

BURSOR & FISHER, P.A.

L. Timothy Fisher (State Bar No. 191626)
Sean L. Litteral (State Bar No. 331985)
1990 North California Blvd., Suite 940
Walnut Creek, CA 94596
Telephone: (925) 300-4455
Facsimile: (925) 407-2700
Email: ltfisher@bursor.com
slitteral@bursor.com

BURSOR & FISHER, P.A.

Joseph I. Marchese (*pro hac vice forthcoming*)
888 Seventh Avenue
New York, NY 10019
Telephone: (646) 837-7150
Facsimile: (212) 989-9163
Email: jmarchese@bursor.com

Attorneys for Plaintiffs

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

CHRISTOPHER BRYAN and HERIBERTO
VALIENTE, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

APPLE INC.,

Defendant.

Case No. 4:22-cv-00845-HSG

**FIRST AMENDED CLASS ACTION
COMPLAINT**

JURY TRIAL DEMANDED

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1 Plaintiffs Christopher Bryan and Heriberto Valiente (“Plaintiffs”) bring this action on
 2 behalf of themselves and all others similarly situated against Defendant Apple Inc. (“Apple” or
 3 “Defendant”) for the manufacture, marketing, detailing, distribution, and sale of the defective
 4 Apple iPad Mini (6th Generation) (“iPad Mini,” “iPad Mini 6,” or “iPad”). Plaintiffs make the
 5 following allegations pursuant to the investigation of counsel and based upon information and
 6 belief, except as to the allegations specifically pertaining to themselves, which are based on
 7 personal knowledge.

8 NATURE OF THE ACTION

9 1. This action is brought on behalf of purchasers of Apple’s iPad Mini 6. Apple
 10 markets and sells the iPad Mini 6 as a premium tablet, debuting on September 14, 2021, with sales
 11 beginning on September 24, 2021, at a weighty price tag of \$499 for the 64 gigabyte (“GB”)
 12 version and \$649 for the 256GB version. But the iPad Mini is defective, as the liquid crystal
 13 display (“LCD”) is prone to “screen tearing which can make images or text on one side of the
 14 screen appear to be tilted at a downward angle because of incongruity in refresh rates,” causing
 15 “one side of the screen [to] look[] as if it’s responding faster than the other side, which creates [a]
 16 visual disturbance” called “jelly scrolling” that Apple has acknowledged¹ (the “Jelly Scroll Defect”
 17 or “Defect”), and which manifests in a manner substantially similar to the following image:²



26 ¹ Corina Garcia, “Apple Responds to Controversial ‘Jelly Scrolling’ [],” *Front Page Tech* (Sept. 28,
 27 2021), <https://www.frontpagetech.com/2021/09/28/apple-responds-to-controversial-jelly-scrolling-on-ipad-mini-6-says-its-normal/> (last accessed Apr. 19, 2022).

28 ² Shujja Imran, “Wobbly Jelly Scrolling on Your iPad mini 6 Screen? Apple Says It’s Normal,”
MakeUseOf (Oct. 7, 2021), <https://tinyurl.com/4fwt2fw3> (last accessed Apr. 19, 2022).

1 2. As the photograph on the preceding page reveals, the visual disturbance goes to the
2 core functionality of the Device as the display is a users' principal means of interacting with the
3 Device. Due to the Defect, the iPad Mini bends, warps, blurs and obscures text and images
4 rendering the Device unusable. Worse yet, users have reported motion sickness, nausea, vomiting,
5 and migraines when using the Device due to the Defect.³ Although Apple itself publicly
6 acknowledged the problem to niche tech publications just four days after the iPad Mini's release,⁴
7 Apple has continued to sell the iPad Mini and has refused to fix the problem or to amend its
8 marketing materials to reflect the existence of the Defect. Instead, Apple has insisted, against the
9 weight of evidence, that the Defect is normal.

10 3. This is even though thousands of users have reported the problem directly to Apple
11 and on Apple sponsored forums. This onslaught of negative reviews prompted computer engineers
12 with the tech journal, *iFixit*, to complete a "teardown" of the Device to learn the source of the
13 Defect.⁵ As the photograph below demonstrates, the computer engineers discovered that the iPad
14 Mini has a controller board that is located in a vertical orientation on the left-hand side of the
15 Device.



25 ³ "Class Action Lawsuit Against Apple for Jelly Scrolling," *MacRumors* (Oct. 2, 2021),
26 <https://tinyurl.com/4e6tzzc6> (last accessed Apr. 19, 2022).

27 ⁴ Malcolm Owen, "Apple dismisses iPad mini 'jelly scroll' issue as normal behavior," *Apple*
28 *Insider* (Sept. 28, 2021), <https://tinyurl.com/2p8dnnvb> (last accessed Apr. 19, 2022).

⁵ Juli Clover, "iFixit Explains iPad Mini 'Jelly Scroll' Issue in Teardown Video," *MacRumors*
(Sept. 29, 2021), <https://tinyurl.com/2xvm7ytc> (last accessed Apr. 19, 2022).

1 4. By contrast, the iPad Air, which does not exhibit the same issue, has a controller
2 board located at the top of the tablet. According to the engineer responsible for the teardown:

3 When you scroll parallel to the direction the display is refreshing, the
4 display still isn't refreshing all at once, but the effect of the refresh is
5 less noticeable because it's not splitting the text.

6 This is why you probably don't notice this on other displays. The
7 jelly scroll is usually masked because the display is refreshing (or
8 scanning) parallel to whichever way the scrolling motion is taking
9 place. So a computer monitor will refresh vertically in its landscape
10 orientation, and a smartphone will refresh vertically in its portrait
11 orientation.

12 **It just so happens that this iPad [M]ini display is refreshing**
13 **horizontally when you hold it in its vertical orientation, which is**
14 **the way you typically hold an iPad to scroll.**^[6]

15 5. Despite the mountain of pre-discovery evidence of the Defect and Apple's
16 knowledge of the issue stemming from (1) its own quality control and internal testing; (2) in-store
17 display models that exhibit the Defect free of user interference; (3) repairs data and internal
18 reporting mechanisms; (4) complaints made directly to Apple in person, over the phone, and via
19 online submissions, (5) complaints posted online across the internet, including on the websites of
20 major retailers, and on its own forums; (6) online reputation management; (7) articles written by
21 tech journals; (8) the *iFixit* tear down demonstrating the Defect; and (9) Apple's statements
22 acknowledging the Defect, Apple has refused to issue a recall or otherwise fix the issue. Instead,
23 as one journalist has written, "iPad mini 6 users appear to have been relegated to a weird state of
24 helplessness at this moment where neither hardware nor software support for the issue appears to
25 be in the pipeline."⁷

26 6. Accordingly, Plaintiffs bring their claims against Apple individually and on behalf
27 of a class of all others similarly situated for (1) violation of California's Unfair Competition Law,
28 Cal. Bus. & Prof. Code § 17200, *et seq.*; (2) violation of the Consumers Legal Remedies Act, Cal.

26 ⁶ *Id.* (emphasis added).

27 ⁷ Nadeem Sarwar, "Don't Expect Apple to Fix iPad Mini 6's Jelly Scrolling Issue," *Screen Rant*
28 (Sept. 29, 2021), <https://screenrant.com/ipad-mini-6-jelly-scroll-not-issue-problem-apple/> (last
accessed Apr. 19, 2022).

1 Civ. Code § 1750, *et seq.*; (3) violation of California’s False Advertising Law, Cal. Bus. & Prof.
2 Code § 17500, *et seq.*; (4) violation of the Colorado Consumer Protection Act, Colo. Rev. Stat. § 6-
3 1-101, *et seq.*; (5) violation of the Florida Deceptive and Unfair Trade Practices Act, Fla. Stat.
4 § 501.201, *et seq.*; (6) Fraud; (7) Fraudulent Omission or Concealment; (8) Fraudulent
5 Misrepresentation; (9) Negligent Misrepresentation; (10) Quasi-Contract / Unjust Enrichment; and
6 (11) Fraudulent Inducement.

7 PARTIES

8 7. Plaintiff Christopher Bryan is, and at all times relevant to this action has been, a
9 citizen of Colorado, residing in Highland Ranch, Colorado. In or around September 2021, Plaintiff
10 Bryan purchased his iPad Mini 6 directly from Apple’s online store, Apple.com. Plaintiff Bryan’s
11 device was shipped by Apple to the Apple store located in Park Meadows, Colorado. This is the
12 location where Plaintiff received his Device. Numerous of the materials Plaintiff reviewed and
13 relied on prior to his purchase are identified below and include the labeling, packaging, and
14 marketing materials of the iPad Mini 6, including statements by Apple on Apple’s website as also
15 identified below such as Apple’s representations concerning the iPad as a tablet; that the tablet
16 could be used for “graphically rich games to pro apps,” the iPad’s use “from creativity to
17 productivity,” including the use of “productivity” apps like the Microsoft Office application,
18 DocuSign, PDF Expert, Box, and Numbers; the use of the tablet for “working, reading, exercising,
19 playing games;” the iPad’s “complete redesign,” with features such as an “all-screen design,” and
20 the iPad’s “edge-to-edge screen,” enabling the Device to “mak[e] text sharp,” amongst the others
21 identified below.

22 8. In reviewing these materials, Plaintiff Bryan understood Apple’s claims to be
23 representations and warranties by Apple that the Device’s display would come substantially free of
24 defects and that he could use the Device during his normal course of use. Plaintiff Bryan
25 reasonably relied on these representations and warranties in deciding to purchase the Device, and
26 these representations and warranties were part of the basis of the bargain in that he would not have
27 purchased it on the same terms if the true facts had been known. But Plaintiff Bryan’s Device did
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