UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

KEVIN GIBBONS, individually and on behalf of all others similarly situated, Plaintiff, -against- VONAGE HOLDINGS CORP., JEFFREY A. CITRON, MICHAEL SNYDER, JOHN S. REGO, PETER BARRIS, J. SANFORD MILLER, HARRY WELLER, CITIGROUP GLOBAL MARKETS INC., DEUTSCHE BANK SECURITIES INC. and UBS SECURITIES LLC, Defendants.	Civil Action No. 3:06-cv-02531 JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

Plaintiff Kevin Gibbons ("Plaintiff"), on behalf of himself and all other persons similarly situated, by his undersigned attorneys, alleges the following for his Complaint against Vonage Holding Corporation ("Vonage" or the "Company"), individual defendants Jeffrey A. Citron ("Citron"), Michael Snyder ("Snyder"), John S. Rego ("Rego"), Peter Barris ("Barris"), J. Sanford Miller ("Miller") and Harry Weller ("Weller") (collectively, the "Individual Defendants"), and Citigroup Global Markets Inc., Deutsche Bank Securities Inc. and UBS Securities LLC (collectively, the "Underwriter Defendants" and, together with Vonage and the Individual Defendants, the "Defendants").

NATURE OF THE ACTION

1. This is a federal class action brought by Plaintiff individually and on behalf of all

persons and entities who purchased or otherwise acquired Vonage common stock pursuant or traceable to the amended Form S-1 registration statement and prospectus (collectively, the "Prospectus") which Vonage filed with the U.S. Securities and Exchange Commission (the "SEC") on May 23, 2006 and were damaged thereby (the "Class"). Plaintiff seeks to pursue remedies in connection with Vonage's initial public stock offering (the "IPO") under the Securities Act of 1933 (the "Securities Act").

2. Vonage is based in Holmdel, NJ. It sells products and services which are designed to enable its customers to make and receive telephone calls over the Internet. Among other products, Vonage sells a portable device which standard telephone lines may be plugged into that turns telephone calls into data which may be transferred over the Internet. In turn, according to the Prospectus, that technology platform, which is called a "Voice over Internet Protocol, or "VoIP," is purportedly able to carry telephone conversations "almost anywhere a broadband Internet connection is available." Vonage charges its customers both for its portable telephone-to-Internet enabling products, and a fixed monthly fee to carry the telephone service. Vonage's telephone service is purportedly attractive to consumers because it is less expensive than that charged by traditional telephone companies. According to its Prospectus, Vonage had over 1.6 million subscriber lines as of April 1, 2006 and is expanding rapidly, both in terms of its customer base and revenues, but had been suffering big losses fueled in significant part by the Company's increasing expenses to market its products and services, and had never been profitable.

3. Citron became Vonage's CEO and Chairman in 2001, just months after the Company was founded. Although Citron resigned as CEO in the weeks prior to the Company's

IPO, he remains at present Vonage's Board Chairman and "Chief Strategist". Citron has been the subject of recent SEC and National Association of Securities Dealers ("NASD") regulatory actions, among other things. In one such action the SEC alleged that Citron had engaged in multiple acts of fraud over a several year period in connection with the trading of certain Nasdaq securities while with his previous employer, Datek Securities, and that Citron illegally profited by tens of millions of dollars as a result of such misconduct. In January 2003, Citron and certain other individuals ultimately paid the SEC $70 million in civil penalties and fines to resolve those proceedings, including $22.5 million in civil penalties paid by Citron individually -- one of the largest amounts ever collected by the SEC from an individual. Citron was also banned for life from any association with any securities broker or dealer as part of that settlement.

4. In its IPO, Vonage sold to Plaintiff and other investors more than 31 million shares of its common stock at $17.00 per share, thereby reaping nearly one-half of a billion dollars in net IPO proceeds. Meanwhile, defendant Citron and other existing stockholders who had acquired their Vonage securities before the IPO -- including entities affiliated with Individual Defendants Barris, Miller and Weller, among others -- paid an average price of just $3.29 per share for their equity shares. Prior to the IPO, defendant Citron and the Company's other then-existing principal stockholders owned approximately 75% of Vonage's equity, with Citron alone beneficially owning some 41%. Following the IPO, Citron and those other existing pre-IPO stockholders owned approximately 60% of Vonage's equity, with Citron alone beneficially owning 33%. Thus, as a result of the IPO, Vonage's pre-IPO principal stockholders were able to reduce significantly their equity stakes in the Company, while still retaining a majority interest at a fraction of the per share price paid by Plaintiff and other public investors.

5. Based on a total of 155,732,440 shares outstanding following the IPO, Vonage's market capitalization amounted to approximately $2.65 billion.

6. Vonage began selling its IPO shares to Plaintiff and other investors on May 23, 2006, and the stock began trading on the New York Stock Exchange (the "NYSE") under symbol "VG" the next day. By the close of trading on that first trading day, Vonage's stock had declined to $14.85 per share, a single day 9% drop. Over the next four trading days, the stock continued to decline and, by May 31, 2006, closed at $12.02 per share, thereby wiping out some 30%, or nearly $800 million, in the Company's market capitalization. According to Jay Ritter, a professor at the University of Florida who studies the performance of stock offerings, Vonage was the fifth-worst performing IPO since 1980. By contrast, one market analyst sarcastically proclaimed the Vonage IPO a "success" because "Vonage's management and underwriters convinced a bunch of people and institutions that a company worth roughly the price of a Happy Meal should be valued on the market at $2.6 billion!"

7. Vonage's Prospectus was misleading because it omitted to disclose multiple material facts particularly regarding Vonage's products and services, among other things. For example, Vonage indicated that its VoIP technology platform would work generally across all Internet providers. However, the undisclosed truth was that the technology platform Vonage designed to carry telephone data over the Internet had experienced numerous problems carrying such data over the networks of certain Internet service providers such as Time Warner Inc.'s AOL unit. Similarly, the Prospectus also failed to disclose that Vonage's VoIP technology was insufficient to accommodate properly facsimile transmissions. As a result, facsimile transmissions were either aborted or illegible instead of being transmitted properly. Indeed,

although also not disclosed in the Prospectus, Vonage had recently been sued in a consumer class action lawsuit by two of its customers alleging precisely that Vonage's systems failed to carry properly facsimile transmissions. Vonage also failed to disclose adequately key facts regarding its markets and business and its senior management team, among other things. For example, although the Prospectus disclosed the Company's February 2006 hiring of Snyder as Citron's replacement as CEO and the fact that Snyder served as President of Tyco's ADT Security division from 1997 through February 2006, the Prospectus failed to disclose that Tyco took $600 million in charges for accounting improprieties at ADT which occurred during Snyder's tenure and under his supervision. Similarly, although the Prospectus disclosed that defendant Rego, Vonage's EVP, CFO and Treasurer, served in a number of positions at Winstar Communications during 1998-2000, it omitted that Winstar was also charged with securities fraud, accounting improprieties and false revenue recognition practices and that Winstar was ultimately forced to file for bankruptcy in April of 2001, among other things.

8. The Prospectus also misled investors regarding a critical aspect of Vonage's IPO. In particular, as part of its IPO, Vonage reserved approximately 4.2 million shares for its Internet telephone customers, including Plaintiff and numerous other such customer-investors who, among other conditions, first opened a brokerage account at the brokerage division of one of the three co-lead Underwriter Defendants (the "Subclass"). The Company called this its "Customer Directed Share Program." Ultimately, some 9,000 Vonage customers participated in this Program, reportedly acquiring some $72 million of Vonage's IPO stock. This component of the IPO was critical to Vonage given, among other things, that the Company would be selling stock to the very consumers on whom it relied to sustain its business.

9. Plaintiff and other Subclass members were told in the Prospectus that the Vonage "Customer Directed Share Program will be centrally administered through the program website at ipoinfo.vonage.com." However, on only the day the stock began to be allocated and sold by Vonage and the Underwriter Defendants (May 23, 2006), such Subclass member investors were also told that this website "did not include an active hyperlink to the [P]rospectus"; that "[a]s a result, it is possible that the e-mail communication and the first page of the website could be determined to be an illegal offer in violation of Section 5 of the Securities Act, in which case recipients could seek to recover damages or seek to require us to repurchase their shares at the IPO price"; that "our initial voicemail communication to prospective Vonage Customer Directed Program participants ... did not include the name and address of a person from whom such a prospectus could be obtained"; and that "[a]s a result, it is possible that the voicemail could be determined to be an illegal offer in violation of Section 5 of the Securities Act, in which case recipients could seek to recover damages or seek to require us to repurchase their shares at the IPO price."

10. Although these statements in the Company's Prospectus acknowledged certain technical deficiencies in the administration of Vonage's Customer Directed Share Program, such statements themselves were misleading. The undisclosed truth was not only that the website and voicemail systems established by Vonage and the Underwriter Defendants to implement the Customer Directed Share Program suffered from those disclosed technical deficiencies, but also more generally that these systems both simply failed to work properly and, worse yet, operated to flat-out mislead Plaintiff and other Subclass members regarding their transactions in Vonage's IPO stock.

11. Plaintiff's experience with acquiring Vonage IPO shares as part of the Customer Directed Share Program is a typical example. In particular, Plaintiff was told in an email from the Company at 5:32 p.m. on May 23, 2006 that he "may withdraw [his] conditional offer" to buy IPO shares "at any time until an acceptance notification is posted on the Vonage Customer Directed Share Program website." In fact, however, Vonage and co-lead Underwriter Defendant Citigroup (through its brokerage division Smith Barney) had already allocated to Plaintiff his Vonage IPO shares at 5:12 p.m. that same day. Moreover, Plaintiff and other similarly situated Subclass members were told in another e-mail earlier that same day that they were obligated to pay for shares they were allocated, as follows:

> If you have been allocated shares for purchase through the Vonage Customer Directed Share Program, the financial institution at which you opened a limited purpose brokerage account must receive full payment for the shares you have been allocated within 3 business days.

12. Numerous other Subclass investors were simply unable to obtain even any timely information regarding their IPO transactions. Other Subclass investors did not know, until after the sales had been completed, that their conditional offers were even accepted, much less that they were denied any right to withdraw those offers as the Company promised. And making matters even worse yet, the cover page of the Prospectus misled investors into believing that the IPO would not even take place until a week later, stating specifically as follows:

> The underwriters expect to deliver the shares to purchasers on or about May 30, 2006.

13. Following this disastrous start to its IPO, Vonage initially attempted to quell investor complaints by telling investors that they would be permitted to back out of -- or

withdraw -- their purchase commitments to buy the Company's IPO shares. Within days, however, the Company flip-flopped completely, issuing statements retracting those assurances. Similarly, on Monday, May 29, 2006, Vonage announced that CFO Rego would appear the following morning on CNBC's "Squawk Box." On May 30, 2006, Vonage hurriedly issued a follow-up press release to report that CFO Rego would not be appearing on that show. Meanwhile, despite conceding that there were certain fundamental deficiencies with the website and voicemail systems established for the Customer Directed Share Program, neither Vonage nor the Underwriter Defendants or the Individual Defendants took sufficient and timely steps to cure, or even to disclose candidly to Subclass members the truth regarding, those deficiencies.

JURISDICTION AND VENUE

14. The claims alleged herein arise under sections 11, 12 (a)(2) and 15 of the Securities Act, 15 U.S.C. §§ 77k, 771(a)(2) and 77o.

15. This Court has jurisdiction of the subject matter of this action pursuant to section 22 of the Securities Act, 15 U.S.C. § 77v.

16. Venue is proper in this District pursuant to section 22 of the Securities Act, 15 U.S.C. § 77v, and 28 U.S.C. § 1391(b). Many of the alleged facts and transactions, including the preparation and dissemination of materially false and misleading information, occurred in substantial part in this District. Moreover, the Company maintains its principal executive office in this District.

17. In connection with the acts, conduct and other wrongs alleged in this Complaint, Defendants directly or indirectly used the means and instrumentalities of interstate commerce, including but not limited to the United States mails, interstate telephone communications and the

facilities of a national securities exchange.

PARTIES

18. Plaintiff Kevin Gibbons acquired shares of Vonage's IPO stock pursuant or traceable to the Company's Prospectus as set forth in his certification filed herewith, and has been damaged thereby. Plaintiff Gibbons acquired shares in the IPO through Vonage's Customer Directed Share Program, as described more fully herein.

Defendant Vonage Holdings Corporation

19. Defendant Vonage is a corporation organized under the laws of Delaware and maintains its principal place of business at 23 Main Street, Holmdel, New Jersey 07733.

a. According to its Prospectus, Vonage is a provider of broadband Voice over Internet Protocol, or VoIP, services to residential and small and home office customers. The Company touts itself as "a leading provider of broadband telephone service with over 1.6 million subscribers." Vonage launched service in the United States in October 2002, in Canada in November 2004, and in the United Kingdom in May 2005. Vonage reports that some 95% of its current subscriber base are customers in the United States. The Company reportedly conducts its operations primarily through five subsidiaries: Vonage America Inc., Vonage Marketing Inc., Vonage Network Inc., Vonage Canada Corp. and Vonage Limited, a subsidiary in the United Kingdom.

b. Vonage was incorporated in Delaware in May 2000 as MIN-X.COM, Inc. In February 2001, the Company changed its name to Vonage Holdings Corp. Commencing with its IPO, Vonage common stock began trading on the NYSE under the ticker symbol "VG".

c. In the last four years, the Company has had three different outside auditors. For fiscal years 2000 and 2001, Vonage was audited by Arthur Andersen LLP; however, in June 2002, Arthur Andersen was convicted of federal obstruction of justice charges, and thereafter ceased operations, although its criminal conviction was subsequently reversed. Vonage was then audited by Amper, Politziner & Mattia P.C., an independent public accounting firm in Edison, NJ, for fiscal year 2002. However, according to its Prospectus, Vonage fired Amper, Politziner & Mattia P.C. on March 1, 2004. Vonage rehired Amper, Politziner & Mattia P.C., on June 30, 2004 and again fired that firm on April 21, 2005. The Company then hired BDO Seidman, LLP, which performed Vonage's outside audits for fiscal years 2004 and 2005.

The Individual Defendants

20. a. Defendant Jeffrey A. Citron ("Citron") was, at all relevant times, the Company's founder, Chairman of the Board of Directors, and principal stockholder. In addition, Citron served as the Company's CEO from January 2001 through February 2006. Citron (through his attorney-in-fact) signed the registration statement for Vonage's IPO.

b. As of March 31, 2006, defendant Citron beneficially owned 53,674,903 shares of the Company's common stock, representing some 41% of all outstanding shares (inclusive of certain shares held in related trust accounts, and certain options, convertible preferred stock, preferred stock warrants and convertible notes). Defendant Citron reportedly acquired those shares at an average price of $3.72 per share.

c. Immediately following the Company's IPO, defendant Citron beneficially owned approximately 33% of Vonage's outstanding common stock (inclusive of certain related trust accounts and certain options, convertible preferred stock, preferred stock warrants and

convertible notes). As a result of the IPO, Citron decreased his equity interests in the Company some 8%. Nevertheless, given the large stake Citron retained in Vonage following the IPO and his position as Board Chairman, among other things, the Company's Prospectus conceded that "Mr. Citron will be able to exert significant influence over all matters presented to our stockholders for approval, including election and removal of our directors and change of control transactions. In addition, as our Chairman and Chief Strategist, Mr. Citron has and will continue to have significant influence over our strategy, technology and other matters."

d. On January 14, 2003, the SEC charged that during the period from 1993 to March 1998, Citron and others devised and orchestrated an extensive fraudulent scheme involving the Nasdaq Stock Market's Small Order Execution System (SOES). According to the SEC's Complaint, Citron and others carried out that fraud through the former Datek Securities Corporation ("Datek"), a registered securities broker-dealer that engaged in, among other things, proprietary trading and stock brokerage execution, and was known for its "day trading" operations. Citron had been one of Datek's two principal executive officers and largest shareholders (the other being Sheldon Maschler, a long-time friend of Citron's family). However, during 1993 through 1998, Citron allegedly "acted as an unregistered supervisor and principal of Datek Securities" and "controlled the management and policies of Datek Securities". Moreover, according to the SEC, Citron and others allegedly concealed their fraudulent use of the SOES system "by allocating trades to nominee accounts, cross trading with Datek Securities' proprietary account, creating false books and records, and filing false reports with the Commission." Contemporaneous with the filing of the SEC Complaint, Citron and others agreed to settle the SEC charges by paying some $70 million in penalties and disgorgement. Of that

total, Citron reportedly paid some $22.5 million -- among the largest amounts the SEC has ever obtained from a single individual. On February 6, 2003, the SEC ordered that Citron be permanently "barred from association with any broker or dealer." Citron also consented to a final judgment that enjoined him permanently "from violating Section 17(a) of the Securities Act of 1933 (Securities Act) and Section 10(b) of the Securities Exchange Act of 1934 (Exchange Act) and Rule 10b-5 thereunder, and from aiding and abetting violations of Sections 15(b) and 17(a)(1) of the Exchange Act and Rules 15b3-1, 15b7-1, 17a-3(a)(1), 17a-3(a)(2), 17a-3(a)(3), 17a-3(a)(7), 17a-3(a)(9), and 17a-3(a)(12) thereunder."

e. In or about January 1997, defendant Citron settled NASD charges of stock manipulation by paying a $20,000 fine and accepting a 20-day suspension from any association with Datek. During the 1990's, Citron also reportedly engaged in certain transactions with Robert E. Brennan of First Jersey Securities. Brennan subsequently was convicted on multiple criminal counts and was sentenced to 12 years in prison. According to the Prospectus, "Citron has never been implicated in any of these actions, complaints or findings against Brennan and has not had material business or personal dealings with Brennan since 1999."

f. Defendant Snyder is Vonage's CEO and a director. He joined Vonage in February 2006. According to the Prospectus, Snyder is responsible "for the day-to-day management and operations of our [the Company's] business." From 1997 to February 2006, Snyder served as President of Tyco subsidiary ADT Security Services, Inc. Snyder (through his attorney-in-fact) signed the registration statement for Vonage's IPO.

g. Defendant Rego is Vonage's EVP, CFO and Treasurer. He joined Vonage in July 2002 and, according to the Prospectus, "manages accounting, finance, business

development, planning, taxation, facilities and investor relations." From 1998 to 2000, Rego served in a variety of corporate capacities at Winstar Communications and from 2001 to 2002, served as Vice President of Finance at RCN Corp. Rego (through his attorney-in-fact) signed the registration statement for Vonage's IPO.

h. Defendants Peter Barris ("Barris"), J. Sanford Miller ("Miller") and Harry Weller ("Weller") are directors of Vonage and affiliates of entities which, among other things, owned substantial equity stakes in the Company prior to the Company's IPO. In particular, defendants Barris and Weller are partners in New Enterprise Associates, LLC ("NEA"). Prior to the IPO, Barris and Weller beneficially owned through NEA and affiliates some 23% of Vonage's stock, and following the IPO owned some 19%. Defendant Miller was a senior partner in entities affiliated with 3i Corp. ("3i"). Prior to the IPO, Miller beneficially owned through 3i and affiliates some 10% of Vonage's stock , and following the IPO owned some 8%. Director defendants Barris, Miller and Weller (through their attorney-in-fact) signed the registration statement for Vonage's IPO.

i. Individual defendants Citron, Snyder, Rego, Barris, Miller and Weller are referred to collectively as the "Individual Defendants."

j. Although not named as defendants herein, "outside" directors Betsy S. Atkins, Morton David, Orit Gadiesh, Hugh Panero, Governor Thomas J. Ridge and John J. Roberts (through their attorney-in-fact) also signed the registration statement for Vonage's IPO. In addition, Sharon A. O'Leary, Vonage's EVP, Chief Legal Officer and Secretary also signed the registration statement for Vonage's IPO (individually and as attorney-in-fact for all other persons who signed the registration statement), but is also not named as a defendant. Plaintiff

reserves the right to name as defendants these and other persons and entities in any amended complaint in these proceedings or otherwise.

21. Because of their positions with and/or interests in the Company, the Individual Defendants possessed the power and authority to control the contents of the Company's Prospectus, as well as Vonage's financial reports, e-mail and voicemail communications relating to the Company's IPO, press releases, and presentations to securities analysts, money and portfolio managers, and institutional investors, *i.e.*, the market. The Individual Defendants were provided with or had access to drafts of the Company's Prospectus and copies of the Company's IPO communications, reports, press releases and other information, prior to their issuance and had the ability and opportunity to prevent their issuance or cause them to be corrected. The Individual Defendants also had access to material non-public information concerning Vonage and the IPO. In addition, through their attorney-in-fact Sharon A. O'Leary, EVP, Chief Legal Officer and Secretary of Vonage, each of the Individual Defendants signed the Prospectus for Vonage's IPO.

22. As a result, each of the Individual Defendants was responsible for the truthfulness and accuracy of the Company's Prospectus and had a duty to promptly disseminate truthful and accurate information with respect to Vonage and Vonage's IPO and to promptly correct any public statements issued by or on behalf of the Company which had become false or misleading.

The Underwriter Defendants

23. Defendant Citigroup Global Markets Inc. is a full-service investment banking and securities firm with offices around the world. Citigroup Global Markets Inc. provides advisory, research and capital-raising services to corporations, governments and individuals and, among

other things, securities brokerage services through its Smith Barney division. Citigroup Global Markets Inc. is a corporation organized under the laws of New York and has principal offices at 390 Greenwich Street, New York, NY.

24. Defendant Deutsche Bank Securities Inc. is a wholly-owned subsidiary and the investment banking arm of Deustche Bank Group. Deutsche Bank Securities Inc. operates in multiple countries around the world and, among other things, provides securities brokerage services through its Deutsche Bank Alex. Brown division. Deutsche Bank Securities Inc. is a corporation organized under the laws of Delaware and has principal offices at 60 Wall Street, New York, NY.

25. Defendant UBS Securities LLC is a wholly owned subsidiary and the investment banking arm of UBS AG. UBS Securities LLC provides investment advisory products and services to clients through offices located around the world. UBS Securities LLC also provides services such as equities sales and trading, fixed income products and treasury products and, among other things, securities brokerage services through it subsidiary UBS Financial Services, Inc. UBS Securities LLC is a limited liability company organized under the laws of Delaware and has principal offices at 677 Washington Boulevard, Stamford, CT.

26. Underwriter Defendants Citigroup Global Markets Inc., Deutsche Bank Securities Inc. and UBS Securities LLC served as a joint bookrunning co-managers for Vonage's IPO. In addition, each of the Underwriter Defendants helped administer and implement the Company's Customer Directed Sales Program as set forth more fully herein. Each of the Underwriter Defendants is liable for the violations alleged.

CLASS ACTION ALLEGATIONS

27. Plaintiff brings this action as a class action pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3) on behalf of the Class which consists of all persons and entities who purchased or otherwise acquired Vonage securities pursuant or traceable to Vonage's IPO Prospectus and were damaged thereby.

28. Plaintiff also brings this action as a class action pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3) on behalf of the Subclass which consists of all Class members who purchased or otherwise acquired their Vonage IPO securities through the Vonage Customer Directed Share Program and were damaged thereby.

29. Excluded from the Class and Subclass are the Defendants, any entity in which the Defendants have a controlling interest, any of Vonage's or the Underwriter Defendants' parents, subsidiaries or affiliates, and the officers, directors, affiliates, legal representatives, heirs, predecessors, successors and assigns of the foregoing.

30. The members of the Class and Subclass are so numerous that joinder of all members is impracticable. While the exact number of Class and Subclass members is unknown at this time and can only be ascertained through appropriate discovery, Plaintiff believes there are, at a minimum, thousands of members of the Class and Subclass. Indeed, in the IPO, Vonage sold some 31 million shares of its common stock to thousands of investors geographically dispersed throughout the United States and elsewhere.

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

a. whether the Securities Act was violated by Defendants' acts

as alleged;

b. whether the Prospectus issued in conjunction with the IPO contained materially misleading statements regarding, among other things, Vonage's products, services, business, management and the IPO;

c. whether the Prospectus failed to disclose material adverse facts regarding, among other things, the Company's products, services, business, management and the IPO;

d. whether, as to the members of the Subclass, the Prospectus contained false and misleading information concerning the Vonage Customer Directed Share Program;

e. whether Defendants committed acts in connection with Vonage's IPO in violation of the federal securities laws;

f. whether the Individual Defendants failed to exercise due diligence to prevent the issuance of misleading statements in the Prospectus;

g. whether the Underwriter Defendants failed to exercise due diligence to prevent the issuance of misleading statements in the Prospectus;

h. whether the price of the Company's IPO stock was inflated artificially as a result of the Defendants' alleged misconduct; and

i. whether the members of the Class and Subclass have sustained damages and, if so, the proper measure of such damages.

32. Plaintiff's claims are typical of the claims of the members of the Class and Subclass. Plaintiff and the other members of the Class and Subclass each sustained damages arising out of the Defendants' wrongful conduct in violation of the federal securities laws as alleged.

33. Plaintiff will fairly and adequately protect the interests of the members of the

Class and Subclass and have retained counsel competent and experienced in class actions and securities litigation. Plaintiff has no interests antagonistic to or in conflict with those of the Class or Subclass.

34. A class action is superior to other available methods for the fair and efficient adjudication of this matter since joinder of all members of the Class and the Subclass is impracticable. Furthermore, because the damages suffered by individual Class and Subclass members may be relatively small, the expense and burden of individual litigation make it impossible for the Class and Subclass members individually to redress the wrongs done to them. Plaintiff anticipates no unusual difficulties in the management of this action as a class action.

35. Plaintiff will rely, in part, upon the presumption of reliance established by the fraud-on-the-market doctrine because:

a. Defendants are alleged to have made misleading statements and/or failed to disclose material facts to investors in the Prospectus for Vonage's IPO;

b. such misstatements and/or omissions are alleged to have been material;

c. Vonage's IPO stock traded in an efficient market;

d. the misstatements or omissions alleged would tend to induce a reasonable investor to misjudge the value of Vonage's IPO stock; and

e. Plaintiff and the other members of the Class and Subclass purchased shares of Vonage common stock in the IPO pursuant or traceable to the Prospectus that is alleged to have been materially misleading.

36. Based upon the factors set forth in the preceding paragraph, Plaintiff and the other members of the Class and Subclass are entitled to the presumption of reliance upon the integrity

of the market.

NO STATUTORY SAFE HARBOR

37. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the misstatements pleaded in this Complaint because such alleged misstatements do not qualify as "forward-looking" statements nor were they identified as "forward-looking statements" when made. In the alternative, to the extent that any such statements are deemed to be forward-looking statements, Defendants are liable because those statements were not accompanied by sufficient cautionary statements indicating that actual results could differ materially from those set forth in the forward-looking statement, and/or because at the time each of those statements was made the speaker actually knew the statement was false or the statement was authorized or approved by an executive officer of Vonage who actually knew that the statement was false.

ADDITIONAL SUBSTANTIVE ALLEGATIONS

Summary of Vonage's Business

38. Vonage touts itself as "a leading provider of broadband telephone services with over 1.6 million subscriber lines as of April 1, 2006." The Company's VoIP technology is intended to enable voice communications to take place over the Internet through the conversion and compression of voice signals into data packets. In essence, Vonage's technology turns telephone calls into pieces of data that are transmitted via Internet connections.

39. The Company earns revenue and generates cash primarily through its broadband telephone service plans. Vonage first offered its Internet telephone service in the United States in October 2002, and expanded to offer that service in Canada and the United Kingdom in

November 2004 and May 2005, respectively. Vonage claims to have "experienced rapid revenue and subscriber line growth", reporting revenue of $18.7 million in 2003, $79.7 million in 2004, $269.2 million in 2005, and $118.9 million for the three months ended March 31, 2006. However, while its revenue has reportedly grown rapidly, Vonage has also incurred an accumulated deficit of $467.4 million from its inception through March 31, 2006. The Company has experienced net losses of $261.3 million for 2005 and $85.2 million for the three months ended March 31, 2006, while increasing its marketing expenses over those same periods to, respectively, $243.4 million and $88.3 million.

40. According to a May 10, 2005 press report in the *National Post's Financial Post & FP Investing (Canada)*, defendant Rego said that the Company had then raised some $200 million from private-equity firms, including Bain Capital and its affiliates. According to Rego, that cash infusion "is more than enough to bring the company to the profitability point". Defendant Rego further stated then that the Company expected to be profitable within 12 months. At that time, Vonage had some 650,000 subscribers.

<u>Summary of Vonage's IPO</u>

41. On February 8, 2006, Vonage filed with the SEC its initial Form S-1 registration statement to register publicly the Company's IPO common stock. That filing stated that Vonage's IPO would seek to raise up to $250 million.

42. The February 8, 2006 Form S-1 also discussed a major management change. Specifically, the Company announced that it had signed an agreement with defendant Snyder to join Vonage's Board of Directors and become its CEO, replacing defendant Citron. Until that time, defendant Citron had served as Vonage's CEO. Reportedly, this purported change in

management, at least on paper, was necessary to assuage investors in advance of the Company's IPO given the previous regulatory SEC and NASD proceedings against Citron discussed above.

43. Subsequently, Vonage made eight amended filings of its Form S-1 on the following respective dates: April 7, 2006; April 12, 2006; April 26, 2006; April 28, 2006; May 8, 2006; May 22, 2006; and twice on May 23, 2006, the latter of which included the operative Prospectus (which, though dated May 23, 2006, was filed with the SEC the next day).

44. On May 18, 2006, the Company effected a 1-for-2.8 reverse stock split.

45. On May 23, 2006, the Company and the Underwriter Defendants priced the Vonage IPO shares at $17.00 per share.

46. Also on May 23, 2006, Vonage's registration statement for the IPO was declared effective by the SEC (Registration No. 333-131659). That same day, Vonage and the Underwriter Defendants began selling the IPO shares to Plaintiff and other investor members of the Class and Subclass.

47. In addition to the Underwriter Defendants which co-managed and acted as joint bookrunners for the IPO, Bear, Stearns & Co. Inc., Piper Jaffray & Co. and Thomas Weisel Partners LLC also participated in the underwriting of the IPO. Of the 31,250,000 initial IPO shares (exclusive of the over-allotment option the underwriters have to acquire up to 4,687,500 additional shares), the three co-manager Underwriter Defendants were each allocated 7,031,250 shares; Bear Stearns & Co., Inc. was allocated 5,312,500 shares; and Piper Jaffray & Co. and Thomas Weisel Partners LLC were each allocated 2,421,875 shares. The underwriters acquired the shares from Vonage at $15.98 per share, leaving a spread for the underwriters' compensation of $1.02 per share, or some $31,875,000 total.

48. According to the Prospectus, "the initial public offering price for the shares was determined by negotiation between us and Citigroup Global Markets Inc., Deutsche Bank Securities Inc. and UBS Securities LLC. Among the factors considered in determining the initial public offering price were our record of operations, our current financial condition, our future prospects, the markets in which we operate, the economic conditions in and future prospects for the industry in which we compete, our management, and currently prevailing general conditions in the equity securities markets, including current market valuations of publicly traded companies considered comparable to our company. The prices at which the shares will sell in the public market after this offering may be lower, however, than the initial public offering price. Furthermore, an active trading market in our common stock may not develop or continue after this offering."

49. The Prospectus also called for "the underwriters to reserve up to 13.5% and 1.5% of the common stock offered in this prospectus for sale to certain of our customers and other persons related to us, respectively, at the initial public offering price."

50. The Prospectus further stated that "[i]n connection with the Directed Share Programs, we have agreed to indemnify the underwriters against certain liabilities, including those that may be caused by the failure of Directed Share Program participants to pay for and accept delivery of the common stock which had been allocated to them or were subject to a properly confirmed agreement to purchase. As a result, our expected net proceeds could be reduced if Directed Share Program participants fail to pay for and accept delivery of the common stock which had been allocated to them or were subject to a properly confirmed agreement to purchase and, as a result, we must indemnify the underwriters for such failure."

51. Beginning on May 23, 2006, Vonage sold an aggregate of 31,250,000 shares of its common stock in its IPO at $17.00 per share, representing gross proceeds of $531,250,000. With the underwriting discount of 6%, Vonage thus received net proceeds of $499,375,000, excluding certain additional underwriting and offering expenses.

Misstatements and Omissions
in Vonage's Prospectus

52. In its Prospectus, Vonage made certain statements about the risks related to its service and products. For example, Vonage stated as follows:

> ***Flaws in our technology and systems could cause delays or interruptions of service, damage our reputation, cause us to lose customers and limit our growth.***
>
> Although we have designed our service network to reduce the possibility of disruptions or other outages, our service may be disrupted by problems with our technology and systems, such as malfunctions in our software or other facilities and overloading of our network. Our customers have experienced interruptions in the past and may experience interruptions in the future as a result of these types of problems. Interruptions have in the past and may in the future cause us to lose customers and offer substantial customer credits, which could adversely affect our revenue and profitability. For example, during 2005 our service was significantly impaired on two separate occasions. In March 2005, a problem during a software upgrade to our call processing system caused most of our customers to experience intermittent service for several hours. In August 2005, one of our third-party carriers experienced an outage of approximately 90 seconds, which caused a failure in some of our gateways. As a result, during a period of several hours, approximately two out of three outbound calls from our customers to the

public switched telephone network experienced an "all circuits busy" condition. We have since had other outages that affected smaller groups of customers at various times. In addition, because our systems and our customers' ability to use our services are Internet-dependent, our services may be subject to "hacker attacks" from the Internet, which could have a significant impact on our systems and services. If service interruptions adversely affect the perceived reliability of our service, we may have difficulty attracting and retaining customers and our brand reputation and growth may suffer.

Our ability to provide our service is dependent upon third-party facilities and equipment, the failure of which could cause delays or interruptions of our service, damage our reputation, cause us to lose customers and limit our growth.

Our success depends on our ability to provide quality and reliable service, which is in part dependent upon the proper functioning of facilities and equipment owned and operated by third parties and is, therefore, beyond our control. Unlike traditional wireline telephone service or wireless service, our service requires our customers to have an operative broadband Internet connection and an electrical power supply, which are provided by the customer's Internet service provider and electric utility company, respectively, and not by us. The quality of some broadband Internet connections may be too poor for customers to use our services properly. In addition, if there is any interruption to a customer's broadband Internet service or electrical power supply, that customer will be unable to make or receive calls, including emergency calls, using our service. We also outsource several of our network functions to third-party providers. For example, we outsource the maintenance of our regional data connection points, which are the facilities at which our network interconnects with the public switched telephone network. If our third-party service providers fail to maintain these

> facilities properly, or fail to respond quickly to problems, our customers may experience service interruptions. Our customers have experienced such interruptions in the past and will experience interruptions in the future. In addition, our new E-911 service is currently dependent upon several third-party providers. Interruptions in service from these vendors could cause failures in our customers' access to E-911 services. Interruptions in our service caused by third-party facilities have in the past caused and may in the future cause us to lose customers, or cause us to offer substantial customer credits, which could adversely affect our revenue and profitability. If interruptions adversely affect the perceived reliability of our service, we may have difficulty attracting new customers and our brand, reputation and growth will be negatively impacted.

53. The above statements were false and misleading because they failed to disclose the truth about the technical problems and fundamental deficiencies that had been plaguing certain of the Company's services and products. One such major technical failure concerns the inability of Vonage's customers to use facsimile machines to send facsimile communications over Vonage's VoIP technology platform. In particular, Vonage purportedly uses a transport layer protocol called User Datagram Protocol ("UDP"). Although the UDP technology may be sufficient for transmitting voice communications, it is reportedly insufficient for transmitting facsimile communications. As a result, facsimile transmissions using Vonage's technology platform were either aborted in midstream, transmitted in a fashion which was illegible to the recipient, or simply did not transmit as they were supposed to.

54. On May 19, 2006, two Vonage customers filed a class action lawsuit in the United States District Court for the District of New Jersey against Vonage and its U.S. subsidiary, Vonage America, Inc. That litigation is captioned *Bustos and Watts v. Vonage America, Inc. and*

Vonage Holdings Corp., No. 06 Civ. 02308 (D.N.J.) (the "Bustos Class Action"). In sum, that action alleges that Vonage violated state common law and the New Jersey Consumer Fraud Act in connection with the Company's service deficiencies relating to facsimile transmissions. The plaintiffs in that action also allege that Vonage did not timely or properly disclose to its customers that its technology platform was ill-equipped to transmit facsimile communications, and that facsimile communications failed frequently to be transmitted properly. Moreover, despite the fact that this lawsuit had been filed prior to the Company's IPO and that Vonage's senior executives including each of the Individual Defendants, among others, knew or should have known about these technical deficiencies, the Prospectus failed to disclose these key facts or even that two of its customers had commenced a consumer class action regarding those product deficiencies.

55. Specifically, unlike a traditional telephone line, data transmission using Vonage's service is not routed over a dedicated line. Instead, a facsimile transmission via the Internet, a so-called "packet switched network", requires that the transmitted data be split up into data "packets", each of which is labeled with the computer address of the recipient. Those data packets are then individually routed over the Internet. The individual data packets will then likely utilize different network paths in order to reach the intended destination. By the time the data packets arrive at their final destination, the packets are no longer in their original sequence and some may even have been lost during the transmission. This "packet loss" may be characterized by latency (*i.e.*, the time is takes for a packet to traverse the network) and jitter (*i.e.*, the variation in latency over a time period). The quality of the facsimile received is adversely related to the packet loss suffered.

56. In order to combat packet loss, several network protocols may be used to essentially rearrange packets at the final destination following transmission. One such corrective tool often used is known as the Transmission Control Protocol ("TCP"). This protocol ensures that transmitted data packets are delivered in their proper order. TCP is particularly reliable as a transport layer protocol because it will automatically resend the transmission until all data packets are received at the final destination, thus countering the effects of otherwise "lost" data packets.

57. Without the implementation of a corrective protocol such as TCP, Vonage's facsimile transmission service is and will remain defective, especially when such transmissions are only made using the UDP protocol. Indeed, some of Vonage's competitors have recognized the inadequacy of using UDP and similar protocols, and thus do not offer currently their own facsimile services. For example, the website for Packet8, a provider of broadband telephone and videophone services in Santa Clara, CA, explained its decision to not offer facsimile services as follows:

> At this time, we only offer audio and video communications on our network. FAX machines and modems may not work reliably over the Packet network. We hope to be the first VOIP provider to offer reliable fax and modem service in the near future.

58. Vonage, however, has falsely marketed the reliability and ease of use of its facsimile services. For example, the Company's website claims that Vonage's facsimile service is "hassle-free" and "easy to use" and touts its facsimile service as follows:

> Just add a Vonage fax line and then plug your fax machine into Line 2 of the Phone Adapter, and you

> can begin sending and receiving faxes. Vonage fax works with all brands of fax machines.

59. Similarly, Vonage's Prospectus also falsely touted the Company's facsimile services and business, specifically as follows:

> We also offer a number of premium services for an additional fee, such as toll free numbers, fax numbers and virtual phone numbers.
>
> ***
>
> Subscriber lines [as reported] include, as of a particular date, all subscriber lines from which a customer can make an outbound telephone call on that date. Our subscriber lines include fax lines, SoftPhones and WiFi phones but do not include our virtual phone numbers or toll free numbers, which only allow inbound telephone calls to customers.
>
> ***
>
> We derive most of our telephony services revenue from monthly subscription fees that we charge our customers under our service plans. We also offer residential fax service, virtual phone numbers, toll free numbers and other services, for each of which we charge an additional monthly fee. One business fax line is included with each of our two small office and home office plans, but we charge monthly fees for additional business fax lines.
>
> ***
>
> • Residential Fax Service. We offer 250 minutes of outgoing fax service within the United States, Puerto Rico and Canada on a dedicated fax line for $9.99 per month, plus unlimited incoming faxes, with customers charged a per minute fee of 3.9 cents thereafter.
>
> • Business Fax Service. We offer 500 minutes of outgoing fax service within the United States, Puerto Rico and Canada on a dedicated fax line plus unlimited incoming faxes, with customers charged a

> per minute fee of 3.9 cents thereafter. One business fax line is included in each of our business calling plans. We offer additional business fax lines for a monthly fee in the United States of $9.99 per line.

60. The above representations are false and misleading because, as alleged above, Vonage does not provide reliable, *bona fide* facsimile transmission services, but instead misrepresents and provides unreliable and deficient facsimile services which has already resulted in at least one pending consumer class action (filed prior to the IPO which Defendants did not disclose in the Prospectus).

61. Similarly, the Prospectus also failed to disclose that certain of Vonage's products and services, including the Vonage phone adaptor (including the so-called PAP2 model), are incompatible with the products and services of other VoIP providers. For example, Vonage's portable phone adapters are reportedly incompatible with broadband services sold by Time Warner's AOL unit. Along these lines, the Prospectus disclosed only that there were general risks regarding the Company's reliance on third parties to carry successfully Vonage's technology, and that "[t]he market for VoIP services has only recently begun to develop and is rapidly evolving." However, these statements were misleading because Defendants either knew or should have known that at least certain of the Company's products were simply incompatible with some Internet service providers, including Time Warner's AOL unit.

62. The Prospectus also misrepresented and failed to disclose important facts concerning the fundamental competitiveness of the telecom and cable industries generally and the market for Vonage's VoIP services specifically. Along these lines, the Prospectus disclosed only general concerns, including that "[t]he telecommunications industry is highly competitive."

According to the Prospectus:

> The telecommunications industry is highly competitive. We face intense competition from traditional telephone companies, wireless companies, cable companies and alternative voice communication providers. Our principal competitors are the traditional telephone service providers, namely AT&T, Inc. (formerly SBC Communications Inc.), BellSouth Corp., Citizens Communications Corp., Qwest Communications International Inc. and Verizon Communications, Inc., which provide telephone service based on the public switched telephone network. Some of these traditional providers also have added or are planning to add VoIP services to their existing telephone and broadband offerings. We also face, or expect to face, competition from cable companies, such as Cablevision Systems Corp., Charter Communications, Inc., Comcast Corporation, Cox Communications, Inc. and Time Warner Cable (a division of Time Warner Inc.), which have added or are planning to add VoIP services to their existing cable television, voice and broadband offerings. Further, wireless providers, including Cingular Wireless LLC, Sprint Nextel Corporation, T-Mobile USA Inc. and Verizon Wireless, offer services that some customers may prefer over wireline service. In the future, as wireless companies offer more minutes at lower prices, their services may become more attractive to customers as a replacement for wireline service. Some of these providers may be developing a dual mode phone that will be able to use VoIP where broadband access is available and cellular phone service elsewhere, which will pose additional competition to our offerings.

63. However, the undisclosed truth was that Vonage in fact had already begun to face intense competition not only from more established telephone and cable companies, but also from certain companies which offer Internet voice service at little or no cost, including eBay's

Skype and other companies which offer certain Internet phone services for free. Indeed, these "no-cost" providers pose an even potentially more formidable threat to Vonage's franchise than that posed by other telecommunications companies. However, Vonage also misstated the competitive risks posed by even the old-line telephone companies such as AT&T, BellSouth and Verizon, among others, and cable companies such as Cablevision, Comcast and Time Warner Cable, among others, which have moved to cut the prices of their services or indicated their intent to offer competing low-cost communication services similar to Vonage's VoIP. As summarized in *The New York Times* on June 3, 2006:

> While Vonage has the largest share of the market at 31 percent, according to estimates from Sanford C. Bernstein, there is now severe competition, particularly from cable companies that offer television, Internet and phone service in a single bundle. The main question Vonage faced in the weeks before its offering was whether it still held any advantage over competitors with deeper pockets, longstanding customer relationships and bundles of services to offer.

64. Vonage also failed to disclose adequately key facts regarding its senior management team. For example, although the Prospectus disclosed that defendant Snyder had supervised a business division at Tyco (ADT Security Services, Inc. or "ADT") during the period 1997 through February 2006, it omitted the highly significant fact that during Snyder's tenure ADT had engaged in improper accounting practices for which Tyco was ultimately required to restate some $600 million, among other things. Indeed, on April 17, 2006, the SEC filed a securities fraud complaint which alleged that Tyco had engaged in fraudulent scheme to inflate its operating income through transactions between Tyco's ADT subsidiary and the security alarm

dealers from whom it purchased residential and commercial security alarm monitoring contracts. As a result, Tyco allegedly inflated its operating income by approximately $567 million and inflated its cash flow from operations by approximately $719 million, during the period from September 30, 1998, through December 31, 2002. Contemporaneous to the filing of the SEC complaint, Tyco agreed to settle the SEC charges by paying a fine of $50 million. In addition, a related private securities fraud class action remains pending against Tyco and related defendants. Although Snyder has not yet been named as a defendant in the SEC case, the alleged accounting fraud occurred under Snyder's supervision and management as ADT's President.

65. Similarly, although the Prospectus disclosed that defendant Rego had been employed during 1998-2000 by Winstar Communications, it omitted that Winstar was forced to file for bankruptcy in April of 2001 and that Winstar, its outside auditor, Grant Thornton, and several of its senior officers, including its CFO, Richard Uhl, had been sued for securities fraud for accounting improprieties and false revenue recognition, among other things, which occurred during Rego's tenure at Winstar. Moreover, during his tenure at Winstar, Rego held several corporate and operational finance positions, including Vice President of Finance, a position in which he reported to, and worked directly with, CFO Uhl. Prior to his employment at Winstar, Rego worked for Grant Thornton, where he was part of the engagement team that audited Winstar, among other places.

66. The Prospectus also misled Class and Subclass investors regarding the Customer Directed Share Program and the mechanics, timing and procedures applicable to transactions in the Company's IPO stock, among other things. Under Vonage's Customer Directed Share Program, some 4.2 million of Vonage's 31,250,000 shares were reserved for sale to any of

Vonage's 1.6 million customers who, *inter alia*: opened an account with Vonage America on or prior to December 15, 2005; maintained that account in good standing with Vonage through February 1, 2006; and opened a brokerage account with one of the Underwriter Defendants' brokerage units. Eligible customers were told they could submit conditional offers to purchase at least 100, and no more than 5,000, Vonage IPO shares.

67. Significantly, moreover, investors in the Customer Directed Share Program were told in the Prospectus to "not call us [Vonage] about the initial public offering or the Vonage Customer Directed Share Program." Instead, the Prospectus represented to such investors that the Program would be "centrally administered" through a Company website, specifically as follows:

> The Vonage Customer Directed Share Program will be centrally administered through the program website at ipoinfo.vonage.com.

68. In truth, however, the website did not work properly and, in numerous instances, did not work at all. Further, all of the Defendants were aware of or should have been aware of the fundamental deficiencies with this website both prior to, during, and following May 23, 2006 when the IPO shares were first allocated and sold to Plaintiff and other Subclass members. In that regard, the Prospectus misleadingly disclosed only certain technical problems with the website's link to the Company's Prospectus, specifically as follows:

> Our initial email communication to prospective participants in the Vonage Customer Directed Share Program and the first page of the website identified above (from which a reader could access a detailed "frequently asked questions" section about the Vonage Customer Directed Share Program) did not include an active hyperlink to the

prospectus contained in our most recently filed registration statement relating to this offering as required pursuant to Rule 433 under the Securities Act. As a result, it is possible that the e-mail communication and the first page of the website could be determined to be an illegal offer in violation of Section 5 of the Securities Act, in which case recipients could seek to recover damages or seek to require us to repurchase their shares at the IPO price.

In addition, our initial voicemail communication to prospective Vonage Customer Directed Share Program participants, which communication may contain only limited information pursuant to Rule 134 under the Securities Act, included the Internet address at which prospective participants could obtain additional information about the Vonage Customer Directed Share Program, including a copy of the prospectus contained in our most recently filed registration statement relating to this offering. However, the voicemail did not include the name and address of a person from whom such a prospectus could be obtained. The inclusion of the Internet address in the voicemail might be viewed as incorporating into the voicemail information that is beyond the scope permissible under Rule 134. In addition, the omission of the name and address of a contact person means that the voicemail would not be entitled to the "safe-harbor" provided by Rule 134. As a result, it is possible that the voicemail could be determined to be an illegal offer in violation of Section 5 of the Securities Act, in which case recipients could seek to recover damages or seek to require us to repurchase their shares at the IPO price.

We believe we would have meritorious defenses to any legal action based on claims of alleged defects in the email, website or voicemail. As a result, we believe that the risks to us relating to any such potential claims are not significant.

> We have urged potential participants in the Customer Directed Share Program to read this prospectus. Neither the reading of this prospectus nor the accepting or acknowledging of any terms, conditions or other information set forth in this prospectus or on the website for the Customer Directed Share Program, however, relieves Vonage of any of its responsibilities or liabilities under U.S. securities laws or waives any rights that a participant has under those laws.

69. Although the Company acknowledged in the foregoing statements certain of the more technical deficiencies in connection with the administration of the Customer Directed Share Program, even those statements were misleading because the truth concerning this Program was far worse than Vonage portrayed. In fact, many Subclass investors were simply unable to log-on on to the website to obtain any timely information regarding their conditional offers for, or their actual transactions in, the Company's IPO stock. Other Subclass investors remained unaware, until after the sales had long been completed, that their conditional offers were even accepted, and were thus improperly denied their right to withdraw their conditional offers. Still other investors who at least understood they were acquiring IPO shares were unable to trade their shares, or delayed improperly from doing so.

70. Plaintiff's experience is typical of other members of the Subclass. In particular, on May 23, 2006 (the day before the stock began trading on the NYSE) Plaintiff received an e-mail from the Company stating as follows:

> You may withdraw your conditional offer at any time until an acceptance notification is posted on the Vonage Customer Directed Share Program website. This is expected to occur shortly. The posting of an acceptance notification will constitute the underwriters' acceptance of your conditional

> offer. Once your conditional offer has been accepted, you will become obligated to purchase all shares you are allocated at the initial public offering price.

That e-mail was sent by the Company at 5:32 p.m. However, the IPO shares in fact had already been allocated to Plaintiff via his new Smith Barney brokerage account at 5:12 p.m. Further, Plaintiff had received another e-mail earlier that day indicating that he had three business days to pay in "full" for those shares, specifically as follows:

> If you have been allocated shares for purchase through the Vonage Customer Directed Share Program, the financial institution at which you opened a limited purpose brokerage account must receive full payment for the shares you have been allocated within 3 business days.

71. Indeed, multiple investors have reportedly complained about the fundamental deficiencies in the customer website and the lack of any proper "central administration" of Vonage's Customer Directed Share Program. According to the June 3-4, 2006 weekend edition of *The Wall Street Journal*:

> Yesterday, some customers-turned-shareholders said problems in the online system for ordering shares delayed their attempts to trade, or led them to believe they didn't own shares when in fact their orders had gone through and they did. As Vonage stock dropped, these customers say, their losses mounted without their knowledge.
>
> Mr. Baden, for instance, says he signed up for 200 shares but wasn't notified of the $17 offering price or given a chance to confirm his purchase before his deal went through. "I think it has been very lousy as a customer experience," he says, adding that he hasn't decided whether he will contest the purchase.

***

> Says Steve Norsworthy, a telecommunications engineering consultant from San Diego who bought 1,300 shares: "Vonage and the underwriters didn't do their jobs, and the customers who helped make the company successful are taking it on the chin." He adds, "This is definitely cooling my interest in staying with Vonage as a customer.
>
> Some customers who bought the IPO have even threatened to withhold payment, a step Vonage has said it will answer with collection efforts.

72. Within mere days of May 24, 2006, Vonage indicated initially that it would permit investors in the Customer Directed Share Program to rescind their purchases, but then shortly thereafter issued a statement reversing that position, indicating instead that the Company reserved the right to pursue its investor-customers for full payment for their IPO shares. The Company indicated its intention to pursue its customers for such payments despite acknowledging in its Prospectus at least certain technical problems with the website. According to the June 3-4, 2006 weekend edition of *The Wall Street Journal*:

> A key issue, investors say, is a line from the IPO prospectus that said Vonage would compensate its underwriters in the event that customers didn't pay for the shares they had pledged to buy. Some investors took that to mean they weren't obligated to pay.
>
> In the first days of trading, the company added to the confusion by suggesting on CNBC that it wasn't likely to play hardball with customers who balked. "While all avenues are available to us, we cannot imagine alienating our customers in that way," the company said in a statement on May 30. "If certain ... customers don't pay, we expect to

> repurchase the shares from the underwriters if necessary."
>
> The statement set off a flood of speculation on www.vonage-forum.com and elsewhere that Vonage was allowing customers to back out and would buy shares back from customers. But a week after trading began, Vonage clarified that it wouldn't buy back shares and reserved the right to pursue payment. It sent customers emails reiterating their obligation to pay.

73. Further, according to that same report in the June 3-4, 2006 weekend edition of *The Wall Street Journal*, at least one of the three Underwriter Defendants has also acknowledged at least certain "technical problems" with the Customer Directed Share Program, as follows:

> A spokesman for Citigroup's Smith Barney said the company found no technical glitches in its systems for handling customer orders. A spokesman for the securities unit of Deutsche Bank declined to comment.
>
> A UBS spokesman said about 300 of its customers encountered technical problems, such as being unable to log onto their accounts or complete trades. He said UBS has records of their efforts and phone calls if they couldn't trade online and would honor their intentions. Citing a legally mandated quiet period, the underwriters declined to comment on the pricing of the IPO and other aspects of the deal.

74. Further compounding the deficiencies in the conduct of the Company's IPO and in particular the Company's Customer Directed Share Program, the Prospectus also misled investors into believing that the IPO shares would be sold later than they actually were. Specifically, the cover page to the Prospectus stated as follows: "The underwriters expect to deliver the shares to purchasers on or about May 30, 2006." In fact, however, IPO shares were

delivered and sold to Plaintiff and other members of the Class and Subclass beginning on May 23, 2006, and trading in the IPO shares commenced on the NYSE the following day. Indeed, in the case of many Subclass members, investors were unaware that they had even acquired any shares until after the shares had already been allocated to their new accounts at the Underwriter Defendants' brokerage units.

75. Analysts have speculated that the damage to Vonage's franchise and its business and financial condition could be profound, particularly if the Company actually pursues efforts to collect IPO stock sale proceeds from its own customers under its Directed Share Program.

The Decline in Vonage's Stock Price

76. By the end of the stock's first trading day on May 24, 2006, Vonage's stock price had plummeted from its IPO price of $17.00 to a low of $14.49 and closed at $14.85 per share, a loss of nearly 9% of its value. That decline represented a one-day loss of more than $230 million in market capitalization for the Company.

77. The next day, May 25, 2006, Vonage's stock price dove further, trading as low as $12.63, and closing at $13.00 -- a 24% loss over the first two days of trading.

78. Following a one-day stabilization in the Company's stock price, the Company issued a press release on May 29, 2006 (Memorial Day) to announce that defendant Rego would appear the following morning on CNBC's Squawk Box. Rego was reportedly going to "discuss Vonage's Customer Directed Share Program, Vonage's business and industry competition." That next day (May 30, 2006), Vonage's share price dropped to a low of $12.42 per share and closed at $12.50 per share. In the next three trading days the stock lost even more value, falling to as low as $11.65 per share.

79. *The Independent* (London) characterized the IPO as follows, "It was supposed to be the most exciting technology company float since Google, but the Wall Street debut of Vonage, the internet telephony pioneer, was not so much a flotation as a shipwreck."

80. The precipitous and devastating drop in the Company's stock price was caused by the improper conduct of the Company's IPO, including in particular the Company's Customer Directed Share Program and Defendants' misrepresentations and failures to disclose material information regarding Vonage's business, services, products and management, among other things.

81. While Plaintiff and the members of the Class and Subclass have collectively suffered hundreds of millions of dollars of damage in connection with Vonage's IPO, defendant Citron, the other Individual Defendants and their affiliates have collectively made millions of dollars by exchanging their pre-IPO Vonage securities for IPO stock they effectively acquired at an average price of $3.29 per share, while still retaining a controlling equity stake in the Company at a fraction of the price paid by public investors.

FIRST CLAIM FOR RELIEF
(Against All Defendants for Violations of Section 11 of the Securities Act)

82. Plaintiff realleges each of the foregoing allegations as if fully set forth herein.

83. This claim is brought by Plaintiff against all of the Defendants. This claim does not allege fraud and is based exclusively on the strict liability and negligence standards of § 11 of the Securities Act.

84. Vonage issued shares of its common stock, and Plaintiff and the members of the Class and Subclass acquired such shares, pursuant to the operative registration statement and

Prospectus.

85. The registration statement and Prospectus contained numerous material misrepresentations and omissions concerning, among other things, the nature and compatibility of the Company's services and products, the fundamental competitiveness of, and risks inherent in, the telecommunications industry, the background of its senior management, the Customer Directed Share Program, and the timing, mechanics and conduct of Vonage's IPO, all as alleged more fully above. As a consequence, the Company is strictly liable to Plaintiff and the members of the Class and Subclass under § 11 of the Securities Act.

86. The Individual Defendants signed the registration statement (through their attorney-in-fact). The Individual Defendants failed to exercise reasonable diligence and/or had no reasonable grounds to believe, that the registration statement and Prospectus issued by the Company were free of material misstatement and omission at the time those documents were filed, and they are therefore also liable to Plaintiff and the members of the Class and Subclass under § 11.

87. The Underwriter Defendants served as co-managing underwriters for the IPO and are also liable for misstatements and omissions in the registration statement and Prospectus, including particularly the misstatements and omissions regarding the Customer Directed Share Program and the timing, mechanics and conduct of the Company's IPO, all as alleged more fully above. In addition, the Underwriter Defendants helped manage the Customer Directed Share Program and are liable for the deficiencies in that Program and the failure to disclose timely to Plaintiff and other Class and Subclass members the truth, also as alleged more fully above, and are therefore also liable to Plaintiff and the members of the Class and Subclass under § 11.

88. Plaintiff and the members of the Class and Subclass acquired their shares pursuant or traceable to the Company's registration statement and Prospectus which was rendered false and misleading as a result of Defendants' misrepresentations and omissions.

89. At the time they acquired their Vonage shares, Plaintiff and the members of the Class and Subclass were without knowledge of Defendants' misconduct.

90. Less than one year has elapsed from the time that the stock upon which this claim is based was issued to Plaintiff.

SECOND CLAIM FOR RELIEF
(Against Vonage and the Underwriter Defendants for Violations of Section 12(a)(2) of the Securities Act)

91. Plaintiff realleges each of the foregoing allegations as if fully set forth herein.

92. This claim is brought by Plaintiff against Vonage and each of the Underwriter Defendants. This claim does not allege fraud and is based exclusively on the negligence standards of § 12(a)(2) of the Securities Act.

93. Each of Vonage and the Underwriter Defendants was a seller, offerer or solicitor of sales of Vonage common stock by means of Vonage's Prospectus, all as alleged more fully above. The Company was a seller because it was the issuer of the stock. The Underwriter Defendants were sellers because they participated in, approved, solicited and sold Vonage's IPO stock to Plaintiff and the members of the Class and Subclass by means of the registration statement which included the Prospectus. Vonage and the Underwriter Defendants were substantial factors and took affirmative steps to induce Plaintiff and the members of the Class and Subclass to acquire Vonage shares.

94. But for Vonage's and the Underwriter Defendants' selling and/or solicitation

activities by means of the false and misleading Prospectus, Plaintiff and the members of the Class and Subclass would not have purchased or otherwise acquired Vonage common stock, or would have acquired their shares at a price less than they actually paid.

95. Vonage and the Underwriter Defendants are liable for issuing numerous false and misleading statements which were incorporated in the registration statement and Prospectus pursuant to which Plaintiff and the members of the Class and Subclass acquired their IPO shares. Those misstatements and omissions concerned the nature and compatibility of the Company's services and products, the fundamental competitiveness of, and risks inherent in, the telecommunications industry, the background of Vonage's senior management, the Customer Directed Share Program, and the timing, mechanics and conduct of the Company's IPO, among other things, all as alleged more fully above.

96. None of the false and misleading statements or omissions alleged herein was known to Plaintiff and the members of the Class and Subclass at the time they purchased or otherwise acquired their Vonage common stock. Plaintiff and the members of the Class and Subclass did not know, and in the exercise of reasonable diligence could not have known, of the misstatements and omissions alleged herein.

97. By reason of their misconduct alleged herein, Vonage and the Underwriter Defendants violated § 12(a)(2) of the Securities Act. As a direct and proximate result of these violations, Plaintiff and the members of the Class and Subclass have sustained damages.

98. Less than one year has elapsed from the time that the stock upon which this claim is based was issued to Plaintiff.

THIRD CLAIM FOR RELIEF

(Against the Individual Defendants for
Violations of Section 15 of the Securities Act)

99. Plaintiff realleges each of the foregoing allegations as if fully set forth herein.

100. By virtue of their positions, stock ownership, and/or specific acts described above, each of the Individual Defendants was at the time of the alleged wrongdoing a controlling person of Vonage within the meaning of § 15 of the Securities Act.

101. By reason of their misconduct alleged more fully herein, all of the Individual Defendants are liable to Plaintiff and the members of the Class and Subclass for the damages they suffered by purchasing or otherwise acquiring Vonage's common stock.

BASIS OF ALLEGATIONS

Plaintiff bases the foregoing allegations concerning himself and his own acts upon his own personal knowledge, and all other allegations upon information and belief. Plaintiff's information and belief is based, *inter alia*, upon the investigation conducted by his attorneys which included, among other things, a review of public documents and announcements made by the Defendants, SEC filings, press releases, news articles, analyst reports, pleadings in other litigation, Internet and other electronic research, and other publicly available information. Plaintiff believes that substantial evidentiary support will exist for the foregoing allegations after a reasonable opportunity for discovery.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on his behalf and on behalf of the Class and Subclass, prays for judgment as follows:

A. Declaring this action to be a proper class action and certifying Plaintiff as the

representative of the Class and Subclass under Rule 23 of the Federal Rules of Civil Procedure;

B. Awarding monetary damages against all of the Defendants, jointly and severally, in favor of Plaintiff and the other members of the Class and Subclass for all losses and damages suffered as a result of the wrongdoings as alleged, including punitive damages where appropriate, together with interest thereon;

C. Awarding Plaintiff the fees and expenses incurred in this action, including reasonable allowance of fees for Plaintiff's attorneys and experts;

D. Granting Plaintiff and members of the Class and Subclass rescission as to their purchases and acquisitions of common stock pursuant or traceable to Vonage's IPO. Along these lines, Plaintiff and the members of the Class and Subclass hereby offer to tender back to Defendants their Vonage IPO stock; and

E. Granting Plaintiff and the other members of the Class and Subclass such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues triable by jury.

Dated: June 6, 2006

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-and-

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the Proposed Class and the Subclass

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