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13
14 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
15 **IN AND FOR THE COUNTY OF MARICOPA**

16 STATE OF ARIZONA, *ex rel.* MARK
17 BRNOVICH, Attorney General;

18 Plaintiff,

19 v.

20 APPLE INC.,

21 Defendant.

Case No.

COMPLAINT

22 **INTRODUCTION**

23 1. This is an action by the above-captioned plaintiff, State of Arizona, by and
24 through Attorney General Mark Brnovich (the “State”), against defendant Apple Inc. (“Apple”)
25 for Apple’s unfair and deceptive acts and practices, which violated the Arizona Consumer Fraud
26 Act (the “CFA”), Arizona Revised Statutes (“A.R.S.”) §§ 44-1521 to -1534.

27 2. In short, and as described more fully below, Apple violated the CFA by, among
28 other things, misrepresenting and concealing information about “unexpected shutdowns” or
“unexpected power-offs” (“UPOs”) affecting its iPhone devices; misrepresenting and concealing

1 information about iPhone battery health and performance; and misrepresenting and concealing
2 information about its iOS¹ software updates that slowed or “throttled” the performance of
3 iPhone devices.

4 3. Accordingly, the State seeks to enjoin Apple from further violations and to recover
5 restitution, disgorgement, civil penalties, interest, costs, fees, and all other relief provided by law
6 for Apple’s past and ongoing violations.

7 **JURISDICTION AND VENUE**

8 4. The State brings this action pursuant to the CFA, to obtain injunctive relief to
9 permanently enjoin and prevent the unlawful acts and practices alleged in this Complaint, and to
10 obtain other relief, including restitution, disgorgement of profits, gains, gross receipts, or other
11 benefits, civil penalties, and costs and attorneys’ fees.

12 5. This Court has subject-matter jurisdiction.

13 6. This Court may issue appropriate orders both prior to and following a
14 determination of liability pursuant to A.R.S. § 44-1528.

15 7. Defendant caused events to occur in Arizona out of which the claims detailed in
16 this Complaint arose.

17 8. Venue is proper in Maricopa County pursuant to A.R.S. § 12-401(17).

18 **PARTIES**

19 9. Plaintiff is the State of Arizona *ex rel.* Mark Brnovich, the Attorney General of
20 Arizona, who is authorized to bring this action under the CFA.

21 10. Defendant Apple is a California corporation with its principal place of business in
22 Cupertino, California.

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27 ¹ iOS is the name of the operating system developed by Apple for its mobile devices, including
28 iPhones.

1 **FACTUAL ALLEGATIONS**

2 **Apple**

3 11. Apple is the largest public company in the United States, with a market
4 capitalization of nearly \$1 trillion and roughly \$250 billion in cash and equivalents on hand.

5 12. Apple consistently has advertised its iPhones as premium products, with an
6 emphasis on speed, performance, and battery life.

7 13. Apple, for example, marketed its iPhone 5 as having “blazing fast performance,” a
8 “blazing fast A6 chip,” “the world’s most advanced mobile operating system,” “even longer
9 battery life,” an “LTE solution that provides blazing fast speeds,” and support for “ultrafast
10 wireless standards,” enabling consumers to “browse, download and stream content even faster.”

11 14. Apple also claimed:

12 The all-new A6 chip was designed by Apple to maximize performance and
13 power efficiency to support all the incredible new features in iPhone 5,
14 including the stunning new 4-inch Retina display-all while delivering **even**
15 **better battery life**. With up to twice the CPU and graphics performance,
16 almost everything you do on iPhone 5 is blazing fast for launching apps,
loading web pages and downloading email attachments.

17 (Emphasis added.)

18 15. Apple released the iPhone 6 and 6 Plus devices in September 2014.

19 16. Apple advertised its iPhone 6 as having “The Biggest Advancements in iPhone
20 History,” “packed with innovative technologies,” including “Advanced Cameras” and a
21 “Powerful A8 Chip,” and designed for “**blazing fast performance and power efficiency.**”

22 (Emphasis added.)

23 17. An Apple press release also claimed:

24 “iPhone 6 and iPhone 6 Plus are the biggest advancements in iPhone
25 history,” said Tim Cook, Apple’s CEO. ... “Only Apple can combine the
26 best hardware, software and services at this unprecedented level and we
think customers are going to love it.”

27 18. Apple released the iPhone 7 and 7 Plus devices in September 2016.

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1 28. Indeed, Apple’s statement of December 1, 2016, *which was published only on the*
2 *company’s Chinese support page*, claimed:

3 After hearing reports from iPhone customers whose devices unexpectedly
4 shut down, we thoroughly looked into these reports, and collected and
5 analyzed devices. We found that a **small number of iPhone 6s devices**
6 made in September and October 2015 contained a battery component that
7 was exposed to controlled ambient air longer than it should have been
8 before being assembled into battery packs. As a result, these batteries
degrade faster than a normal battery and cause unexpected shutdowns to
occur. It’s important to note, this is not a safety issue.

9 ...

10 We also want our customers to know that an iPhone is actually designed to
11 shut down automatically under certain conditions, such as extremely cold
12 temperature. To an iPhone user, some of those shutdowns might seem
13 unexpected, but they are designed to protect the device’s electronics from
low voltage.

14 **We looked for any other factors that could cause an iPhone to shut**
15 **down unexpectedly. After intensive investigations, no new factors have**
been identified. We will continue to monitor and analyze customer reports.

16 (Emphasis added.)

17
18 29. Apple’s statement just five days later, published on the very same webpage,
19 claimed:

20 We take every customer concern very seriously, including the **limited**
21 **number of reports of unexpected shutdown** with iPhones. We also want
22 to thank the agencies for forwarding concerns to us and their engagement
23 with us. Every time we encounter an issue, we investigate using a thorough
24 process including analyzing these devices. We also look at diagnostic
information from the broader set of customers who have opted in to our
standard diagnostic data reporting. When we find something, we work to
quickly provide our customers with a solution.

25 As a result of our investigation on this, we found that a **small number of**
26 **iPhone 6s devices** made in September and October 2015 contained a
27 battery component that was exposed to controlled ambient air longer than it
28 should have been before being assembled into battery packs. Two weeks
ago, we launched a worldwide program to replace affected batteries, free of

1 charge. We again apologize for any customer inconvenience. It's important
2 to note, this is not a safety issue.

3 **A small number of customers outside of the affected range have also**
4 **reported an unexpected shutdown. Some of these shutdowns can occur**
5 **under normal conditions in order for the iPhone to protect its**
6 **electronics.** In an effort to gather more information, we are including
7 additional diagnostic capability in an iOS software update which will be
8 available next week. This will allow us to gather information over the
coming weeks which may potentially help us improve the algorithms used
to manage battery performance and shutdown. If such improvements can be
made, they will be delivered in future software updates.

9 (Emphasis added.)

10 30. Apple never publicly disclosed what constituted the “small number of iPhone 6S
11 devices”; the “limited number of reports of unexpected shutdown”; or the “small number of
12 customers” repeatedly referenced in these statements. Apple certainly had such information,
13 however.

14 31. On information and belief, Apple’s worldwide “installed base” of iPhones was
15 roughly 715 million in December 2016, and **millions of iPhone devices worldwide**
16 **experienced at least one UPO each day in late 2016.**

17 32. Thus, contrary to Apple’s public statements, the UPO issue was not affecting a
18 “small number” or “very small number” of users or devices in late 2016.

19 33. Instead, the UPO issue was affecting millions of users daily.

20 34. Apple’s behavior confirms this understanding, given that it ultimately chose to
21 adopt a drastic countermeasure that was not limited to a “small number” of devices but was
22 delivered instead to the entire installed base of iPhone 6 series devices in iOS 10.2.1 and 7 series
23 devices in iOS 11.2, as described below.

24 **Battery Replacements**

25 35. Despite Apple’s attempt to minimize the public perception of the breadth and
26 depth of its UPO problems, various consumers and journalists continued to report that the UPO
27 issues occurred far more frequently than Apple was admitting.

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1 36. In the end, the UPO issues came down to a battery problem. Thus, some
2 consumers were able to fix the problem by replacing their iPhone batteries.

3 37. Apple, however, never confirmed during the relevant period that a simple battery
4 replacement would have resolved the UPO issue.

5 38. To the contrary, Apple actively worked to prevent consumers from replacing their
6 iPhone batteries (even at full, out-of-warranty cost) unless the batteries failed Apple's own
7 diagnostic test.

8 39. To make matters worse, Apple's diagnostic test did not account for the problem
9 that Apple knew was causing the UPOs.

10 40. Thus, Apple was providing misleading information to consumers about the state of
11 their batteries and, based on that misleading information, discouraging and preventing battery
12 replacements.

13 **Throttling**

14 41. Instead of simply disclosing the UPO issues or allowing battery replacements to
15 resolve the UPO issues, Apple developed a scheme that could cover up the UPO issues quietly
16 through an iOS software update.

17 42. Apple chose to implement an update to the iOS software to limit the phones'
18 hardware performance (*e.g.*, throttle) so that the phones could not demand the power levels that
19 were exceeding the abilities of problem batteries, which were, in turn, causing the UPOs.

20 43. Apple moved forward with iOS 10.2.1, which was first released to the public on
21 January 23, 2017, and implemented the throttling with regard to iPhone 6, 6 Plus, 6s, 6s Plus,
22 and SE devices.

23 44. Apple later implemented throttling for iPhone 7 and 7 Plus devices in December
24 2017 with the release of iOS 11.2.

25 45. As noted above, despite Apple's repeated statements regarding a purportedly
26 "small number" of devices affected by UPOs, the throttling mechanisms in iOS 10.2.1 and 11.2

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1 were delivered to Apple’s “entire install base” and were not phone specific—in other words, any
2 phone could be affected at any time, depending on a number of factors.

3 46. In addition, despite Apple’s statements that the UPO issues did not affect iPhone 8
4 and later devices, the company eventually conceded that it would need to throttle those devices,
5 as well.

6 47. In short, the UPO issue was not limited to a “small number” of phones but was
7 instead endemic to all iPhones.

8 **Concealment of Throttling**

9 48. Again, though, Apple chose to conceal its throttling (along with the underlying
10 UPO issues described above) from consumers.

11 49. Indeed, despite the significance of the throttling “fix,” the original release or “read
12 me” notes for iOS 10.2.1 and 11.2 gave no indication of any anticipated throttling or reduced
13 performance whatsoever.

14 50. To the contrary, the notes for 10.2.1 referred only to unspecified “bug fixes,”
15 security updates, new features, and other “improvements.”

16 51. Further, although Apple later quietly amended the iOS 10.2.1 release notes on
17 February 23, 2017 (one month after the original release date), the amended notes merely
18 reflected that the update “also improves power management during peak workloads to avoid
19 unexpected shutdowns on iPhone.”

20 52. In addition, the release notes were amended only after more than 50% of users had
21 already downloaded the update, such that those users never were prompted to review the release
22 notes.

23 53. Likewise, consumers who purchased an iPhone with iOS 10.2.1 (or a subsequent
24 iOS version) pre-installed never would have been prompted to review the notes either.

25 54. Therefore, the vast majority of affected iPhone users never had any indication that
26 Apple had “improve[d] power management,” let alone intentionally throttled the performance of
27 their iPhone.

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1 **Admission of Throttling**

2 55. Due to Apple’s lack of disclosures, it was not until mid-December 2017 when
3 several sophisticated Apple consumers reported, based on their own research, that iOS 10.2.1
4 and 11.2 appeared to have throttled iPhones.

5 56. By December 20, 2017, the public reaction to this news had forced Apple to
6 confirm the consumers’ suspicions.

7 57. In doing so, however, Apple again provided only vague explanations for its
8 conduct, claiming that the iOS updates were intended to “smooth out instantaneous peaks” in
9 performance demands for devices with older batteries.

10 58. After further outcry, though, Apple finally released a more detailed statement and
11 apology on December 28, 2017, ultimately confirming the reports of throttling.

12 59. Apple also noted in its December 28 statement that the throttling updates applied
13 to the iPhone 6, 6 Plus, 6s, 6s Plus, SE, 7, and 7 Plus, and it attempted to address customer
14 concerns by (i) reducing the price for out-of-warranty replacement batteries for these phones
15 from \$79 to \$29; (ii) promising to issue a new iOS update “with new features that give users
16 more visibility into the health of their iPhone’s battery, so they can see for themselves if its
17 condition is affecting performance”; and (iii) vaguely ensuring that it was “working on ways to
18 make the user experience even better”

19 60. Thereafter, Apple released iOS 11.3 on March 29, 2018, which, for the first time,
20 allowed consumers to turn off the throttling mechanism in their iPhones.

21 **Effects of Apple’s Conduct on Sales**

22 61. Although consumers eventually learned the truth about Apple’s secret throttling,
23 Apple reaped the benefits of that throttling for about a year.

24 62. During that time, consumers with iPhones experienced reduced performance, and
25 Apple told many of those consumers that their batteries did not need to be replaced. As a result,
26 many consumers decided that the only way to get improved performance was to purchase a
27 newer-model iPhone from Apple.

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- d. Concealing, suppressing, and omitting material facts about the health of consumers' iPhone batteries with the intent that consumers rely on such concealments, suppressions, or omissions;
- e. Unfairly discouraging and preventing iPhone users from replacing their batteries, when Apple knew that replacing the batteries likely would fix the UPO issue;
- f. Making deceptive representations and misrepresentations about the nature, effects, and consequences of iOS software updates;
- g. Concealing, suppressing, and omitting material facts about the nature, effects, and consequences of iOS software updates with the intent that consumers rely on such concealments, suppressions, or omissions; and
- h. Unfairly precluding iPhone users from declining or turning off the throttling of their devices.

69. Accordingly, Apple violated the CFA.

70. In doing so, Apple acted willfully in that it knew or should have known, at all relevant times, that its conduct was of the nature prohibited by the CFA.

71. Apple's unlawful acts and practices in violation of the CFA were targeted to and affected Arizona residents.

PRAYER FOR RELIEF

WHEREFORE, the State respectfully requests that this Court enter judgment against Apple and in favor of the State as follows:

72. Pursuant to A.R.S. § 44-1528(A)(1), issue permanent injunctive relief, enjoining and restraining (a) Apple, (b) its officers, agents, servants, employees, attorneys, and (c) all persons in active concert or participation with Apple or its officers, agents, servants, employees, or attorneys, directly or indirectly, from engaging in the unlawful acts and practices alleged herein;

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