

1 Richard Lyon (Cal. Bar No. 229288)  
2 rick@dovel.com  
3 Simon Franzini (Cal. Bar No. 287631)  
4 simon@dovel.com  
5 Jonas B. Jacobson (Cal. Bar No. 269912)  
6 jonas@dovel.com  
7 Grace Bennett (Cal. Bar No. 345948)  
8 grace@dovel.com  
9 DOVEL & LUNER, LLP  
10 201 Santa Monica Blvd., Suite 600  
11 Santa Monica, California 90401  
12 Telephone: (310) 656-7066  
13 Facsimile: (310) 656-7069  
14

15 Kevin Kneupper, Esq. (CA SBN 325413)  
16 kevin@kneuppercovey.com  
17 A. Cyclone Covey, Esq. (CA SBN 335957)  
18 cyclone@kneuppercovey.com  
19 KNEUPPER & COVEY, PC  
20 17011 Beach Blvd., Ste. 900  
21 Huntington Beach, CA 92647-5998  
22 Tel: (512) 420-8407

23 **UNITED STATES DISTRICT COURT**

24 **NORTHERN DISTRICT OF CALIFORNIA**

25 ANTONIO MCKINNEY, CLINT  
26 SUNDEEN, and JOSEPH ALCANTARA,  
27 each individually and on behalf of all others  
28 similarly situated,

*Plaintiffs,*

v.

CORSAIR GAMING, INC.,

*Defendant.*

Case No. 4:22-cv-00312-JST

FIFTH AMENDED CLASS ACTION  
COMPLAINT

DEMAND FOR JURY TRIAL

## Table of Contents

1		
2	Introduction.....	1
3	The Parties .....	1
4	Jurisdiction and Venue.....	2
5	Pleaded Facts .....	2
6	I.    Corsair’s ads promise that its memory will run at the advertised speed out	
7	of the box, and that it will do so reliably. These representations are not	
8	qualified. ....	2
9	II.   In reality, trying to get the advertised speed requires altering the PC	
10	firmware. And there is a substantial risk that attempts to get the memory	
11	to run at the advertised speed will fail. ....	11
12	A.   Attempting to obtain the advertised speeds requires altering PC	
13	firmware. ....	12
14	B.   There is a substantial risk that the memory will not run at the	
15	advertised speed or will not run stably at this speed. ....	13
16	III.   Corsair’s ads are misleading to reasonable consumers. ....	15
17	IV.   Plaintiffs were misled and harmed by Corsair’s advertisements. ....	16
18	Class Action Facts.....	20
19	Causes of Action .....	24
20	Count I: Violation of California Unfair Competition Law (UCL) .....	24
21	Count II: Violation of California False Advertising Law (FAL).....	26
22	Count III: Violation of the California Consumer Legal Remedies Act (CLRA).....	27
23	Count IV: Violation of New York Gen. Bus. Law § 349 .....	29
24	Count V: Violation of New York Gen. Bus. Law § 350.....	30
25	Count VI: Breach of Express Warranty .....	31
26	Jury Demand .....	32
27	Prayer for Relief.....	32
28		

### **Introduction**

1. Corsair sells premium, high-speed computer memory. Its typical customers are computer gamers interested in improving the performance of their games.

2. The most important measure of memory performance is the speed at which it transfers data (measured in megahertz, or MHz). On its packaging and in its ads, Corsair advertises that its memory runs at specific, high MHz speeds (e.g., “3600 MHz”). Corsair’s ads do not qualify these representations.

3. Consumers reasonably believe that Corsair’s memory will run at these advertised speeds. But in reality, the memory does not and cannot run at these advertised speeds out of the box. Trying to get Corsair memory to run at the advertised speed requires altering your computer’s firmware to attempt to make the memory run at higher than standard speeds. This is known as “overclocking.” And “overclocking” often does not work. There is a substantial risk that attempts to “overclock” will fail and the memory will not achieve the advertised speed at all, or will not run stably. As a Corsair employee has admitted, overclocking is really a “lottery.” But Corsair’s memory packaging and ads do not qualify the high MHz speeds they advertise in any way.

4. Corsair has made tens of millions of dollars (or more) by deceptively advertising its high-speed memory products.

5. Plaintiffs bring this case individually and for all consumers who purchased Corsair’s high-speed memory products in California and New York, and nationwide.

### **The Parties**

6. Plaintiff Antonio McKinney is a citizen of California. He is domiciled in Moreno Valley, California. Mr. McKinney purchased “3200 MHz” Corsair Vengeance RGB Pro memory.

7. Plaintiff Clint Sundeen is a citizen of California. He is domiciled in Corona, California. Mr. Sundeen also purchased “3200 MHz” Corsair Vengeance RGB Pro memory.

8. Plaintiff Joseph Alcantara is a citizen of New York. He is domiciled in New York, New York. Mr. Alcantara purchased “3600 MHz” Corsair Vengeance RGB Pro memory.

1           9. Defendant Corsair Gaming, Inc. is a citizen of California and Delaware. Corsair's  
2 headquarters and principal place of business are at 47100 Bayside Pkwy, Fremont, California  
3 94538. It is incorporated in Delaware.

4                                   **Jurisdiction and Venue**

5           10. This Court has subject matter jurisdiction under 28 U.S.C. § 1332(d)(2). The  
6 matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs,  
7 and is a class action in which one or more members of the proposed classes are citizens of a state  
8 different from Defendant.

9           11. This Court has personal jurisdiction over Defendant because Defendant's  
10 principal place of business is in California.

11           12. Venue is proper under 28 U.S.C. § 1391(b)(1) & (2), because Defendant resides  
12 in this District (at its Fremont headquarters) and because a substantial part of Defendant's  
13 conduct giving rise to the claims occurred in this District.

14                                   **Pleaded Facts**

15 **I. Corsair's ads promise that its memory will run at the advertised speed out of the**  
16 **box, and that it will do so reliably. These representations are not qualified.**

17           13. Corsair markets and sells high-end PC computer systems, components, and  
18 accessories. Corsair markets its products to computer gamers who want to improve the  
19 performance of their games.

20           14. One of Corsair's flagship products is its high-speed computer memory (RAM)  
21 sticks, including the "Vengeance" and "Dominator" lines. These memory sticks can be plugged  
22 into the memory slots of a PC.



15. As explained in detail below, the vast majority of Corsair’s computer memory is deceptively labeled. Corsair’s deceptively labeled memory at issue in this case consists of the following: any Corsair DDR-4 (non-SODIMM/laptop) memory product with a base or default (i.e., JEDEC standard Serial Presence Detect or “SPD”) speed over 2133 megahertz (MHz) or any Corsair DDR-5 (non-SODIMM/laptop) memory product with a base or default speed over 4800 megahertz.

16. Corsair’s deceptively labelled memory at issue in this case is referred to as the “Corsair High-Speed Memory” throughout this Complaint.

17. Corsair’s advertisements highlight the specific speeds of its High-Speed Memory. Memory speed means how fast the memory can transfer data, and it is measured in units of Megahertz (MHz). The more MHz, the purportedly faster the memory and the higher the performance.

18. Corsair’s packaging and other advertisements state that its memory runs at specific, high-MHz speeds.

19. To start, Corsair's packaging lists the speed (in MHz) on the front. This is true for each model of Corsair's High-Speed Memory. For example, here is the package for the "Vengeance RGB Pro" stick, which advertises (in the top-right corner) that the stick operates at "3200 MHz":



*Red annotations added*

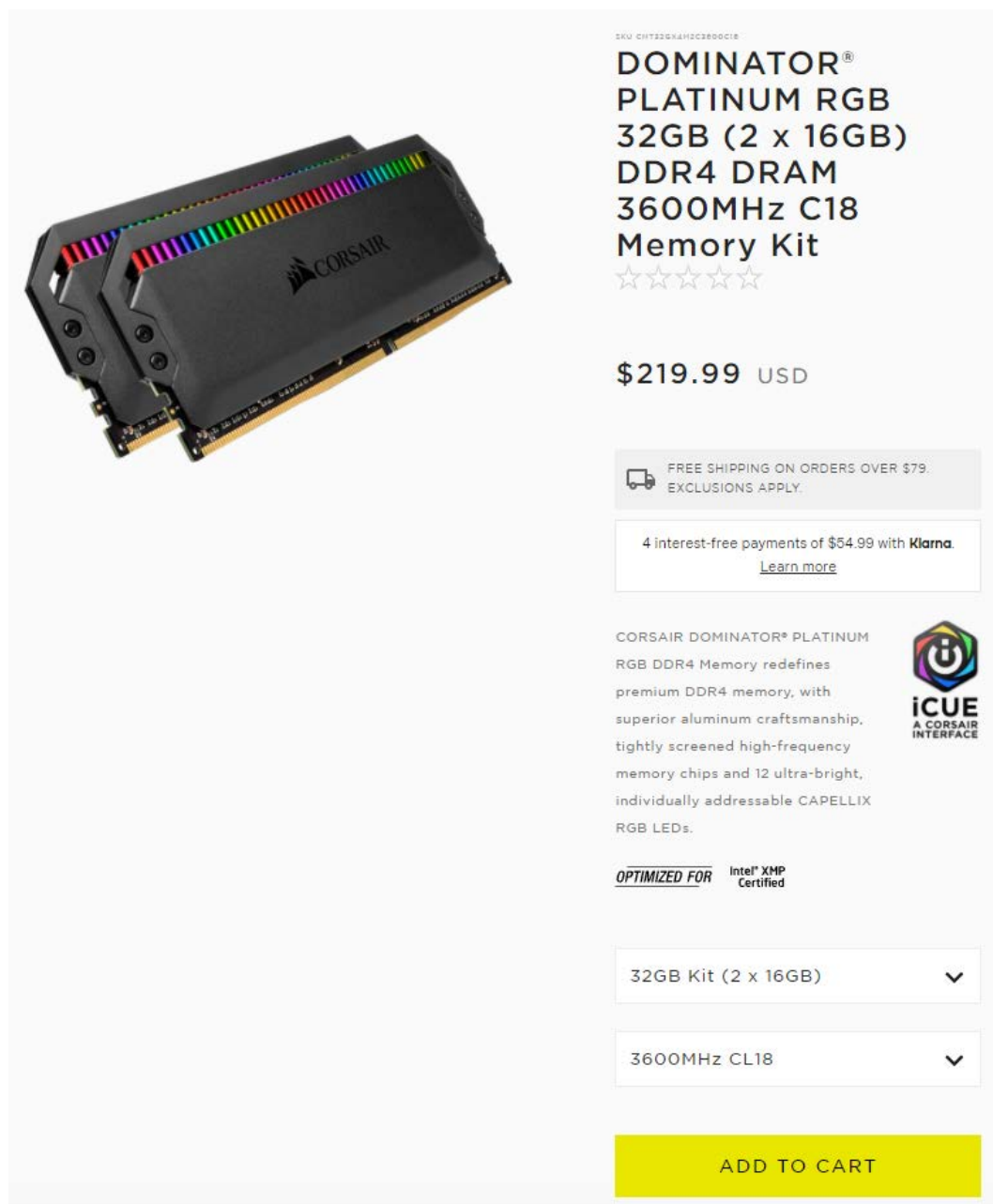
20. There is nothing on the box, or in the box, that qualifies this "3200MHz" statement.

21. The packaging for each model of Corsair's High-Speed Memory is substantially similar and makes substantially the same representation: an unqualified statement identifying a specific "MHz" speed of the memory on the front of the packaging.

22. In addition to selling in physical stores, Corsair sells its memory through its website and the websites of authorized resellers. Like the product boxes, Corsair's online ads

1 prominently state the specific “MHz” speed of the memory (in multiple places). Corsair’s  
 2 authorized resellers include Amazon, Newegg, and Walmart.<sup>1</sup>

3 23. For example, here is a representative product page, for Dominator “3600 MHz”  
 4 memory:<sup>2</sup>



27 <sup>1</sup> <https://www.corsair.com/us/en/authorized-resellers>

28 <sup>2</sup> <https://www.corsair.com/us/en/Categories/Products/Memory/DOMINATOR-PLATINUM-RGB/p/CMT32GX4M2C3600C18>



24. This makes a representation about the MHz speed of the memory (in this case, 3600 MHz) in the product name and again in the product description.

25. Corsair's website includes substantially similar product pages for each model of Corsair's High-Speed Memory. Like the representative product page shown above, each product page for each model identifies the MHz speed of the memory in the product name and in the product description.

26. Likewise, the product listing for each model of Corsair's High-Speed Memory on the website of each authorized retailer includes substantially the same representation about the "MHz" speed of the memory.

27. For example, here is a representative Amazon listing for Dominator "3600 MHz" memory. This listing is from the "Corsair Store" on Amazon:<sup>3</sup>

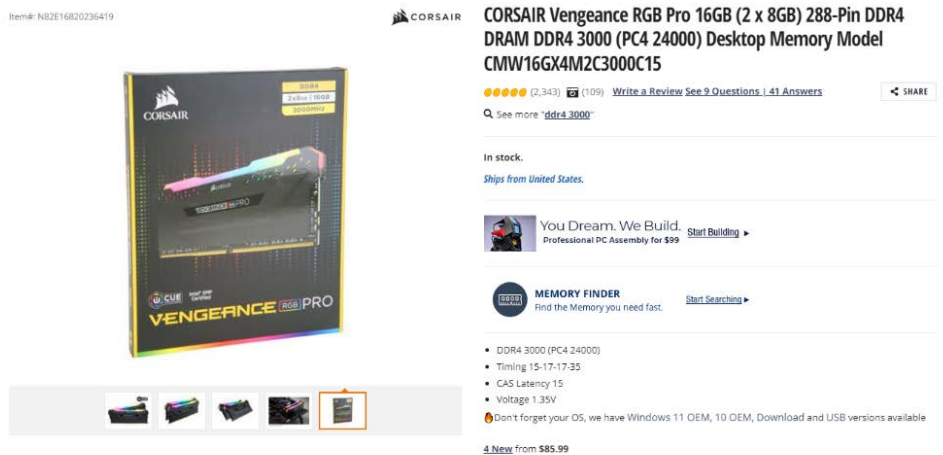


28. The "Corsair Store" Amazon listing for each model of Corsair's High-Speed Memory is substantially similar to this one and includes substantially the same representations about the speed of the memory. Like the representative product page shown above, each product page for each model identifies the MHz speed of the memory in the product name and in the product description.

<sup>3</sup> [https://www.amazon.com/CORSAIR-Dominator-Platinum-PC4-28800-Optimized/dp/B08TC4WSRC/ref=sr\\_1\\_5?keywords=corsair+dominator+memory&qid=1639183148&s=electronics&sr=1-5](https://www.amazon.com/CORSAIR-Dominator-Platinum-PC4-28800-Optimized/dp/B08TC4WSRC/ref=sr_1_5?keywords=corsair+dominator+memory&qid=1639183148&s=electronics&sr=1-5)



29. As a second example, here is a Newegg listing for Vengeance “3000 MHz” memory:<sup>4</sup>



30. The Newegg listing for each model of Corsair High-Speed Memory is substantially similar to this one and includes substantially the same representations about the speed of the memory. Like the representative product page shown above, each product page for each model identifies the MHz speed of the memory in the product name and in the product description.

31. The statements about the MHz speed of Corsair’s memory on the Amazon and Newegg websites, and the websites of other authorized retailers, are attributable to Corsair, and are made with Corsair’s knowledge and permission. To begin, Corsair expressly authorized each reseller to resell its memory, and says so on its website. In addition, the model name of the memory—which, for each model of Corsair’s High-Speed Memory, identifies the MHz speed of the memory—is set by Corsair. Corsair’s authorized resellers use this product name to identify Corsair’s products when selling them to consumers, with Corsair’s knowledge and permission. Indeed, Corsair intends for its product name to be used by its authorized resellers to identify its products. So the representations about the memory speed in the product name are statements made by Corsair, and its authorized resellers make those representations with Corsair’s knowledge and permission.

<sup>4</sup> <https://www.newegg.com/corsair-16gb-288-pin-ddr4-sdram/p/N82E16820236419>

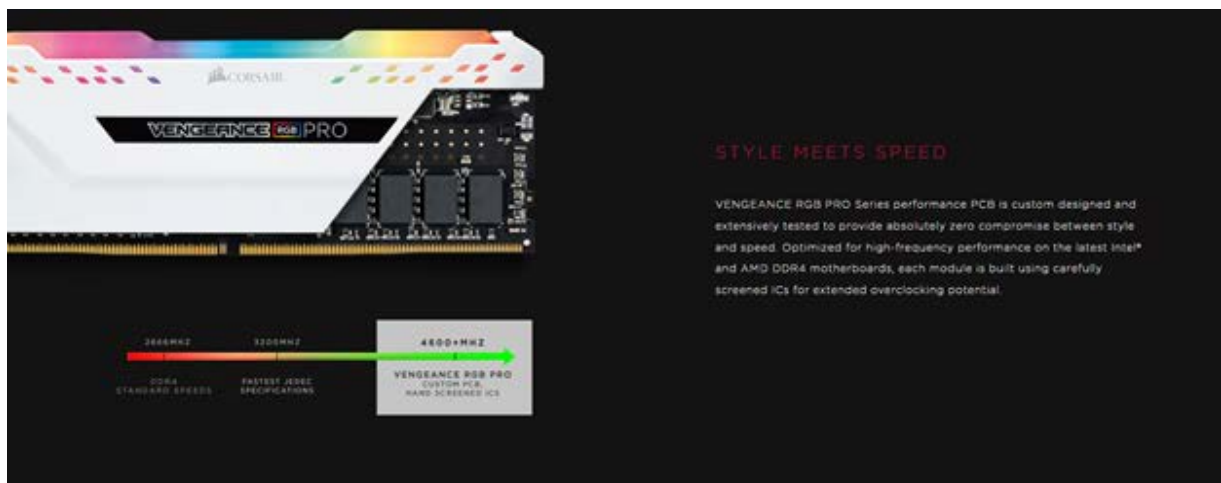
32. Moreover, Corsair is aware that its authorized resellers sell its High-Speed Memory, know what the listings for that High-Speed Memory say, and know that the listings contain the statements identified above concerning the speed of Corsair's memory. Indeed, Corsair expressly authorizes those resellers to resell its products and links to the website of those resellers containing the representations at issue from its own website, and expressly identifies them as authorized resellers and announces this fact to consumers. Thus, Corsair knows and specifically approves of (and manifests its approval for) those listings and specifically the use of the statements identified above concerning the speed of Corsair's memory. Plus, with that knowledge, Corsair voluntarily kept the benefits of those listings and the sales made by those listings, including by accepting money for the sales it made through those approved retailers including specifically Amazon and Newegg.

33. What's more, Corsair affirmatively set up the "Corsair Store" on Amazon and provided the images and descriptions of the Corsair products on the Corsair store, including each of the models in the "Vengeance" and "Dominator" line of memory.<sup>5</sup> And Corsair provided the images and descriptions used by its other authorized resellers, or knew and approved of the fact that those resellers were using those images and descriptions.

34. Corsair also pervasively distributes other ads that highlight the speed and reliability of its High-Speed Memory. For example, the ads below appear across Amazon, Newegg, and Corsair's website.<sup>6</sup> These ads claim that Vengeance memory runs at higher than "standard" speeds and promise that the memory is "optimized" for overclocking on the latest Intel and AMD motherboards (Intel and AMD together account for the vast majority of the U.S. chip market). The term "overclocking" refers to running computer components (like memory) at higher than standard speeds.

<sup>5</sup> <https://advertising.amazon.com/solutions/products/stores>

<sup>6</sup> <https://www.amazon.com/CORSAIR-Vengeance-3200MHz-Desktop-Memory/dp/B07D1XCKWW>; <https://www.newegg.com/corsair-64gb-288-pin-ddr4-sdram/p/N82E16820236601>; <https://www.corsair.com/us/en/vengeance-rgb-pro-memory>



35. The examples above are representative of Corsair's advertising. In sum, Corsair's ads promise specific high-speeds and reliability and are pervasively disseminated across purchasing channels. Because these promises are consistent and pervasively disseminated, every

1 consumer purchasing Corsair High-Speed Memory encounters substantially similar or identical  
2 promises.

3 36. To a reasonable consumer that buys Corsair High-Speed Memory, Corsair's ads  
4 indicate that the memory will run at the stated speed out of the box (i.e., that the stated speed was  
5 the default speed), and that it will do so reliably across platforms.

6 37. This is the plain meaning of Corsair's ads, which (a) state the speed unequivocally  
7 and without qualification and (b) expressly promise reliability across platforms (AMD and Intel).

8 38. This is also what consumers reasonably understand memory speeds to indicate,  
9 based on typical memory purchases. Typically, consumers buy memory as part of a complete  
10 computer purchase from a PC maker like Dell or HP. And when the PC arrives, the memory is  
11 already running at the stated speed. In addition, when a consumer buys aftermarket memory  
12 (e.g., to add more memory or replace broken memory) it is typical to purchase common, standard  
13 speed memory (e.g., memory that runs at the 2133 MHz standard), which runs at the stated speed  
14 reliably and out of the box. For example, a consumer can buy 2133 MHz memory from Dell that  
15 runs at this standard speed out of the box.

16 39. Moreover, consumers reasonably understand an identification of a MHz speed in  
17 the product name for a computer memory to mean that the memory will run at that identified  
18 speed when it is plugged into a computer. This notation is common in the industry, both for  
19 memory included in a complete computer purchase and for aftermarket memory.

20 40. A reasonable consumer would also expect that, if there were important  
21 qualifications about the promised speed, Corsair would make this clear. For example, if  
22 Corsair's High-Speed Memory was only able to operate at the advertised speed after altering the  
23 computer's firmware, this is something a reasonable consumer would want to know and would  
24 expect Corsair to qualify its affirmative promises about the memory's speed with this  
25 information. And if there is a substantial risk that the memory will not run at the advertised  
26 speed, or will not run stably, this is something a reasonable consumer would also want to know  
27 and would expect Corsair to clearly qualify its affirmative promises about the memory's speed  
28

1 with this information. But as illustrated above, Corsair’s advertisements contain no such  
2 qualifications.

3 **II. In reality, trying to get the advertised speed requires altering the PC firmware. And**  
4 **there is a substantial risk that attempts to get the memory to run at the advertised**  
5 **speed will fail.**

6 41. In reality, Corsair’s memory sticks do not operate at the advertised speed out of  
7 the box, i.e., when plugged into a computer. Rather, they operate at a lower speed. For example,  
8 the default speed for both the “Vengeance RGB Pro” stick (advertised at 3200 MHz) and  
9 “Dominator Platinum RGB” stick (advertised at 3600 MHz) is the standard JEDEC speed of  
10 2133 MHz. In this case, if a consumer buys these sticks, expecting to achieve the advertised  
11 speed, and plugs them into his or her computer without doing anything else, the memory only  
12 runs at a speed of 2133 MHz.

13 42. Each model of Corsair’s High-Speed Memory does not operate at the advertised  
14 speed (i.e., the speed indicated on the product box, in the product name, and in the product  
15 description). Instead, for each model, the memory stick operates at a lower speed (a standard  
16 speed, which is always lower than the advertised speed). So for each model of memory stick at  
17 issue in this case, the stick actually operates at a lower speed than is advertised out of the box.

18 43. Corsair’s ads do not qualify the affirmative statements about the speed of the  
19 RAM with a disclaimer explaining that the stick will operate at a lower speed than advertised out  
20 of the box. Nor is a difference in speed clearly observable when performing most computer  
21 functions. Rather, users must go into their computer settings to find out their RAM speed. The  
22 result is that a user can purchase Corsair High-Speed Memory, plug it into a computer, and get  
23 the same speed they were getting before, without ever knowing the difference.

24 44. Also, if a consumer realizes that their memory is running slower than advertised,  
25 they must attempt to “overclock” it to achieve the advertised speed. Overclocking means  
26 changing their computer’s firmware to make the computer push its components beyond their  
27 standard operating speeds.  
28

45. In a blog post, a Corsair employee candidly describes the difficulties and risks of overclocking computer components. He admits that successfully overclocking hardware is a “lottery” and admits that, despite “people in forums” saying that overclocking components is “reliable,” the truth is that “you’re really playing the odds.”<sup>7</sup>

46. What Corsair’s employee admits is true. As described next, overclocking memory requires altering the PC’s firmware. And it carries a substantial risk that the memory will not run at the advertised speed or will not run stably at this speed. But Corsair never qualifies its affirmative promises about the memory’s speed with this information. And a reasonable consumer does not, and should not be expected to, dig up Corsair employee blog posts before purchasing.

**A. Attempting to obtain the advertised speeds requires altering PC firmware.**

47. Overclocking memory requires adjusting a computer’s Basic Input/Output System (BIOS) or Unified Extensible Firmware Interface (UEFI) settings. A computer’s BIOS or UEFI is the program that governs the fundamental mechanisms by which the computer turns on and operates. On many computers, accessing the BIOS or UEFI settings involves restarting the computer and repeatedly pressing a designated keyboard button (which varies by computer brand) during a brief window of time after the computer turns on.

48. Once the user has accessed the BIOS or UEFI settings, the user must locate the setting for the RAM frequency (its MHz speed) and increase the RAM frequency to the desired speed. For example, to try to achieve the advertised speed on a Dominator 3600 MHz stick, the user must increase the frequency to 3600 MHz.

49. In addition to changing the frequency, overclocking often requires changing multiple memory “timing” settings, which interact with the frequency settings.

50. Also, because running the RAM at higher speeds requires additional power, overclocking can also require increasing the voltage settings.

51. On certain Intel computer systems, the BIOS has an “XMP” (Extreme Memory Profile) setting that will set the various memory parameters to predetermined profiles. While

<sup>7</sup> <https://www.corsair.com/us/en/blog/corsair-overclocking-guide-part-1-the-cpu>

1 this simplifies configuration, it still requires altering the BIOS, and these settings are only  
2 available on certain motherboards.

3 52. Altering the computer's firmware in this way poses material risks to the  
4 functionality of the computer system, as well as to the memory sticks themselves. Some  
5 examples include reducing computer system stability, causing crashes, overheating system  
6 components, and causing system components to degrade more quickly.

7 53. Because of the risks associated with overclocking, overclocking can void  
8 warranties on important components of the computer. Intel's website states, "[a]ltering clock  
9 frequency or voltage may void any product warranties and reduce stability, security,  
10 performance, and life of the processor and other components."<sup>8</sup>

11 **B. There is a substantial risk that the memory will not run at the advertised**  
12 **speed or will not run stably at this speed.**

13 54. As Corsair's employee admits, successfully overclocking computer components is  
14 a "lottery."

15 55. There is a substantial risk that the user's particular combination of other computer  
16 components (like the processor and other motherboard components) simply cannot support  
17 overclocking at the advertised speed. Memory interacts with other components in complex ways  
18 and overclocking is sensitive to this. If the combination of components is not optimal, the  
19 memory will not run at the advertised speed or it will run unstably (causing software glitches or  
20 system crashes).

21 56. Beyond this, there is a substantial risk that a regular consumer will not be able to  
22 find the precise combination of frequency, timing, and voltage needed to achieve the advertised  
23 speeds.

24 57. This is why online forums are replete with complaints from users that they cannot  
25 achieve the advertised speeds (or cannot do so stably). For example, here are some  
26 representative complaints:

27  
28 <sup>8</sup> <https://www.intel.com/content/www/us/en/support/articles/000005494/processors.html>



Corsair Vengeance ram not running at 3200 no matter what I do, Activating XMP does nothing”<sup>9</sup>

I recently got 2x 16gb 3600mhz Corsair vengeance pro ram and it won't clock at 3600mhz on both the xmp and manual selection in bios. I read somewhere that 5600x doesn't support 3600mhz ram yet but I'm not sure how true that is. Highest I've gotten it to go is 3534mhz so I'm trying to figure out if it's just a bad ram kit or processor doesn't support it, any help is appreciated!<sup>10</sup>

Corsair LPX 3000mhz DDR4 not running as advertised? What am I doing wrong?<sup>11</sup>

58. Posts in response to these complaints illustrate the technical morass of overclocking. For example:

Firstly, as others have said, your CPU technically only supports 2933MHz. The speed of your RAM is set as a ratio of your front side bus, which in this case is 99.75. Currently that FSB:DRAM ratio is set to 3:32, which means your 99.75 FSB will translate to 1064MHz (double data rate will then produce 2133MHz). So doing some quick calculations, you need to change it to 3:44 in order to end up with 2933MHz at the end. With XMP disabled, change the memory multiplier from 32 to 44, save and exit, then reload CPU-Z. It should now show 1466.5, which doubled is your 2933.<sup>12</sup>

59. In response to this, the frustrated Corsair purchaser says:

Where do I change this stuff I tried to change it to 44 and all it did was make my computer not boot so I had to clear cmos.<sup>13</sup>

60. In sum, as one poster points out, successful overclocking is a “lottery.” (And as described above, Corsair itself admits the same thing).

It's up to the silicon lottery. Some chips can run 3600, 3800 or even 4000 MT/s RAM easily, some can't.<sup>14</sup>

<sup>9</sup> [https://www.reddit.com/r/pcmasterrace/comments/pebmet/corsair\\_vengeance\\_ram\\_not\\_running\\_at\\_3200\\_no/](https://www.reddit.com/r/pcmasterrace/comments/pebmet/corsair_vengeance_ram_not_running_at_3200_no/)

<sup>10</sup> [https://www.reddit.com/r/Amd/comments/nvn7ly/3600mhz\\_ram\\_not\\_working\\_with\\_5600x/](https://www.reddit.com/r/Amd/comments/nvn7ly/3600mhz_ram_not_working_with_5600x/)

<sup>11</sup> [https://www.reddit.com/r/overclocking/comments/5gbo5b/corsair\\_lpx\\_3000mhz\\_ddr4\\_not\\_running\\_as/](https://www.reddit.com/r/overclocking/comments/5gbo5b/corsair_lpx_3000mhz_ddr4_not_running_as/)

<sup>12</sup> [https://www.reddit.com/r/pcmasterrace/comments/pebmet/corsair\\_vengeance\\_ram\\_not\\_running\\_at\\_3200\\_no/](https://www.reddit.com/r/pcmasterrace/comments/pebmet/corsair_vengeance_ram_not_running_at_3200_no/)

<sup>13</sup> [https://www.reddit.com/r/pcmasterrace/comments/pebmet/corsair\\_vengeance\\_ram\\_not\\_running\\_at\\_3200\\_no/](https://www.reddit.com/r/pcmasterrace/comments/pebmet/corsair_vengeance_ram_not_running_at_3200_no/)

<sup>14</sup> [https://www.reddit.com/r/Amd/comments/nvn7ly/3600mhz\\_ram\\_not\\_working\\_with\\_5600x/](https://www.reddit.com/r/Amd/comments/nvn7ly/3600mhz_ram_not_working_with_5600x/)

**III. Corsair's ads are misleading to reasonable consumers.**

61. As detailed above, Corsair's packaging and ads promise specific high speeds and reliability, and do not qualify those affirmative representations with any warning about the risks and realities of overclocking. And this is not information that a reasonable Corsair customer already knows. A typical purchaser of Corsair High-Speed Memory is not a computer expert (much less an overclocking expert). Rather, a typical purchaser of Corsair High-Speed Memory is a regular consumer simply looking to improve the performance of their computer games or media software.

62. If Corsair wanted to be truthful in its packaging and advertising, Corsair would make clear that the speeds it is listing are the *maximum* speed that the memory can run. For example, Corsair could state that its memory can run "at maximum speed of 4666 MHz."

63. In addition, if Corsair wanted to be truthful, it would also clearly and prominently qualify its affirmative representations about the speed of the memory with warnings that achieving the advertised speed requires altering the PC firmware and that overclocking is risky (in Corsair's words a "lottery") and that, as a result, it may be impossible for the memory to stably achieve the advertised speed.

64. Corsair's packaging and ads, however, affirmatively tout specific MHz speeds and do not qualify any of these affirmative statements and thus made material affirmative misrepresentations about the speed of their memory.

65. Corsair's false affirmative statements increased the demand for its Corsair memory products. As a result, Corsair was able to charge more for its High-Speed Memory than it would have been able to had Corsair's packaging and ads been truthful. Accordingly, as a direct result of Corsair's false affirmative statements, Corsair was able to charge a price premium for its High-Speed Memory. As purchasers of Corsair's High-Speed Memory, Plaintiffs and each member of the proposed classes paid this price premium and, as a result, sustained an economic injury as a result of Corsair's false affirmative statements.

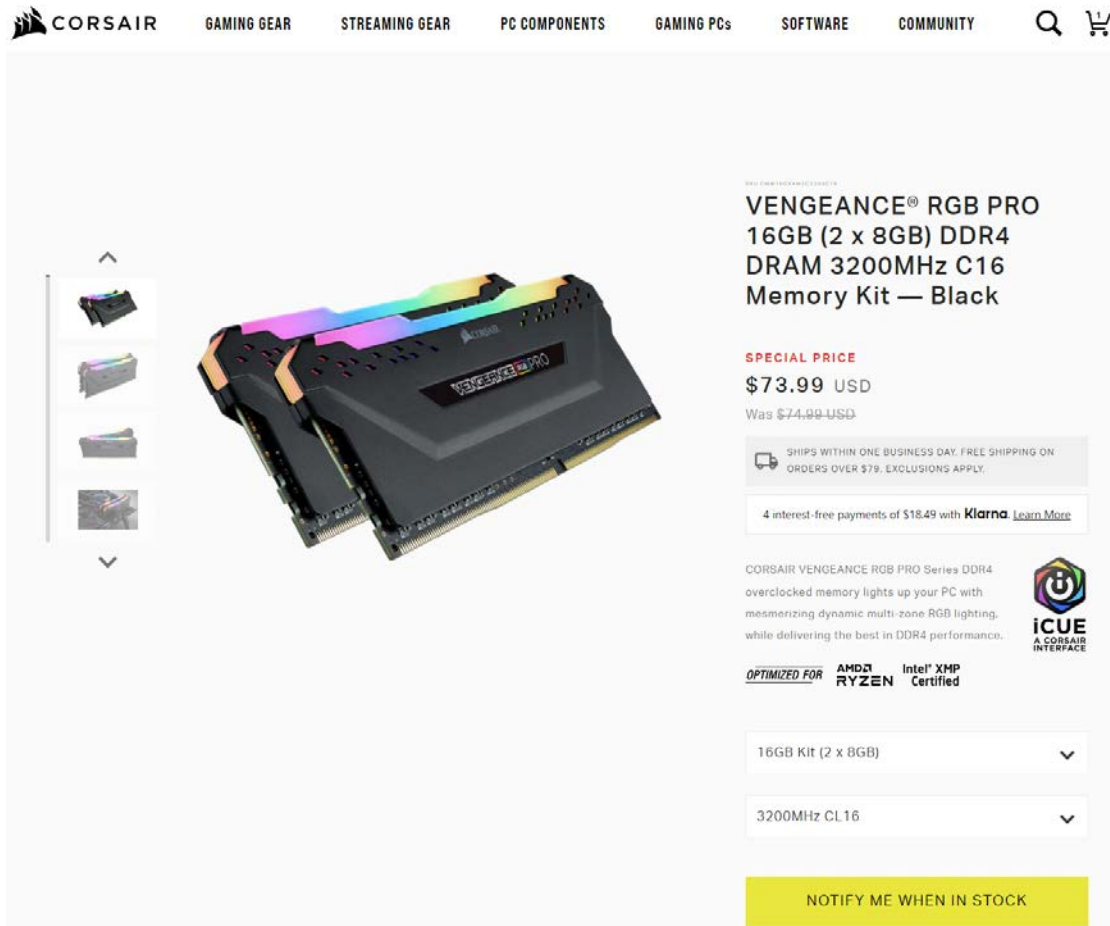
66. Corsair knows the truth about overclocking, and knows what its packaging and ads say. Thus, Corsair knows that the statements on its packaging and ads are false and

misleading to reasonable consumers and Corsair intends that consumers will rely on these false and misleading statements when purchasing High-Speed Memory.

#### IV. Plaintiffs were misled and harmed by Corsair's advertisements.

##### Plaintiff McKinney

67. In or around July 2019, Plaintiff McKinney purchased "3200 MHz" Corsair Vengeance RGB Pro (16GB) from a Best Buy store in Riverside, California. He paid \$89.99 for the RAM. Plaintiff saw and relied on Corsair's claims, both on the box and in Corsair's online ads, that the memory would run reliably at 3200 MHz. In particular, as to online ads, Plaintiff also saw and relied on the statements on the "overview" page for the Corsair Vengeance RGB Pro (16GB) memory on the Corsair website. Those statements identified the memory as "3200 MHz" in the title of the listing and in the product description. The page Mr. McKinney saw and relied on was materially similar to, if not the same as, the current "overview" page for the Corsair Vengeance RGB Pro (16GB) memory on the Corsair website, which is reproduced



1 below.

2  
3 68. After purchasing the memory, Plaintiff McKinney attempted to make it run at the  
4 advertised speed, by altering his BIOS settings. The memory would not run stably at 3200 MHz.  
5 Instead, his computer crashed, and the memory defaulted to the standard 2133 MHz speed. As a  
6 result, he did not get what he paid for. Had Plaintiff known the truth about Corsair's memory,  
7 Plaintiff would not have bought it or would not have paid the same price for it.

8 69. Plaintiff McKinney would purchase Corsair High-Speed Memory again if it was  
9 actually sold as advertised. Plaintiff, however, faces an imminent threat of harm because  
10 Plaintiff will not be able to rely on Corsair's ads in the future, and thus will not be able to  
11 purchase the products even if they were sold as advertised.

12 Plaintiff Sundeen

13 70. In or around December 2018, Plaintiff Sundeen purchased "3200 MHz" Corsair  
14 Vengeance RGB Pro (32GB) from Newegg. He paid \$299.99 for the RAM. Plaintiff saw and  
15 relied on Corsair's claims, both on the box and in Corsair's online ads, that the memory would  
16 run reliably at 3200 MHz.

17 71. Plaintiff also saw and relied on the statements on the Newegg website listing for  
18 Corsair's Vengeance RGB Pro (32 GB) at the time. Those statements identified the memory as  
19 "3200" MHz memory in the product name and identify the "speed" as "3200" MHz memory in  
20 the product description. The listing Mr. Sundeen saw was materially similar to the current  
21 Newegg listing for the Vengeance RGB Pro (32 GB), which is reproduced below:


Item#: 9SIB7RAHC35279

**CORSAIR**

Visit [want.jp Store](#)

**CORSAIR Vengeance RGB Pro 32GB (2 x 16GB) DDR4 3200 (PC4 25600) Intel XMP 2.0 Desktop Memory Model CMW32GX4M2C3200C16**

**CUE**



4.5 (2,692) (144) [Write a Review](#) [SHARE](#)

[See 16 Questions | 61 Answers](#)

**LOWEST PRICE** in 30 days

See more "corsair vengeance rgb pro 32gb"

Check more best sellers of "Desktop Memory"

Check more deals of "Desktop Memory"

Check more lowest price of "Desktop Memory"

**In stock.**

**Ships from Japan.** Most customers receive within 4-9 days.

**MEMORY FINDER**  
Find the Memory you need fast. [Start Searching](#)

Sold and shipped by: **want.jp**  
22 Ratings (82% Positive)

~~\$275.10~~  
**\$201.80**  
Save: **\$73.30 (26%)**

OR as low as \$19/mo with [affirm](#)

OR 4 interest-free payments of **\$50.45** with [ZIP](#)

OR Buy Now, Pay Over Time. [Learn how](#)

\$20.55 Shipping (restrictions apply)

1 [+](#) [-](#) **ADD TO CART**

☐ ADD TO COMPARE

☒ PRICE ALERT

☒ ADD TO LIST

☒ REPORT A LISTING

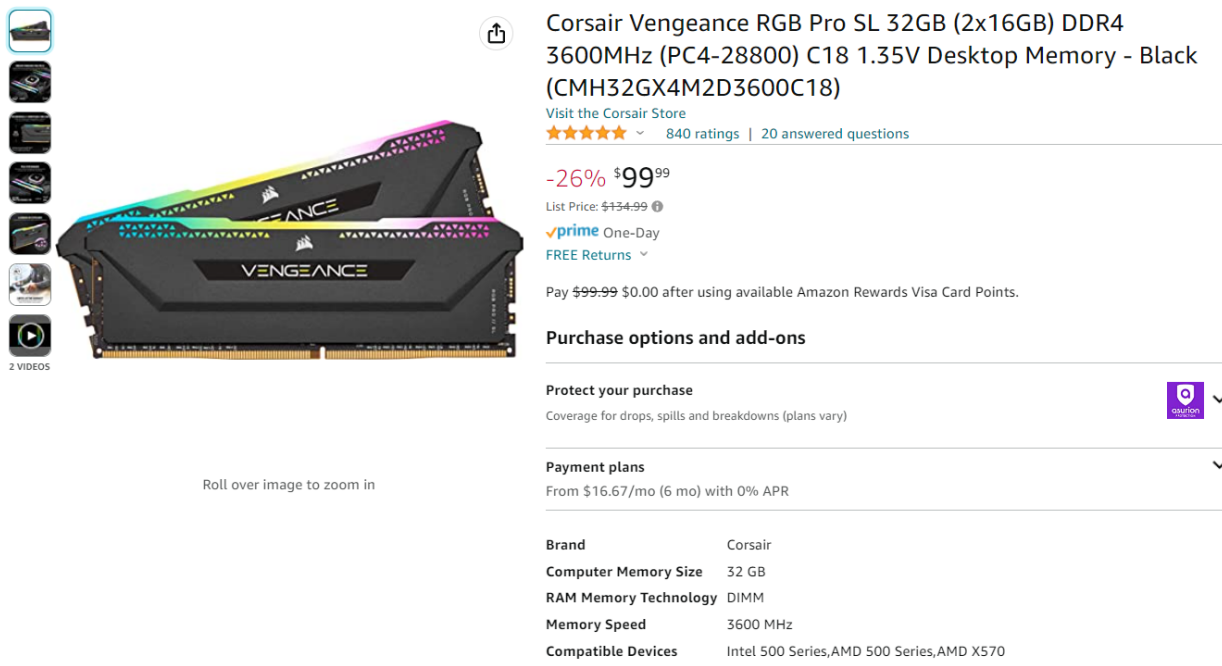
72. When he purchased the memory, Plaintiff Sundeen believed that the memory would run out of the box at the advertised speed. He did not know, and Corsair did not qualify its affirmative statements about the speed with a disclaimer, that attempting to achieve the advertised speed required altering his computer's BIOS. As a result, for most of the time he owned the RAM, it was running (without his knowledge) at the default speed of 2133 MHz. In or around 2021, while researching potential upgrades to his computer, Plaintiff Sundeen learned that he had to alter his BIOS to attempt to achieve the advertised speed. But when he used XMP to alter his BIOS and attempted to run the memory at the advertised speed, his computer crashed and would not work. As a result, he did not get what he paid for. Had Plaintiff known the truth about Corsair's memory, he would not have bought it or would not have paid the same price for it.

73. Plaintiff Sundeen would purchase Corsair High-Speed Memory again if it was actually sold as advertised. Plaintiff, however, faces an imminent threat of harm because Plaintiff will not be able to rely on Corsair's ads in the future, and thus will not be able to purchase the products even if they were sold as advertised.

Plaintiff Alcantara

74. In or around June 2021, Plaintiff Alcantara purchased “3600 MHz” Corsair Vengeance RGB Pro (32 GB) in person from the retailer Microcenter in Brooklyn, NY. He paid \$229.99 for the RAM. Plaintiff saw and relied on Corsair’s claims on the box that the memory would run reliably at 3600 MHz, including a claim on the front of the packaging stating “3600 MHz.”

75. In or around December 2022, Plaintiff Alcantara purchased more “3600 MHz.” Corsair Vengeance RGB Pro, this time from Amazon. He paid \$109.00 for the RAM. Plaintiff saw and relied on Corsair’s claims that the memory would run reliably at 3600 MHz, both on the box (which he had knowledge of from his prior purchase of the memory) as well on the Amazon website listing for Corsair’s Vengeance RGB Pro from the “Corsair Store” at the time. Those statements identified the memory as “3600MHz” memory in the title of the listing and identify the “Memory Speed” as “3600 MHz.” The listing Mr. Alcantara saw and relied on was materially similar to the current Amazon listing for the product he purchased (other than the price, which is now lower), which is reproduced below:



**Corsair Vengeance RGB Pro SL 32GB (2x16GB) DDR4 3600MHz (PC4-28800) C18 1.35V Desktop Memory - Black (CMH32GX4M2D3600C18)**

Visit the Corsair Store  
★★★★★ 840 ratings | 20 answered questions

**-26% \$99.99**  
List Price: \$134.99  
✓prime One-Day  
FREE Returns

Pay \$99.99 \$0.00 after using available Amazon Rewards Visa Card Points.

**Purchase options and add-ons**

**Protect your purchase**  
Coverage for drops, spills and breakdowns (plans vary)

**Payment plans**  
From \$16.67/mo (6 mo) with 0% APR

Brand	Corsair
Computer Memory Size	32 GB
RAM Memory Technology	DDR4
Memory Speed	3600 MHz
Compatible Devices	Intel 500 Series, AMD 500 Series, AMD X570

76. When he purchased the memory (both the initial purchase and the purchase of additional memory), Plaintiff Alcantara believed that the memory would run out of the box at the

1 advertised speed. He did not know, and Corsair did not qualify its affirmative statements about  
 2 the speed with a disclaimer, that attempting to achieve the advertised speed required altering his  
 3 computer's BIOS. As a result, for most of the time he owned the RAM, it was running (without  
 4 his knowledge) at the default speed of 2133 MHz.

5 77. In 2023, after purchasing the Corsair memory twice, Plaintiff Alcantara learned  
 6 that the memory would not run at the advertised speed out of the box, and that it was necessary  
 7 to alter his computer's BIOS settings to attempt to achieve the advertised speed. But when he  
 8 attempted to make the memory run at the advertised speed by altering his BIOS settings, his  
 9 computer would not run stably and would crash when put under normal load, such as when  
 10 running a game. As a result, Plaintiff Alcantara did not get what he paid for. Had Plaintiff known  
 11 the truth about Corsair's memory, he would not have bought it or would not have paid the same  
 12 price for it.

13 78. Plaintiff Alcantara would purchase Corsair High-Speed Memory again if it was  
 14 actually sold as advertised. Plaintiff, however, faces an imminent threat of harm because  
 15 Plaintiff will not be able to rely on Corsair's ads in the future, and thus will not be able to  
 16 purchase the products even if they were sold as advertised.

### 17 **Class Action Facts**

#### 18 **The proposed classes.**

19 79. Plaintiffs bring this case on behalf of the proposed **Nationwide Class** of: All  
 20 individuals who purchased Corsair High Speed Memory (including the Vengeance or Dominator  
 21 lines), in the United States, within the governing statute of limitations period.

22 80. Plaintiffs McKinney and Sundeen bring this case on behalf of the proposed  
 23 **California Class** consisting of: All individuals who purchased Corsair High Speed Memory  
 24 (including the Vengeance or Dominator lines), in California, within the governing statute of  
 25 limitations period.

26 81. Plaintiff Alcantara brings this case on behalf of the proposed **New York Class**  
 27 consisting of: All individuals who purchased Corsair High Speed Memory (including the  
 28 Vengeance or Dominator lines), in New York, within the governing statute of limitations period.



82. It is appropriate to include all individuals in each class in the same classes. All such individuals were presented with substantially similar misrepresentations by Corsair. All proposed class members allege the same violations of law and seek the same relief. There are no conflicts of interest among the proposed class members.

83. The following people are excluded from the classes: (1) any Judge or Magistrate Judge presiding over this action and the members of their family; (2) Defendant, Defendant's subsidiaries, parents, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest and their current employees, officers and directors; (3) persons who properly execute and file a timely request for exclusion from the Class; (4) persons whose claims in this matter have been finally adjudicated on the merits or otherwise released; (5) Plaintiff's counsel and Defendants' counsel, and their experts and consultants; and (6) the legal representatives, successors, and assignees of any such excluded persons.

#### **Numerosity**

84. The proposed classes contain members so numerous that separate joinder of each member of the classes is impractical. Based on Corsair's sales, there are hundreds of thousands or millions of proposed class members in each class.

#### **Commonality**

85. There are questions of law and fact common to the proposed classes. Common questions of law and fact include:

- Whether Corsair's advertisements were unfair, deceptive, false, and/or misleading;
- Whether Corsair breached express warranties;
- Damages needed to compensate Plaintiffs and the proposed classes.

#### **Typicality**

86. Plaintiffs' claims are typical of the proposed classes they seek to represent. Like the proposed classes, Plaintiffs purchased one of Corsair's High-Speed Memory products. And like the proposed classes, Plaintiffs were presented with and relied upon substantially similar

1 advertising by Corsair. Plaintiffs allege the same violations of law and seek the same relief as  
2 the proposed class they seek to represent.

3  
4 **Adequacy**

5 87. Plaintiffs will fairly and adequately protect the interests of the proposed classes.  
6 Plaintiffs' interests are aligned with the interests of the proposed class members: Plaintiffs seek  
7 damages and other relief for Corsair's alleged wrongs. Plaintiffs are represented by experienced  
8 class action counsel who are prepared to vigorously litigate this case through judgment and  
9 appeal. There are no conflicts of interest between Plaintiffs and the class.

10 **Final injunctive relief is appropriate respecting the classes as a whole.**

11 88. Corsair has sold memory sticks through deceptive advertising on grounds that  
12 apply generally to the classes. Accordingly, final injunctive relief prohibiting Corsair from  
13 engaging in such conduct would appropriately apply class-wide.

14 **Predominance and Superiority**

15 89. The prosecution of separate actions by individual members of the proposed  
16 classes would create a risk of inconsistent or varying adjudication with respect to individual  
17 members, which would establish incompatible standards for the parties opposing the classes. For  
18 example, individual adjudication would create a risk that the same Corsair ad is found to be  
19 deceptive with respect to some proposed class members, but not others.

20 90. Common questions of law and fact predominate over any questions affecting only  
21 individual members of the proposed classes. These common legal and factual questions arise  
22 from certain central issues which do not vary from class member to class member, and which  
23 may be determined without reference to the individual circumstances of any particular class  
24 member. Each class member's claims arise out of the same conduct by Defendant. And a core  
25 liability question is common: whether Corsair's advertisements were deceptive.

26 91. A class action is superior to all other available methods for the fair and efficient  
27 adjudication of this litigation because individual litigation of each claim is impractical. It would  
28

1 be unduly burdensome to have individual litigation of hundreds of thousands (or millions) of  
2 similar, individual claims in separate lawsuits.

3 **Ascertainability**

4 92. Class membership can be objectively determined based on whether they bought  
5 Corsair High Speed Memory. And the number and identity of class members can be determined  
6 through Corsair's records, the records of its retailers, and appropriate methods of public notice.

7  
8 **Plaintiffs Have No Adequate Remedy at Law**

9 93. Plaintiffs McKinney and Sundeen seek damages and, in the alternative,  
10 restitution. Plaintiffs are permitted to seek equitable remedies in the alternative because they  
11 have no adequate remedy at law.

12 94. To begin, the equitable restitution that Plaintiffs request goes beyond the damages  
13 available to them. Plaintiffs' demand for actual damages is limited to the difference between the  
14 value of the memory they purchased as advertised and the value of the memory they received.  
15 But Plaintiffs seek restitution of the entire amount they paid for the memory that they purchased  
16 as a result of Corsair's misrepresentations, which they would not have purchased had the  
17 memory been accurately labeled.

18 95. Moreover, the equitable remedies Plaintiffs request are more certain than the legal  
19 remedies Plaintiffs request. This is because obtaining relief under the common law or the CLRA  
20 requires additional showings not required under the UCL and FAL. For example, to obtain  
21 damages under the CLRA, Plaintiffs must show that they complied with the CLRA's notice  
22 requirement for damages. No such requirements exist to obtain restitution. So Plaintiffs must  
23 make this additional showing to obtain damages, rather than restitution, rendering their legal  
24 remedies more uncertain. This is especially important here because, as alleged below, Defendant  
25 returned the CLRA notice that Plaintiffs mailed 30 days or more before filing a claim for  
26 damages unclaimed. So it is likely that proper notice under the CLRA will be contested here. In  
27 addition, the CLRA only prohibits particular categories of deceptive conduct. By contrast, the  
28 UCL prohibits "unfair" conduct and is thus broader.

96. By the same token, Plaintiffs' common law claims require additional showings as compared to their UCL and FAL claims. For example, to prevail on their common law breach of warranty claims, Plaintiffs will need to demonstrate that the statements they challenge constitute a "warranty." And the UCL and the FAL were enacted for the specific purpose of creating new rights and remedies that were not available at common law, and deliberately broadening the types of business practices that can properly be found actionable. So there is a substantial risk that Defendant's conduct might be found not to be actionable under the common law, but nevertheless violate the UCL or FAL. Plaintiffs' common law damages are therefore more uncertain than the restitution Plaintiffs are entitled to in equity.

97. Finally, the remedies at law available to Plaintiffs are not equally prompt or otherwise efficient. The need to schedule a jury trial may result in delay. And a jury trial will take longer, and be more expensive, than a bench trial.

### **Causes of Action**

#### **Count I: Violation of California Unfair Competition Law (UCL) (on behalf of Plaintiffs and the California Class)**

98. Plaintiffs incorporate by reference each and every factual allegation set forth above.

99. Plaintiffs bring this UCL claim on behalf of themselves and members of the Class.

100. Corsair violated California's Unfair Competition Law by engaging in unlawful, fraudulent, and unfair conduct (violating each of the three UCL prongs).

#### **The Unlawful Prong**

101. Corsair engaged in unlawful conduct by violating the CLRA and FAL, and other applicable law as alleged in this Complaint.

#### **The Fraudulent Prong**

102. Corsair's unqualified assertions about the speed of its High-Speed Memory products were false and misleading to a reasonable consumer and, as a result, were deceptive and fraudulent.

103. Corsair's misrepresentations were likely to deceive, and did deceive, Plaintiffs and reasonable consumers.

## The Unfair Prong

104. Corsair violated established public policy by violating the CLRA and FAL, as alleged below and incorporated here. The unfairness of this practice is tethered to a legislatively declared policy (that of the CLRA and FAL).

105. The harm to Plaintiffs and the class greatly outweighs the public utility of Corsair's conduct. There is no public utility to Corsair's misleading ads. This injury was not outweighed by any countervailing benefits to consumers or competition. Misleading ads only injure healthy competition and harm consumers. Defendant's conduct, as alleged above, was immoral, unethical, oppressive, unscrupulous, and substantially injurious to consumers.

\* \* \*

106. For all prongs, Corsair's misrepresentations were intended to induce reliance, and Plaintiffs and class members saw, read and reasonably relied on them when purchasing High-Speed Memory. These misrepresentations were a substantial factor in Plaintiffs' and class members' purchase decision.

107. In addition, class-wide reliance can be inferred because the misrepresentations were material, i.e., a reasonable consumer would consider them important in deciding whether to buy the High-Speed Memory products.

108. Plaintiffs and class members could not have reasonably avoided this injury because Corsair's advertisements were misleading to reasonable consumers.

109. Corsair's misrepresentations were a substantial factor in Plaintiffs' purchase decisions and the purchase decision of class members.

110. Plaintiffs and class members were injured as a direct and proximate result of Corsair's conduct because (a) they would not have purchased Corsair High-Speed Memory if they had known the truth about Corsair's misrepresentations; and (b) they overpaid for High-

Speed Memory products because they are sold at a price premium, due to Corsair's misrepresentations.

**Count II: Violation of California False Advertising Law (FAL)**

**(on behalf of Plaintiffs and the California Class)**

111. Plaintiffs incorporate by reference each and every factual allegation set forth above.

112. Plaintiffs bring this FAL claim on behalf of themselves and members of the Class.

113. As alleged above, Corsair falsely advertised its High-Speed Memory Products by falsely representing that the products run out of the box at the advertised speed, and do so reliably.

114. Corsair's representations were likely to deceive, and did deceive, Plaintiffs and reasonable consumers. Corsair knew, or should have known through the exercise of reasonable care, that these statements were untrue and misleading.

115. Corsair's misrepresentations were intended to induce reliance, and Plaintiffs and class members saw, read and reasonably relied on them when purchasing High-Speed Memory.

116. In addition, class-wide reliance can be inferred because Corsair's misrepresentations were material, i.e., a reasonable consumer would consider them important in deciding whether to buy the High-Speed Memory Products.

117. Corsair's misrepresentations were a substantial factor in Plaintiffs' purchase decisions and the purchase decision of class members.

118. Plaintiffs and class members were injured as a direct and proximate result of Corsair's conduct because (a) they would not have purchased Corsair High-Speed Memory if they had known the truth about Corsair's misrepresentations; and (b) they overpaid for High-Speed Memory products because they are sold at a price premium, due to Corsair's misrepresentations.

**Count III: Violation of the California Consumer Legal Remedies Act (CLRA)**  
**(on behalf of Plaintiffs and the California Class)**

119. Plaintiffs incorporate by reference each and every factual allegation set forth above.

120. Plaintiffs bring this cause of action on behalf of themselves and members of the Class.

121. Plaintiffs and the other members of the Class are consumers that engaged in a consumer transaction when buying High-Speed Memory.

122. The conduct alleged in this Complaint constitutes unfair methods of competition and unfair and deceptive acts and practices for the purpose of the CLRA, and the conduct was undertaken by Corsair in transactions intended to result in, and which did result in, the sale of goods to consumers.

123. Plaintiffs and the other members of the Class purchased High-Speed Memory for personal, family, or household purposes.

124. As alleged above, Corsair violated the CLRA by falsely representing that the products run out of the box at the advertised speed, and do so reliably. This conduct violated California Civil Code § 1770(a)(5), (a)(7), and (a)(9).

125. Through its representations, Corsair misrepresented the “characteristics,” “uses,” “benefits,” or “quantities” of its High-Speed Memory, in violation of Cal. Civ. Code § 1770(a)(5).

126. Through its representations, Corsair misrepresented that its High-Speed Memory was “of a particular standard, quality, or grade” in violation of Cal. Civ. Code § 1770(a)(7).

127. Corsair advertised its High-Speed Memory sticks “with intent not to sell them as advertised,” in violation of Cal. Civ. Code § 1770(a)(9).

128. Corsair’s representations were likely to deceive, and did deceive, Plaintiffs and reasonable consumers. Corsair knew, or should have known through the exercise of reasonable care, that these statements were inaccurate and misleading.



1 129. Corsair's misrepresentations were intended to induce reliance, and Plaintiffs and  
2 class members saw, read and reasonably relied on them when purchasing High-Speed Memory.

3 130. In addition, class-wide reliance can be inferred because Defendants'  
4 misrepresentations were material, i.e., a reasonable consumer would consider them important in  
5 deciding whether to buy the High-Speed Memory products.

6 131. Corsair's misrepresentations were a substantial factor in Plaintiffs' purchase  
7 decisions and the purchase decision of class members.

8 132. Plaintiffs and class members were injured as a direct and proximate result of  
9 Corsair's conduct because (a) they would not have purchased Corsair High-Speed Memory if  
10 they had known the truth about Corsair's misrepresentations; and (b) they overpaid for High-  
11 Speed Memory products because they are sold at a price premium, due to Corsair's  
12 misrepresentations.

13 133. Accordingly, pursuant to California Civil Code § 1780(a)(3), Plaintiffs, on behalf  
14 of themselves and all other members of the Class, seek injunctive relief.

15 134. CLRA § 1782 NOTICE. On January 14, 2022, Plaintiff McKinney sent a CLRA  
16 notice and demand letter to Corsair's California headquarters (via certified mail, return receipt  
17 requested). The letter was returned unclaimed. Plaintiff sent the letter a second time (certified  
18 mail, return receipt requested), to Corsair's headquarters (the same address), and delivery was  
19 accepted on February 25, 2022. So, the problem was not the address; instead, Defendant refused  
20 to accept delivery in the first instance. A Defendant cannot delay or defeat a CLRA notice by  
21 rejecting the delivery demand letter.<sup>15</sup> Because 30 days has passed since Plaintiff sent the first  
22 notice and thereby complied with statutory requirements, Plaintiff and the subclass now seek all  
23 monetary relief allowed under the CLRA.

24  
25  
26  
27 <sup>15</sup> See *Delarosa v. Boiron, Inc.*, 818 F. Supp. 2d 1177 (C.D. Cal. 2011); *Neal v. NaturalCare,*  
28 *Inc.*, No. EDCV 12-00531 DOC (OPx), 2012 U.S. Dist. LEXIS 191442, at \*12 (C.D. Cal. Dec.  
20, 2012).

**Count IV: Violation of New York Gen. Bus. Law § 349****(on behalf of Plaintiff Alcantara and the New York Class)**

135. Plaintiffs incorporate each and every factual allegation set forth above.

136. Plaintiff Alcantara brings this cause of action individually and for the New York Class, seeking statutory damages available under New York Gen. Bus. Law § 349 (among other relief).

137. Plaintiff Alcantara and the Class purchased High-Speed Memory Products in New York.

138. Defendant's false and misleading claims about the MHz speed of its memory are consumer-oriented.

139. Defendant's misrepresentations have a broad impact on consumers at large, i.e., the hundreds of thousands (or potentially millions) of New Yorkers that purchase these products. These transactions recur every day.

140. Defendant's misrepresentations were material. As alleged in detail above, these misrepresentations were important to consumers and affected their choice to purchase High-Speed Memory Products. And, as alleged in detail above, these misrepresentations were likely to mislead reasonable consumers.

141. Defendant's misrepresentations were willful and knowing. Because Defendant makes and sells the High-Speed Memory Products, Defendant knows what speed those products run out of the box. Defendant also knows that achieving the advertised speeds requires "overclocking" and knows that there is a substantial risk that, even with overclocking, the High-Speed Memory Products will not run at the advertised speeds stably. As a result, Defendant knows that the High-Speed Memory Products will not run stably at the advertised speeds out of the box. Furthermore, Defendant controls its labeling, knowingly put on the representations about the "MHz" speed of those products on their box and in its ads, and knows the plain meaning of those statements.

142. Plaintiff Alcantara and Class members were injured as a direct and proximate result of Defendant's conduct, and this conduct was a substantial factor in causing them harm,

1 because they did not get what they paid for (memory that runs stably at the advertised speed out  
2 of the box) and they overpaid for the products because the products are sold at a price premium  
3 due to Defendant's misrepresentations.

4 143. Plaintiff Alcantara and the Class seek statutory damages of \$50, treble damages,  
5 an injunction, reasonable attorney fees, and all other available relief. See N.Y. Gen. Bus. Law §  
6 349 (h).

7 **Count V: Violation of New York Gen. Bus. Law § 350**

8 **(on behalf of Plaintiff Alcantara and the New York Class)**

9 144. Plaintiff incorporates each and every factual allegation set forth above.

10 145. Plaintiff Alcantara brings this cause of action individually and for the New York  
11 Class, seeking statutory damages available under New York Gen. Bus. Law § 350 (among other  
12 relief).

13 146. Plaintiff Alcantara and the Class purchased High-Speed Memory Products in New  
14 York.

15 147. Defendant's false and misleading claims impacted consumers at large.  
16 Defendant's misrepresentations have a broad impact on consumers at large, i.e., the hundreds of  
17 thousands (or potentially millions) of New Yorkers that purchase High-Speed Memory Products.  
18 These transactions recur every day.

19 148. Defendant's claims were deceptive and misleading in a material way. As alleged  
20 in detail above, these misrepresentations were important to consumers and affected their choice  
21 to purchase High-Speed Memory Products. And these misrepresentations were likely to mislead  
22 reasonable consumers.

23 149. Plaintiff Alcantara and the Class saw and relied on Defendant's  
24 misrepresentations about the speed of the High-Speed Memory Products.

25 150. Defendant's misrepresentations were willful and knowing. Because Defendant  
26 makes and sells the High-Speed Memory Products, Defendant knows what speed those products  
27 run out of the box. Defendant also knows that achieving the advertised speeds requires  
28 "overclocking" and knows that there is a substantial risk that, even with overclocking, the High-

Speed Memory Products will not run at the advertised speeds stably. As a result, Defendant knows that the High-Speed Memory Products will not run stably at the advertised speeds out of the box. Furthermore, Defendant controls its labeling, knowingly put on the representations about the “MHz” speed of those products on their box and in its ads, and knows the plain meaning of those statements.

151. Plaintiff Alcantara and Class members were injured as a direct and proximate result of Defendant’s conduct, and this conduct was a substantial factor in causing them harm, because they did not get what they paid for (memory that runs stably at the advertised speed out of the box) and they overpaid for the products because the products are sold at a price premium due to Defendant’s misrepresentations.

152. Plaintiff Alcantara and the Class seek statutory damages of \$500, treble damages, an injunction, reasonable attorney fees, and all other available relief. See N.Y. Gen. Bus. Law § 350-e (3).

#### **Count VI: Breach of Express Warranty**

##### **(on behalf of Plaintiffs and the Nationwide Class)**

153. Plaintiffs incorporate by reference each and every factual allegation set forth above.

154. Plaintiffs bring this cause of action on behalf of themselves and the Nationwide Class.

155. As alleged above, when selling High-Speed Memory, Corsair issued written warranties by representing that the products would run out of the box at the advertised speeds, and would do so reliably. This was an affirmation of fact about the products and a promise relating to the goods.

156. This warranty was part of the basis of the bargain and Plaintiffs and class members relied on this warranty.

157. The High-Speed Memory Products breached this warranty because attempting to achieve the advertised speed requires altering computer firmware, and a substantial portion of the products do not run at the advertised speed or do not do so reliably.

158. Corsair's breach was a substantial factor and a proximate cause in causing damages and losses to Plaintiffs and the class.

159. Plaintiffs and class members were injured as a direct and proximate result of Corsair's conduct because (a) they would not have purchased Corsair High-Speed Memory if they had known that Corsair would breach its warranty; and (b) they overpaid for High-Speed Memory products because they are sold at a price premium, due to Corsair's false warranty.

160. On January 14, 2022, Plaintiff McKinney sent a breach of warranty notice and demand letter to Corsair's California headquarters (via certified mail, return receipt requested). The letter was returned unclaimed. Plaintiff sent the letter a second time (certified mail, return receipt requested), to Corsair's headquarters (the same address), and delivery was accepted on February 25, 2022. On January 16, 2023, Plaintiff Alcantara sent a breach of warranty notice and demand letter to Corsair's counsel of record, who confirmed that he was authorized to accept service of that notice and demand letter on behalf of Corsair.

#### **Jury Demand**

Plaintiffs demand a jury trial on all issues so triable.

#### **Prayer for Relief**

Plaintiffs seek the following relief for themselves and the proposed class:

- a) An order certifying the asserted claims, or issues raised, as a class action;
- b) A judgment in favor of Plaintiffs and the proposed classes;
- c) Damages, including statutory and punitive damages where applicable;
- d) Restitution;
- e) Disgorgement, and other just equitable relief;
- f) Pre- and post-judgment interest;
- g) An injunction as allowed by law;
- h) Reasonable attorneys' fees and costs, as allowed by law;
- i) Any additional relief that the Court deems reasonable and just.

1 Dated: August 29, 2025

Respectfully submitted,

2 By: /s/ Richard Lyon

3 Richard Lyon (Cal. Bar No. 229288)  
4 rick@dovel.com  
5 Jonas Jacobson (Cal. Bar No. 269912)  
6 jonas@dovel.com  
7 Simon Franzini (Cal. Bar No. 287631)  
8 simon@dovel.com  
9 DOVEL & LUNER, LLP  
10 201 Santa Monica Blvd., Suite 600  
11 Santa Monica, California 90401  
12 Telephone: (310) 656-7066  
13 Facsimile: (310) 656-7069

14 Kevin Kneupper, Esq. (CA SBN 325413)  
15 kevin@kneuppercovey.com  
16 A. Cyclone Covey, Esq. (CA SBN 335957)  
17 cyclone@kneuppercovey.com  
18 KNEUPPER & COVEY, PC  
19 17011 Beach Blvd., Ste. 900  
20 Huntington Beach, CA 92647-5998  
21 Tel: (512) 420-8407

22 *Attorneys for Plaintiffs*