SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

[redacted] Behalf of All Others Similarly Situated,

Plaintiff,

vs.

REVANCE THERAPEUTICS, INC.,
L DANIEL BROWNE,
LAUREN P. SILVERNAIL,
JACOB WAUGH,
ROBERT BYRNES, 7
RONALD W. EASTMAN, 8
PHYLLIS GARDNER, 9
JAMES GLASHEEN, 9
JONATHAN TUNNICLIFFE, 10
RONALD WOOTEN, 11
COWEN AND COMPANY, LLC, 12
PIPER JAFFRAY & CO., 13
BMO CAPITAL MARKETS CORP., 14
WILLIAM BLAIR & COMPANY, L.L.C 15
and DOES 1-25, inclusive,

Defendants.

**VIA FAX**

Case No. CIV533635

CLASS ACTION

COMPLAINT FOR VIOLATIONS OF THE FEDERAL SECURITIES LAWS

DEMAND FOR JURY TRIAL

Plaintiff [redacted] ("plaintiff"), individually and on behalf of all others similarly situated, by plaintiff's undersigned attorneys, for plaintiff's complaint against defendants, alleges the following based upon personal knowledge as to plaintiff and plaintiff's own acts, and upon information and belief as to all other matters based on the investigation conducted by and through plaintiff's attorneys, which included, among other things, a review of Revance Therapeutics, Inc.'s ("Revance" or the "Company") press releases, Securities and Exchange Commission ("SEC") filings, analyst reports, media reports and other publicly disclosed reports and information about defendants. Plaintiff believes that substantial evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

## NATURE OF THE ACTION

1. This is a securities class action on behalf of all those who purchased Revance common stock in Revance's June 19, 2014 follow-on public stock offering (the "Offering"), seeking to pursue remedies under the Securities Act of 1933 (the "1933 Act")

## JURISDICTION AND VENUE

2. The claims alleged herein arise under §§11, 12(a)(2) and 15 of the 1933 Act, 15 U.S.C. §§77k, 77l(a)(2) and 77o. Jurisdiction is conferred by §22 of the 1933 Act and venue is proper pursuant to §22 of the 1933 Act. Section 22 of the 1933 Act explicitly states that "[e]xcept as provided in section 16(c), no case arising under this title and brought in any State court of competent jurisdiction shall be removed to any court in the United States." Section 16(c) refers to "covered class actions," which are defined as lawsuits brought as class actions or brought on behalf of more than 50 persons asserting claims under state or common law. This is an action asserting federal law claims. Thus, it does not fall within the definition of a "covered class action" under §16(b)-(c) and ***is therefore is not removable to federal court***, under the Securities Litigation Uniform Standards Act of 1998 or otherwise. *See Luther v Countrywide Fin. Corp* , 195 Cal App. 4th 789, 792 (2011) ("The federal Securities Act of 1933 .., as amended by the Securities Litigation Uniform Standards Act . . . , provides for ***concurrent jurisdiction*** for cases asserting claims under the 1933 Act ..."), *Luther v Countrywide Home Loans Servicing LP*, 533 F.3d 1031, 1032 (9th Cir 2008) ("Section 22(a) of the Securities Act of 1933 creates concurrent jurisdiction in state and federal courts over claims arising under the Act. It also specifically

provides that such claims brought in state court are not subject to removal to federal court."), and *Plymouth County Ret. Sys v Model N, Inc.*, No. 14-cv-04516, 2015 U S. Dist LEXIS 1104, at *8 (N.D. Cal. Jan 5, 2015) ("Since 2013, . ***every court*** in this district to [adjudicate a motion to remand an action brought in state court pursuant to the Securities Act] ***has granted remand.***")

3 The violations of law complained of herein occurred in this State and in part in this County At least one individual defendant resides in this County and at least two individual defendants reside on the border of this County and closer to this Court than any other Court. Revance maintains its corporate offices approximately 11 miles from this Court Each of the Underwriter Defendants (defined below) has a sizable San Francisco Bay Area office and maintains substantial and continuous contact with California by conducting significant investment banking operations in this County and throughout this State. Revance and the Underwriter Defendants were represented by counsel located in the San Francisco Bay Area in connection with the Offering.

**PARTIES**

4. Plaintif [redacted] purchased Revance common stock in the Offering, and was damaged thereby

5. Defendant Revance is a clinical stage specialty biopharmaceutical company focused on the development, manufacture and commercialization of a topical botulinum toxin ("botox") solution for the treatment of wrinkles and other dermatological problems

6. Defendant L. Daniel Browne ("Browne") is, and was at the time of the Offering, Revance's co-founder, President, Chief Executive Officer ("CEO") and a director. Immediately prior to the Offering, Browne owned over 331,000 Revance shares, or approximately 1.7% of the outstanding shares, which included 70,626 common shares, 164,423 common shares underlying vested options exercisable within one month from the close of the Offering at prices between $2.55 and $9 15 per share, and 96,000 shares of unvested restricted stock. Browne's residence is in Palo Alto, California, approximately five and one-half miles from San Mateo County Superior Court at 400 County Center.

7. Defendant Lauren P. Silvernail ("Silvernail") is, and was at the time of the Offering, Revance's Executive Vice President, Corporate Development, and Chief Financial Officer ("CFO") Immediately prior to the Offering, Silvernail owned over 47,000 Revance shares, which included

33,914 common shares underlying vested options exercisable within one month from the close of the Offering at $8.70 per share. Silvernail's residence is in Newport Coast, California.

8. Defendant Jacob Waugh ("Waugh") is, and was at the time of the Offering, a co-founder of Revance and its Chief Scientific Officer. Immediately prior to the Offering, Waugh owned over 142,000 Revance shares, which included 53,333 common shares and 64,135 common shares underlying vested options exercisable within one month from the close of the Offering at exercise prices of between $2.55 and $9.15 per share. Waugh participated in the preparation of the Registration Statement, including reviewing and approving statements contained in the Registration Statement concerning RT001. Waugh's residence is in San Mateo County.

9. Defendant Ronald W. Eastman ("Eastman") is, and was at the time of the Offering, a director of the Company. Immediately prior to the Offering, Eastman beneficially owned over 4.1 million Revance shares, or approximately 22% of the outstanding shares, consisting largely of over 3.7 million common shares held by Essex Woodlands Health Ventures Fund VIII, L.P. (including over 369,000 common shares underlying warrants exercisable at $0.15 per share), over 270,000 common shares held by Essex Woodlands Health Ventures Fund VIII-A, L.P. (including over 26,000 common shares that were previously underlying warrants exercisable at $0.15 per share), and over 117,000 common shares held by Essex Woodlands Health Ventures Fund VIII-B, L.P. (including over 11,000 common shares underlying warrants exercisable at $0.15 per share). Eastman is a managing director of Essex Woodlands Health Ventures VIII, LLC, a venture capital firm and general partner of the aforementioned limited partnerships, and has (and had at the time of the Offering) shared voting power and shared power to dispose of the shares held by the aforementioned limited partnerships. Eastman's residence is in Carmel, California.

10. Defendant Phyllis Gardner ("Gardner") is, and was at the time of the Offering, a director of the Company. Immediately prior to the Offering, Gardner beneficially owned over 462,000 Revance shares, or approximately 2.4% of the outstanding shares, consisting largely of over 457,000 shares held by Essex Woodlands Health Ventures Fund V, L.P. (including over 41,000 common shares that were previously underlying warrants exercisable at $0.15 per share) and over 5,300 common shares underlying vested options exercisable within one month from the close of the Offering at exercise prices

of $2.55 per share. Gardner is a partner at Essex Woodlands Health Ventures VIII, LLC, a venture capital firm and general partner of the aforementioned limited partnership, and has (and had at the time of the Offering) shared voting power and shared power to dispose of the shares held by that limited partnership Gardner's residence is in Stanford, California, approximately seven and one-half miles from San Mateo County Superior Court at 400 County Center.

11. Defendant Robert Byrnes ("Byrnes") is, and was at the time of the Offering, a director of the Company. Immediately prior to the Offering, Byrnes owned over 24,000 Revance common shares underlying vested options exercisable within one month from the close of the Offering at exercise prices of between $2 55 and $9.15 per share. Byrnes's residence is in Canyon Lake, California.

12 Defendant James Glasheen ("Glasheen") is, and was at the time of the Offering, a director of the Company. Immediately prior to the Offering, Glasheen beneficially owned over 726,000 Revance shares, or approximately 3.8% of the outstanding shares, consisting largely of over 709,000 shares held by Technology Partners Fund VII, L P (including over 50,000 common shares that were previously underlying warrants exercisable at $0.15 per share) and over 16,000 shares held by Technology Partners Affiliates VII, L.P. Glasheen is a managing member of TP Management VII, LLC, a venture capital firm and general partner of the aforementioned limited partnerships, and has (and had at the time of the Offering) shared voting power and shared power to dispose of the shares held by those limited partnerships. Glasheen's residence is in Corte Madera, California.

13. Defendant Jonathan Tunnicliffe ("Tunnicliffe") is, and was at the time of the Offering, a director of the Company Immediately prior to the Offering, Tunnicliffe beneficially owned over 3.09 million Revance shares that were held by NovaQuest Pharma Opportunities Fund III, L.P., or approximately 16.4% of the outstanding shares, consisting largely of over 2.4 million common shares and over 658,000 common shares that were previously underlying warrants exercisable at $0 15 per share. Tunnicliffe is also a director of the general partner to the general partner of the aforementioned limited partnership, and has (and had at the time of the Offering) shared voting power and shared power to dispose of the shares held by the limited partnership. Tunnicliffe's residence is in Cary, North Carolina.

14 Defendant Ronald Wooten ("Wooten") is, and was at the time of the Offering, a director of the Company Immediately prior to the Offering, Wooten beneficially owned over 3 09 million Revance shares that were held by NovaQuest Pharma Opportunities Fund III, L.P , or approximately 16.4% of the outstanding shares, consisting largely of over 2.4 million common shares and over 658,000 common shares that were previously underlying warrants exercisable at $0.15 per share. Wooten is also a director of the general partner to the general partner of the aforementioned limited partnership, and has (and had at the time of the Offering) shared voting power and shared power to dispose of the shares held by the limited partnership. Wooten's residence is in Raleigh, North Carolina.

15. The defendants referenced above in ¶¶6-14 are referred to herein as the "Individual Defendants " The Individual Defendants each participated in the preparation of, and, with the exception of Waugh, signed, the Registration Statement. Their participation in the solicitation of the Offering, through preparation of the offering documents, was motivated by each of their financial interests in the Company that were served by the Offering, and each of them financially benefited from the Offering in numerous ways, including by substantially increasing the book value of Revance and the Individual Defendants' shares and by providing a further liquid market in which to sell their shares upon the exercise of in-the-money options or otherwise. The defendants referenced above in ¶¶6-8 are executives of Revance, participated in the roadshow to sell the Offering and are sometimes referred to herein as the "Executive Defendants." Defendant Revance and the Individual Defendants who signed the Registration Statement are strictly liable for the materially false and misleading statements incorporated into the Registration Statement.

16. Defendants Cowen and Company, LLC ("Cowen"), Piper Jaffray & Co. ("Piper"), BMO Capital Markets Corp. ("BMO") and William Blair & Company, L L.C. are investment banking firms that acted as underwriters of the Offering, helping to draft and disseminate the offering documents. These defendants are referred to herein as the "Underwriter Defendants." Pursuant to the 1933 Act, the Underwriter Defendants are liable for the materially false and misleading statements in the Registration Statement as follows:

(a) The Underwriter Defendants are investment banking houses which specialize, *inter alia*, in underwriting public offerings of securities They served as the underwriters of the

Offering and shared more than $7.3 million in fees collectively. The Underwriter Defendants determined that in return for their share of the Offering proceeds, they were willing to merchandize Revance stock in the Offering The Underwriter Defendants arranged a multi-city roadshow prior to the Offering during which they, and the Executive Defendants, met with potential investors and presented highly favorable information about the Company, its operations, and its financial prospects.

(b) The Underwriter Defendants also demanded and obtained an agreement from Revance that Revance would indemnify and hold the Underwriter Defendants harmless from any liability under the federal securities laws They also made certain that Revance had purchased millions of dollars in directors' and officers' liability insurance.

(c) Representatives of the Underwriter Defendants also assisted Revance and the Individual Defendants in planning the Offering, and purportedly conducted an adequate and reasonable investigation into the business and operations of Revance, an undertaking known as a "due diligence" investigation. The due diligence investigation was required of the Underwriter Defendants in order to engage in the Offering During the course of their "due diligence," the Underwriter Defendants had continual access to confidential corporate information concerning Revance's operations and financial prospects.

(d) In addition to availing themselves of virtually unbridled access to internal corporate documents, agents of the Underwriter Defendants met with Revance's management, top executives and outside counsel and engaged in "drafting sessions" throughout at least June 2014. During these sessions, understandings were reached as to: (i) the strategy to best accomplish the Offering, (ii) the terms of the Offering, including the price at which Revance stock would be sold; (iii) the language to be used in the Registration Statement; (iv) what disclosures about Revance would be made in the Registration Statement; and (v) what responses would be made to the SEC in connection with its review of the Registration Statement. As a result of those constant contacts and communications between the Underwriter Defendants' representatives and management and top executives, the Underwriter Defendants knew, or should have known, of Revance's existing problems as detailed herein.

(e) The Underwriter Defendants caused the Registration Statement to be filed with the SEC and declared effective in connection with offers and sales thereof, including to plaintiff and the Class.

17. The true names and capacities of defendants sued herein under California Code of Civil Procedure §474 as Does 1 through 25, inclusive, are presently not known to plaintiff, who therefore sues these defendants by such fictitious names. Plaintiff will seek to amend this Complaint and include these Doe defendants' true names and capacities when they are ascertained. Each of the fictitiously named defendants is responsible in some manner for the conduct alleged herein and for the injuries suffered by the Company as a result of defendants' wanton and illegal conduct.

## SUBSTANTIVE ALLEGATIONS[1]

18 Defendant Revance develops and manufactures dermatology and aesthetic medicines, products and treatments The Company, formerly known as Essentia Biosystems, Inc., was founded in 1999, commenced operations in 2002 and changed its name to Revance in 2005. Revance has never had a product or treatment approved for commercial sale by the FDA.

19. Botox is a neurotoxic protein produced by the bacterium Clostridium botulinum and related species. It is the most acutely lethal toxin known, with an estimated human median lethal dose (LD-50) of 1 3-2.1 ng/kg intravenously or intramuscularly and 10-13 ng/kg when inhaled. Botox exposure can cause botulism, a serious and life-threatening illness in humans and animals.

20 Despite its toxicity, forms of botulinum toxin types A and B are available commercially for research and various medical and cosmetic procedures. Therapeutic indications include upper motor neuron syndrome, focal hyperhidrosis, blepharospasm, strabismus, as well as a widely used cosmetic treatments.

21. The FDA requires drug products containing the toxin that are sold in the United States to carry a mandatory warning, which since 2009 has included the caution that effects of locally administered botox may spread from the injection area to other areas of the body, causing symptoms

[1] All emphasis in bold and italics is added, unless otherwise noted.

similar to those of botulism. The warning was the result of documented deaths associated with botox's therapeutic uses, especially unapproved (off-label) use in children.

22. Revance's lead product under development at the time of the Offering was RT001, a physician-applied topical botulinum toxin type A for the treatment of wrinkles around the eyes, colloquially referred to as "crow's feet" Revance claims that its RT001 is a topical neurotoxin or "neuromodulator," which means that it decreases muscle activity. However, unlike other FDA-approved neuromodulators for the treatment of crow's feet that are applied through injections, RT001 is applied topically in the doctor's office, where it is left on the patient's skin for approximately 20 minutes. Although the more traditional botox injection treatments – such as Allergan's Botox® – are fairly quick and cause minimal discomfort, Revance has consistently maintained that many people avoid injectable botox treatments because of the needles, claiming, therefore, that there is a large, unaddressed, multi-million dollar market available for its product

23. "Clinical research" refers to studies, or trials, that are done in people and overseen by the FDA. Drug developers, or "sponsors," must submit an Investigational New Drug ("IND") application to the FDA before beginning clinical research. Though there can be some additional post-approval clinical testing, there are three explicitly delineated, pre-approval phases of clinical trials.

- ***Phase 1***: Once an IND has been approved by the FDA, drug candidates first undergo a Phase 1 clinical trial which typically involves 20 to 100 healthy volunteers and lasts several months According to the FDA, the purpose of Phase 1 clinical testing is to determine safety and dosage, and 70% of all drug candidates successfully complete this phase

- ***Phase 2***: Phase 2 clinical trials typically involve up to several hundred people with the disease or condition and last several months to two years. According to the FDA, the purpose of a Phase 2 clinical trial is to demonstrate efficacy and to identify any side effects, and only 33% of drug candidates successfully complete this phase.

- ***Phase 3***. Phase 3 clinical trials typically involve 300 to 3,000 volunteers who have the disease or condition and typically last one to four years. According to the FDA, the purpose of a Phase 3 clinical trial is to gather more information about safety and effectiveness, studying different populations and different dosages and using the drug in combination with other drugs. This phase of the clinical research process continues until the developer decides to end clinical testing or files a marketing application with the FDA. Before filing a marketing application, a developer must have adequate data from two large, controlled Phase 3 clinical trials.

24 Though drug developers are not required to obtain FDA consent of the design of their Phase 3 clinical trials, because Phase 3 clinical trials involve hundreds of people and take years to

complete, making them very expensive, the FDA permits drug developers/sponsors to sit down with the agency following the conclusion of a Phase 2 trial to ensure that the size, design and endpoints selected for a Phase 3 clinical trial will demonstrate what the FDA requires for approval. According to the agency, "[a]t the end of Phase 2, the FDA and sponsors try to come to an agreement on how large-scale studies in Phase 3 should be done," and "Phase 3 studies [then] begin if evidence of effectiveness is shown in Phase 2."[2] These meetings are referred to as EOP2 meetings.

25. Privately, Revance had been wrestling with the FDA for years over what clinical measures were appropriate to demonstrate efficacy of RT001. The outcome of these private disputes was that the FDA downgraded the status of an EOP2 meeting Revance was trying to achieve, indicating that in the FDA's view Revance was not even ready for an EOP2 meeting. Unable to demonstrate successful completion of Phase 2, Revance used the FDA's Formal Dispute Resolution process in an effort to justify completion of Phase 2 and proceed into Phase 3 trials. Revance's letter to the FDA, never disclosed to investors in the Offering, stated in pertinent part as follows:

> Pursuant to this formal dispute resolution process, Revance seeks FDA's agreement with the following:
>
> - Temporary Improvement in the severity of lateral canthal lines ***at rest*** is an acceptable indication for RT001.
> - The measurement of LCL ***at rest is the appropriate primary clinical endpoint*** (*i.e.* primary efficacy assessment) to support the proposed indication for RT001. ***Further, it is not required that Revance incorporates the assessment of LCL at sm[ile] in the primary endpoint.*** Revance is willing to conduct the measurement of LCL at smile as an additional, descriptive endpoint (*i.e.* non-primary endpoint), if deemed necessary following this dispute resolution.
> - The proposed IGA-LCL and PSA scales [with "IGA" referring to investigator/physician/physician's assistant filled-out scales and "PSA" referring to a patient's own severity assessment] are valid measurement tools for the primary endpoint. Revance may proceed with these scales, as currently defined, in Phase 3 clinical studies for [RT001].
> - ***With the resolution of these three issues, the RT001 program has completed End-of-Phase 2, no End-of-Phase 2 Meeting is required, and the RT001 program may proceed with Phase 3 clinical development.***

[2] *See* "The FDA's Drug Review Process: Ensuring Drugs Are Safe and Effective," www.fda.gov (last visited April 29, 2015).

26. In a letter dated May 2, 2012, the FDA made clear that Revance was rejecting the FDA's advice, refused to allow what Revance sought, and would not agree that the RT001 program had completed Phase 2 In refusing to agree that Revance had completed end of Phase 2, the FDA noted that Revance was not legally required to successfully complete an EOP2 meeting with the FDA to proceed with its Phase 3 clinical trial, but threatened that Revance's Phase 3 clinical trial would be destined for failure. Refusing to accept Revance's assertion that primary efficacy should be measured "at rest," rather than "at smile," the FDA further noted Revance was rejecting the FDA's advice that the appropriate primary endpoints for demonstrating efficacy are "at smile," notwithstanding that that was the "meaningful way" to demonstrate efficacy based on the long-time experience of the FDA's experts. In fact, the FDA's letter threatened that Revance's Phase 3 plan was doomed, warning that "***[i]f the requirement for muscle paralysis in terms of efficacy is not demonstrated in some way, the potential exists for questioning the need for botulinum toxin type A at all***" in RT001 Thus, the FDA explicitly warned Revance that the agency was not approving a botox treatment unless Revance demonstrated efficacy with muscle paralysis, necessitating that Revance demonstrate efficacy "at smile" as a primary endpoint. Revance never disclosed the FDA's letter or that the FDA had indicated Revance was not even ready for an EOP2 meeting

27. Claiming to be engaged in a Phase 3 clinical trial was critical to Revance at the time of the Offering. Indeed, as Revance had conceded in its 2013 Annual Report to Shareholders in February 2014: "RT001 is our lead product candidate in clinical development ***and we are substantially dependent on its regulatory approval and successful commercialization*** "

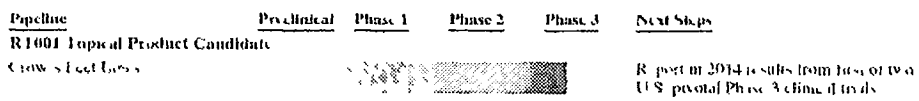
## THE MATERIALLY FALSE AND MISLEADING REGISTRATION STATEMENT

28 On or about June 6, 2014, Revance filed with the SEC its registration statement on Form S-1 (Registration No. 333-196582), which, following amendment and being declared effective by the SEC on June 18, 2014, would later be utilized for the Offering (the "Registration Statement") Though the initial registration statement stated only three million shares were being issued and offered in the Offering, on June 18, 2014, defendants increased the size of the Offering to four million shares, plus an underwriter's overallotment of 600,000 shares. On or about June 19, 2014, Revance and the

Underwriter Defendants priced the Offering and filed the final prospectus for the common stock Offering (the "Prospectus"), which forms part of the Registration Statement (the Prospectus and Registration Statement are collectively referred to herein as the "Registration Statement")

29. The Registration Statement was negligently prepared and, as a result, contained untrue statements of material facts or omitted to state other facts necessary to make the statements made not misleading, and was not prepared in accordance with the rules and regulations governing its preparation.[3]

30. Concerning the then-present status of Revance's clinical trial program, the Registration Statement repeatedly falsely stated that the Company was then "***in a Phase 3 clinical development program of RT001 in North America for the treatment of crow's feet lines***." Emphasizing that Phase 3 trials had already started and Phase 2 was complete, the Registration Statement said immediately thereafter, "we plan to initiate an additional Phase 3 clinical trial in Europe and a second Phase 3 clinical trial in the United States in 2015 " The Registration Statement also displayed the misstatement graphically, purporting to show RT001 completed Phase 2 and was then in Phase 3 clinical testing, and misleadingly stating Revance would "[r]eport in 2014 results from first of two U S. pivotal Phase 3 clinical trials":




31 With respect to Revance's purported Phase 3 clinical trials, according to the Registration Statement, Revance had "initiated an open label Phase 3 clinical trial in the first quarter of 2014 to evaluate the long term safety and efficacy of repeat administration of RT001" and expected "to enroll up to 1,800 subjects in the study." But this statement and the statements above were materially false and misleading and omitted material information, including the following No contract research organization ("CRO") had been hired to conduct this trial and Revance did not have an RT001

[3] References to the "Registration Statement" include other SEC filings expressly incorporated by reference therein, including the 2013 annual financial report filed on Form 10-K on February 6, 2014, and the first quarter 2014 quarterly financial report filed on Form 10-Q on May 14, 2014

formulation it could administer in the trial In fact, the RT001 Revance was using had a different manufacturer (Revance, not the third party that manufactured the original RT001), process and manufacturing site. And Revance had not confirmed the RT001 formulation had adequate stability to support production for such a Phase 3 study. To the contrary, Revance had to conduct a secret trial to ascertain whether the RT001 formulation it was using was even effective. By the time of the Offering, Revance, at best, had no results from that secret trial demonstrating the RT001 formulation it was then using was effective. Indeed, ***after*** the Offering Revance was forced to admit the RT001 formulation it was using was not effective or suitable for large scale production and use in the Phase 3 clinical trial Revance was supposedly "in." Investors and securities analysts recoiled upon learning this and Revance's stock lost nearly a quarter of its value.

32 The Registration Statement also asserted that the Company intended to "commercialize RT001 for indications where topical application provides a ***meaningful*** advantage over injectable administration," and in Revance's "Phase 2 clinical trials, RT001 has demonstrated a statistically significant and ***clinically meaningful*** reduction in crow's feet lines." But these statements were materially false and misleading and omitted material facts, including that the FDA did not agree that Revance's proposed primary endpoint for demonstrating efficacy ("at rest") was in fact meaningful, and that Revance's RT001 formulation intended for the Phase 3 clinical trials was ***not*** the same formulation or product from the Phase 2 clinical trials and therefore had not demonstrated any reduction in crow's feet lines, let alone a meaningful one. Indeed, Revance had yet to manufacture the same product used in its Phase 2 trials, notwithstanding its statements to the contrary.

33 Revance had changed its formulation for RT001 in order to enhance stability but did not see clinical improvement in trials for that new formulation. The Registration Statement made the point that Revance was using its "original Phase 2b diluent formulation" that generated the purportedly successful Phase 2 clinical trial results and that Revance had "confirm[ed]" that version of RT001 had "adequate commercial stability" for large scale production. But these statements were materially false and misleading and omitted material information Revance was ***not*** using the original RT001 formulation, nor had Revance confirmed the product it was using had adequate stability In fact, the RT001 formulation Revance was using had a different manufacturer (Revance, not the third party that

manufactured the original RT001), process and manufacturing site. And Revance had ***not*** confirmed the RT001 formulation had adequate stability. To the contrary, Revance had to conduct a secret trial to ascertain whether the RT001 formulation it was using was effective By the time of the Offering, Revance, at best, had no results from that secret trial demonstrating the product it was then using was effective. Indeed, ***after*** the Offering Revance was forced to admit the RT001 formulation it was using was ***not*** effective or suitable for production and use in the Phase 3 clinical trial Revance was supposedly "in."

34. The Registration Statement represented that "[w]e have the ability to manufacture our own botulinum toxin type A product to support our clinical trials" and "currently manufacture our own clinical drug products to support both RT001 and RT002 exclusively in a single manufacturing and laboratory facility and plan to utilize this facility in the future to support commercial production if our product candidates are approved." The Registration Statement further asserted Revance was manufacturing its own "bulk drug substance and finished dose forms of drug product to support [Revance's] topical RT001 product candidate" and "we generally do not begin a clinical trial unless we believe we have a sufficient supply of a product candidate to complete the clinical trial." These statements were materially false and misleading and omitted material facts as explained below Defendants also put in the Registration Statement a number of generalized misleading "risk factors" aimed at purported risks associated with Revance's ability to manufacture at "full commercial scale if [Revance's] product candidates are approved" and "raw materials" and suggesting the next step for Revance was merely commercial – not clinical – production. But defendants left out the following material facts, including that Revance had never manufactured RT001 product at its own facility effective enough to support a clinical trial, and specifically the Phase 3 clinical trial Revance was telling investors it was in

35 Indeed, Revance did ***not*** have the RT001 product to support the Phase 3 clinical trial. Moreover, Revance was ***not*** using the original RT001 formulation, nor had Revance confirmed the product it was using had adequate stability. In fact, the "RT001" Revance was using had a different manufacturer (Revance, not the third party that manufactured the original RT001), process and manufacturing site And Revance had ***not*** confirmed that the product had adequate stability. To the

contrary, Revance had to conduct a secret trial to ascertain whether the RT001 formulation it was using was effective. By the time of the Offering, Revance, at best, had no results from that secret trial demonstrating the RT001 it was then using was effective. Indeed, ***after*** the Offering Revance was forced to admit the formulation it was using was ***not*** effective or suitable for production and use in the Phase 3 clinical trial Revance was supposedly "in."

36. The Registration Statement falsely claimed that Revance had successfully completed an EOP2 meeting, that the FDA had approved its Phase 3 clinical trial structure, and that the FDA had agreed that Revance did not need to demonstrate temporary wrinkle eradication "at smile" as a primary endpoint in that Phase 3 clinical trial, stating in pertinent part as follows:

> [A]fter our Phase 2 clinical trials, we used the FDA's Formal Dispute Resolution process to obtain ***confirmation*** from the FDA that our proposed indication, ***primary endpoint assessment and primary endpoint measurement were acceptable for continued clinical trials***. . . [T]he FDA provided written confirmation that our proposed indication, primary endpoint assessment and primary endpoint measurement were acceptable for Phase 3 clinical trials .

Indeed, the Registration Statement materially falsely stated that Revance obtained "written confirmation" from the FDA approving Revance's principal Phase 3 clinical trial designs for RT001, including allowing primary efficacy to be measured at rest, rather than at smile. In reality, the FDA merely responded that Revance was not legally required to successfully complete an EOP2 meeting with the FDA to proceed with its Phase 3 clinical trial. Acknowledging the unremarkable facts that "the FDA [does] not confirm[] . . . indication [and] primary endpoint[s] . . are acceptable for regulatory approval" before the actual results from Phase 3 trials are obtained and "there is no assurance the FDA will approve our BLA for RT001," the Registration Statement was materially misleading and omitted material facts because the FDA had in truth threatened that Revance's Phase 3 plan was destined for significant delay or failure, as set forth below and in ¶¶25-26.

37. In fact, the Registration Statement indicated Revance's Phase 3 clinical trial design met the FDA's approval standards, ***when the design did not***, stating in pertinent part that "***[b]ased on . . . discussions with the United States Food and Drug Administration***, . . three Phase 3 pivotal clinical trials and the Phase 3 open label safety clinical trial, if successful, ***[would] provide the efficacy and safety data to support*** . . . regulatory filing for approval of RT001 for the treatment of crow's feet lines

in the United States." These statements and the statements in the paragraph above were materially false and misleading and omitted material facts because the FDA rejected Revance's principal Phase 3 clinical trial designs for RT001 that Revance was leaving intact, including allowing primary efficacy to be measured "at rest," rather than "at smile." In fact, the FDA's letter threatened that Revance's Phase 3 trial was destined for significant delay or failure, warning that "***[i]f the requirement for muscle paralysis in terms of efficacy is not demonstrated in some way, the potential exists for questioning the need for botulinum toxin type A at all***" in RT001. Thus, the FDA explicitly warned Revance that the agency was not approving a botox treatment unless Revance demonstrated efficacy with muscle paralysis, necessitating that Revance demonstrate efficacy "at smile" as a primary endpoint. Revance never disclosed the FDA's letter. Indeed, when the FDA published the guidance consistent with what it told Revance in private communications, Revance's securities analysts and investors were surprised, causing Revance's stock price to drop nearly 30%.

38. The Registration Statement also contained thousands of lines of generalized "risk factors," including materially false and misleading statements about the "possible" future of Revance's business that omitted then-***current*** material information. Defendants stated the "success" of Revance's product candidates depended on "timely completion of . . . clinical trials" and the "ability to demonstrate" to the FDA "safety and efficacy;" Revance "may be unable to obtain regulatory approval for RT001;" "there can be no assurance that the FDA will agree with our Phase 3 clinical trial protocol" or "agree that the benefits of RT001 outweigh its risks;" clinical data "may not be sufficient to support approval by the FDA;" "failure can occur;" and "later stage clinical trials" may not have the same "positive results" as earlier trials. The "risk factors" on these matters were materially false and misleading and omitted material information because of the true facts alleged above concerning Revance's communications with the FDA and the status of Revance's Phase 3 clinical trials and ability to manufacture RT001.

39. The statements referenced above in ¶¶30-34 and 36-38 were each materially false and misleading and omitted the material facts as alleged above that existed at the time of the Offering, and as a result the Company's business and financial prospects were not what defendants had led the market to believe they were in the Registration Statement.

40 Pursuant to Item 303 of Regulation S-K [17 C.F.R. §229.303], and the SEC's related interpretive releases thereto, issuers are required to disclose events or uncertainties, including any known trends, that have had or are reasonably likely to cause the registrant's financial information not to be indicative of future operating results. At the time of the Offering, unbeknownst to investors, Revance had not commenced a Phase 3 clinical trial in the first quarter of 2014 because it had not yet selected a CRO for the trial much less decided which RT001 formulation to employ in a Phase 3 clinical trial. The Company also did not have the quality or quantity of RT001 on hand sufficient to complete a successful Phase 3 clinical trial. The adverse events and uncertainties associated with these negative trends were reasonably likely to have a material impact on Revance's profitability, and, therefore, were required to be disclosed in the Registration Statement, but were not.

41 The Offering was successful for the Company and the Underwriters Defendants, who sold 4.6 million shares of Revance common stock to the public at $30.50 per share, raising $140.3 million in gross proceeds for the Company ($131 8 million net of underwriting fees and offering costs)

42. However, the price of Revance common stock plummeted after the Offering as the market learned about the material adverse facts alleged above that defendants omitted from the Registration Statement. Indeed, Revance's stock price dropped to as low as 50% of the Offering price and the stock currently trades at approximately 65% of the Offering price

**CLASS ACTION ALLEGATIONS**

43. Plaintiff brings this action as a class action on behalf of all those who purchased Revance common stock pursuant to the Registration Statement issued in connection with the Offering (the "Class"). Excluded from the Class are defendants and their families, the officers, directors and affiliates of defendants, 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.

44 The members of the Class are so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown to plaintiff at this time and can only be ascertained through appropriate discovery, plaintiff believes that there are hundreds of members in the proposed Class. Record owners and other members of the Class may be identified from records

maintained by Revance 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

45 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

46. 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.

47 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.

(a) whether defendants violated the 1933 Act;

(b) whether statements made by defendants to the investing public in the Registration Statement and Prospectus misrepresented material facts about the business and operations of Revance; and

(c) to what extent the members of the Class have sustained damages and the proper measure of damages

48 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.

**FIRST CAUSE OF ACTION**

**For Violations of §11 of the 1933 Act Against All Defendants (Except Waugh)**

49. Plaintiff incorporates ¶¶1-48 by reference.

50. This Cause of Action is brought pursuant to §11 of the 1933 Act, 15 U.S.C. §77k, on behalf of the Class, against all defendants (except defendant Waugh). This is a non-fraud cause of

action. Plaintiff does not assert that defendants committed intentional or reckless misconduct or that defendants acted with scienter or fraudulent intent.

51 The Registration Statement for the Offering was inaccurate and misleading, contained untrue statements of material facts, omitted to state other facts necessary to make the statements made not misleading, and omitted to state material facts required to be stated therein

52 The defendants named in this Cause of Action are strictly liable to plaintiff and the Class for the misstatements and omissions

53 None of the defendants named herein made a reasonable investigation or possessed reasonable grounds for the belief that the statements contained in the Registration Statement were true and without omissions of any material facts and were not misleading

54. By reason of the conduct herein alleged, each defendant named herein violated, and/or controlled a person who violated, §11 of the 1933 Act.

55 Plaintiff acquired Revance common stock in the Offering.

56. Plaintiff and the Class have sustained damages. The value of Revance common stock has declined substantially subsequent to and due to these defendants' violations.

57 At the time of their purchases of Revance common stock, plaintiff and other members of the Class were without knowledge of the facts concerning the wrongful conduct alleged herein and could not have reasonably discovered those facts prior to the disclosures herein Less than one year has elapsed from the time that plaintiff discovered or reasonably could have discovered the facts upon which this complaint is based to the time that plaintiff commenced this action Less than three years has elapsed between the time that the securities upon which this Cause of Action is brought were offered to the public and the time plaintiff commenced this action.

## SECOND CAUSE OF ACTION

### For Violation of §12(a(2) of the 1933 Act Against Defendants Revance, the Executive Defendants and the Underwriter Defendants

58 Plaintiff incorporates ¶¶1-57 by reference.

59. By means of the defective Prospectus, defendants Revance, the Executive Defendants and the Underwriter Defendants promoted and sold Revance stock to plaintiff and other members of the Class.

60. The Prospectus contained untrue statements of material fact, and/or concealed or failed to disclose material facts, as detailed above. The defendants named in this Cause of Action owed plaintiff and the other members of the Class who purchased Revance common stock pursuant to the Prospectus the duty to make a reasonable and diligent investigation of the statements contained in the Prospectus to ensure that such statements were true and that there was no omission to state a material fact required to be stated in order to make the statements contained therein not misleading These defendants, in the exercise of reasonable care, should have known of the misstatements and omissions contained in the Prospectus as set forth above.

61. Plaintiff did not know, nor in the exercise of reasonable diligence could have known, of the untruths and omissions contained in the Prospectus at the time plaintiff acquired Revance common stock.

62. By reason of the conduct alleged herein, these defendants violated §12(a)(2) of the 1933 Act. As a direct and proximate result of such violations, plaintiff and the other members of the Class who purchased Revance common stock pursuant to the Prospectus sustained substantial damages in connection with their purchases of the stock Accordingly, plaintiff and the other members of the Class who hold the common stock issued pursuant to the Prospectus have the right to rescind and recover the consideration paid for their shares, and hereby tender their common stock to the defendants sued herein. Class members who have sold their common stock seek damages to the extent permitted by law.

## THIRD CAUSE OF ACTION

### For Violation of §15 of the 1933 Act Against Revance and the Individual Defendants

63 Plaintiff incorporates ¶¶1-62 by reference.

64. This Cause of Action is brought pursuant to §15 of the 1933 Act against Revance and the Individual Defendants

65. The Individual Defendants each were control persons of Revance by virtue of their positions as directors and/or senior officers of Revance, and, with respect to Browne, Eastman, Gardner, Glasheen, Tunnicliffe and Wooten, additionally due to their beneficial ownership of collectively 47% of Revance's outstanding common stock. The Individual Defendants each had a series of direct and/or indirect business and/or personal relationships with other directors and/or officers and/or major shareholders of Revance. Revance controlled the Individual Defendants and all of its employees.

66. Revance and the Individual Defendants each were culpable participants in the violations of §11 of the 1933 Act alleged in the Cause of Action above, based on their having signed or authorized the signing of the Registration Statement and having otherwise participated in the process which allowed the Offering to be successfully completed

**PRAYER FOR RELIEF**

WHEREFORE, plaintiff prays for relief and judgment, as follows.

A. Determining that this action is a proper class action, certifying plaintiff as a Class representative under California Rule of Court 3.764 and California Code of Civil Procedure §382, and plaintiff's counsel as Class counsel,

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

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

D. Awarding rescission or a rescissory measure of damages; and

E. Such equitable/injunctive or other relief as deemed appropriate by the Court.