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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

LYNN POWERS, Individually and  
on behalf of all others similarly  
situated,

Plaintiff,

v.

SONA NANOTECH INC., DAVID  
REGAN, and ROBERT RANDALL,

Defendants.

Case No.

CLASS ACTION

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

JURY TRIAL DEMANDED

Plaintiff Lynn Powers (“Plaintiff”) alleges the following upon personal knowledge as to allegations specifically pertaining to Plaintiff and, as to all other matters, upon the investigation of counsel, which included: (a) review and analysis of public filings with the United States (“U.S.”) Securities and Exchange Commission (“SEC”) made by Sona Nanotech Inc. (“Sona” or the “Company”) and related parties; (b) review and analysis of

1 press releases and other publications disseminated by Sona and related parties; (c) review  
2 and analysis of shareholder communications, conference calls and postings on Sona’s  
3 website concerning the Company’s public statements; (d) review and analysis of news  
4 articles concerning Sona and related parties; and (e) review of other publicly available  
5 information concerning Sona, related parties, and/or the Individual Defendants (as defined  
6 below).  
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10 **NATURE OF THE ACTION**

11 1. This is a federal securities class action brought on behalf of all persons or  
12 entities that purchased or otherwise acquired Sona securities between July 2, 2020 and  
13 November 25, 2020, inclusive (the “Class Period”), seeking to pursue remedies under the  
14 Securities Exchange Act of 1934 (the “Exchange Act”). Plaintiff alleges that Defendants  
15 violated the Exchange Act by publishing false and misleading statements to artificially  
16 inflate the prices of the Company’s securities.  
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19 **JURISDICTION AND VENUE**

20 2. The claims asserted herein arise under and pursuant to Sections 10(b) and  
21 20(a) of the Exchange Act (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated  
22 thereunder by the SEC (17 C.F.R. § 240.10b-5).  
23

24 3. This Court has jurisdiction over the subject matter of this action pursuant to  
25 28 U.S.C. § 1331, and Section 27 of the Exchange Act (15 U.S.C. § 78aa).  
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1           9. Defendant Robert Randall (“Randall”) served as the Company’s Chief  
2 Financial Officer during the Class Period.

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4           10. Defendants Regan and Randall are collectively referred to herein as the  
5 “Individual Defendants.”

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7           11. Each of the Individual Defendants: (i) directly participated in the  
8 management of the Company; (ii) was directly involved in the day-to-day operations of  
9 the Company at the highest levels; (iii) was privy to confidential proprietary information  
10 concerning the Company and its business and operations; (iv) was directly or indirectly  
11 involved in drafting, producing, reviewing and/or disseminating the false and misleading  
12 statements and information alleged herein; (v) was directly or indirectly involved in the  
13 oversight or implementation of the Company’s internal controls; (vi) was aware of or  
14 recklessly disregarded the fact that the false and misleading statements were being issued  
15 concerning the Company; and/or (vii) approved or ratified these statements in violation of  
16 the federal securities laws.  
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20           12. The Company is liable for the acts of the Individual Defendants and its  
21 employees under the doctrine of *respondeat superior* and common law principles of  
22 agency because all of the wrongful acts complained of herein were carried out within the  
23 scope of their employment.  
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1 U.S. to conduct one such study and a university affiliated laboratory  
2 outside of the U.S. to conduct a second. ***The Company has been***  
3 ***informed that the results of these field studies should be provided by***  
4 ***the end of July, at which time it intends to make final submissions to***  
5 ***regulatory authorities in multiple jurisdictions.*** During this time,  
6 technology transfer will continue and quality assurance manufacturing  
7 batches are expected to be run with manufacturing partners. The  
8 Company is committed to maintaining ongoing evaluations of its test  
9 in order to understand its performance in a wide range of testing  
10 environments.

11 (Emphases added.)

12 16. The statements contained in ¶ 15 were materially false and/or misleading  
13 because they misrepresented and failed to disclose the following adverse facts pertaining  
14 to the Company's business, operations and prospects, which were known to Defendants  
15 or recklessly disregarded by them. Specifically, Defendants made false and/or misleading  
16 statements and/or failed to disclose that: (i) it was unreasonable for Sona to represent that  
17 it could receive results from field studies of its COVID-19 antigen test within a month; (ii)  
18 Sona's positive statements about its COVID-19 antigen test were unfounded as the FDA  
19 would deprioritize EUA approval of Sona's antigen test finding it did not meet "the public  
20 health need" criterion; (iii) it was unreasonable for Sona to believe that data gathered over  
21 such a short period of time would be sufficient for approval of its antigen test by either the  
22 FDA or Health Canada; (iv) Sona would have to withdraw its submission for Interim Order  
23 ("IO") authorization from Health Canada for the marketing of its COVID-19 antigen test  
24 as it lacked sufficient clinical data to support approval; and (v) as a result, Defendants'  
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1 statements about its business, operations, and prospects were materially false and  
2 misleading and/or lacked a reasonable basis at all relevant times.

### 3 4 The Truth Emerges

5 17. On August 6, 2020, Sona published a press release providing an update on  
6 the status of its COVID-19 antigen test and stating there would be a delay in results. The  
7 press release stated, in relevant part:  
8

9 Sona . . . announces that *its previously announced clinical, in-field*  
10 *evaluation studies for its rapid detection, COVID-19 antigen test that*  
11 *commenced in July continue and are now expected to return their full*  
12 *results within two weeks. The delays have been due to ethics review*  
13 *board approvals and a need to make study modifications to*  
14 *accommodate regulatory updates, including for study enrolment*  
15 *criteria and assessment at point of care settings, as well as for test*  
16 *handling procedures.* The evaluation protocol for these studies  
17 incorporates aspects of the revised guidance released by the FDA on  
18 July 29, 2020. The FDA’s new template for commercial developers of  
19 non-lab COVID-19 tests included updated guidance on performance  
20 evaluation studies, comparator methodology, flex studies, human  
21 usability studies, and clinical evaluation, amongst other study  
22 components. The Company is committed to the robust evaluation of its  
23 COVID-19 antigen test and to submitting a comprehensive data set in  
24 its submissions to the FDA and Health Canada that adheres to its  
25 recommended guidance.

26 \* \* \*

27 *The data from these studies will be used to support the Company’s*  
28 *analytical and clinical data as part of the submission it will make to*  
*Health Canada and the FDA for emergency use authorization*  
*(“EUA”) approval for its COVID-19 antigen test.* In addition to its in-  
field clinical evaluation studies, the Company has also provided  
prototype tests to several potential customers, under ‘research use only’  
labelling, with whom it has entered into letters of intent for larger  
purchases of its tests. These smaller studies are part of the Company’s

1 commitment to maintaining ongoing evaluations of its test in order to  
2 understand its performance in a wide range use case scenarios.

3 (Emphases added.)

4 18. On this news, shares of Sona fell \$3.29 per share, or over 35%, to close at  
5 \$5.91 per share on August 6, 2020.

6  
7 19. On October 29, 2020, Sona issued a press release announcing that the FDA  
8 had deprioritized its EUA review of the Company's COVID-19 antigen test, stating, in  
9 relevant part:  
10

11 *Sona . . . received notice from the FDA that the Company's request*  
12 *for an emergency use authorization ("EUA") for the marketing of its*  
13 *rapid, COVID-19 antigen test in the United States "is not a priority"*  
14 *and consequently such authorization will not be issued at this time.*  
15 *The FDA cited current EUA request prioritization criteria as*  
16 *including "the public health need for the product" and did not*  
*comment on the performance of the Sona test.*

17 Health Canada continues its evaluation of the Company's application  
18 for an Interim Order ("IO") authorization for its test as a 'point-of-care'  
19 medical diagnostic device. The Company yesterday received additional  
20 questions on its application. Also, Health Canada has submitted the  
21 Company's tests to the Public Health Agency of Canada's National  
22 Microbiology Laboratory for evaluation, which is ongoing.

23 (Emphasis added.)

24 20. On this news, shares of Sona fell \$2.77 per share, or over 48%, to close at  
25 \$3.00 per share on October 29, 2020, damaging investors.



1           21. On November 25, 2020, the Company issued a press release announcing that  
2 it withdrew its application of IO authorization from Health Canada for its COVID-19  
3 antigen test, stating, in relevant part:  
4

5           *Sona . . . withdrew its application for an Interim Order authorization*  
6 *(“IO”) from Health Canada for the marketing of its rapid, COVID-*  
7 *19 antigen test in order to obtain more clinical data to augment its*  
8 *submission.* The Company is committed to working with regulators to  
9 provide additional information and analysis on its test and to re-  
submitting its application as quickly as possible.

10           In addition to continuing to pursue approval of the Company’s rapid  
11 COVID-19 antigen test, which uses a nasal pharyngeal swab, the  
12 Company continues to validate its saliva sample-based version of the  
13 test. The Company intends to seek a large-scale trial specifically for its  
saliva-based test.

14 (Emphasis added.)

15           22. On this news, shares of Sona fell \$1.56 per share, or over 67%, to close at  
16 \$0.74 per share on November 25, 2020, damaging investors.

17           23. As a result of Defendants’ wrongful acts and omissions, and the precipitous  
18 decline in the market value of the Company’s shares, Plaintiff and other Class members  
19 have suffered significant losses and damages.  
20  
21

22                           **PLAINTIFF’S CLASS ACTION ALLEGATIONS**

23           24. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil  
24 Procedure 23(a) and (b)(3) on behalf of a class consisting of all persons or entities other  
25 than Defendants who acquired Sona securities during the Class Period, and who were  
26 damaged thereby (the “Class”). Excluded from the Class are Defendants, the officers and  
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1 directors of Sona and its subsidiaries, members of the Individual Defendants' immediate  
2 families and their legal representatives, heirs, successors or assigns and any entity in which  
3 Defendants have or had a controlling interest.

4  
5 25. The members of the Class are so numerous that joinder of all members is  
6 impracticable. Throughout the Class Period, Sona securities were actively traded on the  
7 OTC. While the exact number of Class members is unknown to Plaintiff at this time and  
8 can be ascertained only through appropriate discovery, Plaintiff believes that there are  
9 hundreds, if not thousands of members in the proposed Class.  
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12 26. Plaintiff's claims are typical of the claims of the members of the Class as all  
13 members of the Class are similarly affected by Defendants' wrongful conduct in violation  
14 of federal law that is complained of herein.  
15

16 27. Plaintiff will fairly and adequately protect the interests of the members of the  
17 Class and has retained counsel competent and experienced in class and securities litigation.  
18 Plaintiff has no interests antagonistic to or in conflict with those of the Class.  
19

20 28. Common questions of law and fact exist as to all members of the Class and  
21 predominate over any questions solely affecting individual members of the Class. Among  
22 the questions of law and fact common to the Class are:  
23

- 24 • whether the Exchange Act was violated by Defendants' acts as alleged  
25 herein;  
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- 1 • whether statements made by Defendants to the investing public during the
- 2 Class Period misrepresented material facts about the financial condition and
- 3 business of Sona;
- 4
- 5 • whether Defendants' public statements to the investing public during the
- 6 Class Period omitted material facts necessary to make the statements made,
- 7 in light of the circumstances under which they were made, not misleading;
- 8
- 9 • whether the Defendants caused Sona to issue false and misleading filings
- 10 during the Class Period;
- 11
- 12 • whether Defendants acted knowingly or recklessly in issuing false filings;
- 13
- 14 • whether the prices of Sona securities during the Class Period were artificially
- 15 inflated because of the Defendants' conduct complained of herein; and
- 16
- 17 • whether the members of the Class have sustained damages and, if so, what is
- 18 the proper measure of damages.

19 29. A class action is superior to all other available methods for the fair and  
20 efficient adjudication of this controversy since joinder of all members is impracticable.  
21 Furthermore, as the damages suffered by individual Class members may be relatively  
22 small, the expense and burden of individual litigation make it impossible for members of  
23 the Class to individually redress the wrongs done to them. There will be no difficulty in  
24 the management of this action as a class action.  
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1           30. Plaintiff will rely, in part, upon the presumption of reliance established by the  
2 fraud-on-the-market doctrine in that:

- 3           • Sona shares met the requirements for listing, and were listed and actively  
4 traded on OTC, an efficient market;
- 5           • As a public issuer, Sona filed periodic public reports;
- 6           • Sona regularly communicated with public investors via established market  
7 communication mechanisms, including through the regular dissemination of  
8 press releases via major newswire services and through other wide-ranging  
9 public disclosures, such as communications with the financial press and other  
10 similar reporting services;
- 11           • Sona’s securities were liquid and traded with sufficient volume during the  
12 Class Period; and
- 13           • Sona was followed by a number of securities analysts employed by major  
14 brokerage firms who wrote reports that were widely distributed and publicly  
15 available.

16           31. Based on the foregoing, the market for Sona securities promptly digested  
17 current information regarding Sona from all publicly available sources and reflected such  
18 information in the prices of the Company’s securities, and Plaintiff and the members of  
19 the Class are entitled to a presumption of reliance upon the integrity of the market.  
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- 1 • made untrue statements of material facts or omitted to state material facts  
2 necessary in order to make the statements made, in light of the circumstances  
3 under which they were made, not misleading; or
- 4 • engaged in acts, practices and a course of business that operated as a fraud or  
5 deceit upon Plaintiff and others similarly situated in connection with their  
6 purchases of Sona securities during the Class Period.

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

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

3  
4 39. As a result of the foregoing, the market price of Sona securities was  
5 artificially inflated during the Class Period. In ignorance of the falsity of Defendants'  
6 statements, Plaintiff and the other members of the Class relied on the statements described  
7 above and/or the integrity of the market price of Sona securities during the Class Period  
8 in purchasing Sona securities at prices that were artificially inflated as a result of  
9 Defendants' false and misleading statements.  
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11  
12 40. Had Plaintiff and the other members of the Class been aware that the market  
13 price of Sona securities had been artificially and falsely inflated by Defendants'  
14 misleading statements and by the material adverse information which Defendants did not  
15 disclose, they would not have purchased Sona securities at the artificially inflated prices  
16 that they did, or at all.  
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18  
19 41. As a result of the wrongful conduct alleged herein, Plaintiff and other  
20 members of the Class have suffered damages in an amount to be established at trial.  
21

22 42. By reason of the foregoing, Defendants have violated Section 10(b) of the  
23 Exchange Act and Rule 10b-5 promulgated thereunder and are liable to Plaintiff and the  
24 other members of the Class for substantial damages which they suffered in connection  
25 with their purchases of Sona securities during the Class Period.  
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**COUNT II**

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

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

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7 44. During the Class Period, the Individual Defendants participated in the  
8 operation and management of Sona, and conducted and participated, directly and  
9 indirectly, in the conduct of Sona’s business affairs. Because of their senior positions,  
10 they knew the adverse non-public information about Sona’s misstatement of revenue and  
11 profit and false financial statements.  
12

13  
14 45. As officers and/or directors of a publicly owned company, the Individual  
15 Defendants had a duty to disseminate accurate and truthful information with respect to  
16 Sona’s financial condition and results of operations, and to correct promptly any public  
17 statements issued by Sona which had become materially false or misleading.  
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20 46. Because of their positions of control and authority as senior officers, the  
21 Individual Defendants were able to, and did, control the contents of the various reports,  
22 press releases and public filings which Sona disseminated in the marketplace during the  
23 Class Period concerning Sona’s results of operations. Throughout the Class Period, the  
24 Individual Defendants exercised their power and authority to cause Sona to engage in the  
25 wrongful acts complained of herein. The Individual Defendants, therefore, were  
26 “controlling persons” of Sona within the meaning of Section 20(a) of the Exchange Act.  
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1 In this capacity, they participated in the unlawful conduct alleged which artificially  
2 inflated the market price of Sona securities.

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

6  
7 **PRAYER FOR RELIEF**

8 **WHEREFORE**, Plaintiff, on behalf of Plaintiff and the Class, prays for judgment  
9 and relief as follows:

10  
11 A. Declaring this action to be a proper class action, designating Plaintiff as Lead  
12 Plaintiff and certifying Plaintiff as a class representative under Rule 23 of the Federal  
13 Rules of Civil Procedure and designating Plaintiff's counsel as Lead Counsel;

14  
15 B. Awarding damages in favor of Plaintiff and the other Class members against  
16 all defendants, jointly and severally, together with interest thereon;

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18 C. Awarding Plaintiff and the Class reasonable costs and expenses incurred in  
19 this action, including counsel fees and expert fees; and

20  
21 D. Awarding Plaintiff and other members of the Class such other and further  
22 relief as the Court may deem just and proper.

23 **JURY TRIAL DEMANDED**

24 Plaintiff hereby demands a trial by jury.

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26 Dated: January 8, 2021

Respectfully submitted,

27 **POMERANTZ LLP**

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