

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

ROBERT STROUGO, Individually and On  
Behalf of All Others Similarly Situated,

Plaintiff,

v.

LANNETT COMPANY, INC., TIMOTHY C.  
CREW, and MARTIN P. GALVAN,

Defendants.

Case No. 2:18-cv-03635-MAK

Judge Mark A. Kearney

**DEFENDANTS' ANSWER AND DEFENSES  
TO THE AMENDED CLASS ACTION COMPLAINT**

Defendants Lannett Company, Inc. (“Lannett”), Timothy C. Crew, and Martin P. Galvan (together, the “Defendants”) file this answer to the Amended Class Action Complaint dated December 19, 2018 (the “Complaint”) filed by plaintiffs Soe Wong and Michael Hoeltzel (“Plaintiffs”) as follows:

**General Denial**

Defendants deny each and every allegation contained in the Complaint, except as otherwise expressly admitted in Paragraphs 1 through 100 below. Any factual averment admitted herein is admitted only as to the specific facts and not as to any conclusions, characterizations, implications, innuendos, or speculation contained in any averment or in the Complaint as a whole. Moreover, Defendants specifically deny any allegations contained in the introductory matter preceding Paragraph 1 of the Complaint, in headings, footnotes, or unnumbered paragraphs in the Complaint. Defendants specifically deny liability to Plaintiffs, and deny that Plaintiffs have suffered any legally cognizable damages for which Defendants are responsible. Pursuant to Rule 8(b)(6) of the Federal Rules of Civil Procedure, allegations contained in the Complaint to which no responsive

pleading is required shall be deemed denied. Defendants expressly reserve the right to amend and/or supplement their answer, and expressly reserve any and all defenses that may be available.

With respect to all paragraphs in the Complaint in which Plaintiffs pray for damages or other relief, including, but not limited to, Paragraphs A through D following the title “Prayer for Relief,” Defendants deny that Plaintiffs are entitled to that relief under the law.

On March 13, 2019, the Court entered an Order and Memorandum dismissing the majority of the Complaint. [Dkt. ##56-57.] No response is required to those allegations, but to the extent a response is required, Defendants deny such allegations. By responding to any allegation in the Complaint, Defendants make no admission that such allegation is relevant to Plaintiffs’ surviving claims or is an appropriate subject of discovery, and expressly reserve all rights in this regard. As this Court expressly stated in its Order, “Plaintiffs may proceed into discovery on claims against all Defendants challenging February 8, 2018 and May 9, 2018 statements describing Jerome Stevens’ then ‘significant’ or ‘large’ shareholder interests in Lannett Company.” [Dkt. #56.]

### **Specific Responses**

1. Defendants deny the allegations of Paragraph 1 of the Complaint, except admit that this action purports to be a federal securities class action on behalf of a putative class of all persons who purchased or otherwise acquired Lannett securities between February 8, 2018 and August 17, 2018, and that Plaintiffs purport to seek remedies for alleged violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934, and Rule 10b-5.

2. Defendants deny the allegations of Paragraph 2 of the Complaint, except admit that Lannett develops, manufactures, packages, markets, and distributes solid oral and extended release (tablets and capsules), topical, liquid, nasal, and oral solution finished dosage forms of drugs, and generic forms of both small molecule and biologic medications that address a wide range of

therapeutic areas, and further admit that Lannett has historically derived the majority of its revenue from the sale of generic drugs.

3. Defendants state that no response is required to the allegations in the third and fourth sentences in Paragraph 3 of the Complaint because Plaintiffs' claims based on these allegations were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations in the third and fourth sentences in Paragraph 3 of the Complaint, except admit that, upon information and belief, Lannett's former Chief Executive Officer Arthur Bedrosian was involved in negotiations with Jerome Stevens Pharmaceuticals, Inc. ("JSP"). Defendants deny the remaining allegations of Paragraph 3 of the Complaint, except admit that JSP was Lannett's primary finished goods inventory supplier for three particular products, and further admit that on March 23, 2004, Lannett entered into an agreement with JSP, and refer to that agreement, the contents of which speak for themselves, and further admit that on August 19, 2013, Lannett entered into an agreement with JSP to extend the March 23, 2004 agreement, and refer to that agreement, the contents of which speak for themselves.

4. Defendants deny the allegations of Paragraph 4 of the Complaint, except admit that JSP had supplied Lannett with Levothyroxine Sodium Tablets USP ("Levothyroxine") and Digoxin Tablets ("Digoxin"), and further admit that for fiscal years 2018, 2017, and 2016, Lannett disclosed (i) the percentage of Lannett's inventory purchases that were attributable to purchases of finished goods from JSP, (ii) the total net sales of Levothyroxine, and (iii) the percentage of Lannett's total net sales attributable to sales of Levothyroxine, in Forms 10-K filed with the U.S. Securities and Exchange Commission ("SEC"), and refer to those documents, the contents of which speak for themselves, and further admit that for fiscal years 2018 and 2017, Lannett

disclosed (i) the total net sales of Digoxin, and (ii) the percentage of Lannett's total net sales attributable to Digoxin and Levothyroxine, in Forms 10-K filed with the SEC, and refer to those documents, the contents of which speak for themselves.

5. Defendants state that no response is required to the allegations in Paragraph 5 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 5 of the Complaint, except admit that Lannett issued a press release on September 25, 2017, and refer to that document, the contents of which speak for themselves, and further admit that Lannett filed a Form 8-K with the SEC on December 21, 2017 with certain exhibits, and refer to those documents, the contents of which speak for themselves.

6. Defendants state that no response is required to the allegations in Paragraph 6 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 6 of the Complaint, except admit that Lannett held an earnings call on February 7, 2018, and refer to the transcript of that earnings call, the contents of which speak for themselves.

7. Defendants state that no response is required to the allegations in Paragraph 7 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 7 of the Complaint, except state that Defendants are without knowledge or information sufficient to form a belief as to

the truth of the allegations in the first sentence of this Paragraph concerning JSP's alleged "moves to form strategic alliances with other drug distributors."

8. Defendants deny the allegations of Paragraph 8 of the Complaint, except admit that Lannett held an earnings call on February 7, 2018, and refer to the transcript of that earnings call, the contents of which speak for themselves.

9. Defendants state that no response is required to the allegations in the second sentence of Paragraph 9 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of the second sentence of Paragraph 9 of the Complaint. Defendants deny the remaining allegations of Paragraph 9 of the Complaint.

10. Defendants deny the allegations of Paragraph 10 of the Complaint, except admit that on August 20, 2018, Lannett filed a Form 8-K with the SEC, attaching a press release, and refer to those documents, the contents of which speak for themselves.

11. Defendants deny the allegations of Paragraph 11 of the Complaint, except refer to the public record for the price of Lannett common stock on February 8, 2018 and August 20, 2018.

12. Defendants deny the allegations of Paragraph 12 of the Complaint.

13. Defendants deny the allegations of Paragraph 13 of the Complaint, except admit that Plaintiffs purport to bring this action pursuant to the statutes and rules cited therein.

14. Defendants state that the allegations of Paragraph 14 state characterizations and/or conclusions of law that do not require a response. To the extent a response is required, Defendants deny the allegations of Paragraph 14 of the Complaint, except admit that Plaintiffs purport to invoke the jurisdiction of this Court pursuant to the statutes cited therein.

15. Defendants state that the allegations of Paragraph 15 state characterizations and/or conclusions of law that do not require a response. To the extent a response is required, Defendants deny the allegations of Paragraph 15 of the Complaint, except admit that Lannett Company, Inc. maintains its principal executive offices in Philadelphia, PA.

16. Defendants state that the allegations of Paragraph 16 state characterizations and/or conclusions of law that do not require a response. To the extent a response is required, Defendants deny the allegations of Paragraph 16 of the Complaint.

17. Defendants deny the allegations of Paragraph 17 of the Complaint, except admit that on October 26, 2018, Soe Wong and Michael Hoeltzel filed certifications purporting to evidence the purchase and/or sale of Lannett securities. [Dkt. #6-5.]

18. Defendants admit the allegations of Paragraph 18 of the Complaint.

19. Defendants admit the allegations of Paragraph 19 of the Complaint.

20. Defendants admit the allegations of Paragraph 20 of the Complaint.

21. Defendants admit the allegations of Paragraph 21 of the Complaint.

22. Defendants state that the allegations of Paragraph 22 state characterizations and/or conclusions of law that do not require a response. To the extent a response is required, Defendants deny the allegations of Paragraph 22 of the Complaint.

23. Defendants state that the allegations of Paragraph 23 state characterizations and/or conclusions of law that do not require a response. To the extent a response is required, Defendants deny the allegations of Paragraph 23 of the Complaint.

24. Defendants state that the allegations of Paragraph 24 state characterizations and/or conclusions of law that do not require a response. To the extent a response is required, Defendants deny the allegations of Paragraph 24 of the Complaint.

25. Defendants deny the allegations of Paragraph 25 of the Complaint, except admit that Lannett develops, manufactures, packages, markets, and distributes solid oral and extended release (tablets and capsules), topical, liquid, nasal, and oral solution finished dosage forms of drugs, and generic forms of both small molecule and biologic medications, that address a wide range of therapeutic areas, and further admit that Lannett also manufactures active pharmaceutical ingredients through its subsidiary Cody Laboratories, Inc., and further admit that Lannett has historically derived the majority of its revenue from the sale of generic drugs.

26. Defendants deny the allegations of Paragraph 26 of the Complaint, except admit that JSP was Lannett's primary finished goods inventory supplier for certain products, and further admit that for fiscal years 2018, 2017, and 2016, Lannett disclosed the percentage of Lannett's inventory purchases that were attributable to purchases of finished goods from JSP in Forms 10-K filed with the SEC, and refer to those documents, the contents of which speak for themselves, and further admit that for fiscal years 2018 and 2017, Lannett disclosed (i) the total net sales of products supplied by JSP and (ii) the total net sales of Levothyroxine in Forms 10-K filed with the SEC, and refer to those documents, the contents of which speak for themselves.

27. Defendants deny the allegations of Paragraph 27 of the Complaint, except admit that JSP supplied Lannett with Levothyroxine and Digoxin, and further admit that Levothyroxine was Lannett's top-selling product, and further admit that for the fiscal year 2017, Lannett disclosed the percentage of total Lannett sales attributable to Levothyroxine and Digoxin in a Form 10-K filed with the SEC on August 28, 2017, and refer to that document, the contents of which speak for themselves, and further admit that for the fiscal year 2018, Lannett disclosed gross margins for Levothyroxine in a Form 10-K filed with the SEC on August 28, 2018, and refer to that document, the contents of which speak for themselves, and further admit that Levothyroxine and Digoxin are

considered “narrow therapeutic index drugs,” which is an industry term that has been defined by the U.S. Food and Drug Administration (“FDA”), and further admit that for fiscal years 2018, 2017, and 2016, Lannett disclosed (i) the total net sales of Levothyroxine, and (ii) the percentage of Lannett’s total net sales attributable to sales of Levothyroxine, in Forms 10-K filed with the SEC, and refer to those documents, the contents of which speak for themselves, and further admit that for fiscal years 2018 and 2017, Lannett disclosed (i) the total net sales of Digoxin, and (ii) the percentage of Lannett’s total net sales attributable to Digoxin and Levothyroxine, in Forms 10-K filed with the SEC, and refer to those documents, the contents of which speak for themselves, and further admit that during the putative class period, Lannett periodically disclosed the percentage of Lannett inventory purchases attributable to purchases of finished goods from JSP in Forms 10-Q filed with the SEC, and refer to those documents, the contents of which speak for themselves.

28. Defendants state that no response is required to the allegations in Paragraph 28 of the Complaint that were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required to the dismissed allegations, Defendants deny those allegations, except admit that, upon information and belief, Arthur Bedrosian was involved in negotiations with JSP. Defendants deny the remaining allegations of Paragraph 28 of the Complaint, except admit that JSP and Lannett entered into an agreement on March 23, 2004, and refer to that agreement, the contents of which speak for themselves.

29. Defendants state that no response is required to the allegations in Paragraph 29 of the Complaint that were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required to the dismissed allegations, Defendants deny those allegations, except admit that, upon information and belief,



Arthur Bedrosian was involved in negotiations with JSP. Defendants deny the remaining allegations of Paragraph 29 of the Complaint, except admit that on August 19, 2013, Lannett entered into an agreement with JSP to extend the March 23, 2004 agreement, and refer to that agreement, the contents of which speak for themselves.

30. Defendants state that no response is required to the allegations in Paragraph 30 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 30 of the Complaint, except admit that Lannett periodically filed Forms 10-Q between February 8, 2018 and August 17, 2018, and refer to those documents, the contents of which speak for themselves.

31. Defendants state that no response is required to the allegations in Paragraph 31 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 31 of the Complaint, except admit that on September 2, 2015, Lannett entered into a Stock Purchase Agreement with UCB S.A. and UCB Manufacturing, Inc. to acquire Kremers Urban Pharmaceuticals, Inc. ("Kremers"), and refer to that document, the contents of which speak for themselves, and further admit that on September 2, 2015, Lannett signed a commitment letter with Morgan Stanley Senior Funding, Inc. ("MSSF") and Royal Bank of Canada ("Royal Bank"), pursuant to which MSSF and Royal Bank committed to make loans to Lannett in connection with the acquisition of Kremers, and refer to that document, the contents of which speak for themselves, and further admit that on December 2, 2015, Lannett filed a Form 8-K, attaching additional documents related to financing the acquisition of Kremers, and refer to those documents, the contents of which speak for

themselves, and further admit that on November 25, 2017, Lannett completed the acquisition of Kremers.

32. Defendants state that no response is required to the allegations in Paragraph 32 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 32 of the Complaint, except admit that on November 4, 2015, Lannett filed a Form 8-K with the SEC disclosing a communication between Lannett and UCB, S.A. and UCB Manufacturing, Inc., and refer to that document, the contents of which speak for themselves, and further admit that on February 3, 2016, Lannett filed a Form 8-K with the SEC, attaching a February 1, 2016 Press Release titled "Lannett Announces Cost Savings and Restructuring Actions," and refer to those documents, the contents of which speak for themselves, and further admit that on October 18, 2016, Lannett received notice from the FDA that it will seek to withdraw approval of the Company's Abbreviated New Drug Application for Methylphenidate ER, and refer to that document, the contents of which speak for themselves, and further admit that Lannett acquired Methylphenidate ER as a result of the acquisition of Kremers, and refer to the public record for the price of Lannett common stock during the referenced periods.

33. Defendants state that no response is required to the allegations in Paragraph 33 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 33 of the Complaint, except admit that Lannett issued a press release on September 25, 2017, and refer to that document, the contents of which speak for themselves, and further admit that Lannett filed a Form 8-K with

the SEC on December 21, 2017 with certain exhibits, and refer to those documents, the contents of which speak for themselves.

34. Defendants state that no response is required to the allegations in Paragraph 34 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 34 of the Complaint, except admit that Lannett held an earnings call on February 7, 2018, and refer to the transcript of that earnings call, the contents of which speak for themselves.

35. Defendants state that no response is required to the allegations in Paragraph 35 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 35 of the Complaint, and therefore deny those allegations.

36. Defendants state that no response is required to the allegations in Paragraph 36 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 36 of the Complaint, and further state that Defendants are without knowledge or information about the unidentified individuals referenced in Paragraph 36.

37. Defendants state that no response is required to the allegations in Paragraph 37 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the

extent a response is required, Defendants have no firsthand knowledge regarding the allegations of Paragraph 37 of the Complaint and therefore deny the same, except admit that, based on publicly information, by July 2014 Unithroid® manufactured by JSP was being distributed by Gemini Laboratories, LLC.

38. Defendants state that no response is required to the allegations in Paragraph 38 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 38 of the Complaint, except admit that Lannett filed a Form 10-Q with the SEC on February 8, 2018, and refer to that document, the contents of which speak for themselves.

39. Defendants state that no response is required to the allegations in Paragraph 39 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 39 of the Complaint, except admit that Lannett filed a Form 10-Q with the SEC on February 8, 2018, and refer to that document, the contents of which speak for themselves.

40. Defendants state that no response is required to the allegations in Paragraph 40 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 40 of the Complaint, except admit that Lannett filed a Form 10-Q with the SEC on February 8, 2018, and refer to that document, the contents of which speak for themselves.

41. Defendants state that no response is required to the allegations in Paragraph 41 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 41 of the Complaint.

42. Defendants state that no response is required to the allegations in Paragraph 42 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 42 of the Complaint, except admit that Lannett held an earnings call on February 7, 2018, and refer to the transcript of that earnings call, the contents of which speak for themselves.

43. Defendants deny the allegations of Paragraph 43 of the Complaint, except admit that Lannett held an earnings call on February 7, 2018, and refer to the transcript of that earnings call, the contents of which speak for themselves.

44. Defendants state that no response is required to the allegations in Paragraph 44 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 44 of the Complaint, except admit that Lannett held an earnings call on February 7, 2018, and refer to the transcript of that earnings call, the contents of which speak for themselves.

45. Defendants state that no response is required to the allegations in Paragraph 45 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 45 of the Complaint.

46. Defendants deny the allegations of Paragraph 46 of the Complaint.

47. Defendants state that no response is required to the allegations in Paragraph 47 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 47 of the Complaint, except admit that Lannett held an earnings call on May 7, 2018, and refer to the transcript of that earnings call, the contents of which speak for themselves.

48. Defendants state that no response is required to the allegations in Paragraph 48 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 48 of the Complaint.

49. Defendants state that no response is required to the allegations in Paragraph 49 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 49 of the Complaint, except admit that Lannett filed a Form 10-Q with the SEC on May 8, 2018, and refer to that document, the contents of which speak for themselves.

50. Defendants state that no response is required to the allegations in Paragraph 50 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 50 of the Complaint, except admit that Lannett filed a Form 10-Q with the SEC on May 8, 2018, and refer to that document, the contents of which speak for themselves.

51. Defendants state that no response is required to the allegations in Paragraph 51 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 51 of the Complaint, except admit that Lannett filed a Form 10-Q with the SEC on May 8, 2018, and refer to that document, the contents of which speak for themselves.

52. Defendants state that no response is required to the allegations in Paragraph 52 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 52 of the Complaint.

53. Defendants state that no response is required to the allegations in Paragraph 53 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 53 of the Complaint, except admit that Defendants participated in a Deutsche Bank Health Care Conference on May 9, 2018, and refer to the transcript of that conference, the contents of which speak for themselves.

54. Defendants deny the allegations of Paragraph 54 of the Complaint, except admit that Defendants participated in a Deutsche Bank Health Care Conference on May 9, 2018, and refer to the transcript of that conference, the contents of which speak for themselves.

55. Defendants state that no response is required to the allegations in the first and second sentences of Paragraph 55 of the Complaint because Plaintiffs' claims based on these allegations were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required to the allegations in the first

and second sentences of Paragraph 55, Defendants deny those allegations. Defendants deny the remaining allegations of Paragraph 55 of the Complaint.

56. Defendants deny the allegations of Paragraph 56 of the Complaint, except admit that on August 20, 2018, Lannett filed a Form 8-K with the SEC, attaching a press release, and refer to those documents, the contents of which speak for themselves.

57. Defendants deny the allegations of Paragraph 57 of the Complaint, except refer to the public record for the price of Lannett common stock on August 20, 2018.

58. Defendants state that no response is required to the allegations in Paragraph 58 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 58 of the Complaint.

59. Defendants state that no response is required to the allegations in Paragraph 59 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 59 of the Complaint, except admit that Timothy C. Crew was Lannett's Chief Executive Officer and Martin P. Galvan was Lannett's Chief Financial Officer during the putative Class Period.

60. Defendants state that no response is required to the allegations in Paragraph 60 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 60 of the Complaint.

61. Defendants state that no response is required to the allegations in Paragraph 61 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in



its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 61 of the Complaint.

62. Defendants state that no response is required to the allegations in Paragraph 62 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 62 of the Complaint.

63. Defendants state that no response is required to the allegations in Paragraph 63 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 63 of the Complaint, and further state that Defendants are without knowledge or information about the unidentified individuals referenced in Paragraph 63.

64. Defendants state that no response is required to the allegations in Paragraph 64 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 64 of the Complaint, and therefore deny those allegations.

65. Defendants state that no response is required to the allegations in Paragraph 65 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 65 of the Complaint.

66. Defendants state that no response is required to the allegations of the second sentence in Paragraph 66 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required to the allegations of the second sentence in Paragraph 66, Defendants deny those allegations. Defendants deny the remaining allegations of Paragraph 66 of the Complaint.

67. Defendants state that no response is required to the allegations in Paragraph 67 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 67 of the Complaint.

68. Defendants state that no response is required to the allegations in Paragraph 68 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 68 of the Complaint.

69. Defendants state that no response is required to the allegations in Paragraph 69 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 69 of the Complaint.

70. Defendants deny the allegations of Paragraph 70 of the Complaint.

71. Defendants state that no response is required to the allegations in Paragraph 71 of the Complaint because Plaintiffs' claims based on this allegation were dismissed by the Court in its Order and Memorandum entered on the docket on March 13, 2019. [Dkt. ##56-57.] To the extent a response is required, Defendants deny the allegations of Paragraph 71 of the Complaint.

72. Defendants deny the allegations of Paragraph 72 of the Complaint, except refer to the public record for the price of Lannett common stock on August 20, 2018.

73. Defendants state that the allegations of Paragraphs 73 and 73(a) through 73(d) of the Complaint state characterizations and/or conclusions of law that do not require a response. To the extent a response is required, Defendants deny the allegations of Paragraphs 73 and 73(a) through 73(d), except admit that Lannett's common stock met the requirements for listing, were listed, and traded on the New York Stock Exchange, and further admit that Lannett made various disclosures to the public from time to time, including via press releases and conference calls with analysts and investors, and further admit that certain outside analysts covered Lannett.

74. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 74 of the Complaint, and therefore deny those allegations. Defendants deny the remaining allegations of Paragraph 74 of the Complaint.

75. Defendants state that the allegations of Paragraph 75 of the Complaint state characterizations and/or conclusions of law that do not require a response. To the extent a response is required, Defendants deny the allegations of Paragraph 75 of the Complaint.

76. Defendants state that the allegations of Paragraph 76 of the Complaint state characterizations and/or conclusions of law that do not require a response. To the extent a response is required, Defendants deny the allegations of Paragraph 76 of the Complaint.

77. Defendants state that the allegations of Paragraph 77 of the Complaint state characterizations and/or conclusions of law that do not require a response. To the extent a response is required, Defendants deny the allegations of Paragraph 77 of the Complaint.

78. Defendants deny the allegations of Paragraph 78 of the Complaint.

79. Defendants deny the allegations of Paragraph 79 of the Complaint, except admit that this action purports to be a class action pursuant to Rule 23 on behalf of persons who purchased Lannett securities between February 8, 2018 and August 17, 2018, and that Plaintiffs purport to exclude from the putative class the persons described in Paragraph 79 of the Complaint.

80. Defendants state that the allegations of the first and seventh sentences of Paragraph 80 of the Complaint state characterizations and/or conclusions of law that do not require a response. To the extent a response is required, Defendants deny the allegations of the first and seventh sentences of Paragraph 80 of the Complaint. Defendants deny the remaining allegations of Paragraph 80 of the Complaint, except admit that records of record owners are maintained by Lannett's transfer agent and that Lannett securities are listed and traded on the New York Stock Exchange, and refer to the public record for ownership of Lannett common stock on July 31, 2018.

81. Defendants state that the allegations of Paragraph 81 of the Complaint state characterizations and/or conclusions of law that do not require a response. To the extent a response is required, Defendants deny the allegations of Paragraph 81 of the Complaint.

82. Defendants state that the allegations of Paragraph 82 of the Complaint state characterizations and/or conclusions of law that do not require a response. To the extent a response is required, Defendants state that, at this time, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 82 of the Complaint and therefore deny those allegations.

83. Defendants state that the allegations of Paragraphs 83 and 83(a) through 83(f) of the Complaint state characterizations and/or conclusions of law that do not require a response. To the extent a response is required, Defendants deny the allegations of Paragraphs 83 and 83(a) through 83(f) of the Complaint.

84. Defendants state that the allegations of Paragraph 84 of the Complaint state characterizations and/or conclusions of law that do not require a response. To the extent a response is required, Defendants deny the allegations of Paragraph 84 of the Complaint.

85. Defendants incorporate herein by reference each response set forth above.

86. Defendants deny the allegations of Paragraph 86 of the Complaint, except admit that Plaintiffs purport to bring this action pursuant to the statutes and rules cited therein.

87. Defendants deny the allegations of Paragraph 87 of the Complaint.

88. Defendants deny the allegations of Paragraph 88 of the Complaint.

89. Defendants deny the allegations of Paragraph 89 of the Complaint.

90. Defendants deny the allegations of Paragraph 90 of the Complaint.

91. Defendants deny the allegations of Paragraph 91 of the Complaint.

92. Defendants deny the allegations of Paragraph 92 of the Complaint.

93. Defendants deny the allegations of Paragraph 93 of the Complaint.

94. Defendants deny the allegations of Paragraph 94 of the Complaint.

95. Defendants incorporate herein by reference each response set forth above.

96. Defendants deny the allegations of Paragraph 96 of the Complaint, except admit that Timothy C. Crew was Lannett's Chief Executive Officer and Martin P. Galvan was Lannett's Chief Financial Officer during the putative Class Period.

97. Defendants deny the allegations of Paragraph 97 of the Complaint.

98. Defendants deny the allegations of Paragraph 98 of the Complaint.

99. Defendants deny the allegations of Paragraph 99 of the Complaint.

100. Defendants deny the allegations of Paragraph 100 of the Complaint.

### **Affirmative and Other Defenses**

Defendants assert the following affirmative and other defenses. Except where expressly noted, each defense is asserted by each of the Defendants. In asserting these defenses, Defendants do not assume the burden of establishing any fact or proposition where that burden properly is imposed on Plaintiffs. Defendants expressly reserve the right to supplement, amend, or delete any or all of the following defenses, as warranted by discovery or other investigation, or as justice may require.

#### **First Defense**

The Complaint, and each and every claim stated therein, fails to state a claim upon which relief can be granted.

#### **Second Defense**

The action is barred, in whole or in part, because Plaintiffs have not suffered any injury or damage, or, in the alternative, because any injury or damage that Plaintiffs claim to have sustained was not caused by Defendants.

#### **Third Defense**

The Complaint fails to plead fraud with particularity as required by Federal Rule of Civil Procedure 9(b) and the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4(b)(1), and otherwise fails properly to identify the alleged false or misleading statements of which Plaintiffs complain.

#### **Fourth Defense**

Defendants are not liable because they did not make a false or misleading statement of material fact or omission of material fact, and complied with all applicable disclosure requirements.

Fifth Defense

Plaintiffs' claims are barred, in whole or in part, because the alleged misstatements and omissions alleged in the Complaint were forward-looking and satisfied the safe harbor provisions of the Private Securities Litigation Reform Act of 1995, federal securities laws, and/or the "bespeaks caution" doctrine.

Sixth Defense

Defendants are not liable because Plaintiffs' claims are barred, in whole or in part, because, assuming there was any untruth or omission as alleged in the Complaint (and Defendants deny there was any), Plaintiffs knew or should have known of such untruth or omission.

Seventh Defense

Defendants are not liable because Plaintiffs' claims are barred, in whole or in part, because Plaintiffs purchased Lannett securities with actual or constructive knowledge of the risks involved in an investment in Lannett securities and thus voluntarily assumed the risk of the losses alleged in the Complaint.

Eighth Defense

Defendants are not liable because they acted in good faith and in reasonable reliance upon the work, opinions, information, representations, and advice of others, upon whom Defendants were entitled to rely.

Ninth Defense

Defendants are not liable because they did not act with scienter and did not act knowingly or recklessly as to any alleged misstatement or omission.

Tenth Defense

Defendants are not liable because they, at all times, and with respect to all matters

contained herein, acted in good faith, exercised reasonable care, and did not know, and in the exercise of reasonable care could not have known, of the purported untruths, misstatements, and/or omissions alleged in the Complaint.

Eleventh Defense

This action may not properly be maintained as a class action.

Twelfth Defense

Defendants are not liable because any allegedly untrue statement of material fact, omissions of material fact, misleading statements, or other actions allegedly taken by the Defendants were not material to the investment decisions of Plaintiffs.

Thirteenth Defense

Defendants are not liable because Plaintiffs' claims are barred, in whole or in part, because the purported misrepresentations and omissions alleged in the Complaint did not affect the market price of Lannett securities.

Fourteenth Defense

Plaintiffs' claims are barred, in whole or in part, because Plaintiffs have not pleaded, and cannot prove, loss causation, and/or have not pleaded, and cannot prove, that Plaintiffs suffered damages that can be attributed and/or causally related to the alleged misrepresentations or omissions.

Fifteenth Defense

Plaintiffs' claims are barred, in whole or in part, because Plaintiffs were not entitled to, and did not reasonably and/or justifiably rely on any of the statements or omissions alleged in the Complaint in deciding to purchase Lannett securities.



Sixteenth Defense

Plaintiffs cannot recover against the Defendants, in whole or in part, because the “fraud on the market” theory of reliance is unavailable, and they will be otherwise unable to establish that they relied upon the purported misstatements and omissions alleged in the Complaint.

Seventeenth Defense

Plaintiffs cannot recover against Defendants because Plaintiffs will be unable to establish that the purported misstatements and omissions alleged in the Complaint were the cause of Plaintiffs’ decisions to purchase Lannett securities on the terms of their investments.

Eighteenth Defense

Plaintiffs cannot recover against Defendants because the losses, if any, sustained by Plaintiffs were not actually or proximately caused by, and resulted from causes other than, the acts and occurrences alleged in the Complaint.

Nineteenth Defense

Plaintiffs’ claims are barred because the injuries alleged by Plaintiffs, to the extent any exist, were caused, in whole or in part, by intervening and/or superseding causes unrelated to the alleged conduct of Defendants, by the conduct of third parties for whom Defendants were not responsible, or through forces in the marketplace over which Defendants have no control.

Twentieth Defense

Defendants are not liable because to the extent that Plaintiffs have been damaged, if at all, their failure to mitigate their damages bars recovery.

Twenty-First Defense

Defendants are not liable because Plaintiffs’ losses, if any, should be reduced, diminished, and/or eliminated under the proportionate liability provisions of the Securities Exchange Act of

1934 to reflect only Defendants' percentage of responsibility, if any.

Twenty-Second Defense

To the extent Plaintiffs suffered damages, if at all, such damages must be offset by Plaintiffs' gains.

Twenty-Third Defense

To the extent Plaintiffs suffered damages, if at all, such damages must be capped pursuant to the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4(e)(1).

Twenty-Fourth Defense

If and to the extent that Defendants are found to have made any false or misleading statements or omissions (which Defendants deny), the actual facts which Plaintiffs allege to have been misrepresented or omitted were in fact known to and entered the securities market through credible sources. Plaintiffs are not entitled to any recovery from Defendants because the substance of the allegedly material information that Plaintiffs allege to have been omitted or misrepresented was in fact disclosed in the public disclosures of other parties and third parties, in Defendants' own public filings and announcements, and from other sources that were otherwise publicly available and/or widely known to the market and to the investing community.

Twenty-Fifth Defense

The Individual Defendants are not liable because they acted at all times in good faith and did not directly or indirectly induce the alleged wrongful act or acts nor were they culpable participants in any of the alleged wrongdoing.

Twenty-Sixth Defense

The Individual Defendants are not liable because none of the Individual Defendants controlled, or had the ability to control, Lannett and/or any other Defendant.

Twenty-Seventh Defense

Defendants deny that Plaintiffs are entitled to recover of attorneys' fees, costs, or expenses.

Twenty-Eighth Defense

The action is barred, in whole or in part, because Plaintiffs lack standing to maintain this action under Article III or other applicable statute or common law.

Twenty-Ninth Defense

Defendants are entitled to recover contribution from others for any liability they incur as a result of any of the purported misrepresentations, omissions, and conduct alleged in the claims against Defendants.

**Prayer for Relief**

WHEREFORE, Defendants pray for judgment against Plaintiffs as follows:

- A. Dismissing the entire action with prejudice;
- B. Granting Defendants their reasonable costs, expenses, and attorneys' fees; and
- C. Awarding Defendants such other, further, and different relief as the Court deems just and proper.

Dated: March 27, 2019

/s/ Jay P. Lefkowitz

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 27, 2019, a true and correct copy of the foregoing *Defendants' Answer and Defenses to the Amended Class Action Complaint* was served via the Court's ECF system on all CM/ECF participants, and was filed electronically and is available for viewing and downloading from the Court's ECF system. The counsel of record listed below are ECF users and will be served via the Court's ECF system in accordance with Local Civil Rule 5.1.2.

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