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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10 WESTERN DIVISION

11 LOCAL 272 LABOR-MANAGEMENT)
12 PENSION FUND, on Behalf of Itself)
and All Others Similarly Situated,)

13 Plaintiff,)

14 vs.)

15 THE WALT DISNEY COMPANY,)
16 ROBERT CHAPEK, CHRISTINE M.)
McCARTHY, and KAREEM DANIEL,)

17 Defendants.)

Case No. 2:23-cv-03661

CLASS ACTION

COMPLAINT FOR VIOLATIONS OF
THE FEDERAL SECURITIES LAWS

DEMAND FOR JURY TRIAL

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1 Plaintiff Local 272 Labor-Management Pension Fund (“plaintiff”), on behalf
2 of itself and all other persons similarly situated, by plaintiff’s undersigned attorneys,
3 for plaintiff’s complaint against defendants, alleges the following based upon
4 personal knowledge as to plaintiff and plaintiff’s own acts, and upon information
5 and belief as to all other matters based on the investigation conducted by and through
6 plaintiff’s attorneys, which included, among other things, a review of certain U.S.
7 Securities and Exchange Commission (“SEC”) filings, public statements and press
8 releases by The Walt Disney Company (“Disney” or the “Company”), as well as
9 media reports about the Company and the facts alleged herein.¹ Plaintiff believes
10 that substantial evidentiary support will exist for the allegations set forth herein after
11 a reasonable opportunity for discovery.

12 **JURISDICTION AND VENUE**

13 1. Jurisdiction is conferred by §27 of the Securities Exchange Act of 1934
14 (“Exchange Act”), 15 U.S.C. §78aa. The claims asserted herein arise under §§10(b)
15 and 20(a) of the Exchange Act, 15 U.S.C. §§78j(b) and 78t(a), and SEC Rule 10b-5
16 promulgated thereunder, 17 C.F.R. §240.10b-5. This Court has jurisdiction over the
17 subject matter of this action under 28 U.S.C. §1331 and §27 of the Exchange Act.

18 2. Venue is proper in this District pursuant to §27 of the Exchange Act
19 and 28 U.S.C. §1391(b) because the Company conducts business and resides in this
20 District, and the events and omissions giving rise to the claims asserted herein
21 occurred in substantial part in this District, including the dissemination of false and
22 misleading statements in and from this District. Disney is headquartered in this
23 District.

24 3. In connection with the acts alleged in this complaint, defendants,
25 directly or indirectly, used the means and instrumentalities of interstate commerce,
26

27 _____
28 ¹ Emphasis has been added unless otherwise noted.

1 including, but not limited to, the mails, interstate telephone communications, and the
2 facilities of the national securities markets.

3 **NATURE OF THE ACTION**

4 4. This is a securities class action on behalf of all purchasers of Disney
5 common stock between December 10, 2020 and November 8, 2022, inclusive (the
6 “Class Period”). Plaintiff seeks to pursue remedies against Disney and certain of the
7 Company’s current and former senior executives under §§10(b) and 20(a) of the
8 Exchange Act, and SEC Rule 10b-5 promulgated thereunder.

9 **PARTIES**

10 5. Plaintiff Local 272 Labor-Management Pension Fund, as set forth in
11 the accompanying certification, which is incorporated by reference herein,
12 purchased Disney common stock during the Class Period and has been damaged
13 thereby.

14 6. Defendant Disney is a Delaware corporation whose headquarters are
15 located in Burbank, California. The Company’s common stock is listed on the New
16 York Stock Exchange (“NYSE”) under the ticker symbol “DIS.”

17 7. Defendant Robert Chapek (“Chapek”) was named Disney’s Chief
18 Executive Officer (“CEO”) in February 2020 and served in that role until he was
19 fired by the Company’s Board of Directors (“Board”) in November 2022. Prior to
20 that time, Chapek served in a variety of roles since he joined the Company in 1993,
21 including Chairman of Disney Parks, Experiences and Products; Chairman of Walt
22 Disney Parks and Resorts; President of Disney Consumer Products; and President of
23 Distribution for Walt Disney Studios. Chapek became a Director of the Company
24 in 2020 and served on the Board’s Executive Committee until his departure.

25 8. Defendant Christine M. McCarthy (“McCarthy”) has served as Chief
26 Financial Officer (“CFO”) of Disney since 2015. Prior to that time McCarthy served
27 as Executive Vice President, Corporate Real Estate, Alliances and Treasurer of the
28

1 Company. Before joining the Company in 2000, she worked in the banking industry
2 holding various positions at Imperial Bancorp and First Interstate Bancorp.

3 9. Defendant Kareem Daniel (“Daniel”) began working at Disney after he
4 was hired by Chapek as an intern while studying for his MBA at Stanford. After
5 receiving his MBA, Daniel took a job in investment banking at Goldman Sachs,
6 where he worked for approximately three years before returning to Disney. Daniel
7 held numerous positions at Disney including Director of Corporate Strategy (where
8 he worked on mergers and acquisitions), Vice President of Distribution Strategy at
9 Walt Disney Studios, and Executive Vice President of Global Business Operations
10 at Walt Disney Imagineering (the group that designs theme park attractions). As
11 part of defendant Chapek’s October 2020 reorganization of the Company, Chapek
12 promoted Daniel to be Chairman of the newly created Disney Media and
13 Entertainment Distribution segment, as explained below, where Daniel functioned
14 as Chapek’s “right-hand man.”

15 10. Defendants referenced above in ¶¶7-9 are referred to herein as the
16 “Individual Defendants.” The Individual Defendants and the Company are referred
17 to herein as “defendants.”

18 11. Each of the Individual Defendants was directly involved in the
19 management and day-to-day operations of the Company at the highest levels and
20 was privy to confidential proprietary information concerning the Company and its
21 business, operations, services, plans, and present and future business prospects. In
22 addition, the Individual Defendants were involved in drafting, producing, reviewing
23 and/or disseminating the false and misleading statements and information alleged
24 herein, and were aware of, or recklessly disregarded, the false and misleading
25 statements being issued regarding the Company, and approved or ratified these
26 statements, in violation of the federal securities laws.

27 12. As officers and controlling persons of a publicly held company whose
28 securities are registered with the SEC pursuant to the Exchange Act and traded on

1 the NYSE, which is governed by the provisions of the federal securities laws, the
2 Individual Defendants each had a duty to promptly disseminate accurate, truthful,
3 and complete information with respect to the Company's operations, business,
4 services, expenditures, and present and future business prospects. In addition, the
5 Individual Defendants each had a duty to correct any previously issued statements
6 that were materially misleading or untrue, so that the market price of the Company's
7 publicly traded shares would be based upon truthful, accurate, and complete
8 information. Defendants' false and/or misleading misrepresentations and omissions
9 during the Class Period violated these specific requirements and obligations.

10 13. The Individual Defendants, because of their positions of control and
11 authority as officers and/or directors of the Company, were able to, and did, control
12 the contents of various SEC filings, press releases, and other public statements
13 pertaining to the Company. Each Individual Defendant was provided with copies of
14 the documents alleged herein to be false and misleading before or shortly after their
15 issuance, participated in conference calls with investors during which false and
16 misleading statements were made, and had the ability and opportunity to prevent
17 their issuance or cause them to be corrected. Accordingly, each Individual
18 Defendant is responsible for the accuracy of the public statements detailed herein
19 and is, therefore, primarily liable for the representations contained therein.

20 BACKGROUND

21 **The Walt Disney Company**

22 14. The Walt Disney Company (originally known as Disney Brothers
23 Cartoon Studio) was founded in 1923 by brothers Walt and Roy Disney. The
24 Company began with the sale of *Alice's Wonderland*, a black-and-white silent film
25 featuring a live-action girl who interacted with animated characters. After making
26 a series of these "Alice Comedies" the Company transitioned to an all-cartoon series
27 based on a character named Oswald the Lucky Rabbit before ultimately launching
28 another cartoon series based on its now iconic character Mickey Mouse.

1 15. A century later, Disney stands as the world’s largest entertainment
2 group. The Company, together with its subsidiaries, engages in the film and episodic
3 television content production and distribution business; operates television networks
4 under the ABC, Disney, ESPN, Freeform, FX, Fox, National Geographic, and Star
5 brands; and runs studios that produce films under the Walt Disney Pictures, 20th
6 Century Studios, Marvel, Lucasfilm, Pixar, and Searchlight Pictures banners.

7 16. Disney also offers direct-to-consumer (“DTC” or “D2C”) streaming
8 services through Disney+, Disney+ Hotstar, ESPN+, Hulu, and Star+; sells and
9 licenses film and television content to third-party television and subscription video-
10 on-demand services; operates theatrical, home entertainment, and music distribution
11 services; stages and licenses live entertainment events; and offers post-production
12 services by Industrial Light & Magic and Skywalker Sound.

13 17. In addition, the Company operates theme parks and resorts (such as
14 Walt Disney World Resort in Florida, Disneyland Resort in California, Disneyland
15 Paris, Hong Kong Disneyland Resort, and Shanghai Disney Resort), Disney Cruise
16 Line, Disney Vacation Club, National Geographic Expeditions, Adventures by
17 Disney, and Aulani, a Disney resort and spa in Hawaii.

18 18. Further, Disney licenses its intellectual property to a third party who
19 owns and operates the Tokyo Disney Resort; offers consumer products, including
20 by the licensing of trade names, characters, visual, literary, and other IP for use on
21 merchandise, published materials, and games; operates a direct-to-home satellite
22 distribution platform; sells branded merchandise through retail, online, and
23 wholesale businesses; and develops and publishes books, comic books, and
24 magazines.

25 **In February 2020, Defendant Chapek**
26 **Replaced Disney’s Longtime CEO Robert Iger**

27 19. In February 2020, Disney announced that then-CEO Robert Iger
28 (“Iger”) would be stepping down after a storied, 15-year career leading the

1 Company. Iger assumed the role of Executive Chairman and was to direct the
2 Company's creative endeavors, while leading the Board and providing the benefit
3 of his experience, leadership, and guidance through the end of his contract on
4 December 31, 2021.

5 20. Iger reportedly handpicked Chapek, who had worked under Iger for
6 more than a decade, as his successor. "With the successful launch of Disney's direct-
7 to-consumer businesses and the integration of Twenty-First Century Fox well
8 underway, I believe this is the optimal time to transition to a new CEO," Iger said at
9 the time. "I have the utmost confidence in Bob and look forward to working closely
10 with him over the next 22 months as he assumes this new role and delves deeper into
11 Disney's multifaceted global businesses and operations, while I continue to focus on
12 the Company's creative endeavors."

13 **The COVID-19 Pandemic Hit Shortly**
14 **After Chapek Took Over**

15 21. Just one month after Chapek became CEO, the COVID-19 coronavirus
16 spread rapidly around the globe – with the World Health Organization officially
17 declaring it a pandemic in March 2020. In response, many countries enacted various
18 forms of lockdowns restricting their citizens' movement and work in an effort to
19 contain the spread of the virus.

20 22. The pandemic and related lockdowns negatively impacted Disney's
21 businesses, forcing the Company to shutter its theme parks, resorts, and cruise lines.
22 Movie distribution, historically the Company's most lucrative distribution channel,
23 was all but eliminated as were live sports, a key programming source for Disney's
24 television networks. The economic impact on the Company was swift and severe.
25 In May 2020, Disney announced the suspension of its dividend. In August 2020, the
26 Company reported its first quarterly loss in 19 years. And in November 2020, the
27 Company reported its first annual loss in more than 40 years.
28

1 **Defendant Chapek Reorganized the Company**
2 **Around Its New Streaming Service Disney+**

3 23. While most of Disney’s businesses suffered in the wake of the COVID-
4 19 pandemic, subscriptions to the Company’s new streaming service Disney+
5 rapidly took off. When Disney+ was launched in the United States in November
6 2019 (before Chapek took over) Disney set an initial target of 60 million to 90
7 million subscribers by the end of fiscal 2024.² After Chapek assumed leadership of
8 the Company, however, the service experienced higher growth than originally
9 anticipated, gaining over 50 million subscribers in its first five months online (by
10 April 2020) and nearly 74 million subscribers in its first year (by November 2020).
11 Thus, the success of Disney+ became virtually the only bright spot in an otherwise
12 bleak start to Chapek’s tenure as CEO.

13 24. Against this backdrop, Chapek decided to ‘go all in’ on Disney’s DTC
14 streaming strategy, essentially staking his legacy on the success or failure of
15 Disney+. To that end, in October 2020, Disney announced a major reorganization
16 of the Company’s media and entertainment operations. The new structure was
17 reportedly designed to further accelerate the Company’s focus on a DTC strategy,
18 in light of the rapid success of Disney+. As defendant Chapek explained in an
19 interview on *CNBC*, the reorganization was intended to “accelerate our transition to
20 a real direct-to-consumer priority company.” He continued: “We believe that we’ve
21 got the opportunity to build upon the success of Disney+, which by almost any
22 measure has been far and above anybody’s expectations and really use this to
23 catalyze our growth and increase shareholder wealth.”

24 25. Disney issued a press release that similarly characterized the pivot as
25 being based on the success of Disney+, stating in relevant part as follows:
26

27 ² Disney’s fiscal year ends on the Saturday closest to September 30th of the
28 calendar year.

1 In light of the tremendous success achieved to date in the Company's
2 direct-to-consumer business and to further accelerate its DTC strategy,
3 The Walt Disney Company today announced a strategic reorganization
4 of its media and entertainment businesses. Under the new structure,
5 Disney's world-class creative engines will focus on developing and
6 producing original content for the Company's streaming services, as
7 well as for legacy platforms, while distribution and commercialization
8 activities will be centralized into a single, global Media and
9 Entertainment Distribution organization. The new Media and
10 Entertainment Distribution group will be responsible for all
11 monetization of content – both distribution and ad sales – and will
12 oversee operations of the Company's streaming services. It will also
13 have sole P&L accountability for Disney's media and entertainment
14 businesses.

15 26. The reorganization represented a dramatic departure from Disney's
16 historical reporting structure and was hugely controversial within the Company
17 because it took power away from creative content-focused executives and
18 centralized it in a new reporting group led by defendant Daniel who reported directly
19 to defendant Chapek. Prior to the announcement, the Company was organized into
20 four reporting segments: (i) Media Networks; (ii) Parks, Experiences and Products;
21 (iii) Studio Entertainment; and (iv) Direct-to-Consumer & International. Chapek
22 reorganized the Company into just two reporting segments: (i) Disney Media and
23 Entertainment Distribution ("DMED"); and (ii) Disney Parks, Experiences and
24 Products ("DPEP").

25 27. Following the reorganization, the distribution and commercialization
26 activities of the Company's media and entertainment operations were centralized
27 into a single reporting segment, namely DMED. DMED's operating results were in
28 turn reported across three distribution platforms/significant lines of business: (i)

1 Direct-to Consumer (*i.e.*, streaming); (ii) Linear Networks (*i.e.*, cable and broadcast
2 television networks); and (iii) Content Sales/Licensing (primarily comprising
3 theatrical, home entertainment, and third-party television and subscription video-on-
4 demand (“TV/SVOD”) distribution globally).

5 28. Thus, DMED became responsible for the monetization of all Disney
6 content globally – both distribution and advertising sales – and oversaw the
7 operations of the Company’s streaming services. With this new structure, Chapek
8 removed budgetary and distribution control from the heads of Disney’s content
9 groups (much to their dismay) and placed control in the hands of DMED’s new
10 Chairman, defendant Daniel, who reported directly to his long-time mentor Chapek.
11 Daniel oversaw the profit and loss management, distribution, operations, sales,
12 advertising, data, and technology functions for all of the Company’s content
13 worldwide. In this way, defendants Daniel and Chapek exerted near complete
14 control over the Company’s strategic decisions around content.

15 29. Critically, DMED was responsible for determining which platform the
16 Company’s content would be released on, whether it be a streaming service, a
17 television network, or traditional movie theaters. “There is a seismic shift happening
18 in the marketplace, and you can either lead or follow and we chose to lead,” Chapek
19 said of the Company’s push into streaming, adding that the focus is now on “what
20 platform is best to meet those consumer needs.”

21 30. “Given the incredible success of Disney+ and our plans to accelerate
22 our direct-to-consumer business, we are strategically positioning our Company to
23 more effectively support our growth strategy and increase shareholder value,”
24 Chapek said at the time. Chapek further explained that:

25 Managing content creation distinct from distribution will allow us to be
26 more effective and nimble in making the content consumers want most,
27 delivered in the way they prefer to consume it. Our creative teams will
28 concentrate on what they do best – making world-class franchise-based

1 content – while our newly centralized global distribution team will
2 focus on delivering and monetizing that content in the most optimal
3 way across all platforms, including Disney+, Hulu, ESPN+ and the
4 coming Star International streaming service.

5 **Defendants’ Fraudulent Scheme**

6 31. During the Class Period, defendants repeatedly misled investors about
7 the success of the Disney+ platform by concealing the true costs of the platform,
8 concealing the expense and difficulty of maintaining robust Disney+ subscriber
9 growth, and claiming that the platform was on track to achieve profitability *and* 230-
10 260 million paid global subscribers by the end of fiscal year 2024.

11 32. Defendants made these representations notwithstanding the fact that
12 initial subscriber numbers for Disney+ had been boosted temporarily and
13 unsustainably by a low launch price of \$6.99 per month, a bevy of additional short-
14 term, low-cost promotions, and a near-captive audience of consumers who were
15 homebound due to COVID-19 restrictions. As a result, the consumers most likely
16 to subscribe to Disney+ had already done so by the start of the Class Period.
17 Furthermore, Disney was suffering staggering costs in creating the content needed
18 to attract such a large number of subscribers in the highly competitive streaming
19 wars that were then raging among Disney’s many competitors such as Netflix, Apple
20 TV+, Amazon Prime, Paramount+, HBO Max, YouTube, and Peacock. In truth,
21 during the Class Period, Disney+ was never on track to achieve the 2024 profitability
22 and subscriber figures provided to investors and such estimates lacked a reasonable
23 basis in fact.

24 33. To conceal these adverse facts, defendants engaged in a fraudulent
25 scheme designed to hide the extent of Disney+ losses and to make the growth
26 trajectory of Disney+ subscribers appear sustainable and 2024 Disney+ targets
27 appear achievable when they were not. Specifically, defendants used the newly
28 created DMED to inappropriately shift costs out of the Disney+ platform and onto

1 legacy platforms. DMED, under the direction of Chapek and Daniel and with the
2 knowledge of McCarthy, debuted content created for Disney+ initially on a legacy
3 platform in order to shift marketing and production costs onto that platform. Under
4 the newly reorganized Company, the initial costs of marketing campaigns were
5 generally recognized in the DMED distribution platform of initial exploitation, with
6 allocation of programming and production costs driven by distribution of the
7 relevant content across windows. As part of a scheme to make Disney+'s financial
8 performance appear more successful than it was, defendants aired certain shows that
9 were supposed to be Disney+ originals – such as the mystery show *The Mysterious*
10 *Benedict Society* and the medical drama *Doogie Kameāloha, M.D.* – first on legacy
11 television networks such as the Disney Channel. By doing so, a significant portion
12 of the marketing and production costs of the shows were shifted away from Disney+
13 and on to the legacy platforms. Despite this cost-shifting scheme, defendants
14 repeatedly represented during the Class Period that platform distribution decisions
15 were made based on different reasons, such as customer preferences and what was
16 best for the business commercially.

17 34. Defendants implemented this scheme almost from the beginning of the
18 October 2020 reorganization, indicating the intent to shift costs in this manner was
19 a motivating factor behind the reorganization. For example, *The Mysterious*
20 *Benedict Society* was cast in early 2020 and began production in November 2020,
21 only one month after Disney announced the creation of DMED and one month before
22 the 2020 Investor Day which starts the Class Period.

23 **DEFENDANTS' MATERIALLY FALSE AND MISLEADING**
24 **STATEMENTS AND OMISSIONS ISSUED**
25 **DURING THE CLASS PERIOD**

26 35. The Class Period begins on December 10, 2020. On that date, Disney
27 broadcast the Company's 2020 Investor Day presentation from its Burbank
28 headquarters. The presentation was designed to update investors about the
Company's businesses, reorganization, and plans, particularly those concerning the

1 Company's DTC strategies. All of the Individual Defendants delivered prepared
2 remarks; and defendants Chapek and McCarthy also answered questions from
3 analysts. Shortly after the conclusion of the presentation, Disney made a replay of
4 the event available and posted downloadable slides that accompanied the
5 presentation on the Company's website.

6 36. Defendant Chapek boasted at the outset of his 2020 Investor Day
7 presentation that the Company had already met its original Disney+ subscriber
8 estimate, stating in relevant part as follows:

9 Disney+ has exceeded our wildest expectations with 86.8 million
10 subscribers as of December 2. That's quite an achievement. This
11 success has bolstered our confidence in our continued acceleration
12 towards a DTC-first business model. And more importantly, it's
13 launched The Walt Disney Company into a new era of delivering
14 consumers truly exceptional entertainment build around our world
15 renowned brands and franchises.

16 37. Defendant Chapek then discussed how the Company's new distribution
17 and commercialization team (DMED) would distribute Disney's content on the
18 platform most beneficial to consumers, stating in pertinent part as follows:

19 Our unique access to an incredible number of consumer touch
20 points across our businesses gives us a clear advantage. Based on
21 insights gained from this wealth of data, our distribution and
22 commercialization team is able to better inform our creatives of
23 consumer preferences. And the creative teams are empowered to make
24 the high-quality branded entertainment they believe will resonate with
25 audiences. This new organization also gives us maximum flexibility in
26 determining when and on which platform content will be available.
27 And this is especially important now given consumers' rapidly
28

1 changing consumption behaviors and the prolonged uncertainty due to
2 the pandemic.

3 *As circumstances change, we will continue to consider these*
4 *and other critical factors when determining what steps we may take*
5 *to most effectively distribute our programming. Our goal is always to*
6 *serve consumers in the best way possible.*

7 38. During defendant Daniel's presentation, he emphasized that the
8 Company would distribute Disney's content on the platform most beneficial to
9 consumers, stating in relevant part as follows:

10 As a company, we were set up to achieve success in an
11 increasingly dynamic environment. *And as Bob mentioned, consumer*
12 *behavior really does drive our decision-making. While we have*
13 *always valued the data gained through our numerous consumer*
14 *touch points, the rapid growth of our portfolio of D2C services*
15 *provides us with an even greater opportunity to understand their*
16 *preferences. And we are using these insights to help determine how*
17 *to optimally engage with our audiences. In fact, our team uses all of*
18 *the information available to us when determining how best to allocate*
19 *our creative content budgets across all platforms, with the goal to*
20 *maximize both audience engagement and commercial impact.* And
21 we share this budgetary framework and critical insights with our
22 creative partners as part of a truly collaborative planning process that
23 delivers high-quality branded entertainment to achieve our established
24 growth objectives for all of our platforms, from direct-to-consumer to
25 linear networks to theatrical exhibition.

26 This exchange of information is a key pillar to our organization's
27 overall strategy, which also relies on the increased flexibility provided
28 by our mix of distribution options, including, in no particular order,

1 releasing content through traditional windows, such as theaters and
2 linear networks before it is made available on our direct-to-consumer
3 services, particularly recognizing the actual exhibition's ability to help
4 establish major franchises that are at the heart of our Disney flywheel;
5 providing our accretive output simultaneously, day and date on both
6 traditional and D2C platforms, in concert with our premier access
7 commercialization strategy for the D2C component; and exclusively
8 distributing our content on our streaming services, providing a constant
9 flow of new titles for subscriber acquisition and to minimize churn. Of
10 course, regardless of where it originates, all of our films and episodic
11 series will inevitably end up as part of our incredibly rich and
12 increasingly robust library of content on our D2C platforms.

13 *Since streaming has quickly become a preferred method of*
14 *consumption, we are prioritizing our D2C platforms, both in terms of*
15 *how we distribute our content and also through an increased*
16 *investment in our original programming for Disney+, Hulu, ESPN+*
17 *and the upcoming Star-branded international general entertainment*
18 *offering.*

19 * * *

20 *One of the primary benefits of our new organizational structure*
21 *is our ability to quickly reevaluate and adjust our plans in light of*
22 *changes in the marketplace, and we will continue to shift and optimize*
23 *our mix of window theatrical, day-and-date and D2C exclusive*
24 *offerings according to what is best for the consumer and our business.*

1 39. During defendant McCarthy's presentation, she provided profitability
2 and subscriber estimates for Disney+ (and related foreign streaming services such as
3 Disney+ Hotstar³), stating in pertinent part as follows:

4 *Today, I'm going to provide guidance across our services for*
5 *fiscal 2024 to be consistent with the time frame we guided to at our*
6 *last Investor Day.* Let me start with Disney+ which, as you heard
7 earlier today, had 86.8 million total paid subscribers as of December 2,
8 approximately 30% of which were Disney+ Hotstar subscribers.

9 * * *

10 If you recall, last year, we said that we expected Disney+ to have
11 between 60 million and 90 million subscribers by the end of fiscal 2024.
12 But as you know, our subscriber growth to date is well ahead of our
13 original expectations. And we have an incredible and growing slate of
14 high-quality content that will capture a broader global audience and
15 further fuel Disney+, making it what we believe is an even more
16 compelling product.

17 These factors, along with the addition of our Star general
18 entertainment offering in various markets and the growth of Disney+
19 Hotstar, give us an even greater optimism about our future. And they
20 enable us to significantly increase our subscriber guidance. *We now*
21 *expect that by the end of fiscal 2024, we will have between 230 million*
22 *and 260 million total paid Disney+ subscribers globally compared to*
23 *the 60 million to 90 million we shared last year. I'll note that our*
24 *prior outlook did not anticipate the launch of Disney+ Hotstar, which*

25 _____
26 ³ Disney+ Hotstar is an Indian subscription video on demand streaming service
27 owned by Disney that operates in India. Disney+ Hotstar was created after Disney's
28 2019 acquisition of 21st Century Fox, Star India's parent company. Star India had
launched Hotstar in 2015 but it was ultimately integrated with Disney's global
streaming brand Disney+ as Disney+ Hotstar in April 2020.

1 *we now expect could be between 30% and 40% of our subscriber base*
2 *by the end of fiscal 2024.*

3 * * *

4 Given the value of growing our subscriber base, as you've seen
5 today, we plan to reinvest revenue generated from our better-than-
6 expected subscriber growth back into content investment. *Thus we*
7 *continue to expect Disney+ to achieve profitability in fiscal 2024.*
8 *Again, I'll note that this guidance includes Disney+, Star, Star+ and*
9 *Disney+ Hotstar.*

10 40. The slides that accompanied the 2020 Investor Day presentations
11 reiterated the Company's estimate that, by the end of fiscal year 2024, Disney+
12 would be profitable and would have between 230-260 million paid global
13 subscribers (30%-40% of which would be from Disney+ Hotstar). These new
14 estimates represented an astounding *three-fold increase* from prior estimates
15 *without any degradation in expected profitability* for the segment.

16 41. During the 2020 Investor Day's Q&A session, in response to a question
17 from a Morgan Stanley analyst, defendant Chapek explained the decision-making
18 process that went into determining when and on which platform or platforms
19 Disney's content would be distributed, stating in relevant part as follows:

20 So to me, it's really about over – of the 100 titles that we
21 announced today, 80% of them are going first to Disney+, which I think
22 says something about our pivot over to Disney+. But at the same time,
23 we had \$13 billion of box office last year. And that's obviously not
24 something to sneeze at. And we know as The Walt Disney Company
25 who've got this plethora of franchises that we just showed you today,
26 that we build those franchises through the theatrical exhibition window
27 and we did \$13 billion back in '19. *So for us, it's about balance. And*
28 *it's about following the consumer as they make that transition.*

1 *And so part of why we did the reorganization that we did is to*
2 *ensure that we've got an organization that's flexible to read all the*
3 *clues, whether it's the cessation of COVID or it's changing consumer*
4 *behavior so that we can very nimbly make decisions as we go forward.*

5 And that 80% direct-to-consumer is not just Disney+, obviously, but
6 that includes Hulu and Star as well.

7 42. Following the 2020 Investor Day, analyst reports heralded the
8 remarkable claims of rapid and profitable Disney+ growth. For example, a Barclays
9 analyst report proclaimed that “DTC guidance blows past consensus expectations”;
10 a Wolfe Research report trumpeted “Expectations Blown Away”; a Morgan Stanley
11 report cheered “To Infinity & Beyond”; and an RBC Capital Market Reports
12 figuratively burst into song: “Disney, Disney, Disney, Can’t You See? Sometimes
13 Your Words Just Hypnotize Me.” Some analysts even predicted that Disney+ might
14 surpass Netflix as the most widely adopted paid streaming service in the world.
15 Defendants’ representations had their intended effect, pushing the price of Disney
16 common stock to all-time highs of over \$180 per share by the end of December 2020.

17 43. During the Class Period, defendants repeatedly reiterated the fiscal year
18 2024 profitability and global subscriber estimates for Disney+. For instance, on the
19 Company’s February 11, 2021 earnings call for its first fiscal quarter of 2021,
20 defendant McCarthy confirmed that Disney+ was expected to reach profitability in
21 fiscal 2024, stating in pertinent part as follows:

22 Okay. Thanks, Brett. You’re absolutely right. Peak losses, we
23 expect in this fiscal year. *We said at our Investor Day, which wasn’t*
24 *too long ago, that we expected to reach profitability in fiscal 2024.*
25 *We’re not going to change that at this point*, although we are very
26 pleased with the results that we just announced. But we are also, given
27 the value of growing our sub base, we are continuing to invest in high-
28

1 quality content. We believe that content is the single biggest driver to
2 not only acquiring subs, but retaining them.

3 44. On the Company's May 13, 2021 earnings call for its second fiscal
4 quarter of 2021, defendant Chapek reiterated that Disney was on track to achieve its
5 Disney+ 2024 paid global subscriber estimate, stating in relevant part as follows:

6 We are uniquely positioned with the most compelling brands and
7 franchises in entertainment, and we continue to deliver the high-quality,
8 one-of-a-kind content that consumers want. That's clearly reflected in
9 the success of Disney+ which amassed nearly 104 million paid
10 subscribers as of the end of the second fiscal quarter. ***We are on track***
11 ***to achieve our guidance of 230 million to 260 million subscribers by***
12 ***the end of fiscal 2024.***

13 45. During the same call, defendant McCarthy likewise stated: "***As Bob***
14 ***mentioned earlier, we remain right on track to reach our fiscal 2024 guidance of***
15 ***230 million to 260 million subs***, powered by the addition of 30 million paid Disney+
16 subs in the first half of the year."

17 46. The statements referenced in ¶¶35-41 and 43-45 above were materially
18 false and misleading when made because they failed to disclose the following
19 adverse facts pertaining to the Company's business, operations, and financial
20 condition, which were known to or recklessly disregarded by defendants as follows:

21 (a) that Disney+ was suffering decelerating subscriber growth,
22 losses, and cost overruns;

23 (b) that the true costs incurred in connection with Disney+ had been
24 concealed by Disney executives by debuting certain content intended for Disney+
25 initially on Disney's legacy distribution channels and then making the shows
26 available on Disney+ thereafter in order to improperly shift costs out of the Disney+
27 segment;

28

1 (c) that DMED had made platform distribution decisions based not
2 on consumer preference, consumer behavior, or the desire to maximize the size of
3 the audience for the content as represented, but based on the desire to hide the full
4 costs of building Disney+'s content library;

5 (d) that the Company was not on track to achieve its 2024 Disney+
6 paid global subscriber and profitability targets, that such targets were not achievable,
7 and that such estimates lacked a reasonable basis in fact; and

8 (e) that, as a result of (a)-(d) above, defendants had materially
9 misrepresented the actual performance of Disney+, the sustainability of Disney+'s
10 historical growth trends, the profitability of Disney+, and the likelihood that Disney
11 could achieve its 2024 Disney+ subscriber and profitability targets.

12 47. On September 21, 2021, the Company and defendant Chapek gave a
13 virtual presentation at the Goldman Sachs Communacopia Conference. During the
14 presentation, Chapek acknowledged that Disney+ subscriber growth had slowed in
15 the fourth quarter of the fiscal year ended October 2, 2021: ***“In Q4, I think what you
16 can expect to see is that our global paid subs will increase by low single-digit
17 millions of subscribers versus Q3.”***

18 48. This new information concerning the number of global paid Disney+
19 subscribers failed to meet the market's expectations. Prior to the market's close that
20 day, *CNBC* reported the disappointing news in pertinent part as follows:

21 Disney's CEO Bob Chapek said Tuesday his company's
22 streaming service growth has "hit some headwinds" related to
23 coronavirus, causing shares to close lower for the day.

24 Disney expects to add "low single-digit millions" of streaming
25 subscribers in the fourth quarter, Chapek said. Disney shares ended the
26 session down 4.1% after Chapek's comments at the virtual Goldman
27 Sachs Communacopia Conference.

28

1 Chapek said “mobilizing partners” in Latin America to push
2 Disney’s new Star+ streaming service, the Covid-related suspension of
3 the India Premier League – whose games air on Disney’s Hotstar – and
4 production delays from the delta variant have all hurt subscriber
5 numbers in the fourth quarter.

6 “We are going to see a little bit more noise than maybe the Street
7 projects quarter to quarter,” Chapek said. “The resurgence of Covid
8 and delta did impact some of our productions.”

9 Chapek’s forecast is significantly lower than some analyst
10 estimates. Deutsche Bank analyst Bryan Kraft had projected Disney+
11 net adds of about 13 million in the quarter.

12 Global production delays will be “very short term,” Chapek said.
13 But he acknowledged there won’t be as much new programming in the
14 fourth quarter “than we might have expected,” which will affect
15 subscriber growth.

16 Disney has projected 230 million to 260 million Disney+
17 subscribers by 2024. Disney said in August it had 116 million Disney+
18 subscribers.

19 Chapek cautioned investors that quarter-to-quarter growth “is not
20 linear” and some choppiness is expected. Still, he remained confident
21 in Disney’s long-term growth outlook.

22 49. In response to the news, the price of Disney common stock closed down
23 \$7.44 per share, or more than 4%, from the prior day’s close of \$178.61 on
24 September 20, 2021 on abnormally high volume of over 23 million shares traded.
25 Despite these revelations, the price of Disney common stock remained artificially
26 inflated because defendants failed to disclose the full truth. In addition, defendants
27 continued to make materially false and misleading statements which continued to
28 artificially inflate the price of Disney common stock. For example, during the

1 September 21, 2021 presentation, defendant Chapek stated: “***We’re very confident***
2 ***about our long-term sub growth as we have been.***”

3 50. After the market closed on November 10, 2021, Disney issued a press
4 release, which was also filed with the SEC that day as an exhibit to a Form 8-K,
5 reporting the Company’s financial results for its fourth quarter and fiscal year ended
6 October 2, 2021. Disney posted quarterly results that missed Wall Street’s already
7 diminished expectations as the Company saw a dramatic slowdown in Disney+
8 subscribers. The Company added just 2.1 million customers during the quarter (the
9 smallest quarterly gain since the service’s launch two years prior), revenue of \$18.53
10 billion, and adjusted earnings per share of 37 cents – all of which were below
11 consensus estimates of 119.6 million subscribers, \$18.78 billion in revenues, and
12 adjusted earnings per share of 49 cents, as compiled by *Bloomberg*.

13 51. In response to this news, the price of Disney common stock closed
14 down \$12.34 per share, or more than 7%, on November 11, 2021 on abnormally high
15 volume of over 62 million shares traded. Despite these revelations, the price of
16 Disney common stock remained artificially inflated because defendants failed to
17 disclose the full truth. In addition, defendants continued to make materially false
18 and misleading statements which continued to artificially inflate the price of Disney
19 common stock as detailed below.

20 52. On the Company’s earnings call after the market closed on November
21 10, 2021, defendant Chapek doubled-down on the Company’s prior forecast that the
22 streaming service would reach profitability and have between 230 million and 260
23 million paid global Disney+ subscribers by the end of fiscal 2024, stating in pertinent
24 part as follows:

25 I want to reiterate that we remain focused on managing our DTC
26 business for the long term, not quarter-to-quarter, and ***we’re confident***
27 ***we are on the right trajectory to achieve the guidance that we provided***
28 ***at last year’s Investor Day, reaching between 230 million and 260***

1 *million paid Disney+ subscribers globally by the end of fiscal year*
2 *2024, and with Disney+ achieving profitability that same year.*

3 53. Defendant McCarthy also reiterated the Company's prior subscriber
4 growth and profitability forecast, stating in pertinent part as follows:

5 As Bob mentioned, we are increasing our overall long-term
6 content expense for Disney+, and *we are well positioned to achieve the*
7 *subscriber target of 230 million to 260 million by fiscal 2024 that we*
8 *laid out at last year's Investor's Day. And we also remain confident*
9 *in our expectation that Disney+ will achieve profitability in fiscal*
10 *2024.*

11 54. On August 10, 2022, Disney issued a press release, which was also filed
12 with the SEC as an exhibit to a Form 8-K, reporting the Company's results for the
13 third fiscal quarter of 2022 ended July 2, 2022. Disney also held an earnings call to
14 discuss its results at that time. During the call, defendant McCarthy lowered the
15 Company's 2024 guidance for Disney+ by *only 15 million* on both the low end and
16 high end – still far above the actual performance of the platform – and reaffirmed
17 the 2024 profitability estimate, stating in relevant part as follows:

18 *Finally, before we move to Q&A, I want to spend some time*
19 *sharing a few updates on our fiscal 2024 guidance for Disney+. We*
20 *are providing more detail on subscriber targets by separating our*
21 *guidance into 2 categories: core Disney+ and Disney+ Hotstar.*
22 *Excluding the impact of any significant future macro headwinds, our*
23 *core Disney+ subscriber target range is 135 million to 165 million by*
24 *the end of fiscal 2024, largely consistent with previously provided*
25 *guidance that non-Hotstar Disney+ subscribers in 2024 would*
26 *approximate 60% to 70% of the expected 230 million to 260 million*
27 *total subscriber base.*

1 *We are, however, updating subscriber guidance for Disney+*
2 *Hotstar to up to 80 million subscribers by the end of fiscal 2024.* We
3 intend to refine this target over time as subscriber visibility in India will
4 be clearer once the ICC and BCCI cricket rights sales processes are
5 completed. As you may know, we recently made the disciplined
6 decision to not proceed with the Indian Premier League digital rights,
7 and we'll evaluate these rights with that same discipline.

8 *As we sit here today, we remain confident that Disney+ will*
9 *achieve profitability in fiscal 2024* and look forward to several
10 upcoming catalysts, including reaching a steady state of tentpole
11 original content releases, delivery of premium general entertainment
12 and international local originals and the upcoming launch of our ad-
13 supported tier, alongside the new pricing structure announced earlier
14 today.

15 55. The statements referenced in ¶¶49 and 52-54 above were materially
16 false and misleading when made because they failed to disclose the following
17 adverse facts pertaining to the Company's business, operations, and financial
18 condition, which were known to or recklessly disregarded by defendants as follows:

19 (a) that Disney+ was suffering decelerating subscriber growth,
20 losses, and cost overruns;

21 (b) that the true costs incurred in connection with Disney+ had been
22 concealed by Disney executives by debuting certain content intended for Disney+
23 initially on Disney's legacy distribution channels and then making the shows
24 available on Disney+ thereafter in order to improperly shift costs out of the Disney+
25 segment;

26 (c) that DMED had made platform distribution decisions based not
27 on consumer preference, consumer behavior, or the desire to maximize the size of
28

1 the audience for the content as represented, but based on the desire to hide the full
2 costs of building Disney+'s content library;

3 (d) that the Company was not on track to achieve even the reduced
4 2024 Disney+ paid global subscriber and profitability targets, that such targets were
5 not achievable, and that such estimates lacked a reasonable basis in fact; and

6 (e) that, as a result of (a)-(d) above, defendants had materially
7 misrepresented the actual performance of Disney+, the sustainability of Disney+'s
8 historical growth trends, the profitability of Disney+, and the likelihood that Disney
9 could achieve its 2024 Disney+ subscriber and profitability targets.

10 56. Then, on November 8, 2022, Disney issued a press release reporting the
11 Company's financial results for its fourth quarter and fiscal year ended October 1,
12 2022. Disney missed analyst estimates by wide margins on both the top and bottom
13 lines. Revenue in the quarter grew just 9% to \$20.15 billion, below estimates at
14 \$21.36 billion. Sales, at \$20.2 billion, fell about \$1 billion short of analysts'
15 projections. Earnings, excluding certain items, fell to 30 cents share, missing the
16 average estimate of 51 cents from analysts surveyed by *Bloomberg*. The Company's
17 DTC segment, which includes streaming services Disney+, ESPN+, Hulu, and
18 Hotstar, reported a monumental operating loss of **\$1.47 billion** compared to a \$630
19 million loss in the same quarter the year prior. Revenue in the segment increased
20 just 8% to \$4.9 billion. The Company also reported a decline in its average revenue
21 per Disney+ subscriber, as more customers subscribed through a discounted bundle
22 with the Company's other services. Notably, the bundled offering made up about
23 40% of domestic subscribers, confirming that Disney was relying on short-term
24 promotional efforts to boost subscriber growth while impairing the platform's long-
25 term profitability.

26 57. In response to this news, the price of Disney common stock collapsed
27 \$13.15 per share, or more than 13%, in a single day on November 9, 2022 on
28 abnormally high volume of over 62 million shares traded.

1 58. Less than two weeks later, and only five months after the Board voted
2 to extend Chapek’s employment contract, the Company announced on November
3 20, 2022 that the Board had terminated Chapek and replaced him with Iger.
4 Defendant Daniel was let go within 24 hours thereafter.

5 59. On November 21, 2022, *The Wall Street Journal* reported on some of
6 the behind-the-scenes disputes and issues that ultimately led to Chapek’s dismissal,
7 whose position at the Company had reportedly “been shaky for months.”
8 Significantly, the report also included information concerning a previously
9 undisclosed cost-shifting scheme employed by defendants to hide certain expenses
10 that should have been attributed to Disney+ so that the streaming service would
11 appear closer to profitability than in fact was the case. Not only did the Individual
12 Defendants know about this strategy and intentionally employ it to deceive investors,
13 but reportedly defendant McCarthy had internally expressed her concerns about its
14 propriety. The report stated in pertinent part as follows:

15 Disney is moving some shows that were supposed to be Disney+
16 originals and air them first on other networks including the Disney
17 Channel, people familiar with the matter said. By doing so, the costs
18 of production and marketing of the shows – which included mystery
19 show “The Mysterious Benedict Society” and medical drama “Doogie
20 Kameāloha, M.D.” – would be shifted away from the streaming service,
21 making its financial performance look better, they said.

22 Ms. McCarthy was concerned about this strategy, the people
23 said.

24 60. Other news outlets thereafter similarly reported that “Disney
25 Discovered Bob Chapek Was ‘Cooking the Books’ to Hide Massive Losses in
26 Revenue,” and that “Bob Chapek Shifted Budgets to Disguise Disney+’s Massive
27 Monetary Losses.”
28

1 61. On February 8, 2023, the Company reported financial results for its first
2 quarter fiscal year 2023, ended December 31, 2022. Disney reported that **Disney+**
3 **lost 2.4 million subscribers** and the DTC business reported an increase in operating
4 loss from \$0.5 billion to \$1.1 billion due in part to a higher loss at Disney+ which
5 reflected higher programming and production costs.

6 62. On a conference call that same day to discuss the results, Iger
7 announced a broad restructuring of the Company aimed at putting the Company's
8 streaming business on a path to both profitability and growth, stating in relevant part
9 as follows:

10 In 2019, Disney+ launched, with nearly 500 films and 7,500
11 episodes of television from across the world of Disney. Three years
12 later, its meteoric rise is considered one of the most successful results
13 in the history of the media business.

14 Now it's time for another transformation, one that rationalizes
15 our enviable streaming business and puts it on a path to sustained
16 growth and profitability while also reducing expenses to improve
17 margins and returns and better positioning us to weather future
18 disruption, increased competition and global economic challenges. We
19 must also return creativity to the center of the company, increase
20 accountability, improve results and ensure the quality of our content
21 and experiences.

22 63. Iger made clear that an important component of restoring the
23 Company's success was returning power to the Company's creative executives,
24 including distribution decisions, which Chapek had taken away as part of his
25 October 2020 restructuring, stating in relevant part as follows:

26 Now the details. Our company is fueled by storytelling and
27 creativity. And virtually every dollar we earn, every transaction, every
28 interaction with our consumers emanates from something creative. I've

1 always believed that the best way to spur great creativity is to make
2 sure that people who are managing the creative process feel
3 empowered.

4 Therefore, our new structure is aimed at returning greater
5 authority to our creative leaders and making them accountable for how
6 their content performs financially. Our former structure severed that
7 link, and it must be restored. Moving forward, our creative teams will
8 determine what content we're making, how it is distributed and
9 monetized and how it gets marketed.

10 64. Iger additionally announced that the Company would be reorganized
11 into three core business segments from which creative executives would purportedly
12 be able to maximize revenue and growth, stating in pertinent part as follows:

13 Managing costs, maximizing revenue and driving growth from
14 the content being produced will be their responsibility. Under our
15 strategic reorganization, there will be 3 core business segments: Disney
16 Entertainment, ESPN and Disney Parks, Experiences and Products.

17 Alan Bergman and Dana Walden will be Co-Chairman of Disney
18 Entertainment, which will include the company's full portfolio of
19 entertainment, media and content businesses globally, including
20 streaming. Jimmy Pitaro will continue to serve as Chairman of ESPN,
21 which will include ESPN Networks, ESPN+ and our international
22 sports channels. And Josh D'Amaro will continue to be Chairman of
23 Disney Parks, Experiences and Products, which will include our theme
24 parks, resort destinations and cruise line as well as Disney's consumer
25 products, games and publishing businesses.

26 These organizational changes will be implemented immediately,
27 and we will begin reporting under the new business structure by the end
28 of the fiscal year. This reorganization will result in a more cost-

1 effective, coordinated and streamlined approach to our operations. And
2 we are committed to running our businesses more efficiently, especially
3 in a challenging economic environment.

4 65. Iger also provided important details regarding the Company's efforts to
5 rein in costs, indicating that Disney would be cutting \$5.5 billion in costs with \$2.5
6 billion in non-content cuts (including 7,000 jobs) and \$3 billion in content savings
7 over the next few years, stating in relevant part as follows:

8 In that regard, we are targeting \$5.5 billion of cost savings across
9 the company. First, reductions to our non-content costs will total
10 roughly \$2.5 billion, not adjusted for inflation. \$1 billion in savings is
11 already underway, and Christine will provide more details. But in
12 general, the savings will come from reductions in SG&A and other
13 operating costs across the company.

14 To help achieve this, we will be reducing our workforce by
15 approximately 7,000 jobs. While this is necessary to address the
16 challenges we're facing today, I do not make this decision lightly. I
17 have enormous respect and appreciation for the talent and dedication of
18 our employees worldwide, and I'm mindful of the personal impact of
19 these changes.

20 On the content side, we expect to deliver approximately \$3
21 billion in savings over the next few years, excluding sports. Christine
22 will be providing more details during the call. Turning to our streaming
23 businesses. I'm proud of what we've been able to achieve since the
24 launch of Disney+ just 3 years ago. We are delivering more content
25 with greater quality in more ways, in more places and to larger
26 audiences.

1 66. Additionally, Iger stated that the Company would no longer be
2 providing long-term subscriber guidance for Disney+, stating in relevant part as
3 follows:

4 Like many of our peers, we will no longer be providing long-
5 term subscriber guidance in order to move beyond an emphasis on
6 short-term quarterly metrics, although we will provide color on relevant
7 drivers. Instead, our priority is the enduring growth and profitability of
8 our streaming business.

9 67. Then, on May 10, 2023, the Company reported financial results for its
10 second quarter fiscal year 2023, ended April 1, 2023. Disney reported that Disney+
11 had lost subscribers for the second quarter in a row, further confirming that the 2024
12 Disney+ targets had never been achievable. During the quarter Disney+ had lost **4**
13 ***million paid subscribers*** from the prior quarter, which shocked analysts who had
14 expected the service to ***add*** 1.7 million subscribers. Streaming revenue increased
15 12% from a year earlier in part due to recent price hikes necessitated by the streaming
16 service's horrendous losses. On a conference call that same day to discuss the
17 results, Iger again acknowledged that Disney's streaming business needed to
18 rebalance its streaming business model in order to have a chance to reach
19 profitability, stating that "it's critical we rationalize the volume of content we're
20 creating and what we're spending to produce our content." He further announced
21 that Disney was planning another price increase, at least for the Disney+ ad-free tier,
22 risking even further subscriber losses.

23 68. In response to this news, the price of Disney common stock declined
24 \$8.83 per share, or more than 8% in a single day on May 11, 2023 on abnormally
25 high volume of over 57 million shares traded.

26 69. As a result of defendants' wrongful acts and omissions, and the
27 precipitous declines in the market value of Disney common stock, plaintiff and other
28

1 Class members (defined below) have suffered significant losses and damages for
2 which they seek redress through this action.

3 **ADDITIONAL SCIENTER ALLEGATIONS**

4 70. As alleged herein, defendants acted with scienter in that defendants
5 knew, or recklessly disregarded, that the public documents and statements they
6 issued and disseminated to the investing public in the name of the Company, or in
7 their own name, during the Class Period were materially false and misleading.
8 Defendants knowingly and substantially participated or acquiesced in the issuance
9 or dissemination of such statements and documents as primary violations of the
10 federal securities laws. Defendants, by virtue of their receipt of information
11 reflecting the true facts regarding Disney, and their control over and/or receipt and/or
12 modification of Disney's materially false and misleading statements, were active and
13 culpable participants in the fraudulent scheme alleged herein.

14 71. Defendants knew and recklessly disregarded the false and misleading
15 nature of the information they caused to be disseminated to the investing public. The
16 fraudulent scheme described herein could not have been perpetuated during the
17 Class Period without the knowledge and complicity of, or at least the reckless
18 disregard by, personnel at the highest levels of the Company, including the
19 Individual Defendants.

20 72. The Individual Defendants, because of their positions with Disney,
21 controlled the contents of Disney's public statements during the Class Period. The
22 Individual Defendants were each provided with or had access to the information
23 alleged herein to be false and misleading prior to or shortly after its issuance and had
24 the ability and opportunity to prevent its issuance or cause it to be corrected.
25 Because of their positions and access to material, non-public information, the
26 Individual Defendants knew or recklessly disregarded that the adverse facts
27 specified herein had not been disclosed to and were being concealed from the public
28 and that the positive representations that were being made were false and misleading.

1 73. Furthermore, in order to effectuate defendants’ fraudulent accounting
2 scheme, defendant Chapek reorganized the Company in October 2020 by
3 centralizing the distribution and commercialization of all of Disney’s content into a
4 new single reporting segment, DMED, and installing defendant Daniel, Chapek’s
5 long-time protégée, as DMED’s Chairman and direct report. DMED became
6 responsible for all monetization of all Disney content globally – both distribution
7 and advertising sales – and oversaw the operations of the Company’s streaming
8 services. Critically, Daniel along with Chapek, were then able to determine which
9 platform the Company’s content would be released on, whether it be a streaming
10 service, a cable television network, or in traditional movie theaters. These changes
11 allowed Chapek and Daniel to effectuate the cost-shifting scheme described above,
12 which was implemented almost from the beginning of the October 2020
13 reorganization.

14 74. Tellingly, the October 2020 reorganization represented a dramatic
15 departure from Disney’s historical reporting structure and was highly controversial
16 within the Company because it took power away from creative executives in the film
17 and television studios who felt their authority was slipping away as Chapek removed
18 budgetary and distribution control from the heads of Disney’s content groups.

19 75. As reported by *The Wall Street Journal*, defendant McCarthy was
20 aware of and concerned about the Company’s accounting. Notwithstanding,
21 McCarthy filed signed certifications with the SEC on November 24, 2021 stating
22 that the Form 10-K for the fiscal year ended October 2, 2021 (“2021 Form 10-K”)
23 did not contain any false or misleading statements of fact, fairly presented Disney’s
24 financial condition and results of operations, was the product of effective internal
25 controls, and was free from any fraud, whether or not material. Defendant Chapek
26 signed essentially identical certifications that were also included in the 2021 Form
27 10-K. These certifications corroborate the importance of the cost-shifting scheme
28 to investors as well as defendants’ intent to deceive investors about the scheme.

1 76. In short, defendants' fraudulent cost-shifting scheme was designed and
2 overseen by defendants Chapek and Daniel, and permitted and furthered by
3 defendant McCarthy, each of whom is liable as a result of the inherently deceptive
4 nature of the scheme.

5 77. Additionally, given the Individual Defendants' positions at the
6 Company and their roles in the fraud, knowledge of the facts underlying the fraud
7 can be imputed to the Individual Defendants because the fraud relates to Disney's
8 core operations. As detailed herein, defendants repeatedly emphasized that Disney
9 was shifting the Company's focus to its DTC streaming service Disney+. Indeed,
10 Chapek reorganized the Company in October 2020 specifically in order to accelerate
11 and advance the Company's transition to its new DTC-focused strategy centered
12 around Disney+.

13 78. Lastly, the termination of Chapek and Daniel soon after the problems
14 in the Disney+ platform were revealed in November 2022 further bolsters a
15 compelling inference of scienter.

16 **NO SAFE HARBOR**

17 79. Disney's "Safe Harbor" warnings accompanying its reportedly
18 forward-looking statements ("FLS") issued during the Class Period were ineffective
19 to shield those statements from liability. To the extent that projected revenues and
20 earnings were included in the Company's financial reports prepared in accordance
21 with Generally Accepted Accounting Principles ("GAAP"), including those filed
22 with the SEC on Form 8-K, they are excluded from the protection of the statutory
23 Safe Harbor. 15 U.S.C. §78u-5(b)(2)(A).

24 80. Defendants are also liable for any false or misleading FLS pled because,
25 at the time each FLS was made, the speaker knew the FLS was false or misleading
26 and the FLS was authorized and approved by an executive officer of Disney who
27 knew that the FLS was false. None of the historic or present tense statements made
28 by defendants were assumptions underlying or relating to any plan, projection, or

1 statement of future economic performance, as they were not stated to be such
2 assumptions underlying or relating to any projection or statement of future economic
3 performance when made, nor were any of the projections or forecasts made by
4 defendants expressly related to or stated to be dependent on those historic or present
5 tense statements when made.

6 **APPLICATION OF PRESUMPTION OF RELIANCE:**
7 **FRAUD ON THE MARKET**

8 81. At all relevant times, the market for Disney common stock was an
9 efficient market for the following reasons, among others:

10 (a) Disney common stock met the requirements for listing, and was
11 listed and actively traded on the NYSE, a highly efficient and automated market;

12 (b) according to the Company's Form 10-K for the fiscal year ended
13 October 2, 2021, Disney had more than 1.8 billion shares of common stock
14 outstanding as of November 17, 2021;

15 (c) as a regulated issuer, Disney filed periodic public reports with
16 the SEC;

17 (d) Disney regularly communicated with public investors via
18 established market communication mechanisms, including the regular dissemination
19 of press releases on national circuits of major newswire services, the internet, and
20 other wide-ranging public disclosures; and

21 (e) unexpected material news about Disney was rapidly reflected in
22 and incorporated into the price for the Company's common stock during the Class
23 Period.

24 82. As a result of the foregoing, the market for Disney common stock
25 promptly digested current information regarding Disney from publicly available
26 sources and reflected such information in the price of Disney common stock. Under
27 these circumstances, all purchasers of Disney common stock during the Class Period
28

1 suffered similar injury through their purchases of Disney common stock at
2 artificially inflated prices, and a presumption of reliance applies.

3 83. A presumption of reliance is also appropriate in this action under the
4 Supreme Court's holding in *Affiliated Ute Citizens v. United States*, 406 U.S. 128
5 (1972), because plaintiff's claims are based, in significant part, on defendants'
6 material omissions. Because this action involves defendants' failure to disclose
7 material adverse information regarding Disney's business, operations, and guidance,
8 positive proof of reliance is not a prerequisite to recovery. All that is necessary is
9 that the facts withheld be material in the sense that a reasonable investor might have
10 considered them important in making investment decisions. Given the importance
11 of defendants' material misstatements and omissions set forth above, that
12 requirement is satisfied here.

13 **LOSS CAUSATION/ECONOMIC LOSS**

14 84. During the Class Period, as detailed herein, defendants made false and
15 misleading statements and engaged in a scheme to deceive the market and a course
16 of conduct that artificially inflated the price of Disney common stock and operated
17 as a fraud or deceit on Class Period purchasers of Disney common stock by
18 misrepresenting the value of the Company's business and prospects by concealing
19 negative aspects of the Company's streaming businesses. As defendants'
20 misrepresentations and fraudulent conduct became apparent to the market, the price
21 of the Company's common stock fell precipitously as the prior artificial inflation
22 came out of the stock's price. As a result of their purchases of Disney common stock
23 during the Class Period, plaintiff and other members of the Class suffered economic
24 loss, *i.e.*, damages, under the federal securities laws.

25 **CLASS ACTION ALLEGATIONS**

26 85. Plaintiff brings this action as a class action pursuant to Federal Rule of
27 Civil Procedure 23(a) and (b)(3) on behalf of a class consisting of all purchasers of
28 the common stock of Disney during the Class Period (the "Class"). Excluded from

1 the Class are defendants, the officers and directors of the Company, at all relevant
2 times, members of their immediate families, and their legal representatives, heirs,
3 successors, or assigns, and any entity in which defendants have or had a controlling
4 interest.

5 86. The members of the Class are so numerous that joinder of all members
6 is impracticable. Throughout the Class Period, Disney common stock was actively
7 traded on the NYSE. While the exact number of Class members is unknown to
8 plaintiff at this time and can only be ascertained through appropriate discovery,
9 plaintiff believes that there could be hundreds or thousands of members in the
10 proposed Class. Record owners and other members of the Class may be identified
11 from records maintained by Disney or its transfer agent and may be notified of the
12 pendency of this action by mail, using the form of notice similar to that customarily
13 used in securities class actions.

14 87. Plaintiff's claims are typical of the claims of the members of the Class
15 as all members of the Class are similarly affected by defendants' wrongful
16 statements and conduct in violation of federal law that is complained of herein.

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

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

23 (a) whether the Exchange Act was violated by defendants as alleged
24 herein;

25 (b) whether statements made by defendants misrepresented material
26 facts about the business, operations, and prospects of Disney;

27 (c) whether defendants acted with scienter; and
28

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

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

9 **COUNT I**

10 **For Violation of §10(b) of the Exchange Act and SEC Rule 10b-5**
11 **Against All Defendants**

12 91. Plaintiff incorporates ¶¶1-90 by reference.

13 92. During the Class Period, defendants disseminated or approved the
14 statements specified above, which they knew or deliberately disregarded were false
15 and misleading in that they contained misrepresentations and failed to disclose
16 material facts necessary in order to make the statements made, in light of the
17 circumstances under which they were made, not misleading.

18 93. Defendants violated §10(b) of the Exchange Act and SEC Rule 10b-5
19 in that they:

- 20 (a) employed devices, schemes, and artifices to defraud;
- 21 (b) made untrue statements of material fact or omitted to state
22 material facts necessary in order to make the statements made, in light of the
23 circumstances under which they were made, not misleading; or
- 24 (c) engaged in acts, practices, and a course of business that operated
25 as a fraud or deceit upon plaintiff and others similarly situated in connection with
26 their purchases of Disney common stock during the Class Period.

27 94. Plaintiff and the Class have suffered damages in that, in reliance on the
28 integrity of the market, they paid artificially inflated prices for Disney common

1 stock. Plaintiff and the Class would not have purchased Disney common stock at
2 the prices they paid, or at all, if they had been aware that the market prices had been
3 artificially and falsely inflated by defendants' false and misleading statements and
4 fraudulent scheme.

5 **COUNT II**

6 **For Violation of §20(a) of the Exchange Act**
7 **Against Disney, Chapek, and McCarthy**

8 95. Plaintiff incorporates ¶¶1-94 by reference.

9 96. Defendants Chapek and McCarthy acted as controlling persons of the
10 Company within the meaning of §20(a) of the Exchange Act. By reason of their
11 positions with the Company and/or ownership of Disney stock, these Individual
12 Defendants had the power and authority to cause the Company to engage in the
13 wrongful conduct complained of herein. The Company controlled the Individual
14 Defendants and all of its employees. By reason of such conduct, the defendants
15 named herein are liable pursuant to §20(a) of the Exchange Act.

16 **PRAYER FOR RELIEF**

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

18 A. Determining that this action is a proper class action, designating
19 plaintiff as Lead Plaintiff and certifying plaintiff as a class representative under Rule
20 23 of the Federal Rules of Civil Procedure and plaintiff's counsel as Lead Counsel;

21 B. Awarding compensatory damages in favor of plaintiff and the other
22 Class members against all defendants, jointly and severally, for all damages
23 sustained as a result of defendants' wrongdoing, in an amount to be proven at trial,
24 including interest thereon;

25 C. Awarding plaintiff and the Class their reasonable costs and expenses
26 incurred in this action, including counsel fees and expert fees; and

27 D. Awarding such equitable, injunctive, or other relief as deemed
28 appropriate by the Court.

JURY DEMAND

Plaintiff demands a trial by jury.

DATED: May 12, 2023

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