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**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

CHRIS SMITH, CHERYL SMITH, KAREN SMITHSON, JASON ROUSH, COREY POMROY, FRANK ORTEGA, LESLIE WHITE, ALBERTO CORNEA, MICHELLE ROGERS, JOSHUA BAYS, DEBORAH CLASS and AMBER JONES, individually and on behalf of all other similarly situated individuals,

Plaintiffs,

v.

APPLE INC.,

Defendant.

Case No.: 4:21-cv-09527-HSG

**AMENDED CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

1 Plaintiffs Chris Smith, Cheryl Smith, Karen Smithson, Jason Roush, Corey Pomroy, Frank  
2 Ortega, Leslie White, Alberto Cornea, Michelle Rogers, Joshua Bays, Deborah Class, and Amber Jones,  
3 individually and on behalf of all others similarly situated, allege as follows against Defendant Apple,  
4 Inc.:

### 5 INTRODUCTION

6 1. This action is brought on behalf of individuals who purchased First Generation (“Series  
7 0”), Series 1 through Series 6, and Series SE Apple Watches (collectively, the “Apple Watch” or  
8 “Watch”). Apple has consistently marketed its Watch as a safe wearable device designed to help  
9 consumers live safer and healthier lifestyles.

10 2. However, the Apple Watch contains an undisclosed and unreasonably dangerous safety  
11 hazard. The Watch is a small wearable device intended to rest on a user’s wrist with no thermal or other  
12 solution to prevent and/or mitigate the danger of a detached, shattered, or cracked Watch screen  
13 resulting from the insufficient space allocated within the device for the rectangular shaped,  
14 electromagnetically charged lithium cobalt oxide battery inside a polymer pouch (the “Defect”). Despite  
15 knowing that the battery inside the Watch can suddenly swell, Apple allocated insufficient room inside  
16 the Watch for it to freely expand without affecting the Watch screen face and/or failed to incorporate a  
17 protective guard to keep it from making contact with the Watch screen face, and/or otherwise failed to  
18 prevent detachment, shattering, or cracking of the Watch screen face as described above. The swelling  
19 creates considerable upward pressure on the Watch face, causing detachment, shattering, and/or  
20 cracking of the screen through no fault of the wearer, exposing its razor-sharp edges and leading to  
21 operational failure of the Watch and/or personal injuries resulting from unintended bodily contact with  
22 the detached, shattered, or cracked screen.

23 3. The Defect is not the normal degradation of the lithium-ion battery, but instead the  
24 placement of that battery in the above-described configuration where the battery’s expansion can cause  
25 screen damage or detachment, operationally destroy the product, and harm or potentially harm the user.

26 4. The detached, shattered, or cracked screens are a material and unreasonably dangerous  
27 safety hazard. The screens are made either of Ion-X glass (aluminum models) or sapphire crystal glass  
28 (stainless steel and titanium models) and each has a razor-sharp edge on all four sides. Even after a

1 failure, the exposed screen remains secured to the back of the Watch (and therefore within close  
2 proximity to a consumer's body) by means of the tiny flexible wire depicted below.



12  
13 5. When a consumer's body contacts the sharp edge of the detached, shattered, or cracked  
14 screen, there is substantial and material risk of serious injury, including lacerations, cuts, abrasions, and  
15 other injuries.

16 6. The defective Watches injured Plaintiff Chris Smith and other Class members. The  
17 injury to Chris Smith caused by the detached screen of a Series 3 Apple Watch is depicted below:



27 7. Apple Watch First Generation, Series 1 through Series 6, and Series SE all contain the  
28 same Defect, regardless of the model or case size.

1           8.       The Defect affects the core or central functionality of the Watch and often manifests  
2 during the stated express and implied warranty periods, and/or during the periods covered by Apple’s  
3 limited Screen Replacement Program (described below). The Defect can also manifest after the  
4 warranty and/or Screen Replacement Program periods.

5           9.       Since 2015, Apple has sold tens of millions of Watches with the Defect throughout the  
6 United States and knew that the Watches contain the Defect and were unmerchantable and/or not fit for  
7 their intended purpose. Nonetheless, Apple failed to disclose the Defect to Plaintiffs and Class members  
8 prior to, at, and since the time of purchase.

9           10.      The Defect poses a material and unreasonable safety hazard to consumers, as it has  
10 caused many purchasers to suffer lacerations, cuts, abrasions, and/or other injuries in connection with  
11 the screens cracking, shattering and/or detaching from the body of the Watches. Notwithstanding the  
12 material and unreasonable safety hazard caused by the Defect with the Watches, Apple did not disclose  
13 the Defect to consumers.

14           11.      Further, Apple’s conduct, when confronted with the Defect, indicates that its internal  
15 policy has been to deny the existence of the Defect, claim the Defect was the result of “accidental  
16 damage” caused by consumers, and then refuse to honor its Limited Warranty on those grounds.  
17 Consumers who are refused coverage under the Limited Warranty are faced with the choice of incurring  
18 the significant expense of repairing or replacing their defective Watches.

19           12.      Apple knew that purchasers of the Watches would reasonably expect the screens to  
20 function in a predictable and expected manner, and not crack, shatter, or detach from the body of the  
21 Watch during normal use. Plaintiffs and Class members have precisely that expectation. Apple was also  
22 aware that purchasers of the Watches would reasonably expect that the Watches would not pose an  
23 unreasonable safety hazard, just as Plaintiffs and Class members expected. Further, Apple knew that  
24 purchasers of the Watches would reasonably expect that potential defects, including the Defect, would  
25 be covered under its Limited Warranty if they manifested themselves during the warranty period, just as  
26 Plaintiffs and other consumers expected.

27           13.      Plaintiffs and other Class members were unaware of the Defect at the time of purchase.  
28 Had Plaintiffs and other Class members known about the Defect at the time of purchase, Plaintiffs and

1 Class members would not have purchased a Watch, would have paid substantially less, or would have  
2 returned their Watch during their respective buyer's remorse periods.<sup>1</sup>

3 14. Plaintiffs and other Class members would purchase a Watch in the future if the devices  
4 were reasonably safe, functioned as advertised, and if the Court ordered Apple to comply with all  
5 pertinent advertising and warranty laws.

6 15. As a result of the Defect in the Watches and the monetary costs associated with  
7 overpayment, repair, replacement, and lost use of the Watches, Plaintiffs and Class members have  
8 suffered injury in fact, incurred ascertainable loss and damages, and have otherwise been harmed by  
9 Apple's conduct.

10 16. Plaintiffs bring this class action on behalf of themselves and all other similarly situated  
11 persons who purchased a First Generation, Series 1 through Series 6, or Series SE Apple Watch for the  
12 purpose of obtaining damages, or, if not available, then restitution, injunctive, and/or other equitable  
13 relief. More specifically, this action is brought to remedy violations of law in connection with Apple's  
14 misconduct, including: its fraudulent omission of material facts concerning the Defect during the  
15 distribution, marketing, sale and advertisement of the Watches; violations of certain consumer protection  
16 statutes; and breach of implied warranties and warranty statutes.

17 17. Plaintiffs and the Class allege violations of the California Unlawful Competition Law,  
18 Cal. Bus. & Prof. Code §§ 17200, *et seq.* ("UCL"); violations of the California Consumers Legal  
19 Remedies Act, Cal. Civ. Code §§ 1750, *et seq.* ("CLRA"); fraudulent omissions; violations of the Song-  
20 Beverly Consumer Warranty Act, Cal. Civ. Code § 1791 *et seq.*; breaches of implied warranties;  
21 violations of the Magnuson Moss Warranty Act, 15 U.S.C. § 2301, *et seq.*; and violations of state law as  
22 described in more detail below.

23 18. For clarity, neither the original Complaint nor this Amended Complaint allege causes of  
24

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25 <sup>1</sup> Apple permits consumers to return the Watch 14 days after the date of purchase.  
26 [https://www.apple.com/shop/help/returns\\_refund](https://www.apple.com/shop/help/returns_refund). Best Buy permits consumers to return the Watch 14  
27 days after the date of purchase. [https://www.bestbuy.com/site/help-topics/return-exchange-  
policy/pcmcat260800050014.c?id=pcmcat260800050014](https://www.bestbuy.com/site/help-topics/return-exchange-policy/pcmcat260800050014.c?id=pcmcat260800050014). AT&T permits consumers to return the  
28 Watch 14 days after the date of purchase. <https://www.att.com/wireless/return-policy/> (click on  
"Consumer Returns – Devices and Accessories").

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