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

10 NESTOR ALMEIDA, individually and on behalf  
 11 of all others similarly situated,

Case No.

**CLASS ACTION COMPLAINT**

12 Plaintiff,

13 v.

**JURY TRIAL DEMANDED**

14 APPLE, INC.,

15 Defendant.

1 Plaintiff Nestor Almeida (“Plaintiff”) brings this action on behalf of himself and all others  
2 similarly situated against Defendant Apple, Inc. (“Apple” or “Defendant”) for the manufacture,  
3 marketing, detailing, distribution, and sale of the Apple M1 MacBook Air and M1 MacBook Pro  
4 (“M1 MacBook”). Plaintiff makes the following allegations pursuant to the investigation of his  
5 counsel and based upon information and belief, except as to the allegations specifically pertaining  
6 to himself, which are based on personal knowledge.

### 7 NATURE OF ACTION

8 1. This action is brought on behalf of purchasers of Apple’s M1 MacBook, including  
9 model years 2020 and 2021. Apple markets and sells the M1 MacBook as a top-of-the-line  
10 computer, debuting on November 10, 2020 with a hefty price tag of \$999 for the M1 MacBook Air  
11 and \$1,299 for the M1 MacBook Pro. But the M1 MacBook is defective, as the screens are  
12 extraordinarily fragile, cracking, blacking out, or showing magenta, purple and blue lines and  
13 squares, or otherwise ceasing to function altogether (the “Defect”). Thousands of users from  
14 across the globe have reported this issue directly to Apple and on Apple sponsored forums.  
15 Nonetheless, consumers who have attempted to secure replacements or repairs have been rebuffed  
16 by Apple, often forced to pay out of pocket upwards of between \$600 and \$850 for repairs  
17 themselves or to secure replacements without Apple’s assistance. Others who have secured repairs  
18 or replacements from Apple have quickly experienced the problem reappearing on the repaired or  
19 replaced laptop.

20 2. Despite its knowledge of this issue from its own internal testing and user  
21 complaints, Apple did not publicly recognize the issue until August 27, 2021. At that time, Apple  
22 informed consumers that “[t]o enable the thin design of Mac notebook computers, the clearance  
23 between the display (screen) and the top case is engineered to tight tolerances.” Inadvertently  
24 admitting the existence of the Defect, Apple proceeded to caution its users, suggesting that “[i]f  
25 you use a camera cover, palm rest cover, or keyboard cover with your Mac notebook, remove the  
26 cover before closing your display. Leaving any materials on your display, keyboard, or palm rest  
27 might interfere with the display when it’s closed and cause damage to your display.” But as the  
28 comments reported below demonstrate, the Defect manifests independently of these considerations.

1 In fact, many users, including Plaintiff, does not use any of the covers Apple mentions. Instead,  
2 the issues develop on their own without user interference.

3 3. Accordingly, Plaintiff brings his claims against Defendants individually and on  
4 behalf of a class of all others similarly situated for (1) Fraudulent Concealment; (2) Violation of the  
5 New Jersey Consumer Fraud Act, N.J. Stat. Ann. § 56:801, *et seq.*; (3) Breach of Express  
6 Warranty, N.J. Stat. Ann. § 12A:2-313; (4) Breach of the Implied Warranty of Merchantability,  
7 N.J. Stat. Ann. § 12A:2-314; and (5) Breach of Contract / Common Law Warranty.

### 8 **THE PARTIES**

9 4. Plaintiff Nestor Almeida is, and at all times relevant to this action has been, a citizen  
10 of Belleville, New Jersey. In or around January 2021, Plaintiff Almeida purchased his M1  
11 MacBook Pro directly from Apple at their online store, [www.apple.com](http://www.apple.com). Prior to his purchase of  
12 the M1 MacBook, he did not know, nor could he have known through reasonable diligence, of the  
13 Defect in his laptop. Due to the Defect, Plaintiff's laptop did not operate as Defendants warranted  
14 and promised in their advertisements, representations, and the information publicly available in the  
15 marketplace. For example, during Plaintiff's use of his M1 MacBook, his screen will display  
16 magenta squares and the whole screen will go black. Additionally, none of the packaging in which  
17 the M1 MacBook was sold revealed that there was a Defect. Accordingly, not only was Plaintiff's  
18 M1 MacBook defective at the point of sale due to the Defect, but Apple has exacerbated the  
19 problems via their misrepresentations and omissions concerning the M1 MacBook's screen. As a  
20 result of Apple's actions, Plaintiff did not receive the benefit of his bargain and was injured as a  
21 result. If Plaintiff had been told of this Defect and the deceptive manner in which Apple would  
22 conceal this Defect, Plaintiff would not have purchased his M1 MacBook, or would have paid  
23 substantially less.

24 5. Defendant Apple, Inc. is incorporated under the laws of the State of California and  
25 maintains its principal place of business in Cupertino, California.

### 26 **JURISDICTION AND VENUE**

27 6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d)(2)(A)  
28 because this case is a class action where the aggregate claims of all members of the proposed class

1 are in excess of \$5,000,000.00, exclusive of interest and costs, and Plaintiff, as well as most  
2 members of the proposed class, are citizens of states different from Defendants. This Court also  
3 has supplemental jurisdiction over state law claims pursuant to 28 U.S.C. § 1367.

4 7. This Court has personal jurisdiction over Apple because its principal place of  
5 business is within this District and it has sufficient minimum contacts in California to render the  
6 exercise of jurisdiction by this Court proper and necessary.

7 8. Venue is proper in this District under 28 U.S.C. § 1391(b) because a substantial part  
8 of the events or omission giving rise to Plaintiff's claims occurred in this District.

9 9. The practices described herein were conceived, reviewed, approved, and otherwise  
10 controlled from Apple's headquarters in Cupertino, California. Employees at Apple's headquarters  
11 directed the production and assembly of the M1 MacBook's hardware and software, including the  
12 defective screens. Promotional activities and literature were developed and coordinated at, and  
13 emanated from, Apple's California headquarters. The launch event for the M1 MacBook occurred  
14 in Cupertino. Apple made critical decisions about the development, marketing, and advertising of  
15 the M1 MacBook in California. Misrepresentations and omissions alleged herein were made by  
16 Apple employees based in California and were contained, among other places, on Apple's website,  
17 which is maintained by Apple employees based in California. Warranty policies and procedures  
18 also were developed and carried out by Apple employees in Cupertino.

### 19 FACTUAL ALLEGATIONS

#### 20 **A. Apple Releases The M1 MacBook, Emphasizing the Interrelationship** 21 **Between The M1's Superior Technology And Screen Display Capabilities**

22 10. Apple debuted the M1 MacBook on November 10, 2021 to great fanfare. Apple  
23 announced that “[o]n a momentous day for the Mac, [we] today introduced a new MacBook Air,  
24 13-inch MacBook Pro and Mac mini powered by the revolutionary M1, the first in a family of  
25 chips designed by Apple specifically for the Mac.”<sup>1</sup> Apple's CEO, Tim Cook, referred to the  
26 launch of the new products, saying that “[t]he introduction of three new Macs featuring Apple's

27 <sup>1</sup> Apple, “Press Release: Introducing the Next Generation of Mac,” Newsroom (Nov. 10, 2020),  
28 Available at <https://www.apple.com/newsroom/2020/11/introducing-the-next-generation-of-mac/>  
(last visited Sept. 14, 2021)

1 breakthrough M1 chip represents a bold change that was years in the making, and marks a truly  
2 historic day for the Mac and for Apple.”<sup>2</sup>

3 11. Connecting this superior technology to the display, Apple proclaimed that “[w]ith  
4 up to an 8-core GPU, graphics are up to 5x faster, the biggest leap ever for MacBook Air, so  
5 immersive, graphics-intensive games run at significantly higher frame rates.”<sup>3</sup> Apple continued  
6 that users can “[i]ntegrate 3D effects into video in Final Cut Pro up to 5x faster” and that users can  
7 “[f]or the first time, play back and edit multiple streams of full-quality, 4K ProRes video in Final  
8 Cut Pro without dropping a frame.”<sup>4</sup> Alongside the below photograph, Apple also informed  
9 consumers that they could “[w]atch more movies and TV shows with up to 18 hours of battery life,  
10 the longest ever on MacBook Air.”<sup>5</sup>



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<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

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