

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

PLAINTIFF, Individually and on behalf of all
others similarly situated,

Plaintiff,

v.

SYMBOTIC INC., RICHARD B. COHEN,
MARIA G. FREVE, and CAROL HIBBARD,

Defendants.

Case No:

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

JURY TRIAL DEMANDED

Plaintiff, individually and on behalf of all other persons similarly situated, by Plaintiff's undersigned attorneys, for Plaintiff's complaint against Defendants (defined below), alleges the following based upon personal knowledge as to Plaintiff and Plaintiff's own acts, and information and belief as to all other matters, based upon, among other things, the investigation conducted by and through his attorneys, which included, among other things, a review of the Defendants' public documents, public filings, wire and press releases published by and regarding Symbotic Inc. ("Symbotic" or the "Company"), and information readily obtainable on the Internet. 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 class action on behalf of persons or entities who purchased or otherwise acquired publicly traded Symbotic securities between February 8, 2024, and November 26, 2024, inclusive (the "Class Period"). Plaintiff seeks to recover compensable damages caused by Defendants' violations of the federal securities laws under the Securities Exchange Act of 1934 (the "Exchange Act").

JURISDICTION AND VENUE

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

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

4. Venue is proper in this District pursuant to §27 of the Exchange Act (15 U.S.C. §78aa) and 28 U.S.C. §1391(b) as the alleged misstatements entered and subsequent damages took place within this District.

5. In connection with the acts, conduct and other wrongs alleged in this complaint, Defendants (defined below), directly or indirectly, used the means and instrumentalities of interstate commerce, including but not limited to, the United States mails, interstate telephone communications and the facilities of the national securities exchange.

PARTIES

6. Plaintiff, as set forth in the accompanying certification, incorporated by reference herein, purchased Symbotic securities during the Class Period and was economically damaged thereby.

7. Defendant Symbotic is an automation technology company which engages in the production of a robotics and automation-based product movement technology platform.

8. Defendant Symbotic is incorporated in Delaware and its head office is located at 200 Research Drive, Wilmington, Massachusetts, 01887.

9. Symbotic's Class A common stock trades on the NASDAQ Exchange ("NASDAQ") under the ticker symbol "SYM".

10. Defendant Richard B. Cohen (“Cohen”) served as the Company’s Chief Executive Officer (“CEO”) throughout the entire Class Period.

11. Defendant Carol Hibbard (“Hibbard”) served as the Company’s Chief Financial Officer (“CFO”) throughout the entire Class Period.

12. Defendant Maria G. Freve (“Freve”) served as the Company’s Controller and Chief Accounting Officer throughout the entire Class Period.

13. Defendants Cohen, Hibbard, and Freve are collectively referred to herein as the “Individual Defendants.”

14. Each of the Individual Defendants:

- (a) directly participated in the management of the Company;
- (b) was directly involved in the day-to-day operations of the Company at the highest levels;
- (c) was privy to confidential proprietary information concerning the Company and its business and operations;
- (d) was directly or indirectly involved in drafting, producing, reviewing and/or disseminating the false and misleading statements and information alleged herein;
- (e) was directly or indirectly involved in the oversight or implementation of the Company’s internal controls;
- (f) was aware of or recklessly disregarded the fact that the false and misleading statements were being issued concerning the Company; and/or
- (g) approved or ratified these statements in violation of the federal securities laws.

15. Symbotic is liable for the acts of the Individual Defendants and its employees under the doctrine of *respondeat superior* and common law principles of agency because all of the wrongful acts complained of herein were carried out within the scope of their employment.

16. The scienter of the Individual Defendants and other employees and agents of the Company is similarly imputed to Symbotic under *respondeat superior* and agency principles.

17. Defendants Symbotic and the Individual Defendants are collectively referred to herein as “Defendants.”

SUBSTANTIVE ALLEGATIONS
Materially False and Misleading
Statements Issued During the Class Period

18. On May 7, 2024, the Company filed with the SEC its quarterly report on Form 10-Q for the period ending March 30, 2024 (the “1Q24 Report”). Attached to the 2Q24 Report were certifications pursuant to the Sarbanes-Oxley Act of 2002 (“SOX”) signed by Defendants Cohen and Hibbard attesting to the accuracy of financial reporting, the disclosure of any material changes to the Company’s internal control over financial reporting, and the disclosure of all fraud.

19. On July 31, 2024, the Company filed with the SEC its quarterly report on Form 10-Q for the period ending June 29, 2024 (the “3Q24 Report”). Attached to the 1Q24 Report were certifications pursuant to the Sarbanes-Oxley Act of 2002 (“SOX”) signed by Defendants Cohen and Hibbard attesting to the accuracy of financial reporting, the disclosure of any material changes to the Company’s internal control over financial reporting, and the disclosure of all fraud.

20. The 2Q24 Report contained the following statement regarding the Company’s evaluation of its disclosure controls and procedures:

[As] of March 30, 2024, our Chief Executive Officer and Chief Financial Officer concluded that, as of such date, our disclosure controls and procedures were effective at the reasonable assurance level.

21. This statement was materially false and misleading at the time it was made because the Company had ineffective internal controls.

22. The 3Q24 Report contained the following statement regarding the Company's evaluation of its disclosure controls and procedures:

[As] of June 29, 2024, our Chief Executive Officer and Chief Financial Officer concluded that, as of such date, our disclosure controls and procedures were effective at the reasonable assurance level.

23. This statement was materially false and misleading at the time it was made because the Company had ineffective internal controls.

24. The 2Q24 and 3Q24 Reports both contained a section entitled "Part I. Item 1 - *Unaudited Condensed Consolidated Financial Statements.*"

25. The contents of this section, particularly those numbers related to revenue, were materially misleading and false at the time it was made because the company had improperly accelerated its recognition of revenue.

THE TRUTH BEGINS TO EMERGE

26. On November 27, 2024, the Company filed with the SEC a filing notice on Form 8-K/A, which stated the following:

[T]he Company identified errors in its revenue recognition related to cost overruns on certain deployments that will not be billable, which additionally impacted system revenue, income (loss) before income tax, net income (loss) and gross margin recognized in the second, third, and fourth quarters of fiscal year 2024. The Company, on the recommendation of the Audit Committee of the Company's Board of Directors, determined to also correct these errors in the previously issued unaudited interim financial statements for the second and third quarters of fiscal year 2024 that were previously filed in the Fiscal 2024 Form 10-Qs. In addition, the financial information included in the Company's earnings press release for the fourth quarter and fiscal year 2024, issued on November 18, 2024, as well as the Company's supplemental presentation issued on November 18, 2024, will be corrected in the Company's Annual Report on Form 10-K for the fiscal year ended September 28, 2024 (the "2024 Form 10-K"). The Company's previously issued financial statements for these periods, including the financial information included

in the Company's earnings press release for the fourth quarter and fiscal year 2024 and the Company's supplemental presentation, should therefore no longer be relied upon.

The Company's management has identified in its preliminary assessment of internal control over financial reporting for the fiscal year ended September 28, 2024 certain material weaknesses. The Company is implementing measures designed to improve internal control over financial reporting to remediate these material weaknesses.

27. On this news, the price of Symbotic stock went down by \$13.41, or 35.8%, to close at \$24.00 per share on November 27, 2024.

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

PLAINTIFF'S CLASS ACTION ALLEGATIONS

29. 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 other than defendants who acquired Symbotic securities publicly traded on the NASDAQ during the Class Period, and who were damaged thereby (the "Class"). Excluded from the Class are Defendants, the officers and directors of Symbotic, members of the Individual Defendants' immediate families and their legal representatives, heirs, successors or assigns and any entity in which Defendants have or had a controlling interest.

30. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, Symbotic securities were actively traded on NASDAQ. While the exact number of Class members is unknown to Plaintiff at this time and can be ascertained only through appropriate discovery, Plaintiff believes that there are hundreds, if not thousands of members in the proposed Class.

31. 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.

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

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

- whether the Exchange Act was violated by Defendants' acts as alleged herein;
- whether statements made by Defendants to the investing public during the Class Period misrepresented material facts about the business and financial condition of Symbotic;
- whether Defendants' public statements to the investing public during the Class Period omitted material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading;
- whether the Defendants caused Symbotic to issue false and misleading filings during the Class Period;
- whether Defendants acted knowingly or recklessly in issuing false filings;
- whether the prices of Symbotic securities during the Class Period were artificially inflated because of the Defendants' conduct complained of herein; and
- whether the members of the Class have sustained damages and, if so, what is the proper measure of damages.

34. 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.

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

- Symbotic shares met the requirements for listing, and were listed and actively traded on NASDAQ, an efficient market;
- As a public issuer, Symbotic filed periodic public reports;
- Symbotic regularly communicated with public investors via established market communication mechanisms, including through the regular dissemination of press releases via major newswire services and through other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services;
- Symbotic's securities were liquid and traded with moderate to heavy volume during the Class Period; and
- Symbotic was followed by a number of securities analysts employed by major brokerage firms who wrote reports that were widely distributed and publicly available.

36. Based on the foregoing, the market for Symbotic securities promptly digested current information regarding Symbotic from all publicly available sources and reflected such

information in the prices of the shares, and Plaintiff and the members of the Class are entitled to a presumption of reliance upon the integrity of the market.

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

COUNT I
For Violations of Section 10(b) And Rule 10b-5 Promulgated Thereunder
Against All Defendants

38. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

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

40. During the Class Period, Defendants, individually and in concert, directly or indirectly, disseminated or approved the false statements specified above, which they knew or deliberately disregarded were misleading in that they contained misrepresentations and failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

41. Defendants violated §10(b) of the 1934 Act and Rule 10b-5 in that they:
- employed devices, schemes and artifices to defraud;
 - made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

- engaged in acts, practices and a course of business that operated as a fraud or deceit upon plaintiff and others similarly situated in connection with their purchases of Symbotic securities during the Class Period.

42. Defendants acted with scienter in that they knew that the public documents and statements issued or disseminated in the name of Symbotic were materially false and misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated, or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the securities laws. These defendants by virtue of their receipt of information reflecting the true facts of Symbotic, their control over, and/or receipt and/or modification of Symbotic's allegedly materially misleading statements, and/or their associations with the Company which made them privy to confidential proprietary information concerning Symbotic, participated in the fraudulent scheme alleged herein.

43. Individual Defendants, who are the senior officers and/or directors of the Company, had actual knowledge of the material omissions and/or the falsity of the material statements set forth above, and intended to deceive Plaintiff and the other members of the Class, or, in the alternative, acted with reckless disregard for the truth when they failed to ascertain and disclose the true facts in the statements made by them or other Symbotic personnel to members of the investing public, including Plaintiff and the Class.

44. As a result of the foregoing, the market price of Symbotic securities was artificially inflated during the Class Period. In ignorance of the falsity of Defendants' statements, Plaintiff and the other members of the Class relied on the statements described above and/or the integrity of the market price of Symbotic securities during the Class Period in purchasing Symbotic

securities at prices that were artificially inflated as a result of Defendants' false and misleading statements.

45. Had Plaintiff and the other members of the Class been aware that the market price of Symbotic securities had been artificially and falsely inflated by Defendants' misleading statements and by the material adverse information which Defendants did not disclose, they would not have purchased Symbotic securities at the artificially inflated prices that they did, or at all.

46. As a result of the wrongful conduct alleged herein, Plaintiff and other members of the Class have suffered damages in an amount to be established at trial.

47. By reason of the foregoing, Defendants have violated Section 10(b) of the 1934 Act and Rule 10b-5 promulgated thereunder and are liable to the plaintiff and the other members of the Class for substantial damages which they suffered in connection with their purchase of Symbotic securities during the Class Period.

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

48. Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

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

50. As officers and/or directors of a publicly owned company, the Individual Defendants had a duty to disseminate accurate and truthful information with respect to Symbotic's financial condition and results of operations, and to correct promptly any public statements issued by Symbotic which had become materially false or misleading.

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

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

PRAYER FOR RELIEF

WHEREFORE, plaintiff, on behalf of himself and the Class, prays for judgment and relief as follows:

(a) declaring this action to be a proper class action, designating plaintiff as Lead Plaintiff and certifying plaintiff as a class representative under Rule 23 of the Federal Rules of Civil Procedure and designating plaintiff's counsel as Lead Counsel;

(b) awarding damages in favor of plaintiff and the other Class members against all defendants, jointly and severally, together with interest thereon;

awarding plaintiff and the Class reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

(d) awarding plaintiff and other members of the Class such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.