

James E. Cecchi
**CARELLA, BYRNE, CECCHI,
OLSTEIN, BRODY & AGNELLO, P.C.**
5 Becker Farm Road
Roseland, New Jersey 07068
Tel: (973) 994-1700

Christopher A. Seeger
SEEGER WEISS LLP
55 Challenger Road, 6th Fl.
Ridgefield Park, New Jersey 07660
Tel: (973) 639-9100

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JUDY MILLS, JUDITH DEAN,
CARLA COMPAGNONE, AND
KENNETH L. BUCK, individually and on
behalf of all others similarly situated,

Plaintiffs,

vs.

APPLE INC.,

Defendant.

Civil Action No.

**CLASS ACTION COMPLAINT AND
DEMAND FOR JURY TRIAL**

Plaintiff Judy Mills, Judith Dean, Carla Compagnone, and Kenneth L. Buck, on behalf of themselves and all others similarly situated, on personal knowledge as to the facts concerning themselves, and on information and belief as to all other matters, and based on the investigation of counsel and public statements, bring this class action against Apple Inc. (“Apple” or “Defendant”) pursuant to applicable state laws and allege as follows:

I. INTRODUCTION

1. This case concerns Defendant's campaign to foist – through deceptive and fraudulent marketing – defective Apple iPhones (“iPhone”) that degrade within just one-year of use on Plaintiffs and other consumers throughout the United States and its scheme to mask the defect by deliberately causing older Apple iPhone models to operate more slowly when new models are released.

2. Apple has admitted that the batteries of iPhones begin degrading within the first year of use. In order to mask the defect, Apple's software updates were engineered to purposefully slow down or “throttle down” the performance speeds of iPhones as they get older. Plaintiffs and Class Members never consented to allow Defendant to slow their iPhones; nor was consent ever requested by Apple.

3. While Apple has yet to come forth with a full and candid description of all facts known only to it concerning its deliberate “throttling down” of older model iPhone speeds, what Apple has admitted is damning. Apple admitted to slowing down the processing speed of “older” model iPhones — SE, 6, 6S, and 7 — to preserve their batteries and prevent unexpected shutdowns. Without disclosure or customer consent, Defendant promoted an upgrade to the iPhone's performance level with knowledge that the upgrade was actually a downgrade and such baseless promotion is misleading to Plaintiffs and other iPhone users in a material respect.

4. Indeed, rather than curing the battery defect by putting larger more suitable batteries in the iPhones in the first place or providing free battery replacements for all affected iPhones, Apple sought to mask the battery defect. This \$700 to \$1,000-plus product, as designed, is unable to function near its peak after just a single year of use.

5. Apple produced, promoted, sold, and distributed the iPhone throughout the United States. Consumers across the United States paid millions of dollars for defective iPhones touted as premium products using breakthrough technology that featured unmatched performance. As Apple admits, the iPhones were inherently and materially defective. In short, from the moment Plaintiffs and Class Members purchased their iPhones containing defective batteries, they were an inferior, defective product that, by design and composition, did not have the qualities or properties Apple continuously represented in its sales and marketing materials. The defective iPhones were neither designed nor engineered to be used for the ordinary, expected purpose as high performing and durable.

6. Worse still, despite its knowledge of the defective batteries, Defendant has been unable or unwilling to repair the defect at its own cost or offer Plaintiffs and Class Members a non-defective iPhone or reimbursement for the cost of such defective iPhones and the consequential damages arising the purchase and use of the iPhones. Because of Apple's fraudulent concealment of the defect, Plaintiffs and Class Members were left with the unappealing choice of either tolerating the throttled-down performance or purchasing a new iPhone from Defendant at costs in excess of \$1,000, which may also function at peak levels for a single year.

7. As a result of Defendant's wrongful conduct, it has interfered with Plaintiffs' and Class Members' use or possession of their iPhones. Apple's actions and omissions violate well established legal and statutory duties it owed to Plaintiffs and all other similarly situated United States consumers.

8. Plaintiffs bring this class action on behalf of themselves and all similarly situated consumers for actual and statutory damages, as well as punitive damages and equitable relief to fully redress the vast harm Apple's wrongful acts have unleashed on United States consumers.

II. PARTIES

A. Plaintiffs

9. Plaintiff Judy Mills is a citizen of South Amboy, New Jersey. Ms. Mills owns an iPhone 6, which was purchased new approximately three years ago from Verizon Wireless. Ms. Mills' iPhone 6 was covered by a written warranty. Prior to purchasing her iPhone 6, Ms. Mills viewed and heard commercials that touted Apple's long record of unmatched performance and quality. Ms. Mills uses her iPhone 6 for numerous applications and services and depends on its performance. Ms. Mills was unaware of the iPhone's defect described herein prior to her purchase of this iPhone 6. Over time, Ms. Mills noticed appreciable slowdowns in the operation of her iPhone 6 after certain iOS updates were issued to her device.

10. Plaintiff Judith Dean is a citizen of Branchville, New Jersey. Ms. Dean owned an iPhone 6, which was purchased new several years ago. Ms. Dean's iPhone 6 was covered by a written warranty. Prior to purchasing her iPhone 6, Ms. Dean viewed and heard commercials that touted Apple's long record of unmatched performance and quality. Ms. Dean uses her iPhone 6 for numerous applications and services and depends on its performance. Ms. Dean was unaware of the iPhone's defect described herein prior to her purchase of this iPhone 6. Over time, Ms. Dean noticed appreciable slowdowns in the operation of the iPhone 6, after certain iOS updates were issued to her device. Frustrated by the performance speed of her iPhone 6, Ms. Dean visited the Apple Store in Rockaway, New Jersey. Apple's staff member – a “genius” – advised Ms. Dean that her phone was not defective, failed to disclose that Apple had

intentionally slowed performance which Ms. Dean relied upon, and recommended that she purchase a newer iPhone with the world's fastest processor. Because of the performance degradation, Ms. Dean purchased a new iPhone 7 in or about December 2017 – not knowing that iPhone 7s suffered from the same material defect and slowed performance. If Apple had publically explained that it was purposefully throttling down the performance speed of its iPhone devices, and that performance speed of iPhones could be improved by a replacement battery or a larger more suitable battery, Ms. Dean would not have purchased an iPhone 7 to replace her iPhone 6.

11. Plaintiff Carla Compagnone is a resident of Everett, Massachusetts. Ms. Compagnone owns an iPhone 6, which was purchased new approximately three years ago. Ms. Compagnone's iPhone 6 was covered by a written warranty. Prior to purchasing her iPhone 6, Ms. Compagnone viewed and heard commercials that touted Apple's long record of unmatched performance and quality. Ms. Compagnone uses her iPhone 6 for numerous applications and services and depends on its performance for both personal use and for her business. Ms. Compagnone was unaware of the iPhone's defect described herein prior to her purchase of this iPhone 6. Over time, Ms. Compagnone noticed screen display problems and appreciable slowdowns in the operation of her iPhone 6 after certain iOS updates were issued to her device.

12. Plaintiff Kenneth L. Buck is a citizen of Galloway, New Jersey. Mr. Buck owns an iPhone 6, which was purchased new in or about September 2014 from Verizon Wireless. Mr. Buck's iPhone 6 was covered by a written warranty. Prior to purchasing his iPhone 6, Mr. Buck viewed and heard commercials that touted Apple's long record of unmatched performance and quality. Mr. Buck used his iPhone 6 for numerous applications and services and depended on its performance. Mr. Buck was unaware of the iPhone's defect described herein prior to his

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