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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

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| IN RE VOCERA COMMUNICATIONS, INC., SECURITIES LITIGATION | **MASTER FILE NO. 3:13-cv-03567 EMC** |
| This Document Relates to:<br><br>All Actions. | **CONSOLIDATED CLASS ACTION COMPLAINT FOR VIOLATIONS OF THE FEDERAL SECURITIES LAWS**<br><br>**JURY TRIAL DEMANDED** |

**REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED**

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Court appointed Lead Plaintiffs Arkansas Teacher Retirement System and Baltimore County Employees' Retirement System ("Plaintiffs") individually and on behalf of a class of similarly situated persons and entities as specified below, allege the following against Vocera Communications, Inc. ("Vocera" or the "Company") and the defendants named herein,[1] upon personal knowledge as to themselves and their own acts, and upon information and belief as to all other matters.

Plaintiffs' information and belief as to allegations concerning matters, other than themselves and their own acts, is based upon, among other things, a review and analysis of (i) press releases, news articles, transcripts, and other public statements issued by or concerning Vocera and the Defendants; (ii) research reports issued by financial analysts concerning Vocera's business; (iii) reports filed publicly by Vocera with the Securities and Exchange Commission (the "SEC"); (iv) an investigation conducted by and through Plaintiffs' attorneys, which included interviews of former employees of Vocera; (v) internal Vocera documents; (vi) news articles, media reports and other publications concerning the mobile communications industry and markets; and (vii) other publicly available information and data concerning Vocera, its securities, and the markets therefor. Plaintiffs believe that substantial additional evidentiary support for the allegations herein exists and will continue to be revealed after Plaintiffs have a reasonable opportunity for discovery.

## NATURE OF THE ACTION

1. Plaintiffs bring this federal securities class action on behalf of themselves and all similarly situated persons and entities who (1) purchased or otherwise acquired the securities of Vocera between March 28, 2012 and May 2, 2013, inclusive, and were damaged thereby, seeking to pursue remedies under the Securities Exchange Act of 1934 (the "Exchange Act"), and/or (2) purchased or otherwise acquired the common stock of Vocera pursuant or traceable to the IPO and/or the Secondary Offering, defined herein, and were damaged thereby, seeking to pursue remedies under the Securities Act of 1933 (the "Securities Act").

[1] Defendants are defined in Sections II.B and IX.B.

2. Vocera is a provider of mobile communications solutions, primarily for hospitals and other healthcare centers in the United States whose main products are a wearable voice communication badge and software platform that allow users to connect instantly with other hospital staff members. The Company also provides consulting, training, and technical support services for its customers.

3. Sales to private, non-government run hospitals make up over 80% of the Company's revenues, with government hospitals such as those run by the Department of Defense and Veterans Affairs accounting for about 10% of its revenue. The remaining 10% of sales are to clients such as hotels or casinos.

4. Vocera's mobile communication solutions require a hospital to employ voice grade wireless or a Wi-Fi network throughout the hospital to function properly. Installing these systems requires a substantial upfront capital investment by hospitals. It can take anywhere from nine to twelve months to install and launch a Vocera communication system in a hospital.

5. Vocera started as a small private company in 2000, but in the years leading up to its IPO in March 2012, the Company grew exponentially. Between 2009 and 2011, the Company's revenues doubled from approximately $40 million per year to approximately $80 million per year. In its IPO materials, the Company described an almost limitless potential for growth and expansion into what it called a $6 billion niche market that had barely been penetrated by Vocera, and for which there was little or no competition.

6. Vocera promoted itself as a solution to the communication challenges that hospitals faced, allowing a hospital to increase revenue while reducing expenses through a more efficient use of its resources. In its IPO materials, Vocera told the market that its post-IPO growth would be buoyed by the recently enacted healthcare reform legislation, which Vocera claimed incorporated incentives for hospitals to purchase products like Vocera's mobile communications system that would improve both the quality of care hospitals could provide and patient satisfaction.

7. Vocera raised over $70 million in net proceeds in the IPO. Investors embraced Vocera's growth story and on March 29, 2012, the day after the IPO, the Company's stock price soared to $24.91, an increase of over 55% from the offering price of $16.00.

8. Vocera *seemed to be* off to a strong start as a public company. In its first reporting period after the IPO, the Company posted a significant increase in revenue for the first quarter of 2012, improving 26% over the revenue reported in the first quarter of 2011. Vocera also issued full year revenue guidance of $100-$102 million, which was a year over year increase of 26% to 28%. These results signaled the market that Vocera's pre-IPO success and growth had continued, and that the Company was set up for increasing future growth.

9. During the first earnings call with analysts after Vocera became a public company, Robert Zollars, Vocera's CEO, assured the market that newly enacted healthcare reform was not having a negative effect on Vocera's business, and that the growth story presented in the IPO materials remained in place. Zollars also made the point that management had "high visibility" into Vocera's expected revenue and earnings, which allowed Defendants to provide the market with reliable revenue and earnings guidance. The market understood this "high visibility" to come from Vocera's business model, which placed new sales or bookings into backlog, with revenue recognized periodically and predictably over the nine to twelve month installation period for a new mobile communication system.

10. During the Class Period, Vocera continued to present investors with its story of continued growth, emphasizing both how its business was not being affected negatively by healthcare reform, and its "high visibility" into upcoming revenue and earnings. Quarter after quarter, Vocera met or beat the earnings and revenue guidance provided to investors, and Defendants continued to reiterate Vocera's strength and their "high visibility" into the Company's business. By consistently meeting the rising guidance Defendants provided to investors, the price of Vocera's common stock increased from the IPO price of $16.00 per share to a Class Period high of $32.97 per share on September 25, 2012.

11. Taking advantage of Vocera's rising stock price, the Company conducted a secondary stock offering ("Secondary Offering") at $28.75 per share on or about September 7,

2012. Vocera raised over $36 million in proceeds from the Secondary Offering. Pursuant to a partial release of the lock up adopted in the IPO that would otherwise have prevented them from selling shares, Zollars and Brent Lang, Vocera's COO, together sold a total of over $7 million worth of stock in the Secondary Offering.

12. Behind the scenes, Defendants knew that Vocera's ability to grow at pre-IPO rates, which it guided the market to expect, was not feasible. [redacted] Defendants also knew that healthcare reform, and Vocera's customers' uncertainty about the impact of healthcare reform, were in fact impacting hospitals' willingness to commit to the high capital expense necessary to purchase a mobile communication system from Vocera. Former high-level employees of Vocera, whose accounts are corroborated and supported by internal Company documents, confirm that at the same time Defendants were touting annual growth levels nearing 30% and denying that healthcare reform was negatively affecting its business, Vocera was unable to keep pace with [redacted] at least in part because of the effects of healthcare reform.

[redacted].

14. Defendants, however, were focused on meeting guidance and living up to the portrayal of Vocera as a company in growth mode, notwithstanding the downturn in bookings. This required Defendants to engage in deception on a large scale, manipulating backlog to recognize revenue ahead of schedule, and misleading investors about the known impact of healthcare reform and the reluctance Vocera's customers displayed to purchase Vocera's communication system while uncertainties regarding the impact of healthcare reform upon hospital finances existed.

15. [redacted] To avoid this, Defendants reached into its backlog of orders that were not scheduled for shipment and installation and pushed customers to accept deliveries earlier than scheduled. Doing so allowed Vocera to recognize the resulting revenue earlier than planned and to meet guidance.

16. By pulling from future revenue to make their numbers in the current quarter, i.e., by "smoothing" the Company's quarterly numbers, Defendants were able to manipulate Vocera's reported revenues upward to meet its revenue shortfalls. During the Class Period, Defendants failed to disclose that the only way Vocera was able to meet guidance, given the reduced level of new bookings, was through this "smoothing" process. Defendants also failed to disclose the adverse impact this "smoothing" process was having on the Company's backlog levels, or the impact it had on their "visibility" into future revenue and earnings.

17. The premature, quarter-end pulling of orders and bookings out of backlog created a vicious cycle, forcing Defendants to repeat that exercise in each succeeding quarter. As the Class Period progressed, there were fewer and fewer orders remaining in backlog that could be moved up for shipment. It was a cycle that could not go on indefinitely. Backlog continued to be depleted and was not replenished by a sufficient number of new sales bookings. Nonetheless, Defendants continued to project growth in revenue and earnings, and continued to tell the market that Vocera was meeting guidance as a result of the Company's "strong" performance.

18. Defendants not only misled investors about the rate of the Company's growth and the known, negative impact of healthcare reform and sequestration, they took advantage of the artificially increased stock price. Zollars and Lang collectively sold over $11 million in stock during the Class Period—sales that were completely out of line with their post Class Period trading. All the Individual Defendants, defined below, also benefitted handsomely in the form of bonuses for hitting adjusted EBITDA and revenue targets, which were achieved as a result of their fraudulent scheme to smooth revenue and earnings and to misrepresent the known, adverse impact of healthcare reform.

19. At the end of 4Q12, Vocera was "falling off a cliff." Desperate to meet guidance and continue the perception that Vocera was "one of the strongest growth companies," the Individual Defendants, on at least two occasions, caused Vocera to ship product to hospitals earlier than the agreed upon scheduled date, this time ***without*** customer approval, in violation of Vocera's revenue recognition practices.

20. On February 27, 2013, in a partial revelation of the truth, Defendants announced for the first time that the government had slowed its healthcare funding due to budget sequestration, resulting in several government deals "slipping" to future quarters. The Company issued weak 1Q13 guidance and admitted that its bookings were down and its backlog had decreased year over year. However, Defendants continued to mislead the market by telling investors that its private hospital customers, Vocera's primary revenue drivers, were "healthy and performing well." Defendants issued 2013 annual revenue guidance in a range from $120 to $130 million, an increase of 20% to 30% over 2012, signaling that Vocera's growth story was still alive and well. Indeed, Defendants told that market they were confident they would hit their 2013 annual targets due to the "highly recurring [] nature" of the Company's revenue model. Despite Defendants' attempts to blunt the effects of this news, Vocera's stock dropped from $29.07 to $26.37, or over 9%, on heavy volume.

21. In the months that followed, Defendants continued to tout the strength of the government hospital pipeline (despite internally known continuing effects of sequestration) and "momentum [] in the core U.S. healthcare business," reaffirming guidance as late as March 23, 2013. Just five weeks later, however, on May 2, 2013, investors were shocked when, for the first time as a public company, Vocera missed its already lowered 1Q13 guidance and lowered guidance for the year to a range of $100 to $110 million.

22. On an earnings call held that day, Defendants finally admitted that healthcare reform was having a significantly negative effect on growth in its core private hospital business, as "lower utilization and reduced reimbursement rates" resulting from healthcare reform were causing these hospitals to "put in place large expense reduction initiatives," and that the effects

of sequestration, which was affecting government hospitals, would continue to be felt in the future. Defendants also admitted that their visibility into future revenues was compromised.

23. As a result of these revelations, Vocera's stock plunged over 37% – closing at an all-time low of $12.15 per share on May 3, 2013, more than 24% below the IPO price, 57% below the price of the Secondary Offering, and over 63% below the Class Period high of $32.97. Analysts were "clearly surprised" by the "magnitude of the shortfall" in revenue and the lowered guidance going forward, as well as by the "lack of clarity around recurring revenues" and the "[un]predictability" of the "recurring revenue stream," wondering why management failed to indicate the "drastic reduction in guidance" despite several earlier opportunities to do so.

## NATURE OF THE CLAIMS

24. In this Complaint, Plaintiffs assert two different sets of claims. Counts One and Two assert fraud claims under Section 10(b) and Section 20(a) of the Exchange Act of 1934 against Vocera, Robert Zollars, William Zerella, and Brent D. Lang. Counts Three, Four, and Five assert strict-liability and negligence claims under the Securities Act against those defendants who are statutorily responsible under Sections 11 and 12(a)(2) for materially untrue statements and misleading omissions made in connection with Vocera's IPO and Secondary Offering and control person claims related to these Offerings under Section 15 of the Securities Act, defined specifically herein in "Part Two: The Negligence Claims Under the Securities Act." Plaintiffs specifically disclaim any allegations of fraud in these non-fraud claims brought under the Securities Act.

## PART ONE: THE FRAUD CLAIMS UNDER THE EXCHANGE ACT

### I. JURISDICTION AND VENUE

25. The claims asserted herein arise under Sections 10(b) and 20(a) of the Exchange Act, 15 U.S.C. §§ 78j(b) and 78t(a), and Rule 10b-5 promulgated thereunder by the SEC, 17 C.F.R. § 240.10b-5.

26. This Court has jurisdiction over the subject matter of this action pursuant to Section 27 of the Exchange Act, 15 U.S.C. § 78aa, and 28 U.S.C. §§ 1331 and 1337(a).

27. Venue is proper in this judicial district pursuant to Section 27 of the Exchange Act and 28 U.S.C. § 1391(b).

28. Many of the acts and omissions charged herein, including the dissemination of materially false and misleading information to the investing public, occurred in this district. Vocera has operations in this district and division, including its principal place of business at 525 Race Street, San Jose, CA 95126.

29. In connection with the acts alleged in this Complaint, defendants (defined below), directly or indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the mails, interstate telephone communications, and the facilities of the New York Stock Exchange ("NYSE"), the world's largest stock exchange by market capitalization.

## II. PARTIES

### A. Lead Plaintiffs

30. Lead Plaintiff Arkansas Teacher Retirement System ("ATRS") is a public pension fund organized in 1937 for the benefit of the current and retired public school teachers of the State of Arkansas. ATRS is headquartered in Little Rock, Arkansas and has over $14 billion dollars in assets under management. As set forth in Docket No. 42-1, ATRS purchased shares of common stock of Vocera during the Class Period, and suffered damages as a result of the violations of the federal securities laws alleged herein.

31. Lead Plaintiff Baltimore County Employees' Retirement System ("Baltimore County") is a defined benefit pension plan headquartered in Towson, Maryland. Baltimore County was established in January 1945 and provides retirement benefits to employees of Baltimore County, and employees of the Baltimore County Revenue Authority, the Baltimore County Board of Education, the Baltimore County Board of Library Trustees, and the Community College of Baltimore County who are not eligible to participate in the Maryland State Retirement and Pension Systems. As of June 30, 2013, Baltimore County held approximately $2.3 billion dollars in assets for the benefit of its 17,000 participants. As set forth in Docket No. 42-1, Baltimore County purchased shares of common stock of Vocera during the Class Period, and suffered damages as a result of the violations of the federal securities laws.

**B. Defendants**

32. Defendant Vocera is a Delaware corporation with its principal executive offices located at 525 Race Street, San Jose, California 95126. Vocera describes itself as a provider of mobile communication solutions focused on addressing critical communications challenges facing hospitals. Throughout the Class Period, Vocera common stock traded actively on the NYSE under the ticker symbol "VCRA."

33. Defendant Robert J. Zollars ("Zollars") was appointed Chief Executive Officer and Chairman of the Board in June 2007, and served in these positions until June 1, 2013. From May 2006 to May 2007, he served as chief executive officer of Wound Care Solutions, Inc., an operator of outsourced chronic wound care centers. During the Class Period, as more fully alleged herein, Zollars made materially false and misleading statements or omissions in Vocera's quarterly conference calls, SEC filings, industry events, and events for analysts, investors, and the media.

34. Defendant Brent D. Lang ("Lang") was appointed President and Chief Operating Officer in October 2007. From January 2007 to June 2007, he served as Acting Chief Executive Officer, and from June 2001 through January 2007, he served as Vice President of Marketing and Business Development. In June 2013, after the Class Period ended, he assumed the role of President and CEO. During the Class Period, as more fully alleged herein, Lang made materially false and misleading statements or omissions in Vocera's quarterly conference calls, SEC filings, industry events, and events for analysts, investors, and the media.

35. Defendant William R. Zerella ("Zerella") was appointed Chief Financial Officer ("CFO") in October 2011. From July 2006 to September 2011, he served as chief financial officer for Force10 Networks Inc., a networking company that was acquired by Dell Inc. in August 2011. During the Class Period, as more fully alleged herein, Zerella made materially false and misleading statements or omissions in Vocera's quarterly conference calls, SEC filings, industry events, and events for analysts, investors, and the media.

36. The Defendants enumerated in Paragraphs 33 to35 are collectively referred to herein as the "Individual Defendants." In "Part One: The Fraud Claims Under the Exchange Act," (¶¶25-300) the Individual Defendants together with Vocera are the "Defendants."

37. Each of the Individual Defendants, by virtue of his high-level position with Vocera, directly participated in the management of the Company, was directly involved in the day-to-day operations of the Company at the highest levels, and was privy to confidential proprietary information concerning the Company and its business, operations, growth, financial statements, and financial condition during his tenure with the Company, as alleged herein. As set forth below, the materially misstated information conveyed to the public was the result of the collective actions of these individuals. Each of these individuals, during his tenure with the Company, was involved in drafting, producing, reviewing, and/or disseminating the statements at issue in this case, approved or ratified these statements, or was aware or recklessly disregarded that these statements were being issued regarding the Company.

38. As senior executive officers and/or directors of a publicly held company whose common stock was, and is, registered with the SEC pursuant to the Exchange Act, and whose common stock was, and is, traded on the NYSE, and governed by the federal securities laws, the Individual Defendants each had a duty to disseminate prompt, accurate, and truthful information with respect to the Company's business, operations, financial statements, and internal controls, and to correct any previously issued statements that had become materially misleading or untrue, so that the market prices of the Company's publicly traded securities would be based on accurate information. The Individual Defendants each violated these requirements and obligations during the Class Period.

39. The Individual Defendants, because of their positions of control and authority as senior executive officers and/or directors of Vocera, were able to and did control the content of the SEC filings, press releases, and other public statements issued by Vocera during the Class Period. Each of these individuals was provided with copies of the statements at issue in this action before they were issued to the public and had the ability to prevent their issuance or cause

them to be corrected. Accordingly, each of these individuals is responsible for the accuracy of the public statements detailed herein.

40. The Individual Defendants, because of their positions of control and authority as senior executive officers and/or directors of Vocera, had access to the adverse undisclosed information about Vocera's business, operations, and financial statements through access to internal corporate documents, conversations with other corporate officers and employees, attendance at Vocera management and Board of Directors meetings and committees thereof, and via reports and other information provided to them in connection therewith, and knew or recklessly disregarded that these adverse undisclosed facts rendered the positive representations made by or about Vocera materially false and misleading.

41. The Individual Defendants are primarily liable as participants in a fraudulent scheme and course of conduct that operated as a fraud or deceit on purchasers of Vocera securities by disseminating materially false and misleading statements and/or concealing material adverse facts. The scheme: (i) deceived the investing public regarding Vocera's products, business, operations, and management, and the intrinsic value of Vocera securities; and (ii) caused Plaintiffs and members of the Class to purchase Vocera securities at artificially inflated prices.

## III. SUBSTANTIVE ALLEGATIONS

### A. Vocera Business Overview

42. Vocera is a provider of mobile communications solutions. The Company claims to help its customers, primarily hospitals, improve patient safety and satisfaction, and increase hospital efficiency and productivity through the use of its patented communications system and software.

43. Hospital communications are typically conducted through disparate components, including overhead paging, pagers and mobile phones, often relying on written records of who is serving in specific roles during a particular shift. According to Vocera, these legacy communication methods are inefficient, often unreliable, noisy and do not provide "closed loop" communication (in which a caller knows if a message has reached its intended recipient).

Moreover, these communication deficiencies can negatively impact patient safety, delay patient care and result in operational inefficiencies, including increased costs.

44. Vocera's communication platform, which is meant to address all the problems inherent in legacy hospital communications methods, consists of "Voice Communications," "Secure Messaging," and "Care Transition" solutions. Vocera obtains substantially all of its revenue from the sale of its Voice Communications solution.

45. The Voice Communications solution includes a wearable voice communication badge and a software platform that enables users to connect instantly with other hospital staff members. The software platform contains sophisticated voice recognition software and call management functionality. It enables two-way voice communications without the need to remember a phone number, or even know the name of the person on call in a particular department. The badge is worn by hospital employees, clipped to his/her shirt or lanyard.

46. The Secure Messaging solution securely delivers text messages, alerts and other information directly to and from smartphones, and is designed to replace paging and unsecured short messaging service, or SMS systems.

47. The Care Transition solution consists of a hosted voice and text based software that captures, manages and monitors patient information when a patient is transferred from one caregiver to another. The solution enables caregivers to capture and transfer important information about patients in either written or voice recorded form from any phone or PC.

48. Vocera also offers services to complement its products. The additional services include consulting services under the name "ExperiaHealth," professional services, which help the customer deploy, manage and update their Vocera systems, and 24 hour a day technical support.

49. During the Class Period, Vocera's product sales accounted for approximately two-thirds of its revenue.

| (in thousands, except per share data) | 2012 | Percentage of Revenue | 2013 | Percentage of Revenue |
|---|---|---|---|---|
| **Consolidated statements of operations data:** | | | | |
| Revenue | | | | |
| Product | $ 65,028 | 64.4% | $ 62,393 | 60.9% |
| Service | $ 35,929 | 35.6% | $ 40,105 | 39.1% |
| Total revenue | $100,957 | 100% | $102,498 | 100% |

50. Revenue from product sales consists of hardware revenue and software revenue. Hardware revenue refers to the actual device, batteries, chargers, lanyards, clips and other badge accessories. Software revenue consists of a perpetual license to the Voice Communication solution. Additional software revenue is derived from the sale of term licenses, which are renewed on a subscription basis. Product revenue is generally recognized upon shipment of hardware, while software revenue is recognized ratably over the applicable term.

51. Service revenue consists of sales of software maintenance, extended warranties and professional services. Software maintenance is typically invoiced annually in advance, recorded as deferred revenue, and recognized as revenue ratably over the service period. Professional services revenue is recognized as the services are provided. Extended warranties are invoiced in advance, recorded as deferred revenue, and recognized ratably over the extended warranty period.

52. According to Vocera, the Company does not have any direct competitors as it is the only Company to offer instant, hands-free communication through voice-activated, role based and activity based calling.

**B. Hospital Revenues Drive Vocera's Business**

53. As of December 2011, the Company's products were used in 875 hospitals and healthcare facilities and Vocera's customer base ranged from large hospital systems to small local hospitals, as well as other healthcare facilities. Substantially all of Vocera's revenue is derived from sales of the Voice Communication solution to the healthcare market and, in particular, hospitals. Sales of the Voice Communication solution to the healthcare market accounted for 91%, 92%, and 91% of the Company's revenue for the three months ended March 31, 2013 and the years ended 2012 and 2011, respectively.

54. Private hospitals make up the bulk of the Company's hospital clients, with government hospitals, such as those run by the Department of Veteran Affairs (the "VA"), or the Department of Defense (the "DOD") accounting for approximately 10% of revenue. Historically, bookings have tended to peak in the back half of each year as hospitals seek to spend budgets before fiscal year end, and are lowest in the first quarter.

55. Vocera's products require that a hospital have in place voice grade wireless or a Wi-Fi network installed throughout the hospital, including in access points in stairwells, and also require that a hospital install system servers to operate the hardware and software. Installing these systems requires a substantial, upfront capital investment by the hospital. The sales cycle for a Vocera installation and roll out typically requires nine to twelve months.

56. Vocera's hospital customers initially deploy Vocera solutions in specific departments before expanding into other departments. The cost of the initial deployment depends on the number of users and departments involved, the size and age of the hospital and the condition of the existing wireless infrastructure, if any, within the hospital. During 2011, the initial purchase order for new hospital deployments of a Voice Communication solution ranged from approximately $50,000 to $2.7 million, with an average initial deployment cost of $360,000.

**C. The Importance of Bookings and Backlog to Revenue Visibility**

57. "Bookings" are orders that are placed for Vocera's products and services. Because Vocera requires that a hospital have certain infrastructure in place in order to operate the Vocera communication system, there is often a delay in rolling out Vocera's product. Even after the infrastructure is in place, and Vocera ships badges and software, Vocera must also train its customers to use the badge. During the Class Period, approximately 85% of Vocera's bookings came from existing customers looking to upgrade their network or expand use of Vocera's communication system into new departments. Only 15% of bookings came from new customers. Bookings convert to revenue when implementations can be scheduled and when Vocera ships new badges.

58. Bookings from new customers, and at least a portion of the bookings of repeat business, will typically go into backlog. "Backlog" refers to products or services that have been ordered but that have not yet been delivered or provided. The backlog typically contains orders that have specific future delivery dates for different aspects of Vocera's product (*i.e.*, training, installation, software, badges). Since a Vocera roll out can take nine to twelve months, a healthy, or high, backlog signals robust future revenues, and visibility into growth.

59. The Company did not report its backlog to investors during the Class Period until the first corrective disclosure on February 27, 2013, but Vocera repeatedly told the market that the large number of repeat customers (85% of its revenue) provided a predictable and reliable revenue stream and for "visibility" into future revenues. Analysts understood the importance of the Company's backlog and its implications on revenue visibility and growth. For example, on May 7, 2012, a William Blair analyst commented:

> ***The visibility of Vocera's revenue model is further explained by its growing backlog and deferred revenue balance.*** The company's backlog has more than doubled from $9.4 million in 2009 to an estimated $22.5 million at the end of 2011, in part because of increased new client deployments and expansions at existing customers pushing related revenue into the next period as well as growth in the professional services segment. Backlog consists primarily of orders for software and devices deployments that have yet to take place, as well as scheduled professional service engagements.

### D. The Company and Market Focus on Revenue and EBITDA

60. Vocera provided various metrics to investors to show the financial health of the Company. Among these metrics were revenue and adjusted EBITDA, a non-GAAP measurement the Company used to evaluate its financial performance and profitability. EBITDA is an acronym for Earnings Before Interest, Taxes, Depreciation and Amortization. As set forth in the IPO Offering Materials, defined herein, Vocera provided investors with adjusted EBITDA that reflected net income or loss, adjusted to exclude interest income and expense, taxes, depreciation and amortization, stock-based compensation, acquisition related costs, and the change in fair value of warrant and option liabilities. Adjusted EBITDA was of particular importance to the Individual Defendants because the Company based its executive bonuses on

both adjusted EBITDA and revenue.[2] Analysts also considered adjusted EBITDA to be an important financial measure of Vocera's performance. In its analyst reports, William Blair regularly described adjusted EBITDA as "the key profit metric to monitor." In an analyst report issued on May 9, 2012, J.P. Morgan commented that a higher EBITDA "indicat[ed] the business is overall on solid footing to deliver at or above our expectations."

61. The Individual Defendants were also intensely focused and intimately involved in tracking and understanding the recognition of revenue and the timing thereof. A former Senior Manager of Order Administration at Vocera ("CW1")[3] provided details regarding the Individual Defendants' active participation in Vocera's revenue meetings. CW1 stated that Vocera's management held monthly meetings. In the last month of the quarter there were weekly meetings and as the quarter drew to a close, daily revenue meetings. According to CW1, these meetings were held in the executive conference room and were attended by Vocera's executives, including but not limited to, Zerella, Lang, Jay Spitzen, the General Counsel, O'Hagen, the Chief Accounting Officer, Michael Hutchinson, the VP of Finance, and sometimes Zollars. CW1 attended these meetings as well. According to CW1, Zollars attended the meetings roughly 50% of the time, Zerella and his two vice presidents, Mike Hutchinson and Mark O'Hagan were always there, and Lang was at the meetings about 90% of the time. CW1 elaborated: "Zerella and every high-ranking executive was at these meetings…as I was. I never saw a group that was so intent to know every number and involved in all of those decisions."

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[2] Vocera's Executive Compensation Plan is described more fully herein in Section III.H.2.

[3] The former Senior Manager of Order Administration at Vocera is described as CW1. CW1 was employed by Vocera from 2008 until August 2013. In 2011, CW1 began reporting to the former CFO, Martin Silver. After Silver's departure, CW1 reported to Mike Hutchinson as interim CFO and then to Zerella. At one point, CW1 reported to Mark O'Hagan, Chief Accounting Officer. CW1's team was responsible for backlog and the administration of orders. CW1 ensured that all of the requisite paperwork was in order and the contracts were signed before orders were sent to customers. Every order that was booked whether it was "booked and shipped" or remained on backlog was managed by his team. CW1 added that an example of an order on backlog were supply orders or services that had not been deployed yet. CW1 reiterated that it was his role to "oversee" every single order at Vocera. CW1's group was divided by regions, western US and eastern US. CW1 also participated in revenue meetings (where Individual Defendants were present), where backlog was discussed. All CWs are referred to in the masculine form to protect their identities.

62. CW1 indicated that Vocera utilized a number of software systems to track Company metrics, including Excel spreadsheets to track orders and backlog. CW1 noted that the sales organization developed forecast reports from input received by the sales staff using Salesforce.com software. CW1 stated that the Company used an older Microsoft ERP system up to and including 1Q13, called the Great Plains ERP. Tensoft was another software system used to track booking changes and commissions.

63. CW1 stated that after the IPO, under the Zerella regime, the reports handed out at the revenue meetings became more and more robust. These reports included a detailed list of orders (both potential and achieved), as well as the likelihood, as a percentage, that the order would close by quarter end. According to CW1, the attendees at the revenue meetings would go through every order in detail.

## E. Relevant Legislation Affecting the Hospital Industry

### 1. The Affordable Care Act

64. On March 23, 2010, healthcare reform entitled the "Patient Protection and Affordable Care Act" (the "ACA") was signed into law. The new law was intended to increase the rate of insured individuals by expanding insurance coverage while lowering the costs of healthcare for both individuals and the government. Challenges to the law's constitutionality were rejected by the Supreme Court on June 28, 2012.

65. One goal of the ACA was to reduce costs and improve the delivery of healthcare services by focusing on the quality of healthcare service. The ACA attempts to accomplish this through an increase in competition, regulation, and incentives to streamline the delivery of healthcare. One such incentive is called "Hospital Consumer Assessment of Healthcare Providers and Systems" also called "HCAHPS." HCAHPS is a survey reporting patients' perspectives of hospital care. Beginning in October 2012, a part of hospital Medicare reimbursement was tied to HCAHPS results. Several questions on the HCAHPS survey relate to responsiveness of hospital staff, communication with nurses, and quietness of the hospital environment. According to the Company, Vocera's products and solutions have been shown to improve HCAHPS results. The ACA primarily affects Vocera's private hospital customers. In

general, the ACA did not cause any significant changes to Vocera's government hospital customers (the DOD or VA) because the ACA does not affect Tricare, the military's health insurance program.

**2. Budget Control Act**

66. The Budget Control Act ("BCA") was enacted in 2011 in order to bring resolution to the debt ceiling crisis. The law was intended to reduce federal budget deficits by a total of approximately $2.1 trillion from 2012-2021. The reduction came in the form of automatic spending cuts, otherwise known as "sequestration." Sequestration was scheduled to begin in January 2013. However, in January 2013, enactment was delayed by an additional three months, and the BCA ultimately came into effect on March 1, 2013. Medicare was subject to sequestration, and provider payments were cut up to 2 percent. Government hospitals' fiscal years end on September 30. Thus, in 2012, government hospitals began planning their new 2013 budget with the pending sequester in mind. Sequester mainly affected Vocera's government hospital customers.

**F. Vocera's Growth Strategy**

67. Between 2007 and 2011, prior to the IPO, Vocera's revenue increased more than two fold from approximately $34 million to over $79 million, and adjusted EBITDA increased from negative $2.6 million to over $3 million.

| | Years ended December 31, | | | | |
|---|---|---|---|---|---|
| **(in thousands)** | **2007** | **2008** | **2009** | **2010** | **2011** |
| **Consolidated statements of operations data:** | | | | | |
| Revenue | | | | | |
| Product | $ 27,332 | $ 28,352 | $ 25,985 | $ 35,516 | $ 50,322 |
| Service | 7,125 | 11,474 | 15,154 | 21,287 | 29,181 |
| Total revenue | 34,457 | 39,826 | 41,139 | 56,803 | 79,503 |
| | | | | | |
| Adjusted EBITDA | $ (2,688) | $ (4,800) | $ 578 | $ 3,821 | $ 3,020 |

**1. The IPO**

68. On August 1, 2011, the Company filed a Registration Statement with the SEC on form S-1, in which it announced its intention to hold an IPO for the sale of Vocera common stock. The Company amended the Registration Statement several times, which ultimately

became effective on March 27, 2012. On March 28, 2012, Vocera filed a Form 424B4 Prospectus (which together with the registration statements make up the "IPO Offering Materials"). 6,727,500 common shares were sold at $16.00 per share in the IPO, which occurred on or about March 28, 2012. The Company sold 5 million shares of common stock, existing shareholders sold an aggregate of 1,727,500 shares, and underwriters sold an additional 877,500 shares as a result of the underwriters' exercise of their over-allotment option.

69. The IPO Offering Materials explained that several forces in the hospital industry, including healthcare reform, were driving adoption of Vocera's product as most hospitals' "legacy" communications systems were unreliable, inefficient and have a negative effect on patient satisfaction. Moreover, the hospital industry faced a growing shortfall among nursing staff. According to the IPO Offering Materials:

> The inadequate coverage of patients by qualified nurses can detract from the patient experience and impact hospitals' financial performance as patients are increasingly selecting hospitals and providers based on quality of care, cost and overall experience with the provider. ***The increasing focus on improving patients' experience is supported by the healthcare reform initiative, which incorporates financial incentives for hospitals to improve the quality of care and patient satisfaction. These forces are driving hospitals to invest in technology and process improvements to manage their operations more efficiently and to improve staff and patient satisfaction.***

70. Vocera claimed that its products and services helped improve hospitals' finances and achieve the goals of healthcare reform by (1) providing improvements in patient safety, (2) enhancing patient experience, (3) improving caregiver job satisfaction, and (4) increasing hospital revenue while reducing expenses. Vocera also repeatedly expressed that hospitals were seeking more effective ways of addressing their communications deficiencies and that Vocera's products would provide those solutions.

71. In the IPO Offering Materials, Vocera estimated "the worldwide hospital market opportunity for the full deployment of our Voice Communication solution to be over $6 billion." Indeed, Vocera stated that its communication systems were installed and used in only parts of 800 of the 6,000 hospitals in the U.S. Vocera told the market that it had a "growing U.S. Customer base," and that in the eight months leading up to the IPO, this growing customer base

and current customer expansion had led Vocera's "quarterly revenue [to] increase[] each quarter."

72. On the day of the IPO, Zollars was interviewed by "The Street." When asked if he was concerned that the Company was too focused on the hospital industry, Zollars said "No," and affirmed the Company's growth story, stating: "We're actually really excited about health care because it's about a $6 billion market for our solution, so we've got plenty of room to grow. We're less than 10% penetrated today." When asked if Zollars was concerned about the effect of the Supreme Court's upcoming decision on healthcare reform, Zollars answered that Vocera was not being impacted by health care reform at all, stating: "So the reform really doesn't have much impact on us, and again, we've got great growth opportunity with about 90% of the market left to go capture."

73. The IPO was a huge success, and the Company raised $70.5 million in net proceeds. By the next day, on March 29, 2012, Vocera's stock closed at $24.91, an increase of over 55% of the offering price of $16.00.

**2. Vocera's Purported Class Period Success**

74. On May 9, 2012, in the first reporting period after the IPO, Vocera filed a Form 8-K reporting revenue for the first quarter of $23.1 million, an increase of 26% year over year. Vocera's non-GAAP adjusted EBITDA was $2.0 million, an increase of 44% year over year. The Company also issued strong guidance for 2Q12 and for fiscal year 2012.

75. During an analyst call that day, Defendants touted the Company's "significant growth opportunities" and affirmed that the type of growth the Company was seeing and projecting for the future was "sustainable top line growth." Zerella stated, "[w]e committed to 25% top line growth over the longer time in the road show and frankly, our view has not changed." Zerella also touted the "visibility" into future revenue streams because of the reliability of Vocera's recurring revenues.

76. Defendants also told the market that the hospital capital spending environment had not changed. Finally, Defendants affirmed analysts' perception that the Supreme Court's

review of healthcare reform was not affecting the Company, but rather, that there was a lot of "momentum []behind patient experience and the HCAHPS scores."

77. On this news, Vocera's stock price rose nearly 7% to close at $23.35 on May 10 on heavy volume.

78. During 2012, Defendants' growth story for the Company seemingly remained intact. Quarter after quarter, Defendants reported that Vocera met or beat its revenue and adjusted EBITDA guidance and that the Company was on track to meet its fiscal year 2012 guidance. For the second and third quarters, Vocera came in at the high end of its guidance. In the fourth quarter, 2012, Vocera came in at the midpoint of guided revenue and adjusted EBITDA, allowing the Company to meet analysts' consensus expectation of annual revenues of $101 million. Vocera far surpassed its adjusted EBITDA guidance quarter after quarter by millions of dollars. Vocera's reported results were also a marked increase year over year for results in the same quarter for 2011.

**Vocera Meets or Beats Revenue and EBITDA Guidance in 2012**

| | 1Q 2012 | 2Q 2012 | | 3Q 2012 | | 4Q 2012 | |
|---|---|---|---|---|---|---|---|
| | Actual | Guidance | Actual | Guidance | Actual | Guidance | Actual |
| **Revenue** | $23.1 M | $24 M to $25 M | $24.9 M | $25 M to $26 M | $26.0 M | $26 to $28 M | $27.0 M |
| **Y/Y % Increase** | 26% | | 30% | | 27% | | 24% |
| **Adjusted EBITDA** | $2.0 M | $0.5 M to $1.0 M | $3.0 M | $1.0 M to $2.0 M | $3.8 M | $1.2 M to $2.2 M | $3.2 M |
| **Y/Y % Increase** | 44% | | 650%[1] | | 3,700%[2] | | 166%[3] |

[1] Non-GAAP Adjusted EBITDA of $3.0 million, compared to $0.4 million in the second quarter of 2011

[2] Non-GAAP Adjusted EBITDA of $3.8 million, compared to $0.1 million in the third quarter of 2011

[3] Non-GAAP Adjusted EBITDA was $3.2 million, compared to $1.2 million in the fourth quarter of 2011

79. In addition, Vocera increased its annual non-GAAP adjusted EBITDA guidance significantly in 2012. Vocera also raised its earnings guidance substantially.

**Annual 2012 - Increased EBITDA and EPS Guidance**

| | Form 8-K | | |
|---|---|---|---|
| | **May 9, 2012** | **August 2, 2012** | **November 5, 2012** |
| **2012 Adjusted EBITDA Guidance** | $4 M to $5 M | $7 M to $8 M | $10 M to $11 M |
| **2012 GAAP EPS Guidance** | $(0.06) to $(0.11) | $(0.03) to $(0.08) | $0.09 to $0.11 |
| **2012 Non-GAAP EPS Guidance** | $0.10 to $0.14 | $0.20 to $0.24 | $0.33 to $0.35 |

80. Vocera's growth story was also buoyed by Defendants' non-numerical statements about the Company's performance and expectations. For example, on August 2, 2012, when the Company announced second quarter results and increased guidance, Defendant Zollars remarked: "[o]ur Voice communications solution continues to perform well." In the earnings call with analysts that day, Zollars touted the "strength of the second quarter" and "very solid new customer growth." Defendants again assured the market that the strong results were driven by the "visibility" of Vocera's business model. Defendants also continued to deny that healthcare reform was impacting Vocera's business negatively and reiterated that they did not see any impact on hospital buying patterns. On this news, Vocera's stock price rose over 7% to close at $29.18 on August 3.

**3. Vocera's Secondary Offering**

81. In the midst of this purported success, Vocera announced that it would be offering additional common stock in a Secondary Offering. On August 24, 2012, the Company filed a Form S-1 with the SEC and subsequently issued one amendment. On September 6, 2012, the SEC declared the registration statement effective. On September 7, 2012 Vocera filed a Form 424B4 Prospectus (which together with the registration statements make up the "Secondary Offering Materials"). Vocera's common shares were sold at $28.75 per share in the Secondary Offering, which occurred on or about September 7, 2012. The Company sold 1,337,500 shares, existing stockholders sold 4,211,250 shares of common stock, and underwriters sold an aggregate of 723,750 shares as a result of the underwriters' exercise of their over-allotment option.

82. The Secondary Offering Materials repeated many of the statements made in the IPO Offering Materials, including that healthcare reform would spur demand for Vocera's products and services, and that the market opportunity for Vocera was over $6 billion.

83. The Secondary Offering raised over $36 million in net proceeds for the Company and selling shareholders. Vocera's stock price rose over 5%, on September 7, 2012, the day of the Secondary Offering, to close at $30.42 on extremely heavy volume.

84. In connection with the Secondary Offering, Vocera issued a press release stating that J.P. Morgan Securities LLC and Piper Jaffray & Co., the lead book-running managers of Vocera's IPO and Secondary Offering, were releasing a lock-up restriction with respect to certain shares of Vocera's common stock held by certain officers and directors of Vocera. The release was scheduled to take effect concurrently with the completion of the Secondary Offering on September 12, 2012. Zollars and Lang took advantage of this partial release and each sold millions of dollars worth of stock as more fully discussed in Section III.H below.

85. Over the next several months, Defendants continued to tout strong demand for Vocera's products and services, reassured the market that Vocera's growth story was intact, and continued to tout "visibility" into Vocera's recurring revenue streams. For example, on November 5, 2012, the Company announced earnings for the third quarter and increased revenue guidance for the full year. Zerella told analysts that the growth level for the Vocera badge device was "pretty consistent with historical trends…nothing out of the ordinary, really, in terms of growth rate as compared to previous quarters." Both Zollars and Zerella emphasized ongoing growth in the number of clients who purchased products and services from Vocera and that the number continued to grow every quarter. Zollars again affirmed Defendants' "visibility" into revenues, attributable to Vocera's recurring revenue business model.

86. In November 2012, Defendants informed the market during their third quarter earnings call that several government contracts slipped outside the third quarter, but stated that they "remained very, very optimistic about the opportunity to sell into the government space." Defendants did not attribute the reason for these slipped bookings to federal budget issues relating to the pending BCA sequestration and instead blamed other external forces. Analysts

were confident that these issues were not affecting the Company's growth. For example, on November 5, 2012, a William Blair analyst wrote a report entitled: "Strong Software Sales Drive Another Beat-and-Raise Quarter; Growth Outlook Remains Robust" and on that same day, a J.P. Morgan analysts wrote: "Overall dynamics unchanged. We reiterate our Overweight rating on VCRA given its strong competitive position and opportunities for growth."

87. On January 7, 2013, at the J.P. Morgan Healthcare Conference, Zollars told the market that Vocera was a “good Healthcare IT stock to own,” that healthcare reform was continuing to have a positive effect on Vocera’s sales, and that Vocera’s market was “growing.” Zerella in turn emphasized the “very large market opportunity,” “good visibility and repeatability of [Vocera’s] revenue streams,” and growing revenues.

88. At no time during the Class Period did Defendants disclose that that the ACA and uncertainties surrounding its implementation were ***already having*** an effect on demand for Vocera's product.

### G. The Negative Effects of the ACA and BCA on Vocera’s Business Persist Throughout the Class Period and Are Known By Defendants But Hidden From Investors

89. Numerous high level former employees from the Company and internal Company documents show that contrary to Vocera’s public statements, Vocera’s business was actually suffering at the time of the IPO and throughout the Class Period. Quarter after quarter, Defendants touted Vocera’s growth and visibility into current and expected revenue, while denying that any adverse impact was being felt from the ACA or the budget sequestration. However, behind the scenes, [redacted]

90. At meetings held at the end of each quarter during the Class Period, Defendants received reports confirming that Vocera’s quarterly revenue was [redacted] In order to make quarterly guidance and continue the facade that Vocera remained a “growth story,” Defendants scoured Vocera's backlog and pushed hospitals to accelerate the acceptance of shipments of Vocera products to an earlier quarter,

allowing Vocera to recognize revenue sooner and meet guidance. This tactic may have worked for a while, but it (1) created an ever growing gap between expected quarterly revenue and what the Company had guided the market, and (2) depleted the backlog going forward. Defendants were essentially robbing revenue from future quarters to allow the Company to meet guidance in the current quarter -- all without telling the market that new bookings were declining and backlog was dropping. This smoothing of revenue also created the appearance that Defendants were able to deliver consistent, on-target guidance and results.

91. Former employees and [redacted] Defendants became so desperate that they began shipping products to hospitals before the agreed upon shipping date, ***without*** customer authorization. ¶121-128. Further, numerous high level employees told Defendants, who were involved in the decision to accelerate backlog shipments, that Vocera's Class Period revenue forecasts (and [redacted] were not reasonable and that Vocera was going to "fall off a cliff" because it kept eroding the Company's backlog.

### 1. The Internal Audit Report

92. CW2, the former Senior Director of Internal Audit and Compliance, worked for Vocera from November 2011 until August 2013. CW2 is an experienced internal auditor with over 30 years of internal audit and compliance experience, particularly in Silicon Valley. CW2 reported to John McMullen, Chairman of the Audit Committee, and Zerella. CW2 maintained a binder of internal Company documents which included documents and conclusions relating to Vocera's booking practices, backlog management, and revenue recognition practices during the Class Period, with a focus on expedited shipments (backlog pull-ins) that occurred in 4Q12 and 1Q13. Among these documents are a report entitled "Q1 Revenue Compliance Exception, Backlog Management & Forecasting Practices - 2013" (the "Internal Audit Report") and a supporting document with management comments to the Internal Audit Report and Internal Audit's responses ("Management/Audit Response"). "Management" in the report refers to

Zerella, Mark O'Hagen (CAO), Michael Hutchinson (Vice President Finance), and Bob Flury (Senior Vice President of Sales).

93. The Internal Audit Report was prepared by CW2 (except for the sections with management comments) and was informed by CW2's internal investigation, interviews with numerous employees, and internal Company financial data. The Internal Audit Report was dated June 18, 2013 and was sent to: Bill Zerella (CFO), Mark O'Hagan (CAO), Michael Hutchinson (VP Finance), Bob Flury (Senior Vice President of Sales), Bob Zollars, (CEO), Brent Lang (COO), Vocera Audit Committee Members, and PwC, Vocera's independent accountants. [redacted]

**2. The ACA Was Negatively Affecting Vocera's Growth at the Time of the IPO and Throughout the Class Period**

94. According to CW1, the ACA (and BCA) were frequently discussed during the Class Period in the senior management revenue meetings that CW1 attended. CW1 recalled that during and after the IPO, concern about both laws and their impact on sales and the Company's growth potential was expressed at the revenue meetings she attended with the executives. In particular, CW1 recounted that leading up to and immediately following the IPO, much discussion was held among management about the ability to achieve revenue forecasts and that the rosy forecasts and statements related to future sales expectations did not comport with what was being discussed internally. In terms of revenue growth, CW1 told Zerella and Martin Silver [who was employed by the Company during the time period leading up to the IPO] that the Company would not meet internal projections of future sales based on the realities of what was going on with the business. CW1 concluded that the Company's projected growth was not sustainable because of the ACA, and that the ACA was one of the factors that impacted Vocera's

sales [bookings]. CW1 specifically recalled VP of Sales Robert Flury mentioning the ACA as one of the reasons Vocera was having sales troubles.

95. CW3 also confirmed that the ACA was adversely impacting upon sales of Vocera's communication systems. CW3 was employed by Vocera as a Health Systems Director from January 2011 to January 2014. CW3 initially reported to Greg Young, Vice-President of Health Systems, who was in charge of the federal government team, and after being shifted to the enterprise side reported to Kelly Bechtel, the West Region Vice President. CW3 was responsible for several large health systems in the west, including Kaiser, the VA and DOD, managing top line sales, revenue growth and master purchasing contracts. CW3's focus was on new accounts, adding new accounts in each of the health systems, helping to leverage national contracts and funding.

96. CW3 explained that in order for a hospital to install a Vocera communications system, it needed to commit to voice-over IP, wifi and access points throughout the hospital, and including multiple servers. According to CW3, this was a huge commitment for "net-new" hospitals. CW3 explained that the ACA caused hospitals to "hold onto cash" and focus on "need" which made a Vocera communications system a tough sale. CW3 stated that the ACA forced hospitals to be more conservative with capital expenditures, such as Vocera's system and products, which in turn caused Vocera's sales to suffer.

97. According to CW3, because of questions related to implementation of the ACA, hospitals were leery of spending their capital, and needed to hold on to cash - so there is no question that every hospital tightened its belt. CW3 stated that he observed the actual, negative effects of the ACA on Vocera's business by "mid-2012, Q2, Q3." In fact, CW3 stated that it was clear, even before the Supreme Court ruling essentially affirming the legality of the ACA [which was in June of 2012], that the ACA was going to impact negatively on hospitals' spending and in turn Vocera's business.

### 3. The Effects of Sequestration Are Felt in 2012 But Not Publicly Reported Until 2013

98. In their notes to the Internal Audit Report, management admits that "federal budget issues" "impacted" the Company's growth "in our government business" ***in 2012***.

99. CW1 stated that the government's budget sequestration slowed down the government hospital sales process at Vocera. CW1 recalled that in the fall of 2012, the sales process was slowed down by 20% or more. CW1 advised that Hutchinson kept a report (that CW1 reviewed) where he tracked the sales cycle (this is where they are, this is where we want to be, etc.). CW1 confirmed that Hutchinson would have shared this report with Zerella, O'Hagan, Perkins, Zollars, and Lang.

100. CW3 corroborates that federal budget issues affected Vocera during the Class Period, stating that the BCA, or sequestration, took a toll on Vocera's business. CW3 noted the effects of sequestration on Vocera's government business, stating that its impact on pending deals was significant. CW3 explained that all DOD and VA hospital business "dried up." CW3 believed that VA and DOD hospitals made-up about 10% of Vocera's overall customers (he estimated that they were about $10-$20 million of Vocera's overall revenue stream), the rest being private hospitals. According to CW3, it was tough to get any dollars through and Vocera's price point made it even more difficult. CW3 recalled that he had a $1.5 million hospital deal that was about to be booked and then fell through due to the sequestration. He continued to say that sequestration forced government hospitals to "hang onto (their) cash." CW3 reiterated that both pieces of legislation [ACA and BCA] affected hospitals' willingness to invest in capital expenditures that were not a necessity.

101. CW4 was employed by Vocera from September 2010 to April 2014 as a Senior Manager of Professional Services. CW4 reported to the Vice President of Professional Services, Andy Hayden, who first reported to Senior Vice President of Services, Victoria Perkins, and the directly to Lang. CW4's territories included the northeastern U.S., Canada, the U.K. and the Middle East, and CW4's responsibilities included developing new sales opportunities, assisting the sales team on selling services in his territories, and forecasting service revenue.

102. Corroborating CW3, CW4 stated that Veteran's Affairs bookings were "running dry" during the Class Period.

**4. Throughout the Class Period, the Company Cannibalized its Backlog in Order to Keep Its Growth Story Alive In the Minds of Investors**

103. CW1 recalled that backlog became the focal point of the revenue meetings that CW1 attended with the executives. CW1 recalled sitting in the revenue meetings [which were attended by the Individual Defendants (¶61) ] and listening to the executives discuss how they were going to need to utilize the backlog to achieve revenue targets, and this occurred from the time of the IPO through the end of CW1's tenure. According to CW1, during the revenue meetings, the executives who attended were constantly asking "Can we pull it in?...Can we go back (to a particular customer?…Are they (the salespeople) going to talk with the customer to see if there is something we can do, maybe we can offer them some incentive." CW1 further advised that about 20% of the Company's quarterly revenue during the Class Period came from Vocera's pulling of revenue out of backlog, into an earlier quarter. According to CW1, Mike Hutchinson, VP of Finance, spent the majority of his time trying to figure out how to utilize the backlog to generate current revenue by accelerating shipments, or pulling backlog forward, to compensate for the Company's shortfall in sales each quarter.

104. CW2 stated that prior to 1Q13, Vocera missed its forecasts in each quarters in 2012 by 20%. Consistent with CW1's account, CW2 stated: "We continually missed our forecasts quarter after quarter [but] Bill (Zerella) was insistent on growth and took from backlog to make up the shortfalls." Thus, for each quarter, Vocera would have missed its projections absent accelerating the backlog.

105. Defendants were intimately involved in the decision to use backlog to achieve Vocera's quarterly revenue targets. According to CW1, at the end of the quarter, Defendants decided what to ship and book as revenue. CW1 stated: "Zerella and every high-ranking executive was at these meetings…as I was - I never saw a group that was so intent to know every number and involved in all of those decisions." CW1 continued that eventually, everyone except

the high echelon were excused from the revenue meetings and then, the word came down to his group as to what to ship and what to book.

106. The Internal Audit Report describes that there was "standard backlog management practices [at Vocera] to identify products that might be shipped in advance of the scheduled dates.” [redacted]

108. Defendants did not share their efforts to “smooth” revenue and adjusted EBITDA with investors. To the contrary, during the Class Period, the Company continued to tout its reported growth and visibility into upcoming revenue and profitability, [redacted]

[4] [redacted]

[5] [redacted]

[6] [redacted]

[redacted]

110. Yet, by the time the Company reported its "Actual Revenue," the Company had made its numbers by pulling in sales from the Company's backlog. In the Internal Audit Report, CW2 concluded, based on his investigation, that "[t]he root cause of aggressive expedited product shipments can also be linked to imprecise bookings forecasts that led to undue reliance on "go-get" sale commits and unrealistic upside revenue realizations. These commits and predictions were based on improbable expectations of sales realizations that forces late draws from backlog in attempts to achieve planned shipments for the quarters." In response to management comments to the Internal Audit report, CW2 explained that these "unrealistic upside revenue realizations" were the result of "sales commits disregard[ing] known trends and thus ignor[ing] reality. The revenue expectations ignored historical upside achievements and known misses in prior periods."

111. By expediting backlog shipments to ensure Vocera hit quarterly revenue guidance, the Individual Defendants "smoothed" Vocera's financials to portray the false impression that Vocera was a Company capable of delivering consistent and predictable revenue

[7] [redacted]

and earnings, a quality prized by the investing public as reflective of management's perceived skill and credibility.

112. CW3 corroborates that declining sales caused Vocera to resort to cannibalizing its backlog to make guidance. CW3 recalled that during the relevant time period, Defendants "would have staff pull stuff through to make numbers." Corroborating CW2's conclusion, CW3 said that Vocera went so hard after quarterly numbers that it was routine to pull numbers forward, and this process eventually caused quarterly sales goals to become completely unrealistic. To that effect, the Internal Audit Report states "[o]verly optimistic bookings forecasts can drive unnatural behavior in backlog management. If revenue targets are not achievable on the merit of current booking trends, and backlog is depleted to help make the numbers, succeeding quarters' revenue targets become increasingly more difficult to achieve."

113. CW3 stated that it did not matter if you had to "beg, steal and borrow" to make numbers. The culture at Vocera was "sell my soul" just to achieve quarterly numbers and don't worry about what sales were needed for future quarters. CW3 advised that the pressure came directly from Robert Flury, Senior Vice President of Sales, who was definitely getting pressure from the more senior executives to whom he reported. CW3 recalled that this pressure began in 2011 when he joined the Company but was exacerbated after the IPO through the end of his tenure. CW3 stated that the Company was eating through backlog and "sucking the pipeline dry."

114. CW3 provided an example of how Vocera would ship product early in order to make its numbers. CW3 was working on a hospital deal in Portland, Oregon, one of his "net-new" clients. According to CW3, a new Kaiser hospital was being built and expected to open in early 2013. In June 2012, Kaiser committed to install a Vocera communications system at this new hospital, but the hospital was not scheduled to open until February 2013. According to CW3, around November 2012, he started to get pressure from Kathy Bechtel (Current Western Region Vice President) to ship products to the hospital in Portland even through it had no need for them since it had not opened yet. CW3 advised that Bechtel's directive likely came from Robert Flury (Senior Vice President of Sales) since Bechtel did not do anything at Vocera

without Flury's oversight. CW3 was very concerned about accelerating this shipment because as soon as the product was shipped, the warranty on the product would begin to run, even though the hospital was not going to be using the products for months. CW3 was instructed to be a "team player" and go along with the acceleration plan. According to CW3, ultimately, even with his protests, the products were shipped by December 15, 2012, which in turn allowed Vocera to recognize the revenue for this sale in 4Q12. CW3 explained that the Kaiser Portland hospital situation was just one of many examples of how he and other sales personnel were pressured into accelerating sales to make numbers for a particular quarter.

115. CW1 also described the pressure to make sales in order to meet quarterly numbers. CW1 recalled sales personnel receiving directives from management to literally camp-out in the lobbies of hospitals to get a purchase order in time for a quarter end. CW1 recalled that sales people would be forced to "badger" customers for the purchase orders, as product could not ship without a signed purchase order. CW1 said "that's how it always was." CW1 also recalled one time when Kelly Bechtel became fed up and told Robert Flury that they were not going to get the purchase order but that Flury (and his superiors) were relentless. The pressure placed by management on the sales staff to make sales in order to meet guidance in the summer of 2012 was particularly "intense" because it was important to meet guidance in the first few quarters after the IPO, according to CW1.

### 5. Unable to Further Tap Into Backlog, The Company Violated Its Internal Revenue Recognition Policies In Order to Make It's 4Q12 and 1Q13 Numbers

116. The Company's practice of using backlog to make its quarterly numbers was unsustainable, as backlog continued to be depleted and [redacted] CW2 stated that in 4Q12, Mike Hutchinson, VP of Finance, warned Zerella that the Company was going to "fall off a cliff" because it was eroding backlog. By the end of 2012, and moving into 1Q13, the Company was in a dire position. [redacted] Company's backlog had decreased from $22 million just

[8] *See* footnote 5.

a year ago to $16 million. [redacted] Ultimately, Vocera met its 4Q12 guidance analysts' consensus estimates of $101 million by eating into backlog.

117. CW2 stated that Mike Hutchinson was very upset that the Company was burning through backlog at the end of FY2012 and going into 1Q2013. CW2 recounted a discussion he had with Hutchinson in 4Q2012 during which Hutchinson told CW2 that Zerella forbid him (Hutchinson) from showing trending graphs at revenue meetings. According to CW2, the graphs would have shown that the backlog was running out and that sales would not support the Company's targets. Hutchinson told CW2 that the underlying data did not support the Company's forecast for 1Q2013.

118. CW1 corroborated CW2's account. According to CW1, many insiders, including Mike Hutchinson were concerned that the 1Q13 projections could not be achieved. CW1 noted that Hutchinson challenged Bob Flury, SVP of Sales, over the projections and was quoted saying to Flury, "[i]s this really going to happen?" CW1 stated that Flury replied to Hutchinson's concerns in his typical fashion of "spinning things as if they were really going to happen." CW1 indicated that Hutchinson doubted whether the numbers Flury was reporting were accurate.

119. CW1 stated that in February 2013, one month before quarter close, people were "frenzied," adding that there was a tremendous amount of pressure to make the numbers. CW1, who attended the revenue meetings with the Individual Defendants, recounted that the top executives, including the CFO, CEO, and CAO were so immersed in the numbers that they viewed each deal in 1Q13 on a daily basis. CW1 noted that the C-suite [chief executives] was always metrics driven but the intensity grew during 1Q13. CW1 stated that Zollars was concentrating on additional strategic opportunities and Lang analyzed every single deal prior to the close of 1Q13. According to CW1, CW1 had never seen a C-level team so close to the details.

120. [redacted]

121. CW2 stated that he received two internal whistleblower complaints in 1Q13 where current employees reported expedited shipments (backlog pull-ins) during the quarter. CW2 concluded that these shipments were made in a frenzied effort to make the 1Q13 numbers. CW2 explained that there was an extraordinary sense of urgency at the end of 1Q13 because the backlog that the Company had been relying on to meet its targets was gone.

122. CW2's internal investigation into the expedited shipments uncovered two "exceptions" reported for the 1Q13 revenue compliance program where two hospitals received shipment of products that were not authorized by the hospitals, and both shipments were expedited in advance of recorded ship dates. The hospitals that received unauthorized shipments were [redacted] The Internal Audit Report concluded: "Investigation…determined, in both cases, the root cause of the problems were backlog management practices and revenue targets for the quarters that were at risk of not being achieved. These symptoms drove aggressive expedited shipping (backlog pull-ins) and resulted in the company making shipments without appropriate customer approval."

123. The Internal Audit report shows that the invoice for [redacted] was over [redacted] and was shipped on December 31, 2012 the last day of 4Q12. Indeed, in the management comments section of the Internal Audit Report, CW2 states that: "It appears that backlog was used as a last minute attempt to make the numbers." The [redacted] shipment was actually scheduled to ship *six months later*, on June 30, 2013. According to the Internal Audit Report, the customer did not approve the shipment, was surprised to receive the shipment, and complained to Vocera's on site Project Manager and Professional Services Director for the account. "There

was significant customer dissatisfaction that required attention by Vocera account managers in January and February 2013 to restore the injured customer relationship."

124. CW2 indicated that the [redacted] shipment, which was over [redacted] was sent out on March 29, 2013, the last day of 1Q13, but the order was actually scheduled to ship on June 30, 2013. [redacted] refused delivery and the shipment was returned which resulted in "late accounting adjustments" of over [redacted] in revenue. The Internal Audit Report notes that there was displeasure and a negative impact on customer relations at [redacted].

125. CW1 confirmed that there were two occasions in 1Q13 where Vocera shipped unauthorized products to two hospitals to make its numbers.

126. CW1 recalled that as the end of 1Q13 neared, the Company was "burning through backlog." CW1 described his experience on the [redacted] expedited shipment. Right at the end of 1Q13, CW1 received pressure from Michelle Goldman (Current Sales & Service Controller) to ship the order to [redacted]. Around 4:30 pm on the last day of the quarter, CW1 was told to ship the order. CW1 refused because CW1 did not have a signed purchase order. Goldman tried to pressure CW1 to ship it out but CW1 refused unless CW1 received authorization from either [redacted] or Zerella.

127. According to CW1, after CW1 refused to ship the order, Goldman "stormed into" a meeting in the executive conference room. This meeting was attended by Zerella, Mark O'Hagen (Chief Accounting Officer) and others. O'Hagen then went to CW1 to get CW1 to ship the products to [redacted]. CW1 refused to do so without Zerella's written authorization. Eventually, CW1 received Zerella's written authorization and begrudgingly sent out the order in time to recognize the revenue for quarter end. According to CW1, [redacted] sent the unauthorized products back to Vocera upon receipt. CW1 recalled that there were definitely e-mails from the hospital to Vocera questioning the shipment and warning that there was never an authorization for the shipment. CW1 was baffled as to how Vocera recognized the revenue generated from that transaction. CW1 stated that this led to issues with [redacted] satisfaction, since it was upset about receiving product it did not authorize. As part of his investigation of the backlog pull-ins, CW2 interviewed Michelle Goldman, Senior Manager of Sales Operations,

who, according to CW1, was involved in ordering the expedited shipment to [redacted] Goldman implied to CW2 that she was under pressure to make sure the shipments went out in order for the Company to make its numbers. CW2 noted that there is a culture of fear at Vocera evidenced by Goldman's statement to him while discussing backlog, "It's okay for you because you are protected because you are in Internal Audit. Bill (Zerella) would just sack me if I didn't do what I was told." CW2 further commented that people were scared to speak up at Vocera. Indeed, the Company even discouraged employees from taking complete and accurate minutes at meetings.

128. As part of his investigation, CW2 interviewed members of the Financial Planning and Analysis ("FP&A") team which yielded evidence that the 1Q13 forecasts, and therefore the related statements, made by the Company were not supportable with respect to 1Q13 forecasts. CW2 noted that the forecasts did not factor in market trends and return trends.

129. CW2 also explained that the 2013 FY plan was not "aligned with historical trends or validated with external environment/market conditions." [redacted] Particularly, CW2 concluded that:

> A [redacted] growth goal was assessed to drive a stretch target for revenue. The target revenue number was rationalized as achievable by hiring [redacted] additional sales reps to win [redacted] new Voice customers, [redacted] new Messaging customers and [redacted] new ExperiaHealth customers to achieve [redacted] of the growth. In total the plan assumed [redacted] new customers. This was a [redacted] increase over 2012 new customer achievement and ignored trends in this regard. There was no market research performed to evaluate whether the demand existed to achieve these numbers.
>
> The remaining [redacted] growth was expected from the B3000 refresh opportunity together with National/regional account agreements to accelerate sales. No market research supports customer take up of the B3000 opportunity or how much this would account for additional revenues for FY2013.

### 6. Negative Information on Growth Is Known or Recklessly Disregarded By Defendants

130. The challenges facing the Company and its ability to meet guidance were known by Defendants at the time of the IPO and throughout the Class Period.

131. Both CW1, CW2, ***and*** VP of Finance Hutchinson told Defendants that their forecasts were unattainable. At the time of the IPO, CW1, who "handled every order and every shipment," reported directly to the former CFO, Martin Silver, and then to Bill Zerella who eventually succeeded Silver. CW1 stated that CW1 attended every revenue meeting as part of CW1's duties, and was privy to everything that pertained to Vocera's orders and shipments. "I saw every number, I gave booking numbers to the VP Sales Bob Flury and to Mike Hutchison who gave the final numbers for revenues. I was privy to all of it..." In terms of revenue growth at the time of the IPO, CW1 told Zerella and Silver that their rosy predictions on growth were not achievable based on the realities of what was going on with the business.

132. CW2 corroborates that Defendants were told their goals were not attainable. CW2, who reported directly to Zerella, indicated that Zerella, was often told prior to 1Q13, that the Company's forecasts were unrealistic. Indeed, Hutchinson told Zerella at the end of 4Q12 that the Company was "fall[ing] off a cliff."

133. Defendants knew what the Company's revenue, bookings and backlog were because they were intimately involved in making decisions about these issues and attended revenue meetings where these issues were discussed. CW1, who attended the revenue meetings with the Individual Defendants, stated that the top tier at Vocera knew exactly what they were doing with the Road Show that was launched to support the IPO and that they knew what the numbers were. The Internal Audit Reports [redacted] Even after the IPO, Defendants continued to be involved in all the financial aspects of the Company. CW1 recalled that after the IPO the Company swelled from about (80) employees to about (300), but oddly, the upper tier executives took a very unusual hands-on approach to everything revenue-related.

### H. While Reassuring the Market that Vocera's "Growth Story" Is Intact, Defendants Unloaded Millions of Dollars Worth of Company Stock and Profit From the Executive Bonus Plan

#### 1. Defendant Zollars' and Lang's Stock Sales

134. During the Class Period, Defendants Zollars and Lang benefitted handsomely from stock sales while Vocera's stock traded at artificially inflated prices, selling over 450,000 shares and collectively netting over $11 million in proceeds from their sales.[9] This is dramatically disproportionate to Zollars' and Lang's post-Class Period sales of just 48,079 shares totaling $34,072.

| | Class Period | | Post Class Period | |
|---|---|---|---|---|
| **Defendant** | **Number of Shares Sold** | **Net Proceeds** | **Number of Shares Sold** | **Net Proceeds** |
| Zollars | 313,297 | $8,087,725 | 13,996 | ($285,741) |
| Lang | 145,987 | $3,633,802 | 34,083 | $319,813 |
| **Totals** | **459,284** | **$11,721,527** | **48,079** | **$34,072** |

135. Defendant Zollars sold 313,297 shares for net proceeds of $8,087,725 during the Class Period at stock prices well above the IPO price of $16.00.[10] These were both direct and indirect sales, but Zollars benefitted nonetheless, as the indirect ownership was by ZoCo, LP, a Company owned by Zollars and his wife as general partners and their children as limited partners. In contrast, in the fourteen months after the Class Period, Zollars sold 13,996 shares for net proceeds of negative $285,741.[11] While several of Zollars' sales were made pursuant to a 10b5-1 trading plan, this plan was entered into on August 27, 2012, at a time when [redacted] and when the negative effects of the ACA on the Company's current financial condition and effects on future growth were already known. Notably, Zollars most significant sale, with proceeds totaling over $5 million, occurred on September 12, 2012 as a

[9] Because the Class Period begins with the IPO, Plaintiffs cannot compare Zollars' and Lang's pre-Class Period sales to their Class Period sales. Thus, as a way of comparison, Plaintiffs have contrasted Zollars' and Lang's sales over the fourteen month Class Period with Zollars' and Lang's sales over the fourteen months following the Class Period.

[10] Attached as Exhibit C is a chart with information obtained from Zollars' Form 4s filed with the SEC that details Zollars' Class Period and post-Class Period sales.

[11] Zollars exercised vested stock options and acquired stock under the employee stock purchase plan, which results in a negative proceeds number.

result of the partial release of the lock up during the Secondary Offering, and while the stock price was trading at $27.24 as a result of the success of the Secondary Offering, and Defendants continued false and misleading statements.

136. Defendant Lang sold 145,987 shares for net proceeds of $3,633,802 during the Class Period at stock prices well above the IPO price of $16.00.[12] These were both direct and indirect sales, but Lang benefitted nonetheless, as the indirect ownership was by the Lang Van Schaack Revocable trust, his family's trust. In contrast, in the fourteen months after the Class Period, Lang sold 34,083 shares for net proceeds of $319,813. While several of Lang's sales were made pursuant to a 10b5-1 trading plan, this plan was entered into on August 27, 2012, at a time when [redacted] and the negative effects of the ACA on the Company's current financial condition and effects on future growth were already known. Notably, Lang sold over $2.7 million of Vocera stock on September 12, 2012 as a result of the partial release of the lock up while the stock price was trading at $27.24 as a result of the success of the Secondary Offering, and Defendants' continued false and misleading statements.

**2. The Individual Defendants Benefit From Inflating Revenue and EBITDA**

137. Defendants also profited handsomely from their scheme to accelerate backlog into revenues, by exceeding certain incentive targets set by the Company for 2012. Vocera's 2012 executive bonus plan was based on the attainment of two Company-wide performance measures - revenue and adjusted EBITDA. The target bonus attributable to revenues accounted for 50% of an executive's target bonus while the target bonus attributable to adjusted EBITDA accounted for 50%. Each Individual Defendant had an overall bonus percentage expressed as a percentage of his salary. If both metrics were achieved at the target level, the Individual Defendant would receive the target level of bonus.

138. For a bonus to be paid each metric had to be achieved at least at the 80% level, with achievement of between 80% and 100% resulting in bonus payments of 20-100% of the

[12] Attached as Exhibit D is a chart with information obtained from Lang's Form 4s filed with the SEC that details Lang's Class Period and post-Class Period sales.

target. For performance on a Company-wide metric above 100%, a maximum bonus percentage of 200% of target could be earned for achievement at the 120% level. Bonus payments from 100% to 200% of target could be earned for performance between 100% and 120% of the target metric. The target bonus for each of the Individual Defendants was: Mr. Zollars—$405,000; Mr. Lang—$203,000; and Mr. Zerella—$201,000.

139. In February 2013, based on Vocera's 2012 performance, the compensation committee determined that the Company had achieved the revenue target at approximately the 98% level and that the Company had achieved the adjusted EBITDA target at approximately the 196% level. These results, which were a consequence of the artificial backlog pull-ins, resulted in bonus payments to the Individual Defendants of approximately 46% of the target bonus as a result of achieving the revenue target and 100% of the target bonus as a result of achieving of the adjusted EBITDA target, for an aggregate bonus payment of approximately 146% to each of the Individual Defendants.

140. Defendants were essentially rewarded for their fraud with six figure bonuses. Notably, these bonuses dwarfed the bonuses they received in 2011. Zollars bonus was nearly double his salary. Zerella and Lang's bonuses exceeded their salaries.

**Summary Executive Compensation Table**[13]

| Name and principal position | Year | Salary | Option Awards | Stock Awards | Non-equity incentive plan compensation | All other compensation | Total |
|---|---|---|---|---|---|---|---|
| Robert J. Zollars | 2012 | $ 385,000 | $ 866,708 | $ 869,400 | $ 590,652 | $ 785 | $ 2,712,545 |
| Chief Execu ive Officer | 2011 | 356,667 | 245,521 | - | 214,200 | 5,590 | 821,978 |
| Brent D. Lang | 2012 | 281,875 | 508,255 | 507,150 | 296,055 | 785 | 1,594,120 |
| President & Chief Operating Officer | 2011 | 256,667 | 150,227 | - | 121,550 | 5,148 | 533,592 |
| William R. Zerella | 2012 | 268,750 | 385,204 | 386,400 | 293,138 | 718 | 1,334,210 |
| Chief Financial Officer | 2011 | 65,000 | 990,600 | - | 30,388 | 1,571 | 1,087,559 |

[13] Information take from April 16, 2013 Proxy.

### I. Defendants Eventually Admitted that Sequestration Was Affecting the Business But Continue to Mislead the Market About the Effects of the ACA on its Primary Business

141. On February 27, 2013, the Company announced that it had met fourth quarter and annual guidance, but guided revenues slightly down for 1Q13. The Company blamed the light 1Q13 guidance on sequestration, for the first time telling the market that sequestration was having a negative effect on sales to its government customer hospitals. However, Defendants told the market that the "pipeline in the government remains very strong." Defendants also announced that bookings and backlog were down, attributing the decline in part to the issues with government hospitals.

142. Despite the impact of sequestration on Vocera's government related hospitals, Defendants led the market to believe that demand from private hospitals, the main driver of revenue, was still strong, claiming that "US healthcare business…is very healthy and performing well." Defendants told the market that "we see no reason why we can't continue to grow this business 25% on the top line over the next few years," and backed this statement up by providing 2013 annual guidance of $120 to $130 million, a 20% to 30% increase over 2012. Defendants stated they were confident about meeting this range due to their "revenue model [which is] highly recurring in nature."

143. On this news, despite the Defendants' attempts to blunt news about sequestration, the Company's stock dropped over 9% on heavy volume to close at $26.37 on February 28, 2012.

144. Analysts were surprised by the low guidance issued for 1Q13, but believed the Company's growth story was still intact. For example, on February 28, 2013 a Piper Jaffray analyst wrote "Distracting Quarter But We Believe In the Growth Story." On that same day, a J.P. Morgan analyst wrote: "4Q12 Solid, 2013 Looks Good - 2013 guidance calls for 19-29% top-line growth."

145. Indeed, in late March 2013, after the close of 1Q13, Vocera management, including Zerella, communicated to Piper Jaffray and William Blair, statements that were later

published in analyst reports, including that the Company was "more confident than ever" on its growth outlook, particularly its 25% estimated growth for 2013. *See* ¶¶258-260.

### J. Vocera Finally Admitted that the ACA Was Negatively Affecting its Business and Reduced Annual Guidance Dramatically

146. On May 2, 2013, the Company shocked the market when it announced that first quarter revenues had fallen beneath the already lowered projected guidance range, and that the Company was lowering its 2013 annual guidance to between $100 and $110 million. The Company blamed this earnings miss and guidance reduction on "uncertainties surrounding the effect of sequestration and the healthcare reform act…[v]irtually every health system we speak of has put in place a large expense reduction initiatives as a result of reform."

147. On this news, the stock dropped over 37% to close at $12.15 on May 3 on extraordinarily high volume.

148. Analysts were shocked. For example, on May 2, 2013, a William Blair analyst stated "the magnitude of the shortfall (especially after providing guidance in late February) clearly surprised us." The William Blair analyst also commented on the revelation about Vocera's "visibility," into revenue showing that the market now understood that Vocera's backlog was not providing that type of recurring revenue stream that Defendants had touted during the Class Period:

> ***Lastly, we also thought visibility was better for Vocera (e.g., sizable recurring revenue stream, predictable customer reorders [until this quarter]), but after two straight quarters of disappointing results (and the large guidance reset) we clearly overestimated the predictability in the business;*** clearly this will cause a reset in the valuation multiple that investors afford the company.

## IV. DEFENDANTS' MATERIALLY FALSE AND MISLEADING CLASS PERIOD STATEMENTS AND OMISSIONS AND ANALYST AND MARKET REACTION THERETO[14]

### A. March 28, 2012 IPO

149. The Class Period begins on March 28, 2012, the date of Vocera's IPO. In the IPO Offering Materials, Vocera laid out its business strategy and the seemingly limitless opportunity for growth and expansion due, in part, to the pressures and incentives provided by the ACA.

150. The IPO Offering Materials explained that Vocera would be successful because healthcare reform initiatives were actually providing incentives to hospitals to purchase Vocera's technology and products to "improve the quality of care and patient satisfaction":

> Patients are increasingly selecting hospitals and healthcare providers based on quality of care, cost and overall experience with the provider. ***In addition, healthcare reform initiatives incorporate financial incentives for hospitals to improve the quality of care and patient satisfaction. These forces are driving hospitals to manage their operations more efficiently and to seek ways to improve staff and patient satisfaction through process improvements and technology solutions.***
>
> ***
>
> ***The increasing focus on improving patients' experience is supported by the healthcare reform initiative, which incorporates financial incentives for hospitals to improve the quality of care and patient satisfaction. These forces are driving hospitals to invest in technology and process improvements to manage their operations more efficiently and to improve staff and patient satisfaction.***

151. Vocera then suggested that traditional hospital communications often "degrade patient and caregiver satisfaction," because they lead nurses away from the bedside, do not always reach the appropriate caregiver in a timely manner, foster noisy environments and can prevent closed loop communication.

152. Vocera touted its products as providing the "solution" to these problems

> To address these deficiencies, hospitals are seeking more effective alternatives for improving communication. ***We believe hospitals will increasingly turn to communication technologies to help improve patient safety and satisfaction, productivity and***

[14] In Section IV, the statements made by Defendants that are in bold and italicized are the statements alleged to be false and misleading. Additional statements that appear in bold (but not italicized) are in bold for emphasis.

> ***caregiver satisfaction and retention. We believe our solutions are at the convergence of the healthcare IT market and the enterprise communications and collaboration market.***

153. In particular, Vocera claimed that its products would address problems faced by hospitals by improving patient safety, enhancing patient experience, and improving caregiver job satisfaction.

154. Vocera also explained the pressures that hospitals might face because of healthcare reform, but touted Vocera as the solution that hospitals needed to alleviate these pressures:

> Effective communication is extremely important among mobile and widely dispersed healthcare professionals in hospitals. As of December 31, 2011, there were over 6,900 hospitals in the United States. We believe that a combination of policy changes through healthcare reform, demographic trends and downward pressure on healthcare reimbursement is increasing financial pressure on hospitals and other healthcare providers. Furthermore, the nursing shortage in the United States, with over 115,000 openings, can detract from the patient experience and place further strain on hospital operations.
>
> ***
>
> • **Increase revenue and reduce expenses.** Improved communication facilitated by our solutions can enable hospitals to increase revenue and reduce expenses through more efficient use of their resources, directly impacting profitability. With our solutions, hospitals can reduce nurse overtime expense and increase job satisfaction, thereby improving nurse recruiting and retention. In addition, improvements in patient safety and reduction in errors can lead to reduced liability cost for hospitals.

155. The Offering Materials further explained that because of the benefits and "solutions" that Vocera provided to hospitals, Vocera's prospects for growth were enormous:

> ***We estimate the worldwide hospital market opportunity for the full deployment of our Voice Communication solution to be over $6 billion on an aggregate basis.***

156. Vocera touted the Company's growth in 2011 and described its growth strategy to increase the amount of new healthcare clients and continue to develop expansion into its existing customer base:

> ***In 2011, we generated revenue of $79.5 million, representing growth of 40.0% over 2010.***
>
> *********

***Our goal is to extend our leadership position as a provider of communication solutions in the healthcare market. Key elements of our strategy include:***

***• Expand our business to new U.S. healthcare customers. As of December 31, 2011, our solutions were deployed in approximately 9% of U.S. hospitals. We plan to continue to expand our direct sales force to win new customers among hospitals of all sizes.***

***• Further penetrate our existing installed customer base. Typically, our customers initially deploy our Voice Communication solution in a few departments of a hospital and gradually expand to additional departments, or additional hospitals within a healthcare system, as they come to fully appreciate the value of our solutions. A key part of our sales strategy includes promoting further adoption of our Voice Communication solution and demonstrating the value of our new Messaging and Care Transition solutions to our existing customers.***

***

***We have a growing U.S. customer base.***

157. The statements in the IPO Offering Materials regarding (1) the Company's growth and growth potential, and (2) the positive effect that the ACA was having at the time of the IPO and would continue to have on Vocera's business, were materially untrue and omitted to state that at the time of the IPO, healthcare reform was already a factor negatively impacting the Company's bookings and would continue to do so, and, a result, [redacted] that the Company needed to organically achieve in order to sustain the impression Defendants created that Vocera was a "growth company." *See* ¶¶94, 103, 107, 109. [redacted]

158. The omitted information in the IPO Offering Materials regarding the known, adverse impact of healthcare reform, which was a factor in the Company's failure to achieve [redacted] and public guidance (prior to "smoothing"), was required to be disclosed in the Form S-1 pursuant to Item 11(h) of the instructions to Form S-1, which provides that companies disclose information called for under Item 303 of Regulation S-K [17 C.F.R. §229.303]. Item 303(a) of Regulation S-K requires issuers to "[d]escribe any known trends or uncertainties that have had or

that the registrant reasonably expects will have a material favorable or unfavorable impact on net sales or revenues or income from continuing operations." In addition, Instruction 3 of Item 303(a) of Regulation S-K requires that "[t]he discussion and analysis shall focus specifically on material events and uncertainties known to management that would cause reported financial information not to be necessarily indicative of future operating results." Moreover, pursuant to SEC Regulation C, registrants have an overarching duty to disclose material information necessary to ensure that representations in a registration statement are not misleading. Specifically, Rule 408 states that, "In addition to the information expressly required to be included in a registration statement, there shall be added such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading." 17 C.F.R. § 230.408(a).

159. On March 28, 2013, the same day of the IPO, Debra Borchart, a market analyst from "The Street" interviewed Zollars about the IPO.

> Analyst:
>
> Any concern that you are too narrowly focused in the hospital sector?
>
> Zollars:
>
> No. ***We're actually really excited about health care because it's about a $6 billion market for our solution, so we've got plenty of room to grow.*** We're less than 10% penetrated today. The other exciting thing about the technology, though, is we do sell it into other verticals. So we're in high end hotels. Here in New York City, for instance, the Plaza, the Trump Soho, the Intercontinental in Times Square, all use Vocera in their hospitality setting.
>
> Analyst:
>
> The hearings that we have going on right now with the Supreme Court and the Health Care laws, are you guys going to be affected at all by any decisions that are happening with the Supreme Court?
>
> Zollars:
>
> No. Fortunately for us we haven't been involved in any of the stimulus money which has sort of created some artificial funding in the area of EMRs and Vocera doesn't participate this, and that goes away it won't hurt us. ***So the reform really doesn't have much impact on us, and again, we've got great growth opportunity with about 90% of the market left to go capture.***

160. These statements were materially false and misleading for the reasons stated in ¶157.

161. Vocera's stock price reacted favorably to Defendants' false statements, soaring to $24.91 on the day after the IPO.

162. Analysts bought the Company's growth story. For example, on May 7, 2012, an analyst at William Blair sang the Company's praises, stating in a report: "we expect Vocera to be one of the strongest growth stories in our coverage universe."

**B. Class Period Financials**

163. During the Class Period, Defendants issued quarterly and annual results for their revenue, EBITDA, and earnings. These statements were false and misleading because Defendants failed to disclose that the revenue and earnings as reported were only achieved by pulling in revenue set for future quarters, out of backlog, and into the current quarter (revenue and earnings "smoothing"). *See* ¶¶103-128. [redacted] In each quarter, Defendants "smoothed" Vocera's revenue and

earnings numbers, making it appear as though Vocera met its guidance organically, and portrayed a misleadingly positive picture of the Company's (and management's) performance.

164. The chart below lists each false and misleading revenue and earnings figure reported during the Class Period:

| Source | Date | Revenue and Earnings |
|---|---|---|
| 1Q12 8-K | 5/9/2012 | Revenue - $23.1 million<br>Non-GAAP Adjusted EBITDA - $2.0 million<br>GAAP net loss - $0.8 million<br>GAAP loss per share: $0.23 per diluted share<br>Non-GAAP net income - $1.4 million<br>Non GAAP EPS - $0.06 per diluted share |
| 1Q12 call | 5/9/2012 | ***Zollars:***<br>Revenue - $23.1 million<br>Non-GAAP net income - $1.4 million<br>Non-GAAP adjusted EBITDA - $2 million<br>Non-GAAP EPS - $0.06<br><br>***Zerella:***<br>Revenue - $23.1 million<br>Non-GAAP net income - $1.4 million<br>Non-GAAP adjusted EBITDA - $2.0 million |
| 1Q12 10-Q | 5/14/2012 | Revenue - $23.1 million |
| 2Q12 8-K | 8/2/2012 | Revenue - $24.9 million<br>GAAP net income - $1.2 million,<br>GAAP EPS - $0.00 per diluted share<br>Non-GAAP net income - $2.3 million<br>Non-GAAP EPS - $0.09 per diluted share<br>Non-GAAP Adjusted EBITDA - $3.0 million |

| Source | Date | Revenue and Earnings |
|---|---|---|
| 2Q12 call | 8/2/2012 | ***Zollars:***<br>Revenue - $24.9 million<br>Non-GAAP net income - $2.3 million<br>Non-GAAP Adjusted EBITDA - $3 million<br>Non-GAAP EPS - $0.09<br><br>***Zerella:***<br>Revenue - $24.9 million<br>GAAP net income - $1.2 million<br>GAAP EPS - $0.00 per diluted share<br>Non-GAAP net income - $2.3 million<br>Non-GAAP EPS - $0.09 per diluted share<br>Non-GAAP Adjusted EBITA - $3 million<br>Non-GAAP Adjusted EBITDA margins - 12% |
| 2Q12 10-Q | 8/14/2012 | ***Six months ended June 30, 2012:***<br>Revenue - $48.0 million |
| 3Q12 8-K | 11/5/2012 | Revenue - $26.0 million<br>GAAP net income - $1.7 million<br>GAAP EPS - $0.07 per diluted share<br>Non-GAAP net income - $3.3 million<br>Non-GAAP EPS - $0.13 per diluted share<br>Non-GAAP Adjusted EBITDA - $3.8 million |
| 3Q12 call | 11/5/2012 | ***Zollars:***<br>Revenue - $26 million<br>Non-GAAP net income - $3.3 million<br>Non-GAAP Adjusted EBITDA - $3.8 million<br>Non-GAAP EPS - $0.13<br>Non-GAAP gross margin - 66.4%<br><br>***Zerella:***<br>Revenue - $26 million<br>GAAP net income - $1.7 million<br>Non-GAAP net income - $3.3 million<br>Non-GAAP EPS - $0.13 per diluted share<br>Non-GAAP adjusted EBITDA - $3.8 million<br>Non-GAAP adjusted EBITDA margin - 14% |
| 3Q12 10-Q | 11/13/2012 | ***Nine months ended September 30, 2012:***<br>Revenue - $74.0 million |

| Source | Date | Revenue and Earnings |
|---|---|---|
| 4Q12 and FY 2012 8-K | 2/27/2013 | ***4Q12:***<br>Revenue - $27.0 million<br>GAAP net income - $0.8 million<br>GAAP EPS - $0.03 per diluted share<br>Non-GAAP net income - $2.6 million<br>Non-GAAP EPS - $0.10 per diluted share<br>GAAP product gross margin = 68.9%<br>Non-GAAP product gross margin - 69.8% in the quarter<br>Non-GAAP Adjusted EBITDA - $3.2 million<br><br>***FY 2012:***<br>Revenue - $101.0 million<br>GAAP net income - $2.9 million<br>GAAP EPS - $0.08 per diluted share<br>Non-GAAP net income - $9.6 million for 2012<br>Non-GAAP EPS - $0.38 per diluted share |
| 4Q12 call | 2/27/2013 | ***Zollars:***<br><br>***4Q12:***<br>Revenue - $27 million<br>Adjusted EBITDA - $3.2 million<br>Non-GAAP EPS - $0.10<br><br>***FY 2012:***<br>Revenue - $101 million<br>Adjusted EBITDA - $11.9 million<br>Non-GAAP EPS - $0.38<br><br>***Zerella:***<br><br>***4Q12:***<br>Revenue - $27 million<br>GAAP net income - $811,000<br>GAAP EPS - $0.03 per diluted share<br>Non-GAAP net income - $2.6 million<br>Non-GAAP EPS - $0.10 per diluted share.<br>Non-GAAP Adjusted EBITDA - $3.2 million |

**C. Class Period Guidance**

165. Beginning with the second quarter of 2012, Defendants provided the market with quarterly and annual revenue and earnings guidance. Statements concerning guidance were false and misleading because they omitted to state (1) that the ACA was already a factor negatively

impacting revenue and earnings and would continue to do so (¶¶94-97), (2) bookings were down, which caused backlog to decline (¶107), and (3) the Company had further depleted its backlog by accelerating backlog from future quarters, in order to meet its quarterly and annual revenue targets, thus robbing future quarters of this revenue. ¶¶103-129. Thus, the quarterly and annual guidance issued by Defendants lacked a reasonable basis based on known facts.

166. The chart below lists each false and misleading guidance figure reported during the Class Period.

| Source | Date | Guidance |
|---|---|---|
| 1Q12 8K | 5/9/2012 | ***Full year 2012*:**<br><u>Revenue</u> - between $100 million and $102 million<br><u>GAAP loss per share</u> - between $(0.06) and $(0.11)<br><u>Non-GAAP earnings</u> - between $2.5 million and $3.5 million<br><u>Non-GAAP EPS</u> - between $0.10 and $0.14<br><u>Non-GAAP Adjusted EBITDA</u> - between $4 million and $5 million.<br><br>***2Q12***:<br><u>Revenue</u> - between $24 million and $25 million<br><u>GAAP loss per share</u> - between $(0.03) and $(0.05)<br><u>Non-GAAP earnings</u> - between $0.1 million and $0.5 million<br><u>Non-GAAP EPS</u> - between $0.00 and $0.02<br><u>Non-GAAP Adjusted EBITDA</u> - between $0.5 million and $1.0 million |
| 1Q12 call | 5/9/2012 | ***Zerella:***<br><br>***Full year 2012:***<br><u>Revenue</u> - between $100 million and $102 million<br><u>Non-GAAP net income</u> - between $2.5 million and $3.5 million<br><u>Non-GAAP EPS</u> - between $0.10 and $0.14<br><u>Non-GAAP adjusted EBITDA</u> - between $4 million and $5 million<br><u>GAAP net loss</u> - between $1 million and $2 million<br><u>GAAP net loss per share</u> - $0.06 and $0.11 per share<br><br>***2Q12:***<br><u>Revenue</u> - between $24 million and $25 million<br><u>Non-GAAP earnings</u> - between $0.1 million and $0.5 million<br><u>Non-GAAP EPS</u> - between $0.0 and $0.2 per share<br><u>Adjusted EBITDA</u> - between $0.5 million and $1 million<br><u>GAAP net loss -</u> between $0.6 million and $1.1 million, or between $0.03 and $0.05 per share |

| Source | Date | Guidance |
|---|---|---|
| 2Q12 8-K | 8/2/2012 | ***Full year 2012:***<br>Revenue - between $100 million and $102 million<br>GAAP loss per share - between $(0.03) and $(0.08)<br>Non-GAAP earnings - between $5.0 million and $6.0 million<br>Non-GAAP EPS - between $0.20 and $0.24<br>Non-GAAP Adjusted EBITDA - between $7.0 million and $8.0 million<br><br>***3Q12:***<br>Revenue - between $25 million and $26 million<br>GAAP loss per share - between $(0.04) and $0.00<br>Non-GAAP earnings - between $0.5 million and $1.5 million<br>Non-GAAP EPS - between $0.02 and $0.06<br>Non-GAAP Adjusted EBITDA - between $1.0 million and $2.0 million |
| 2Q12 call | 8/2/2012 | ***Zerella:***<br><br>***Full year 2012:***<br>Revenue - between $100 million and $102 million<br>Non-GAAP net income - between $5 million and $6 million<br>Non-GAAP EPS - between $0.20 and $0.24<br>Non-GAAP Adjusted EBITDA - between $7 million and $8 million<br>GAAP earnings - loss of between $500,000 and $1.4 million<br>GAAP EPS - loss of $0.03 and $0.08 per share<br><br>***3Q12:***<br>Revenue - between $25 million and $26 million<br>Non-GAAP earnings - between $500,000 and $1.5 million<br>Non-GAP EPS - between $0.02 and $0.06<br>Non-GAAP Adjusted EBITDA - between $1 million and $2 million<br>GAAP net loss - between $0 million and $1 million<br>GAAP loss per share - between $0.00 and a loss of $0.04 per share. |
| 3Q12 8-K | 11/5/2012 | ***Full year 2012:***<br>Revenue - between $100 million and $102 million<br>GAAP EPS - between $0.09 and $0.11<br>Non-GAAP earnings per share - between $0.33 and $0.35<br>Non-GAAP Adjusted EBITDA - between $10.0 million and $11.0 million |
| 3Q12 call | 11/5/2012 | ***Zerella:***<br><br>***Full year 2012:***<br>Revenue - between $100 million and $102 million<br>Non-GAAP 2012 EPS - between $0.33 and $0.35<br>Non-GAAP adjusted EBITDA - between $10 million and $11 million<br>GAAP EPS - between $0.09 and $0.11 |

| Source | Date | Guidance |
| --- | --- | --- |
| 4Q12 and FY 2012 8-K | 2/27/2013 | ***Full year 2013:***<br>Revenue - between \$120 million and \$130 million<br>GAAP earnings per share - between a loss of \$0.10 and a profit of \$0.09<br>Non-GAAP EPS - between \$0.33 and \$0.51<br>Non-GAAP Adjusted EBITDA - between \$12 million and \$17 million<br><br>***1Q13:***<br>Revenue - between \$23 million and \$25 million<br>GAAP loss per share - between \$0.08 and \$0.13<br>Non-GAAP earnings - between a loss of \$1.2 million and breakeven<br>Non-GAAP EPS - between a loss of \$0.05 and \$0.00<br>Non-GAAP Adjusted EBITDA - between a loss of \$0.7 million and earnings of \$0.5 million |
| 4Q12 call | 2/27/2013 | ***Zerella:***<br><br>***Full year 2013:***<br>Revenue - between \$120 million and \$130 million<br>Non-GAAP net income - between \$9 million and \$14 million<br>Non-GAAP EPS - between \$0.33 and \$0.51<br>Non-GAAP adjusted EBITDA - between \$12 million and \$17 million.<br>GAAP (net) income - between a loss of \$2.5 million and a profit of \$2.5 million<br>GAAP EPS - between a loss of \$0.10 per share and a profit of \$0.09 per share.<br><br>***1Q13:***<br>Revenue - between \$23 million and \$25 million<br>Non-GAAP earnings - between a loss of \$1.2 million and break even.<br>Non-GAAP EPS - between a loss of \$0.05 and \$0.00 per share<br>Non-GAAP Adjusted EBITDA - between a loss of \$700,000 and a profit of \$500,000.<br>GAAP net loss - between \$1.9 million to \$3.1 million<br>GAAP loss per share - between \$0.08 and \$0.13 per share. |
| 1Q13 8-K | 5/2/2013 | ***Full year 2013:***<br>Revenue - between \$100 million and \$110 million<br>GAAP earnings per share - between a loss of \$(0.47) and \$(0.22)<br>Non-GAAP earnings per share - between a loss of \$(0.05) and a profit of \$0.18<br>Non-GAAP Adjusted EBITDA - between \$1.2 million and \$7.9 million<br><br>***2Q13:***<br>Revenue - between \$23 million and \$25 million<br>GAAP loss per share - between \$(0.17) and \$(0.12)<br>Non- GAAP earnings - between a loss of \$(1.6) million and \$(0.4) million<br>Non-GAAP earnings per share - between a loss of \$(0.06) and \$(0.02)<br>Non-GAAP Adjusted EBITDA - between a loss of \$(1.0) million and a gain of \$0.3 million |

| Source | Date | Guidance |
|---|---|---|
| 1Q13 call | 5/2/2013 | ***Zerella:***<br><br>***Full year 2013:***<br><u>Revenue</u> - $100 and $110 million<br><u>Non-GAAP net income</u> - between a loss of $1.3 million and a profit of $5 million<br><u>Non-GAAP EPS</u> - between a loss of $0.05 and a profit of $0.18<br><u>Non-GAAP EBITDA</u> - between $1.2 million and $7.9 million<br><br>***2Q13:***<br><u>Revenues</u> - between $23 and $25 million<br><u>Non-GAAP earnings</u> - between a loss of $1.6 million and $400,000<br><u>Non-GAAP EPS</u> - between a loss of $0.06 and $0.02 per share<br><u>Non-GAAP adjusted EBITDA</u> - between a loss of $1 million and a gain of $300,000 |

### D. May 9, 2012 - Form 8-K and Press Release

167. On May 9, 2012, after the market closed, Vocera filed a Form 8-K with the SEC and attached a press release entitled "Vocera Reports First Quarter Results." Zerella signed the Form 8-K. For the first quarter, Vocera reported the financials and guidance described in ¶¶164 and 166 above. Commenting on these results and future guidance, Zollars stated:

> We are very pleased to report ***strong results in our first quarter as a public company***. ***Our business continues to perform well*** and we are receiving great feedback on our recently released B3000 badge from initial users. ***We believe 2012 is off to a great start*** and we remain focused on executing on the numerous opportunities that are in front of us.

168. The statements contained in the Form 8-K and Press Release were materially false and misleading. Statements made by Zollars commenting on first quarter results and guidance, concerning the Company's allegedly "strong results in our first quarter" and that "[w]e believe 2012 is off to a good start" were objectively false and misleading because first quarter results were not "strong" and 2012 was not "off to a good start" for the reasons stated in ¶¶163 and 165, and because at the time the statements were made, [redacted] *Id.* Zollars' remarks were objectively verifiable and contradicted by this internal financial data. *See* Exs. A-B.

**E. May 9, 2012 - 1Q12 Earnings Conference Call**

169. The Company hosted an earnings conference call on May 9, 2012 to discuss the first quarter results after the market closed. Zollars, Zerella and Lang participated on the call. Zollars and Zerella reiterated first quarter financial results and second quarter and annual guidance. *See* ¶¶164, 166. The Individual Defendants all made positive statements concerning the current state of the Company's business and Vocera's growth prospects.

170. For example, in his prepared remarks, Zollars commented on the Company's "strong results for the first quarter" and the continuing success the Company was experiencing:

> Zollars:
>
> ***We're really pleased with the first quarter results, and off to a great start for 2012…These strong results continue to demonstrate the high visibility of our business model, and were driven by several factors. First, the continued expansion and acceptance of our voice communications solution.*** Second, higher than expected gross margins driven by a favorable product mix, and increased leverage from our professional services investments. And third, lower than expected operating expense driven by cost controls, and the timing of some engineering and sales spending.
>
> ***
>
> And while ***we continue to have tremendous success in our core healthcare market, during Q1*** we also delivered on a significant for a large casino operator who deployed the B3000, and then immediately placed an additional order to expand their usage to more employees.
>
> ***
>
> So, before turning the call over to Bill, ***I'd just summarize Q1 as a good, solid start to 2012.*** We're very pleased with the number of initiatives we have underway, especially the uptake of the B3000, and we're also excited about the opportunities we have throughout our business.

171. In response to a question from an analyst, Zerella continued to tout the Company's growth story:

> Analyst:
>
> Nicely done, guys. Thanks for taking the question. So, first a numbers question. Given the strong guidance for the year, **are you still looking at long-term 25% sustainable top line growth?**
>
> Zerella:

> ***Yes, Sean. We committed to 25% top line growth over the longer time in the road show, and frankly, our view has not changed. We continue to see significant growth opportunities for our business.***

172. Analysts were focused on Vocera's growth, and the same analyst immediately asked Zollars a follow up question regarding Vocera's ability to achieve 25% sustainable top line growth:

> <u>Analyst</u>:
>
> So, when you think about the leverage that you need to pull from here to continuing to achieve **that kind of growth** -- it's penetrating your existing customers; it's adding new customers; it's cross-selling. Bob, if you could just describe the leverage that you need to pull here to achieve **that long-term top line growth**. What do you see as the opportunities, and what are the areas where you might have to put some more work into, such as, specifically secure messaging, to drive the growth in that market.
>
> <u>Zollars</u>
>
> Yes, great, Sean. ***So, I think if you think about our five growth levers, as usual, our current installed base came through in a big way in Q1, so a big expansion quarter for us from the installed base. They drove the majority of growth, as they usually do.*** Growth lever two is adding new names, new addresses. ***We also had a very solid quarter in adding new hospitals to the mix.*** This is something that I don't think I'll ever be satisfied with, though, as long as we're at such a low market share. ***So, we did well in Q1.*** I think we can do lot better.

173. An analyst asked defendants about "the big picture environment" and if there had been any changes to the capital spending environment. Zollars responded that there hadn't been any changes to hospital spending:

> <u>Analyst</u>:
>
> Okay, perfect. And then, going back to the big picture environment. How's the -- any changes to the capital spending environment? Hospitals still spending because I know there has been some turmoil in the healthcare IT space as we know it on the HR side, and I'm not sure if you guys are seeing any effect or any correlation from that?
>
> Zollars:
>
> Yes, a good question. ***It looks like the forecasts that we're reading still have healthcare IT budgets growing the next couple of years between 13% and 15%. So, what we're seeing some good funding there.*** We just had a board meeting yesterday, and we've got a couple of healthcare system executives, who

> interestingly enough, are cautious about the reform, and what it might do to their P&Ls, ***but thus far, they haven't changed behavior. And that's essentially what we're seeing.***
>
> We're seeing a lot of talk out in the market, ***but not much change in behavior,*** and I think the small bite-size first sale of Vocera helps us there, because we're a lot different than the EMR. You can get started with us for $100,000 to $250,000, and you're off and running. ***And so, we're seeing people using operating budgets, as well as capital budgets.***

174. Another analyst reiterated his understanding from Defendants that capital spending and healthcare reform were not having an effect on Vocera, and asked about the effect that HCAHPS would have:

> <u>Analyst</u>:
>
> Okay. Very helpful. Thank you. And then, let me ask another couple of big picture questions. I'm curious, **it doesn't sound like you're seeing any impact from some of the consternation around capital budgets, or the Supreme Court review.** I'm actually curious if you're seeing any increased momentum in some of your product lines with value-based purchasing and HCAHPS coming up. I think you have a pretty clear solution on how to improve scores, and also with some of the noise around readmission rates, I'm curious if any of your communications solutions and your new discharge solutions start to more traction in the market today than maybe six months ago.
>
> <u>Zollars</u>:
>
> ***Yes,*** Ryan, good question. ***I think we're seeing really positive feedback from our ExperiaHealth business. There seems to be a lot of momentum and a lot of effort behind patient experience and the HCAHPS scores.*** And I would say that we're on the front edge of that wave. ***I think people have been talking about that for awhile, but now they seem to be funding the effort.*** And so, we're seeing the Experia folks get engaged at a high level within some leading health systems around the country. So that's good.
>
> On the discharge product, we're seeing a lot of interest, but it hasn't shown up in revenue yet. It's still early. From the early days, we've got some beta tests going on that product. We're getting great feedback, but it hasn't turned into revenue per se.
>
> And then the last comment I would make, is that, more and more I think, we're talking about Vocera, not just as a communications solution, but as a clinical workflow solution.

175. Another analyst asked about Vocera's growing customer base:

> <u>Analyst</u>:

> Okay. And then, just a -- customer wins, I'm curious if we could get any metrics around number of customers, maybe even mix of wins between large health systems, and small, and then maybe also, US, non-US, and non-healthcare as a percent of the total.
>
> Zollars:
>
> Yes, that's a good question. So, we don't disclose quarterly the number of new customers that we add. We're going to do that on an annual basis.
>
> ***But we had a good quarter in new names,*** especially on the voice communications solution. ***We got orders from customers of all sizes, so, large hospitals and small, which again continues to be a nice strength for the business.*** The solution works whether you're a couple-hundred bed hospital or thousand-bed hospital.
>
> And, then as I mentioned, good traction outside of the US, and also outside of healthcare for the quarter. We had a handful of orders outside of healthcare. We mentioned the casino. We had a post off -- or not a post office, a library order the product. ***Pretty diverse set of new customers that we added to the book of business.***

176. The statements Defendants made during the first quarter earnings conference call were materially false and misleading for the following reasons:

(a) Statements made in ¶¶170 and 172 by Zollars' statements "strong results" for the first quarter, a "great start for 2012," "Q1 as a good, solid start to 2012," a solid quarter" and "we did well in Q1" were false and misleading for the reasons stated in ¶168;

(b) Statements made in ¶170 by Zollars concerning the "high visibility" of Vocera's business model were false and misleading because they gave the false impression that Vocera's backlog would provide consistent, predictable and growing revenue streams, when in fact, Defendants' scheme to smooth its financial results by accelerating revenue and by depleting backlog to make quarterly numbers caused future revenue to be organically unachievable, since revenue that had been expected in future quarters was being pulled into earlier quarters and because by smoothing revenue to meet quarterly guidance, it gave the false impression that Defendants had visibility into and could accurately estimate the Company's revenues and competently manage the business. ¶¶103-129;

(c) Statements made in ¶¶170-172, 175 by Zerella and Zollars concerning growth, including sustainable "top line growth," "we continue to see significant growth opportunities," growth in Vocera's customer base, and "expansion" were false and misleading because contrary to these statements, the type of growth that Vocera was touting was not attainable since the ACA was having a negative effect on the Company's ability to book deals with private hospitals – the Company's main growth driver. [redacted] and was robbing from revenue scheduled for recognition in future quarters by accelerating shipments into an earlier quarter. ¶¶94-97, 103-129;

(d) Statements made in ¶¶173-174 by Zollars concerning the positive effect of healthcare reform, including statements that capital spending by hospitals was status quo and that the Company had "tremendous success in our core healthcare market in Q1," were false and misleading because at that time, the ACA was negatively affecting Vocera's ability to book deals with private hospitals – the Company's main growth driver. ¶¶94-97.

177. The stock price reacted favorably to Defendants' false assurances during the analyst call, jumping 6.86% to close at $23.35.

178. Analysts were clearly comforted by Defendants' statements that healthcare reform was not affecting growth and would not affect growth in the future. For example, a William Blair analyst published a report following the earnings call on May 9, 2012 stating:

> From an end-market perspective**, management commented that the company has been relatively immune from the issues confronting other [Healthcare] IT vendors**—namely, elongating sales cycles in part resulting from the Supreme Court's review of the healthcare reform legislation and battling for capital budget dollars with core clinical and financial systems tied to "meaningful use" incentive payments. **More specific, management commented that the Supreme Court decision does not affect the vast majority of the company's return-on-investment (ROI) cases**, such as increased operating room throughput or fewer ED diversions.

179. On May 10, 2012, another analyst from Piper Jaffray commented on the top line growth the Company was touting: "we believe that the growth drivers (higher software mix, new healthcare and non-healthcare customers and international expansion) are playing out well to sustain 25%+ top-line growth for the company."

**F. May 14, 2012 - Form 10-Q**

180. On May 14, 2012, Vocera filed its Form 10-Q with the SEC for the first quarter ended March 31, 2012. The Form 10-Q was signed by Zollars and Zerella.

181. The Form 10-Q stated:

> ***Revenue grew 26.2% from $18.3 million in March 2011 to $23.1 million in March 2012.***
>
> ***
>
> ***Total revenue increased $4.8 million, or 26.2%, from the three months ended March 31, 2011 to March 31, 2012.***
>
> ***Product revenue increased $3.0 million, or 25.8%. Device revenue increased $2.1 million, or 25.4%, and software revenue increased $0.9 million, or 26.9%. The increase in device revenue, which related entirely to our Voice Communication solution, was driven primarily by an increase in unit sales of badges and related accessories from new customers making initial purchases, existing customers expanding deployments within their facilities to new departments and users, and customers replacing badges.*** A portion of the increase in device revenue was a result of higher average selling prices as a result of lower discounts and a change in mix as customers move to the B3000 badge, which has a higher list price than the B2000 badge. The list prices for our products did not change substantially in 2012. ***The increase in software revenue was primarily a result of an increase in sales of Voice Communication software licenses, primarily to existing customers to support enterprise expansions.***
>
> ***Service revenue increased $1.8 million, or 26.8% from the three months ended March 31, 2011 to March 31, 2012***. Software maintenance and support revenue increased $1.1 million, or 22.8%, and professional services and training revenue increased $0.7 million, or 38.6%. The increase in software maintenance and support revenue was primarily a result of a larger customer base increasing software maintenance revenue by $0.9 million. The increase in professional services and training revenue included $0.4 million as a result of an increase in the number of new deployments and expansions of our Voice Communication solution.

182. The Form 10-Q included certifications signed by Zollars and Zerella, required under the Sarbanes-Oxley Act of 2002 ("SOX"), representing that the "report does not contain any untrue statement of material fact or omitted to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report," and that the information contained

in the Form 10-Q "fairly present[s] in all material respects, the financial condition, results of operation and cash flows of the [Company]."

183. The statements made in the Form 10-Q were materially false and misleading. Specifically, the statements attributed growth and increases in revenue to an increase in sales of devices and software, but omitted to state that the ACA was a factor adversely impacting sales and growth and that the revenue increases were actually driven by Defendants' scheme to pull from backlog and ship products early, essentially robbing the Company of future growth by depleting revenue from backlog from future quarters, in order to make Vocera's quarterly guidance. ¶¶94-97, 103-129. The omitted information was required to be disclosed in the Form 10-Q pursuant to Item 2 of the instructions to Form 10-Q, which provides that companies disclose information called for under Item 303 of Regulation S-K [17 C.F.R. §229.303].

**G. July 11, 2012 – J.P. Morgan Analyst Report**

184. On July 11, 2012, JP Morgan published an analyst report describing a meeting with Vocera's COO Brent Lang in New York on July 10, 2012. Based on Lang's representations to the J.P. Morgan analyst, J.P. Morgan reported that Vocera was ***"confident the company is executing on its growth goals as planned."***

185. Based on the meeting with Lang, J.P. Morgan parroted back to the market that Vocera's growth proposition continued unabated:

> ***Company remains committed to driving growth; focus is on new customer adds. While expansion into existing footprints, international sales, non-healthcare vertical sales, and new product launches all contribute to revenue growth, the leading driver of growth—and management's top priority—is new customer adds (new footprints)***.

186. Notably, the J.P. Morgan analyst reported that the ACA was not impacting demand for Vocera's product:

> ***Underlying market dynamics intact. The Supreme Court ruling on Health Reform and the period leading up to it did not have any marked effect on demand.*** EHR implementations continue to sap IT-personnel bandwidth at hospitals, but some hospitals have turned to Vocera to help with EHR go-live efforts (by setting up EHR task forces with the appropriate personnel easily accessible). ***Customers and prospects generally continue to be drawn to Vocera as the company's voice communication tool can help***

***enhance patient safety, patient satisfaction and workflow efficiency.***

187. The statements contained in the J.P. Morgan analyst reports attributable to Lang were materially false and misleading for the following reasons:

(a) Statements Lang made to the J.P. Morgan analyst concerning growth were false and misleading for the reasons stated in ¶176(c). In the second quarter, which ended in June, almost 2 weeks before these statements were made, [redacted];

(b) Statements Lang made concerning the effects of the ACA, including claims that underlying market demand is intact and the Supreme Court decision did not have any effect on demand were false and misleading for the reasons stated in ¶176(d).

**H. August 2, 2012 - Form 8-K and Press Release**

188. On August 2, 2012, after the market closed, Vocera filed a Form 8-K with the SEC and attached a press release entitled "Vocera Reports Second Quarter 2012 Results." Zerella signed the Form 8-K. For the second quarter, Vocera reported the financial results and guidance listed in ¶¶164-166 above. Commenting on these results and future guidance, Zollars stated:

> ***Our Voice Communication solution continues to perform well. Our new B3000 badge is being well received in the marketplace and is driving healthy growth and improved profitability. As we enter the second half of 2012, we remain confident in our ability to execute on our growth opportunities.***

189. The statements contained in the Form 8-K and Press Release were materially false and misleading. Statements made by Zollars commenting on results and guidance, including statements that the Voice Communications solution (which was their main revenue driver), "continues to perform well", that the new badge was "driving healthy growth and improved profitability" and that "[a]s we enter into the second half of 2012, we remain confident in our

ability to execute on our growth opportunities, " were false and misleading because the Voice Communication's solution was not continuing to "perform well," the Company was not experiencing "healthy growth" and the remainder of 2012 would continue to be compromised for the reasons stated in ¶¶163 and 165 above, and because at the time the statements were made, [redacted] ¶¶103-129. Zollars' remarks were objectively verifiable and contradicted by this internal financial data. *See* Exs. A-B.

**I. August 2, 2012 - 2Q12 Earnings Conference Call**

190. The Company hosted an earnings conference call on August 2, 2012, after the market closed, to discuss Vocera's second quarter results. Zollars, Zerella and Lang participated on the call. Zollars and Zerella reiterated second quarter financial results and third quarter and annual guidance. *See* ¶¶164, 166. The Individual Defendants all made positive statements concerning the current state of the Company's business and Vocera's growth prospects.

191. In his prepared remarks, Zollars discussed Vocera's "strong sales" and Vocera's focus on continued growth:

> ***We continue to be very pleased by our results of revenues in the second quarter coming in at the top end of our guidance range, while EBITDA and earnings-per-share exceeded our guidance as profitability continued to expand… These strong results continue to demonstrate the high visibility and operating leverage that's inherent in our business model.***
>
> ***I want to take a minute to review several factors that led to these strong results. First, our revenue growth during the second quarter was driven by strong sales of our core voice communication solution across all geographies, representing about 93% of our quarterly revenues.***
>
> *****
>
> ***While beyond the strength of the second quarter, we continue to have multiple avenues of long-term growth in our business, I want to take a few minute []just to review those. First is the addition of new customers. We were quite pleased this quarter with our progress and enjoyed a very solid new customer growth. As we've mentioned before, these new customers have nice near term financial impact but will also have a longer time positive impact as they expand, buy our other solutions, and generate maintenance revenue.***

> ***Our second growth opportunity is within our existing customers as they continue to expand their deployments. We saw strong growth here at the end of the second quarter. And, in fact, the release of the B3000 has created additional interest from our install dates both for expansion as well as replacement business. About 75% of our B3000 shipments during the quarter were to our existing install-based customers.***
>
> ***These first two growth strategies are driving the majority of our near term revenue results…***
>
> ***
>
> Before turning the call over to Bill, ***I want to re-emphasize Vocera's diversified approach to growth. During the first quarter we saw strength in revenues from our install based as well as purchase outside the healthcare vertical. This quarter we surpasses our expectations for the number of new hospitals signed and have good existing customer expansions.*** We also put in place traditional building blocks for future quarters with the solutions we announced.

192. An analyst again asked Defendants if they had seen any impact on their business from the Supreme Court health care reform decision:

> Analyst:
>
> OK, understood. Then was there any impact from the business from the Supreme Court health reform decision during the quarter? Did you guys see any changes to buying patterns?
>
> Zollars:
>
> Yes, Atif, this is Bob. ***No, we really don't. To the extent ruling helps hospitals, that helps us to the extent it hurts them. Then we become a better source to drive costs down and become a more productive tool for them. I think either way we're OK there.*** As it relates to sort of some of the subsidies that have been pushed into the market, we haven't participated in those in the past. We're not dependent on a lot of the EMR sort of subsidy that's been funding a lot of purchases. ***We're purely market driven, which I like our position at this point in that regard.***

193. These statements during the second quarter earnings conference call were materially false and misleading.

(a) Statements made in ¶191 by Zollars concerning "strong results" for the second quarter were false and misleading for the reasons stated in ¶189;

(b) Statements made in ¶191 by Zollars concerning "high visibility" of Vocera's business model were false and misleading for the reasons stated in ¶176(b);

(c) Statements made in ¶191 by Zerella concerning growth, including "revenue growth" was driven by strong sales, "we continue to have multiple avenues of long-term growth in our business," "[we] enjoyed a very solid new customer growth," existing customers "continue to expand their deployments" we saw strong growth at the end of the second quarter" and "these first two growth strategies [new and existing customers] are driving the majority of our near term revenue results, were false and misleading for the reasons stated in ¶176(c);

(d) Statements made in ¶192 by Zollars concerning the positive effect of healthcare reform, including that that the Supreme Court decision in health care did not affect Vocera's business negatively were false and misleading for the reasons stated in ¶176(d).

194. In response to these materially false and misleading statements, Vocera's stock price soared over 7% to close at $29.18 per share.

195. Analysts continued to be reassured by Defendants' statements that healthcare reform was not having an adverse effect on its core hospital business and would not adversely affect growth. For example, on August 2, 2012 an analyst from William Blair reported:

> From an end-market perspective, **management commented that the company has been relatively immune from the issues confronting other [Healthcare] IT vendors, such as indecision surrounding the Supreme Court's review of the healthcare reform legislation or battling for capital budget dollars with core clinical and financial systems tied to meaningful use incentive payments.** More specific, management commented that the Supreme Court decision toward the end of the quarter provided **no real impact to demand** and that a very limited number of customers have chosen a subscription model, as the up-front capital pressure for an initial Vocera deployment (later expansions typically become operating budget expenses for a particular department) is minimal compared with meaningful-use-related [healthcare] IT projects.

196. A J.P. Morgan analyst reported on Defendants' representations that healthcare reform was not affecting the Company and commented that Vocera expected its growth to continue:

> Overall dynamics unchanged. The company did not see any effect (positive or negative) on its business from the Supreme Court health reform decision, and **overall demand for its products remains robust.**…Increased prevalence of Wi-Fi in hospitals as well as enhanced emphasis on patient safety and quality of care

> create favorable industry dynamics that should drive growth in coming years, we maintain our [overweight] rating.

**J. August 14, 2012 - Form 10-Q**

197. On August 14, 2012, Vocera filed its Form 10-Q for the second quarter ended June 30, 2012. The Form 10-Q was signed by Zollars and Zerella.

198. The Form 10-Q stated:

> ***Revenue grew 28.3% from $37.4 million for the six months ended June 30, 2011 to $48.0 million for the six months ended June 30, 2012.***
>
> ***Total revenue increased $5.8 million, or 30.4%, from the three months ended June 30, 2011 to the three months ended June 30, 2012. Total revenue increased $10.6 million, or 28.3%, from the six months ended June 30, 2011 to the six months ended June 30, 2012.***
>
> ***Three months ended June 30, 2011 compared to three months ended June 30, 2012. Product revenue increased $4.2 million, or 35.5% from the three months ended June 30, 2011 to the three months ended June 30, 2012. Device revenue increased $3.2 million, or 35.6%, and software revenue increased $1.0 million, or 35.2%. The increase in device revenue, which related entirely to our Voice Communication solution, was driven primarily by an increase in unit sales of badges and related accessories from new customers making initial purchases, existing customers expanding deployments within their facilities to new departments and users, and customers replacing badges and related accessories.*** A portion of the increase in device revenue was a result of higher average selling prices as a result of lower discounts and a change in mix, as customers purchase the B3000 badge, which has a higher list price than the B2000 badge. The list prices for our products did not change substantially in the three months ended June 30, 2012. The increase in software revenue was a result of an increase in sales of Voice Communication software licenses to new and existing customers.
>
> ***Service revenue increased $1.6 million, or 22.0% from the three months ended June 30, 2011 to the three months ended June 30, 2012. Software maintenance and support revenue increased $1.2 million, or 22.4%, and professional services and training revenue increased $0.4 million, or 20.9%. The increase in software maintenance and support revenue was primarily a result of a larger customer base increasing software maintenance revenue by $0.9 million.*** The increase in professional services and training revenue included $0.3 million as a result of an increase in professional services related to our ExperiaHealth services, which are focused on helping customers improve the patient experience.

199. The Form 10-Q included certifications signed by Zollars and Zerella, required under the Sarbanes-Oxley Act of 2002 ("SOX"), representing that the "report does not contain any untrue statement of material fact or omitted to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report," and that the information contained in the Form 10-Q "fairly present[s] in all material respects, the financial condition, results of operations and cash flows of the [Company]."

200. The statements made in the Form 10-Q were materially false and misleading. Specifically, these statements attributed growth and increases in revenue to an increase in sales of devices and software, but omitted to state that the ACA was a factor hurting sales and growth and that the revenue increases were actually driven by Defendants' scheme to pull from backlog and ship products early, essentially robbing the Company of future growth, in order to make its quarterly guidance. ¶¶94-97, 103-129. The Form 10-Q also failed to disclose material information that healthcare reform was already a factor adversely impacting the Company's bookings and revenue. The omitted information was required to be disclosed in the Form 10-Q pursuant to Item 2 of the instructions to Form 10-Q, which provides that companies disclose information called for under Item 303 of Regulation S-K [17 C.F.R. §229.303].

**K. September 6, 2012 - Secondary Offering**

201. The Secondary Offering Materials explained that Vocera would benefit from healthcare reform because it provides incentives to hospitals to purchase Vocera's technology and products to "improve the quality of care and patient satisfaction":

> Patients are increasingly selecting hospitals and healthcare providers based on quality of care, cost and overall experience with the provider. ***In addition, healthcare reform initiatives incorporate financial incentives for hospitals to improve the quality of care and patient satisfaction. These forces are driving hospitals to manage their operations more efficiently and to seek ways to improve staff and patient satisfaction through process improvements and technology solutions.***
>
> ***
>
> ***The increasing focus on improving patients' experience is supported by the healthcare reform initiative, which incorporates financial incentives for hospitals to improve the quality of care***

> ***and patient satisfaction. These forces are driving hospitals to invest in technology and process improvements to manage their operations more efficiently and to improve staff and patient satisfaction.***

202. Vocera also suggested that traditional hospital communications often "degrade patient and caregiver satisfaction," because they lead nurses away from the bedside, do not always reach the appropriate caregiver in a timely manner, foster noisy environments and they can prevent closed loop communication. According to Vocera, these impediments caused inconvenience and frustration, medical errors and hospital inefficiencies, which led to lost revenue opportunities.

203. Vocera touted its products as providing the "solution" to these problems:

> To address these deficiencies, hospitals are seeking more effective alternatives for improving communication. ***We believe hospitals will increasingly turn to communication technologies to help improve patient safety and satisfaction, productivity and caregiver satisfaction and retention. We believe our solutions are at the convergence of the healthcare IT market and the enterprise communications and collaboration market.***

204. In particular, Vocera claimed that its products would address problems faced by hospitals by improving patient safety, enhancing patient experience, and improving caregiver job satisfaction.

205. Vocera also laid out the pressures that hospitals might face because of healthcare reform, but equally touted the Company as the solution that hospitals needed to alleviate the impact of these proessures:

> Effective communication is extremely important among mobile and widely dispersed healthcare professionals in hospitals. As of December 31, 2011, there were over 6,900 hospitals in the United States. We believe that a combination of policy changes through healthcare reform, demographic trends and downward pressure on healthcare reimbursement is increasing financial pressure on hospitals and other healthcare providers. Furthermore, the nursing shortage in the United States, with over 115,000 openings, can detract from the patient experience and place further strain on hospital operations.
>
> ***
>
> • **Increase revenue and reduce expenses.** Improved communication facilitated by our solutions can enable hospitals to increase revenue and reduce expenses through more efficient use of their resources, directly impacting profitability. With our

solutions, hospitals can reduce nurse overtime expense and increase job satisfaction, thereby improving nurse recruiting and retention. In addition, improvements in patient safety and reduction in errors can lead to reduced liability cost for hospitals.

206. The Secondary Offering Materials further explained that because of the benefits and "solutions" that Vocera provided to hospitals, Vocera's prospects for growth were enormous:

> ***We estimate the worldwide hospital market opportunity for the full deployment of our Voice Communication solution to be over $6 billion on an aggregate basis.***

207. Vocera described its growth strategy to increase the amount of new healthcare clients and continue to develop expansion into its existing customer base:

> ***Our goal is to extend our leadership position as a provider of communication solutions in the healthcare market. Key elements of our strategy include:***
>
> ***• Expand our business to new U.S. healthcare customers. As of December 31, 2011, our solutions were deployed in approximately 9% of U.S. hospitals. We plan to continue to expand our direct sales force to win new customers among hospitals of all sizes.***
>
> ***• Further penetrate our existing installed customer base. Typically, our customers initially deploy our Voice Communication solution in a few departments of a hospital and gradually expand to additional departments, or additional hospitals within a healthcare system, as they come to fully appreciate the value of our solutions. A key part of our sales strategy includes promoting further adoption of our Voice Communication solution and demonstrating the value of our new Messaging and Care Transition solutions to our existing customers.***

208. Vocera also provided information showing its reported growth over the past year:

**Quarterly Results of Operations**

| (in thousands) (unaudited) | September 2011 | December 2011 | March 2012 | June 2012 |
|---|---|---|---|---|
| Revenue | | | | |
| Product | $ 13,087 | $ 13,674 | $ 14,637 | $ 16,155 |
| Service | 7,314 | 8,032 | 8,482 | 8,723 |
| **Total revenue** | **$ 20,401** | **$ 21,706** | **$ 23,119** | **$ 24,878** |

209. The statements made in the Secondary Offering Materials were materially false and misleading.

(a) Statements made regarding the Company's growth and growth potential, were false and misleading for the reasons stated in ¶176(c). [redacted]

(b) Statements concerning the positive effect that the healthcare reform initiative was having at the time of the Secondary Offering and would continue to have on Vocera's business were false and misleading for the reasons stated in ¶176(d).

210. The Secondary Offering Materials also failed to disclose material information, namely that that healthcare reform was already a factor impacting the Company's bookings and revenue negatively. ¶¶94-97, 103-129. The omitted information was required to be disclosed in the Form S-1 of the pursuant to Item 11(h) of the instructions to Form S-1, which provides that companies disclose information called for under Item 303 of Regulation S-K [17 C.F.R. §229.303]. Moreover, pursuant to SEC Regulation C, registrants have an overarching duty to disclose material information necessary to ensure that representations in a registration statement are not misleading. Specifically, Rule 408 states "In addition to the information expressly required to be included in a registration statement, there shall be added such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading." 17 C.F.R. § 230.408(a).

**L. November 5, 2012 - Form 8-K and Press Release**

211. On November 5, 2012, after the market closed, Vocera filed a Form 8-K with the SEC and attached a press release entitled "Vocera Reports Third Quarter 2012 Results." Zerella signed the Form 8-K. For the second quarter, Vocera reported the results listed in ¶164 and provided guidance for the third quarter, increasing its earnings guidance for the full year. *See* ¶166. Commenting on these results and improved earnings guidance, Zollars stated:

> We continue to be very pleased with our financial results. ***We had a strong quarter with our existing customers expanding their Vocera footprint into additional departments. We experienced record gross margins due to continued strong software sales and further reductions in the unit cost of our B3000 badge. This drove record Adjusted EBITDA of $3.8 million for the quarter.***

212. The statements contained in the Form 8-K and press release were materially false and misleading. Statements made by Zollars commenting on third quarter results and fourth quarter guidance, stating "we had a strong quarter" were false and misleading because the quarter was not "strong" for the reasons stated in ¶¶163 and 165 above, and because at the time the statements were made, [redacted] Zollars' remarks were objectively verifiable and contradicted by this internal financial data. *See* Exs. A-B.

**M. November 5, 2012 - 3Q12 Earnings Conference Call**

213. The Company hosted an earnings conference call on November 5, 2012, after the market closed, to discuss third quarter results. Zollars, Zerella and Lang participated on the call. Zollars and Zerella reiterated third quarter financial results and annual guidance listed in ¶¶164 and 166 above. The Individual Defendants all made positive statements concerning the current state of the Company's business and Vocera's growth prospects.

214. In his prepared remarks, Zollars discussed Vocera's current "strong results" and Vocera's focus on continued growth:

> So I thought I'd start the call today by sharing some of the highlights from our third quarter results. ***We continue to be very pleased with our overall results, with revenues in the third quarter coming in at the top end of our guidance range. EBITDA and earnings-per-share exceeded our guidance significantly as our gross margins continued to expand and we realized additional OpEx leverage…***
>
> ***So these strong results continue to demonstrate the high visibility and operating leverage inherent in our business model, and I thought I'd take a few minutes just to review several factors that led to the strong results.***
>
> ***So first, let's chat about the drivers of our revenue growth for the quarter. We had a really positive quarter from our installed base of customers, expanding their Vocera Voice Solution***

> ***deployments to additional departments. They're voting with their dollars as they expand Vocera across their enterprise.***
>
> ***
>
> ***We also saw a strong growth from our messaging solution and ExperiaHealth business, and although these are new businesses their contributions are still relatively small compared to voice. They both had great quarters.***
>
> ***Second, our profitability continued to improve with non-GAAP gross margins in the quarter of 66.4% versus 63.4% in the second quarter of this year, and 60.6% a year ago, well ahead of our expectations. This margin expansion was driven by continued strong software sales in the third quarter and further reductions in unit costs for our B3000 badge.***
>
> ***
>
> ***All of these factors contributed to non-GAAP net income and non-GAAP adjusted EBITDA margins well above our guidance in the current quarter.***
>
> ***
>
> ***Well beyond the strength of the third quarter, we continue to have multiple avenues of long-term growth in our business, and I'd like to just take a couple of minutes and talk about those a little bit more.***
>
> ***First is the addition of new customers. During the third quarter we continued to add to our network of customers.*** We also saw the average sales price for Voice contracts move up sequentially, a result of customers electing to start with larger initial deployments. ***As we told many of you, we'd expected a big bookings quarter from the Federal Government, yet some government contract bookings slipped outside the third quarter. I want to point out that we did not lose these contracts, however they pushed out for a variety of reasons. In one case an order was pushed out as facilities wireless infrastructure was not yet completed, and another case 2012 fiscal year budget money allocated Vocera was pushed to 2013 fiscal year budgets, pushing out -- quarters out beyond September 30th, the end of the government's 2012 fiscal year.***
>
> ***Now, some of these orders we hope to get in Q4, others may slide into early 2013. While this has been a little disappointing, we have remained very, very optimistic about the opportunity to sell into the government space based on our recent certifications that we've received. We also added a number of new non-government health care customers during the quarter, but frankly I think we can do even better given the size of the market opportunity.***
>
> ***Our second growth opportunity lies within our existing customers as they continue to expand their deployments. And, as I mentioned, this is a real strength for Q3, especially as it relates***

> ***to our customers expanding their footprint with additional software licenses. Our Enterprise software license [lease] shipments were up 49% sequentially versus the second quarter of this year.***
>
> ***
>
> ***So while these first two growth avenues are driving a majority of our growth we have several exciting emerging opportunities…***
>
> ***
>
> ***So, overall we had a very solid third quarter. We continue to feel really good about our near and long-term prospects. We continue to see nice growth out of our installed base. We're adding new customers. Our new solutions are getting traction.*** And the creation of the mobility business unit should provide additional revenue opportunities outside of healthcare.
>
> ***
>
> ***So, we're looking forward to continued success and strong performance to end 2012.***

215. An analyst asked about the growth levels for sales of the Vocera badge device, and Zerella answered that the growth rate was consistent with historical trends:

> <u>Analyst</u>:
>
> Okay. And then maybe if you could just give us, Bill, maybe a feel within the device business-- I think it grew 26%, 27% year-over-year, and the kind of supplies [versus] non-supplies, order, you know, was there an abnormally high growth for one or the other during the quarter, were they both relatively in line with that 26%?
>
> <u>Zerella</u>:
>
> ***Yes. It was pretty consistent with historical trends, Jamie, nothing out of the ordinary, really, in terms of growth rate as compared to previous quarters.***

216. Another analyst asked about the number of clients Vocera had, and Zollars and Zerella assured the analyst that the numbers were "growing":

> <u>Analyst</u>:
>
> Hey. I just thought I had another one. I'm not sure if you can give this here in the third quarter but, could you possibly share with us your user numbers, whether it be US healthcare, non-healthcare, and then international?
>
> <u>Zollars</u>:

> Eric, we'll disclose that on an annual basis. So, February will be -- you'll be getting some of those numbers.
>
> Analyst:
>
> Could you give us some direction on it?
>
> Zollars:
>
> ***Growing.***
>
> Zerella:
>
> ***Yes, continues to grow every quarter***.

217. These statements during the third quarter earnings conference call were materially false and misleading for the following reasons:

(a) Statements made in ¶214 by Zollars concerning "strong results" for the third quarter, a "very solid third quarter" and "we're looking forward to continued strong success and strong performance in 2012" were false and misleading for the reasons stated in ¶212;

(b) Statements made in ¶214 by Zollars concerning the "high visibility" of Vocera's business model were false and misleading for the reasons stated in ¶176(b);

(c) Statements made in ¶¶214-216 by Zerella and Zollars concerning growth, including "revenue growth" "strong growth from our massaging solution and ExperiaHealth business," "we continue to have multiple avenues of long-term growth in our business," including growth in new customers and current customers, "these first two growth avenues [new and existing customers] are driving the majority of our growth," "We continue to see nice growth in our installed base" and that their customers were "growing" were false and misleading for the reasons stated in ¶176(c);

(d) Statements made in ¶214 by Zollars concerning federal hospital booking slipping outside of the third quarter and that "we have remained very, very optimistic about the opportunity to sell into the government space" were false and misleading because Vocera failed to tell the market that the real reason for these loses was that the BCA, or sequestration, was already having an effect on Vocera's ability to sell into government hospitals and would continue to do so. ¶¶98-101.

218. Analysts, however, were still enthralled by the growth story and the increasing guidance, and bought Defendants' story about the reasons that the government deals fell through. For example, on November 5, 2012, in a report titled "Strong Software Sales Drive Another Beat-and-Raise Quarter; Growth Outlook Remains Robust" William Blair commented that "the year-to-date performance has been very strong":

> Management commented that some deals with Department of Defense and VA hospital prospects slipped out of the quarter (but were not lost) as the budget funds were pushed into the next federal fiscal year. We believe some of these deals have already closed, but some may not until next calendar year.

219. On November 6, 2012 Leerink Swan reported:

> While a few deals slipped from 3Q to 4Q, we believe VCRA is doing a good job selling into its base, and we believe sales to the hospitality market, DoD, and international market represent promising growth opportunities. While our 2013E EPS and 2014E EPS remain unchanged, we believe management guides conservatively and there could be upside to expectations. We maintain our OP rating and $31-32 valuation range.
>
> Several Promising Opportunities: Management noted that one federal government contract slipped due to Wi-Fi infrastructure delays and one got pushed due to FY2012 budget constraints, but they are still on track.

**N. November 13, 2012 - Form 10-Q**

220. On November 13, 2012, Vocera filed its Form 10-Q for the third quarter ended September 30, 2012. The Form 10-Q was signed by Zollars and Zerella.

221. The Form 10-Q stated:

> ***Revenue grew 28.0% from $57.8 million for the nine months ended September 30, 2011 to $74.0 million for the nine months ended September 30, 2012.***
>
> ***
>
> ***Product revenue increased $3.8 million, or 28.8% from the three months ended September 30, 2011 to the three months ended September 30, 2012. Device revenue increased $2.6 million, or 27.6%, and software revenue increased $1.1 million, or 31.8%. The increase in device revenue, which relates entirely to our Voice Communication solution, was driven primarily by existing customers expanding deployments within their facilities to new departments and users, new customers making initial purchases, and customers replacing badges and related accessories.*** A portion of the increase in device revenue was due to higher average selling prices as a result of lower discounts and a change in mix, as

> customers purchase the B3000 badge, which has a higher list price than the B2000 badge. The list prices for our products did not change substantially in the three months ended September 30, 2012. The increase in software revenue was a result of an increase in sales of Voice Communication software licenses to new and existing customers.
>
> ***Service revenue increased $1.8 million, or 24.7% from the three months ended September 30, 2011 to the three months ended September 30, 2012. Software maintenance and support revenue increased $1.2 million, or 20.8%, and professional services and training revenue increased $0.7 million, or 36.7%. An increase of $0.9 million in software maintenance and support revenue was primarily a result of a larger customer base.*** The increase in professional services and training revenue included $0.4 million as a result of an increase in professional services related to our ExperiaHealth services, which are focused on helping customers improve the patient experience.

222. The Form 10-Q included certifications signed by Zollars and Zerella, required under the Sarbanes-Oxley Act of 2002 ("SOX"), representing that the "report does not contain any untrue statement of a material fact or omitted to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report," and that the information contained in the Form 10-Q "fairly present[s] in all material respects the financial condition, results of operations and cash flows of the [Company]."

223. The statements made in the Form 10-Q were materially false and misleading. Specifically, these statements attributed growth and increases in revenue to an increase in sales of devices and software, but omitted to state that the ACA was a factor that created a negative effect on sales and growth and that the revenue increases were actually driven by Defendants' scheme to pull from backlog and ship products early, essentially robbing the Company of future growth, in order to make Vocera's quarterly guidance. ¶¶94-97, 103-128.

224. The Form 10-Q also failed to disclose material information that healthcare reform was already a factor impacting the Company's bookings and revenue negatively. The omitted information was required to be disclosed in the Form 10-Q pursuant to Item 2 of the instructions to Form 10-Q, which provides that companies disclose information called for under Item 303 of Regulation S-K [17 C.F.R. §229.303].

**O. November 28, 2012 – Piper Jaffray Report**

225. On November 28, 2012, Piper Jaffray reported that the Company hosted Zollars and Zerella at the 24th annual Piper Jaffray Healthcare Conference for a fireside chat. Based on the "fireside chat," Piper Jaffray reported:

> ***The company continues to exceed margin expectations because of the increasing software mix and faster B3000 adoption. Management noted there are several growth opportunities that should help the top-line growth including a $150m upgrade opportunity in the current customer base, traction in non-healthcare verticals and international markets.***

226. Statements attributable to Zerella and Zollars concerning growth including "several growth opportunities that should help the top line growth" [which had been previously described as 25% growth] were false and misleading for the reasons stated in ¶176(c).

**P. November 30, 2012 – J.P. Morgan Analyst Report**

227. On November 30, 2012, a J.P. Morgan analyst reported that he had "recently met with Zollars and Zerella and came away with a continued positive outlook for Vocera's growth in its core hospital market and potential for additional growth in new areas." Specifically, the "key takeaways" from the meeting with Zollars and Zerella included comments on the Company's continued growth, and the belief that government hospitals remained a strong area for growth:

> Company expects accelerating productivity from sales force. ***While expansion in existing footprints, international and non-healthcare verticals all contribute to revenue growth, the leading driver of growth and management's priority is new hospital customers.*** To this point management noted that as the sales force becomes more seasoned (average tenure is just ~18 months since VCRA went direct) and the ~15 new adds are trained it should see acceleration in new customer adds.
>
> ***DoD and VA hospitals remain an opportunity for further growth. On the company's 3Q call in October management noted that some government contract bookings had been pushed back due to budget changes. Management discussed with us that it has since closed two of those deals and expects to close the remainder in 4Q or early 2013. Management also noted that it would like to target multiple hospital deals (i.e. 25 at once vs. 1-2) with federal customers and we see this as a good area for growth going forward.***

228. Statements attributable to Zerella and Zollars concerning growth such as: the "leading driver of growth" in new hospital customers and that "DoD and VA hospitals remain an opportunity for further growth" were false and misleading because the ACA and now the BCA were having and would continue to have a negative effect on new bookings, revenue and growth for both private hospitals and government hospitals. *See* ¶¶176(c)-(d), 217.

**Q. January 7, 2013 – J.P. Morgan Healthcare Conference**

229. On January 7, 2013, Zollars, Zerella and Lang attended The 31st Annual JP Morgan Healthcare Conference. During the conference, Zollars explained how health care reform would continue to have a positive effect on Vocera's sales:

> And then very interestingly, this year – ***two thousand, right at the end of twelve and into 2013 – reimbursement is going to begin to be affected by patient satisfaction scores via HCAHPS surveying that the government's doing for Medicare patients. And so, as we think about how we can help a hospital and the issues we're focused on, we're really dealing with top of mind issues for the hospital CEOs and their executive team. When you think about patient safety, reimbursement, ROI, saving money and staff productivity, we're right there focused in on what they want us to be focused in on.***

230. Zollars further touted the visibility into the Company's revenue streams, and Vocera's "good" financial performance:

> ***From an investment perspective we think this is a good Healthcare IT stock to own. We've got great visibility to revenue streams*** and we've got a very unique solution. Brent will touch on this a little bit more in a few minutes, but there's nothing like this in the market. The closest thing we get compared to is an in-building Wi-Fi phone which doesn't have the functionality or the hands-free nature of our device, nor does it have the software. It's a multi-billion market opportunity. Although it seems kind of niche-y when you first describe it as "healthcare communications" it's a big, big market – I'll define that for you in a minutes. This really represents a good platform for us. We're now integrated into about 50 other clinical systems in and around the bedside, including the EMRs, the IV pumps, etc. And so we're really setting up a software platform that we can grow and build upon. ***We've got good, loyal customers who like the brand, like the company and so far so good on financial performance.***

231. Zollars also commented on Vocera's "growing" market and the tremendous "growth opportunity" in light of healthcare reform:

> For a market opportunity this is in the category of "I'd rather be lucky than good." ***We've got two nice growing markets that give***

> ***us a nice tail wind as a business. One is Healthcare IT, and as all of you know being at the Healthcare Conference here, that's being funded pretty aggressively and continues to be funded aggressively, even post-Stimulus money that's going into a lot of the IT budgets. And so we're seeing a lot of investment going after things that can improve productivity, especially in light of reform.*** And we're also seeing nice growth in the enterprise communications market, which we participate in. And in this side of the market we either replace or enable devices. And so we're replacing old technologies like 2-way pagers, overhead paging, walkie-talkies – believe it or not those things still exist in hospitals today. And then we're enabling some of the newer technologies, like androids, smart phones, the Apple iPhone. We've got our own proprietary device as well. And so we find ourselves playing a really nice role as these two markets converge and really change how clinicians communicate with one another. ***So good growth opportunity.***
>
> ***And then I would say as we think about multiple avenues of growth there's really five things we're focused on***. They're very straightforward. You probably already have 'em, just based on the previous four or five slides. [10:00] ***One is we just add new hospitals. So we're going out just adding new names, new addresses. It's the easiest way to grow and we're focused very much on that. Two is driving that 30% penetration rate up. And so we're further penetrating the hospitals that we have. That part of our business is doing really really well. Our customers are voting with their dollars and they continue to expand.*** Third is to develop and acquire products that we can then cross sell into the install base. And we've done a little bit of development and a little bit of acquisition as well. That part's working pretty well, as I mentioned earlier as well. Internationally, we continue to expand. That business we think can be a much bigger part of our overall revenue line, about 10% thus far this year. And then lastly we're expanding in non-healthcare.

232. Zerella commented on Vocera's current financials and "growth story":

> Alright, thanks Brent. We'll wrap up here with the financials. So, starting with the profile of Vocera, as Bob described, ***very large market opportunity measured in the billions. We've now recorded thirteen consecutive quarters of sequential revenue growth with records each quarter.*** I'll take you through the revenue model here in a few minutes. ***Good visibility and repeatability in terms of our revenue streams.*** We have a very strong and diverse customer base, as Bob described, no customer concentration. Our gross margins continued to expand, actually north of 65% last quarter, with some other opportunities to continue that growth and we're generating strong cash flow.
>
> So starting with the revenue model, a little less than half of our revenue stream is generated from the hardware side, which is primarily the sales of the Vocera badge. Also includes batteries, which we sell separately. Chargers, other related accessories. 17% of our revenue is derived from software and these are primarily user licenses that we sell. We typically sell perpetual

licenses, and that's obviously very high margin business. On the services side, our largest revenue stream is from software maintenance. This is ongoing technical support, updates and upgrades and what have you. And that's a little over a quarter of our total revenue streams. And finally, professional services, which represents about 10% of our revenue. This is our Services Group. We wrap services around the delivery and installation of our solution to help customers in terms of training and deployment.

In terms of the visibility of our revenue streams, however, we come into a quarter looking at our revenue streams in this fashion: with four blocks, if you will. So, first on the maintenance side, our customers typically pay us annually in advance for software maintenance. That all goes into deferred revenue, and we therefore come into the quarter with about 98% of our software maintenance revenue actually sitting in deferred revenue, just waterfalls into the P&L. The second block is our supplies business. This is daily flow of orders that we receive from the installed base. Badges get lost, they get broken or out of warranty, need to be replaced. Batteries wear out after about 18 months and need to be replaced. We get small software orders that just flow in over the transom. This is about 20% of our total revenues. It continues to grow as the installed base grows. And this slide is built to scale, so between these first 2 blocks here, just a little less than half of our total revenue streams are recurring in nature from maintenance and supplies. And our supplies revenues are very predictable. The third block here, which is the largest, is our expansions. And as Bob described, we have a land and expand strategy which we will initially get into a hospital, and typically we'll then go viral and customers will buy more badges, they'll need more user licenses, which will result in more maintenance, and so on. So that basically drives all the revenue streams with it. And lastly, new customers, which is about 15% of our total revenue.

***So these first 3 blocks here represent the repeat business from the installed base, and that's about 85% of our revenue. And typically, we'll come into a quarter with a significant percent of this either sitting, again, in deferred revenue for maintenance, our supplies business, which is very predictable, or sitting in backlog.*** And as a result, as a public company, we've given very tight revenue guidance, typically plus or minus half a million dollars from a midpoint, on a quarterly basis.

***So in terms of looking at our growth, again, as Bob described, growing very nicely are our revenues through the last nine months, approaching all of last year.*** We're also growing deferred revenue at a significant growth rate as well. And again, this is primarily associated with software maintenance.

***So in terms of looking year on year, based on our results through September, we grew 28% year-to-date. But what you'll see at the bottom of the chart is that our earnings and EBITDA actually grew very rapidly.*** So we're seeing a lot of leverage in terms of the business model, and again, that's been driven by strong growth in terms of gross margins, but also significant OP-EX leverage. Last quarter in particular, we saw actually 49% sequential growth

> from the previous quarter in terms of enterprise license seats that we shipped to our customers. And obviously, software is very high margin business, so to the extent that we continue to drive software, that will drive margins.
>
> So in looking at our target model, which is on the right here, you can see we've actually already exceeded our target gross margins at 66% last quarter. We articulated this model in the IPO last March, and indicated that we thought it would take us about 2 years or so to get there. So we made really great progress in terms of gross margins, we've had good OP-EX leverage as well, as I previously described. On the tax side, we do have an NOL, so that is shielding us from federal taxes, which we expect to continue for the next several years. When we do pay taxes, we see a 35% effective tax rate.
>
> And then, turn to the balance sheet, over 120 million in cash at the end of September. No debt. So, pristine balance sheet. We believe this does give us some dry powder to support any acquisitions that are synergistic, going forward.
>
> So, just finishing up here, again, going through the highlights. ***This is a growth story. Again, we've got really diverse revenue streams with good visibility in terms of the model. Unique solution. Very large market opportunity which we're just scratching the surface of today.*** Ultimately this is an IT platform; that's the way we look at ourselves. We have a recognized brand that just continues to grow in the market, a loyal customer base, and a strong track record of performance. That wraps us up, with 2 minutes to spare.

233. These statements were materially false and misleading for the following reasons:

(a) Statements made in ¶230 by Zollars concerning "good [] financial performance" were false and misleading because the Company's financial performance was not "good." [redacted]

(b) Statements made in ¶¶230 and 232 by Zollars and Zerella concerning "great visibility" of Vocera's revenue streams were false and misleading for the reasons stated in ¶176(b);

(c) Statements made in ¶¶231 and 232 by Zollars and Zerella concerning "growth," including the "growing market," the large market opportunity" and "this is a growth story" were false and misleading for the reasons stated in 176(c), and additionally because the BCA along with the ACA were negatively affecting Vocera's business;

(d) Statements made in ¶¶229 and 231 by Zollars and Zerella concerning positive effects of healthcare reform were false and misleading for the reasons stated in ¶176(d).

**R. February 27, 2013 – Form 8-K and Press Release**

234. On February 27, 2013, after the market closed, Vocera filed a Form 8-K with the SEC and attached a press release entitled "Vocera Reports Fourth Quarter and Full-Year 2012 Results." Zerella signed the Form 8-K. For the fourth quarter and full year, Vocera reported the financial information listed in ¶164 and provided first quarter and 2013 annual guidance listed in ¶166. Zollars commented on the current results and guidance stating:

> We are very pleased with our fourth quarter results and our financial performance during our first year as a public company. ***We made good progress across all five of our growth strategies and believe we are well positioned for 2013 and beyond. In addition, our profitability continued to expand during 2012 and we are increasing our long-term profitability target.*** Contract wins with key healthcare national accounts, as well as in our Mobility business towards the end of the year, are also quite exciting.

235. The statements contained in the Form 8-K and press Rrlease were materially false and misleading. Statements made by Zollars commenting on fourth quarter and 2012 annual results and first quarter and 2013 annual guidance stating "We…believe we are well positioned for 2013 and beyond" were false and misleading because the Company was not "well positioned to meet 2013 guidance for reasons stated in ¶¶163 and 165 above, and because at the time the statements were made, [redacted] Zollars' remarks were objectively verifiable and contradicted by this internal financial data. *See* Exs. A-B.

**S. PARTIAL DISCLOSURE – February 27, 2013 Earnings Conference Call**

236. The Company hosted an earnings conference call after the market closed on February 27, 2013 to discuss the third quarter results. Zollars, Zerella and Lang participated on the call. Zollars and Zerella reiterated third quarter financial results and annual guidance. *See* ¶¶164, 166. The Individual Defendants all made positive statements concerning the current state

of the Company business and Vocera's growth prospects, and for the first time disclosed "one lingering challenge" involving government contracts facing the Company. Defendants, however, failed to disclose the effect on their core business resulting from the ACA and the Company's smoothing of revenue and earnings by pulling in revenue from future quarters out of backlog.

237. During his prepared remarks, Zollars discussed both Vocera's growth and the "very good year" the Company had in 2012. Zollars also discussed for the first time the effect of sequestration on their government contracts:

> As we look deeper into the fourth quarter, there are several positive factors that impacted our numbers, ***and one lingering challenge.***
>
> On the positive side, ***we saw a nice growth from our Voice business with strong new customer acquisition in the fourth quarter. Additionally, we saw significant expansions within our existing install base, which continued the strength we saw in Q3.***
>
> ***
>
> In terms of challenges, government orders have continued to slip. As we mentioned in our last call, government hospital orders that we expected in Q3 got pushed out. We were able to close a couple of those deals in Q4, but the majority of these orders have slipped into 2013.
>
> The government has slowed its funding due to the debt ceiling and sequestration issues. ***But, despite the contract delays, we still expect to close these deals. And believe the delay is a macro-funding issue.***
>
> ***Our pipeline in the government remains very strong,*** especially with our certifications with both the VA and DOD. And because the government buys big, it only takes a couple of orders to be completed or deferred to impact our total revenue line one way or the other at our current size.
>
> ***Turning to the full year 2012 results, we had a very good year.***

238. During his prepared remarks, Zerella also commented on the Company's disappointing bookings growth rate, but assured the market that its core non-government business was still very much intact:

> During the IPO road show, we committed to providing bookings on an annual basis. And while Bill will discuss backlog and revenue visibility coming into 2013, I wanted to touch on bookings and provide some perspective on our bookings performance.
>
> Bookings were $101 million for 2012, compared to $90 million in 2011, representing about a 12% year-over-year increase. And

> while we were disappointed with that bookings growth rate, it's important to understand the underlying trends behind the different components of our business.
>
> Bookings for our Voice solution in the US healthcare market, excluding government, grew by 20%, which is actually an acceleration in growth versus 2011 growth of 17%. This segment represents over 75% of our total business. Even better, new customer bookings for Voice in the US Market, excluding government, grew 27%, which puts us in a great position to drive expansion revenue in 2013.
>
> US government bookings, however, declined 21% from the prior year due to contract delays. International bookings grew marginally in 2012 due to smaller expansions in Canada and Australia-New Zealand coming off very strong growth in 2011.
>
> While our overall bookings growth rate was below our revenue growth rate, ***our US healthcare business, excluding government, is very healthy and performing well.*** And we expect government, Canada and Australia-New Zealand growth rates to bounce back this year in 2013.

239. Zollars also commented on the Company's purported success in 2012 and reiterated Vocera's commitment to long term growth of 25% on the top line:

> ***2012 was a solid year, and we have plans in place to do even better this year in 2013.***
>
> ***So, looking forward, we want to reiterate our commitment to long term growth of 25% on the top line. We're fortunate to have a very large market opportunity, a unique solution, a healthy and growing install based, and numerous investment initiatives underway, as I just described.***
>
> That said, with the uncertainty of the government business in the short term, you'll note the guidance that Bill gives in a few minutes will provide a slightly broader range than we usually would. As we progress through the year, we plan to tighten that range as we deliver on our results.

240. In Zerella's prepared remarks, he discussed the Company's financial results:

> Thank you, Bob. And good afternoon, everyone. I would like to spend my time detailing our fourth quarter results and our 2013 outlook. ***Revenue [results]…was driven by continued strength in our voice communications solution, including sales of our new B3000 badge and our service software.***

241. Zerella also discussed the decline in the Company's backlog, attributing it to factors other than the Company's deceptive plan to pull orders out of backlog and ship them in earlier quarters:

> ***Backlog at year end 2012 was $16 million compared to $22 million a year ago. The decline in backlog is due to three factors.***
>
> ***First, with the successful launch of the B3000, a larger percentage of our bookings in the second half of 2012 were badge upgrades, which are typically book and ship and don't ever get backlogged.***
>
> ***As you think of year-over-year comparison, badge upgrades were not a meaningful portion of our business in 2011, and somewhat distorts the backlog number.***
>
> ***Second, the delay we've experienced in booking new government deals has impacted our backlog. These deals tend to be big in nature and have a meaningful impact. Third, our professional services team did an outstanding job of completing projects on time and recognizing the associated revenue, further reducing our year end backlog.***

242. Finally Zerella provided guidance for 2013, and providing a range of $120 to $130 million, a 20% to 30% increase over 2012, despite the issues with the government business, and reminded the market about Vocera's high "recurring revenue":

> Turning to guidance -- we are providing our initial guidance for the full year 2013 and the first quarter of this year. ***As Bob mentioned, we see no reason why we can't continue to grow this business 25% on the top line over the next few years.***
>
> That said, the lack of clarity of the government business in Q3 and Q4 of last year has made that portion of our business less visible and predictable that we would like. As a result, we are providing a revenue range for 2013 that is somewhat wider than we normally would provide. And as we move through the year, we will tighten
>
> ***
>
> The backlog entry in 2013 as deferred revenue, the full impact of our sales force expansion, our mobility business is beginning to gain traction, continued uptake of the B3000 by our customers, additional national account opportunities, and ***finally, as a reminder, our revenue model is highly recurring in nature due to software maintenance and our supplies business, which, historically, accounts for nearly half of our total revenue.***

243. Analysts were surprised about the lowered 1Q13 guidance and asked if the disappointing guidance signaled problems besides the government contracts:

> <u>Analyst</u>:
>
> **And then the big focus, probably, is going to be on the Q1 guidance. Obviously a little bit weaker on both the sales and EBITDA than I think individuals were expecting. And I'm curious if you could talk a little bit more about that. Is that**

> **really just more in the government business that you're seeing weakness there as you enter the year? And not expecting those contracts to come in and so you're just kind of pushing those out of the Q1? Or anything more behind that?**
>
> Zerella:
>
> ***Hi, Ryan. Yes. That's actually precisely the answer in terms of the revenue guidance.***
>
> ***We are entering the year with a lower backlog than we expected because a lot of those government deals we expected to book before the end of the year. And those would have turned into revenue in Q1 or Q2.***
>
> ***So, that's certainly causing us to be cautious in terms of the guidance for Q1, in terms of revenue.***
>
> ***On the OpEx side, we're going to continue to invest on that side of the business because we firmly believe that the growth opportunities are in front of us. So, we'll continue to focus on that investment. And that's what's driving the bottom line for the quarter.***
>
> Zollars:
>
> ***Let me add one comment to that. The government tends to buy big. And when you look at even our full year 2012 results, we were one government deal away from being at the top end of our (technical difficulty) versus hitting right in the middle. So, it does have a big impact. And that's the reason Q1 is what it is.***

244. Given the weak 1Q13 guidance, analysts asked Defendants how they planned on meeting their revenue targets:

> Analyst:
>
> But, you know, maybe if we could talk about the second half of 2013, **the guidance implies a pretty strong acceleration as far as revenue growth is concerned.** And I hear you guys that the government business you expect to get stronger as the rest of the year progresses. Could you talk, maybe, about when you think you'll see the inflection point of the newer sales people really becoming productive? Are we going to see that in the second quarter, do you think? Or is more of a third quarter phenomenon?
>
> Zollars:
>
> Yes. Hi, Jamie. Good question. We've used a model that's been pretty predictive on new sales reps. And it's sort of a 30%, 60%, 90% productivity rating by quarter. So, the first quarter calendar, they're at about a 30% productivity level. They move to 60% and then 90%. And then when they hit their stride, sort of in their fourth calendar quarter, their fourth quarter in their territory,

> they're pretty much fully productive. And we've seen exceptions to that on the front end and the back end.
>
> Interestingly, as we're speaking, right below us here at our headquarters we've got a boot camp going on with about 14 new reps in it. They're going through pretty extensive training for a two-week period. And then we turn them loose.
>
> So, I think it's one of the reason that the back half is a little bit more heavily weighted, three to four percentage points more heavily weighted than what we saw in 2012. ***I think when you combine both the bookings issue and this new sales rep productivity, that's why we feel confident in the back half.***
>
> And these national agreements -- you know, we're working these national agreements both at the street level and at the corporate level. And I think we'll see some acceleration within Ascension, Dignity and CHI and others.

245. Defendants admitted for the first time during the call that the government had "slowed its funding due to the debt ceiling and sequestration issues," which resulted in lower than expected first quarter guidance, however, they continued to mislead the market about the Company's current growth and growth potential, touting private hospital business and telling the market that "our pipeline to the government remains very strong."

246. Despite Defendants' attempts to blunt the effects of this news, Vocera's stock dropped from $29.07 to $26.37, or over 9%, on heavy volume.

247. The statements made during the fourth quarter earnings conference call were materially false and misleading for the following reasons:

(a) Statements made in ¶¶237 and 239 by Zollars including "2012 was a solid year" and a "very good year" were false and misleading for the reasons stated in ¶235;

(b) Statements made in ¶¶237, 239 and 240 by Zerella and Zollars concerning growth, including "nice growth," "strong new customers," the "significant expansions which continued strength we saw in Q3," "continued strength," "commitment to top line growth of 25%" were false and misleading for the reasons stated in ¶176(c);

(c) Statements made in ¶237 by Zollars concerning government customers, including "our pipeline to the government remains very strong" were false and misleading for the reasons stated in ¶217;

(d) Statement made in ¶238 by Zerella concerning private hospital customers, including that "our US healthcare business, excluding government, is very healthy and performing well" were false and misleading for the reasons stated in ¶176(d).

248. Analysts were concerned about the effects of sequestration but were comforted that the growth story was intact because Defendants provided 2013 guidance of 20-30% growth once again.

249. On February 28, 2013, an analyst from William Blair stated in a report:

> Management also gave a first look at 2013 sales and adjusted EBITDA guidance, which bracketed the consensus outlook but indicates that sales will be more back-end loaded than anticipated, as a result of delays in large government hospital purchases (as the pending sequestration cuts and broader deficit reduction talks have frozen government purchases). Of note, these government hospital contracts should still hit in 2013, as the company is actively engaged with the facilities—all of which still desire the Vocera solution, yet are waiting for budget clarity before making the purchase orders.
>
> The new national account contracts also reinforce the strength of the company's core U.S. hospital business and represent one of several reasons the company's back-half-loaded guidance is achievable, in our view.

250. On February 28, 2012 a Piper Jaffray analyst wrote:

> Distracting Quarter But We Believe In the Growth Story
>
> Vocera delivered a solid quarter, beat EPS, delivered in-line revenue growth of 24%, reiterated 25% top-line growth guidance, raised their profile gross margin and EBITDA targets, guided 2013 in-line, and signed four new national accounts worth $150 million in potential new business. So what's the worry? Bookings growth decelerated due to decreased deal flow from government accounts, Q1 guidance is weak, and a CEO succession plan is a surprise. We think the good outweighs the bad.

251. On February 27, 2013, a J.P. Morgan analyst wrote:

> 4Q12 Solid, 2013 Looks Good
>
> 2013 guidance calls for 19-29% top-line growth. Management reiterated its confidence in the potentiality of the government revenues and noted that the wide earnings guidance range (adj. EPS of $0.33-0.51, -13% to +34% y/y) was largely driven by the timing around the recognition of these revenues.

**T. March 12, 2013 – Form 10-K**

252. On March 12, 2013 Vocera filed its Form 10-K for the 2012 fiscal year ended December 31, 2011, with the SEC. The Form 10-K was signed by Zollars and Zerella, and contained materially false and misleading statements about the current effect of health care reform on Vocera's business and Vocera's prospects for growth:

> Improving communication among the mobile and highly dispersed healthcare professionals in hospitals is extremely important. Hospital communications are typically conducted through disparate components, including overhead paging, pagers and mobile phones, often relying on written records of who is serving in specific roles during a particular shift. These legacy communication methods are inefficient, often unreliable, noisy and do not provide "closed loop" communication (in which a caller knows if a message has reached its intended recipient). These communication deficiencies can negatively impact patient safety, delay patient care and result in operational inefficiencies. Additionally, ***the increasing focus on improving patients' experience is supported by the healthcare reform initiative, which incorporates financial incentives for hospitals to improve the quality of care and patient satisfaction. These forces are driving hospitals to invest in technology and process improvements to manage their operations more efficiently and to improve staff and patient satisfaction.***
>
> Our communication platform helps hospitals increase productivity and reduce costs by streamlining operations, and improves patient and staff satisfaction by creating a differentiated "Vocera hospital" experience.

253. The Form 10-K also described Vocera's strategy for growth which, among other thing, included:

> • ***Expand our business to new U.S. healthcare customers. As of December 31, 2012, our solutions were deployed in approximately 10% of U.S. hospitals.*** We believe our unified communication platform can provide significant value to both large and small hospitals that currently do not deploy our solutions. We plan to continue to expand our direct sales force to win new customers among hospitals of all sizes. We have structured and incentivized our sales organization to focus on sales to new customer sites, particularly within large health systems.
>
> • ***Further penetrate our existing installed customer base.*** Typically, our customers initially deploy our Voice Communication solutions in a few departments of a hospital and gradually expand to additional departments as they come to fully appreciate the value of our solutions. We recognize the significant opportunity to up-sell and cross-sell to our existing customers, including into new hospitals that are part of healthcare system where our systems are deployed in one or more other hospitals.

> Key sales strategies include promoting a further adoption of our Voice Communication solution and demonstrating the value of our Secure Messaging and Care Transition solutions to our existing customers. We plan to continue expanding the number of account managers focused on our existing customers in order to grow our revenue and maintain and improve customer experience.

254. The 10-K also commented on growth:

> ***Our growth in 2012 was primarily due to increased product sales of our Voice Communication solution, and, to a lesser extent, to an increase in services sales. We had balanced growth in product sales in 2012, with increases in sales to new customers and expanded deployments by existing customers, as well as sales of replacement badges due, in part, to favorable reception of our new B3000 badges. We believe that we have the ability to continue to grow in each of these areas in 2013.*** In addition, we are continuing to invest to accelerate the development of new products for our healthcare and targeted non-healthcare markets. In the fourth quarter of 2012 and continuing into the first quarter of 2013, we expanded and, we believe, upgraded our sales organization with the addition of new sales personnel and bifurcating sales roles between obtaining new customers and managing the installed customer base. In recent months, we also entered into sales contracts with four national health systems. ***A potential challenge in 2013 are sales to US government customers, which have experienced a slowdown and deferral of orders due to the ongoing effects of and uncertainty around sequestration and debt ceiling issues. We believe that our business to US government customers will continue to be less visible and predictable in 2013 as we experienced in the third and fourth quarters of 2012.***

255. The 10-K also commented on the 27% increase, year over year, in sales:

> ***Total revenue increased $21.5 million, or 27.0%, from 2011 to 2012.***

256. The statements in ¶¶253-255, were materially false and misleading:

(a) Statements made regarding the Company's growth and growth potential were false and misleading for the reasons stated in ¶176(c);

(b) Statements made concerning the positive effect that the healthcare reform initiative was having and would continue to have on Vocera's business were false and misleading for the reasons stated in ¶176(d);

257. In addition, the 2011 Form 10-K failed to furnish information about the true, negative impact that the ACA had and continued to have on Vocera's bookings and revenues, and the impact it would have on Vocera's future. ¶¶94-97, 103-128. This information was

required to be disclosed in the 2011 Form 10-K pursuant to Item 7 of the instructions to Form 10-K, which provides that companies disclose information called for under Item 303 of Regulation S-K.

**U. March 2013 – Statements to Analysts**

258. On March 19, 2013, nearly three weeks after the first quarter closed, Piper Jaffray published an analyst report entitled "Meetings with Management Strengthen our Resolve." In the report, the Jaffray analyst stated that Vocera management was "more confident than ever" on their growth outlook, particularly their 25% estimated growth for 2013:

> We traveled with Vocera management and learned of some incremental datapoints to strengthen our resolve on VCRA. We believe the market is pricing in a nonexistent deceleration of the business. Management is confident that the government deals will come, momentum continues in the core U.S. healthcare business, and there are sufficient growth drivers in place to give us more confidence in a 25% top-line growth rate in 2013 and beyond. Reiterate Overweight rating, $34 Price Target.
>
> Management more confident than ever on their 25% growth outlook. Management said it has a >50% visibility on the midpoint of 2013 revenues, in line with historical forward visibility. Management stated they are more confident in their 25% growth outlook now than they ever have been.

259. On this news from Vocera, the stock price increased over 3.5%.

260. Three days later, on March 22, 2013, William Blair published an analyst report entitled "Solid Growth Outlook Despite Government-Related Headwinds; Highlights From Management Meetings." The report described the information that Zerella provided to the analyst, which comported with the information that Piper Jaffray had reported only three days earlier.

> We recently had the opportunity to travel with William Zerella, CFO of Vocera. In our view, the timing of our trip was opportunistic, as it allowed us more time with management to assess the company's fiscal 2013 outlook (following back-end-loaded fiscal 2013 guidance, which has since caused uncertainty among investors and placed selling pressure on the company's stock).
>
> While we provide a more detailed analysis in the pages that follow, ***our main conclusion is that—despite some government-related spending headwinds that are affecting the company's near-term federal business—the long-term growth outlook, unique***

> ***competitive position, and strong industry drivers are all very much intact.***
>
> ***Still, we believe management's full year forecast of $120 million to $130 million in sales appears reasonable (based on a number of specific growth initiatives, which should manifest in strong sales going forward) and remain comfortable with the Street's full-year target of $122.8 million.***
>
> Main Investor Focus: The 2013 Growth Outlook
>
> Without a doubt, the main focus of investors is related to management's fiscal 2013 sales outlook. As discussed above, management's initial sales guidance was generally in line with Street expectations at the midpoint of guidance ($125 million); however, based on first-quarter guidance (of only $23 million to $25 million, or roughly 4% year-over-year growth at the midpoint), the organization needs a strong back half of the year to maintain its 25% growth trajectory (its long-term objective).
>
> Moreover, investors seem particularly concerned about the second-quarter growth outlook, which—because of weaker first-quarter sales expectations—now requires the company to have a very material uptick in sequential sales to meet the current consensus target (e.g., it would require the largest percentage [and absolute dollar] sequential growth increase in at least five years).
>
> ***Lastly, the company acknowledged that the government business remains unpredictable, but believes that recent sequestration cuts could be a good thing, as government clients at least can move forward with more-certain budgets. Management also noted that the government pipeline remains very strong (with clinical support high) and reminded investors that its communication solution is the only approved technology of its kind for the Department of Defense and Veterans Affairs (VA) hospitals (creating a large market opportunity).***

261. The statements attributable to Zerella in ¶260 were materially false and misleading for the following reasons:

(a) Statements made regarding the Company's growth and growth potential, including that the Company's growth story was "intact," bolstered by 2013 full year guidance, were false and misleading for the reasons stated in ¶¶165 and 176(c);

(b) Statements that the government pipeline remains very strong and that sequestrations "could be a good thing" were false and misleading because the BCA was continuing to have negative effects on government bookings, revenues, and growth. *See* ¶217.

### V. FINAL CORRECTIVE DISCLOSURE – May 2, 2013 - Form 8-K and Earnings Conference Call

262. On May 2, 2013, after the market closed, Vocera filed a Form 8-K with the SEC and attached a press release entitled "Vocera Reports First Quarter 2013 Results." Zerella signed the Form 8-K. For the first quarter, Vocera reported:

> Revenue for the quarter was $22.4 million, a decrease of 3.1% compared to $23.1 million in the first quarter of 2012. For the first quarter of 2013, GAAP net loss was $3.5 million, or $(0.14) per diluted share, compared to a net loss of $0.8 million, or $(0.23) per diluted share, in the first quarter of 2012. Non- GAAP net loss was $1.6 million for the first quarter of 2013, or $(0.07) per diluted share, which compares to non-GAAP net income of $1.4 million or $0.06 per diluted share, for the first quarter of 2012. A reconciliation of GAAP to non-GAAP financial measures is provided in the schedules included below.
>
> ***
>
> • Product revenue decreased 11.5% compared to the first quarter of 2012 and was directly impacted by U.S. healthcare expansion contracts that were delayed. Product revenue in the first quarter of 2013 was comprised of $3.0 million from software sales and $10.0 million of device sales.
>
> GAAP product gross margin of 64.4% in the quarter increased 150 basis points compared to the year ago period. Non-GAAP product gross margin of 65.6% in the quarter increased 200 basis points compared to the year ago period.
>
> • Service revenue increased 11.4% compared to the first quarter of 2012 and was driven by maintaining and supporting existing customers. Service revenue in the first quarter of 2013 was comprised of $7.3 million of software maintenance and $2.1 million of professional services. GAAP services gross margin of 56.8% in the quarter decreased 110 basis points compared to the year ago period. Non-GAAP services gross margin of 58.5% in the quarter increased 40 basis points compared to the year ago period.

263. The Company also **lowered** revenue guidance for 2013 and provided disappointing guidance for 2Q13, finally admitting that the growth the Company had been touting all along was simply not sustainable:

> **2013 Guidance**
>
> For the full year 2013, we are lowering revenue guidance to between $100 million and $110 million. We expect a GAAP earnings per share between a loss of $(0.47) and $(0.22), non-GAAP earnings per share between a loss of $(0.05) and a profit of $0.18, and non-GAAP Adjusted EBITDA between $1.2 million

> and $7.9 million. Our full year 2013 non-GAAP guidance excludes estimated stock compensation expense of $9.5 million to $10.0 million and estimated amortization of intangibles of approximately $0.7 million. Non-GAAP earnings per share guidance is based on a fully diluted share count for the full year 2013 of 25.0 million shares in the event of a loss and 27.3 million shares in the event of a profit and expected income tax of $0.3 million to $0.6 million.
>
> For the second quarter of 2013, Vocera expects revenues between $23 million and $25 million, a GAAP loss per share between $(0.17) and $(0.12), non- GAAP earnings between a loss of $(1.6) million and $(0.4) million, non-GAAP earnings per share between a loss of $(0.06) and $(0.02), and non-GAAP Adjusted EBITDA between a loss of $(1.0) million and a gain of $0.3 million. Our second quarter 2013 non-GAAP guidance excludes stock compensation expense of approximately $2.4 million and amortization of intangibles of $0.2 million. Non-GAAP earnings per share guidance is based on a fully diluted share count of 24.8 million shares, for the second quarter 2013. Income tax for the second quarter of 2013 is expected to be $100,000 to $200,000.

264. Zollars commented on the disappointing results and guidance, revealing for the first time that health care reform was having a serious effect on the Company's business:

> We were disappointed with this quarter's results. Although the first quarter saw a very nice increase in new customer signings, several significant expansion deals for U.S. hospitals that we expected to sign in the quarter were not completed. We believe this shortfall was driven by two factors: (1) **increased financial scrutiny from our hospital customers as a result of <u>lower utilization and reduced reimbursement rates under reform</u>**, and (2) inconsistent sales execution across market segments. To address our sales execution issue, we are creating three new leadership positions: EVP – Worldwide Sales and Service, VP-US Healthcare Sales, and VP-International Sales. **Based on these results and market dynamics, we're reducing our full year 2013 outlook.**

265. The Company hosted an earnings conference call after the market closed on May 2, 2013 to discuss first quarter results. Zollars, Zerella and Lang participated on the call. In Zollars' prepared remarks, he explained the reasons for the disappointing first quarter, and the lowered guidance for the full year and second quarter:

> Well, let me start by saying that we're disappointed with our first quarter results. We generated revenue of $22.4 million, an adjusted EBITDA loss of $1.2 million and a non-GAAP EPS loss of $0.07. Recent macro developments in the health care industry had a more profound effect on our existing customer base than we anticipated. And as a result of that and some inconsistent sales execution, we didn't close a number of expansions during the quarter that we expected.

While our field sales teams are quite optimistic, they've noticed that increased pressure on hospital budgets is delaying some of our larger expansion deals and increasing scrutiny on any spending in these facilities.

**We believe uncertainties surrounding the effect of sequestration and the health care reform act is affecting both our government and now our commercial business. The impact this is having on our business seems to be enlongating the sales cycle.**

In the first quarter, none of the new government purchase orders we had been waiting for were received. And while we continue to be disappointed with the pace of getting these new government facility contracts finalized, we believe these delayed deals are still included in the new federal budget. We did receive bookings for two government expansions, one in a VA hospital and another in a DOD hospital. And as a result, we remain optimistic that we can close these deals this year, although the timing still remains uncertain.

**In the non-government health care segment, we saw several large expansions we had expected would close in Q1 not get consummated**. We thought it might be helpful to provide a little more color on what we're hearing as well as a description of a handful of these deals in order to better provide transparency on what drove the revenue miss.

**Virtually every health system we speak to has put in place large expense reduction initiatives as a result of reform.** Just this week, we heard expense reduction targets at two of our existing customers. One needs to cut $200 million and the other $120 million of operating expense.

Every quarter, we have a number of significant expansion deals in the pipeline. And it's normal that we complete some in the quarter and the rest fall into future quarters. This past quarter however was very rare in that sizeable expansion deals we were looking to close in the last ten days of the quarter were delayed. Because these deals were expansions at existing customers, our expectation had that these would be book ship deals that could immediately turn into revenue. **And when they didn't materialize, our revenue fell off track.**

Digging further into these delays, we believe we were impacted by both the macro issues I mentioned as well as a number of deal-specific events that caused their delay. For example, one deal increased meaningfully in size during the contracting phase as the health system wanted to expand the deployment to two additional hospitals in their system. That caused additional approval to be bumped up to the next level of management and ultimately delayed closing.

Another deal was approved by the hospital capital committee only to later get caught in a temporary across the board spending freeze by the hospital CEO as a result of reduced Medicare

> reimbursement. We underestimated the approval process in another.
>
> I want to point out that we're confident that none of these deals mentioned above can be attributed to competitive losses. We're frustrated by these booking delays and **we recognize that we have to improve our forecasting ability and sales execution, which had inconsistent quarter performance by territory and geography.**

266. Zerella's prepared comments included the following:

> Finally, I would like to review the update to our outlook. In light of the factors discussed today that impacted our business in the first quarter, we are adopting new guidance ranges that reflect a more cautious stance on both revenues and earnings.
>
> As Bob described, **we are seeing pressure on hospital budgets weighing on our ability to close deals. This is combined with the lack of visibility on the timing of closing government business.** According[ly], our second quarter guidance reflects flat to down revenue and lower earnings year-over-year.
>
> ***
>
> For the full year of 2013, we now expect revenues between $100 and $110 million, non-GAAP net income between a loss of $1.3 million and a profit of $5 million, non-GAAP earnings per share between a loss of $0.05 and a profit of $0.18, and non-GAAP EBITDA between $1.2 million and $7.9 million. Our full year 2013 non-GAAP guidance excludes stock compensation expense of $9.5 to $10 million and amortization of intangibles of approximately $0.7 million. We expect income taxes of approximately $300,000 to $600,000 due to foreign taxes and add-backs in computing our US taxable income.
>
> For the second quarter 2013, we expect revenues between $23 and $25 million, non-GAAP earnings between a loss of $1.6 million and $400,000, non-GAAP EPS between a loss of $0.06 and $0.02 per share, and non-GAAP adjusted EBITDA of between a loss of $1 million and a gain of $300,000. We expect income taxes in the second quarter to be $100,000 to $200,000.

267. The market finally learned the full truth: both the BCA and ACA were negatively affecting both government and commercial business, and the Company's growth was simply not sustainable. The Company also admitted that its visibility into future revenue was compromised.

268. In reaction to these latest revelations, Vocera's stock price fell over 37% or $7.23 per share, to close at $12.15 per share on May 3, 2013 on extremely heavy volume.

269. Analysts were shocked by the huge reduction and guidance and the revelation that Vocera's growth story was in shambles and that visibility into future revenues was not as predictable as the market had learned to expect. For example, on May 2, 2013 a William Blair analyst commented:

> Still, given the weak start to the year, management also made two significant announcements. First, it reduced its 2013 sales guidance markedly—from a range of $120 million to $130 million to a new range of $100 million to $110 million (flat to up roughly 10% from the prior year).
>
> While we expected first quarter growth to be somewhat weak (and were worried about the revenue ramp up anticipated in 2013), **the magnitude of the shortfall (especially after providing guidance in late February) clearly surprised us.** Moreover, we are surprised to hear that **"increased investment scrutiny" is hitting Vocera so acutely because the company has never seen this phenomenon before and it offers a fairly low cost, high value solution.**
>
> **Lastly, we also thought visibility was better for Vocera (e.g., sizable recurring revenue stream, predictable customer reorders [until this quarter]), but after two straight quarters of disappointing results (and the large guidance reset) we clearly overestimated the predictability in the business;** clearly this will cause a reset in the valuation multiple that investors afford the company.

270. On May 3, 2013, an analyst from Leerink Swann published a report, commenting that he had met with management throughout the quarter and that there was no indication that the reduction in guidance would be so drastic:

> **Lack of Visibility Highly Concerning** - Downgrade to MP
>
> • Bottom Line: We are downgrading shares of VCRA to Market Perform on a **significant deceleration in the company's 2013E growth rate and a lack of management visibility into sales.** Earnings and revenue in 1Q:13 were well below our expectations and consensus, 2Q guidance is also well below expectations, and management reduced its 2013 outlook dramatically. 2013 revenue is expected to grow +0-10% y/y (vs. +20-30% y/y previously) and 2013E adjusted EPS are now expected to be in the range of ($0.05) to $0.18, (vs. $0.33-$0.51 previously). **One of our biggest concerns about this business model has been the lack of clarity around recurring revenue.** While ~70% of clients may "plan to buy more" products from VCRA, we estimate that the true "recurring revenue" portion of the business is ~30% or less. As a result, product revenue can be very lumpy, and visibility can be low. **We spoke and met with management several times throughout 1Q, and there was no indication there would be**

> **such a drastic reduction in 2013 guidance. We are not buyers of the stock.**
>
> On the call management highlighted that sequestration is putting significant pressure on hospital budgets and there have been "freezes" placed on some prospective clients' budgets which have caused delays in purchases. Furthermore, revenue generated from "inselling" this quarter was below expectations, possibly due to the new sales structure that was put in place earlier this year. **While all of these factors likely play a significant role in the slow-down, we are concerned by: (1) management's lack of visibility into revenue and earnings and (2) hospital budgets have always been under pressure and we are not entirely convinced that this business decline can be blamed entirely on sequestration.**

## V. LOSS CAUSATION

271. During the Class Period, as detailed herein, Defendants engaged in a scheme to deceive the market and a course of conduct that artificially inflated the price of Vocera securities and operated as a fraud or deceit on Class Period purchasers of Vocera securities by failing to disclose and misrepresenting the adverse facts detailed herein. As Defendants' prior misrepresentations and fraudulent conduct were disclosed and became apparent to the market, the price of Vocera securities declined significantly as the prior artificial inflation was removed from the Company's stock price.

272. As a result of their purchases of Vocera securities during the Class Period, Plaintiffs and the other Class members suffered economic loss, i.e., damages, under the federal securities laws. Defendants' false and misleading statements had the intended effect and caused Vocera securities to trade at artificially inflated levels throughout the Class Period, with Vocera's common stock reaching as high as $32.97 per share on September 25, 2012.

273. By concealing from investors the adverse facts detailed herein, Defendants presented a misleading picture of Vocera's business and prospects. As the truth about the Company was revealed to the market and/or as the risks concealed by Defendants materialized, the price of Vocera securities fell significantly. These declines removed the inflation from the price of Vocera securities, causing real economic loss to investors who had purchased Vocera securities during the Class Period.

274. The decline in the price of Vocera securities after the corrective disclosures came to light were a direct result of the nature and extent of Defendants' fraudulent misrepresentations and omissions being revealed to investors and the market. The timing and magnitude of the price declines in Vocera securities negate any inference that the loss suffered by Plaintiffs and the other Class members was caused by changed market conditions, macroeconomic or industry factors or Company-specific facts unrelated to Defendants' fraudulent conduct.

275. During the Class Period, the price of Vocera stock declined as the true state of Vocera's operations was revealed to the investing public.

276. The economic loss, i.e., damages, suffered by Plaintiffs and the other Class members, was a direct result of Defendants' fraudulent scheme to artificially inflate the price of Vocera securities and the subsequent significant decline in the value of Vocera securities when Defendants' prior misrepresentations and other fraudulent conduct were revealed.

## VI. APPLICABILITY OF PRESUMPTION OF RELIANCE: FRAUD ON THE MARKET DOCTRINE

277. Plaintiffs are entitled to a presumption of reliance under *Affiliated Ute Citizens of Utah v. United States*, 406 U.S. 128 (1972), because the claims asserted herein against Defendants are predicated upon omissions of material fact which there was a duty to disclose.

278. In the alternative, Plaintiffs are entitled to a presumption of reliance on Defendants' material misrepresentations and omissions pursuant to the fraud-on-the-market theory:

(a) Vocera's common stock was actively traded on the NYSE, an informationally efficient market, throughout the Class Period.

(b) Vocera's common stock traded at high weekly volumes during the Class Period.

(c) As a regulated issuer, Vocera filed periodic public reports with the SEC.

(d) Vocera regularly communicated with public investors by means of established market communication mechanisms, including through regular dissemination of press releases on the major news wire services and through other wide-ranging public disclosures, such as communications with the financial press, securities analysts and other similar reporting services.

(e) The market reacted promptly to public information disseminated by Vocera.

(f) Vocera securities were covered by numerous securities analysts employed by major brokerage firms who wrote reports that were distributed to the sales force and certain customers of their respective firms. Each of these reports was publicly available and entered the public marketplace.

(g) The material misrepresentations and omissions alleged herein would tend to induce a reasonable investor to misjudge the value of Vocera's securities.

(h) Without knowledge of the misrepresented or omitted material facts alleged herein, Plaintiffs and other members of the Class purchased shares of Vocera's securities between the time Defendants misrepresented or failed to disclose material facts and the time the true facts were disclosed.

## VII. NO SAFE HARBOR

279. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the materially false and misleading statements alleged in this Complaint. First, many of the statements alleged herein to be false and misleading relate to historical facts or existing conditions. Second, to the extent any of the false statements alleged herein may be characterized as forward-looking, they were not adequately identified as "forward-looking" statements when made. Third, any purported "forward looking statements" were not accompanied by meaningful cautionary language because risks that Defendants warned of had already come to pass. Fourth, to the extent that there were any forward-looking statements that were identified as such, Defendants are liable because, at the time each of those forward-looking statements was made, the speaker knew the statement was false when made.

**A. Many of Defendants' False and Misleading Statements Were Not Forward-Looking**

280. For example, the alleged false and misleading statements below (1) relate to historical or current fact; (2) implicate existing conditions; and (3) do not contain projections of future performance or future objectives:

(a) Statements concerning financial results , i.e., ¶163;

(b) Statements concerning visibility, i.e., ¶¶170, 191, 214, 230, 232;

(c) Statements made concerning the then-current effect of the ACA and/or sequestration, i.e., ¶¶150, 159, 173-175, 185, 192, 201, 214, 227, 229, 237-238, 252;

281. To the extent any of these statements might be construed to touch on future intent, they are mixed statements of present facts and future intent and not entitled to safe harbor protection with respect to the part of the statement that refers to the present.

**B. Several False and Misleading Statements are Not Properly Identified as "Forward-Looking"**

282. The PSLRA imposes an additional burden on "oral" forward looking statements, requiring defendants to include a cautionary statement that the particular oral statement is a forward-looking statement, and that "actual results might differ materially from those projected in the forward-looking statement." 15 U.S.C. § 78u-5(c)(1)(A)(i)-(ii). The following oral statements made by Defendants were not appropriately identified as forward-looking pursuant to the Reform Act requirements and are therefore not protected by the safe harbor:

(a) Zollars' statements made to "The Street" on March 28, 2012, the date of IPO. ¶159.

(b) Lang's statements made to a J.P. Morgan analyst, which were published in a July 11, 2012 J.P. Morgan analyst report. ¶¶184-186;

(c) Zollars' and Zerella's statements made to a Piper Jaffray analyst, which were published in a November 28, 2012 Piper Jaffray analyst report. ¶225;

(d) Zollars' and Zerella's statements made to a J.P. Morgan analyst, which were published in a November 30, 2012 J.P. Morgan analyst report. ¶227;

(e) Zollars' and Zerella's statements made on January 7, 2013 at the J.P. Morgan Healthcare Conference. ¶¶229-232;

(f) Zerella's statements made to a William Blair analyst, which were published in a March 22, 2013 William Blair report. ¶260.

### C. Defendants' False and Misleading Statements Were Not Accompanied by Meaningful Cautionary Language

283. None of Defendants' statements were accompanied by meaningful cautionary language that identified important factors that could cause actual results to differ materially from any results projected.

284. To the extent Defendants included any cautionary language, that language was not meaningful because any potential risks identified by Defendants had already manifested. As detailed herein, at the time Defendants were touting strong results, "top line growth of 25%" and demand for Vocera's products, Defendants knew that the ACA was already negatively impacting the business causing the Company to [redacted] Thus, vague warnings regarding, for example, how: health care reform "***could***" adversely affect Vocera's business, were insufficient because they failed to warn that the risks had already occurred when Defendants made their false and misleading statements.

### D. Defendants Knew that the Risks they Warned of Had Already Come to Pass

285. To the extent there were any forward-looking statements that were identified as such at the time made, Defendants are liable for those statements because at the time each statement was made, the particular speaker knew that the particular forward-looking statement was false, or, by reason of what the speaker failed to note, was materially false and/or misleading, and/or that each such statement was authorized and/or approved by a director and/or executive officer of Vocera who actually knew that each such statement was false and/or misleading when made.

**FIRST CLAIM FOR RELIEF**
**Violation of § 10(b) of the Exchange Act and Rule 10b-5**
**Promulgated Thereunder Against All Defendants**

286. Plaintiffs repeat and reallege each and every allegation set forth above in ¶¶25 to 285 as if fully set forth herein, as well as those allegations set forth in Section XII, ¶¶408 to 414 set forth below.

287. This Count is asserted pursuant to Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder by the SEC against all Defendants in "Part I: The Fraud Claims Under the Exchange Act."

288. As alleged herein, throughout the Class Period, Defendants, individually and in concert, directly and indirectly, by the use of the means or instrumentalities of interstate commerce, the mails and/or the facilities of national securities exchanges, made untrue statements of material fact and/or omitted to state material facts necessary to make their statements not misleading and carried out a plan, scheme and course of conduct, in violation of Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder. Defendants intended to and did, as alleged herein, (i) deceive the investing public, including Plaintiffs and members of the Class; (ii) artificially inflate and maintain the prices of Vocera securities; and (iii) cause Plaintiffs and members of the Class to purchase Vocera securities at artificially inflated prices.

289. The Individual Defendants were individually and collectively responsible for making the false and misleading statements and omissions alleged herein and having engaged in a plan, scheme and course of conduct designed to deceive Plaintiffs and members of the Class, by virtue of having made public statements and prepared, approved, signed and/or disseminated documents that contained untrue statements of material fact and/or omitted facts necessary to make the statements therein not misleading.

290. As set forth above, Defendants made their false and misleading statements and omissions and engaged in the fraudulent activity described herein knowingly and intentionally, or in such a deliberately reckless manner as to constitute willful deceit and fraud upon Plaintiffs and the other members of the Class who purchased Vocera Securities during the Class Period.

291. In ignorance of the false and misleading nature of Defendants' statements and omissions, and relying directly or indirectly on those statements or upon the integrity of the market price for Vocera securities, Plaintiffs and other members of the Class purchased Vocera securities at artificially inflated prices during the Class Period. But for the fraud, Plaintiffs and members of the Class would not have purchased Vocera securities at such artificially inflated prices. As set forth herein, when the true facts were subsequently disclosed, the price of Vocera securities declined precipitously and Plaintiffs and members of the Class were harmed and damaged as a direct and proximate result of their purchases of Vocera securities at artificially inflated prices and the subsequent decline in the price of that stock when the truth was disclosed.

292. By virtue of the foregoing, Defendants are liable to Plaintiffs and members of the Class for violations of Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

**SECOND CLAIM FOR RELIEF**
**Violation of § 20(a) of the Exchange Act**
**Against the Individual Defendants**

293. Plaintiffs repeat and reallege each of the allegations set forth above in ¶¶25 to 292 as if fully set forth herein, as well as those allegations set forth in Section XII, ¶¶408 to 414 set forth below.

294. This Count is asserted pursuant to Section 20(a) of the Exchange Act against each of the Individual Defendants in "Part I: The Fraud Claims Under the Exchange Act."

295. As alleged above, Vocera violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder by making false and misleading statements in connection with the purchase and sale of Vocera's securities and by participating in a fraudulent scheme and course of business or conduct throughout the Class Period. This fraudulent conduct was undertaken with scienter and the Company is charged with the knowledge and scienter of each of the Individual Defendants who knew of or acted with deliberate and/or reckless disregard of the falsity of the Company's statements and the fraudulent nature of its scheme during the Class Period.

296. As set forth above, the Individual Defendants were controlling persons of Vocera during the Class Period, due to their senior executive positions with the Company and their direct involvement in the Company's day-to-day operations, including direct involvement with Vocera's revenue, bookings, and backlog.

297. By virtue of the foregoing, the Individual Defendants each had the power to influence and control, and did influence and control, directly or indirectly, the decision-making of Vocera, including the content of its public statements with respect to its financial condition and the effect of legislation on its hospital customers.

298. These Individual Defendants acted knowingly and intentionally, or in such a deliberately reckless manner as to constitute willful fraud and deceit upon Plaintiffs and the other members of the Class who purchased Vocera securities during the Class Period.

299. In ignorance of the false and misleading nature of the Company's statements and omissions, and relying directly or indirectly on those statements or upon the integrity of the market prices for Vocera securities, Plaintiffs and other members of the Class purchased Vocera securities at an artificially inflated price during the Class Period. But for the fraud, Plaintiffs and members of the Class would not have purchased Vocera securities at artificially inflated prices. As set forth herein, when the true facts were subsequently disclosed, the price of Vocera securities declined precipitously and Plaintiffs and members of the Class were harmed and damaged as a direct and proximate result of their purchases of Vocera securities at artificially inflated prices and the subsequent decline in the price of that stock when the truth began to be disclosed.

300. By reason of the foregoing, the Individual Defendants are liable to Plaintiffs and the members of the Class as controlling persons of Vocera in violation of Section 20(a) of the Exchange Act.

## PART TWO: THE STRICT LIABILITY AND NEGLIGENCE CLAIMS UNDER THE SECURITIES ACT

301. In this part of the Complaint, The Securities Act Plaintiff asserts strict liability and negligence claims based on violations of §§ 11, 12(a)(2) and/or 15 of the Securities Act, 15

U.S.C. §§ 77k, 77l and 77(o), on behalf of the Class (as defined herein). These claims are asserted based on allegedly untrue statements and omissions made in the IPO Offering Materials (defined herein) and in the Secondary Offering Materials (defined herein) in connection with the IPO and Secondary Offering, respectively. The Securities Act Plaintiff expressly disclaims any allegations of fraud, scienter, or recklessness for their Securities Act Claims because these claims are not based on any allegations of knowing or reckless misconduct on behalf of the Defendants, nor do they allege, or sound, in fraud. Any challenged statements of opinion or belief made in connection with the IPO and Secondary Offering alleged in this part of the Complaint are alleged to have been materially misleading statements of opinion or belief when made and at the time of the Offerings.

302. This action was brought within one year after the discovery of the untrue statements and omissions (and within one year after such discovery should have been made in the exercise of reasonable diligence) and within three years after each of the two offerings described herein.

303. The Securities Act claims set forth in this section of the Complaint concern two separate offerings of securities registered by Vocera with the SEC during the Class Period.

304. The Securities Act Plaintiff asserts Section 11, 12(a)(2) and Section 15 claims against the defendants specified below, on behalf of (1) all persons and entities, other than the defendants and certain related persons and entities, who purchased or acquired shares of Vocera's common stock pursuant or traceable to the IPO Offering Materials in connection with Vocera's IPO and/or (2) all persons and entities, other than the defendants and certain related persons and entities, who purchased or acquired shares of Vocera's common stock pursuant or traceable to the Secondary Offering Materials in connection with Vocera's Secondary Offering, and suffered damages thereby.

## VIII. JURISDICTION AND VENUE

305. The claims asserted herein arise under and pursuant to §§ 11, 12 and 15 of the Securities Act, 15 U.S.C. §§ 77k, 77l, and 77o.

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

307. Venue is proper in this District pursuant to § 22 of the Securities Act, 15 U.S.C. § 77v; Vocera is headquartered in this District.

308. Many of the acts and omissions giving rise to the violations of law complained of herein, including the preparation and dissemination to the investing public of the materially untrue and misleading Offering Materials and Secondary Offering Materials, took place in this District.

309. In connection with the allegations herein, the Securities Act Defendants (defined herein), directly or indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the mails, interstate telephone communications and the facilities of the national securities markets.

## IX. PARTIES RELATING TO THE SECURITIES ACT CLAIMS

### A. The Securities Act Plaintiff[15]

310. Arkansas Teacher Retirement System ("ATRS" or "Plaintiff" in Part Two) is a public pension fund organized in 1937 for the benefit of the current and retired public school teachers of the State of Arkansas. ATRS is headquartered in Little Rock, Arkansas and has over $14 billion dollars in assets under management. As set forth in Docket No. 42-1, ATRS purchased shares of common stock of Vocera pursuant or traceable to the IPO, and suffered damages as a result of the violations of the federal securities laws. ATRS also purchased Vocera common stock pursuant to the IPO Offering Materials from J.P. Morgan and was damaged thereby.

### B. The Securities Act Defendants

311. Vocera is a Delaware corporation with its principal executive offices located at 525 Race Street, San Jose, California 95126. Vocera describes itself as a provider of mobile

[15] At this time, the board of an institutional investor that purchased shares of Vocera in the Secondary Offering is considering whether to join the action as an additional plaintiff and proposed class representation. No decision has been made at this time. If the board elects to proceed, a motion to add it as an additionally named plaintiff will be promptly filed.

communication solutions focused on addressing critical communications challenges facing hospitals.

**1. The Officer Defendants**

312. Robert J. Zollars ("Zollars") was Chairman of the Board and Chief Executive Officer ("CEO") of the Company at the time of the IPO and Secondary Offering. Zollars signed the registration statements in connection with the IPO and Secondary Offering.

313. Brent D. Lang ("Lang") was the President and Chief Operating Officer of the Company at the time of the IPO and Secondary Offering.

314. William R. Zerella ("Zerella") was the Chief Financial Officer ("CFO") of the Company at the time of the IPO and Secondary Offering. Zerella signed the registration statements in connection with the IPO and Secondary Offering.

315. Zollars, Lang and Zerella are collectively referred to in Part Two as the "Officer Defendants."

**2. The Director Defendants**

316. Defendant Brian D. Ascher ("Ascher") is a director of Vocera and has served in that capacity since 2002. Defendant Ascher signed the registration statements in connection with the IPO and Secondary Offering.

317. Defendant John B. Grotting ("Grotting") is a director of Vocera and has served in that capacity since 2010. Defendant Grotting signed the registration statements in connection with the IPO and Secondary Offering.

318. Defendant Jeffrey H. Hillebrand ("Hillebrand") is a director of Vocera and has served in that capacity since 2010. Defendant Hillebrand signed the registration statements in connection with the IPO and Secondary Offering.

319. Defendant Howard E. Janzen ("Janzen") is a director of Vocera and has served in that capacity since 2007. Defendant Janzen signed the registration statements in connection with the IPO and Secondary Offering.

320. Defendant John N. McMullen ("McMullen") is a director of Vocera and has served in that capacity since 2011. Defendant McMullen signed the registration statements in connection with the IPO and Secondary Offering.

321. Defendant Hany M. Nada ("Nada") is a director of Vocera and has served in that capacity since 2003. Defendant Nada signed the registration statements in connection with the IPO and Secondary Offering.

322. Defendant Donald F. Wood ("Wood") was a director of Vocera, having served in that capacity through May 2012. Defendant Wood signed the registration statement in connection with the IPO.

323. The Defendants listed in paragraphs 316 to 322 are collectively referred to as the "Director Defendants":

**3. The Underwriter Defendants**

324. Defendant J.P. Morgan Securities LLC ("J.P. Morgan") was an underwriter of the Company's IPO and Secondary Offering and served as a financial advisor and assistant in the preparation and dissemination of Vocera's false and misleading registration statements for both offerings. J.P. Morgan along with Piper Jaffray & Co. ("Piper Jaffray") acted as the lead book runners for the IPO and the Secondary Offering.

325. Defendant Piper Jaffray was an underwriter of the Company's IPO and Secondary Offering and served as a financial advisor and assistant in the preparation and dissemination of Vocera's false and misleading registration statements for both offerings. Piper Jaffray along with J. P Morgan acted as the lead book runners for the IPO and the Secondary Offering.

326. Defendant Robert W. Baird & Co., Inc. was an underwriter of the Company's IPO and Secondary Offering and served as a financial advisor and assistant in the preparation and dissemination of Vocera's false and misleading registration statements for both offerings.

327. Defendant William Blair & Company, L.L.C. was an underwriter of the Company's IPO and Secondary Offering and served as a financial advisor and assistant in the preparation and dissemination of Vocera's false and misleading registration statements for both offerings.

328. Defendant Wells Fargo Securities, LLC was an underwriter of the Company's IPO and served as a financial advisor and assistant in the preparation and dissemination of Vocera's false and misleading registration statements for the IPO.

329. Defendant Leerink Swann LLC was an underwriter of the Company's IPO and served as a financial advisor and assistant in the preparation and dissemination of Vocera's false and misleading registration statement for the IPO.

330. The Defendants enumerated in paragraphs 324 through 329 are collectively referred to herein as the "Underwriter Defendants." Allegations against the Underwriter Defendants are made in connection with the respective offerings in which they participated.

331. The Company, the Officer Defendants, the Director Defendants, and the Underwriter Defendants are collectively referred to herein in "Part Two" as the "Securities Act Defendants."

332. Pursuant to the Securities Act, the Underwriter Defendants are liable for the false and misleading statements in the IPO Offering Materials and the Secondary Offering Materials. The Underwriter Defendants' failure to conduct adequate due diligence investigations was a substantial factor leading to the harm complained of herein.

333. The Underwriter Defendants are investment banking houses which specialize, *inter alia*, in underwriting public offerings of securities. They served as the underwriters of the IPO and the Secondary Offerings and collectively received millions of dollars in fees in connection with the IPO and Secondary Offering.

334. Representatives of the Underwriter Defendants also assisted Vocera and the Individual Defendants in planning the IPO and the Secondary Offerings, and purportedly conducted an adequate and reasonable investigation into the business and operations of Vocera, an undertaking known as a "due diligence" investigation. The due diligence investigation was required of the Underwriter Defendants in order to engage in the IPO and the Secondary Offerings. During the course of their "due diligence," the Underwriter Defendants had continuous access to confidential corporate information concerning Vocera's business, sales

model, financial condition, internal controls, and its future business plans and prospects, including bookings, backlog and revenue forecasts.

335. In addition to availing themselves of access to internal corporate documents, agents of the Underwriter Defendants, including their counsel, met with Vocera's lawyers, management, and top executives to determine: (i) the strategy to best accomplish the IPO and Secondary Offering; (ii) the terms of the IPO and Secondary Offering, including the price at which shares of Vocera common stock would be sold; (iii) the language to be used in the registration statements for the IPO and Secondary Offering; (iv) what would be disclosed and what would not be disclosed in the registration statements for the IPO and Secondary Offering; and (v) how to respond to questions raised by the SEC in connection with its review of the registration statements for the IPO and Secondary Offering. As a result of those constant contacts and communications between the Underwriter Defendants' representatives and Vocera's management, top executives and counsel, a reasonable due diligence would have revealed Vocera's existing problems, and the misleading statements and omissions contained in the registration statements and prospectuses for the IPO and Secondary Offering, as detailed herein.

336. The Underwriter Defendants caused the registration statements for the IPO and Secondary Offering to be filed with the SEC and declared effective in connection with offers and sales thereof, including to the Plaintiff and the Class.

## X. FACTUAL ALLEGATIONS RELATING TO THE SECURITIES ACT CLAIMS

337. In connection with the offering materials for the IPO and Secondary Offering, the Securities Act Defendants negligently made untrue statements and omitted material facts regarding the current state of Vocera's finances and Vocera's future potential for growth, including the known, adverse impact healthcare reform was having and would continue to have on the Company's ability to sell communications systems to hospitals.

### A. Vocera Business Overview

338. Defendant Vocera is a provider of mobile communications solutions. The majority of Vocera's customers consist of healthcare systems and hospitals. Vocera's main product, referred to as its "Voice Communications" solution is a wearable badge and software

platform that enables users to connect instantly with other members of the hospital staff. This communications device is meant to assist hospitals in improving patient safety and satisfaction on the one hand, and increasing hospital efficiency on the other. Vocera obtains substantially all of its revenue from the sale of its Voice Communications solution.

339. Vocera also provides (1) a Secure Messaging System that securely delivers text messages, alerts and other information directly to and from smartphones, and is designed to replace paging and unsecured short messaging service, or SMS systems, and (2) a Care Transition solution, which consists of a hosted voice and text based software that captures, manages and monitors patient information when a patient is transferred from one caregiver to another.

340. Vocera also offers services to complement its products. These services include consulting services under the name "ExperiaHealth," professional services, which help the customer deploy, manage and update their Vocera systems, and 24 hour a day Technical Support.

**B. Hospital Revenues Drive Vocera's Business**

341. Substantially all of Vocera's revenue is derived from sales of the Voice Communications solution to the healthcare market and, in particular, hospitals. Sales of the Voice Communications solution to the healthcare market accounted for 91%, 92% and 91% of the Company's revenue for the three months ended March 31, 2013 and the year ended 2012, and 2011 respectively.

342. Private hospitals make up the bulk of the Company's hospital clients. Vocera's products require that a hospital have installed a voice grade wireless or a Wi-Fi network throughout the hospitals, including in access points in stairwells. Vocera also requires hospitals to install system servers to operate the hardware and software. Installing these systems requires a substantial, upfront capital investment by the hospitals. The sales cycle for a Vocera installation and roll out could take anywhere from nine to twelve months.

### C. Relevant Legislation Affecting the Hospital Industry - The Affordable Care Act

343. On March 23, 2010, healthcare reform entitled the "Patient Protection and Affordable Care Act" (the "ACA") was signed into law. The new law was intended to increase the rate of insured individuals by expanding insurance coverage while lowering the costs of healthcare for both individuals and the government. The law's constitutionality was challenged by certain states and on June 28, 2012, three months after Vocera's IPO, the Supreme Court found the vast majority of the ACA to be constitutional.

344. The ACA was designed, in part, to reduce costs and improve healthcare by focusing the delivery of healthcare services on quality care over quantity of care. The ACA attempts to accomplish this by providing incentives to increase competition and to streamline the delivery of care, and through regulation. One such incentive is called Hospital Consumer Assessment of Healthcare Providers and Systems, also called HCAHPS. HCAHPS is a survey reporting patients' perspectives of hospital care. Beginning in October 2012, a part of hospital Medicare reimbursement was tied to HCAHPS results. Several questions on the HCAHPS survey relate to responsiveness of hospital staff, communication with nurses, and the quietness of the hospital environment. According to Vocera, the Company's technology, products and services are designed to improve HCAHPS results for hospitals using its solutions.

### D. The Importance of Bookings and Backlog to Revenue Visibility

345. "Bookings" are orders that are placed for Vocera's products and services. Because Vocera requires that a hospital have certain infrastructure in place in order to operate the Vocera communication system, there is oftentimes a delay in rolling out Vocera's product. Even after the infrastructure is in place, and Vocera ships badges and software, Vocera must also train its customers to use the badge. Bookings convert to revenue when hospitals are ready to implement a new system and when Vocera ships the product.

346. New bookings from new customers, and at least a portion of the bookings of repeat business, will initially go into backlog. Backlog refers to products or services that have been ordered but that have not yet been delivered or provided. Backlog typically contains orders

that have specific delivery dates for different aspects of Vocera's product (*i.e.*, training, installation, software, badges). Since a customer roll out can take nine to 12 months during which time revenue is not recognized, a healthy, or high, backlog signals robust future revenues, and visibility into growth.

**E. Vocera's Growth Strategy**

347. In the years leading up to the IPO, Vocera's sales increased exponentially. Between 2007 and 2011, revenue increased more than two fold from approximately $34 million to over $79 million, and adjusted EBITDA increased from negative $2.6 million to over $3 million.

| | Years ended December 31, | | | | |
|---|---|---|---|---|---|
| **(in thousands, except per share data)** | **2007** | **2008** | **2009** | **2010** | **2011** |
| **Consolidated statements of operations data:** | | | | | |
| Revenue | | | | | |
| Product | $ 27,332 | $ 28,352 | $ 25,985 | $ 35,516 | $ 50,322 |
| Service | 7,125 | 11,474 | 15,154 | 21,287 | 29,181 |
| Total revenue | 34,457 | 39,826 | 41,139 | 56,803 | 79,503 |
| | | | | | |
| Adjusted EBITDA | $ (2,688) | $ (4,800) | $ 578 | $ 3,821 | $ 3,020 |

**F. The IPO**

348. On August 1, 2011, the Company filed a Registration Statement with the SEC on Form S-1, in which it announced its intention to hold an IPO for the sale of Vocera common stock. The Company amended the registration statements several times, which ultimately became effective on March 27, 2012. Vocera also filed a Form 424B4 Prospectus (which together with the registration statements make up the "IPO Offering Materials"). 6,727,500 common shares of Vocera common stock were sold at $16.00 per share in the IPO, which occurred on or about March 28, 2012. The Company sold 5 million shares of common stock, existing shareholders sold an aggregate of 1,727,500 shares, and underwriters sold an additional 877,500 shares as a result of the underwriters' exercise of their over-allotment option.

349. The IPO Offering Materials explained that several forces in the hospital industry, including health care reform, were driving adoption of Vocera's product. Most hospitals have

"legacy" communications systems such as overhead paging, pagers and mobile phones, systems which are often unreliable and inefficient and have a negative effect on patient satisfaction. Moreover, the hospital industry faced a growing shortfall among nursing staff. According to the IPO Offering Materials:

> The inadequate coverage of patients by qualified nurses can detract from the patient experience and impact hospitals' financial performance as patients are increasingly selecting hospitals and providers based on quality of care, cost and overall experience with the provider. **The increasing focus on improving patients' experience is supported by the healthcare reform initiative, which incorporates financial incentives for hospitals to improve the quality of care and patient satisfaction. These forces are driving hospitals to invest in technology and process improvements to manage their operations more efficiently and to improve staff and patient satisfaction.** (Add page cite)

350. Vocera touted its solution as (1) providing improvements in patient safety, (2) enhancing patient experience, (3) improving caregiver job satisfaction, and (4) increasing hospital revenue while reducing expenses. Vocera also repeatedly expressed that hospitals were seeking more effective ways of addressing their communications deficiencies and that Vocera's products would provide those solutions.

351. Vocera touted the opportunity it had to grow, stating in the Offering Materials that "the worldwide hospital market opportunity for the full deployment of our Voice Communication solution to be over $6 billion." Indeed, Vocera stated that while its products and communications systems were being utilized in over 800 hospitals, there was a market of over 6,000 hospitals in the U.S. available for its products. Vocera stated in the Offering Materials that it had a "growing U.S. Customer base," and that in the eight months leading up to the IPO, this growing customer base and current customer expansion had led Vocera's "quarterly revenue [to] increase[] each quarter."

352. The total number of shares that each of the Underwriter Defendants sold in the IPO is set forth in the table below.

**Underwriting**

| Name | Number of Shares |
|---|---|
| J.P. Morgan Securities LLC | 2,340,000 |
| Piper Jaffray & Co. | 1,755,000 |
| William Blair & Company, L.L.C. | 585,000 |
| Robert W. Baird & Co. Incorporated | 585,000 |
| Wells Fargo Securities, LLC | 468,000 |
| Leerink Swann LLC | 117,000 |
| Total | 5,850,000[16] |

353. The Company raised $70.5 million in net proceeds through the IPO. By the next day, on March 29, 2012, the stock closed at $24.91, an increase of over 55% of the offering price of $16.00.

**G. Vocera's Secondary Offering**

354. On August 24, 2012, the Company filed a Form S-1 with the SEC and subsequently filed one amendment, which became effective on September 6, 2012. On September 7, 2012 Vocera filed a Form 424B4 Prospectus (which together with the registration statements make up the "Secondary Offering Materials"). The common shares were sold at $28.75 per share in the Secondary Offering, which occurred on or about September 7, 2012. Unlike the IPO, where the majority of shares sold were offered by the Company, in the Secondary Offering, the majority of the shares were offered by existing stockholders, including Company executives. In the Secondary Offering, the Company sold 1,337,500 shares, existing stockholders sold 4,211,250 shares of common stock, and underwriters sold an additional 723,750 shares as a result of the underwriters' exercise of their over-allotment option.

355. The Secondary Offering Materials reiterated the statements made in the IPO Offering Materials, including those claiming that healthcare reform would spur demand for Vocera's products and services, and that the market opportunity for Vocera was over $6 billion.

356. The total number of shares that each of the Underwriter Defendants sold in the Secondary Offering is set forth in the table below.

[16] These figures do not include the 877,500 shares sold as a result of the underwriters' exercise of their over-allotment option.

**Underwriting**

| Name | Number of Shares |
|---|---|
| J.P. Morgan Securities LLC | 2,050,625 |
| Piper Jaffray & Co. | 1,688,750 |
| William Blair & Company, L.L.C. | 603,125 |
| Robert W. Baird & Co. Incorporated | 482,500 |
| Total | 4,825,000[17] |

357. Vocera and the existing shareholders raised over $36 million in net proceeds from the Secondary Offering.

### H. The Negative Effects of the ACA Affect Vocera's Business at the Time of the IPO and Secondary Offering

358. Numerous high level employees from the Company, supported by internal Company documents, state and show that contrary to statements contained in the IPO Offering Materials and Secondary Offering Materials, the ACA and uncertainties regarding its provisions and its likelihood for approval were already factors adversely impacting upon demand for the Company's products, making it more difficult for Vocera to sell its products and services at the time of the IPO.

359. A former Senior Manager of Order Administration at Vocera stated that at the time of the IPO, Vocera executives were already concerned about the impact of health care reform on sales and growth potential and discussed these concerns at internal revenue meetings. This employee stated that the ACA was one of the factors affecting Vocera's sales [bookings]. A former Health Systems Director at Vocera also confirmed that by "mid-2012, Q2, Q3" (at the time of the Secondary Offering) he observed the actual negative effects of the ACA on Vocera's business.

[redacted]

[17] These figures do not include the 723,750 shares sold as a result of the underwriters' exercise of their over-allotment option.

[redacted]

361. According to a former Senior Director of Internal Audit and Compliance and the Former Health Systems Director, Vocera made up that shortfall by encouraging customers to accept early delivery of their communications equipment, allowing Vocera to recognize revenue from the backlog in an earlier quarter. This had the effect of removing the future revenue from the succeeding quarters. This depletion of the backlog negatively affected the Company's ability to meet future guidance, and forced Vocera to pull more and more backlog into earlier quarters where it did not belong. It also made the "visibility" of future revenue far more opaque as there were fewer deals scheduled for delivery in each succeeding quarter, and the backlog was successively shrinking.

362. [redacted]

[18] [redacted]

[19] [redacted]

[20] [redacted]

363. Thus, statements made in the IPO and Secondary Offering misstated and omitted the current true financial health and the growth prospects for Vocera.

## XI. THE OFFERING MATERIALS CONTAINED UNTRUE STATEMENTS OF FACT AND OMITTED MATERIAL FACTS NECESSARY TO MAKE THE OFFERING MATERIALS NOT MISLEADING

364. In connection with each of the Offerings, Vocera filed offering materials with the SEC that included misstatements and omissions of material facts.

### A. The IPO

365. In the Offering Materials for the IPO Vocera laid out its business strategy and the seemingly limitless opportunities for growth and expansion due, in part, to the pressures and incentives provided by the ACA:

> Patients are increasingly selecting hospitals and healthcare providers based on quality of care, cost and overall experience with the provider. ***In addition, healthcare reform initiatives incorporate financial incentives for hospitals to improve the quality of care and patient satisfaction. These forces are driving hospitals to manage their operations more efficiently and to seek ways to improve staff and patient satisfaction through process improvements and technology solutions.***
>
> ***
>
> The increasing focus on improving patients' experience is supported by the healthcare reform initiative, which incorporates financial incentives for hospitals to improve the quality of care and patient satisfaction. ***These forces are driving hospitals to invest in technology and process improvements to manage their operations more efficiently and to improve staff and patient satisfaction.*** **(add cite)**

366. Vocera then laid out a myriad of impediments that traditional hospital communications posed that can "degrade patient and caregiver satisfaction," including as nurse's time away from bedside, the inability to reach the appropriate caregiver in a timely manner, noisy environments and the lack of closed loop communication. According to Vocera, these impediments caused inconvenience and frustration, medical errors and hospital inefficiencies, which lead to lost revenue opportunities.

367. Vocera touted its products as providing the "solution" to these problems

> To address these deficiencies, hospitals are seeking more effective alternatives for improving communication. ***We believe hospitals will increasingly turn to communication technologies to help improve patient safety and satisfaction, productivity and caregiver satisfaction and retention. We believe our solutions are at the convergence of the healthcare IT market and the enterprise communications and collaboration market.***(add cite)

368. In the IPO Offering Materials, Vocera also laid out the pressures that hospitals might face because of healthcare reform, but equally touted the Company as the solution that hospitals needed to alleviate these pressures:

> Effective communication is extremely important among mobile and widely dispersed healthcare professionals in hospitals. As of December 31, 2011, there were over 6,900 hospitals in the United States. We believe that a combination of policy changes through healthcare reform, demographic trends and downward pressure on healthcare reimbursement is increasing financial pressure on hospitals and other healthcare providers. Furthermore, the nursing shortage in the United States, with over 115,000 openings, can detract from the patient experience and place further strain on hospital operations.
>
> ***
>
> • **Increase revenue and reduce expenses.** Improved communication facilitated by our solutions can enable hospitals to increase revenue and reduce expenses through more efficient use of their resources, directly impacting profitability. With our solutions, hospitals can reduce nurse overtime expense and increase job satisfaction, thereby improving nurse recruiting and retention. In addition, improvements in patient safety and reduction in errors can lead to reduced liability cost for hospitals.

369. The IPO Offering Materials further explained that because of the benefits and "solutions" that Vocera provided to hospitals, Vocera's prospects for growth were enormous:

> ***We estimate the worldwide hospital market opportunity for the full deployment of our Voice Communication solution to be over $6 billion on an aggregate basis.***

370. Vocera touted the Company's growth in 2011 and provided reasons that Vocera expected to continue that growth, and rate of growth, going forward:

> ***In 2011, we generated revenue of $79.5 million, representing growth of 40.0% over 2010.***
>
> ***

> ***Our goal is to extend our leadership position as a provider of communication solutions in the healthcare market. Key elements of our strategy include:***
>
> ***• Expand our business to new U.S. healthcare customers. As of December 31, 2011, our solutions were deployed in approximately 9% of U.S. hospitals. We plan to continue to expand our direct sales force to win new customers among hospitals of all sizes.***
>
> ***• Further penetrate our existing installed customer base. Typically, our customers initially deploy our Voice Communication solution in a few departments of a hospital and gradually expand to additional departments, or additional hospitals within a healthcare system, as they come to fully appreciate the value of our solutions. A key part of our sales strategy includes promoting further adoption of our Voice Communication solution and demonstrating the value of our new Messaging and Care Transition solutions to our existing customers.***
>
> ***
>
> ***We have a growing U.S. customer base***

371. The statements in the IPO Offering Materials (1) regarding the Company's growth and growth potential, and (2) concerning the positive effect that the healthcare reform initiative was having at the time of the IPO and would continue to have on Vocera's business, were materially untrue and omitted to state that at the time of the IPO, healthcare reform was already a factor negatively impacting upon demand for the Company's products and would continue to do so and as a result, [redacted] that the Company needed to achieve in order to sustain the impression that it was a "growth company." [redacted] *See also* ¶¶358-362.

372. The omitted information was required to be disclosed in the Form S-1 of the pursuant to Item 11(h) of the instructions to Form S-1, which provides that companies disclose information called for under Item 303 of Regulation S-K [17 C.F.R. §229.303]. Item 303(a) of Regulation S-K requires issuers to "[d]escribe any known trends or uncertainties that have had or that the registrant reasonably expects will have a material favorable or unfavorable impact on net sales or revenues or income from continuing operations." In addition, Instruction 3 of Item

303(a) of Regulation S-K requires that "[t]he discussion and analysis shall focus specifically on material events and uncertainties known to management that would cause reported financial information not to be necessarily indicative of future operating results." Moreover, pursuant to SEC Regulation C, registrants have an overarching duty to disclose material information necessary to ensure that representations in a registration statement are not misleading. Specifically, Rule 408 states "In addition to the information expressly required to be included in a registration statement, there shall be added such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading." 17 C.F.R. § 230.408(a).

**B. The Secondary Offering**

373. The Secondary Offering Materials explained that Vocera would be successful because healthcare reform initiatives, by then with Supreme Court approval, were actually providing incentives to hospitals to purchase Vocera's technology and products to "improve the quality of care and patient satisfaction:"

> Patients are increasingly selecting hospitals and healthcare providers based on quality of care, cost and overall experience with the provider. ***In addition, healthcare reform initiatives incorporate financial incentives for hospitals to improve the quality of care and patient satisfaction. These forces are driving hospitals to manage their operations more efficiently and to seek ways to improve staff and patient satisfaction through process improvements and technology solutions.***
>
> ***
>
> ***The increasing focus on improving patients' experience is supported by the healthcare reform initiative, which incorporates financial incentives for hospitals to improve the quality of care and patient satisfaction. These forces are driving hospitals to invest in technology and process improvements to manage their operations more efficiently and to improve staff and patient satisfaction.*** (add cite)

374. Vocera then laid out a myriad of impediments that traditional hospital communications posed that can "degrade patient and caregiver satisfaction," such as nurses' time away from bedside, the inability to reach the appropriate caregiver in a timely manner, noisy environments and the lack of closed loop communication. According to Vocera, these

impediments caused inconvenience and frustration, medical errors and hospital inefficiencies, which lead to lost revenue opportunities.

375. Vocera touted its products as providing the "solution" to these problems:

> To address these deficiencies, hospitals are seeking more effective alternatives for improving communication. ***We believe hospitals will increasingly turn to communication technologies to help improve patient safety and satisfaction, productivity and caregiver satisfaction and retention. We believe our solutions are at the convergence of the healthcare IT market and the enterprise communications and collaboration market.***(add cite)

376. Vocera also laid out the pressures that hospitals might face because of healthcare reform, but equally touted the Company as the solution that hospitals needed to alleviate these financial pressures:

> Effective communication is extremely important among mobile and widely dispersed healthcare professionals in hospitals. As of December 31, 2011, there were over 6,900 hospitals in the United States. We believe that a combination of policy changes through healthcare reform, demographic trends and downward pressure on healthcare reimbursement is increasing financial pressure on hospitals and other healthcare providers. Furthermore, the nursing shortage in the United States, with over 115,000 openings, can detract from the patient experience and place further strain on hospital operations.
>
> ***
>
> • **Increase revenue and reduce expenses.** Improved communication facilitated by our solutions can enable hospitals to increase revenue and reduce expenses through more efficient use of their resources, directly impacting profitability. With our solutions, hospitals can reduce nurse overtime expense and increase job satisfaction, thereby improving nurse recruiting and retention. In addition, improvements in patient safety and reduction in errors can lead to reduced liability cost for hospitals.

377. The Secondary Offering Materials further explained that because of the benefits and "solutions" that Vocera provided to hospitals, Vocera's prospects for growth were enormous:

> ***We estimate the worldwide hospital market opportunity for the full deployment of our Voice Communication solution to be over $6 billion on an aggregate basis.***

378. Vocera described its growth strategy to increase the amount of new healthcare clients and continue to develop expansion into its existing customer base:

> ***Our goal is to extend our leadership position as a provider of communication solutions in the healthcare market. Key elements of our strategy include:***
>
> ***• Expand our business to new U.S. healthcare customers. As of December 31, 2011, our solutions were deployed in approximately 9% of U.S. hospitals. We plan to continue to expand our direct sales force to win new customers among hospitals of all sizes.***
>
> ***• Further penetrate our existing installed customer base. Typically, our customers initially deploy our Voice Communication solution in a few departments of a hospital and gradually expand to additional departments, or additional hospitals within a healthcare system, as they come to fully appreciate the value of our solutions. A key part of our sales strategy includes promoting further adoption of our Voice Communication solution and demonstrating the value of our new Messaging and Care Transition solutions to our existing customers.***

379. Vocera also provided information showing their continued growth over the past year:

**Quarterly Results of Operations**

| (in thousands) (unaudited) | September 2011 | December 2011 | March 2012 | June 2012 |
|---|---|---|---|---|
| Revenue | | | | |
| Product | $ 13,087 | $ 13,674 | $ 14,637 | $ 16,155 |
| Service | 7,314 | 8,032 | 8,482 | 8,723 |
| **Total revenue** | **$ 20,401** | **$ 21,706** | **$ 23,119** | **$ 24,878** |

380. The statements in the Secondary Offering Materials (1) regarding the Company's growth and growth potential, and (2) concerning the positive effect that the healthcare reform initiative was having at the time of the Secondary Offering and would continue to have on Vocera's business, were materially untrue and omitted to state that at the time of the Secondary Offering, healthcare reform was already negatively impacting the Company and would continue to do so. As a result Vocera was [redacted] that the Company needed to organically achieve in order to sustain the impression that it was a "growth company." [redacted]

[redacted] *See* ¶¶358-362.

381. The Offering Materials also failed to disclose material information that healthcare reform was already a factor impacting the Company's bookings and revenue negatively. The omitted information was required to be disclosed in the Form S-1 pursuant to Item 11(h) of the instructions to Form S-1, which provides that companies disclose information called for under Item 303 of Regulation S-K [17 C.F.R. §229.303]. Moreover, pursuant to SEC Regulation C, registrants have an overarching duty to disclose material information necessary to ensure that representations in a registration statement are not misleading. Specifically, Rule 408 states "In addition to the information expressly required to be included in a registration statement, there shall be added such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading." 17 C.F.R. § 230.408(a).

**THIRD CLAIM FOR RELIEF**
**Violations Of Section 11 Of The Securities Act Against Vocera, Zollers, Zerella, the Director Defendants, and the Underwriter Defendants**

382. Plaintiff repeats and realleges each and every allegation above relating to the Securities Act claims in ¶¶301 to 381 as if fully set forth herein, as well as in Section XII, ¶¶408 to 414, set forth below.

383. This Count does not sound in fraud. Any allegations of fraud or fraudulent conduct and/or motive are specifically excluded. For purposes of asserting this and their other claims under the Securities Act, Plaintiff does not allege that Defendants acted with intentional, reckless or otherwise fraudulent intent.

384. This Count is asserted against Vocera, the Officer Defendants, the Director Defendants, and the Underwriter Defendants for violations of Section 11 of the Securities Act, 15 U.S.C. § 77k, on behalf of all members of the Class who purchased or otherwise acquired the stock sold pursuant or traceable to the Offerings.

385. Liability under this Count is predicated on these defendants' respective participation in each Offering.

386. The IPO Offering Materials and the Secondary Offering Materials contained untrue statements and omissions of material fact.

387. In connection with offering and sale of the registered common stock to the public, the defendants named in this Count, directly or indirectly, used the means and instrumentalities of interstate commerce, the United States mails and a national securities exchange.

388. As the issuer of the registered securities, Vocera is strictly liable for the untrue statements of material fact and material omissions described herein.

389. None of the other Defendants named in this Count made a reasonable investigation or possessed reasonable grounds for the belief that the statements contained in the IPO Offering Materials or the Secondary Offering Materials were accurate and complete in all material respects. Had they exercised reasonable care, they would have known of the material misstatements and omissions alleged herein.

390. Class members did not know, nor in the exercise of reasonable diligence could have known, that the IPO Offering Materials or the Secondary Offering Materials contained untrue statements of material fact and omitted to state material facts required to be stated or necessary to make the statements particularized above not misleading when they purchased or acquired the registered common stock.

391. As a direct and proximate result of the acts and omissions of the defendants named in this Count in violation of the Securities Act, the Class suffered substantial damage in connection with its purchase of Vocera common stock sold through the IPO and the Secondary Offering.

392. By reason of the foregoing, the defendants named in this Count are liable for violations of Section 11 of the Securities Act.

**FOURTH CLAIM FOR RELIEF**
**For Violations Of Section 12(a)(2) Of The Securities Act**
**Against Vocera And The Underwriter Defendants**

393. Plaintiff repeats and realleges each and every allegation above relating to the Securities Act claims in ¶¶301 to 392 as if fully set forth herein, as well as in Section XII, ¶¶404 to 414, set forth below.

394. For the purposes of this Count, Plaintiff asserts only strict liability and negligence claims, and expressly excludes from this count any allegations of fraud or reckless or intentional misconduct, and expressly exclude from this Count any allegations of fraud or reckless or intentional misconduct.

395. This Count is asserted against Vocera and the Underwriter Defendants for violations of Section 12(a)(2) of the Securities Act, 15 U.S.C. § 77l(a)(2), on behalf of all members of the Class who purchased or otherwise acquired Vocera common stock pursuant to the IPO and/or the Secondary Offering.

396. Vocera and the Underwriter Defendants were sellers, offerors, and/or solicitors of sales of the securities issued in the IPO and Secondary Offering pursuant to the offering materials. These offering materials, including prospectuses, prospectus supplements and pricing supplements incorporated therein, contained untrue statements of material fact and omitted other facts necessary to make the statements not misleading, and failed to disclose material facts, as set forth above.

397. None of the Underwriter Defendants made a reasonable investigation or possessed reasonable grounds for the belief that the statements contained in the offering materials for the IPO or the Secondary Offering were accurate and complete in all material respects. Had they exercised reasonable care, these defendants would have known of the material misstatements and omissions alleged herein.

398. By means of the offering materials for the IPO or the Secondary Offering, and by using the means and instruments of transportation and communication in interstate commerce and of the mails, the defendants named in this Count, through public offerings, solicited and sold Vocera common stock to members of the Class.

399. Members of the Class purchased Vocera common stock by means of the materially misstated offering materials for the IPO or the Secondary Offering. At the time they purchased shares in the IPO or the Secondary Offering, no member of the Class knew, or by the reasonable exercise of care could have known, of the material misstatements in and omissions from the offering materials for the IPO or the Secondary Offering, which were materially misstated, omitted to state facts necessary to make the statements made not misleading and concealed or failed to adequately disclose material facts as alleged herein.

400. By reason of the foregoing, Vocera and the Underwriter Defendants are liable for violations of Section 12(a)(2) of the Securities Act.

401. Accordingly, members of the Class who purchased or otherwise acquired Vocera common stock pursuant to the IPO or the Secondary Offering have a right to rescind and recover the consideration paid for their common stock. Members of the Class who have sold their Vocera common stock issued in the IPO or the Secondary Offering are entitled to recissory damages.

**FIFTH CLAIM FOR RELIEF**
**For Violations Of Section 15 Of The Securities Act**
**Against the Officer Defendants and The Director Defendants**

402. Plaintiff repeats and realleges each and every allegation above relating to the Securities Act claims in ¶¶301 to 401 as if fully set forth herein, as well as in Section XII, ¶¶408 to 414 set forth below.

403. This Count is asserted against the Officer Defendants and the Director Defendants for violations of Section 15 of the Securities Act, 15 U.S.C. § 77o, on behalf of Plaintiff and the other members of the Class who purchased or otherwise acquired Vocera common stock sold pursuant to the Offerings.

404. For the purposes of this Count, Plaintiff asserts only strict liability and negligence claims, and expressly excludes from this count any allegations of fraud or reckless or intentional misconduct.

405. At times relevant hereto, the Officer Defendants and the Director Defendants were controlling persons of Vocera within the meaning of Section 15 of the Securities Act. The

Officer Defendants and each of the Director Defendants served as an executive officer and/or directors of Vocera prior to and at the time of the IPO and the Secondary Offering, as alleged herein (except for Wood who only served as a Director for the IPO).

406. The Officer Defendants and the Director Defendants at times relevant hereto participated in the operation and management of Vocera, and conducted and participated, directly and indirectly, in the conduct of Vocera business affairs. The Officer Defendants and the Director Defendants, who signed the Offerings alleged herein, had a duty to disseminate accurate and truthful information with respect to Vocera financial condition and operations. Because of their positions of control and authority over Vocera, the Officer Defendants and the Director Defendants were able to, and did, control the contents of the offering materials for the IPO or the Secondary Offering, which contained materially untrue financial information.

407. By reason of the foregoing, the Officer Defendants and the Director Defendants are liable under Section 15 of the Securities Act, to the same extent that Vocera is liable under Sections 11, and 12(a)(2) of the Securities Act.

## XII. CLASS ACTION ALLEGATIONS – APPLICABLE TO ALL CLAIMS

408. Plaintiffs brings this action on their own behalf and as a class action pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure on behalf of all persons and entities who (1) purchased or otherwise acquired the securities of Vocera between March 28, 2012 and May 2, 2013, inclusive, and were damaged thereby, seeking to pursue remedies under the Exchange Act, and/or (2) purchased or otherwise acquired the common stock of Vocera pursuant or traceable to the IPO and/or the Secondary Offering, defined herein, and were damaged thereby, seeking to pursue remedies under the Securities Act.

409. Excluded from the Class are the Defendants; members of the immediate families of the Individual Defendants; Vocera's subsidiaries and affiliates; any person who is or was an officer or director of Vocera or any of Vocera's subsidiaries or affiliates during the Class Period; any entity in which any Defendant has a controlling interest; and the legal representatives, heirs, successors and assigns of any such excluded person or entity.

410. The members of the Class are so numerous that joinder of all members is impracticable. During the Class Period, Vocera had between 22 million to 24 million shares of common stock outstanding and actively trading on the NYSE with the ticker symbol "VCRA." While the exact number of Class members is unknown to Plaintiffs at this time and can only be ascertained through appropriate discovery, Plaintiffs believe that the proposed Class numbers in the thousands and is geographically widely dispersed. Record owners and other members of the Class may be identified from records maintained by Vocera or its transfer agent and may be notified of the pendency of this action by mail, using a form of notice similar to that customarily used in securities class actions.

411. Plaintiffs' claims are typical of the claims of the members of the Class. All members of the Class were similarly affected by Defendants' allegedly wrongful conduct in violation of the Exchange Act and Securities Act as complained of herein.

412. Plaintiffs will fairly and adequately protect the interests of the members of the Class. Plaintiffs have retained counsel competent and experienced in class and securities litigation.

413. Common questions of law and fact exist as to all members of the Class, and predominate over any questions solely affecting individual members of the Class. The questions of law and fact common to the Class include:

(a) whether the federal securities laws were violated by Defendants' acts and omissions as alleged herein;

(b) whether the statements made to the investing public during the Class Period contained material misrepresentations or omitted to state material information;

(c) whether and to what extent the market price of Vocera's securities were artificially inflated during the Class Period because of the material misstatements alleged herein;

(d) whether Defendants acted with the requisite level of scienter with respect to the Exchange Act claims;

(e) whether the Individual Defendants, Officer Defendants, and Director Defendants were controlling persons of Vocera;

(f) whether reliance may be presumed pursuant to the Affiliated Ute presumption or fraud-on-the-market doctrine for the Exchange Act Claims; and

(g) whether the members of the Class have sustained damages as a result of the conduct complained of herein and, if so, the proper measure of damages.

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

## XIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray for judgment as follows:

A. Determining that this action is a proper class action maintained under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure, certifying Plaintiffs as class representatives, and appointing Labaton Sucharow LLP as class counsel pursuant to Rule 23(g);

B. Declaring and determining that Defendants violated the Exchange Act and the Securities Act by reason of the acts and omissions alleged herein;

C. Awarding Plaintiffs and the Class compensatory damages against all Defendants, jointly and severally, in an amount to be proven at trial together with prejudgment interest thereon;

D. Awarding rescission or a rescissory measure of damages for the Section 12(a)(2) claim;

E. Awarding Plaintiffs and the Class their reasonable costs and expenses incurred in this action, including but not limited to attorney's fees and costs incurred by consulting and testifying expert witnesses; and

F. Granting such other and further relief as the Court deems just and proper.

## XIV. JURY DEMAND

Plaintiffs demand a trial by jury of all issues so triable.

DATED: September 19, 2014

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 19, 2014, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Service List.

I further certify that I authorized an unredacted version of the Consolidated Complaint to be provided to the Court and to be served on Defendants.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on September 19, 2014.

/s/ Jonathan Gardner

JONATHAN GARDNER

**Mailing Information for Case 3:13-cv-03567-EMC**

*Brado v. Vocera Communications Inc et al*

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**Manual Notice List**

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