (ii)
19 made untrue statements of material fact and/or omitted to state material facts necessary
20 to make the statements not misleading; and (iii) engaged in acts, practices, and a course
21 of business which operated as a fraud and deceit upon the purchasers of the Company's
22 securities in an effort to maintain artificially high market prices for Illumina's securities
23 in violation of Section 10(b) of the Exchange Act and Rule 10b-5. All Defendants are
24 sued either as primary participants in the wrongful and illegal conduct charged herein or
25 as controlling persons as alleged below.
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1 45. Defendants, individually and in concert, directly and indirectly, by the use,
2 means or instrumentalities of interstate commerce and/or of the mails, engaged and
3 participated in a continuous course of conduct to conceal adverse material information
4 about Illumina's financial well-being and prospects, as specified herein.
5

6 46. These Defendants employed devices, schemes and artifices to defraud,
7 while in possession of material adverse non-public information and engaged in acts,
8 practices, and a course of conduct as alleged herein in an effort to assure investors of
9 Illumina's value and performance and continued substantial growth, which included the
10 making of, or the participation in the making of, untrue statements of material facts
11 and/or omitting to state material facts necessary in order to make the statements made
12 about Illumina and its business operations and future prospects in light of the
13 circumstances under which they were made, not misleading, as set forth more
14 particularly herein, and engaged in transactions, practices and a course of business which
15 operated as a fraud and deceit upon the purchasers of the Company's securities during
16 the Class Period.
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21 47. Each of the Individual Defendants' primary liability, and controlling person
22 liability, arises from the following facts: (i) the Individual Defendants were high-level
23 executives and/or directors at the Company during the Class Period and members of the
24 Company's management team or had control thereof; (ii) each of these Defendants, by
25 virtue of their responsibilities and activities as a senior officer and/or director of the
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1 Company, was privy to and participated in the creation, development and reporting of
2 the Company's internal budgets, plans, projections and/or reports; (iii) each of these
3 Defendants enjoyed significant personal contact and familiarity with the other
4 Defendants and was advised of, and had access to, other members of the Company's
5 management team, internal reports and other data and information about the Company's
6 finances, operations, and sales at all relevant times; and (iv) each of these Defendants
7 was aware of the Company's dissemination of information to the investing public which
8 they knew and/or recklessly disregarded was materially false and misleading.
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12 48. The Defendants had actual knowledge of the misrepresentations and/or
13 omissions of material facts set forth herein, or acted with reckless disregard for the truth
14 in that they failed to ascertain and to disclose such facts, even though such facts were
15 available to them. Such Defendants' material misrepresentations and/or omissions were
16 done knowingly or recklessly and for the purpose and effect of concealing Illumina's
17 financial well-being and prospects from the investing public and supporting the
18 artificially inflated price of its securities. As demonstrated by Defendants'
19 overstatements and/or misstatements of the Company's business, operations, financial
20 well-being, and prospects throughout the Class Period, Defendants, if they did not have
21 actual knowledge of the misrepresentations and/or omissions alleged, were reckless in
22 failing to obtain such knowledge by deliberately refraining from taking those steps
23 necessary to discover whether those statements were false or misleading.
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1 49. As a result of the dissemination of the materially false and/or misleading
2 information and/or failure to disclose material facts, as set forth above, the market price
3 of Illumina's securities was artificially inflated during the Class Period. In ignorance of
4 the fact that market prices of the Company's securities were artificially inflated, and
5 relying directly or indirectly on the false and misleading statements made by Defendants,
6 or upon the integrity of the market in which the securities trades, and/or in the absence of
7 material adverse information that was known to or recklessly disregarded by Defendants,
8 but not disclosed in public statements by Defendants during the Class Period, Plaintiff
9 and the other members of the Class acquired Illumina's securities during the Class
10 Period at artificially high prices and were damaged thereby.
11
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14 50. At the time of said misrepresentations and/or omissions, Plaintiff and other
15 members of the Class were ignorant of their falsity, and believed them to be true. Had
16 Plaintiff and the other members of the Class and the marketplace known the truth
17 regarding the problems that Illumina was experiencing, which were not disclosed by
18 Defendants, Plaintiff and other members of the Class would not have purchased or
19 otherwise acquired their Illumina securities, or, if they had acquired such securities
20 during the Class Period, they would not have done so at the artificially inflated prices
21 which they paid.
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25 51. By virtue of the foregoing, Defendants have violated Section 10(b) of the
26 Exchange Act and Rule 10b-5 promulgated thereunder.
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1 55. In particular, each of these Defendants had direct and supervisory
2 involvement in the day-to-day operations of the Company and, therefore, is presumed to
3 have had the power to control or influence the particular transactions giving rise to the
4 securities violations as alleged herein, and exercised the same.
5

6 56. As set forth above, Illumina and the Individual Defendants each violated
7 Section 10(b) and Rule 10b-5 by their acts and/or omissions as alleged in this Complaint.
8 By virtue of their positions as controlling persons, the Individual Defendants are liable
9 pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of
10 Defendants' wrongful conduct, Plaintiff and other members of the Class suffered
11 damages in connection with their purchases of the Company's securities during the Class
12 Period.
13
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15

16 **PRAYER FOR RELIEF**

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

18
19 A. Determining that this action is a proper class action under Rule 23 of the
20 Federal Rules of Civil Procedure;

21
22 B. Awarding compensatory damages in favor of Plaintiff and the other Class
23 members against all Defendants, jointly and severally, for all damages sustained as a
24 result of Defendants' wrongdoing, in an amount to be proven at trial, including interest
25 thereon;
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27
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1 C. Awarding Plaintiff and the Class their reasonable costs and expenses
2 incurred in this action, including counsel fees and expert fees; and

3
4 D. Such other and further relief as the Court may deem just and proper.

5 **JURY TRIAL DEMANDED**

6 Plaintiff hereby demands a trial by jury.

7 Dated: January 10, 2017

8 Respectfully submitted,

9 **POMERANTZ LLP**

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Attorneys for Plaintiff

CIVIL COVER SHEET

The JS 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 by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

JAMES MCLEOD, Individually and on Behalf of All Others Similarly Situated,

(b) County of Residence of First Listed Plaintiff Woodford County, Kentucky (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Jennifer Pafiti
Pomerantz LLP, 468 North Camden Drive, Beverly Hills, CA 90210
(818) 532-6499

DEFENDANTS

ILLUMINA, INC., FRANCIS A. DESOUZA, and MARC A. STAPLEY,

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

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

Attorneys (If Known) '17CV0053 DMS NLS

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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship in US and foreign countries, and incorporation status.

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

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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
6 Multidistrict Litigation

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. §§ 78j(b) and 78t(a) and Rule 10b-5 promulgated thereunder by the SEC (17 C.F.R. § 240.10b-5)
Brief description of cause: The Complaint alleges that Defendants violated Sections 10(b) and 20(a) of the Securities Exchange Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE Judge M. James Lorenz DOCKET NUMBER 16-cv-03044

DATE 01/10/2017 SIGNATURE OF ATTORNEY OF RECORD /s/Jennifer Pafiti

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 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 by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating 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 Rule 8(a), F.R.Cv.P., 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.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 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.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 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 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.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- 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 Rule 23, F.R.Cv.P.
 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 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.

**CERTIFICATION PURSUANT
TO FEDERAL SECURITIES LAWS**

1. I, James N. MacLeod, make this declaration pursuant to Section 27(a)(2) of the Securities Act of 1933 ("Securities Act") and/or Section 21D(a)(2) of the Securities Exchange Act of 1934 ("Exchange Act") as amended by the Private Securities Litigation Reform Act of 1995.
2. I have reviewed a Complaint against Illumina, Inc. ("Illumina" or the "Company"), and authorize the filing of a comparable complaint on my behalf.
3. I did not purchase or acquire Illumina securities at the direction of plaintiffs counsel or in order to participate in any private action arising under the Securities Act or Exchange Act.
4. I am willing to serve as a representative party on behalf of a Class of investors who purchased or acquired Illumina securities during the class period, including providing testimony at deposition and trial, if necessary. I understand that the Court has the authority to select the most adequate lead plaintiff in this action.
5. To the best of my current knowledge, the attached sheet lists all of my transactions in Illumina securities during the Class Period as specified in the Complaint.
6. During the three-year period preceding the date on which this Certification is signed, I have not sought to serve as a representative party on behalf of a class under the federal securities laws.
7. I agree not to accept any payment for serving as a representative party on behalf of the class as set forth in the Complaint, beyond my pro rata share of any recovery, except such reasonable costs and expenses directly relating to the representation of the class as ordered or approved by the Court.

8. I declare under penalty of perjury that the foregoing is true and correct.

Executed January 3, 2017
(Date) ✓

James N. MacLeod
(Signature)

James N. MacLeod
(Type or Print Name)

ILLUMINA, INC. (ILMN)

MacLeod, James N.

LIST OF PURCHASES AND SALES

| DATE | PURCHASE OR SALE | NUMBER OF SHS/UTS | PRICE PER SH/UT |
|-------------|-----------------------------|------------------------------|----------------------------|
| 10/6/2016 | Purchase | 135 | \$184.4790 |

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Illumina, Execs Facing Securities Class Action Lawsuit](#)
