

1 Robert V. Prongay (SBN 270796)
rprongay@glancylaw.com
2 Charles Linehan (SBN 307439)
clinehan@glancylaw.com
3 Pavithra Rajesh (SBN 323055)
prajesh@glancylaw.com
4 GLANCY PRONGAY & MURRAY LLP
1925 Century Park East, Suite 2100
5 Los Angeles, California 90067
Telephone: (310) 201-9150
6 Facsimile: (310) 201-9160

7 *Attorneys for Plaintiff* _____

8 [Additional Counsel on Signature Page]

9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**

11
12 _____, Individually and on Behalf of
All Others Similarly Situated,

13 Plaintiff,

14 v.

15 MAXEON SOLAR TECHNOLOGIES, LTD.,
16 WILLIAM MULLIGAN, and KAI
17 STROHBECKE,

18 Defendants.

Case No. DRAFT

**CLASS ACTION COMPLAINT FOR
VIOLATIONS OF THE FEDERAL
SECURITIES LAWS**

1 Plaintiff _____ (“Plaintiff”), individually and on behalf of all others similarly situated, by
2 and through his attorneys, alleges the following upon information and belief, except as to those
3 allegations concerning Plaintiff, which are alleged upon personal knowledge. Plaintiff’s information
4 and belief is based upon, among other things, his counsel’s investigation, which includes without
5 limitation: (a) review and analysis of regulatory filings made by Maxeon Solar Technologies, Ltd.
6 (“Maxeon” or the “Company”) with the United States (“U.S.”) Securities and Exchange
7 Commission (“SEC”); (b) review and analysis of press releases and media reports issued by and
8 disseminated by Maxeon; and (c) review of other publicly available information concerning
9 Maxeon.

10 NATURE OF THE ACTION AND OVERVIEW

11 1. This is a class action on behalf of persons and entities that purchased or otherwise
12 acquired Maxeon securities between November 15, 2023 and May 29, 2024 inclusive (the “Class
13 Period”). Plaintiff pursues claims against the Defendants under the Securities Exchange Act of 1934
14 (the “Exchange Act”).

15 2. Maxeon is a global manufacturer and marketer of solar technology. The Company’s
16 products serve two primary segments: distributed generation products, which are used mainly for
17 residential and commercial rooftops systems; and utility-scale products, which are used are mainly
18 for large ground-mounted power generation systems, like power plants.

19 3. On May 15, 2024, Maxeon failed to release its financial results for the fourth quarter
20 of fiscal year 2023 and first quarter of 2024, which had been originally slated for public
21 dissemination on that date.

22 4. On this news, the Company’s share price fell 30.4%, or \$1.12, to close at \$2.56 on
23 May 15, 2024, on unusually heavy trading volume.

24 5. On May 30, 2024, before the market opened, Maxeon announced financial results
25 for the fourth quarter of fiscal year 2023 and the first quarter of 2024, revealing forth quarter gross
26 losses of \$34.5 million (which far exceeding the Company’s initial outlook of \$5 million to \$15
27
28

1 million) as well as first quarter of 2024 revenue: \$187.5M, *a decline of over 41%* year over year.
2 The Company also revealed it had suffered from a critical liquidity issue, forcing it to enter into
3 “negotiated commitments for significant liquidity support” which will result in “substantial dilution
4 to existing public shareholders, with TZE [TCL Zhonghuan Renewable Energy Technology Co.
5 Ltd.] ultimately becoming a controlling shareholder.”

6
7 6. On this news, the Company’s share price fell 34.7%, or \$1.08, to close at \$2.03 on
8 May 30, 2024, on unusually heavy trading volume.

9 7. Throughout the Class Period, Defendants made materially false and/or misleading
10 statements, as well as failed to disclose material adverse facts about the Company’s business,
11 operations, and prospects. Specifically, Defendants failed to disclose to investors: (1) that the
12 Company would be unable to timely announce fiscal fourth quarter 2024 financial results; (2) the
13 Company was facing a liquidity crisis; (3) that, as a result of the foregoing, Defendants’ positive
14 statements about the Company’s business, operations, and prospects were materially misleading
15 and/or lacked a reasonable basis.
16

17 8. As a result of Defendants’ wrongful acts and omissions, and the precipitous decline
18 in the market value of the Company’s securities, Plaintiff and other Class members have suffered
19 significant losses and damages.
20

21 JURISDICTION AND VENUE

22 9. The claims asserted herein arise under Sections 10(b) and 20(a) of the Exchange Act
23 (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder by the SEC (17 C.F.R. §
24 240.10b-5).

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

1 11. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391(b) and Section
2 27 of the Exchange Act (15 U.S.C. § 78aa(c)). Substantial acts in furtherance of the alleged fraud
3 or the effects of the fraud have occurred in this Judicial District. Many of the acts charged herein,
4 including the dissemination of materially false and/or misleading information, occurred in
5 substantial part in this Judicial District. In addition, the Company's principal executive offices are
6 located in this District.

8 12. In connection with the acts, transactions, and conduct alleged herein, Defendants
9 directly and indirectly used the means and instrumentalities of interstate commerce, including the
10 United States mail, interstate telephone communications, and the facilities of a national securities
11 exchange.

12 **PARTIES**

13 13. Plaintiff ____, as set forth in the accompanying certification, incorporated by
14 reference herein, purchased Maxeon securities during the Class Period, and suffered damages as a
15 result of the federal securities law violations and false and/or misleading statements and/or material
16 omissions alleged herein.

18 14. Defendant Maxeon is incorporated under the laws of Singapore with its principal
19 executive offices located in San Jose, California. Maxeon's ordinary shares trade on the NASDAQ
20 exchange under the symbol "MAXN."

21 15. Defendant William Mulligan ("Mulligan") was the Company's Chief Executive
22 Officer ("CEO") at all relevant times.

24 16. Defendant Kai Strohbecke ("Strohbecke") was the Company's Chief Financial
25 Officer ("CFO") at all relevant times.

26 17. Defendants Mulligan and Strohbecke (collectively the "Individual Defendants"),
27 because of their positions with the Company, possessed the power and authority to control the
28 contents of the Company's reports to the SEC, press releases and presentations to securities analysts,

1 money and portfolio managers and institutional investors, i.e., the market. The Individual
2 Defendants were provided with copies of the Company's reports and press releases alleged herein
3 to be misleading prior to, or shortly after, their issuance and had the ability and opportunity to
4 prevent their issuance or cause them to be corrected. Because of their positions and access to
5 material non-public information available to them, the Individual Defendants knew that the adverse
6 facts specified herein had not been disclosed to, and were being concealed from, the public, and that
7 the positive representations which were being made were then materially false and/or misleading.
8 The Individual Defendants are liable for the false statements pleaded herein.

9 **SUBSTANTIVE ALLEGATIONS**

10 **Background**

11 18. Maxon is a global manufacturer and marketer of solar technology. The Company's
12 products serve two primary segments: distributed generation products, which are used mainly for
13 residential and commercial rooftops systems; and utility-scale products, which are used are mainly
14 for large ground-mounted power generation systems, like power plants.

15 **Materially False and Misleading**

16 **Statements Issued During the Class Period**

17 19. The Class Period begins on November 15, 2023. On that day, Maxon issued a press
18 release announcing the Company's third quarter 2023 financial results (the "3Q23 Press Release").
19 The 3Q23 Press Release reported the Company's positive outlook for 2024, quoting Maxon's CEO,
20 Defendant Mulligan, as stating in relevant part:¹

21 We are increasingly focused on the *favorable landscape* for our US utility-scale
22 products.

23 * * *

24 "We expect 2024 to be a pivotal year for Maxon. Our US utility-scale business is
25 expected to contribute material margins for the first time since we entered the market
26 in 2022, and we plan to break ground on our transformational New Mexico Facility.
Efforts to restructure and rejuvenate the DG business are in full gear, and we

27 ¹ Unless otherwise stated, all emphasis in bold and italics hereinafter is added, and all footnotes are
28 omitted.

1 *project to exit the year with a portfolio of our latest-generation products, gross*
2 *margins into the teens and decreased customer concentration."*

3 20. The 3Q23 Press Release issued a Fourth Quarter 2023 Outlook which stated that the
4 Company expected *a gross loss of \$5 to \$15 million in the fourth quarter of 2023*, as excerpted in
5 relevant part:

6 Fourth Quarter 2023 and Fiscal Year 2023 Outlook

7 For the fourth quarter of 2023, the Company anticipates
8 the following results:

(In millions, except shipments)	Outlook
Shipments, in MW	610 - 650
Revenue ⁽⁵⁾	\$220 - \$260
Gross loss ⁽⁵⁾	\$5 - \$15
Non-GAAP gross loss ⁽¹⁾⁽⁵⁾	\$5 - \$15
Operating expenses	\$113 ± \$4
Non-GAAP operating expenses ⁽²⁾	\$38 ± \$2
Adjusted EBITDA ⁽³⁾⁽⁵⁾	\$(27) - \$(37)
Capital expenditures ⁽⁴⁾	\$10 - \$20

9
10
11
12
13
14
15
16 21. The 3Q23 Press Release purported to warn of the Company's unmaterialized risk
17 factors, including a lack of liquidity, stating in relevant part:

18 The reader should not place undue reliance on these forward-looking statements, as
19 there can be no assurances that the plans, initiatives or expectations upon which they
20 are based will occur. Factors that could cause or contribute to such differences
21 include, but are not limited to: (1) challenges in executing transactions key to our
22 strategic plans, including regulatory and other challenges that may arise; (2) *our*
23 *liquidity, substantial indebtedness, terms and conditions upon which our*
24 *indebtedness is incurred, and ability to obtain additional financing for our*
25 *projects, customers and operations*; (3) our ability to manage supply chain shortages
26 and/or excess inventory and cost increases and operating expenses[.]

27 22. On November 15, 2023, the Company submitted its quarterly report for the period
28 ended October 1, 2023, on a Form 6-K filed with the SEC, with attached exhibits including exhibit
99.2, the financial results for the third quarter ended October 1, 2023 (the "3Q23 6-K Exh. 99.2").
The 3Q23 6-K Exh. 99.2 reported the Company's liquidity, capital resources and anticipated sources
of funds, stating in relevant part:

1 **Liquidity and Capital Resources**

2 ***Current Sources of Liquidity and Capital Resources***

3 As of October 1, 2023, we had unrestricted cash and cash equivalents of \$208.1
4 million, restricted cash of \$9.2 million and short-term securities representing a 6-
5 months time deposit of \$60.0 million as compared to \$227.4 million of unrestricted
6 cash and cash equivalents, \$40.5 million of restricted cash and short-term securities
7 representing a 4-month time deposit of \$76.0 million as of January 1, 2023.

8 * * *

9 ***Anticipated Sources of Funds***

10 ***We believe that our current cash, cash equivalents, along with cash expected to be
11 generated from operations will be sufficient to meet our obligations over the next
12 12 months.***

13 23. On April 8, 2024, the Company published a press release announcing its preliminary
14 fourth quarter and fiscal year 2023 results (the "Preliminary 4Q23 Press Release"). The Preliminary
15 4Q23 Press Release reported that "[t]he Company *plans to file its annual 20-F report by April 30,
16 2024.*" The Preliminary 4Q23 Press Release quoted Maxeon's CEO, Defendant Mulligan as stating,
17 in relevant part:

18 "In the fourth quarter, *Maxeon delivered financial results largely in line with our
19 expectations.* Our U.S utility-scale business accounted for the majority of revenues
20 in the fourth quarter, with stable ASPs."
21

22 * * *

23 "The Maxeon team is highly focused on reducing manufacturing costs, OPEX
24 rationalization and *liquidity-management* to enable a return to profitability. *Our
25 strategy continues to be to focus on designing and building premium, differentiated
26 products and delivering a superior customer experience across a balanced
27 portfolio of global DG and U.S. utility scale markets. The Company plans to file
28 its annual 20-F report by April 30, 2024.*"

29 24. The Preliminary 4Q23 Press Release issued a revised outlook for the fourth quarter
30 of fiscal year 2024, presenting an estimated \$32 million in gross losses for the quarter.

31 25. On April 30, 2024, the Company submitted a to the SEC a form 20-F, a notification
32 of its late filing with respect to its Annual Report on Form 20-F for its fiscal year ended December 31, 2023
33 which stated that the Company required "additional time to complete its financial statement preparation and
34 review process" and, continued, stating in relevant part:

1 *Factors which have affected the timing of the preparation and review of the*
2 *financial statements include the additional ongoing work required in connection*
3 *with the assessment of the Company's ability to continue as a going concern,*
including the ongoing analysis of the Company's strategic options with the assistance
of external advisors.

4 26. The above statements identified in ¶¶ 19-25 were materially false and/or misleading,
5 and failed to disclose material adverse facts about the Company's business, operations, and
6 prospects. Specifically, Defendants failed to disclose to investors: (1) that the Company would be
7 unable to timely announce fiscal fourth quarter 2024 financial results; (2) the Company was facing
8 a liquidity crisis; (3) that, as a result of the foregoing, Defendants' positive statements about the
9 Company's business, operations, and prospects were materially misleading and/or lacked a
10 reasonable basis.

11 **Disclosures at the End of the Class Period**

12 27. On May 15, 2024, Maxeon failed to release its financial results for the fourth quarter
13 of fiscal year 2023 and first quarter of 2024, which had been originally slated for public
14 dissemination on that date.

15 28. On this news, the Company's share price fell 30.4%, or \$1.12, to close at \$2.56 on
16 May 15, 2024, on unusually heavy trading volume.

17 29. On May 30, 2024, before the market opened, Maxeon finally announced financial
18 results for the fourth quarter of fiscal year 2023 and the first quarter of 2024, revealing fourth quarter
19 gross losses of \$34.5 million (which far exceeding the Company's initial outlook of \$5 million to
20 \$15 million) as well as first quarter of 2024 revenue: \$187.5M, *a decline of over 41% year over*
21 *year.* The Company also revealed it had suffered from a critical liquidity issue, forcing it to enter
22 into "negotiated commitments for significant liquidity support" which will result in "substantial
23 dilution to existing public shareholders, with TZE [TCL Zhonghuan Renewable Energy Technology
24 Co. Ltd.] ultimately becoming a controlling shareholder."
25

26 30. Specifically, on that date, the Company filed its Form 20-F with the SEC, containing
27 the Company's annual report for the fiscal year ending December 31, 2023. On the same date, the
28

1 Company issued a press release which reported first Quarter 2024 Financial Results (the “1Q2024
2 Press Release”). The 1Q2024 Press Release stated, in relevant part:

3 Maxeon has been facing a very difficult market environment since the third quarter
4 of last year, with challenging industry pricing conditions and demand disruptions in
5 our DG business due to higher interest rates and policy changes, as well as *project
6 pushouts by two of our large-scale customers in the US*. These external factors led
7 to underutilized manufacturing operations, increased product costs, and lower
8 revenue and profit than planned. While the Company is making progress on our
9 announced restructuring initiatives and we are seeing some positive trends in the
10 market, *we determined that Maxeon requires additional capital to support its
11 continuing operations*. After conducting a thorough analysis with the help of
12 financial advisors, management and the board determined that the most viable
13 financing option to support our immediate liquidity needs was from our largest
14 shareholder, TCL Zhonghuan Renewable Energy Technology Co. Ltd. (TZE)."

15 "TZE has agreed to invest \$97.5 million via a debt investment and has committed to
16 an additional \$100 million equity investment, in each case subject to regulatory
17 approvals. In addition, substantially all of the holders of the \$200 million 2025
18 convertible notes have agreed to exchange their bonds and accrued interest into
19 new bonds due in 2028, which are convertible into equity at the noteholders' option
20 starting July 2nd and \$137.2 million of which must be converted into equity upon
21 TZE's equity investment. We believe that these transactions are necessary to provide
22 sufficient liquidity to enable the Company to return to profitability. *These
23 transactions, however, will result in substantial dilution to existing public
24 shareholders, with TZE ultimately becoming a controlling shareholder, subject to
25 regulatory approvals.*"

26 * * *

27 On April 8, 2024, the Company issued a press release and furnished a Report on
28 Form 6-K announcing its preliminary unaudited financial results for the fourth
quarter and fiscal year ended December 31, 2023. *Subsequent to the issuance of
such preliminary financial information, the Company revised the presentation of
gross loss, GAAP operating expenses, GAAP net loss attributable to the
stockholders, non-GAAP gross loss, non-GAAP operating expenses and Adjusted
EBITDA as follows:*

- *Additional inventory reserve of \$2.3 million to write down inventories to market value which affected gross loss, GAAP net loss attributable to the stockholders, non-GAAP gross loss and Adjusted EBITDA*
- Adjustment of estimate on employee compensation based on final payout which resulted in lower gross loss of \$0.3 million, lower GAAP operating expenses of \$0.5 million, lower GAAP net loss attributable to stockholders of \$0.8 million, higher non-GAAP operating expenses and Adjusted EBITDA of \$0.4 million
- Adjustment of uncertain tax position which resulted in higher GAAP net loss attributable to stockholders of \$0.5 million.

31. The 1Q2024 Press Release reported the Company’s fiscal fourth quarter revenue,
excerpted in relevant part:

(In thousands, except shipments)	Fiscal Q1 2024	Fiscal Q4 2023	Fiscal Q1 2023
Shipments, in MW	488	653	774
Revenue	\$ 187,456	\$ 228,775	\$ 318,332
Gross (loss) profit ⁽¹⁾	(14,871)	(34,461)	53,625
GAAP Operating expenses	48,668	141,007	41,921
GAAP Net (loss) income attributable to the stockholders ⁽¹⁾	(80,148)	(186,334)	20,271
Capital expenditures	19,216	11,656	16,500
Other Financial Data⁽¹⁾			
(In thousands)	Fiscal Q1 2024	Fiscal Q4 2023	Fiscal Q1 2023
Non-GAAP Gross (loss) profit	\$ (12,888)	\$ (9,675)	\$ 54,142
Non-GAAP Operating expenses	38,520	36,654	38,056
Adjusted EBITDA	(38,977)	(37,631)	30,984

32. On this news, the Company's share price fell 34.7%, or \$1.08, to close at \$2.03 on May 30, 2024, on unusually heavy trading volume.

CLASS ACTION ALLEGATIONS

33. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a class, consisting of all persons and entities that purchased or otherwise acquired Maxeon securities between November 15, 2023 and May 29, 2024 inclusive, inclusive, and who were damaged thereby (the "Class"). Excluded from the Class are Defendants, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors, or assigns, and any entity in which Defendants have or had a controlling interest.

34. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, Maxeon's shares actively traded on the NASDAQ. 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 at least hundreds or thousands of members in the proposed Class. Millions of Maxeon shares were traded publicly during the Class Period on the NASDAQ. Record owners and other members of the Class may be identified from records maintained by Maxeon 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.

1 35. Plaintiff's claims are typical of the claims of the members of the Class as all members
2 of the Class are similarly affected by Defendants' wrongful conduct in violation of federal law that
3 is complained of herein.

4 36. Plaintiff will fairly and adequately protect the interests of the members of the Class
5 and has retained counsel competent and experienced in class and securities litigation.

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

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

11 (b) whether statements made by Defendants to the investing public during the
12 Class Period omitted and/or misrepresented material facts about the business, operations, and
13 prospects of Maxeon; and

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

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

21 **UNDISCLOSED ADVERSE FACTS**

22 39. The market for Maxeon's securities was open, well-developed and efficient at all
23 relevant times. As a result of these materially false and/or misleading statements, and/or failures to
24 disclose, Maxeon's securities traded at artificially inflated prices during the Class Period. Plaintiff
25 and other members of the Class purchased or otherwise acquired Maxeon's securities relying upon
26 the integrity of the market price of the Company's securities and market information relating to
27 Maxeon, and have been damaged thereby.

28

1 materially false and/or misleading; knew that such statements or documents would be issued or
2 disseminated to the investing public; and knowingly and substantially participated or acquiesced in
3 the issuance or dissemination of such statements or documents as primary violations of the federal
4 securities laws. As set forth elsewhere herein in detail, the Individual Defendants, by virtue of their
5 receipt of information reflecting the true facts regarding Maxeon, their control over, and/or receipt
6 and/or modification of Maxeon's allegedly materially misleading misstatements and/or their
7 associations with the Company which made them privy to confidential proprietary information
8 concerning Maxeon, participated in the fraudulent scheme alleged herein.

9 **APPLICABILITY OF PRESUMPTION OF RELIANCE**

10 **(FRAUD-ON-THE-MARKET DOCTRINE)**

11 45. The market for Maxeon's securities was open, well-developed and efficient at all
12 relevant times. As a result of the materially false and/or misleading statements and/or failures to
13 disclose, Maxeon's securities traded at artificially inflated prices during the Class Period. On
14 December 26, 2023, the Company's share price closed at a Class Period high of \$7.55 per share.
15 Plaintiff and other members of the Class purchased or otherwise acquired the Company's securities
16 relying upon the integrity of the market price of Maxeon's securities and market information relating
17 to Maxeon, and have been damaged thereby.

18 46. During the Class Period, the artificial inflation of Maxeon's shares was caused by
19 the material misrepresentations and/or omissions particularized in this Complaint causing the
20 damages sustained by Plaintiff and other members of the Class. As described herein, during the
21 Class Period, Defendants made or caused to be made a series of materially false and/or misleading
22 statements about Maxeon's business, prospects, and operations. These material misstatements
23 and/or omissions created an unrealistically positive assessment of Maxeon and its business,
24 operations, and prospects, thus causing the price of the Company's securities to be artificially
25 inflated at all relevant times, and when disclosed, negatively affected the value of the Company
26 shares. Defendants' materially false and/or misleading statements during the Class Period resulted
27 in Plaintiff and other members of the Class purchasing the Company's securities at such artificially
28 inflated prices, and each of them has been damaged as a result.

1 47. At all relevant times, the market for Maxeon’s securities was an efficient market for
2 the following reasons, among others:

3 (a) Maxeon shares met the requirements for listing, and was listed and actively
4 traded on the NASDAQ, a highly efficient and automated market;

5 (b) As a regulated issuer, Maxeon filed periodic public reports with the SEC
6 and/or the NASDAQ;

7 (c) Maxeon regularly communicated with public investors via established
8 market communication mechanisms, including through regular dissemination of press releases on
9 the national circuits of major newswire services and through other wide-ranging public disclosures,
10 such as communications with the financial press and other similar reporting services; and/or

11 (d) Maxeon was followed by securities analysts employed by brokerage firms
12 who wrote reports about the Company, and these reports were distributed to the sales force and
13 certain customers of their respective brokerage firms. Each of these reports was publicly available
14 and entered the public marketplace.

15 48. As a result of the foregoing, the market for Maxeon’s securities promptly digested
16 current information regarding Maxeon from all publicly available sources and reflected such
17 information in Maxeon’s share price. Under these circumstances, all purchasers of Maxeon’s
18 securities during the Class Period suffered similar injury through their purchase of Maxeon’s
19 securities at artificially inflated prices and a presumption of reliance applies.

20 49. A Class-wide presumption of reliance is also appropriate in this action under the
21 Supreme Court’s holding in *Affiliated Ute Citizens of Utah v. United States*, 406 U.S. 128 (1972),
22 because the Class’s claims are, in large part, grounded on Defendants’ material misstatements and/or
23 omissions. Because this action involves Defendants’ failure to disclose material adverse
24 information regarding the Company’s business operations and financial prospects—information that
25 Defendants were obligated to disclose—positive proof of reliance is not a prerequisite to recovery.
26 All that is necessary is that the facts withheld be material in the sense that a reasonable investor
27 might have considered them important in making investment decisions. Given the importance of
28

1 the Class Period material misstatements and omissions set forth above, that requirement is satisfied
2 here.

3 **NO SAFE HARBOR**

4 50. The statutory safe harbor provided for forward-looking statements under certain
5 circumstances does not apply to any of the allegedly false statements pleaded in this Complaint. The
6 statements alleged to be false and misleading herein all relate to then-existing facts and conditions.
7 In addition, to the extent certain of the statements alleged to be false may be characterized as forward
8 looking, they were not identified as “forward-looking statements” when made and there were no
9 meaningful cautionary statements identifying important factors that could cause actual results to
10 differ materially from those in the purportedly forward-looking statements. In the alternative, to the
11 extent that the statutory safe harbor is determined to apply to any forward-looking statements
12 pleaded herein, Defendants are liable for those false forward-looking statements because at the time
13 each of those forward-looking statements was made, the speaker had actual knowledge that the
14 forward-looking statement was materially false or misleading, and/or the forward-looking statement
15 was authorized or approved by an executive officer of Maxeon who knew that the statement was
16 false when made.

17 **FIRST CLAIM**

18 **Violation of Section 10(b) of The Exchange Act and**

19 **Rule 10b-5 Promulgated Thereunder**

20 **Against All Defendants**

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

23 52. During the Class Period, Defendants carried out a plan, scheme and course of conduct
24 which was intended to and, throughout the Class Period, did: (i) deceive the investing public,
25 including Plaintiff and other Class members, as alleged herein; and (ii) cause Plaintiff and other
26 members of the Class to purchase Maxeon’s securities at artificially inflated prices. In furtherance
27 of this unlawful scheme, plan and course of conduct, Defendants, and each defendant, took the
28 actions set forth herein.

1 53. Defendants (i) employed devices, schemes, and artifices to defraud; (ii) made untrue
2 statements of material fact and/or omitted to state material facts necessary to make the statements
3 not misleading; and (iii) engaged in acts, practices, and a course of business which operated as a
4 fraud and deceit upon the purchasers of the Company's securities in an effort to maintain artificially
5 high market prices for Maxeon's securities in violation of Section 10(b) of the Exchange Act and
6 Rule 10b-5. All Defendants are sued either as primary participants in the wrongful and illegal
7 conduct charged herein or as controlling persons as alleged below.

8 54. Defendants, individually and in concert, directly and indirectly, by the use, means or
9 instrumentalities of interstate commerce and/or of the mails, engaged and participated in a
10 continuous course of conduct to conceal adverse material information about Maxeon's financial
11 well-being and prospects, as specified herein.

12 55. Defendants employed devices, schemes and artifices to defraud, while in possession
13 of material adverse non-public information and engaged in acts, practices, and a course of conduct
14 as alleged herein in an effort to assure investors of Maxeon's value and performance and continued
15 substantial growth, which included the making of, or the participation in the making of, untrue
16 statements of material facts and/or omitting to state material facts necessary in order to make the
17 statements made about Maxeon and its business operations and future prospects in light of the
18 circumstances under which they were made, not misleading, as set forth more particularly herein,
19 and engaged in transactions, practices and a course of business which operated as a fraud and deceit
20 upon the purchasers of the Company's securities during the Class Period.

21 56. Each of the Individual Defendants' primary liability and controlling person liability
22 arises from the following facts: (i) the Individual Defendants were high-level executives and/or
23 directors at the Company during the Class Period and members of the Company's management team
24 or had control thereof; (ii) each of these defendants, by virtue of their responsibilities and activities
25 as a senior officer and/or director of the Company, was privy to and participated in the creation,
26 development and reporting of the Company's internal budgets, plans, projections and/or reports;
27 (iii) each of these defendants enjoyed significant personal contact and familiarity with the other
28 defendants and was advised of, and had access to, other members of the Company's management

1 team, internal reports and other data and information about the Company's finances, operations, and
2 sales at all relevant times; and (iv) each of these defendants was aware of the Company's
3 dissemination of information to the investing public which they knew and/or recklessly disregarded
4 was materially false and misleading.

5 57. Defendants had actual knowledge of the misrepresentations and/or omissions of
6 material facts set forth herein, or acted with reckless disregard for the truth in that they failed to
7 ascertain and to disclose such facts, even though such facts were available to them. Such defendants'
8 material misrepresentations and/or omissions were done knowingly or recklessly and for the purpose
9 and effect of concealing Maxeon's financial well-being and prospects from the investing public and
10 supporting the artificially inflated price of its securities. As demonstrated by Defendants'
11 overstatements and/or misstatements of the Company's business, operations, financial well-being,
12 and prospects throughout the Class Period, Defendants, if they did not have actual knowledge of the
13 misrepresentations and/or omissions alleged, were reckless in failing to obtain such knowledge by
14 deliberately refraining from taking those steps necessary to discover whether those statements were
15 false or misleading.

16 58. As a result of the dissemination of the materially false and/or misleading information
17 and/or failure to disclose material facts, as set forth above, the market price of Maxeon's securities
18 was artificially inflated during the Class Period. In ignorance of the fact that market prices of the
19 Company's securities were artificially inflated, and relying directly or indirectly on the false and
20 misleading statements made by Defendants, or upon the integrity of the market in which the
21 securities trades, and/or in the absence of material adverse information that was known to or
22 recklessly disregarded by Defendants, but not disclosed in public statements by Defendants during
23 the Class Period, Plaintiff and the other members of the Class acquired Maxeon's securities during
24 the Class Period at artificially high prices and were damaged thereby.

25 59. At the time of said misrepresentations and/or omissions, Plaintiff and other members
26 of the Class were ignorant of their falsity, and believed them to be true. Had Plaintiff and the other
27 members of the Class and the marketplace known the truth regarding the problems that Maxeon was
28 experiencing, which were not disclosed by Defendants, Plaintiff and other members of the Class

1 would not have purchased or otherwise acquired their Maxeon securities, or, if they had acquired
2 such securities during the Class Period, they would not have done so at the artificially inflated prices
3 which they paid.

4 60. By virtue of the foregoing, Defendants violated Section 10(b) of the Exchange Act
5 and Rule 10b-5 promulgated thereunder.

6 61. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and the
7 other members of the Class suffered damages in connection with their respective purchases and
8 sales of the Company's securities during the Class Period.

9 **SECOND CLAIM**

10 **Violation of Section 20(a) of The Exchange Act**

11 **Against the Individual Defendants**

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

14 63. Individual Defendants acted as controlling persons of Maxeon within the meaning of
15 Section 20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions and their
16 ownership and contractual rights, participation in, and/or awareness of the Company's operations
17 and intimate knowledge of the false financial statements filed by the Company with the SEC and
18 disseminated to the investing public, Individual Defendants had the power to influence and control
19 and did influence and control, directly or indirectly, the decision-making of the Company, including
20 the content and dissemination of the various statements which Plaintiff contends are false and
21 misleading. Individual Defendants were provided with or had unlimited access to copies of the
22 Company's reports, press releases, public filings, and other statements alleged by Plaintiff to be
23 misleading prior to and/or shortly after these statements were issued and had the ability to prevent
24 the issuance of the statements or cause the statements to be corrected.

25 64. In particular, Individual Defendants had direct and supervisory involvement in the
26 day-to-day operations of the Company and, therefore, had the power to control or influence the
27 particular transactions giving rise to the securities violations as alleged herein, and exercised the
28 same.

1 65. As set forth above, Maxeon and Individual Defendants each violated Section 10(b)
2 and Rule 10b-5 by their acts and omissions as alleged in this Complaint. By virtue of their position
3 as controlling persons, Individual Defendants are liable pursuant to Section 20(a) of the Exchange
4 Act. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and other members
5 of the Class suffered damages in connection with their purchases of the Company's securities during
6 the Class Period.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff prays for relief and judgment, as follows:

9 (a) Determining that this action is a proper class action under Rule 23 of the Federal
10 Rules of Civil Procedure;

11 (b) Awarding compensatory damages in favor of Plaintiff and the other Class members
12 against all defendants, jointly and severally, for all damages sustained as a result of Defendants'
13 wrongdoing, in an amount to be proven at trial, including interest thereon;

14 (c) Awarding Plaintiff and the Class their reasonable costs and expenses incurred in this
15 action, including counsel fees and expert fees; and

16 (d) Such other and further relief as the Court may deem just and proper.

17 **JURY TRIAL DEMANDED**

18 Plaintiff hereby demands a trial by jury.

19
20
21
22
23
24
25
26
27
28

1 DATED: _____, 2024

GLANCY PRONGAY & MURRAY LLP

By: _____

Robert V. Prongay

Charles Linehan

Pavithra Rajesh

1925 Century Park East, Suite 2100

Los Angeles, California 90067

Telephone: (310) 201-9150

Facsimile: (310) 201-9160

Email: info@glancylaw.com

LAW OFFICES OF HOWARD G. SMITH

Howard G. Smith

3070 Bristol Pike, Suite 112

Bensalem PA 19020

Telephone: (215) 638-4847

Facsimile: (215) 638-4867

Attorneys for Plaintiff _____

LAW OFFICES OF HOWARD G. SMITH

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28