FILED
7/16/2025
Timothy W Fitzgerald
Spokane County Clerk

SUPERIOR COURT OF WASHINGTON
FOR SPOKANE COUNTY

SHAWNNA MONTES,
for herself, as a private attorney general, and on behalf of all others similarly situated,

Plaintiff,

v.

CATALYST BRANDS LLC, SPARC GROUP LLC, and PENNEY OPCO LLC,

Defendants

Case No. 25-2-03222-32

FIRST AMENDED CLASS ACTION COMPLAINT FOR VIOLATION OF THE CONSUMER PROTECTION ACT, RCW 19.86, AND THE COMMERCIAL ELECTRONIC MAIL ACT, RCW 19.190

Plaintiff Shawnna Montes, demanding trial by jury as to all issues so triable in a separate document to be filed, alleges as follows, on personal knowledge and upon investigation of her counsel, against Defendants Catalyst Brands LLC, SPARC Group LLC, and Penney OpCo LLC (collectively, "Aéropostale"):

INTRODUCTION AND SUMMARY

1. This is a class action against Aéropostale for false or misleading email marketing in violation of the Washington Consumer Protection Act ("CPA"), RCW 19.86, and the Washington Commercial Electronic Mail Act, ("CEMA"), RCW 19.190.

2. Aéropostale is a designer, marketer, and retail seller of casual clothing and accessories, targeting primarily the teen and young adult market. Almost all the items offered for sale by Aéropostale in its Aéropostale stores, on its website www.aeropostale.com, and advertised in its email marketing, are branded as "Aéropostale" products and are offered and sold exclusively by Aéropostale.

3. In its stores and on its website, Aéropostale advertises perpetual storewide and sitewide "sales" and percentage-off discounts—typically 50% to 70% off—from Aéropostale's self-created list prices for its products. Aéropostale also advertises these same "sales" and percentage-off discounts in its marketing emails. Aéropostale's advertised discounts are viewed both under the law and by reasonable consumers to refer to discounts from Aéropostale's own regular offering prices for those products. However, Aéropostale's advertised discounts are false because Aéropostale never or almost never offers or sells its products at their list price.

4. Aéropostale also falsely advertises that the purported savings are for a limited time and indicates that the products will return to the full price after the sale ends, when in fact the advertised savings are perpetual and never-ending.

5. Aéropostale also falsely advertises "free" offers such as "Buy 1 Get 1 Free," "Buy 1 Get 2 Free," or "BOGO FREE" where Aéropostale represents that it will include one or two more of a given item (or of a specified similar item) for "free" if the consumer pays the list price for the item. Aéropostale's advertised "free" offers are viewed both under the law and by reasonable consumers to mean that the consumer is getting the "free" item(s) at no cost in

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conjunction with the purchase of the first item at no more than that item's regular price. However, because the item is "discounted" by 50-70% off the list price at all other times, this means Aéropostale is directly recovering all of the cost, or even more than the cost, of the "free" item(s) by increasing the price of the first item, such that the free offer is illusory, and the consumer is not getting any deal at all.

6. Aéropostale's false discount advertising is so pervasive across all of its products and in all of its advertising that it is apparent that the heart of Aéropostale's marketing plan is to deceive the public.

7. An important part of Aéropostale's false discount advertising scheme is to send a constant stream of marketing emails to consumers that prominently advertise these false discounts in the subject line. Many of the consumers who receive these emails with false and deceptive email subject lines are Washington residents.

8. For example, Aéropostale sends emails with subject lines that advertise false discounts at a specified purported percentage off (e.g., "Get Dressed With 50-70% OFF Sitewide "). The stated discounts in the subject lines are materially false or misleading because, in reality, the discounts are being calculated from inflated and fictitious list prices that Aéropostale invented and at which Aéropostale has never offered the products for sale.

9. The subject lines of the emails are also materially false or misleading because they advertise the purported savings are for a limited time and indicate that the products will return to the full price after the sale ends (e.g. "FINAL HOURS: 60% OFF SITEWIDE," "Pants: 50% OFF  We NEVER Do This"), when in fact the advertised savings are perpetual and never-ending.

10. Aéropostale also sends emails with subject lines that advertise false "free" offers (e.g., "Aero Jeans: Buy 1, Get 1 FREE! "). The subject lines are materially false or misleading because, in reality, the "free" items are not actually free; Aéropostale directly recovers all of the cost, or even more than the cost, of the "free" item(s) by increasing the price of the first item to the inflated—and otherwise never charged—list price.

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11. The Washington Supreme Court recently held that CEMA "prohibits sending Washington residents commercial e-mails that contain ***any*** false or misleading information in the subject lines of such e-mails." *Brown v. Old Navy, LLC*, 567 P.3d 38, 47 (Wash. 2025) (emphasis in original). This includes false or misleading information about promotions, sales events, or discounts. **"CEMA protects consumers by requiring that commercial e-mails communicate honestly about the terms of a given promotion or sale in the subject line."** *Id.* (emphasis added). "A violation of CEMA's e-mail regulations is a per se violation of the Consumer Protection Act (CPA)." *Id.* at *2.

12. Ms. Montes brings this lawsuit individually and on behalf of a class of consumers residing in Washington who received emails from Aéropostale which contained false or misleading discount advertising in the subject line. Ms. Montes's requested relief includes an injunction to end the unlawful practices alleged herein. Ms. Montes also requests an award to Ms. Montes and to each class member of $500 in statutory damages for each and every violative email received, and an award of attorneys' fees and costs.

THE PARTIES

13. Plaintiff Shawnna Montes is a citizen of the United States of America and an individual and a natural adult person who currently resides and who, at all relevant times in the past resided in, Spokane, Washington.

14. Defendant Catalyst Brands LLC is a limited liability company that was formed in January 2025 following a merger between SPARC Group LLC and Penney OpCo LLC. Catalyst Brands LLC is headquartered in Plano, Texas, at the former and current Penney OpCo LLC corporate headquarters. Catalyst Brands LLC also has an office in Seattle, Washington.[1]

15. Defendant SPARC Group LLC is a limited liability company chartered under the laws of the State of Delaware. Prior to January 2025, Defendant SPARC Group LLC has or at relevant times had its executive, marketing, and technology operations in Lyndhurst, New

[1] *See* https://corporate.jcpenney.com/2025/01/08/sparc-group-has-merged-with-jcpenney-to-form-catalyst-brands/ (announcing the merger and stating where Catalyst Brands LLC's headquarters and other offices are located). This press release is also attached as **Exhibit A**.

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Jersey, or New York, New York. Since January 2025, SPARC Group LLC has had its executive, marketing, and technology operations in Plano, Texas, at the same location as the longstanding headquarters of Penney OpCo LLC.

16. Defendant Penney OpCo LLC is a limited liability company organized under the laws of the Commonwealth of Virginia and with its principal place of business in Plano, Texas. Defendant Penney OpCo LLC engaged in or assumed liability for the unlawful acts pleaded herein.

17. From 2016 until at least the January 2025 merger, SPARC Group LLC managed the retail, website and email marketing operations of the Aéropostale brand and conducted the unlawful actions described herein that took place between 2016 and the 2025 merger—including the creation and sending of the violative emails. Catalyst Brands LLC is the successor to SPARC Group LLC. Catalyst Brands LLC is liable for all unlawful actions pled herein that were conducted by SPARC Group LLC from 2016 until at least the 2025 merger.

18. Since the January 2025 merger, Defendant Catalyst Brands LLC has, together with SPARC Group LLC and/or Penney OpCo LLC, been directly responsible for the retail, website and email marketing operations of the Aéropostale brand. Notably, since the January 2025 merger, Catalyst Brands LLC, SPARC Group LLC, and Penney OpCo LLC have been headquartered together at the long-standing corporate headquarters of Penny OpCo LLC in Plano, Texas. According to the Penney OpCo LLC press release referenced at footnote 1 (and at **Exhibit A**), the brand manager for Aéropostale reports directly to Marc Rosen, the CEO of Catalyst Brands LLC (Mr. Rosen previously was the CEO of Penney OpCo LLC). Defendant Catalyst Brands LLC has continued to own and operate the approximately 500 brick-and-mortar Aéropostale retail stores throughout the United States, including 8 in Washington. Defendant Catalyst Brands LLC also owns and operates the retail website www.aeropostale.com, and has continued to manage the email marketing operations of Aéropostale. Defendant Catalyst Brands LLC continues to be responsible and liable for all of

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the unlawful actions pled herein that took place after the January 2025 merger, including the continued creation and sending of the violative emails.[2]

JURISDICTION AND VENUE

19. This Court has subject matter jurisdiction over this civil action pursuant to, without limitation, Section 6 of Article IV of the Washington State Constitution (Superior Court jurisdiction, generally), RCW 19.86.090 (Superior Court jurisdiction over Consumer Protection Act claims) and RCW 19.190.090 (Superior Court jurisdiction over Commercial Electronic Mail Act claims).

20. This Court has personal jurisdiction over Aéropostale pursuant to, without limitation, RCW 4.28.185, in that: (1) Each of Defendants Catalyst Brands LLC, SPARC Group LLC and Penney OpCo LLC is registered to do business in the State of Washington; (2) Aéropostale has transacted and continues to transact business within the State of Washington; and/or (3) Aéropostale has committed tortious acts within the State of Washington or has committed tortious acts outside the State of Washington which had an impact within the State of Washington. In addition, Aéropostale intended, knew, or is chargeable with the knowledge that its out-of-state actions would have a consequence within the State of Washington.

21. With regard to the cause of action brought pursuant to the Washington Consumer Protection Act, this Court has personal jurisdiction over Aéropostale pursuant to RCW 19.86.160. For example, and without limitation, Aéropostale has engaged and is continuing to engage in conduct in violation of RCW 19.86 which has had and continues to have an impact in Washington State which said chapter reprehends.

22. Venue is proper in Spokane County Superior Court because, without limitation, Plaintiff resides in Spokane County; a significant portion of the acts giving rise to this civil action occurred in Spokane County; and/or Aéropostale intended to and did have a substantial and foreseeable effect on trade or commerce in Spokane County.

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[2] In the event that discovery reveals that Aéropostale has a different ownership or management structure, Plaintiff will seek leave to file an amended pleading that conforms to proof.

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FACTUAL ALLEGATIONS

23. Aéropostale is a designer, marketer, and retail seller of casual clothing and accessories, targeting primarily the teen and young adult market.

24. Aéropostale sells its products through its website www.aeropostale.com, and in its retail stores. Aéropostale currently operates approximately 500 retail stores throughout the United States, with at least eight locations in Washington State. The Aéropostale website is accessible from Washington State, and consumers in Washington State view the contents of the Aéropostale website and purchase goods from Aéropostale's website. Aéropostale sends marketing emails to consumers throughout the country, including thousands of consumers in Washington State.

25. Almost all the items offered by Aéropostale are branded as "Aéropostale" products and are exclusively offered for sale and sold by Aéropostale in its retail stores and on its website. In other words, the products offered by Aéropostale in its stores, on its website, and advertised in its marketing emails are not offered or sold by, and are not available from, any other retailer.

A. Background Information: Aéropostale's Advertised Discounts And "Free" Offers Are False.

26. In its stores and on its website, Aéropostale advertises perpetual storewide and sitewide "sales" and percentage-off discounts—typically 50% to 70% off—from Aéropostale's self-created list prices for its products. Aéropostale also advertises these same "sales" and percentage-off discounts in its marketing emails. Aéropostale's advertised discounts are viewed both under the law and by reasonable consumers to refer to discounts from Aéropostale's own regular offering prices for those products. However, Aéropostale's advertised discounts are materially false because Aéropostale never or almost never offers or sells its products at their list price.

27. Aéropostale also advertises that the purported savings are for a limited time and indicates that the products will return to the full price after the sale ends, when in fact the advertised savings are perpetual and never-ending.

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28. Aéropostale also advertises materially false "free" offers such as "Buy 1 Get 1 Free," "Buy 1 Get 2 Free," and "BOGO FREE," where Aéropostale represents that it will include one or two more of a given item (or of a specified similar item) for "free" if the consumer pays the list price for the item. Aéropostale's most common "free" offers are a "Buy 1 Get 1 Free" offer for its jeans and a "Buy 1 Get 2 Free" offer for its T-shirts. Aéropostale's advertised "free" offers are viewed both under the law and by reasonable consumers to mean that the consumer is getting the "free" item(s) at no cost in conjunction with the purchase of the first item at no more than that item's regular price. However, the free offers are false because the item is in fact "discounted" by 50-70% off the list price at all other times, such that Aéropostale is directly recovering all of the cost, or even more than the cost, of the "free" item(s) by increasing the price of the first item.

29. Plaintiff's allegations concerning Aéropostale's false discount advertising are based on a comprehensive investigation by Plaintiff's counsel of Aéropostale's pricing practices for a period of over 10 years, including the period 2016 to the present (which is the period Aéropostale has conducted the unlawful actions described herein as Catalyst Brands LLC and as the predecessor company SPARC Group LLC).

30. Plaintiff's counsel has been monitoring and scraping the Aéropostale website on an automated daily basis with a proprietary software program since November 5, 2014. Plaintiff's counsel has compiled and extracted daily pricing and marketing data from the website for nearly all of the products Aéropostale has offered during this time. In total, Plaintiff's counsel has assembled and analyzed an exhaustive historical database of daily prices and time-stamped screenshots of over 5.3 million daily offerings of approximately 50,000 products over this more than 10-year period.

31. Plaintiff's counsel's investigation and data shows that Aéropostale advertises perpetual discounts for nearly all of its products, including via store-wide and website-wide percentage-off sales, typically ranging from 50% to 70% off every product.

32. The percentage-off and other discounts are ***always*** false, and Aéropostale's list prices to which the discounts are applied are false and inflated. In fact, for the overwhelming

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majority of the products that Aéropostale advertises with a discount or with a "free" offer, Aéropostale has ***never***—not even for a single day—offered the product at the list price without a discount or "free" offer.

33. Plaintiff's counsel has also investigated multiple Aéropostale retail stores in-person across multiple years in multiple different states, including dozens of store visits in Washington State. Plaintiff's counsel has compared the Aéropostale retail store prices and discounts (including the list prices printed on the product tags, the percentage-off and free offer signage posted throughout the stores, the store-wide sale event signage, and the resulting "discounted" prices for Aéropostale products), to the Aéropostale website prices and discounts for those products (including the website-wide sale event advertising, list prices, and "discounted" prices). Plaintiff's counsel has found that Aéropostale's website-wide and store-wide sales events, list prices, advertised percentage-off and free-offer discounts, and the resulting "discounted" prices for its products have been and continue to be substantially the same for its products both online and in-store. Plaintiff's counsel has also found that Aéropostale's store-wide sales events, prices, and discounts have been and continue to be substantially the same across Aéropostale retail stores in different states.

34. In fact, Aéropostale effectively treats its online and in-store sales channels as the same. Customers can make purchases through the Aéropostale website and pick the items up in any Aéropostale retail store that same day. Aéropostale also encourages its customers while shopping in-store to view Aéropostale's website for additional colors or styles of the items that the customers are looking at in the retail store.

35. Plaintiff's counsel has also investigated and reviewed years of marketing emails sent by Aéropostale to its customers. The false percentage-off discounts and false "free" offers which Aéropostale has advertised, and continues to advertise, in the subject lines of its marketing emails are consistent with the discounts and pricing on the Aéropostale website and in Aéropostale retail stores.

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B. CEMA Prohibits Sending Washington Residents Commercial Emails With False Or Misleading Subject Lines.

36. Washington's Commercial Electronic Mail Act (CEMA) regulates deceptive email marketing.

37. CEMA prohibits a person from initiating or conspiring to initiate the transmission to an email address that the sender knows, or has reason to know, is held by a Washington State resident of a commercial email that contains false or misleading information in the email's subject line. RCW 19.190.020(1)(b).

38. The Washington Supreme Court has recently confirmed that CEMA "prohibits sending Washington residents commercial e-mails that contain ***any*** false or misleading information in the subject lines of such e-mails." *Brown v. Old Navy, LLC*, 567 P.3d 38, 47 (Wash. 2025) (emphasis in original). This includes false or misleading information about promotions, sales, or other pricing information. **"CEMA protects consumers by requiring that commercial e-mails communicate honestly about the terms of a given promotion or sale in the subject line."** *Id.* (emphasis added).

39. "CEMA was enacted to protect concrete interests in being free from deceptive commercial e-mails. CEMA's prohibition on sending commercial e-mails with false or misleading subject lines . . . creates a substantive right to be free from deceptive commercial e-mails." *Harbers v. Eddie Bauer, LLC*, 415 F. Supp. 3d 999, 1011 (W.D. Wash. Nov. 27, 2019) (holding that the plaintiff sufficiently pleaded a concrete injury-in-fact for alleged CEMA violations based on her receipt of marketing emails from defendant containing allegedly false "xx% off" statements in the subject line); *see also Brown*, 567 P.3d at 45 ("CEMA sought to give consumers relief from commercial spam e-mail by requiring accuracy and truthfulness in the subject lines of such e-mails."). "The harms resulting from deceptive commercial emails resemble the type of harms remedied by nuisance or fraud actions." *Harbers*, 415 F. Supp. 3d at 1008.

40. An injury occurs any time a commercial email is transmitted that contains false or misleading information in the subject line. *Harbers*, 415 F. Supp. 3d at 1011.

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41. Under CEMA, it is irrelevant whether misleading commercial emails were solicited. *Id.*

42. "A violation of CEMA's e-mail regulations is a per se violation of the Consumer Protection Act (CPA)." *Brown*, 567 P.3d at 42.

43. Generally, a plaintiff pleading a claim under the CPA must plead five necessary elements: (1) an unfair or deceptive act or practice (2) in trade or commerce (3) that affects the public interest, (4) injury to plaintiff's business and property, and (5) causation. *Wright v. Lyft, Inc.*, 189 Wn.2d 718, 728 (2017). **However, because a violation of CEMA is a per se violation of the CPA, all five elements are satisfied as a matter of law.** *Id.* at 724; *see also Brown*, 567 P.3d at 42.

44. "Under CEMA, the injury is receiving an e-mail that violates its regulations." *Brown*, 567 P.3d at 42. Accordingly, **"CEMA does not require a showing of injury for statutory damages to be awarded because the injury is receiving the e-mail that violates CEMA."** *Id.* at 45 (emphasis added); *see also Wright*, 189 Wn.2d at 729 ("[CEMA] does not condition the award of damages on proving either injury or causation. In fact, damages for CEMA violations are *automatic*.") (emphasis in original).

45. A person is entitled to $500 statutory damages "anytime a prohibited message is transmitted." *Harbers*, 415 F. Supp. 3d at 1009; *see also In re Classmates.com Consol. Litig.*, No. C09-45RAJ, 2011 WL 744664, at *7 (W.D. Wash. Feb. 23, 2011) ("[CEMA] provides statutory damages of $500 for every email that violates it."). "Unlike the CPA, CEMA's $500 penalty does not require a showing of actual damages." *Brown*, 567 P.3d at 42.

C. Aéropostale Has Transmitted Numerous Commercial Emails With False Or Misleading Subject Lines.

46. Aéropostale has transmitted numerous commercial emails with false or misleading subject lines to Ms. Montes and other Washington residents. (As used in this Complaint, allegations that Aéropostale "transmitted" or "sent" an email are allegations that Aéropostale initiated the transmission of the email, conspired with another to initiate the transmission of the email and/or assisted the transmission of the email.)

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47. These violative emails have subject lines advertising materially false percentage-off discounts or materially false "free" offers.

1. Aéropostale Transmits Emails With Subject Lines Advertising False Percentage-Off Discounts.

48. Aéropostale transmits commercial emails with subject lines advertising large percentage-off discounts (typically between 50-70% off). These email subject lines are materially false or misleading because the advertised percentage-off discounts are phony and are calculated from inflated, and never-charged, list prices.

49. The subject lines of the emails are also materially false or misleading because they advertise the purported savings are for a limited time and indicate that the products will return to the full price after the sale ends (e.g. "FINAL HOURS: 60% OFF SITEWIDE," "Pants: 50% OFF We NEVER Do This"), when in fact the advertised savings are perpetual and never-ending.

50. These marketing emails violate CEMA and the CPA because they advertise false or misleading percentage-off discounts and/or false or misleading limited-time savings in the subject line.

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51. **For example, Plaintiff received each of the following violative percentage-off emails while residing in Washington State, on the date, and containing the email subject line, specified below:**

Date	Email Subject Line
07/06/2021	FINAL HOURS: 60% OFF SHORTS!
07/14/2021	60% OFF Our Best-Selling Shorts ✌
07/16/2021	60% Off Our Best-Selling Shorts 🌞
07/20/2021	Score 60% OFF Shorts... FTW! 🙌
08/17/2021	Get Dressed With 50-70% OFF Sitewide ✌
09/18/2021	Fall's New Must-Have Tees + 50-70% OFF Sitewide!
09/27/2021	Your New Fave Tees + 50-70% OFF Sitewide!
10/05/2021	NEW Cozy Fleece Sets, 50-70% OFF! 🎵📍😊
10/09/2021	NEW Long Sleeves, 50-70% OFF!
10/12/2021	STARTS NOW: 60% OFF SITEWIDE + JEANS $19.99! 💥
10/12/2021	ENDS TOMORROW: 60% OFF SITEWIDE + JEANS $19.99 ❗
10/13/2021	⏳ FINAL HOURS: 60% OFF SITEWIDE + JEANS $19.99 ⏳
10/15/2021	NEW Band Hoodies & Tees, 50-70% OFF! ✌❤🎵
10/16/2023	💯 Pants On Point + 50-70% Off Sitewide 😌
10/18/2023	Spooky Szn Inspo 🐶+ 50-70% Off Sitewide!
10/19/2023	Pants: 50% OFF 🔥 We NEVER Do This…
01/17/2024	50-70% OFF SITEWIDE 😌 In Stores & Online
01/18/2024	🎥 ALL JEANS 50% OFF! Selling Fast
01/19/2024	50% Off Hoodies & Sweatpants
01/20/2024	50% Off Cargos + See What's #Trending
01/21/2024	📍 50-70% Off Sitewide
01/22/2024	50% Off Cargos, Parachute Pants & More!
01/22/2024	50-70% Off Everything 👏 In Stores & Online

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01/23/2024	Heyyy! 50-70% Off Everything
01/26/2024	50% Off Hoodies & Sweatpants
01/27/2024	50-70% Off Sitewide For All
04/20/2025	Peep these deals 50-70% OFF everything + $10 & up sleep sets!
04/21/2025	Save BIG! 50-70% OFF Everything + 2 FREE Tees When You Buy 1
04/23/2025	50-70% OFF sitewide + clearance from $5.99 = ADD TO CART!
04/28/2025	PSA: 40-70% OFF Sitewide + Buy 1 Get 2 FREE Tees!

52. The above violative emails are only a small fraction of the total number of such violative emails that Aéropostale sent to Washington residents within the applicable limitations period.

53. Attached as **Exhibit B** to this Complaint is a non-exhaustive list of 346 such violative emails that Aéropostale sent within the applicable limitations period to Washington residents. All of these 346 emails contain subject lines which advertise false or misleading percentage-off discounts and/or false or misleading limited-time savings.

54. The advertised percentage-off discounts in these email subject lines are viewed both under the law and by reasonable consumers to refer to discounts from Aéropostale's own regular offering prices for its products. In reality, however, Aéropostale calculated the "% Off" statements from invented fictitious list prices at which Aéropostale never or almost never offered its products. Meanwhile, there was no asterisk or other indicator in the subject line to notify the email recipients that Aéropostale had assigned these words and symbols an invented or unusual subjective meaning rather than their ordinary or objective meaning.

2. Aéropostale Transmits Emails With Subject Lines Advertising False "Free" Offers.

55. Aéropostale also sends commercial emails with subject lines advertising "free" offers such as "Buy 1 Get 1 Free," "Buy 1 Get 2 Free," and "BOGO FREE." The "free" offers advertised in these email subject lines are materially false or misleading because Aéropostale

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inflates the first item's selling price (typically at least doubling it from the true regular price) to recover the cost of the "free" item, such that the consumer is not getting any "deal" at all. Because the item is "discounted" by 50-70% off the list price at all other times, Aéropostale is directly recovering all of the cost, or even more than the cost, of the "free" item(s) by increasing the price of the first item, such that the "free" offer is phony.

56. These marketing emails violate CEMA and the CPA because they advertise false or misleading "free" offers in the subject line such as "Buy 1 Get 1 Free," "Buy 1 Get 2 Free," or "BOGO FREE."

57. **For example, Plaintiff received each of the following violative "free" offer emails while residing in Washington State, on the date, and containing the email subject line, specified below:**

Date	**Email Subject Line**
07/03/2021	Buy 1, Get 2 Tees + BOGO FREE Jeans!
07/10/2021	Buy ☝ Tee, Get ✌ FREE!
07/11/2021	BACK IN STOCK! Your Fave BOGO FREE Jeans 👏
07/17/2021	Buy 1 Tee, Get 2 FREE! ✌
07/26/2021	Aero Tees: Buy 1, Get 2 FREE!
07/29/2021	Just Dropped: NEW Jeans, BOGO FREE + FREE Shipping!
08/09/2021	Aero Tees: Buy 1, Get 2 FREE! ✌
08/14/2021	2 Ways To Wear + BOGO FREE Jeans 👖
08/16/2021	Aero Jeans: Buy 1, Get 1 FREE + FREE SHIPPING!
08/28/2021	🌀 Buy 1 Tee, Get 2 FREE! 🌀
08/29/2021	♻ Aero Impact Jeans: BOGO FREE + FREE SHIPPING ♻
09/12/2021	Aero Denim: Buy 1, Get 1 FREE + FREE Shipping! 👖 🤑
09/16/2021	Back By Popular Demand + BOGO FREE 👖
09/20/2021	🧢 NEW Denim: BOGO FREE + FREE Shipping 🧢
09/23/2021	🔴 Buy 1 Tee, Get 2 FREE! 🔴

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09/25/2021	BOGO FREE + FREE Shipping On Jeans 👖🤩
10/01/2021	Buy 1 Tee, Get 2 FREE ✌️
10/03/2021	Aero Jeans: Buy 1, Get 1 FREE! 👖
10/08/2021	Buy 1 Tee, Get 2 FREE 👍❗
10/11/2021	Just Dropped: NEW '90s Jeans, BOGO FREE 👖✌️
10/14/2021	Just Dropped: NEW JEANS! BOGO FREE 👖👍
10/22/2021	♻️ Aero Impact Jeans: BOGO FREE + FREE SHIPPING ♻️
10/27/2021	Aero Tees: Buy 1, Get 2 FREE 👍👍
10/28/2021	🪨 Stop & Flare: New Denim, BOGO FREE!
10/30/2021	NEW Aero Tees: Buy 1, Get 2 FREE!
10/15/2023	BOO 🎃Buy 1 Tee, Get 2 Free + Graphics $14 & Up!
10/15/2023	FREE Jeans When You Buy 1 Pair 👖👖
10/21/2023	ICYMI: BUY 1 👕 GET 2 🆓
10/22/2023	FREE JEANS When You Buy 1 Pair 👖👖
01/21/2024	🧢Buy 1 Tee, Get 2 FREE 🧢
01/27/2024	😳 Buy 1 Tee, Get 2 FREE!
12/10/2024	2 FREE TEES For Under The Tree 🎄 Just Buy 1
12/20/2024	Santa's Here Early: FREE JEANS When You Buy 1 👖🎅
12/22/2024	It's A Miracle ❄️ FREE JEANS! Just Buy 1
04/18/2025	OMG! New Arrivals Up To 50% OFF + BOGO Free Jeans & Shorts 🔥
04/19/2025	Jeans & Shorts Are BOGO FREE + Buy 1 Get 2 FREE Tees! 🛍️
04/20/2025	BOGO FREE jeans & shorts + $5.99 & up clearance! This is your sign 💬
04/21/2025	Save BIG! 50-70% OFF Everything + 2 FREE Tees When You Buy 1 🤑
04/22/2025	Earth Day Deals! 🪨 Buy 1 Get 1 FREE Aero Impact Denim
04/23/2025	Get FREE jeans & shorts when you buy 1 pair! 🛍️
04/24/2025	Buy 1 TEE, Get 2 FREE! Plus, new clearance markdowns from $5.99! 💥

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58. The above violative emails are only a small fraction of the total number of such violative emails that Aéropostale sent to Washington residents within the applicable limitations period.

59. Attached as **Exhibit C** to this Complaint is a non-exhaustive list of 329 such violative emails that Aéropostale sent within the applicable limitations period to Washington residents.[3] All of these 329 emails contain subject lines which advertise false "free" offers such as "Buy 1 Get 1 Free," "Buy 1 Get 2 Free," or "BOGO FREE."

60. The "free" offer statements in these email subject lines are false or misleading. Advertised "free" offers such as these are viewed both under the law and by reasonable consumers to mean that the consumer is getting the "free" item(s) at no cost in conjunction with the purchase of the first item at no more than that item's regular price. However, whenever Aéropostale makes such a purported "free" offer, Aéropostale inflates the first item's selling price to its never otherwise charged list price. Because the item is "discounted" by 50-70% off the list price at all other times, this means Aéropostale is directly recovering all of the cost, or even more than the cost, of the "free" item(s) by increasing the price of the first item, such that the free offer is illusory, and the consumer is not getting any deal at all.

61. The Federal Trade Commission warns sellers advertising "Free" offers that "such offers must be made with extreme care so as to avoid any possibility that consumers will be misled or deceived." 16 C.F.R. § 251.1(a)(2). "[W]hen the purchaser is told that an article is 'Free' to him if another article is purchased, **the word 'Free' indicates that he is paying nothing for that article and no more than the regular price for the other**. Thus, a purchaser has a right to believe that the merchant will not directly and immediately recover, in whole or

[3] There are 9 emails that appear in both Exhibit B and Exhibit C because the subject lines of these emails contain both a percentage-off statement and a "free" offer statement. The total number of unique emails in both Exhibit B and Exhibit C is 666.

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in part, the cost of the free merchandise or service by marking up the price of the article which must be purchased[.]" 16 C.F.R. § 251.1(b)(1) (emphasis added).

62. Accordingly, it is deceptive for a seller making a "Free" offer to "increase[] his regular price of the article required to be bought." 16 C.F.R § 233.4(b). "Regular price" means "the price, in the same quantity [and] quality, … at which the seller or advertiser of the product or service has openly and actively sold the product or service in the geographic market or trade area in which he is making a 'Free' or similar offer in the most recent and regular course of business, for a reasonably substantial period of time, i.e., a 30–day period." 16 C.F.R. § 251.1(b)(2).

63. As of the date of the filing of this Complaint, Plaintiff is still receiving Aéropostale's commercial emails. Plaintiff would like to continue to receive Aéropostale's commercial emails, provided that the subject lines of the emails do not contain false or misleading information.

D. Aéropostale Sent Commercial Emails To Consumers Whom It Knew, Or Had Reason To Know, Resided In Washington.

64. Aéropostale sent the false or misleading commercial emails to email addresses that Aéropostale knew, or had reason to know, were held by Washington residents (i.e., Plaintiff Montes and members of the Class), because Aéropostale had a physical Washington address that was associated with the recipient and/or Aéropostale had access to data regarding the recipient indicating that they were in Washington State. Aéropostale knew or should have known that Ms. Montes and the members of the Class were residents of Washington State.

65. Aéropostale knows where the overwhelming majority of its customers reside through several methods.

66. First, for any person that places an order through the Aéropostale website, Aéropostale associates that email address with a shipping address and billing address for that order.

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67. Second, Aéropostale encourages online shoppers to create online accounts. Customers save their contact information in their Aéropostale accounts, including their email address, shipping address, billing address, and phone number.

68. Third, Aéropostale aggressively signs up its in-store customers for its rewards program, which includes signing up customers for an online account if they do not already have one.

69. Discovery will show that, at the time Aéropostale sent the commercial emails, Aéropostale knew or had access to data showing that the email recipient was a Washington resident. Indeed, the vast majority of consumers who receive commercial emails from Aéropostale signed up to receive those emails either when they placed an order online or when they created an online account. Thus, discovery will show that Aéropostale has the physical address for virtually every consumer to whom it has sent commercial emails. [4]

CLASS ALLEGATIONS

70. Plaintiff brings this lawsuit on behalf of herself and the members of the following Washington State class (the "Class"):

> **All residents of the State of Washington who, within the applicable limitations period, received an email from or at the behest of Aéropostale that contained in the subject line: (a) a "xx% Off" or similar percentage-off statement and/or (b) a statement advertising a "free" offer.**

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[4] Aéropostale also has other methods by which it could have determined whether the consumers to whom it sent the violative emails resided in Washington. Discovery will show that Aéropostale employs methods to track the effectiveness of its marketing emails and to identify consumers who click on links contained in Aéropostale's marketing emails, including by identifying their physical location. Discovery will also show that Aéropostale utilizes online tracking technologies to identify and locate the consumers who click on links contained in Aéropostale's marketing emails and that visit its website. Aéropostale should be able to use the information obtained through these online tracking technologies to identify which consumers are in Washington.

Additionally, Aéropostale knew, or had reason to know, that the email addresses were held by Washington residents because this information was available to Aéropostale upon request from the registrant of the internet domain name contained in each recipient's email address. *See* RCW 19.190.020(2). Aéropostale also knew or had reason to know that it sent emails to Washington residents due to its large presence in the state and the volume of marketing emails it sends to people around the country. *See State v. Heckel*, 122 Wash. App. 60, 69 (2004) (holding as a matter of law that a defendant had a reason to know that he sent emails to Washington residents by sending over 100,000 emails a week to people around the country).

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71. Specifically excluded from the Class are Aéropostale, any entity in which Aéropostale has a controlling interest or which has a controlling interest in Aéropostale, Aéropostale's agents and employees and attorneys, the bench officers to whom this civil action is assigned, and the members of each bench officer's staff and immediate family.

72. **Numerosity.** The number of members of the Class are so numerous that joinder of all members would be impracticable. Plaintiff does not know the exact number of Class members prior to discovery. However, based on information and belief, the Class comprises thousands of individuals. The exact number and identities of Class members are contained in Aéropostale's records and can be easily ascertained from those records.

73. **Commonality and Predominance.** This action involves multiple common legal or factual questions which are capable of generating class-wide answers that will drive the resolution of this case. These common questions predominate over any questions affecting individual Class members, if any. These common questions include, but are not limited to, the following:

a. Whether Aéropostale sent commercial emails with false or misleading information in the subject lines;

b. Whether Aéropostale initiated the transmission or conspired to initiate the transmission of commercial emails to recipients residing in Washington State;

c. Whether Aéropostale should be ordered to pay statutory damages to Plaintiff and Class members; and

d. Whether Aéropostale should be enjoined from further engaging in the misconduct alleged herein.

74. **Typicality.** Plaintiff's claims are typical of Class members' claims. Aéropostale transmitted, conspired to transmit, or assisted to transmit emails with materially false or misleading information in the subject line to Plaintiff and to each Class member. Plaintiff and Class members all bring the same claims and face the same potential defenses.

75. **Adequacy.** Plaintiff and her counsel will fairly and adequately protect Class members' interests. Plaintiff has no interests antagonistic to Class members' interests and is

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committed to representing the best interests of the Class members. Moreover, Plaintiff has retained counsel with considerable experience and success in prosecuting complex class action and consumer protection cases.

76. **Superiority.** A class action is superior to all other available methods for fairly and efficiently adjudicating this controversy. Each Class member's interests are small compared to the burden and expense required to litigate each of his or her claims individually, so it would be impractical and would not make economic sense for Class members to seek individual redress for Aéropostale's conduct. Individual litigation would add administrative burden on the courts, increasing the delay and expense to all parties and to the court system. Individual litigation would also create the potential for inconsistent or contradictory judgments regarding the same uniform conduct. A single adjudication would create economies of scale and comprehensive supervision by a single judge. Moreover, Plaintiff does not anticipate any difficulties in managing a class action trial.

77. By its conduct and omissions alleged herein, Aéropostale has acted and refused to act on grounds that apply generally to the Class members, such that final injunctive relief and/or declaratory relief is appropriate respecting the Class as a whole.

78. Aéropostale is primarily engaged in the business of selling goods. Each cause of action asserted by Plaintiff against Aéropostale in this Complaint arises out of and is limited to communications related to Aéropostale's sale of goods.

CAUSES OF ACTION

COUNT I
Violation of the Washington Consumer Protection Act
RCW Chapter 19.86

79. Plaintiff realleges and incorporates by reference all paragraphs previously alleged herein.

80. Plaintiff pleads this count in three separate capacities: in her individual capacity, as a private attorney general, and as a proposed class representative serving on behalf of all others similarly situated.

81. The Washington Consumer Protection Act (the "CPA"), RCW 19.86, is

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Washington's principal consumer protection statute. The CPA's primary substantive provision declares unfair methods of competition and unfair or deceptive acts or practices to be unlawful. RCW 19.86.020.

82. The CPA recognizes and incorporates *per se* violations. "Per se CPA violations are predicated on the Legislature's recognition that certain conduct is categorically against the public interest." *Brown v. Old Navy, LLC*, 567 P.3d 38, 46 (Wash. 2025). The Washington Legislature routinely prohibits certain specified conduct but, instead of, or in addition to, creating a new and independent private right of action to enforce the prohibition, the Legislature deems the unlawful conduct to be a *per se* violation of the CPA.

83. If a defendant engages in that unlawful conduct, a plaintiff may file a CPA complaint alleging the *per se* violation and seek the remedies available under the CPA and/or the remedies available under the statute which forbids the *per se* violation. *See* Washington Pattern Jury Instruction Civil No. 310.03 (*Per Se* Violation of Consumer Protection Act) and Appendix H (Consumer Protection Act *Per Se* Violations).

84. A plaintiff can plead a violation of the CPA by pleading that the CPA was violated *per se* due to a violation of the Washington Commercial Electronic Mail Act ("CEMA"). *See Brown*, 567 P.3d at 42 ("A violation of CEMA's e-mail regulations is a per se violation of the Consumer Protection Act (CPA)."); *see also* RCW 19.190.030(1)(b) ("It is a violation of the consumer protection act, chapter 19.86 RCW . . . to initiate the transmission of a commercial electronic mail message that . . . [c]ontains false or misleading information in the subject line.").

85. CEMA prohibits a person from initiating the transmission to an email address that the sender knows or has reason to know is held by a Washington State resident of a commercial email that contains false or misleading information in the email's subject line. RCW 19.190.020(1)(b). The Washington Supreme Court has held that this includes subject lines with ***any*** false or misleading information. *Brown*, 567 P.3d at 47 ("[CEMA] prohibits

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sending Washington residents commercial e-mails that contain *any* false or misleading information in the subject lines of such e-mails.") (emphasis in original).[5]

86. "CEMA was enacted to protect concrete interests in being free from deceptive commercial e-mails. CEMA's prohibition on sending commercial e-mails with false or misleading subject lines . . . creates a substantive right to be free from deceptive commercial e-mails." *Harbers v. Eddie Bauer, LLC*, 415 F. Supp. 3d 999, 1011 (W.D. Wash. Nov. 27, 2019) (holding that the plaintiff sufficiently pleaded a concrete injury-in-fact for alleged CEMA violations based on her receipt of marketing emails from defendant containing allegedly false "xx% off" statements in the subject line); *see also Brown*, 567 P.3d at 45 ("CEMA sought to give consumers relief from commercial spam e-mail by requiring accuracy and truthfulness in the subject lines of such e-mails.").

87. Under CEMA, it is irrelevant whether the commercial emails were solicited. *Harbers*, 415 F. Supp. 3d at 1011.

88. Generally, a plaintiff pleading a claim under the CPA must plead five necessary elements: (1) an unfair or deceptive act or practice (2) in trade or commerce (3) that affects the public interest, (4) injury to plaintiff's business and property, and (5) causation. *Wright v. Lyft, Inc.*, 189 Wn.2d 718, 728 (2017). **Because Plaintiff alleges a *per se* CPA violation by alleging a CEMA violation, all of these five elements are satisfied as a matter of law.** *Id.* at 724; *see also Brown*, 567 P.3d at 42.

89. "Under CEMA, the injury is receiving an e-mail that violates its regulations." *Brown*, 2025 WL 1132243, at *2. Accordingly, **"CEMA does not require a showing of injury for statutory damages to be awarded because the injury is receiving the e-mail that violates CEMA."** *Id.* at 45 (emphasis added); *see also Wright*, 189 Wn.2d at 729 ("[CEMA]

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[5] CEMA also prohibits a person from initiating the transmission from a computer located in Washington State of a commercial electronic mail message which contains false or misleading information in the subject line. RCW 19.190.020(1)(b). Plaintiff is not alleging a CEMA violation under this prong because, as of the filing of this lawsuit, she does not possess information or belief that the offending emails were transmitted from a computer located in Washington State. Plaintiff reserves the right to seek to amend this pleading in the event that she obtains information, through discovery or otherwise, which indicates that the offending emails were transmitted from a computer located in Washington State.

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does not condition the award of damages on proving either injury or causation. In fact, damages for CEMA violations are *automatic*.") (emphasis in original).

90. A plaintiff who successfully pleads and proves a CEMA violation as a *per se* violation of the CPA may recover the remedies which the plaintiff chooses to seek that are available under the CPA (e.g., injunctive relief, treble damages, attorneys' fees and costs (RCW 19.86.090)) and/or the remedies available under CEMA (e.g., statutory damages of $500 per email sent in violation of CEMA and injunctive relief (RCW 19.190.040, RCW 19.190.090)).

91. **"Unlike the CPA, CEMA's $500 penalty does not require a showing of actual damages."** *Brown*, 567 P.3d at 42 (emphasis added). A person is entitled to $500 statutory damages "anytime a prohibited message is transmitted." *Harbers*, 415 F. Supp. 3d at 1009; *see also In re Classmates.com Consol. Litig.*, No. C09-45RAJ, 2011 WL 744664, at *7 (W.D. Wash. Feb. 23, 2011) ("[CEMA] provides statutory damages of $500 for every email that violates it.").

92. Aéropostale is a "person" within the meaning of CEMA. RCW 19.190.010(11).

93. Aéropostale has initiated the transmission, conspired with another to initiate the transmission, and/or assisted the transmission of numerous commercial emails with subject lines containing false or misleading information to Plaintiff and the Class. RCW 19.190.030(1)(b).

94. The subject lines of Aéropostale's emails contained materially false or misleading information.

95. The false or misleading information in the subject lines of Aéropostale's emails was intended to, or had the capacity to, deceive a substantial portion of the public.

96. The emails were electronic mail messages, in that they were emails sent to an email address; the emails also referred to an internet domain, whether or not displayed, to which an email can or could be sent or delivered. RCW 19.190.010(5).

97. The emails were "commercial electronic mail messages," in that they were sent for the purpose of promoting goods or services for sale or lease. RCW 19.190.010(2).

98. Aéropostale was the original sender of the emails.

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99. Plaintiff and the Class members each received the emails at their electronic mail addresses, which are the destinations, commonly expressed as a string of characters, at which they receive and to which electronic mail may be sent or delivered. RCW 19.190.010(4).

100. Aéropostale initiated the transmission, conspired with another to initiate the transmission, and/or assisted the transmission of the emails to one or more email addresses that Aéropostale knew, or had reason to know, was held by a Washington State resident, i.e., Plaintiff and members of the Class.

101. At all relevant times, Aéropostale knew, or had reason to know, that the intended recipients (Plaintiff and members of the Class) were residents of the State of Washington because, without limitation: (1) Aéropostale possessed actual knowledge of Plaintiff's and each Class member's state of residence; (2) Aéropostale possessed constructive knowledge of Plaintiff's and each Class member's state of residence; (3) information was available to Aéropostale upon request from the registrant of the internet domain name contained in each recipient's email address; and/or (4) Aéropostale otherwise knew or should have known or had reason to know that Plaintiff and the members of the Class were residents of the State of Washington.

102. For example, without limitation, Aéropostale knew or had reason to know that it sent emails to Washington residents because the vast majority of consumers who receive commercial emails from Aéropostale have provided Aéropostale with their shipping address and billing address when they placed an order online and/or when they created an online account.

103. Aéropostale engaged in a pattern and practice of violating CEMA. As a result of Aéropostale's acts and omissions, Plaintiff and Class members are entitled to $500 in statutory damages for each and every email that violated CEMA that was transmitted to them. Plaintiff and Class members are also entitled to recover actual damages, treble damages, and attorneys' fees and costs, pursuant to RCW 19.86.090.

104. Treble damages are appropriate under these circumstances because, without limitation, Aéropostale's misconduct has been "an ongoing course of conduct affecting

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thousands of consumers" and thus has a "strong public interest impact." *See Matheny v. Unumprovident Corp.*, 594 F. Supp. 2d 1212, 1225 (E.D. Wash. 2009).

105. **Permanent public injunctive relief.** Plaintiff, acting as a private attorney general, seeks public injunctive relief under the CPA to protect the general public from Aéropostale's misconduct.

106. The Washington Supreme Court treats consumers as "private attorneys general," and has held that consumers' ability to enjoin unlawful conduct is a primary purpose of the CPA:

> Private actions by private citizens are … an integral part of CPA enforcement. **Private citizens act as private attorneys general** in protecting the public's interest against unfair and deceptive acts and practices in trade and commerce. **Consumers bringing actions under the CPA do not merely vindicate their own rights; they represent the public interest and may seek injunctive relief even when the injunction would not directly affect their own private interests**."

Scott v. Cingular Wireless, 160 Wash. 2d 843, 161 P.3d 1000, 1006 (2007) (emphasis added).

107. This type of injunctive relief has been referred to as "public injunctive relief." *See McGill v. Citibank, N.A.*, 2 Cal. 5th 945, 393 P.3d 85, 90 (2017) ("[P]ublic injunctive relief … is relief that has 'the primary purpose and effect of' prohibiting unlawful acts that threaten future injury to the general public.") (quoting *Broughton v. Cigna Healthplans of California*, 21 Cal. 4th 1066, 988 P.2d 67, 74 (1999)). In fact, the *Broughton* court likewise referred to consumers seeking public injunctive relief as "private attorneys general." *See Broughton*, 21 Cal. 4th at 1077.

108. Aéropostale's misconduct, which affects and harms the general public, is ongoing in part or in whole and even if such conduct were to cease, it is behavior that is capable of repetition or re-occurrence by Aéropostale absent a permanent public injunction. Accordingly, Plaintiff seeks an order enjoining Aéropostale from committing the unlawful conduct alleged herein.

109. The balance of the equities favors the entry of permanent public injunctive relief against Aéropostale. Plaintiff, the members of the Class, honest competing businesses, and the

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general public will be irreparably harmed from Aéropostale's ongoing misconduct absent the entry of permanent public injunctive relief against Aéropostale.

110. Plaintiff lacks an adequate remedy at law to prevent Aéropostale from engaging in the unlawful conduct alleged herein. Plaintiff continues to receive commercial emails from Aéropostale, and she wants to continue receiving commercial emails from Aéropostale in the future, provided that the subject lines of the emails do not contain false or misleading information. Plaintiff will be harmed if, in the future, she receives commercial emails from Aéropostale that have false or misleading information in their subject lines.

111. Monetary damages are not an adequate remedy at law for future harm. *Clark v. Eddie Bauer LLC*, 2024 WL 177755, at *3 (9th Cir. Jan. 17, 2024). Monetary damages are inadequate for future harm for the following reasons, without limitation: First, damages are not an adequate remedy for future harm because they will not prevent Aéropostale from engaging in its unlawful conduct. Second, damages for future harm cannot be calculated with certainty and thus cannot be awarded. For example, it is impossible to know how many violative emails Aéropostale will send Plaintiff in the future. Third, injunctive relief is necessary (and monetary damages do not provide a plain, adequate and complete remedy) because, without forward-looking injunctive relief enjoining the unlawful conduct, the courts may be flooded with future lawsuits by Class members, Plaintiff, and the general public for future violations of the law by Aéropostale.

COUNT II
Violation of the Washington Commercial Electronic Mail Act RCW Chapter 19.190

112. Plaintiff realleges and incorporates by reference all paragraphs alleged hereinabove.

113. Plaintiff pleads this count in three separate capacities: in her individual capacity, as a private attorney general, and as a proposed class representative serving on behalf of all others similarly situated.

114. The Washington Commercial Electronic Mail Act ("CEMA"), RCW 19.190, creates an independent private of right of action which can be asserted by, among others, a

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person who is the recipient of a commercial electronic mail message which contains false or misleading information in the subject line. RCW 19.190.030(1)(b). A plaintiff who successfully alleges and proves such a violation may obtain, among other things, an injunction against the person who initiated the transmission. RCW 19.190.090(1). It is Plaintiff's intent in this count to plead an independent CEMA cause of action only to the extent that it is recognized by law, e.g., when a plaintiff seeks injunctive relief. *Wright v. Lyft, Inc.*, 189 Wn.2d 718, 728 n. 3 (2017) ("we note that a plaintiff may bring an action to enjoin any CEMA violation."); *Gragg v. Orange Cab Co.*, 145 F. Supp. 3d 1046, 1052 (W.D. Wash. 2015).

115. Aéropostale has violated CEMA on the grounds alleged in Count I above.

116. For the reasons alleged in Count I, Plaintiff seeks, and may obtain, a permanent public injunction against Aéropostale.

PRAYER FOR RELIEF

Plaintiff Shawnna Montes, on behalf of herself individually, as a private attorney general, and/or on behalf of the proposed Class, requests that the Court order relief and enter judgment against Aéropostale as follows:

1. Declare this action to be a proper class action, certify the proposed Class, and appoint Plaintiff and her counsel to represent the Class;

2. Permanently enjoin Aéropostale from engaging in the unlawful conduct alleged herein, pursuant to, without limitation, RCW 19.86.090; RCW 19.190.090(1);

3. Order Aéropostale to pay Plaintiff and each member of the Class statutory damages of $500 for each and every commercial email that Aéropostale transmitted to them that contained false or misleading information in the subject line in violation of CEMA pursuant to, without limitation, RCW 19.190.020(1)(b), RCW 19.190.030(1)(b), RCW 19.190.040(1);

4. Order Aéropostale to pay treble damages pursuant to RCW 19.86.090;

5. Order Aéropostale to pay attorneys' fees, costs, and pre-judgment and post-judgment interest to the extent allowed by law; and

6. Grant such other relief as this Court deems just and proper.

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Respectfully submitted on July 16, 2025, by:

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