UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

Plaintiff, v. HERTZ GLOBAL HOLDINGS, INC., STEPHEN M. SCHERR, and ALEXANDRA BROOKS, Defendants.	**Case No.** **<u>CLASS ACTION COMPLAINT</u>** **<u>DEMAND FOR A JURY TRIAL</u>**

Plaintiff, individually and on behalf of all others similarly situated, by Plaintiff's undersigned attorneys, for Plaintiff's complaint against Hertz Global Holdings, Inc. ("Hertz" or the "Company"), Stephen M. Scherr ("Scherr") and Alexandra Brooks ("Brooks") (collectively, "Defendants"), alleges the following based upon personal knowledge as to Plaintiff and Plaintiff's own acts, and information and belief as to all other matters, based upon, *inter alia*, the investigation conducted by and through Plaintiff's attorneys, which included, *inter alia*, a review of the Defendants' public documents, conference calls and announcements made by Defendants, United States ("U.S.") Securities and Exchange Commission ("SEC") filings, wire and press releases published by and regarding Hertz, analysts' reports and advisories about the Company, and information readily obtainable on the Internet. Plaintiff believes that substantial, additional evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

NATURE OF THE ACTION

1. This is a federal securities class action on behalf of a class consisting of all persons and entities other than Defendants that purchased or otherwise acquired Hertz securities between April 27, 2023 and April 24, 2024, both dates inclusive (the "Class Period"), seeking to recover damages caused by Defendants' violations of the federal securities laws and to pursue remedies under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the "Exchange Act") and Rule 10b-5 promulgated thereunder, against the Company and certain of its top officials.

2. Hertz is a vehicle rental company that offers both internal combustion engine ("ICE") vehicle and electric vehicle ("EV") rental services from Company-operated, licensee, and franchisee locations across various countries. The Company also sells vehicles and value-added services.

3. With hundreds of thousands of vehicles in its rental fleet, accurately measuring vehicle depreciation—*i.e.*, the decrease in value of the various vehicles in its fleet over time—is critical to Hertz's profitability.

4. In October 2021, Hertz announced that, "[a]s consumer interest in [EVs] skyrockets," the Company made "a significant investment to offer the largest EV rental fleet in North America and one of the largest in the world[,]" including "an initial order of 100,000 Teslas by the end of 2022 and new EV charging infrastructure across the company's global operations." The Company thereafter entered into multiple strategic partnerships with cities and others to promote its EV rental business, and concurrently continued to expand its EV fleet.

5. Throughout the Class Period, Defendants made materially false and misleading statements regarding the Company's business, operations, and prospects. Specifically, Defendants made false and/or misleading statements and/or failed to disclose that: (i) Hertz had downplayed the financial impact of vehicle depreciation, and/or overstated its ability to track and manage vehicle depreciation; (ii) demand for Hertz's EVs was not as strong as Defendants had led investors to believe; (iii) Hertz had too many vehicles, particularly EVs, in its fleet to remain profitable; (iv) as a result of all the foregoing, Hertz was likely to incur significant losses on the disposition of both its ICE vehicles and EVs; (v) all the foregoing was likely to, and did, have a significant negative impact on Hertz's financial results; and (vi) as a result, the Company's public statements were materially false and misleading at all relevant times.

6. On January 11, 2024, Hertz revealed in an SEC filing that it would sell approximately 20,000 EVs from its U.S. fleet, or about one-third of its global EV fleet, "to better balance supply against expected demand of EVs." According to the Company, this would "result in the recognition, during the fourth quarter of 2023, of approximately $245 million of incremental net depreciation expense related to the sale[,]" which "represents the write down of the EVs' carrying values as of December 31, 2023 to their fair values, less related expenses associated with the disposition of the vehicles." Hertz further advised that "Adjusted Corporate EBITDA for the fourth quarter of 2023 will be negatively impacted by the incremental net depreciation expense associated with the EV sales plan, and further burdened by higher depreciation expense in the ordinary course as residual values for vehicles generally fell throughout the quarter greater than previously expected."

7. On this news, Hertz's stock price fell $0.40 per share, or 4.28%, to close at $8.95 per share on January 11, 2024.

8. On March 15, 2024, Hertz announced that Scherr would resign from his roles as the Company's Chief Executive Officer ("CEO") and Chairman of the Board of Directors ("Chairman") by the end of the month, and that the Company had appointed Wayne Gilbert West ("West") as its new CEO.

9. Then, on April 25, 2024, Hertz issued a press release announcing its first quarter 2024 results. Among other items, Hertz reported adjusted diluted earnings-per-share ("EPS") of -$1.28 for the quarter, well short of the consensus estimate of -$0.43, and far worse than the adjusted diluted EPS of $0.39 that the Company had achieved in the same period the year prior. In discussing these results, Hertz revealed that vehicle depreciation in the quarter increased $588 million, or $339 on a per-unit basis, primarily driven by deterioration in estimated forward residual values and disposition losses on ICE vehicles compared to gains in the prior-year quarter. The Company also disclosed that, of the $339 per unit increase, $119 was related to EVs held for sale. Moreover, Hertz reported a $195 million charge to vehicle depreciation to write down EVs held for sale that were remaining in inventory at quarter-end to fair value and to recognize the disposition losses on EVs sold in the period.

10. On this news, Hertz's stock price fell $1.12 per share, or 19.31%, to close at $4.68 per share on April 25, 2024.

11. As a result of Defendants' wrongful acts and omissions, and the precipitous decline in the market value of the Company's securities, Plaintiff and other Class members have suffered significant losses and damages.

JURISDICTION AND VENUE

12. The claims asserted herein arise under and pursuant to 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).

13. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 and Section 27 of the Exchange Act.

14. Venue is proper in this Judicial District pursuant to Section 27 of the Exchange Act (15 U.S.C. § 78aa) and 28 U.S.C. § 1391(b). Hertz is headquartered in this Judicial District, Defendants conduct business in this Judicial District, and a significant portion of Defendants' actions took place within this Judicial District.

15. In connection with the acts alleged in this complaint, Defendants, 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.

PARTIES

16. Plaintiff, as set forth in the attached Certification, acquired Hertz securities at artificially inflated prices during the Class Period and was damaged upon the revelation of the alleged corrective disclosures.

17. Defendant Hertz is a Delaware corporation with principal executive offices located at 8501 Williams Road, Estero, Florida 33928. The Company's

common stock and warrants trade in an efficient market on the Nasdaq Global Select Market ("NASDAQ") under the ticker symbols "HTZ" and "HTZWW," respectively.

18. Defendant Scherr served as Hertz's CEO and Chairman from before the start of the Class Period to March 31, 2024.

19. Defendant Brooks has served as Hertz's Executive Vice President ("EVP") and Chief Financial Officer ("CFO") since July 25, 2023, before which she served as the Company's Senior Vice President and Interim CFO at all relevant times.

20. Defendants Scherr and Brooks are collectively referred to herein as the "Individual Defendants."

21. The Individual Defendants possessed the power and authority to control the contents of Hertz's SEC filings, press releases, and other market communications. The Individual Defendants were provided with copies of Hertz's SEC filings and press releases alleged herein to be misleading prior to or shortly after their issuance and had the ability and opportunity to prevent their issuance or to cause them to be corrected. Because of their positions with Hertz, and their access to material information available to them but not to the public, the Individual Defendants knew that the adverse facts specified herein had not been disclosed to and were being concealed from the public, and that the positive

representations being made were then materially false and misleading. The Individual Defendants are liable for the false statements and omissions pleaded herein.

SUBSTANTIVE ALLEGATIONS

Background

22. Hertz is a vehicle rental company that offers both ICE vehicle and EV rental services from Company-operated, licensee, and franchisee locations across various countries. The Company also sells vehicles and value-added services.

23. Hertz operates through two reportable segments—"Americas RAC" and "International RAC." The Americas RAC segment covers the rental of vehicles, as well as sales of value-added services, in the U.S., Canada, Latin America, and the Caribbean, whereas the International RAC segment covers the rental of vehicles, as well as sales of value-added services, in other locations globally.

24. With hundreds of thousands of vehicles in its rental fleet, accurately measuring vehicle depreciation is critical to Hertz's profitability. Indeed, the Company often cites "Depreciation Per Unit Per Month" as an important key metric to management and investors as depreciation of revenue-earning vehicles and lease charges is one of Hertz's largest expenses for the vehicle rental business.

25. In October 2021, Hertz announced that, "[a]s consumer interest in [EVs] skyrockets," the Company made "a significant investment to offer the largest EV rental fleet in North America and one of the largest in the world[,]" including "an initial order of 100,000 Teslas by the end of 2022 and new EV charging infrastructure across the company's global operations." The Company thereafter entered into multiple strategic partnerships with cities and others to promote its EV rental business, and concurrently continued to expand its EV fleet.

Materially False and Misleading Statements Issued During the Class Period

26. The Class Period begins on April 27, 2023, when Hertz issued a press release during pre-market hours, announcing the Company's first quarter 2023 results (the "1Q23 Earnings Release"). The 1Q23 Earnings Release quoted Defendant Scherr as stating that Hertz's "strong results in the first quarter, reflecting continued growth in demand across all customer segments and sustained pricing both in the U.S. and abroad," while assuring investors that "[o]ur continued investments in the business, particularly in the areas of technology and electrification, are improving our operational cadence, extending our reach in rideshare, and enabling the revitalization of our value brands, all with a view toward delivering sustainable returns for our shareholders."

27. The 1Q23 Earnings Release also highlighted demand for Hertz's rental services, while simultaneously downplaying the negative impact of vehicle depreciation on the Company's financial results, stating, in relevant part:

> First quarter revenue was $2.0 billion, up 13% year over year, characterized by continued strength in leisure and corporate demand. Transaction days increased 10% year over year while average fleet was up 5%. Monthly revenue per unit in the quarter of $1,409, was up 7% year over year and benefited from a 280-basis point improvement in utilization and pricing strength.
>
> Adjusted Corporate EBITDA was $237 million in the quarter. Fleet depreciation was $381 million, or $252 per unit per month. Fleet depreciation in the first quarter of 2022 reflected outsized gains on sale of vehicles. Adjusted Corporate EBITDA in the quarter included $88 million of gains from the monetization of interest rate caps associated with the Company's HVFIII U.S. ABS facility.

28. Also on April 27, 2023, Hertz filed a quarterly report on Form 10-Q with the SEC, reporting the Company's financial and operating results for the quarter ended March 31, 2023 (the "1Q23 10-Q"). The 1Q23 10-Q assured investors that Hertz actively adjusted the size of its vehicle fleet in accordance with fluctuations in demand, stating, in relevant part:

> Our vehicle rental operations are a seasonal business, with decreased levels of business in the winter months and heightened activity during the spring and summer months ("our peak season") for the majority of countries where we generate our revenues. To accommodate increased demand, we increase our available fleet and staff. As demand declines, fleet and staff are decreased accordingly.

29. With respect to vehicle depreciation's impact on Hertz's overall financial results for the quarter, the 1Q23 10-Q stated, in relevant part:

> Depreciation of revenue earning vehicles and lease charges, net increased $440 million in the first quarter of 2023 compared to 2022 of which $443 million can be attributed to our Americas RAC segment and is due primarily to lower per unit gains recognized on vehicle dispositions and higher vehicle acquisition costs, partially offset by the impact of an extension of the estimated holding period on various portions of our fleet in the first quarter of 2023. This resulted in lower gross depreciation of revenue earning vehicles and lease charges, net over the estimated holding period[.]

30. With specific respect to vehicle depreciation's impact on Hertz's Americas RAC results for the quarter, the 1Q23 10-Q stated, in relevant part:

> Depreciation of revenue earning vehicles and lease charges, net for Americas RAC increased $443 million in the first quarter of 2023 compared to 2022. Depreciation Per Unit Per Month increased to $282 in the first quarter of 2023 compared to a negative expense of $78 in the first quarter of 2022 due primarily to lower per unit gains recognized on vehicle dispositions and higher vehicle acquisition costs, partially offset by the impact of an extension of the estimated holding period on various portions of our fleet in the first quarter of 2023. This resulted in lower gross depreciation of revenue earning vehicles and lease charges, net over the estimated holding period . . . . Average Vehicles increased in the first quarter of 2023 compared to 2022 due to travel demand.

31. With specific respect to vehicle depreciation's impact on Hertz's International RAC results for the quarter, the 1Q23 10-Q stated, in relevant part:

> Depreciation of revenue earning vehicles and lease charges, net for International RAC in the first quarter of 2023 was comparable to 2022. Average Vehicles for International RAC increased in the first quarter of 2023 due to increased travel demand. Depreciation Per Unit Per Month for International RAC decreased to $115 for the first quarter of 2023 compared to $129 for the first quarter of 2022 due in part to continued strength in residual values and increased vehicle dispositions.

32. Appended as exhibits to the 1Q23 10-Q were signed certifications pursuant to the Sarbanes-Oxley Act of 2002 ("SOX"), wherein the Individual Defendants certified that the 1Q23 10-Q "does not contain any untrue statement of a material fact or omit 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 financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the [Company] as of, and for, the periods presented in this report[.]"

33. On May 11, 2023, Hertz issued a press release announcing that the Company and the City of Orlando had launched a partnership to expand, *inter alia*, EV rentals and EV charging infrastructure, purportedly to "accelerat[e] the adoption of [EVs] and expand[] the environmental and economic benefits of electrification across Orlando." The press release stated that, "[a]s part of the partnership, Hertz aims to add up to 6,000 rental EVs to its existing fleet in Orlando, for availability to leisure and business customers as well as rideshare drivers."

34. On July 27, 2023, Hertz issued a press release announcing its second quarter 2023 results (the "2Q23 Earnings Release"). The 2Q23 Earnings Release quoted Defendant Scherr as stating that Hertz's "strong" second quarter results

"reflect[ed] continued high demand for our services and elevated levels of fleet utilization," and that "[o]ur focus on asset returns continues to yield tangible results, enabling us to advance the growth of our rideshare business and . . . [*inter alia*] facilitate[e] ongoing investments in technology and electrification."

35. The 2Q23 Earnings Release also highlighted demand for Hertz's rental services, while simultaneously downplaying the negative impact of vehicle depreciation on the Company's financial results, stating, in relevant part:

> Second quarter revenue of $2.4 billion was characterized by continued strength in demand. Volume increased 12% year over year while average fleet was up 9%. Monthly revenue per unit in the quarter of $1,516 benefited from utilization of 82%, an increase of 230 bps relative to Q2 2022. Fleet depreciation was $329 million, reflecting a year over year increase of $223 million attributable to a reduction in vehicle disposition gains which were at elevated levels in 2022.
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> Adjusted Corporate EBITDA was $347 million in the quarter, reflecting a healthy 14% margin.
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> Adjusted free cash outflow of $423 million in the quarter reflected an investment in fleet to meet spring and summer demand.

36. Also on July 27, 2023, Hertz filed a quarterly report on Form 10-Q with the SEC, reporting the Company's financial and operating results for the quarter ended June 30, 2023 (the "2Q23 10-Q"). The 2Q23 10-Q contained the same statements as referenced in ¶ 28, *supra*, assuring investors that Hertz actively adjusted the size of its vehicle fleet in accordance with fluctuations in demand.

37. With respect to vehicle depreciation's impact on Hertz's overall financial results for the quarter, the 2Q23 10-Q stated, in relevant part:

> Depreciation of revenue earning vehicles and lease charges, net increased $223 million in the second quarter of 2023 compared to 2022 of which $211 million is attributed to our Americas RAC segment due primarily to lower per unit gains recognized on vehicle dispositions. Depreciation of revenue earning vehicles and lease charges, net for our International RAC segment increased $12 million due primarily to higher vehicle acquisition costs and fleet levels, partially offset by a higher volume of vehicle dispositions.

38. With specific respect to vehicle depreciation's impact on Hertz's Americas RAC results for the quarter, the 2Q23 10-Q stated, in relevant part:

> Depreciation of revenue earning vehicles and lease charges, net for Americas RAC increased $211 million in the second quarter of 2023 compared to 2022 due primarily to lower per unit gains recognized on vehicle dispositions. Average Vehicles increased in the second quarter of 2023 compared to 2022 due to travel demand.

39. With specific respect to vehicle depreciation's impact on Hertz's International RAC results for the quarter, the 2Q23 10-Q stated, in relevant part:

> Depreciation of revenue earning vehicles and lease charges, net for International RAC in the second quarter of 2023 increased $12 million compared to 2022 due primarily to higher vehicle acquisition costs and fleet levels, partially offset by a higher volume of vehicle dispositions. Average Vehicles for International RAC increased in the second quarter of 2023 due to increased travel demand.

40. Appended as exhibits to the 2Q23 10-Q were substantively the same SOX certifications as referenced in ¶ 32, *supra*, signed by the Individual Defendants.

41. On September 20, 2023, Hertz issued a press release announcing that it and "New York City Mayor Eric Adams launched 'Hertz Electrifies New York City,' a public-private partnership aimed at increasing [EV] adoption and extending the environmental and economic benefits of electrification across neighborhoods." The press release stated, in relevant part, that "[t]hrough the initiative, Hertz intends to add up to 1,700 rental EVs to its local fleet"; and that, "[t]o date, more than 50,000 rideshare drivers across the country have rented EVs from Hertz, logging more than 260 million electric miles."

42. On October 26, 2023, Hertz issued a press release announcing its third quarter 2023 results (the "3Q23 Earnings Release"). The 3Q23 Earnings Release quoted Defendant Scherr as stating, in relevant part, that "Hertz produced record revenue in the quarter, reflecting ongoing strength in demand and stability in pricing"; that "we saw further growth in our rideshare business and progress in reinvigorating our value brands"; and that "[w]e nonetheless remain focused on the cost side to improve margins[.]"

43. The 3Q23 Earnings Release also highlighted demand for Hertz's rental services, while simultaneously downplaying the negative impact of vehicle depreciation on the Company's financial results, stating, in relevant part:

> Third quarter revenue of $2.7 billion was a quarterly record for the Company and was characterized by continued strength in demand, particularly in leisure and rideshare channels, coupled with pricing that was well above pre-pandemic levels. Volume increased 16% year

> over year while average fleet was up 11%, reflecting continued fleet management optimization. Monthly revenue per unit in the quarter of $1,596 benefited from utilization of 83%, an increase of 320 basis points relative to the prior year quarter.
>
> Monthly fleet depreciation per unit was $282, reflecting a year over year increase of 52%, attributable to a reduction in net vehicle disposition gains which were at elevated levels in 2022.

44. Also on October 26, 2023, Hertz filed a quarterly report on Form 10-Q with the SEC, reporting the Company's financial and operating results for the quarter ended September 30, 2023 (the "3Q23 10-Q"). The 3Q23 10-Q contained the same statements as referenced in ¶ 28, *supra*, assuring investors that Hertz actively adjusted the size of its vehicle fleet in accordance with fluctuations in demand.

45. With respect to vehicle depreciation's impact on Hertz's overall financial results for the quarter, the 3Q23 10-Q stated, in relevant part:

> Depreciation of revenue earning vehicles and lease charges, net increased $207 million in the third quarter of 2023 compared to 2022 of which $162 million is attributed to our Americas RAC segment due primarily to lower per unit gains recognized on vehicle dispositions and an increase in Average Vehicles, partially offset by longer vehicle holding periods resulting in lower depreciation rates. Depreciation of revenue earning vehicles and lease charges, net for our International RAC segment increased $45 million due primarily to an increase in Average Vehicles, lower per unit gains recognized on vehicle dispositions and increased vehicle acquisition costs.

46. With specific respect to vehicle depreciation's impact on Hertz's Americas RAC results for the quarter, the 3Q23 10-Q stated, in relevant part:

> Depreciation of revenue earning vehicles and lease charges, net for Americas RAC increased $162 million in the third quarter of 2023 compared to 2022 due primarily to lower per unit gains recognized on vehicle dispositions and an increase in Average Vehicles, partially offset by longer vehicle holding periods resulting in lower depreciation rates. Average Vehicles increased in the third quarter of 2023 compared to 2022 due to sustained travel demand.

47. With specific respect to vehicle depreciation's impact on Hertz's International RAC results for the quarter, the 3Q23 10-Q stated, in relevant part:

> Depreciation of revenue earning vehicles and lease charges, net for International RAC in the third quarter of 2023 increased $45 million compared to 2022 due primarily to an increase in Average Vehicles, lower per unit gains recognized on vehicle dispositions and increased vehicle acquisition costs. Depreciation of revenue earning vehicles and lease charges, net were also impacted by a favorable $6 million fx [foreign exchange] impact in the third quarter of 2023. Average Vehicles for International RAC increased in the third quarter of 2023 due to sustained travel demand.

48. Appended as exhibits to the 3Q23 10-Q were substantively the same SOX certifications as referenced in ¶ 32, *supra*, signed by the Individual Defendants.

49. The statements referenced in ¶¶ 26-48 were materially false and misleading because Defendants made false and/or misleading statements, as well as failed to disclose material adverse facts about the Company's business, operations, and prospects. Specifically, Defendants made false and/or misleading statements and/or failed to disclose that: (i) Hertz had downplayed the financial impact of vehicle depreciation, and/or overstated its ability to track and manage

vehicle depreciation; (ii) demand for Hertz's EVs was not as strong as Defendants had led investors to believe; (iii) Hertz had too many vehicles, particularly EVs, in its fleet to remain profitable; (iv) as a result of all the foregoing, Hertz was likely to incur significant losses on the disposition of both its ICE vehicles and EVs; (v) all the foregoing was likely to, and did, have a significant negative impact on Hertz's financial results; and (vi) as a result, the Company's public statements were materially false and misleading at all relevant times.

The Truth Begins to Emerge

50. On January 11, 2024, during pre-market hours, Hertz filed a current report on Form 8-K with the SEC (the "2024 8-K"), wherein the Company disclosed that it would sell approximately 20,000 EVs from its U.S. fleet, or about one-third of its global EV fleet, "to better balance supply against expected demand of EVs[,]" stating, in relevant part:

> Hertz . . . has made the strategic decision to sell approximately 20,000 [EVs] from its U.S. fleet, or about one-third of the global EV fleet. These vehicle dispositions, which were initiated in December 2023 and are expected to take place in an orderly fashion over the course of 2024, will cover multiple makes and models. EVs held for sale will remain eligible for rental within the Company's fleet during the sales process. The Company expects to reinvest a portion of the proceeds from the sale of EVs into the purchase of [ICE] vehicles to meet customer demand.
>
> The Company's decision to reduce its EV fleet will result in the recognition, during the fourth quarter of 2023, of approximately $245 million of incremental net depreciation expense related to the sale. This non-cash charge represents the write down of the EVs' carrying

> values as of December 31, 2023 to their fair values, less related expenses associated with the disposition of the vehicles. This charge is in addition to the depreciation expense that the Company will report for the fourth quarter in the ordinary course with respect to the remainder of its fleet. Future depreciation expense on the specific vehicles held for sale is expected to be limited to impacts from changes in the vehicles' condition and general market factors. Any gain or loss associated with the ultimate disposition of any specific EV will be recognized in the period of sale.
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> * * *
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> The Company expects this action to better balance supply against expected demand of EVs.
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> * * *
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> Adjusted Corporate EBITDA for the fourth quarter of 2023 will be negatively impacted by the incremental net depreciation expense associated with the EV sales plan, and further burdened by higher depreciation expense in the ordinary course as residual values for vehicles generally fell throughout the quarter greater than previously expected . . . . The Company expects to report a negative Adjusted Corporate EBITDA (excluding the impact of the non-cash charge related to the EV sales plan) for the fourth quarter in the range of ($120 million) to ($130 million).

51. On this news, Hertz's stock price fell $0.40 per share, or 4.28%, to close at $8.95 per share on January 11, 2024. Despite this decline in the Company's stock price, Hertz securities continued trading at artificially inflated prices throughout the remainder of the Class Period because of Defendants' continued misstatements and omissions regarding, *inter alia*, the financial impact of vehicle depreciation, the excessive size of its vehicle fleet, and the negative impacts of the foregoing on the Company's financial results.

52. For example, the 2024 8-K highlighted the anticipated benefits of Hertz's EV disposition strategy, while downplaying the negative impacts of Hertz's remaining EV fleet on its business and financial results, stating, in relevant part:

> This [EV disposition strategy] will position the Company to eliminate a disproportionate number of lower margin rentals and reduce damage expense associated with EVs. The Company will continue to execute its strategy around EV mobility and offer customers a wide selection of vehicles. The Company continues to implement a series of initiatives that it anticipates will continue to improve the profitability of the remaining EV fleet. These initiatives include the expansion of EV charging infrastructure, growing relationships with EV manufacturers, particularly related to more affordable access to parts and labor, and continued implementation of policies and educational tools to help enhance the EV experience for customers. Going forward, the Company will continue to actively manage the total size of its EV fleet, as well as the allocation of EVs among customer segments, including leisure, corporate, government and rideshare.
>
> It is expected that the planned reduction in the EV fleet and reinvestment in additional ICE vehicles will improve Adjusted Corporate EBITDA across 2024, as vehicles are rotated, and in 2025, by which time all of the vehicles included in this plan are expected to be sold. By year end 2025, it is expected that the aggregate two-year benefit to Adjusted Corporate EBITDA related to the sale will approximate the incremental net depreciation expense to be recognized in the fourth quarter of 2023. It is expected that this benefit to the Company's financial results will be derived from higher revenue per day and lower depreciation and operating expenses related to its remaining fleet. The Company further anticipates that incremental free cash flow generation related to this action will approximate $250 million to $300 million in the aggregate over 2024 and 2025.

53. On February 6, 2024, Hertz issued a press release announcing its fourth quarter and full year 2023 results (the "4Q/FY23 Earnings Release"). The 4Q/FY23 Earnings Release quoted Defendant Scherr as stating that "[o]ur business benefitted from solid demand and a stable rate environment in the fourth quarter," while assuring investors that, although "we continued to face headwinds related to our [EV] fleet and other costs throughout the quarter[,]" "[w]e have taken steps to address those challenges and heading into 2024, we are confident that our planned reduction in EVs and cost base, along with the ongoing execution of our enhanced profitability plan, will enable us to regain our operational cadence and improve our financial performance with increasing effect into 2025."

54. The 4Q/FY23 Earnings Release also highlighted demand for Hertz's rental services, while simultaneously downplaying the negative impact of vehicle depreciation on the Company's financial results, stating, in relevant part:

> Fourth quarter 2023 revenue was $2.2 billion, up 7% from the fourth quarter of 2022 driven by increased volume across leisure, corporate and rideshare customer channels. Strong fourth quarter 2023 RPD [revenue per transaction day] of $58.09 reflected continued price discipline and a moderating trend relative to prior quarterly comparisons. The Company prioritized rate over utilization, purposely forgoing lower margin business.
>
> Depreciation per unit per month of $498 reflected the impact of the write down of EVs held for sale to their fair value and a decline in residual values, as well as a modestly higher than expected fleet.

* * *

> Adjusted Corporate EBITDA was negative $382 million in the quarter, a negative 17% margin, which includes $245 million of incremental net depreciation expense related to the EVs held for sale.

55. On February 12, 2024, Hertz filed an annual report on Form 10-K with the SEC, reporting the Company's financial and operating results for the quarter and year ended December 31, 2023 (the "2023 10-K"). The 2023 10-K discussed how Hertz obtained certain fleet vehicles ("program vehicles") via purchase programs with automobile manufacturers to help control vehicle depreciation and attendant risks to the Company, stating, in relevant part:

> Program vehicles are purchased under repurchase or guaranteed depreciation programs with vehicle manufacturers wherein the manufacturers agree to repurchase vehicles at a specified price or guarantee the depreciation rate on the vehicles during established repurchase periods, subject to, among other things, certain vehicle condition, mileage and holding period requirements. Repurchase prices under repurchase programs are based on the original cost less a set daily depreciation amount. These repurchase and guaranteed depreciation programs limit our residual risk with respect to vehicles purchased under the programs and allow us to reduce the variability of depreciation expense for each vehicle . . . . Program vehicles generally provide us with flexibility to increase or reduce the size of our fleet based on market demand. When we increase the percentage of program vehicles, the average age of our fleet decreases since the average holding period for program vehicles is shorter than for non-program vehicles.

56. The 2023 10-K also assured investors that Hertz regularly monitored the depreciation rates for its vehicles, stating, in relevant part:

> We . . . estimate the residual value of the applicable revenue earning vehicles at the expected time of disposal, considering factors such as make, model and options, age, physical condition, mileage, sale

location, time of the year, channel disposition (e.g., auction, retail, dealer direct), historical sales experience for similar vehicles, third-party expectations of resale value and market conditions. The vehicle is depreciated using a rate based on these estimates. Depreciation rates are reviewed on a quarterly basis based on management's ongoing assessment of present and estimated future market conditions, their effect on residual values at the expected time of disposal and any changes to the estimated holding period of the vehicle.

57. Notwithstanding the foregoing, the 2023 10-K purported to warn of risks that "could" or "can" occur with respect to declining residual values for certain of Hertz's vehicles, while downplaying these risks by simultaneously touting the programs Hertz had in place to control certain vehicle depreciation rates in the same discussion, stating, in relevant part:

> ***The mix of program and non-program vehicles in our fleet, as well as declining values of our non-program vehicles, can subject us to an increased residual value risk.***
>
> We use program and non-program vehicles in our fleet. With program vehicles, vehicle manufacturers agree to repurchase the vehicles at a specified price or guarantee the depreciation rate on the vehicles during a specified time period. Using program vehicles in our fleet can often alleviate our residual value risk because of the terms of our agreements with the vehicle manufacturer for repurchases and guaranteed depreciation on those vehicles. Additionally, program vehicles provide flexibility because we may be able to sell certain program vehicles shortly after having acquired them at a higher value than what we could for a similar non-program vehicle at that time, which is useful in managing demand for vehicles. These benefits diminish when there are fewer program vehicles in our fleet, which has generally been the case in recent years.
>
> The significant majority of vehicles in our fleet are non-program vehicles. Overall, the percentage of non-program fleet that we hold

exposes us to residual value risk. Decreases in residual values of our non-program vehicles, or the failure of residual values to follow historical patterns, ***could*** result in a substantial loss on the sale of such vehicles, or accelerated depreciation while we own the vehicles. Each of these outcomes ***can*** materially adversely affect our results of operations, financial condition, liquidity and cash flows.

(First emphasis in original.) Plainly, the foregoing risk warning was a generic catch-all provision that was not tailored to Hertz's actual known risks regarding the financial impact of vehicle depreciation, much less the excessive number of vehicles in the Company's fleet, both of which would force Hertz to dispose of ICE vehicles and EVs at a significant loss.

58. Similarly, the 2023 10-K purported to warn of risks that "could" occur "if," *inter alia*, Hertz sustained substantial losses on vehicle sales and experienced increased vehicle depreciation rates, stating, in relevant part:

> ***Forward estimates on vehicle residual values have recently declined, subjecting us to greater risk of losses on vehicle sales, increased depreciation or challenges in meeting collateral requirements in our fleet financing facilities.***
>
> Recent data for used vehicles has shown a sudden downward trend in residual values. This data has also suggested that prices in the used vehicle market ***could*** decrease further in 2024. A further reduction in residual values for non-program vehicles in our fleet, or the failure of residual values to improve, ***could*** cause us to hold vehicles longer, sustain a substantial loss on the sale for such vehicles or require us to depreciate those vehicles at a more accelerated rate than currently anticipated while we own them.

* * *

> ***If*** we sustain substantial losses on sale of vehicles[or, *inter alia*,] depreciation is accelerated . . . it ***could*** have a material adverse effect on our results of operations, financial condition, liquidity and cash flows.

(First emphasis in original.) Plainly, this risk warning, too, was a generic catch-all provision that was not tailored to Hertz's actual known risks regarding the financial impact of vehicle depreciation, much less the excessive number of vehicles in the Company's fleet, both of which would force Hertz to dispose of ICE vehicles and EVs at a significant loss.

59. With respect to vehicle depreciation's impact on Hertz's overall financial results for the year, the 2023 10-K stated, in relevant part:

> Depreciation of revenue earning vehicles and lease charges, net increased $1.3 billion in 2023 compared to 2022, of which $1.2 billion is attributed to our Americas RAC segment. The increase in our Americas RAC segment was due to several factors, primarily (i) reduced per unit gains on vehicle dispositions, (ii) an increase in Average Vehicles and (iii) a lower volume of vehicle dispositions. The increase in Americas RAC was partially offset by longer vehicle holding periods. Additionally, depreciation of revenue earning vehicles and lease charges, net increased compared to 2022 due to the $245 million write-down of the carrying values of the EV Disposal Group resulting from its classification as held for sale in December 2023. Depreciation of revenue earning vehicles and lease charges, net in our International RAC segment increased $116 million in 2023 compared to 2022 due primarily to higher vehicle acquisition costs, an increase in Average Vehicles and reduced per unit gains on vehicle dispositions, partially offset by a higher volume of vehicle dispositions in 2023. Depreciation of revenue earning vehicles and lease charges, net in our Americas RAC segment is expected to be impacted in 2024 by several factors: (i) lower per unit depreciation that will be incurred on the EV Disposal Group, (ii) a larger average

> fleet compared to that held in 2023, (iii) the intended sale of older vehicles during 2024 and (iv) an uncertain residual environment.

60. With specific respect to vehicle depreciation's impact on Hertz's Americas RAC results for the year, the 2023 10-K stated, in relevant part:

> Depreciation of revenue earning vehicles and lease charges, net for Americas RAC increased $1.2 billion in 2023 compared to 2022 due primarily to (i) reduced per unit gains on vehicle dispositions, (ii) an increase in Average Vehicles and (iii) a lower volume of vehicle dispositions, partially offset by longer vehicle holding periods. Additionally, depreciation of revenue earning vehicles and lease charges, net increased due to the $245 million write-down of the carrying value of EV Disposal Group resulting from its classification as held for sale in December 2023. The increase in Average Vehicles was driven in part by decisions, primarily during the fourth quarter of 2023, to delay planned fleet sales in light of an unfavorable used vehicle market. We expect depreciation of revenue earning vehicles and lease charges, net in our Americas RAC segment to be impacted in 2024 by several factors: (i) lower per unit depreciation that will be incurred on the EV Disposal Group, (ii) a larger average fleet compared to that held in 2023, (iii) the intended sale of older vehicles during 2024 and (iv) an uncertain residual environment.

61. With specific respect to vehicle depreciation's impact on Hertz's International RAC results for the year, the 2023 10-K stated, in relevant part:

> Depreciation of revenue earning vehicles and lease charges, net for International RAC increased $116 million in 2023 compared to 2022 due primarily to higher vehicle acquisition costs, an increase in Average Vehicles and reduced per unit gains on vehicle dispositions, partially offset by a higher volume of vehicle dispositions in 2023. Depreciation of revenue earning vehicles and lease charges, net was also impacted by a favorable $10 million fx impact in 2023. Average Vehicles for International RAC increased in 2023 due in part to increased travel demand.

62. Appended as exhibits to the 2023 10-K were substantively the same SOX certifications as referenced in ¶ 32, *supra*, signed by the Individual Defendants.

63. The statements referenced in ¶¶ 52-62 were materially false and misleading because Defendants made false and/or misleading statements, as well as failed to disclose material adverse facts about the Company's business, operations, and prospects. Specifically, Defendants made false and/or misleading statements and/or failed to disclose that: (i) Hertz had downplayed the financial impact of vehicle depreciation, and/or overstated its ability to track and manage vehicle depreciation; (ii) demand for Hertz's EVs was not as strong as Defendants had led investors to believe; (iii) Hertz had too many vehicles, particularly EVs, in its fleet to remain profitable; (iv) as a result of all the foregoing, Hertz was likely to incur significant losses on the disposition of both its ICE vehicles and EVs; (v) all the foregoing was likely to, and did, have a significant negative impact on Hertz's financial results; and (vi) as a result, the Company's public statements were materially false and misleading at all relevant times.

The Truth Fully Emerges

64. On March 15, 2024, Hertz announced that Defendant Scherr would resign from his roles as the Company's CEO and Chairman by the end of the month, and that the Company had appointed West as its new CEO.

65. Then, a little over a month later, on April 25, 2024, during pre-market hours, Hertz issued a press release announcing its first quarter 2024 results (the "1Q24 Earnings Release"). The 1Q24 Earnings Release reported an adjusted diluted EPS of -$1.28 for the quarter, well short of the consensus estimate of -$0.43, and far worse than the adjusted diluted EPS of $0.39 that the Company had achieved in the same period the year prior. In discussing these results, the 1Q24 Earnings Release revealed that Hertz had incurred hundreds of millions of dollars in vehicle depreciation-related costs in the quarter, driven in part by an upsized EV disposition plan and the disposition of ICE vehicles, stating, in relevant part:

> In the first quarter, the Company upsized its EV disposition plan by 10,000 vehicles, for a total of 30,000 EVs intended for sale in 2024. The Company incurred a $195 million charge to vehicle depreciation to write down the EVs held for sale which were remaining in inventory at quarter-end to fair value and recognize the disposition losses on EVs sold in the period.
>
> Vehicle depreciation in the first quarter of 2024 increased $588 million, or $339 on a per unit basis, primarily driven by deterioration in estimated forward residual values and disposition losses on ICE vehicles compared to gains in the prior year quarter. Additionally, of the $339 per unit increase, $119 was related to EVs held for sale.
>
> * * *
>
> Adjusted Corporate EBITDA was negative $567 million in the quarter driven mainly by a $588 million increase in vehicle depreciation compared to the first quarter of 2023, of which $195 million related to EVs held for sale. The Company commenced a broad fleet refresh during the quarter and has revenue and cost initiatives in place to enhance the Company's future profitability.

66. The 1Q24 Earnings Release also quoted Hertz's new CEO West, who indicated that Hertz's fleet size was too large to remain profitable, stating, in relevant part:

> Fleet and direct operating costs weighed on this quarter's performance . . . . We're tackling both issues - getting to the right supply of vehicles at an acceptable capital cost while at the same time driving productivity up and operating costs down . . . . We've put the right strategy in place, and I see a clear path for Hertz to generate sustainable and higher earnings for our shareholders.

67. That same day, also during pre-market hours, Hertz hosted a conference call with investors and analysts to discuss the Company's first quarter 2024 results (the "1Q24 Earnings Call"). During his prepared remarks on the 1Q24 Earnings Call, Hertz's new CEO West acknowledged that "[o]ur quarterly results were unacceptable and reflected the impact of a decline in forward residual values used to determine vehicle depreciation, coupled with our EV rationalization and elevated cost structure." West also reiterated the need to reduce the Company's overall fleet size to remain profitable, stating, in relevant part:

> [T]here are a number of key priorities I'm focused on. It starts with having the right fleet. So, balancing short-term decisions with long-term implications to drive a better return on assets. This includes making sure that we have the right supply and demand balance of our fleet, at the appropriate capital cost.
>
> Decisions around our fleet are based on return on assets and the discipline of fleeting inside the projected demand curve to ensure we achieve favorable revenue per day and revenue per unit performance along with better managing our residual value risk.

68. During his prepared remarks on the 1Q24 Earnings Call, Hertz's EVP and Chief Operating Officer, Justin Keppy ("Keppy"), reiterated the need to reduce the Company's fleet size to remain profitable, stating, in relevant part:

> We depleted [our vehicle fleet size] throughout the quarter and, by March, our core rental fleet was tighter, up only 2% year-over-year. We plan to maintain tighter as we move into the summer season, which we expect to correlate with improved RPD performance, coupled with easier year-over-year compares.
>
> Looking at the composition of our fleet, we are addressing the mix to lower the average cap cost and reduce the tail of higher mileage vehicles.
>
> * * *
>
> Within our RAC fleet, we expect to reduce vehicles with higher mileage by 75% and complete the rotation out of preowned vehicles by early 2025. This fleet refresh is expected to result in lowered vehicle depreciation, lower direct operating expenses, and deliver an improved customer experience.

69. During her prepared remarks on the 1Q24 Earnings Call, Defendant Brooks stated, in relevant part:

> We recorded an adjusted corporate EBITDA loss of $567 million, which is disappointing and unacceptable.
>
> Although we continue to be impacted by elevated costs . . . the key driver of the loss is the increased vehicle depreciation, which has increased $588 million year-over-year.
>
> For the first quarter, DPU [depreciation per unit] was $592, of which $119 was due to incremental vehicle depreciation expense related to the EVs held for sale. We recorded a charge of $195 million to recognize a fair value adjustment for EVs remaining in our inventory at quarter-end, and to recognize losses on those units sold. DPU,

excluding the EV charge of $473, is elevated due to declining forward residual estimates.

* * *

Overall, for the quarter, our adjusted corporate EBITDA reflected elevated vehicle depreciation, which was further burdened by the nonrecurring EV charges and an elevated cost structure that does not yet include the benefit of our various cost initiatives.

70. During the question-and-answer phase of the 1Q24 Earnings Call, an analyst pressed Hertz management for further color on what drove the vehicle depreciation recorded during the quarter, including ICE vehicle depreciation versus EV depreciation, and the upsized EV disposition plan. In response, Defendant Brooks stated, *inter alia*, that EV depreciation was more severe than ICE vehicle depreciation, while reiterating that Hertz had too many EVs in its inventory compared to demand for those rentals:

[Analyst]

[C]an you guys just maybe briefly talk about what you're seeing of ICE versus EV performance, maybe from a depreciation perspective, direct OpEx [operating expenses], how are they kind of tracking with each other, are they not?

And then as far as the divestiture of the implemented 10,000 vehicles, what kind of precipitated that? Is it a more liquid market than you had thought? Are you getting higher prices than expected? Maybe help us understand what's driving that. Thank you.

[Defendant] Brooks

Why don't I . . . kick off with the question on ICE versus EV residuals, and then what kind of tag-team here and kick it over to [Keppy]? So,

> we did see EV residuals declining at a more severe rate than ICE vehicles during the quarter. And I think you saw that in the adjustments we made to the EVs held for sale.
>
> So, we recognized a loss on the EVs that were disposed of during the quarter relative to what we marked them at the end of the year. And we also had to recognize a mark-to-market loss on the EVs that we were holding in inventory. The combination of those was about $81 million and is accounted for in depreciation expense for the quarter. So, that's the impact you see there.
>
> And of course, we would have made appropriate adjustments to the EV fleet that is part of our regular fleet and that held for inventory as we look at forward residuals. With that, I'll turn it over to Justin to comment on the on the movement of the 10,000 vehicles.

71. In response to the same analyst question, Keppy was more explicit regarding the need to right-size the Company's EV fleet, stating, in relevant part:

> [O]ur mantra has been our ROA [return on assets] mindset and keeping supply inside of demand. And we're moving forward with the further rightsizing, the incremental 10,000 -- bringing the total population of EVs that are being looked at to sell to 30,000.
>
> * * *
>
> And as we right-size this EV fleet, we expect a couple of things. One, it will be better aligned with demand, which we expect to improve both utilization as well as RPD as we align it with customers that are seeking out the EVs.
>
> * * *
>
> So, again, with the benefit from a reduction of fleet carrying costs, the lower operating costs also are with maintenance and transport, as you think about things with remote charging, we see a combination of benefits by further taking down an additional 10,000 that will right-size demand with our supply.

72. Following the 1Q24 Earnings Release and 1Q24 Earnings Call, the Company's stock price fell $1.12 per share, or 19.31%, to close at $4.68 per share on April 25, 2024.

73. As a result of Defendants' wrongful acts and omissions, and the precipitous decline in the market value of the Company's securities, Plaintiff and other Class members have suffered significant losses and damages.

Post-Class Period Developments

74. On April 26, 2024—*i.e.*, the day after Hertz's issuance of the 1Q24 Earnings Release—Bank of America downgraded Hertz from a "Neutral" rating to "Underperform" and cut its price target on the Company's stock by a staggering **67%** to $3.00, stating:

> Our forecasts subsequently drop. Liquidity is also an increasing concern among investors, as HTZ has an older fleet that will need to be refreshed at a time when used vehicles are dropping and new vehicle prices are softening only modestly. The company has multiple levers to manage its liquidity, but we expect the company is likely to end up with more leverage.

SCIENTER ALLEGATIONS

75. During the Class Period, Defendants had both the motive and opportunity to commit fraud. They also had actual knowledge of the misleading nature of the statements they made, or acted in reckless disregard of the true information known to them at the time. In so doing, Defendants participated in a scheme to defraud and committed acts, practices, and participated in a course of

business that operated as a fraud or deceit on purchasers of the Company's securities during the Class Period.

PLAINTIFF'S CLASS ACTION ALLEGATIONS

76. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a Class, consisting of all those who purchased or otherwise acquired Hertz securities during the Class Period (the "Class"); and were damaged upon the revelation of the alleged corrective disclosures. Excluded from the Class are Defendants herein, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which Defendants have or had a controlling interest.

77. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, Hertz securities were actively traded on the NASDAQ. While the exact number of Class members is unknown to Plaintiff at this time and can be ascertained only through appropriate discovery, Plaintiff believes that there are hundreds or thousands of members in the proposed Class. Record owners and other members of the Class may be identified from records maintained by Hertz or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

78. Plaintiff’s claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendants’ wrongful conduct in violation of federal law that is complained of herein.

79. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation. Plaintiff has no interests antagonistic to or in conflict with those of the Class.

80. 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. Among the questions of law and fact common to the Class are:

- whether the federal securities laws were violated by Defendants’ acts as alleged herein;
- whether statements made by Defendants to the investing public during the Class Period misrepresented material facts about the business, operations and management of Hertz;
- whether the Individual Defendants caused Hertz to issue false and misleading financial statements during the Class Period;
- whether Defendants acted knowingly or recklessly in issuing false and misleading financial statements;
- whether the prices of Hertz securities during the Class Period were artificially inflated because of the Defendants’ conduct complained of herein; and
- whether the members of the Class have sustained damages and, if so, what is the proper measure of damages.

81. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as 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.

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

- Defendants made public misrepresentations or failed to disclose material facts during the Class Period;
- the omissions and misrepresentations were material;
- Hertz securities are traded in an efficient market;
- the Company's shares were liquid and traded with moderate to heavy volume during the Class Period;
- the Company traded on the NASDAQ and was covered by multiple analysts;
- the misrepresentations and omissions alleged would tend to induce a reasonable investor to misjudge the value of the Company's securities; and
- Plaintiff and members of the Class purchased, acquired and/or sold Hertz securities between the time the Defendants failed to disclose or misrepresented material facts and the time the true facts were disclosed, without knowledge of the omitted or misrepresented facts.

83. Based upon the foregoing, Plaintiff and the members of the Class are entitled to a presumption of reliance upon the integrity of the market.

84. Alternatively, Plaintiff and the members of the Class are entitled to the presumption of reliance established by the Supreme Court in *Affiliated Ute Citizens of the State of Utah v. United States*, 406 U.S. 128, 92 S. Ct. 2430 (1972), as Defendants omitted material information in their Class Period statements in violation of a duty to disclose such information, as detailed above.

COUNT I

(Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Promulgated Thereunder Against All Defendants)

85. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

86. This Count is asserted against Defendants and is based upon Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder by the SEC.

87. During the Class Period, Defendants engaged in a plan, scheme, conspiracy and course of conduct, pursuant to which they knowingly or recklessly engaged in acts, transactions, practices and courses of business which operated as a fraud and deceit upon Plaintiff and the other members of the Class; made various untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they

were made, not misleading; and employed devices, schemes and artifices to defraud in connection with the purchase and sale of securities. Such scheme was intended to, and, throughout the Class Period, did: (i) deceive the investing public, including Plaintiff and other Class members, as alleged herein; (ii) artificially inflate and maintain the market price of Hertz securities; and (iii) cause Plaintiff and other members of the Class to purchase or otherwise acquire Hertz securities and options at artificially inflated prices. In furtherance of this unlawful scheme, plan and course of conduct, Defendants, and each of them, took the actions set forth herein.

88. Pursuant to the above plan, scheme, conspiracy and course of conduct, each of the Defendants participated directly or indirectly in the preparation and/or issuance of the quarterly and annual reports, SEC filings, press releases and other statements and documents described above, including statements made to securities analysts and the media that were designed to inHertz the market for Hertz securities. Such reports, filings, releases and statements were materially false and misleading in that they failed to disclose material adverse information and misrepresented the truth about Hertz's finances and business prospects.

89. By virtue of their positions at Hertz, Defendants had actual knowledge of the materially false and misleading statements and material

omissions alleged herein and intended thereby to deceive Plaintiff and the other members of the Class, or, in the alternative, Defendants acted with reckless disregard for the truth in that they failed or refused to ascertain and disclose such facts as would reveal the materially false and misleading nature of the statements made, although such facts were readily available to Defendants. Said acts and omissions of Defendants were committed willfully or with reckless disregard for the truth. In addition, each Defendant knew or recklessly disregarded that material facts were being misrepresented or omitted as described above.

90. Information showing that Defendants acted knowingly or with reckless disregard for the truth is peculiarly within Defendants' knowledge and control. As the senior managers and/or directors of Hertz, the Individual Defendants had knowledge of the details of Hertz's internal affairs.

91. The Individual Defendants are liable both directly and indirectly for the wrongs complained of herein. Because of their positions of control and authority, the Individual Defendants were able to and did, directly or indirectly, control the content of the statements of Hertz. As officers and/or directors of a publicly-held company, the Individual Defendants had a duty to disseminate timely, accurate, and truthful information with respect to Hertz's businesses, operations, future financial condition and future prospects. As a result of the dissemination of the aforementioned false and misleading reports, releases and

public statements, the market price of Hertz securities was artificially inflated throughout the Class Period. In ignorance of the adverse facts concerning Hertz's business and financial condition which were concealed by Defendants, Plaintiff and the other members of the Class purchased or otherwise acquired Hertz securities at artificially inflated prices and relied upon the price of the securities, the integrity of the market for the securities and/or upon statements disseminated by Defendants, and were damaged thereby.

92. During the Class Period, Hertz securities were traded on an active and efficient market. Plaintiff and the other members of the Class, relying on the materially false and misleading statements described herein, which the Defendants made, issued or caused to be disseminated, or relying upon the integrity of the market, purchased or otherwise acquired shares of Hertz securities at prices artificially inflated by Defendants' wrongful conduct. Had Plaintiff and the other members of the Class known the truth, they would not have purchased or otherwise acquired said securities, or would not have purchased or otherwise acquired them at the inflated prices that were paid. At the time of the purchases and/or acquisitions by Plaintiff and the Class, the true value of Hertz securities was substantially lower than the prices paid by Plaintiff and the other members of the Class. The market price of Hertz securities declined sharply upon public disclosure of the facts alleged herein to the injury of Plaintiff and Class members.

93. By reason of the conduct alleged herein, Defendants knowingly or recklessly, directly or indirectly, have violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

94. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their respective purchases, acquisitions and sales of the Company's securities during the Class Period, upon the disclosure that the Company had been disseminating misrepresented financial statements to the investing public.

COUNT II

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

95. Plaintiff repeats and re-alleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

96. During the Class Period, the Individual Defendants participated in the operation and management of Hertz, and conducted and participated, directly and indirectly, in the conduct of Hertz's business affairs. Because of their senior positions, they knew the adverse non-public information about Hertz's misstatement of income and expenses and false financial statements.

97. As officers and/or directors of a publicly owned company, the Individual Defendants had a duty to disseminate accurate and truthful information with respect to Hertz's financial condition and results of operations,

and to correct promptly any public statements issued by Hertz which had become materially false or misleading.

98. Because of their positions of control and authority as senior officers, the Individual Defendants were able to, and did, control the contents of the various reports, press releases and public filings which Hertz disseminated in the marketplace during the Class Period concerning Hertz's results of operations. Throughout the Class Period, the Individual Defendants exercised their power and authority to cause Hertz to engage in the wrongful acts complained of herein. The Individual Defendants, therefore, were "controlling persons" of Hertz within the meaning of Section 20(a) of the Exchange Act. In this capacity, they participated in the unlawful conduct alleged which artificially inflated the market price of Hertz securities.

99. Each of the Individual Defendants, therefore, acted as a controlling person of Hertz. By reason of their senior management positions and/or being directors of Hertz, each of the Individual Defendants had the power to direct the actions of, and exercised the same to cause, Hertz to engage in the unlawful acts and conduct complained of herein. Each of the Individual Defendants exercised control over the general operations of Hertz and possessed the power to control the specific activities which comprise the primary violations about which Plaintiff and the other members of the Class complain.

100. By reason of the above conduct, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act for the violations committed by Hertz.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

A. Determining that the instant action may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, and certifying Plaintiff as the Class representative;

B. Requiring Defendants to pay damages sustained by Plaintiff and the Class by reason of the acts and transactions alleged herein;

C. Awarding Plaintiff and the other members of the Class prejudgment and post-judgment interest, as well as their reasonable attorneys' fees, expert fees and other costs; and

D. Awarding such other and further relief as this Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury.