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18 *Attorneys for Plaintiffs*

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

21 **ZACHARY BOOK, DONALD**  
22 **COWART, and JOHN MANNERS,**  
23 individually and on behalf of all others  
24 similarly situated,

25 PLAINTIFFS,

26 v.

27 APPLE, INC.

28 DEFENDANT.

**CIVIL ACTION NO.**

**CLASS ACTION COMPLAINT**

**Jury Trial Demanded**

29 Plaintiffs, Zachary Book, Donald Cowart, and John Manners, by and through their  
30 undersigned counsel, on behalf of themselves and all other persons and entities similarly  
31 situated, allege:

32 ///

33 ///

**NATURE OF THE ACTION**

1  
2 1. Aiming to control the lucrative market for high-end laptop computers used  
3 by consumers and professionals, in 2011, Apple introduced new fifteen- and seventeen-  
4 inch MacBook Pro Laptops powered by two graphic processing chips (“the 2011  
5 MacBook Pros”). As described herein, the computer was described by many as a dud  
6 and defective from inception. Just days after these laptops went on sale, consumers  
7 worldwide began reporting to Apple that the 2011 MacBook Pros suffered from random  
8 bouts of graphical distortion, system instability and system failures. Apple’s customers  
9 paid a premium for their products and were promised, and came to expect, the highest  
10 levels of performance, graphical richness, and durability. Apple, however, has failed to  
11 remedy the inherent graphics defect in the 2011 MacBook Pros, causing tens of  
12 thousands of frustrated and disappointed customers to air their grievances online on  
13 websites like Facebook,<sup>1</sup> Reddit,<sup>2</sup> change.org,<sup>3</sup> and Apple’s own discussion forums.<sup>4</sup>  
14 Indeed, a survey posted online by Plaintiffs’ counsel received nearly three thousand  
15 responses from 2011 MacBook Pro owners in less than a week. The stories are the same:  
16 2011 MacBook Pro laptops’ graphics become distorted, followed by software shutdowns,  
17 system freezes and, eventually, total system failure.

20 2. The 2011 MacBook Pro laptops went on sale in February 2011 and were  
21 sold through approximately May 2012. The laptops contain two graphics chips, also  
22 known as graphics processing units (“GPUs”), which are manufactured by Advanced

23  
24 <sup>1</sup> <https://www.facebook.com/groups/2011mbp/>

<sup>2</sup> [http://www.reddit.com/r/technology/comments/2ds12q/apple\\_ignores\\_calls\\_to\\_fix\\_2011\\_macbook\\_pro/](http://www.reddit.com/r/technology/comments/2ds12q/apple_ignores_calls_to_fix_2011_macbook_pro/)

26 <sup>3</sup> <https://www.change.org/p/timothy-d-cook-replace-or-fix-all-2011-macbook-pro-with-graphics-failure>

27 <sup>4</sup> <https://discussions.apple.com/thread/4766577?tstart=0>

1 Micro Devices (“AMD”) and Intel, respectively. When performing the graphically  
2 demanding tasks for which the 2011 MacBook Pro was designed, like using an external  
3 monitor, editing digital photographs, and editing video footage, the 2011 MacBook Pro  
4 engages the powerful AMD GPU to process graphics. Everyday tasks, such as web  
5 browsing or word processing, are handled by the efficient, relatively low-powered Intel  
6 GPU.

7  
8 3. The 2011 MacBook Pros commanded a premium, in large part because of  
9 the additional graphics-processing power they offered. In 2011, the entry-level price of a  
10 MacBook Pro Laptops without an AMD graphics processor was \$1,199, and the starting  
11 price of a 2011 MacBook Pro with an AMD GPU was \$1,799 for a fifteen-inch model  
12 and \$2,499 for a seventeen-inch model. With upgrades to the memory, storage, and  
13 central processor, the price of a 2011 MacBook Pro could, and often did, easily exceed  
14 \$3,000. By contrast, the average starting price of a Windows laptop during that same  
15 period was \$489.

16  
17 4. Days after the 2011 MacBook Pros went on sale, a firestorm of complaints  
18 erupted on Apple’s discussion forums, and Apple stores were flooded with consumers  
19 whose brand-new laptops were experiencing graphical issues, including severe screen  
20 distortion, pixilation, graphical artifacts, and ghosting, that often precipitated the system  
21 shutting down or failing completely.

22  
23 5. The graphical issues and system failures with the 2011 MacBook Pro  
24 Laptops were nearly identical to problems that plagued the 2008 MacBook Pro laptops,  
25 which were eventually recalled. Yet rather than issuing a recall for the 2011 MacBook  
26 Pro Laptops, Apple hurriedly release a software patch intended to address graphical  
27

1 stability in the 2011 MacBook Pros. The software patch was ineffective because, as  
2 Apple knew from its experience with the 2008 MacBook Pro Laptops, the defect at issue  
3 is physical and cannot be fixed with a software patch.

4         6.         The defect in the 2011 MacBook Pro laptops stems from the lead-free  
5 solder used to connect the AMD GPU to the main circuit board of the laptop (the “logic  
6 board”). Though Apple touted its environmental benefits, the lead-free solder was used in  
7 order to comply with EU regulations. While Apple could have used the more durable  
8 leaden solder in the 2011 MacBook Pro Laptops to be sold in the United States, it chose  
9 to use lead-free solder in all its laptops, presumably to reduce manufacturing costs.

11         7.         Lead-free solder, which is typically composed of a combination of tin and  
12 silver, suffers from two well-known problems. First, it tends to develop microscopic “tin  
13 whiskers,” which cause short circuiting and other problems within electronic devices.

14         8.         Additionally, lead-free solder tends to crack when exposed to rapid  
15 changes in temperature. The 2011 MacBook Pros run very hot when performing  
16 graphically demanding tasks due to a confluence of high-performance hardware, poor  
17 ventilation, and the overuse of thermal paste within the laptop. The high temperatures and  
18 large temperature swings inside the computer, known as “stress cycles,” cause the brittle,  
19 lead-free solder connecting the AMD GPU to the logic board to crack. Both of these  
20 shortcomings with lead-free solder are well known and are preventable with the use of  
21 standard solder.  
22

23  
24         9.         When the lead-free solder cracks it degrades the data flow between the  
25 GPU and the logic board. A small crack can cause the laptop’s graphics to become  
26 distorted on occasion. But as cracks in the lead-free solder propagate over time, the  
27

1 graphics issues worsen and system stability decreases, until eventually the computer is  
2 completely unusable. This defect related to the lead-free solder connecting the GPU to  
3 the logic board (the “Graphics Defect”) limits all computers at the point of sale forward  
4 from performing as advertised and warranted.

5       10. While the 2011 MacBook Pros were under Apple’s one-year warranty,  
6 Apple would, in some cases, replace consumers’ entire logic boards in response to the  
7 Graphics Defect. A new logic board, however, was no fix because the new logic boards  
8 used the same lead-free solder to connect the AMD GPU. As a result, the laptops again  
9 failed in time, sometimes in a matter of days. Scores of owners reported that even after  
10 receiving new logic boards, their systems continued to exhibit the Graphics Defect and  
11 crash or fail, turning their computers into \$3000 paper weights. Now, even years outside  
12 of the warranty period, a replacement logic board is still the only option that Apple offers  
13 for its inherently defective product. A logic board replacement out of warranty can cost  
14 between \$350 – 600. Consumers who are aware of the Graphics Defect are  
15 understandably hesitant to spend hundreds of dollars on an out-of-warranty repair that  
16 simply swaps out a non-functional and defective part with a temporarily functional but  
17 equally defective replacement.

18       11. Apple has also failed to reimburse owners for out of pocket repairs and  
19 has surprisingly ignored the claims of the thousands of customers who, in many cases,  
20 complained directly to Apple CEO Tim Cook and paid for the out of pocket repairs when  
21 they failed to obtain a response from Apple.

22       12. This case seeks basic fairness for owners of these defective MacBook  
23 Pros. It is a last resort as other efforts of obtaining a solution have failed. Plaintiff John  
24  
25  
26  
27

1 Manners purchased his 2011 MacBook Pro laptop on March 1, 2011, days after the  
2 MacBook Pros went on sale. He began experiencing the Graphics Defect soon thereafter  
3 and took his MacBook Pro in to an Apple retail store in June 2011, at which time Apple  
4 did not repair the defect. The defect later caused total failure of Plaintiff Manners'  
5 computer in February 2013 and cost Manners \$331.70 to repair. Plaintiff Zachary Book  
6 purchased his 2011 MacBook Pro laptop in January 2012, and has since the time of  
7 purchase experienced the Graphics Defect. Book has paid for one logic board  
8 replacement due to the Graphics Defect in 2013. When the Graphics Defect again  
9 disabled his computer, he was given a second logic board replacement for free in 2014,  
10 though Apple initially wanted to charge Book more than \$500 for a second logic board  
11 replacement. Now on his third logic board, Book's MacBook Pro is again experiencing  
12 the Graphics Defect. Plaintiff Donald Cowart purchased a 2011 MacBook Pro laptop  
13 computer in May 2012—more than a year after Apple became aware of the Graphics  
14 Defect. When he purchased his 2011 MacBook Pro laptop, Plaintiff Cowart did not know  
15 that his MacBook Pro laptop suffered from Graphics Defect described herein. Plaintiff  
16 Cowart's laptop began evidencing symptoms of the graphics defect within a year of  
17 purchase. Despite numerous trips to an Apple retail store to report issues with system  
18 stability, Apple did nothing to repair to his laptop other than instruct him to perform time  
19 consuming and ineffective software reinstallations. Plaintiff Cowart took his laptop to a  
20 circuit board repair company for an inspection in 2014, and was informed that the solder  
21 between his logic board and GPU had cracked—*i.e.*, his laptop suffered from the  
22 Graphics Defect. At present, his computer is unstable and nearly unusable.  
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- 1 13. Plaintiffs allege that Apple committed the following violations:
- 2 a. California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et*
- 3 *seq.* (the “UCL”) by engaging in unlawful and unfair conduct in violation
- 4 of the CLRA by failing to disclose the existence of the Graphics Defect to
- 5 Class members;
- 6 b. Song-Beverly Consumer Warranty Act, Cal. Civ. Code §§ 1790 *et seq.* by
- 7 breaching express and implied warranties;
- 8 c. Breached implied warranties of merchantability and fitness for a particular
- 9 purpose;
- 10 d. Breached express warranties;
- 11 e. Fraudulent concealment/nondisclosure; and
- 12 f. Failure to warn under the Florida Deceptive and Unfair Trade Practices
- 13 Act, Fla. Stat. Ann. §§ 501.201 *et seq.*
- 14
- 15

16 **PARTIES**

17 14. Plaintiff Zachary Book is, and at all times relevant hereto has been, a

18 citizen and resident of California. Plaintiff Book purchased a 2011 MacBook Pro laptop

19 in January 2012.

20 15. Plaintiff Donald Cowart is, and at all times relevant hereto has been, a

21 citizen and resident of California. Plaintiff Cowart purchased a 2011 MacBook Pro laptop

22 in May 2012.

23 16. Plaintiff John Manners is, and at all times relevant hereto has been, a

24 citizen and resident of Florida. Plaintiff Manners purchased a 2011 MacBook Pro laptop

25 in March 2011.

26

27

1           17. Defendant Apple, Inc. is incorporated in California. Apple’s executive  
2 offices and company headquarters are located in Cupertino, Santa Clara County,  
3 California. Apple sold the MacBook Pros to consumers throughout the United States,  
4 including to at least thousands of consumers in California, and Florida.

5           18. Plaintiffs bring this action individually, and as a class action, against  
6 Apple, on behalf of themselves and all other similarly situated persons in the States of  
7 California and Florida who purchased 2011 MacBook Pro Laptops with AMD GPUs.  
8

9   **JURISDICTION AND VENUE**

10           19. This Court has jurisdiction over all causes of action asserted herein  
11 pursuant to 28 U.S.C. § 1332(d) because the aggregate amount in controversy exceeds  
12 \$5,000,000, exclusive of interest and costs and the proposed Class has more than 100  
13 members. In California and Florida there are tens of thousands of owners of 2011  
14 MacBook Pro Laptops.  
15

16           20. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because  
17 Defendant is headquartered in this District. Furthermore, Defendant regularly transacts  
18 and solicits business in this District.

19   **COMMON FACTUAL ALLEGATIONS**

20           21. Defendant Apple, Inc. (“Apple” or “Defendant”) designs, manufactures,  
21 sells and warrants a broad range of technology products, including the 2011 MacBook  
22 Pro laptop computers. Apple is the most valuable company in the world, with a market  
23 capitalization in excess of \$600 billion.  
24

25           22. On February 24, 2011, Apple began selling the 2011 MacBook Pro line of  
26 laptops to Class members.  
27



1           23.     As Apple’s most expensive and feature-packed laptop line, the MacBook  
2 Pro laptops were marketed to consumers and professionals who were seeking a durable,  
3 high-performance product that was suitable for graphics-intensive tasks.

4 **I.     The Graphics Processing Units**

5           24.     The 2011 MacBook Pros were sold with two GPUs that operated  
6 discretely. The first GPU, manufactured by Intel, “handles the things you do every day,”  
7 such as processing the graphics needed for word processing and web browsing. The  
8 second GPU, manufactured by AMD, greatly enhanced the graphical capabilities of the  
9 2011 MacBook Pros, giving them “game-changing graphics” and performance that was  
10 “up to 3x quicker” in drawing and rendering graphics:  
11

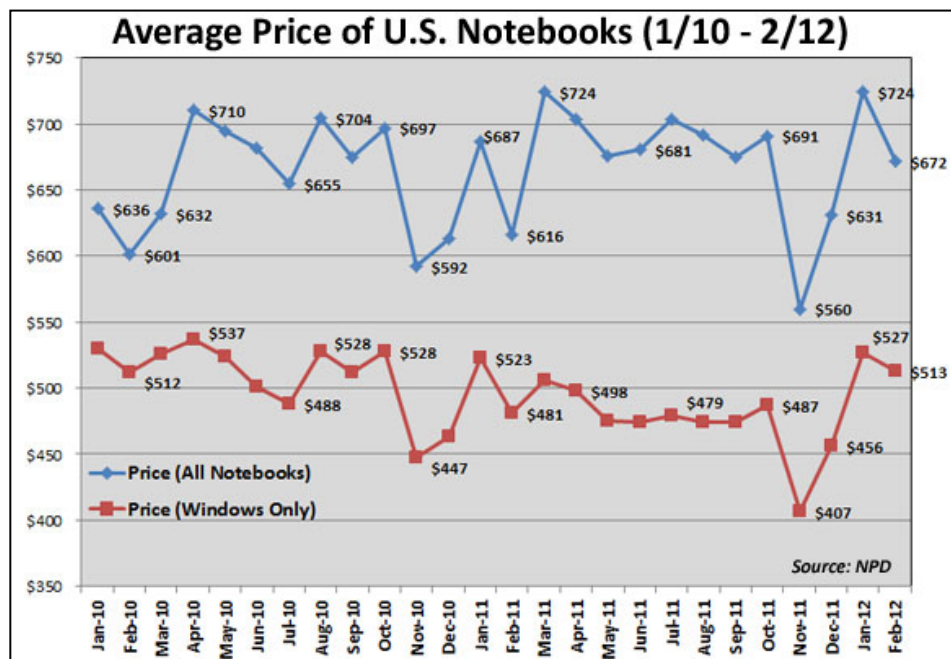
12                   For graphics-intensive applications, the 15- and 17-inch MacBook Pro  
13 models automatically switch to new high-performance AMD Radeon  
14 graphics processors. With up to 3x the performance of the previous  
15 models, they let you see more frames per second in 3D games, or work on  
16 HD video projects with more speed and responsiveness than before.

17           25.     Apple specifically represented that the 2011 MacBook Pros were suitable  
18 for graphics-intensive applications, like computer-aided design, high definition video  
19 projects, and games.

20           26.     The increased graphical performance capability of the MacBook Pro  
21 Laptops with AMD GPUs was a key selling point of the 2011 MacBook Pros, and  
22 Apple’s website pictured the laptops running photo-editing applications and games.  
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27. The price of the fifteen-inch MacBook Pro started at \$1,799, and the seventeen-inch model's price started at \$2,499. With upgrades, the price of a 2011 MacBook Pro could easily exceed \$3,000. By contrast, the average price of a Windows laptop when the 2011 MacBook Pros went on sale was \$481.



Source: <http://blog.laptopmag.com/the-average-pc-laptop-cost-513-in-february>

1 **II. Apple's Durability Advantage**

2 28. A central reason consumers were willing to pay more for the 2011  
3 MacBook Pros is longevity. A computer's longevity can be measured in terms of  
4 hardware longevity and software longevity.

5 29. With respect to hardware longevity, MacBook Pro Laptops were unique in  
6 that Apple built them with a "unibody" aluminum enclosure, instead of the multi-piece  
7 plastic enclosures that are common to most laptops. The aluminum enclosure lent the  
8 appearance of greater durability to the average consumer, who thought that on the basis  
9 of appearance alone, the MacBook Pro Laptops were built to last longer than the average  
10 laptop. Indeed, Apple touts the long-term durability of its laptops on its website.  
11

12 [W]e design everything from our largest displays to our  
13 smallest cables to be durable and long lasting. And to make  
14 sure they are, *we test them in our Reliability Testing Lab at  
our headquarters in Cupertino.*

15 . . . .

16 *Our built in notebook batteries last up to five years. Which*  
17 *saves on buying new batteries, produces less waste, and*  
18 *increases the lifespan of your notebook.*

19 And when Apple product owners pass along their devices  
20 to friends or family, they're conserving resources, too.  
21 Sometimes the mark of a great product isn't how many you  
22 sell, but how much it's used.<sup>5</sup>

23 30. In addition to Apple's written representations about the durability of the  
24 MacBook Pros, Apple trained its sales staff, through in-store meetings and role playing  
25 exercises, to represent that the high cost of the MacBook Pros was justified because the  
26 laptops would last on average for between 5 – 7 years. Consumers, including Plaintiffs,

27 <sup>5</sup> <http://www.apple.com/environment/finite-resources/> (last visited Aug. 28, 2014) (emphasis added).

1 relied on these representations when purchasing a 2011 MacBook Pro, which cost many  
2 times more than competing laptops.

3 31. With respect to software longevity, Apple laptops—specifically, the  
4 MacBook Pro Laptops—have an average software lifecycle of 3.9 years.<sup>6</sup> Apple’s  
5 website states that Apple’s current operating system, “OS X Mavericks *works on Mac*  
6 *computers made as far back as 2007* — so you’ll have a new experience without buying  
7 a new device.”<sup>7</sup> Apple’s upcoming operating system, OS X Yosemite, will support the  
8 2011 MacBook Pros.<sup>8</sup>

9  
10 32. Apple customers paid a premium for their MacBook Pros because they  
11 believed that Apple hardware would last for many years, and that Apple would continue  
12 to support older laptops with software updates for up to seven years, and that Apple  
13 would remedy any inherent defects in the laptops even outside of the warranty period.

### 14 **III. The 2011 MacBook Pros’ Immediate Failure**

15 33. Less than a week after Apple first began selling the MacBook Pros, a  
16 firestorm of complaints erupted among purchasers on Apple’s discussion forums. By and  
17 large, the complaints were the same—the same graphically demanding tasks that  
18 prompted consumers to purchase their MacBook Pros were causing graphical anomalies,  
19 system freezes, and system failures. In less than a month, a discussion thread related to  
20  
21  
22

23  
24 <sup>6</sup> See Macography.net, *How Long Will My Mac Last For*,  
<http://macography.net/2012/03/how-long-will-my-mac-last-for/> (last visited Aug. 26,  
25 2014).

26 <sup>7</sup> <http://www.apple.com/environment/finite-resources/> (last visited Aug. 28, 2014)  
(emphasis added)

27 <sup>8</sup> See [http://www.everymac.com/mac-answers/os-x-10.9-mavericks-faq/os-x-mavericks-  
compatible-macs-system-requirements.html](http://www.everymac.com/mac-answers/os-x-10.9-mavericks-faq/os-x-mavericks-compatible-macs-system-requirements.html) (last visited Aug. 26, 2014).

1 the Graphics Defect had generated 1,094 responses.<sup>9</sup> A sampling of consumer complaints  
 2 on the 2011 Apple discussion thread is copied below.

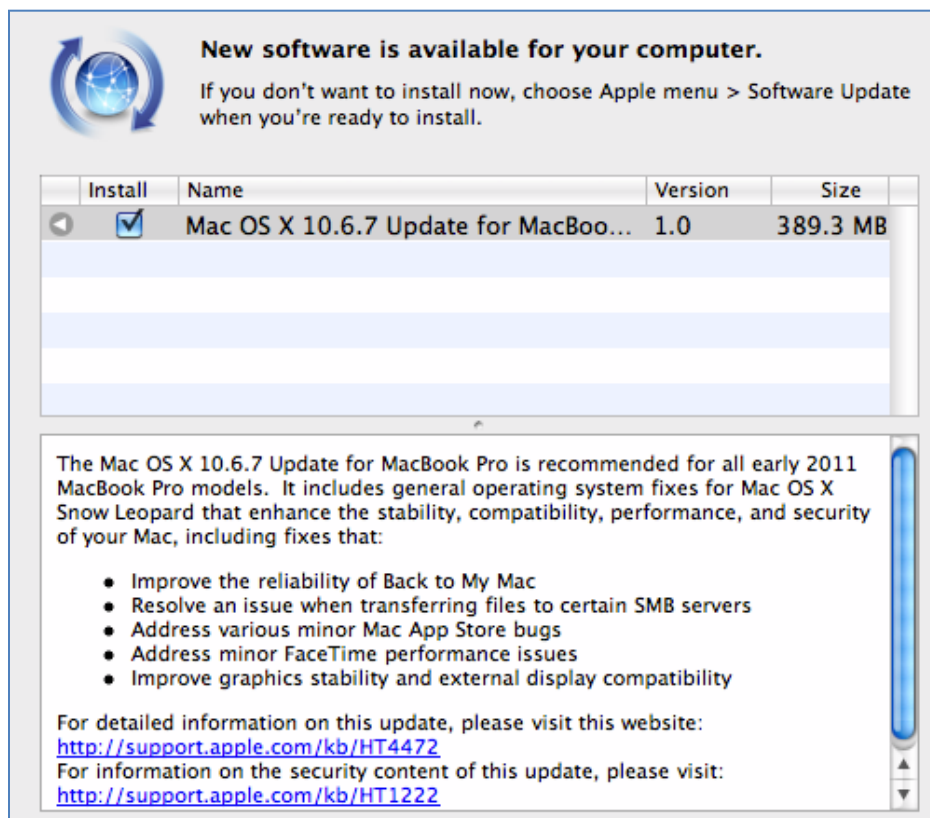
Date	Complaint
Mar. 3, 2011	I have had the same thing several times with my 15" 2011 2.2GHz model. Each time it was when the system was under load and the fans start running high and then there is a freeze.
Mar. 5, 2011	Great. I'm having the exact same issue. It happens when rendering video in iMovie. The fan comes on and everything freezes. I can do nothing but a hard reset. Now I'm wondering if I should return this \$2000 item and wait until all the bugs are fixed.
Mar. 6, 2011	Happened 3 times now, mine freezes and the screen goes all funny (like it has hundreds of dead pixels)
Mar. 6, 2011	Exactly the same issues are happening with my 15 inch MBP 2.2 ghz i7. When rendering from After Effects the fans go wild, like an airplane and the CPU temp reaches 98C, then sometimes everything freezes but the cursor movement, only way forward is a hard reset.
Mar. 12, 2011	I ordered a 15.4" 2.2Ghz MacBook Pro, and received it on Wednesday night. The computer continuously froze even when doing simple tasks, such as listening to iTunes (no other apps running). One time it froze with garbled video and pixels. And last night (Friday), it froze and never came back. Turning it on produces only a black screen. I know it's powering on, as I can hear it, and the light on the front is on, but the screen doesn't turn on. I just got back from the Apple Store, where they were unable to fix it after trying everything. They suggested a replacement. Now I have to mail back my \$2500 machine, and wait an extra week to use it.

34. Less than a month after the release of the MacBook Pros, technology  
 20 websites began reporting on the Graphics Defects. *See, e.g.,* Chris Foresman, *Latest*  
 21 *MacBook Pros suffering from GPU-related freezes*, ArsTechnica (March 21, 2011)  
 22 (available at: [http://arstechnica.com/apple/2011/03/latest-macbook-pros-suffering-from-](http://arstechnica.com/apple/2011/03/latest-macbook-pros-suffering-from-gpu-related-freezes/)  
 23 [gpu-related-freezes/](http://arstechnica.com/apple/2011/03/latest-macbook-pros-suffering-from-gpu-related-freezes/)) (last visited August 20, 2014) (“Numerous owners of the latest 15”  
 24  
 25

26 <sup>9</sup> Apple.com Discussions Forum, *MacBook Pro 2011 17” hard freeze*, (Mar. 1, 2011)  
 27 [https://web.archive.org/web/20110326141903/http://discussions.apple.com/thread.jspa?th](https://web.archive.org/web/20110326141903/http://discussions.apple.com/thread.jspa?threadID=2768351&start=0&tstart=0)  
 28 [readID=2768351&start=0&tstart=0](https://web.archive.org/web/20110326141903/http://discussions.apple.com/thread.jspa?threadID=2768351&start=0&tstart=0) (last visited Aug. 22, 2014).

1 and 17" MacBook Pro models have taken to Apple's support forums to report an issue  
 2 that causes their systems to freeze, with one user going so far as to successfully reproduce  
 3 the problem on every floor model at a local Apple Store.”)

4 35. In an ultimately unsuccessful attempt to quell criticism, Apple quickly  
 5 announced a pending software update for the MacBook Pros to address “graphical  
 6 stability.” On March 21, 2011—less than a month after the MacBook Pros went on sale  
 7 in the United States—Apple released a software update for the MacBook Pros’ operating  
 8 systems, which purported to “improve graphics stability and external display  
 9 compatibility.”  
 10



26 36. The update was a flop. The day that Apple’s software update was released,  
 27 consumers reported that the update failed to remedy the Graphics Defect, and in some  
 28 cases made it worse. *See, e.g.,* comments to Rue Liu, *Apple MacBook Pro 2011 GPU-*

1 *Related Glitch Fixed With Mac OS X 10.6.7*, SlashGear.com (Mar. 21, 2011) (available at  
2 [http://www.slashgear.com/apple-macbook-pro-2011-gpu-related-glitch-fixed-with-mac-](http://www.slashgear.com/apple-macbook-pro-2011-gpu-related-glitch-fixed-with-mac-os-x-10-6-7-21141448/)  
3 [os-x-10-6-7-21141448/](http://www.slashgear.com/apple-macbook-pro-2011-gpu-related-glitch-fixed-with-mac-os-x-10-6-7-21141448/)) (last visited Aug. 22, 2014) (“the Graphics glitches are worse on  
4 the LCD and the dashboard or any overlay type graphics . . . are all distorted”); (“Display  
5 problems began immediately, and were not fixed by 10.6.7 update. No crashes here –  
6 problem is display corruption. Appears in Safari, Pages and Preview. The entire window  
7 (but not the entire screen) is filled with garbage. Problem is not solved by restarting the  
8 application.”); (“Apple needs to do a recall”).

#### 10 **IV. The Source of the Graphics Defect**

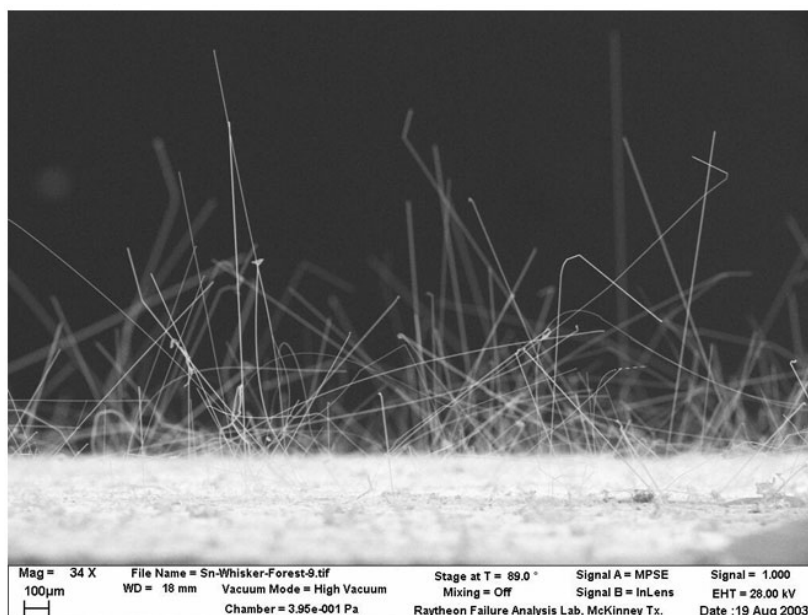
11 37. On the 2011 MacBook Pros, the AMD GPU is soldered to the laptop’s  
12 logic board. These soldered connections pass information between the GPU and the logic  
13 board.

14 38. The solder used to connect the GPU to the logic board is devoid of lead.  
15 Apple began using lead-free solder in or around 2006 due to a European Union  
16 legislation called Restriction of Hazardous Substances (“RoHS”). RoHS prohibits the use  
17 of lead in electronic products destined for sale in Europe. As a consequence of RoHS,  
18 Apple began using lead-free solder in its products, even those sold in the United States.  
19 Lead-free solder is typically comprised of a combination of silver and tin and is known to  
20 be less reliable than leaden solder for two reasons. First, the tin used in the solder creates  
21 “tin whiskers,” which can cause short circuits within the componentry. Second, the lead-  
22 free solder tends to crack when exposed to cycles of low and high temperature generated  
23 by a laptop. As one commentator has noted a “lead-free assembly is less reliable than  
24 lead-based assembly. The E.U. environmental commission admits this point. *That’s why*  
25  
26  
27

1 they grant exceptions for military and high-reliability applications that still use [lead]  
2 solder.”<sup>10</sup>

3 **A. Tin whiskers in lead-free solders cause short circuiting in electronics.**

4 39. The first reason that lead-free solder is less reliable is due to the growth of  
5 “tin whiskers,” which are small, thin metallic hair-like growths that emerge from the  
6 surface of solid tin. Tin whiskers can cause short circuits in electronics devices, which is  
7 part of the reason that the E.U. commission recognizes that “no suitably reliable  
8 substitute for lead-based solders has yet been found.”<sup>11</sup> In fact, a single tin whisker  
9 created a short circuit in a nuclear reactor, which led to a partial reactor shutdown in  
10 2005.<sup>12</sup> Lead solder do not develop tin whiskers for an unknown reason.



23 <sup>10</sup> Howard Johnson, *Rollback the Lead-Free Initiative*, 10 High-Speed Digital Design  
24 Online Newsletter 1 (2007) (available at [www.sigcon.com/pubs/news/10-01.htm](http://www.sigcon.com/pubs/news/10-01.htm)) (last  
visited Oct. 20, 2014).

25 <sup>11</sup> *Id.*

26 <sup>12</sup> Patricia Daddona, *Reactor Shutdown: Dominion Learns Big Lesson From A Tiny ‘Tin  
Whisker’*, The Day (Jul. 4, 2005)(available at:  
27 [http://nepp.nasa.gov/whisker/reference/tech\\_papers/2005-dadonna-nuclear-reactor-  
shutdown.pdf](http://nepp.nasa.gov/whisker/reference/tech_papers/2005-dadonna-nuclear-reactor-shutdown.pdf)) (last visited Oct. 20, 2014).



1           **B.     Lead-free solder cracks when repeatedly stressed by high**  
2           **temperatures.**

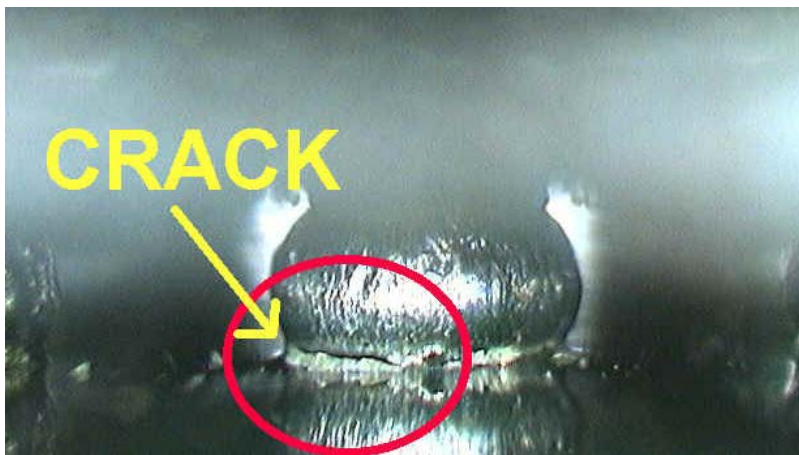
3           40.     The high-powered AMD GPU in the MacBook Pros creates a significant  
4 amount of heat when in use. The AMD GPU in the MacBook Pros is powerful because it  
5 contains a large number of transistors, which allow it to perform more calculations per  
6 second than a processor with fewer transistors. Switching a transistor on or off requires  
7 electric current. Thus, the more transistors there are in a GPU, the more current is  
8 necessary to power the GPU. Because GPUs are not perfectly efficient, some of the  
9 electric current used to power a GPU's transistors is lost as heat, which escapes into the  
10 surrounding environment.  
11

12           41.     In a laptop, all of the componentry is bundled tightly together, which  
13 restricts the airflow needed for cooling. The problem of lack of airflow in laptops is  
14 aggravated in the MacBook Pros because the computer's aluminum enclosure contains  
15 very few vents for hot air to escape. Thus, when the AMD GPU is activated in the  
16 Affected MacBook Pro Laptops, the internals of the laptop can reach extremely high  
17 temperatures.  
18

19           42.     The problem of heat is exacerbated by the excessive use of thermal paste  
20 in the GPUs. Thermal paste is used to allow heat-generating components, like a GPU, to  
21 dissipate heat to a heat sink attached to the logic board. When too much thermal paste is  
22 used, however, it can actually diminish the computer's ability to dissipate heat. This  
23 problem was noted the day after the MacBook Pros went on sale. *See, e.g.,* John  
24 Brownlee, *iFixIt's 2011 MacBook Pro Teardown: Better Repairability, But May Be*  
25 *Prone To Overheating* (available at: [http://www.cultofmac.com/83649/ifixits-2011-](http://www.cultofmac.com/83649/ifixits-2011-macbook-pro-teardown-better-repairability-but-may-be-prone-to-overheating/)  
26 [macbook-pro-teardown-better-repairability-but-may-be-prone-to-overheating/](http://www.cultofmac.com/83649/ifixits-2011-macbook-pro-teardown-better-repairability-but-may-be-prone-to-overheating/)) (last  
27

1 visited Feb. 25, 2011) (“We uncovered gobs of thermal paste on the CPU and GPU when  
2 we removed the main heat sink. The excess paste may cause overheating issues down the  
3 road, but only time will tell.”)

4 43. High temperatures in the MacBook Pros caused by the operation of the  
5 AMD GPU, the lack of ventilation, and the misapplication of thermal paste, heats up the  
6 lead-free solder connecting the AMD GPU to the logic board. The heat itself, or the rapid  
7 cycling of temperature caused by the intermittent activation of the AMD GPU, stresses  
8 the brittle lead-free solder connecting the GPU to the logic board and eventually causes it  
9 to crack. A crack in the lead-free solder between the GPU and the logic board disrupts the  
10 flow of data between the GPU and the logic board, which causes the Graphics Defect  
11 and, eventually, total failure of the MacBook Pros.  
12



21 44. Apple has long known about the risks of GPU defects due to solder-related  
22 failures in MacBook Pro Laptops. Indeed, the 2008 MacBook Pro suffered from a nearly  
23 identical Graphics Defect, which led to a recall by Apple.

24 45. Defendant also knew or should have known that the Graphics Defect was  
25 bound to recur in the MacBook Pros because they use the same lead-free solder and  
26  
27

1 aluminum enclosure as the 2008 MacBook Pro laptops, and contain an even more  
2 powerful and hotter-running GPU.

3 46. Despite knowing of these defects in the MacBook Pros, Defendant never  
4 notified owners or purchasers of the MacBook Pros of the defect or provided a workable  
5 solution.

## 6 **V. Apple's Inadequate Response To The Graphics Defect**

7 47. From the time the MacBook Pros went to market to this day, tens of  
8 thousands of online complaints posted by Class members show that Apple's purported  
9 "graphical stability" update did nothing to remedy the Graphics Defect. A 2013  
10 discussion thread regarding the Graphics Defect on Apple's forums is still active and has  
11 received 7,865 replies and more than one million page views. Discussions.apple.com,  
12 *2011 MacBook Pro and Discrete Graphics Card*, (Feb. 1, 2013),  
13 <https://discussions.apple.com/thread/4766577?tstart=0> (last visited Aug. 21, 2014).

14  
15 48. Dozens of journalists and technology websites have reported on the  
16 issue.<sup>13</sup>

17  
18  
19 <sup>13</sup> See, e.g., <http://geeksided.com/2014/08/17/recent-macbooks-suffering-hardware-failures-apple-wont-help/>; <http://appleinsider.com/articles/14/08/12/apple-ignores-calls-to-fix-2011-macbook-pro-failures-as-problem-grows>; <http://www.zdnet.com/petition-about-apple-macbook-pro-failures-passes-10000-signatures-7000032751/>; <http://www.macworld.co.uk/news/mac/petition-demands-apple-fix-macbook-pro-graphics-woes-3537300/>; <http://www.itpro.co.uk/mac/22911/macbook-pro-bug-prompts-ongoing-complaints-for-apple>; <http://www.macrumors.com/2014/08/21/lawsuit-2011-macbook-pro-graphics/>; [http://www.maclife.com/article/news/law\\_firm\\_could\\_sue\\_over\\_2011\\_macbook\\_pro\\_issues](http://www.maclife.com/article/news/law_firm_could_sue_over_2011_macbook_pro_issues) <http://appleinsider.com/articles/14/05/13/apple-remains-mum-as-complaints-mount-over-2011-macbook-pro-gpu-failures>; <http://www.digitaltrends.com/computing/suddenly-bunch-early-2011-macbook-pro-owners-running-video-problems/>; <http://www.cultofmac.com/262861/early-2011-macbook-pros-dropping-like-flies-heat-issues-blame/>; <http://modmyi.com/content/12490-gpu-failure-issues-surface-apple-s-early-2011-macbook-pro-lineup.html>; <http://www.fudzilla.com/home/item/33702-more->

1 49. Similarly, an active and growing Facebook group dedicated to that  
2 Graphics Defect called “2011 MacBook Pro and Discrete Graphics Issue” has over 4,000  
3 members.

4 50. Apple has failed to repair the Graphics Defect because there is no easy fix.  
5 At best, Apple can replace the MacBook Pro’s logic board with an equally defective logic  
6 board. Many consumers are now on their third or fourth logic board from Apple.

7 51. Consumers who brought their MacBook Pros in for service during the  
8 warranty were often told there was no detectable problem, or that the issue was due to  
9 water damage or software installed post-purchase. At best, consumers were given a new  
10 and equally defective logic board. The logic board is a laptop’s main circuit board, and it  
11 contains the central processing unit, the GPUs, main system memory, and circuitry that  
12 controls the disk drive. The reason Apple replaced the entire logic board instead of the  
13 GPU, which is the source of the defect, is because the GPU is soldered to the logic board,  
14 and it is more time consuming and costly to repair a defective GPU than it is to have an  
15  
16

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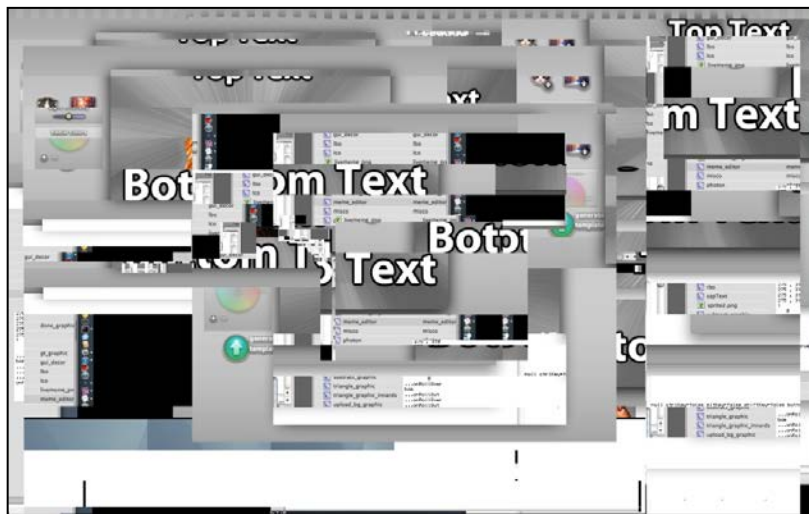
17 [gpu-failures-on-macbook-pros](#);  
18 [http://www.maclife.com/article/news/some\\_2011\\_macbook\\_pros\\_suddenly\\_suffering\\_sc](http://www.maclife.com/article/news/some_2011_macbook_pros_suddenly_suffering_screen_glitches_crashes)  
19 [reen\\_glitches\\_crashes](http://www.republika.co.id/berita/trendtek/gadget/14/01/17/mzjp); <http://www.republika.co.id/berita/trendtek/gadget/14/01/17/mzjp>  
20 [4q-lagi-macbook-pro-dilaporkan-alami-kegagalan-](#)  
21 [sistem http://www.webnews.it/2014/01/17/macbook-pro-2011-](#)  
22 [gpu/?ref=post http://www.rajanetti.com/show/id/31848; http://www.slidetomac.com/](#)  
23 [macbook-pro-2011-problemi-alla-gpu-79250.html;](#)  
24 [http://www.melablog.it/post/127053/macbook-pro-2011-casi-di-malfunzionamento-della-](#)  
25 [gpu-sempre-piu-](#)  
26 [numerosi; http://www.cnbeta.com/articles/269003.htm http://www.saggiamente.com/2](#)  
27 [014/01/17/problemi-alla-gpu-sui-macbook-pro-del-2011-ecco-cosa-bisogna-sapere/;](#)  
28 [http://appleinsider.com/articles/13/10/14/apples-2011-macbook-pro-lineup-suffering-](#)  
[from-sporadic-gpu-failures; http://www.mactrast.com/2013/10/owners-early-2011-](#)  
[macbook-pro/; http://arstechnica.com/apple/2011/03/latest-macbook-pros-suffering-](#)  
[from-gpu-related-freezes/; http://modmyi.com/content/12490-gpu-failure-issues-](#)  
[surface-apple-s-early-2011-macbook-pro-](#)  
[lineup.html; http://wallstcheatsheet.com/stocks/a-bunch-of-sour-apples-stem-from-](#)  
[2011-macbook-pro-glitch.html/?a=viewall](#)

1 entire logic board assembled. As a result, consumers who would have returned their  
2 MacBook Pros had they known that the Graphics Defect was systemic, received  
3 inadequate warranty service and a logic board that was inherently defective.

4 52. Many Class members have had the GPUs on their Affected MacBook Pro  
5 replaced numerous times, only to find that the Graphics Defect again manifests.

- 6 a. "I brought it to the Apple store 3 weeks after I purchased it. I showed them  
7 screenshots [below] of what happens, and I said that it obviously needs a  
8 new GPU or something . . . they gave me the laptop back and said  
9 nothing was wrong and tried to imply I was making it up."

10 [http://www.reddit.com/r/technology/comments/2ds12q/apple\\_ignores\\_calls\\_to\\_fix\\_2011\\_macbook\\_pro/cjsw3yj](http://www.reddit.com/r/technology/comments/2ds12q/apple_ignores_calls_to_fix_2011_macbook_pro/cjsw3yj).



- 22 b. "This same problem happened on my girlfriend's mbp. She had to return  
23 to the store 6 times before they eventually replaced the laptop. The  
24 customer service was terrible and each time the genius said "that should be  
25 fixed now" this included various resets and reinstalls which we had  
26 already tried to no avail as well as a new logic board which also had the  
27

1 same issue. Apple at no point gave an explanation to what it may be and  
2 the guys at the bar just thought it was "strange" we had photo and video  
3 evidence of the fault.

4 [http://www.reddit.com/r/technology/comments/2ds12q/apple\\_ignores\\_calls\\_to\\_fix\\_2011\\_macbook\\_pro/cjskn2m](http://www.reddit.com/r/technology/comments/2ds12q/apple_ignores_calls_to_fix_2011_macbook_pro/cjskn2m).

5  
6  
7 c. "I had a 2011 MBP with this issue. The Logicboard was replaced 4 times,  
8 and the issue persisted. YESTERDAY I brought it back for a 5th time.

9 The genius replaced it with a brand new retina display model."

10 [http://www.reddit.com/r/technology/comments/2ds12q/apple\\_ignores\\_calls\\_to\\_fix\\_2011\\_macbook\\_pro/cjskvce](http://www.reddit.com/r/technology/comments/2ds12q/apple_ignores_calls_to_fix_2011_macbook_pro/cjskvce).

11  
12  
13 d. "This hit mine a year ago, just a few months out of the two year warranty .  
14 . . . I ended up paying ~\$700 for a logic board replacement.

15 [http://www.reddit.com/r/technology/comments/2ds12q/apple\\_ignores\\_calls\\_to\\_fix\\_2011\\_macbook\\_pro/cjsztq9](http://www.reddit.com/r/technology/comments/2ds12q/apple_ignores_calls_to_fix_2011_macbook_pro/cjsztq9).

16  
17  
18 53. Tellingly, Apple has issued recalls for this very same defect when it is  
19 economically convenient. Indeed, the 2011 iMac desktop computers, which contain the  
20 same line of AMD GPUs, also manifested the Graphics Defect. However, the AMD  
21 GPUs in the iMacs could be swapped out by hand because they were not soldered to the  
22 logic board as they are with the MacBook Pros. Accordingly, replacing the GPU on an  
23 iMac costs far less than it does for the MacBook Pros. As a result, when the Graphics  
24 Defect manifested in the 2011 iMacs, Apple issued a recall and replaced every iMac's  
25 AMD GPU. *See MacRumors, Apple Initiates Graphic Card Replacement Program for*

1 *Mid-2011 27-inch iMac* (Aug. 16, 2013) (available at  
2 [http://www.macrumors.com/2013/08/16/apple-initiates-graphic-card-replacement-](http://www.macrumors.com/2013/08/16/apple-initiates-graphic-card-replacement-program-for-mid-2011-27-inch-imac/)  
3 [program-for-mid-2011-27-inch-imac/](http://www.macrumors.com/2013/08/16/apple-initiates-graphic-card-replacement-program-for-mid-2011-27-inch-imac/)) (last visited Aug. 22, 2014).

4 54. Because the purported “graphical stability” fix and warranty repairs  
5 offered by Apple failed to remedy the Graphics Defect, Plaintiffs and Class Members  
6 purchased a computer they would have never bought had they been informed of the  
7 Graphics Defect and now are unable to use their 2011 MacBook Pro Laptops. As a result,  
8 the groundswell of complaints about the Graphics Defect that affects all of the 2011  
9 MacBook Pro Laptops has continued. Indeed, a petition on change.org to Apple’s chief  
10 executive officer, Timothy D. Cook, which was posted more than 2 years after  
11 announcement of the “graphical stability” fix, has received 10,827 signatures. *Petitioning*  
12 *Timothy D. Cook, Replace or Fix All Early 2011 Macbook Pro with Graphics Failure,*  
13 *change.org* (Dec. 1, 2013), [https://www.change.org/p/timothy-d-cook-replace-or-fix-all-](https://www.change.org/p/timothy-d-cook-replace-or-fix-all-early-2011-macbook-pro-with-graphics-failure)  
14 [early-2011-macbook-pro-with-graphics-failure](https://www.change.org/p/timothy-d-cook-replace-or-fix-all-early-2011-macbook-pro-with-graphics-failure) (last visited Aug. 21, 2014).

15  
16  
17 55. Defendant warranted that the MacBook Pros would be free from defects in  
18 material and workmanship that occur under normal use during the warranty period.

19 56. Specifically, Defendant provided a “Limited Warranty” that warrants the  
20 product “against defects in materials and workmanship when used normally in  
21 accordance with Apple’s published guidelines for a period of ONE (1) YEAR from the  
22 date of original retail purchase by the end-user purchaser.” As stated above, and as  
23 described more fully below, the MacBook Pros have a known defect in the physical  
24 interface between the graphics processing hardware and the logic board. Though fully  
25 aware of the Graphics Defect, Apple has refused to adequately repair or replace  
26  
27

1 Plaintiffs' MacBook Pros while under warranty. Defendant has refused to repair or  
2 replace Plaintiffs' MacBook Pros in spite of the warranty, and has claimed to Plaintiffs  
3 and Class members that their laptops are free from defects.

4 57. As a result, Plaintiffs and all other Class members suffered actual damages  
5 when they purchased MacBook Pros, which are unreliable or unusable as personal  
6 computing devices, contrary to Defendant's representations. Furthermore, Plaintiff and  
7 the Class have suffered or will suffer damages in the form of, *inter alia*, out-of-pocket  
8 expenditures for repairs and attempted repairs of the MacBook Pros as a direct and  
9 proximate result of the Graphics Defects, which was known by Defendant to be present  
10 in their products. Moreover, Plaintiff and the Class have suffered or will suffer damages  
11 in the form of diminished value of the MacBook Pros as a direct and proximate result of  
12 the Graphics Defect. Finally, Plaintiff and the Class have suffered or will suffer damages  
13 inasmuch as they did not get the benefit of the bargain as a direct and proximate result of  
14 the Graphics Defect which the Defendant has been unable to remedy under its Warranty.  
15

16 17 58. Had Plaintiff and the Class known of the Graphics Defect at the time of  
18 purchase, they would not have purchased the MacBook Pros or they would not have  
19 purchased them at the premium price for which they were sold.

20 59. Because of the relatively small size of the typical individual Class  
21 member's claims, it is unlikely that individual Class members could afford to seek  
22 recovery on their own. This is especially true in light of the size and resources of  
23 Defendant. A class action is, therefore, the only reasonable means by which Class  
24 members can obtain relief.  
25  
26  
27



1           60. Defendant knew that Plaintiff and Class members would rely on  
2 Defendant's representations, marketing, and warranties regarding the quality of the  
3 MacBook Pros and their graphics-processing capabilities.

4           61. Plaintiffs and Class members relied on Defendant's representations,  
5 marketing, and warranties when purchasing the MacBook Pros.  
6

7  
8                                   **FACTS SPECIFIC TO NAMED PLAINTIFFS**

9           **I. Plaintiff Zachary Book (California)**

10           62. Plaintiff Zachary Book purchased his MacBook Pro from Best Buy on  
11 January 28, 2012 – approximately 11 months after the MacBook Pro went on sale.

12           63. While his MacBook Pro was within the one-year warranty period, Plaintiff  
13 Book experienced the Graphics Defect in the form of a series of “digital strokes” that  
14 caused his MacBook Pro's graphics to become distorted and garbled moments before the  
15 laptop would become unresponsive. These digital strokes would most typically occur  
16 when the laptop was running graphically-intensive applications. On October 1, 2013,  
17 outside of the warranty period, a “digital stroke” caused the total failure of Plaintiff  
18 Book's MacBook Pro. Plaintiff Book took his laptop to Apple for repairs. Apple  
19 incorrectly diagnosed the issue, and replaced the laptop's hard drive and charging  
20 hardware at a cost of \$174.01 to Plaintiff Book.  
21

22           64. The repairs did not remedy the issue, and Plaintiff Book again scheduled  
23 an appointment with Apple and took his laptop in to an Apple Store on October 21, 2013.  
24 Plaintiff Book continued experiencing issues and took his MacBook Pro in to the Apple  
25 Store on November 8, 2013, and again on November 11, 2013.  
26  
27

1           65.     On November 19, 2013, Plaintiff Book's MacBook Pro again failed due to  
2 the Graphics Defect. Apple replaced the logic board on Plaintiff Book's laptop at a cost  
3 of \$255. However, Apple gave Plaintiff Book a rebate of \$100 because, which reduced  
4 his total payment to \$164.45.

5           66.     On November 9, 2013, Plaintiff Book's laptop again failed due to the  
6 Graphics Defect. Apple replaced Plaintiff Book's logic board for \$264.45, \$100 of which  
7 was credited to Plaintiff Book due to the numerous past issues he had experienced.  
8

9           67.     Despite the logic board replacement, the problem persisted, and Plaintiff  
10 Book returned to Apple to report on his continued issues on December 28, 2013. Apple  
11 repair technicians suggested that the issue was caused by the plug-in power adapter and  
12 sold Plaintiff Book a new adapter for \$86.11. The adapter did not remedy the issue, and  
13 Plaintiff Book continued to experience the Graphics Defect.

14           68.     On March 17, 2014, Plaintiff Book's MacBook Pro again manifested the  
15 Graphics Defect and ceased functioning entirely. Apple again replaced Plaintiff Book's  
16 logic board and charging hardware, and prepared an invoice for repairs that totaled  
17 \$536,73, which Apple eventually waived after Plaintiff Book complained directly to  
18 Apple's customer support hotline.  
19

20           69.     To this day, Plaintiff Book's MacBook Pro continues to suffer from the  
21 Graphics Defect, which has necessitated the purchase of a new laptop by Plaintiff Book.  
22

## 23 **II. Plaintiff Donald Cowart (California)**

24           70.     Plaintiff Donald Cowart purchased his MacBook Pro on May 25, 2012—  
25 more than a year after the MacBook Pros came to market. Plaintiff Cowart paid  
26 approximately \$2,500 for his laptop.  
27

1           71. Plaintiff Cowart has exclusively used Apple computers since  
2 approximately 1987, and reports that his MacBook Pro “was a total dud since I’ve had  
3 it.” Plaintiff Cowart typically uses his MacBook Pro connected to an external monitor,  
4 which requires use of the AMD GPU.

5           72. Within months of purchasing his laptop, programs on Plaintiff Cowart’s  
6 laptop started randomly failing during use. From very early on, Plaintiff Cowart  
7 experienced software instability and graphical anomalies.  
8

9           73. Plaintiff Cowart took his laptop to Apple for the first time in August 2013,  
10 months after the issues began manifesting. Apple employees informed him that the issue  
11 was related to software conflicts. As a result, Plaintiff Cowart spent dozens of hours  
12 uninstalling and reinstalling software per Apple’s instructions. None of the software fixes  
13 recommended by Apple resolved the issues he was experiencing.

14           74. Plaintiff Cowart again took his laptop to Apple for repairs in October  
15 2013. Again, Apple had no fix for the issue.  
16

17           75. Plaintiff Cowart took his laptop in to Apple again in November 2013  
18 because programs were constantly crashing. Apple was unable to fix the issues he was  
19 experiencing.

20           76. On May 7, 2014, Plaintiff Cowart again took his laptop in to Apple. Apple  
21 diagnosed the issue as one having to do with software permissions. Apple technicians  
22 restored Plaintiff Cowart’s laptop from a backup drive in an attempt to remedy the issue.  
23 The restoration did nothing to remedy the issues Plaintiff Cowart was experiencing.  
24

25           77. In September 2014, Plaintiff Cowart took his MacBook Pro to a repair  
26 shop that performs circuit board repairs. The repair shop inspected Plaintiff Cowart’s  
27

1 logic board and found that the lead-free solder between the GPU and the logic board had  
2 cracked at numerous points—i.e., Plaintiff Cowart’s Laptop is suffering from the  
3 Graphics Defect.

4 78. Plaintiff Cowart’s MacBook Pro remains unstable and barely operable to  
5 this day.

6 **III. Plaintiff John Manners (Florida)**

7 79. Plaintiff John Manners purchased his MacBook Pro on March 1, 2011 at a  
8 cost of \$1,817.93.

9 80. In June 2011, Plaintiff Manners experienced the Graphics Defect. Plaintiff  
10 Manners took his MacBook Pro to the Apple store and was asked to reproduce the  
11 Graphics Defect in the store. He was unable to do so. As a result, Apple did nothing to  
12 repair his laptop. Plaintiff Manners continued to experience the Graphics Defect until  
13 February 2013, when the Graphics Defect caused his MacBook Pro to become  
14 completely inoperable. Apple charged Plaintiff Manners \$331.70 for a logic board  
15 replacement.  
16  
17

18 **CLASS ALLEGATIONS**

19 81. Plaintiffs bring this action on behalf of themselves and on behalf of all  
20 others similarly situated as Class members pursuant to Rule 23 of the Federal Rules of  
21 Civil Procedure on behalf of the following classes and sub-classes:

- 22 a. California Class: All persons or entities in the State of California who  
23 purchased a 2011 MacBook Pro with an AMD GPU and have experienced  
24 the Graphics Defect.  
25  
26 b. Florida Class: All persons or entities in the State of Florida who purchased  
27 a 2011 MacBook Pro with an AMD GPU.

- 1 c. Florida Subclass: All persons or entities who purchased a 2011 MacBook  
2 Pro with an AMD GPU in the State of Florida and paid for labor,  
3 materials, and/or parts in connection with the Graphics Defect.

4 82. Excluded from the Classes and Subclass are Defendant and its officers,  
5 directors and employees; any entity in which Defendant has a controlling interest; the  
6 affiliates, legal representatives, attorneys, heirs and assigns of Defendant; any federal,  
7 state, or local government entity; and any judge, justice or judicial officer presiding over  
8 this matter and the members of their immediate families and judicial staffs. Claims for  
9 personal injury and consequential damages are excluded.  
10

11 83. Questions of law and fact are common to the Class and Subclass and  
12 predominate over any questions affecting only individual members, and a class action  
13 will generate common answers to the questions below, which are apt to drive the  
14 resolution of the litigation:  
15

- 16 a. Whether the 2011 MacBook Pro Laptops suffer from a common design  
17 defect;  
18 b. Whether Defendant failed to disclose material information to members of  
19 the Class;  
20 c. Whether Defendant's omission of material fact is misleading or  
21 reasonably likely to deceive a reasonable consumer;  
22 d. Whether Defendant's purported software update to address "graphical  
23 stability" resolved the Graphics Defect;  
24 e. Whether, by its misconduct as set forth herein, Defendant has engaged in  
25 unlawful or fraudulent business practices;  
26  
27

- 1 f. Whether members of the Classes and Subclass have been injured by  
2 Defendant's misconduct;
- 3 g. Whether as a result of Defendant's misconduct, Plaintiffs and other  
4 members of the Classes and Subclass are entitled to damages, restitution,  
5 equitable relief, injunctive relief, or other relief, and the amount and nature  
6 of such relief.
- 7 h. Whether the 2011 MacBook Pros have not or will not perform in  
8 accordance with the reasonable expectations of ordinary consumers;
- 9 i. Whether Defendant's express warranty fails of its essential purpose;
- 10 j. Whether Defendant breached its express warranty;
- 11 k. Whether Defendant breached the implied warranty of merchantability;
- 12 l. Whether Defendant knew of and failed to warn of the Graphics Defect;  
13 and  
14
- 15 m. Whether Defendant failed to properly disclaim any limitation to pay for  
16 repairs or replacement of the MacBook Pros.

17  
18 84. The claims of Plaintiffs are typical of the claims of the Classes and  
19 Subclass. Plaintiffs have no interests antagonistic to those of the Classes and Subclass,  
20 and Defendant has no defenses unique to the Plaintiffs.

21 85. Plaintiffs will protect the interests of the Classes and Subclass fairly and  
22 adequately, and Plaintiffs have retained attorneys experienced in complex class action  
23 litigation.  
24

25 86. A class action is superior to all other available methods for this  
26 controversy because (i) the prosecution of separate actions by the members of the Classes  
27

1 and Subclass would create a risk of adjudications with respect to individual members of  
2 the Classes and Subclass that would, as a practical matter, be dispositive of the interests  
3 of the other members not parties to the adjudications, or substantially impair or impede  
4 their ability to protect their interests; (ii) the prosecution of separate actions by members  
5 of the Classes and Subclass would create a risk of inconsistent or varying adjudications  
6 with respect to the individual members of the Classes and Subclass, which would  
7 establish incompatible standards of conduct for Defendant; (iii) Defendant acted or  
8 refused to act on grounds generally applicable to the Classes and Subclass; and (iv)  
9 questions of law and fact common to the Classes and Subclass predominate over any  
10 questions affecting only individual members, and a class action is superior to other  
11 available methods for the fair and efficient adjudication of the controversy.  
12

13 87. Plaintiffs do not anticipate any difficulty in the management of this  
14 litigation.  
15

16 88. The nature of notice to the proposed class is contemplated to be by direct  
17 mail/e-mail upon certification of the class or, if such notice is not practicable, by the best  
18 notice practicable under the circumstance including, but not limited to, publication in  
19 major newspapers and on the internet.  
20

21 **FIRST CAUSE OF ACTION**  
22 **Asserted On Behalf of the Florida Class and the Florida Subclass**  
23 **(Violation of Magnuson-Moss Warranty Act 15 U.S.C. § 2301, et seq.)**

24 89. Plaintiff Manners incorporates by reference all allegations of the  
25 preceding paragraphs as though fully set forth herein.

26 90. Plaintiff Manners brings this Count on behalf of the Florida Class and the  
27 Florida Subclass.  
28

1 91. Plaintiff Manners is a “consumer” within the meaning of the Magnuson-  
2 Moss Warranty Act, 15 U.S.C. § 2301(3).

3 92. Apple is a “supplier” and “warrantor” within the meaning of the  
4 Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(4)-(5).

5 93. The 2011 MacBook Pros are “consumer products” within the meaning of  
6 the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(1).

7 94. 15 U.S.C. § 2301(d)(1) provides a cause of action for any consumer who  
8 is damaged by the failure of a warrantor to comply with a written or implied warranty.  
9

10 95. Apple’s express warranties are written warranties within the meaning of  
11 the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(6). The MacBook Pros implied  
12 warranties are covered under 15 U.S.C. § 2301(7).

13 96. Apple breached these warranties as described in more detail above.  
14 Without limitation, the MacBook Pros are equipped with the AMD GPUs and  
15 manufactured with the defective lead-free solder. The MacBook Pros share a common  
16 design defect in that the AMD GPU and computer fails to operate as represented by  
17 Apple.  
18

19 97. Plaintiff Manners and other members of the Florida Class and Florida  
20 Subclass have had sufficient dealings with either Apple or its agents (resellers and  
21 technical support) to establish privity of contract between Apple, on the one hand, and  
22 Plaintiff Manners and each of the other Florida Class and Florida Subclass members on  
23 the other hand. Nonetheless, privity is not required here because Plaintiff Manners and  
24 each of the other Florida Class and Florida Subclass members are intended third-party  
25 beneficiaries of contracts between Apple and its resellers, and specifically, of Apple’s  
26  
27



1 warranties. The warranty agreements were designed for and intended to benefit the  
2 consumers only.

3 98. Affording Apple a reasonable opportunity to cure its breach of written  
4 warranties would be unnecessary and futile here. In fact, Plaintiff Manners has already  
5 given Apple the opportunity to cure its breaches, and Apple has failed, after numerous  
6 attempts, to cure the defects. At the time of sale or lease of each MacBook Pro, Apple  
7 knew, should have known, or was reckless in not knowing of its misrepresentations and  
8 omissions concerning the MacBook Pros' ability to perform as warranted, but  
9 nonetheless failed to rectify the situation or disclose the defective design. Under the  
10 circumstances, the remedies available under any informal settlement procedure would be  
11 inadequate and any requirements that Plaintiffs resort to an informal dispute resolution  
12 procedure or afford Apple a reasonable opportunity to cure its breach of warranties is  
13 excused and thereby deemed satisfied.  
14

15 99. Plaintiff Manners and the other Florida Class and Florida Subclass  
16 members would suffer economic hardship if they returned their MacBook Pros but did  
17 not receive the return of all payments made by them. Because Apple is refusing to  
18 acknowledge any revocation of acceptance and return immediately all payments made,  
19 Plaintiff Manners and the other Florida Class and Florida Subclass members have not re-  
20 accepted their MacBook Pros by retaining them.  
21

22 100. The amount in controversy of Plaintiffs' individual claims meets or  
23 exceeds the sum of \$25. The amount in controversy of this action exceeds the sum of  
24 \$50,000, exclusive of interest and costs, computed on the basis of all claims to be  
25 determined in this lawsuit.  
26  
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1           101. Plaintiff Manners, individually and on behalf of the other Florida Class  
2 and Florida Subclass members, seeks all damages permitted by law, including diminution  
3 in value of the MacBook Pros, in an amount to be proven at trial.

4  
5                                   **SECOND CAUSE OF ACTION**  
6                                   **Asserted On Behalf Of The California Class**  
7                                   **(Breach of Implied Warranty, Song-Beverly Consumer Warranty Act, CAL. CIV.**  
8                                   **CODE §§ 1792 et seq.)**

9           102. Plaintiffs Book and Cowart, individually, on behalf of all others similarly  
10 situated and the general public of the State of California, adopts and incorporates by  
11 reference all allegations contained in the foregoing paragraphs as though fully set forth  
12 herein.

13           103. Under California’s Song-Beverly Consumer Warranty Act, Civ. Code §§  
14 1792 *et seq.*, every sale of consumer goods in the State of California is accompanied by  
15 both a manufacturer’s and retail seller’s implied warranty that the goods are  
16 merchantable.

17           104. The MacBook Pros are “consumer goods” under Cal. Civ. Code § 1791(j).

18           105. Defendant is both a “manufacturer” and a “retailer” under Cal. Civ. Code  
19 § 1791(j).

20           106. Plaintiffs Book and Cowart bought, at retail, A 2011 MacBook Pro in the  
21 State of California.

22           107. By operation of law, Defendant impliedly warranted to Plaintiff and all  
23 other Class members who purchased a 2011 MacBook Pro at retail in the State of  
24 California that the 2011 MacBook Pro laptops were of merchantable quality and fit for  
25 the ordinary purposes for which the MacBook Pro laptops are used.  
26  
27

1           108. Defendant breached its implied warranties because the MacBook Pros  
2 contained an unseen defect at the point of sale that render the product unmerchantable  
3 from the outset. Had the Graphics Defect been known, the MacBook Pros would have  
4 been discarded as not being of the quality described in Apple's Warranty. Because of the  
5 Graphics Defect, the MacBook Pros were plagued by problems that manifested within the  
6 warranty period and eventually caused total failure of the MacBook Pros.

7           109. As a proximate result of Defendant's breach of implied warranties,  
8 Plaintiffs Book and Cowart and all other California Class members who purchased a  
9 2011 MacBook Pro, at retail, in the State of California have sustained damages and other  
10 losses in an amount to be determined at trial. Plaintiffs Book and Cowart and the other  
11 California Class members are entitled to recover damages as provided by statute, costs,  
12 attorney's fees, rescission, and other relief as is deemed appropriate.

13           110. Any purported disclaimer or limitation of the Implied Warranty of  
14 Merchantability on the part of Defendant is unconscionable and unenforceable because,  
15  
16 *inter alia*, Defendant knew that the MacBook Pros suffer from the Graphics Defect.

17  
18                                   **THIRD CAUSE OF ACTION**  
19                                   **Asserted On Behalf Of The Florida Class**  
20                                   **(Failure to Warn, Florida Deceptive and Unfair Trade Practices Act –**  
21                                   **Fla. Stat. §§ 501.201 et seq.)**

22           111. Plaintiff Manners incorporates by reference each preceding paragraph as  
23 though fully set forth herein.

24           112. This cause of action is brought pursuant to the Florida Deceptive and  
25 Unfair Trade Practices Act, Fla. Stat. §§ 501.201 et seq. (hereinafter referred to as  
26 "FDUTPA"). The stated purpose of FDUTPA is to "protect the consuming . . . from those  
27

1 who engage in unfair methods of competition, or unconscionable, deceptive, or unfair  
2 acts or practices in the conduct of any trade or commerce.” Fla. Stat. § 501.202(2).

3 113. Plaintiff Manners and all members of the Florida Class and the Florida  
4 Subclass are “consumers” and the transactions at issue in this Complaint constitute “trade  
5 or commerce” as defined by the Florida Statutes § 501.203(7) and (8) respectively.

6 114. As described herein, Apple knew, or by the exercise of reasonable care  
7 should have known, that the MacBook Pros would have and had the alleged Graphics  
8 Defects.

9 115. Apple knew that the Florida Plaintiff and the other members of the Florida  
10 Class and the Florida Subclass, who used the MacBook Pros for their intended use, were  
11 members of a foreseeable class of persons who were and are at risk of suffering  
12 inconvenience and expense solely because of the Graphics Defect.

13 116. At the time Apple manufactured, distributed and/or sold the 2011  
14 MacBook Pros, it owed a non-delegable duty to persons like the Florida Plaintiff and the  
15 other members of the Florida Class and the Florida Subclass to exercise ordinary and  
16 reasonable care to properly design the MacBook Pros, and it owes a continuing duty to  
17 warn about the problem and to repair and/or recall the MacBook Pros.

18 117. Apple had a pre-sale duty to warn potential purchasers that the Affected  
19 MacBook Laptops carried with them greater risks of graphical defects, system instability,  
20 and system failure, than an ordinary consumer would expect when using the 2011  
21 MacBook Pros in their intended or reasonably-foreseeable manner.  
22  
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1 118. Apple failed to use appropriate design, engineering, and parts in  
2 manufacturing the 2011 MacBook Pros, and in other respects, Apple breached its duties  
3 by being wantonly reckless, careless, and negligent.

4 119. Defendant violated FDUTPA by engaging in the unfair and deceptive  
5 actions and/or omissions as described herein when it manufactured, distributed, marketed  
6 and sold the 2011 MacBook Pros that it knew contained material defects which were not  
7 adequately disclosed to the consuming public. Defendant expressly and impliedly  
8 represented that the 2011 MacBook Pros were dependable; suitable for ordinary use; and  
9 of good workmanship, material and design, and free from material defects. In fact, the  
10 2011 MacBook Pros possess the Graphics Defect. Defendant concealed and failed to  
11 disclose these adverse material facts to Plaintiffs and members of the Florida Class and  
12 the Florida Subclass.  
13

14 120. Defendant knew or should have known that the 2011 MacBook Pros were  
15 defectively designed and/or manufactured due to the Graphics Defect, which results in  
16 unstable and ultimately inoperable computers that result in severe inconvenience and  
17 costs for repair and/or replacement.  
18

19 121. Despite Apple's knowledge that the 2011 MacBook Pros possessed the  
20 Graphics Defect, Apple continued to market, manufacture, distribute and sell the 2011  
21 MacBook Pros to consumers, including Plaintiff and the Florida Class and the Florida  
22 Subclass, without adequate disclosure of the inherent Graphics Defect.  
23

24 122. Defendant's acts and omissions in, among other things, distributing,  
25 marketing and/or selling to consumers a product known to contain a material defect that  
26 affects that stability, usability, and durability of the 2011 MacBook Pros, are  
27

1 unconscionable, deceptive and unfair acts and practices in the Conduct of Defendant's  
2 trade or commerce, in violation of the FDUTPA.

3 123. Defendant's acts and omissions in, among other things, failing to provide  
4 consumers with adequate warnings about the Graphics Defect with the 2011 MacBook  
5 Pros are unconscionable, deceptive and unfair acts and practices in the conduct of  
6 Defendant's trade or commerce, in violation of the FDUTPA.

7 124. Defendant's concealment of the Graphics Defect in the 2011 MacBook  
8 Pros constitutes deceptive and unfair trade practices because Defendant knew such facts  
9 would be unknown and not easily discoverable by Plaintiff and Class Members and  
10 would contravene their ordinary, foreseeable and reasonable expectations concerning the  
11 performance of the 2011 MacBook Pros. Plaintiff and other Class members were  
12 reasonably deceived by Defendant's unfair and deceptive practices to their detriment.

13 125. As a direct result of Apple's failure to adequately warn consumers of the  
14 Graphics Defect in the 2011 MacBook Pros, Plaintiff Manners and the Florida Class and  
15 the Florida Subclass have suffered damages as set out herein.

16 126. As a direct and proximate result cause of the violation of the FDUTPA,  
17 described above, Plaintiff Manners and the Florida Class and the Florida Subclass  
18 members have been injured in that they own 2011 MacBook Pros based on Defendant's  
19 failure to disclose the material facts alleged above.

20 127. The unconscionable, illegal, unfair and deceptive acts and practices of  
21 Defendant violate the FDUTPA. Plaintiff Manners and the Florida Class and Florida  
22 Subclass members have suffered actual damages for which they are entitled to relief  
23 pursuant to Fla. Stat. 501.211(2).  
24  
25  
26  
27

1 128. Defendant's unlawful conduct is continuing, with no indication that it will  
2 cease.

3 129. As a direct and proximate result of the unconscionable, unfair, and  
4 deceptive acts or practices alleged herein, Plaintiff Manners and the Florida Class and  
5 Florida Subclass members have been damaged and are entitled to recover actual damages  
6 to the extent permitted by law, including class action rules, in an amount to be proven at  
7 trial. In addition, Plaintiff Manners and the Florida Class and the Florida Subclass  
8 members seek equitable relief and to enjoin Apple on the terms that the Court considers  
9 reasonable, and reasonable attorneys' fees.  
10

11  
12 **FOURTH CAUSE OF ACTION**  
13 **Asserted On Behalf Of The Florida Class**  
14 **(Breach of Express Warranty)**

15 130. Plaintiff Manners incorporates by reference each preceding paragraph as  
16 though fully set forth herein.

17 131. Apple made affirmations of fact and promises to Plaintiffs and members  
18 of the Florida Class which related to the 2011 MacBook Pros as more fully described  
19 herein.

20 132. These affirmations of fact and promises created an express warranty that  
21 the 2011 MacBook Pros would conform to Apple's affirmations and promises.

22 133. Apple uniformly warranted all of the 2011 MacBook Pros against defects  
23 in material or workmanship at a time when it knew that the 2011 MacBook Pros suffered  
24 from serious defects and, nevertheless, continued to market and sell the 2011 MacBook  
25 Pros with this express warranty.  
26  
27

1           134. Apple is obligated under the terms of its warranty to repair or replace the  
2 2011 MacBook Pros sold to Plaintiff Manners and members of the Florida Class.

3           135. Apple has breached its written warranty, as set forth above, by supplying  
4 the 2011 MacBook Pros in a condition which does not meet the warranty obligations  
5 undertaken by Apple and by failing to repair the Graphics Defect.

6           136. As set forth above, Apple's warranty fails in its essential purpose and,  
7 accordingly, Plaintiff Manners and members of the Florida Class cannot and should not  
8 be limited to the remedies set forth in Apple's written warranty and, instead, should be  
9 permitted to recover all measures of appropriate relief.

10           137. Apple has received sufficient and timely notice of the breaches of  
11 warranty alleged herein. Despite this notice and Apple's knowledge of the defects in the  
12 2011 MacBook Pros, Apple has failed and refused to honor its warranty, even though it  
13 knows of the defects inherent in the 2011 MacBook Pros.

14           138. Plaintiff Manners and members of the Florida Class have given Apple a  
15 reasonable opportunity to cure its failures with respect to its warranty, and Apple has  
16 failed to do.

17           139. Apple has failed to provide Plaintiff Manners and members of the Florida  
18 Class, as a warranty repair or replacement, a product that conforms to the qualities and  
19 characteristics that Apple expressly warranted when it sold the 2011 MacBook Pros to  
20 Plaintiff Manners and members of Florida Class.

21           140. As a result of Apple's breach of warranty, Plaintiff Manners and members  
22 of the Florida Class have suffered damages in an amount to be determined at trial.  
23  
24  
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**FIFTH CAUSE OF ACTION**  
**Asserted On Behalf Of The Florida Class**  
**(Fraudulent Concealment/Nondisclosure)**

1  
2  
3 141. Plaintiff Manners incorporates by reference each preceding paragraph as  
4 though fully set forth herein.

5 142. At all relevant times, Apple knew that the Defective MacBook Pro  
6 Laptops' suffered from the Graphics Defect and would fail in advance of their anticipated  
7 useful life under ordinary use and conditions. Defendant also knew that the anticipated  
8 useful life of a 2011 MacBook Pro was, at a minimum, four years.  
9

10 143. Defendant also knew that, because of the Graphics Defect, the Defective  
11 MacBook Pro Laptops would not perform as anticipated, particularly with respect to  
12 graphically intensive tasks.

13 144. Defendant concealed information that the AMD GPUs were defectively  
14 soldered to the logic board and that a functioning and non-defective AMD GPU was  
15 necessary to achieve the promised results regarding graphical performance and the users'  
16 ability to use an external monitor, process photographs and video, and view high  
17 definition content.  
18

19 145. The concealed information is material in that a reasonable consumer  
20 would find it important when deciding whether to buy the 2011 MacBook Pros and, if so,  
21 how much to pay. All of the misrepresentations alleged herein are connected to and  
22 dependent on a functioning AMD GPU.  
23

24 146. Defendant was also and continues to be under a duty to Plaintiffs and the  
25 Florida Class to disclose these facts because:  
26  
27

1 a. Defendant is in superior position to know the truth about the quality and  
2 nature of the 2011 MacBook Pros; and

3 b. Defendant actively concealed from Plaintiffs and the Classes the fact that  
4 the 2011 MacBook Pros were and are defective at the point of sale and  
5 substantially likely to fail in advance of their anticipated useful life.

6 147. Defendant fraudulently and intentionally concealed from and/or failed to  
7 disclose to Plaintiff Manners and the Florida Class members the facts described above  
8 with the intent to defraud Plaintiff Manners and the Florida Class members and for the  
9 purpose of inducing Plaintiff Manners and the Florida Class members to act thereon by  
10 purchasing the more expensive 2011 MacBook Pros. Defendant knew that Plaintiff  
11 Manners and the Florida Class members would not purchase or pay as much for the 2011  
12 MacBook Pros if Defendants had disclosed the defective nature of the 2011 MacBook  
13 Pros and their AMD GPUs.  
14

15 148. Plaintiff Manners and the Florida Class members were unaware of the  
16 Graphics Defect and that the 2011 MacBook Pros were defective and prone to failure.  
17

18 149. Plaintiff Manners and the Florida Class members justifiably acted or relied  
19 upon to their detriment the misrepresentations and/or concealed or non-disclosed facts as  
20 evidenced by their purchase of the 2011 MacBook Pros. Had Defendant disclosed the  
21 true defective nature of the 2011 MacBook Pros, Plaintiff Manners and the Florida Class  
22 members would not have purchased, or would have paid less for, their laptops.  
23

24 150. As a direct and proximate cause of Defendant's misconduct, Plaintiff  
25 Manners and the Florida Class members have suffered actual damages in that they have  
26 or will have to continue to pay for repairs and/or replacements. Plaintiff Manners and the  
27

1 Florida Class members have further suffered actual damages because the 2011 MacBook  
2 Pros are equipped with GPUs that prevent them from achieving the graphical  
3 performance promised and will fail well in advance of their anticipated useful life.

4 Plaintiff Manners and the Florida Class members have also suffered unreasonable  
5 diminution in value of the 2011 MacBook Pros as a result of Defendant's misconduct.

6 151. Defendants' misconduct has been and is wanton and/or reckless and/or  
7 shows a reckless different to the interests of others.

8  
9 **DECLARATORY RELIEF**

10 152. Plaintiffs, on behalf of themselves and all others similarly situated, adopt  
11 and incorporate by reference the allegations contained in the preceding paragraphs as  
12 though fully set forth herein.

13 153. Defendant has acted or refused to act on grounds that apply generally to  
14 the Declaratory Relief Class, so that final injunctive relief or corresponding declaratory  
15 relief is appropriate respecting the Class as a whole within the meaning of Fed. R. Civ. P.  
16 23.

17  
18 154. Plaintiffs seek a declaration that:

- 19 a. The MacBook Pros have a Graphics Defect which results in premature  
20 failure;  
21 b. Defendant's warranty fails of its essential purpose;  
22 c. Certain provisions of Defendant's warranty are void as unconscionable;  
23 d. Defendant must notify owners of the MacBook Pros;  
24 e. Defendant will reassess all prior warranty claims and pay the full costs of  
25 repairs and damages; and  
26

1 f. Defendant will pay the costs of inspection to determine whether any Class  
2 Members MacBook Pros require replacement.

3 **PRAYER FOR RELIEF**

4 **WHEREFORE**, Plaintiffs, on behalf of themselves and all others similarly  
5 situated in California and the District of Columbia, prays the Court enter judgment  
6 against Apple as follows:

- 7
- 8 a. Certify this action as a class action under Rule 23 of the Federal Rules  
9 of Civil Procedure, appoint Plaintiffs as the Class representatives, and  
10 appoint the undersigned as Class counsel;
  - 11 b. Issue a permanent injunction or other appropriate equitable relief requiring  
12 Defendant to establish a common fund for repairs for, or replacement of,  
13 the MacBook Pros;
  - 14 c. Order Defendant to pay Plaintiffs and other Class and Subclass members  
15 an amount of actual, statutory, and punitive damages, and restitution in an  
16 amount to be determined at trial, and where allowed by law;
  - 17 d. Issue an order granting Plaintiffs' reasonable costs and attorneys' fees;
  - 18 e. Grant such other relief as may be just and proper.

19 **DEMAND FOR JURY TRIAL**

20 Plaintiffs hereby demand a jury trial on all claims so triable.

21 Dated: October 24, 2014

Respectfully submitted,

22  
23 By:                   /s/ Michael F. Ram                    
24 Michael F. Ram (SBN 104805)  
25 RAM, OLSON, CEREGHINO  
26 & KOPCZYNSKI LLP  
27 555 Montgomery Street, Suite 820  
San Francisco, CA 94111  
Telephone: 415-433-4949  
Facsimile: 415-433-74311  
Email: [mram@rocklawcal.com](mailto:mram@rocklawcal.com)

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Gary E. Mason (to be admitted *pro hac vice*)  
Steven N. Berk (to be admitted *pro hac vice*)  
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*Attorneys for Plaintiff*

JS 44 (Rev. 12/12) cand rev (1/15/13)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

ZACHARY BOOK, DONALD COWART, and JOHN MANNERS, individually and on behalf of all others similarly situated

**DEFENDANTS**

APPLE, INC.

(b) County of Residence of First Listed Plaintiff Los Angeles  
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Michael F. Ram (SBN 104805), Ram, Olson, Cereghino & Kopczynski  
555 Montgomery Street, Suite 820, San Francisco, CA 94111  
Tel: 415-433-4949

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |                            |   |                            |                                       |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
|   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
| Citizen of This State                   | <input type="checkbox"/> 1            | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State                | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5            |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DFWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
<b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions					

**V. ORIGIN** (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. 1332(d)  
 Brief description of cause:  
Consumer protection

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ \_\_\_\_\_ CHECK YES only if demanded in complaint:  
 JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY**

(See instructions): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE: 10/24/2014 SIGNATURE OF ATTORNEY OF RECORD: /s/ Michael F. Ram

**IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)**

(Place an "X" in One Box Only)  SAN FRANCISCO/OAKLAND  SAN JOSE  EUREKA