

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

MIGLIACCIO & RATHOD LLP

Nicholas A. Migliaccio (*pro hac vice*)
Jason S. Rathod (*pro hac vice*)
412 H St., NE
Washington, D.C. 20002
Telephone: (202) 470-3520
Facsimile: (202) 800-2730
E-Mail: nmigliaccio@classlawdc.com
jrathod@classlawdc.com

Attorneys for Plaintiffs

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

DANIEL FRIEND, DAPHNE PAREAS, SCOTT SEVELAND, PATRICE SHERMAN, NESTOR ALMEIDA, ADELINA LAVECCHIA, DAN HENDERSON, MARITZA ANGELES, TIM INSELMANN, WILLIAM WEST-DAVIS, PATRICIA MEDBERRY, and HANDY COLINDREZ, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

APPLE INC.,

Defendant.

Case No. 3:21-cv-07109-VC

FIRST AMENDED CONSOLIDATED CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Hon. Vince Chhabria

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1 Plaintiffs Daniel Friend, Daphne Pareas, Scott Seveland, Patrice Sherman, Nestor Almeida,
2 Adelina LaVecchia, Dan Henderson, Maritza Angeles, Tim Inselmann, William West-Davis, Patricia
3 Medberry, and Handy Colindrez (collectively, “Plaintiffs”) bring this action on behalf of themselves
4 and all others similarly situated against Defendant Apple, Inc. (“Apple” or “Defendant”) for the
5 manufacture, marketing, detailing, distribution, and sale of the defective Apple 13.3-inch M1
6 MacBook Air and 13.3-inch M1 MacBook Pro (“M1 MacBook(s)” or “MacBook(s)"). Plaintiffs
7 make the following allegations pursuant to the investigation of counsel and based upon information
8 and belief, except as to the allegations specifically pertaining to themselves, which are based on
9 personal knowledge.

10 I. INTRODUCTION

11 1. Plaintiffs bring this action, individually and on behalf of a class of similarly situated
12 owners of Apple’s 13.3-inch M1 MacBook Air and 13.3-inch M1 MacBook Pro. This action arises
13 from Apple’s concealment of a material defect stemming from the thin display and the low clearance
14 between the top case and thin display that is central to the operation of the MacBooks, and which
15 ultimately causes the display to crack and to blotch during regular use free of user interference (the
16 “Clearance Defect” or the “Defect”).

17 2. Apple has long been aware of the defective MacBooks. Yet, notwithstanding its
18 longstanding knowledge of the Clearance Defect, Apple routinely has refused to repair the
19 MacBooks without charge when the Defect manifests.

20 3. Many other MacBook owners have communicated with Apple’s employees and
21 agents to request that Apple remedy and/or address the Clearance Defect and/or resultant damage at
22 no expense. Apple has failed and/or refused to do so.

23 4. As a result of Apple’s unfair, deceptive, and fraudulent business practices, owners of
24 the MacBooks, including Plaintiffs, have suffered an ascertainable loss of money and/or property
25 and/or value. The unfair and deceptive trade practices committed by Apple were conducted in a
26 manner giving rise to substantial aggravating factors.

27 5. Had Plaintiffs and Class members known about the Clearance Defect at the time of
28 purchase, they would not have bought the MacBooks, or would have paid substantially less for them.

1 6. As a result of the Clearance Defect and the monetary costs associated with attempting
2 to repair the damage stemming from the Clearance Defect, Plaintiffs and Class members have
3 suffered injury in fact, incurred damages, and otherwise have been harmed by Apple's conduct.

4 7. Accordingly, Plaintiffs bring this action to redress Apple's violations of the various
5 states' consumer fraud statutes, fraud, negligent misrepresentation, and unjust enrichment.

6 II. JURISDICTION AND VENUE

7 8. This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act
8 of 2005, 28 U.S.C. § 1332(d), because the proposed classes consist of 100 or more members; the
9 amount in controversy exceeds \$5,000,000.00, exclusive of costs and interest; and at least one
10 plaintiff is a citizen of a state different from the defendant, which is a California corporation.

11 9. This Court has personal jurisdiction over Apple because its principal place of business
12 is located within this District and it has sufficient minimum contacts in California to render the
13 exercise of jurisdiction by this Court proper and necessary.

14 10. Venue is proper in this judicial district under 28 U.S.C. § 1391 because a substantial
15 part of the events or omissions giving rise to Plaintiffs' claims occurred in this judicial district.

16 11. The practices described herein were conceived, reviewed, approved, and otherwise
17 controlled from Apple's nerve center, its headquarters in Cupertino, California. Employees at
18 Apple's headquarters directed the production and assembly of the MacBook's hardware and
19 software, and would have had pre-sale knowledge of the Clearance Defect. As Apple admitted in its
20 Form 10-K for the fiscal period that ended on October 28, 2021, "most of the Company's personnel"
21 are in Silicon Valley. Apple's breach of duty to Plaintiffs and the Class emanated from California.

22 III. PARTIES

23 A. Plaintiffs

24 1. California Plaintiffs

25 12. Plaintiff Daniel Friend is, and at all times relevant to this action has been, a citizen of
26 Fullerton, California. In or around May 2021, Plaintiff Friend purchased his M1 MacBook Pro
27 directly from Apple at its Apple Brea Mall store location. Prior to his purchase, Mr. Friend reviewed
28 the M1 MacBook Pro product page directly on Apple's website. At the point of purchase, Mr. Friend

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