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Heidi Percy
County Clerk
Snohomish County, WASH
Case Number: 25-2-10070-31

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SNOHOMISH

CASSAUNDRAMAXWELL,
aresidentoftheStateofWashington,

*onherownbehalfandonbehalfof
allotherssimilarlysituated,*

Plaintiff,

v.

ULTASALON,COSMETICS&
FRAGRANCE,INC.,acorporationorganized
underthelawsoftheStateofDelaware.

Serve on:

CORPORATIONSERVICECOMPANY
300DESCHUTESWAYSWESTE208MC-CSC1,
TUMWATER,WA98501

Defendant.

JURY TRIAL REQUESTED

25-2-10070-31

CaseNo. _____

CLASS ACTION COMPLAINT

I. PRELIMINARY STATEMENT

1. This is a class action against Defendant Ulta Salon, Cosmetics & Fragrance, Inc. (“Ulta”) for false and misleading email marketing.

2. Ulta sends marketing emails to Washington consumers which contain false or misleading information in the subject lines. For example, Ulta sends emails with subject lines informing the recipient that the recipient is getting a “free” gift. In reality, however, the gift is entirely and completely contingent on the recipient making a minimum purchase.

3. The fact that such “free gift” statements are false and misleading has been recognized by the Federal Trade Commission, which directs that sellers should not make representations that a product can be obtained for “free” unless “all the terms, conditions and obligations upon which receipt and retention of the ‘Free’ item are contingent [are] set forth clearly and conspicuously *at the outset of the offer* so as to leave no reasonable probability that the terms of the offer might be misunderstood.” 16 C.F.R. § 251(c) (emphasis added) (also stating that “disclosure of the terms of the offer set forth in a footnote of an advertisement to which reference is made by an asterisk or other symbol placed next to the offer, *is not regarded as making disclosure at the outset.*”) (emphasis added); *see also Brown v. Old Navy, LLC*, 567 P.3d 38, 567 P.3d 38 (2025) (recognizing that emails with false or misleading information in the subject lines violate Washington’s Commercial Electronic Mail Act (“WCEMA”), RCW 19.190.020, *et seq.*).

4. Ulta’s practice of sending email offering “free” gifts, when the gifts are contingent on a minimum purchase, violates WCEMA, RCW 19.190.020(1)(b); and the Washington Consumer Protection Act (“CPA”), RCW 19.86, *et seq.*

1 5. By sending emails with subject lines containing false and misleading information
2 to Named Plaintiff and the Class (defined below), Ulta violates WCEMA.

3 6. By sending these false and misleading emails, Ulta intends to deceive the recipients.

4 7. Named Plaintiff brings this action as a class action on behalf of persons residing in
5 Washington, to whom Ulta sent emails with false and/or misleading subject lines.

6 8. Named Plaintiff's requested relief includes an award to Named Plaintiff and Class
7 members of statutory and exemplary damages for each illegal email, and an award of attorneys'
8 fees and costs.

9 **II. JURISDICTION**

10 9. The Superior Court of Washington has jurisdiction over this case under RCW
11 2.08.010 and RCW 4.92.090.

12 10. The Superior Court of Washington has personal jurisdiction over Defendant Ulta
13 pursuant to RCW 4.28.185. This Court may exercise personal jurisdiction over Defendant as an
14 out-of-state defendant because the claims alleged in this civil action arose from, without limitation,
15 Defendant's transmission of commercial electronic mail messages to consumers located within the
16 State of Washington. In addition, Defendant intended, knew, or is chargeable with the knowledge
17 that its out-of-state actions would have a consequence within Washington.

18 11. Venue is proper in Snohomish County Superior Court because, at all relevant times,
19 Defendant has transacted business in Snohomish County, including without limitation by causing
20 its website to be available to consumers in Snohomish County, selling products to residents of
21 Snohomish County, and transmitting commercial electronic email messages to residents of
22 Snohomish County. RCW 4.12.025.

23 **III. PARTIES**

1 12. Named Plaintiff Cassaundra Maxwell (“Named Plaintiff Maxwell”) is a natural
2 person currently residing at 12113 138th Avenue NE, Lake Stevens, WA 98258 (Snohomish
3 County).

4 13. Defendant Ulta is a Delaware corporation doing business within this state and with
5 its principal place of business located at 1135 Arbor Drive, Romeoville, IL 60446.

6 **IV. FACTUAL ALLEGATIONS**

7
8 **a. WCEMA prohibits initiating or conspiring to initiate the transmission of**
9 **commercial e-mails with false or misleading information in the subject lines.**

10 14. WCEMA, by its terms, regulates deceptive email marketing.

11 15. WCEMA was enacted to protect consumers’ interests in being free from deceptive
12 commerciale-mails.

13 16. An injury occurs under WCEMA anytime a commerciale-mail is transmitted that
14 contains false or misleading information in the subject line.

15 17. Under WCEMA, it is irrelevant whether misleading commercial e-mails were
16 solicited.

17 18. WCEMA creates an independent, limited, private right of action, which can be
18 asserted by a person who is the recipient of a commercial electronic mail message which contains
19 false or misleading information in the subject line that has the capacity, tendency, or effect of
20 deceiving the recipient. *See, e.g., WCEMA, § 19.190.020, et. seq.*

21 19. Violations of WCEMA create standalone causes of action.

22 **b. Ulta initiated (or conspired to initiate) the transmission of commercial e-mails**
23 **with false or misleading subject lines.**

1 20. Ulta has initiated (or conspired to initiate) the transmission of commercial
2 electronic mail messages with false or misleading information in the subject lines to Named
3 Plaintiff and members of the Class.

4 21. The emails were electronic mail messages, in that they were each an electronic
5 message sent to an electronic mail address; the emails from Ulta also referred to an internet
6 domain, whether or not displayed, to which an electronic mail message can or could be sent or
7 delivered.

8 22. Ulta sent the emails for the purpose of promoting its goods for sale.

9 23. The emails were sent at Ulta's direction and were approved by Ulta.

10 24. Ulta emails frequently advertise "free gifts" in their subject lines. For example, Ulta
11 sent Named Plaintiff an email with a subject line, "5X points in app + FREE 7PC dry shampoo
12 gift[.]" However, in order to obtain the gift, Named Plaintiff would have had to spend \$70. Thus,
13 the gift was not "free," and the subject line was false and/or misleading. It is not clear by examining
14 the subject line that the "free" gift is contingent upon the recipient making a \$70 purchase. In fact,
15 if a consumer sees this subject line and makes a purchase of \$69.99 or less, the consumer will not
16 receive the gift.

17 25. Ulta designs the subject lines of its marketing emails to tap into consumer urges to
18 obtain free products, and in doing so, attempts to induce consumers into spending more money
19 than they otherwise would.

20 26. And if the consumer chooses not to satisfy the minimum spend, then the consumer
21 will not, in fact, receive the promised free gift, regardless of whether or not the consumer makes a
22 purchase in an amount under the requisite minimum spend.

1 27. Ulta violates WCEMA because many of the statements in the email subject lines
2 are false and/or misleading. The facts alleged below show the types of false and misleading email
3 subject lines Ulta sends to consumers.

4 **c. Ulta sends commercial emails to consumers whom it knows, or has reason to**
5 **know, reside in Washington.**

6 28. Ulta sent the misleading commercial email to email addresses that Ulta knew, or
7 had reason to know, were held by Washington residents, either because (i) Ulta had a physical
8 address that was associated with the recipient based on past purchases; (ii) Ulta had access to data
9 regarding the recipient indicating which state they resided in; or (iii) information was available to
10 Ulta upon request from the registrant of the internet domain name contained in the recipient's
11 electronic mail address.

12 29. Ulta knows where many of its customers reside through several methods.

13 30. First, for any person that places an order online from Ulta, Ulta associates an email
14 address with a shipping address and/or billing address for that order.

15 31. Second, Ulta encourages online shoppers to create online accounts. Customers save
16 information in their Ulta accounts along with their email address, such as shipping addresses,
17 billing addresses, and phone numbers.

18 32. Third, discovery will show that Ulta employs methods to track the effectiveness of
19 its marketing emails and to identify consumers that click on links contained in Ulta's marketing
20 emails, including by identifying their physical location. Discovery will also show that Ulta gathers
21 information such as geocoordinates and IP addresses from individuals who click on links in Ulta
22 commercial emails, and that Ulta can use such information to determine whether the recipient is
23 in Washington.
24

1 33. Fourth, Ulta also utilizes cookies, pixels, and other online tracking technologies to
 2 identify and locate the consumers that click on links contained in Ulta's marketing emails and that
 3 visit its website. For example, Ulta has installed the Meta Pixel on its website, which identifies
 4 website visitors and can identify specific Facebook and Instagram users that visit the Ulta website;
 5 information that can be associated with the data collected by Meta on where that consumer resides.
 6 Ulta also employs tracking technologies provided by Google, Inc., Yahoo! Inc., FullStory, Inc.,
 7 Twitter, Inc., Microsoft, Inc., and others that may be able to locate consumers in Washington.

8 34. Fifth, discovery will show that Ulta employs sophisticated third parties who create
 9 profiles of customers and potential customers, including their email address and physical location.

10 35. Lastly, Ulta also knew, should have known, or had reason to know that it sends
 11 marketing emails to Washington residents due to its large presence in the state and the volume of
 12 marketing emails it sends to people around the country.

13 36. Discovery will show that, at the time it sent the emails with false and misleading
 14 subject lines, Ulta had access to the data described above regarding the location of consumers in
 15 Washington to whom it sent the emails.

16
 17 **d. Ulta initiated (or conspired to initiate) the transmission of illegal emails to**
 18 **Named Plaintiff and members of the Class.**

19 37. At all times relevant to this Complaint, Named Plaintiff Maxwell resided in
 20 Washington.

21 38. Named Plaintiff receives emails from Ulta at a gmail.com email address.

22 39. Ulta knows, or has reason to know, that Named Plaintiff Maxwell's email address
 23 is held by a Washington resident. Named Plaintiff Maxwell has an account with Ulta reflecting
 24 her home address in the State of Washington. Named Plaintiff Maxwell has made several

purchases(unrelatedtotheallegationscontainedwithinthisComplaint)fromtheUltawebsitethat havebeendeliveredtoherhomeinWashingtonandhehasshoppedinUltastoresinWashington withheraccount.

40. UltasentthefollowingemailstoNamedPlaintiff(hereinafterthe“SubjectEmails”) (emojisomitted):

- a. OnSunday,January14,2024,UltasentNamedPlaintiffMaxwellanemailwith thesubjectline:“FREE4PCgift&50%offBeautySteals.”However,inorder toobtainthe“free”gift,NamedPlaintiffwouldhavehadtospendaminimum of\$40onskincareproducts. Therefore,the giftwasnot“free,”andthus the information in the subject line of this email was false and/or misleading, in violationofWCEMA.
- b. OnFriday,February9,2024,UltasentNamedPlaintiffMaxwellanemailwith the subject line: “Choose from 3 FREE 26 PC gifts!” However, in order to obtainthe“free”gift,NamedPlaintiffwouldhavehadtospendaminimumof \$75. Therefore,the giftwasnot“free,”andthus theinformationinthesubject lineofthisemailwasfalseand/or misleading,inviolationofWCEMA.
- c. OnSunday,June16,2024,UltasentNamedPlaintiffMaxwellanemailwith thesubjectline:“5Xpoints+FREE11PCgift[]allforYOU!”However,in order to obtain the “free” gift, Named Plaintiff would have had to spend a minimumof\$60. Therefore,the giftwasnot“free,”andthus theinformation in the subject line of this email was false and/or misleading, in violation of WCEMA.

- 1 d. On Monday, June 17, 2024, Ulta sent Named Plaintiff Maxwell an email with
2 the subject line: "FREE 4PC Dermalogica gift for you." However, in order to
3 obtain the "free" gift, Named Plaintiff would have had to spend a minimum of
4 \$50. Therefore, the gift was not "free," and thus the information in the subject
5 line of this email was false and/or misleading, in violation of WCEMA.
- 6 e. On Wednesday, June 19, 2024, Ulta sent Named Plaintiff Maxwell an email
7 with the subject line: "New from Fenty + FREE 4PC gift." However, in order
8 to obtain the "free" gift, Named Plaintiff would have had to spend a minimum
9 of \$50. Therefore, the gift was not "free," and thus the information in the subject
10 line of this email was false and/or misleading, in violation of WCEMA.
- 11 f. On Sunday, June 23, 2024, Ulta sent Named Plaintiff Maxwell an email with
12 the subject line: "Top offers you don't want to miss[] + FREE gift!" However,
13 in order to obtain the "free" gift, Named Plaintiff would have had to spend a
14 minimum of \$60. Therefore, the gift was not "free," and thus the information
15 in the subject line of this email was false and/or misleading, in violation of
16 WCEMA.
- 17 g. On Wednesday, June 26, 2024, Ulta sent Named Plaintiff Maxwell an email
18 with the subject line: "FREE 4PC Bumble and bumble gift." However, in order
19 to obtain the "free" gift, Named Plaintiff would have had to spend a minimum
20 of \$50. Therefore, the gift was not "free," and thus the information in the subject
21 line of this email was false and/or misleading, in violation of WCEMA.
- 22 h. On Wednesday, June 26, 2024, Ulta sent Named Plaintiff Maxwell an email
23 with the subject line: "FREE 4PC Sol de Janeiro gift." However, in order to
24

obtain the “free” gift, Named Plaintiff would have had to spend a minimum of \$65. Therefore, the gift was not “free,” and thus the information in the subject line of this email was false and/or misleading, in violation of WCEMA.

i. On Friday, June 28, 2024, Ulta sent Named Plaintiff Maxwell an email with the subject line: “HUGE deals + FREE 13 PC gift for members.” However, in order to obtain the “free” gift, Named Plaintiff would have had to spend a minimum of \$90. Therefore, the gift was not “free,” and thus the information in the subject line of this email was false and/or misleading, in violation of WCEMA.

j. On Saturday, June 29, 2024, Ulta sent Named Plaintiff Maxwell an email with the subject line: “For you: FREE gift, new drops & exclusive beauty.” However, in order to obtain the “free” gift, Named Plaintiff would have had to spend a minimum of \$90. Therefore, the gift was not “free,” and thus the information in the subject line of this email was false and/or misleading, in violation of WCEMA.

k. On Sunday, June 30, 2024, Ulta sent Named Plaintiff Maxwell an email with the subject line: “FREE 3 PC full size gift from The Ordinary.” However, in order to obtain the “free” gift, Named Plaintiff would have had to spend a minimum of \$50. Therefore, the gift was not “free,” and thus the information in the subject line of this email was false and/or misleading, in violation of WCEMA.

l. On Wednesday, July 3, 2024, Ulta sent Named Plaintiff Maxwell an email with the subject line: “Up to \$20 off + FREE 5 PC Lancôme gift.” However, in order to obtain the “free” gift, Named Plaintiff would have had to spend a minimum

of \$50. Therefore, the gift was not “free,” and thus the information in the subject line of this email was false and/or misleading, in violation of WCEMA.

m. On Thursday, July 4, 2024, Ultasent Named Plaintiff Maxwell an email with the subject line: “Cue the fireworks[] FREE 12 PC gift is inside!” However, in order to obtain the “free” gift, Named Plaintiff would have had to spend a minimum of \$60. Therefore, the gift was not “free,” and thus the information in the subject line of this email was false and/or misleading, in violation of WCEMA.

n. On Monday, July 8, 2024, Ultasent Named Plaintiff Maxwell an email with the subject line: “FREE 4 PC Clarins gift + 2X points.” However, in order to obtain the “free” gift, Named Plaintiff would have had to spend a minimum of \$50. Therefore, the gift was not “free,” and thus the information in the subject line of this email was false and/or misleading, in violation of WCEMA.

o. On Friday, July 12, 2024, Ultasent Named Plaintiff Maxwell an email with the subject line: “10% OFF + FREE 12 PC gift + TWO more days of DEALS!” However, in order to obtain the “free” gift, Named Plaintiff would have had to spend a minimum of \$90. Therefore, the gift was not “free,” and thus the information in the subject line of this email was false and/or misleading, in violation of WCEMA.

p. On Sunday, July 14, 2024, Ultasent Named Plaintiff Maxwell an email with the subject line: “FREE 4 PC Shiseido gift + 10% off!” However, in order to obtain the “free” gift, Named Plaintiff would have had to spend a minimum of

\$50. Therefore, the gift was not “free,” and thus the information in the subject line of this email was false and/or misleading, in violation of WCEMA.

- q. On Monday, July 15, 2024, Ulta sent Named Plaintiff Maxwell an email with the subject line: “Choose your FREE clean makeup gift from PÜR or Jane Iredale.” However, in order to obtain the “free” gift, Named Plaintiff would have had to spend a minimum of \$60. Therefore, the gift was not “free,” and thus the information in the subject line of this email was false and/or misleading, in violation of WCEMA.
- r. On Tuesday, July 16, 2024, Ulta sent Named Plaintiff Maxwell an email with the subject line: “A PRIME deal [] FREE gifts + 10% off + FREE shipping.” However, in order to obtain the “free” gift, Named Plaintiff would have had to spend a minimum of \$70. Therefore, the gift was not “free,” and thus the information in the subject line of this email was false and/or misleading, in violation of WCEMA.
- s. On Wednesday, July 17, 2024, Ulta sent Named Plaintiff Maxwell an email with the subject line: “FREE 4 PCT art gift inside [] and 10% off!” However, in order to obtain the “free” gift, Named Plaintiff would have had to spend a minimum of \$50. Therefore, the gift was not “free,” and thus the information in the subject line of this email was false and/or misleading, in violation of WCEMA.
- t. On Wednesday, July 17, 2024, Ulta sent Named Plaintiff Maxwell an email with the subject line: “It’s PRIME time [] FREE 5 PCLive Tinted gift + 10% off.” However, in order to obtain the “free” gift, Named Plaintiff would have

1 had to spend a minimum of \$60. Therefore, the gift was not “free,” and thus the
 2 information in the subject line of this email was false and/or misleading, in
 3 violation of WCEMA.

4 u. On Thursday, July 18, 2024, Ultasent Named Plaintiff Maxwellan email with
 5 the subject line: “FREE 20 PC gift for you + everything you need for rush.”
 6 However, in order to obtain the “free” gift, Named Plaintiff would have had to
 7 spend a minimum of \$80. Therefore, the gift was not “free,” and thus the
 8 information in the subject line of this email was false and/or misleading, in
 9 violation of WCEMA.

10 v. On Friday, July 19, 2024, Ultasent Named Plaintiff Maxwellan email with the
 11 subject line: “All the things: FREE gift + 10% OFF.” However, in order to
 12 obtain the “free” gift, Named Plaintiff would have had to spend a minimum of
 13 \$80. Therefore, the gift was not “free,” and thus the information in the subject
 14 line of this email was false and/or misleading, in violation of WCEMA.

15 w. On Monday, July 22, 2024, Ultasent Named Plaintiff Maxwellan email with
 16 the subject line: “FREE 3 PC Briogeo gift is YOURS.” However, in order to
 17 obtain the “free” gift, Named Plaintiff would have had to spend a minimum of.
 18 Therefore, the gift was not “free,” and thus the information in the subject line
 19 of this email was false and/or misleading, in violation of WCEMA.

20 x. On Tuesday, July 23, 2024, Ultasent Named Plaintiff Maxwellan email with
 21 the subject line: “Up to 50% off + FREE gifts ☐ Ready, Set for School!”
 22 However, in order to obtain the “free” gift, Named Plaintiff would have had to
 23 spend a minimum of \$50. Therefore, the gift was not “free,” and thus the
 24

information in the subject line of this email was false and/or misleading, in violation of WCEMA.

y. On Wednesday, July 24, 2024, Ulta sent Named Plaintiff Maxwell an email with the subject line: "FREE 11 PC gift to prep for back to school." However, in order to obtain the "free" gift, Named Plaintiff would have had to spend a minimum of \$50. Therefore, the gift was not "free," and thus the information in the subject line of this email was false and/or misleading, in violation of WCEMA.

z. On Monday, July 29, 2024, Ulta sent Named Plaintiff Maxwell an email with the subject line: "Celebrate National Lipstick Day with a FREE 8 PC gift + up to \$20 off." However, in order to obtain the "free" gift, Named Plaintiff would have had to spend a minimum of \$60. Therefore, the gift was not "free," and thus the information in the subject line of this email was false and/or misleading, in violation of WCEMA.

aa. On Wednesday, July 31, 2024, Ulta sent Named Plaintiff Maxwell an email with the subject line: "FREE deluxe 4 PC Buxom gift limited time only!" However, in order to obtain the "free" gift, Named Plaintiff would have had to spend a minimum of \$50. Therefore, the gift was not "free," and thus the information in the subject line of this email was false and/or misleading, in violation of WCEMA.

bb. On Thursday, August 1, 2024, Ulta sent Named Plaintiff Maxwell an email with the subject line: "FREE 12 PC gift + 5X points." However, in order to obtain the "free" gift, Named Plaintiff would have had to spend a minimum of \$80.

Therefore, the gift was not “free,” and thus the information in the subject line of this email was false and/or misleading, in violation of WCEMA.

cc. On Friday, August 2, 2024, Ultasent Named Plaintiff Maxwellan email with the subject line: “FREE 9PC fragrance gift + 5X points on Clinique Happy!” However, in order to obtain the “free” gift, Named Plaintiff would have had to spend a minimum of \$65. Therefore, the gift was not “free,” and thus the information in the subject line of this email was false and/or misleading, in violation of WCEMA.

dd. On Sunday, August 4, 2024, Ultasent Named Plaintiff Maxwellan email with the subject line: “get a FREE 4PC gift + lip gloss - limited time only!” However, in order to obtain the “free” gift, Named Plaintiff would have had to spend a minimum of \$65. Therefore, the gift was not “free,” and thus the information in the subject line of this email was false and/or misleading, in violation of WCEMA.

ee. On Wednesday, August 7, 2024, Ultasent Named Plaintiff Maxwellan email with the subject line: “FREE 4PC Laura Mercier gift inside.” However, in order to obtain the “free” gift, Named Plaintiff would have had to spend a minimum of \$60. Therefore, the gift was not “free,” and thus the information in the subject line of this email was false and/or misleading, in violation of WCEMA.

ff. On Wednesday, August 7, 2024, Ultasent Named Plaintiff Maxwellan email with the subject line: “FREE Bubbleskincare? YES WAY.” However, in order to obtain the “free” gift, Named Plaintiff would have had to spend a minimum

1 of \$50. Therefore, the gift was not “free,” and thus the information in the subject
 2 line of this email was false and/or misleading, in violation of WCEMA.

3 gg. On Friday, August 9, 2024, Ulta sent Named Plaintiff Maxwell an email with
 4 the subject line: “FREE 19 PC gift (a \$95 value!).” However, in order to obtain
 5 the “free” gift, Named Plaintiff would have had to spend a minimum of \$75 on
 6 a fragrance. Therefore, the gift was not “free,” and thus the information in the
 7 subject line of this email was false and/or misleading, in violation of WCEMA.

8 hh. On Saturday, August 17, 2024, Ulta sent Named Plaintiff Maxwell an email
 9 with the subject line: “For you: \$10 OFF + FREE 19 PC gift.” However, in
 10 order to obtain the “free” gift, Named Plaintiff would have had to spend a
 11 minimum of \$75 on a fragrance. Therefore, the gift was not “free,” and thus the
 12 information in the subject line of this email was false and/or misleading, in
 13 violation of WCEMA.

14 ii. On Sunday, September 29, 2024, Ulta sent Named Plaintiff Maxwell an email
 15 with the subject line: “FREE 15 PC gift + up to 40% off + sooo much newness.”
 16 However, in order to obtain the “free” gift, Named Plaintiff would have had to
 17 spend a minimum of \$75. Therefore, the gift was not “free,” and thus the
 18 information in the subject line of this email was false and/or misleading, in
 19 violation of WCEMA.

20 jj. On Sunday, November 10, 2024, Ulta sent Named Plaintiff Maxwell an email
 21 with the subject line: “Up to 40% off + FREE 24 PC GIFT + up to \$20 off.”
 22 However, in order to obtain the “free” gift, Named Plaintiff would have had to
 23 spend a minimum of \$90. Therefore, the gift was not “free,” and thus the
 24

1 information in the subject line of this email was false and/or misleading, in
2 violation of WCEMA.

3 kk. On Monday, December 2, 2024, Ultra sent Named Plaintiff Maxwell an email
4 with the subject line: "LAST CHANCE: Cyber Monday deals + \$10 off + FREE
5 gift!" However, in order to obtain the "free" gift, Named Plaintiff would have
6 had to spend a minimum of \$90. Additionally, in order to get the promised \$10
7 off, Named Plaintiff would have had to spend at least \$50 on other products..
8 Therefore, the gift was not "free," and thus the information in the subject line
9 of this email was false and/or misleading, in violation of WCEMA.

10 ll. On Friday, December 13, 2024, Ultra sent Named Plaintiff Maxwell an email
11 with the subject line: "FREE gift + up to \$20 OFF + our holiday gift guide."
12 However, in order to obtain the "free" gift, Named Plaintiff would have had to
13 spend a minimum of \$85. Therefore, the gift was not "free," and thus the
14 information in the subject line of this email was false and/or misleading, in
15 violation of WCEMA.

16 mm. On Sunday, March 9, 2025, Ultra sent Named Plaintiff Maxwell an email
17 with the subject line: "5X points in app + FREE 7 PC dry shampoo gift."
18 However, in order to obtain the "free" gift, Named Plaintiff would have had to
19 spend a minimum of \$70. Therefore, the gift was not "free," and thus the
20 information in the subject line of this email was false and/or misleading, in
21 violation of WCEMA.

22 41. The emails identified in Paragraph 40(a) through (mm) are hereinafter referred to
23 as the "Subject Emails."
24

42. Ulta has also sent Named Plaintiff Maxwell emails that do ***not*** run afoul of WCEMA. For example:

- a. On Sunday, August 11, 2024, Ulta sent Named Plaintiff Maxwell an email with the subject line: “FREE 19 PC gift **with select \$75 fragrance purchase?** It’s yours!” (Emphasis added). This is an example of a subject line that does not run afoul of WCEMA, as the information in the subject line discloses all material conditions of the “free” gift offer.
- b. On Monday, September 22, 2025, Ulta sent Named Plaintiff Maxwell an email with the subject line: “FREE 7 PC Morphe gift **with \$60 online purchase**[.] See details. (Emphasis added). “This is an example of a subject line that does not run afoul of WCEMA, as the information in the subject line discloses all material conditions of the “free” gift offer.
- c. On Sunday, September 28, 2025, Ulta sent Named Plaintiff Maxwell an email with the subject line: “Try Sajew with this FREE 5 PC gift **with select \$50 online purchase!** See details.” (Emphasis added). This is an example of a subject line that does not run afoul of WCEMA, as the information in the subject line discloses all material conditions of the “free” gift offer.
- d. On Tuesday, September 30, 2025, Ulta sent Named Plaintiff Maxwell an email with the subject line: “FREE 3 PC Valentino fragrance gift **with your \$60 qualifying online purchase.**” (Emphasis added). This is an example of a subject line that does not run afoul of WCEMA, as the information in the subject line discloses all material conditions of the “free” gift offer.

- 1 e. On Wednesday, October 1, 2025, Ulta sent Named Plaintiff Maxwell an email
 2 with the subject line: “National Hair Day Choose your FREE hair care gift **with**
 3 **select \$50 online purchase** Seed details.” (Emphasis added). This is an example
 4 of a subject line that does not run afoul of WCEMA, as the information in the
 5 subject line discloses all material conditions of the “free” gift offer.
- 6 f. On Thursday, October 2, 2025, Ulta sent Named Plaintiff Maxwell an email
 7 with the subject line: “get a FREE makeup gift **with select \$50 online**
 8 **purchase!** Seed details.” (Emphasis added). This is an example of a subject line
 9 that does not run afoul of WCEMA, as the information in the subject line
 10 discloses all material conditions of the “free” gift offer.
- 11 g. On Friday, October 3, 2025, Ulta sent Named Plaintiff Maxwell an email with
 12 the subject line: “FREE 11 PC beauty bag **with select \$85 online purchase[]**
 13 Choose from 3! Seed details.” (Emphasis added). This is an example of a subject
 14 line that does not run afoul of WCEMA, as the information in the subject line
 15 discloses all material conditions of the “free” gift offer.

16 43. Ulta sent the Subject Emails to Named Plaintiff Maxwell for the purpose of
 17 promoting Ulta’s goods for sale.

18 44. Ulta initiated the transmission or conspired to initiate the transmission of the
 19 Subject Emails to Named Plaintiff Maxwell.

20 45. As shown in Paragraph 40(a) through (mm) Named Plaintiff has identified 39
 21 emails with false or misleading subject lines sent to Named Plaintiff by Ulta.

22 46. These emails were sent between January 14, 2025 and March 9, 2025, showing that
 23 Ulta engaged in this conduct throughout the relevant time period
 24

1 **V. CLASS ACTION ALLEGATIONS**

2 47. Named Plaintiff brings this action, both individually and as a class action, on behalf
3 of similarly situated recipients of commercial electronic mails sent by Ulta pursuant to CR23 and
4 seek to represent the following Class, defined as:

5
6 **All Washington residents to whom Ulta sent, within four**
7 **years before the date of the filing of this complaint until**
8 **the date of trial, an email with a subject line that states**
 or implies that the recipient of the email will be given a
 free product.

9
10 Excluded from the Class are Defendant, as well as Defendant's affiliates, employees, officers and
11 directors, and the Judge to whom this case is assigned.

12 48. The Class, as defined above, is identifiable. Named Plaintiff is a member of the
13 Class.

14 49. The Class consists, at a minimum, of 50 consumers and is thus so numerous that
15 joinder of all members is clearly impracticable.

16 50. There are questions of law and fact which are not only common to the Class, but
17 which predominate over any questions affecting only individual members of the Class.

18 51. With respect to the Class, the common and predominating questions include, but
19 are not limited to:

20 (a) Whether the emails Ulta sent to the Class are subject to WCEMA §
21 19.190.010, *et seq.*;

22 (b) Whether the subject lines of email sent by Ulta contain false or misleading
23 information;

(c) Whether Ulta initiated the transmission or conspired to initiate the transmission of commercial electronic mail messages to Class Members located within Washington State; and

(d) The nature and extent of Class-wide injury and damages.

52. Claims of Named Plaintiff are typical of the claims of the respective members of the proposed Class and are based on and arise out of similar facts constituting the wrongful conduct of Defendant.

53. Named Plaintiff will fairly and adequately protect the interests of the proposed Class.

54. Named Plaintiff is committed to vigorously litigating this matter.

55. Further, Named Plaintiff has secured counsel experienced in handling consumer class actions and complex consumer litigation.

56. Neither Named Plaintiff nor undersigned counsel have any interests which might cause them not to vigorously pursue this claim.

57. Common questions of law and fact enumerated above predominate over questions affecting only individual members of the Class.

58. A class action is the superior method for fair and efficient adjudication of the controversy.

59. The likelihood that individual members of the proposed Class will prosecute separate actions is remote due to the time and expense necessary to conduct such litigation.

60. The likelihood that individual members of the proposed Class will prosecute separate actions is remote also because each individual claim involves a relatively small amount.

VI. CAUSE OF ACTION

(VIOLATIONS OF WASHINGTON'S COMMERCIAL
ELECTRONIC MAIL ACT, RCW 19.190 *ET SEQ.*)
(WASHINGTON CLASS)

63. WCEMA prohibits any “person,” as that term is defined in RCW 19.190.010(11), from initiating or conspiring to initiate the transmission of a commercial electronic mail message from a computer located in Washington or to an electronic mail address that the sender knows, or has reason to know, is held by a Washington resident that contains false or misleading information in the subject line.

65. Ultra initiated the transmission or conspired to initiate the transmission of one or more commercial electronic mail messages to Named Plaintiff and members of the proposed Class.

67. Under WCEMA, it is irrelevant whether the aforementioned details were solicited.

68. Ultra's sending of each Subject Email is a discrete violation of WCEMA.

69. Ultra's acts and omissions violated WCEMA § 19.190.020(1)(b).

(PERSEVIOLATION OF WASHINGTON'S

CONSUMER PROTECTION ACT, RCW 19.86 *ET SEQ.*)
(WASHINGTON CLASS)

70. Named Plaintiff re-alleges and incorporates by reference the allegations set forth herein, and further alleges:

71. Named Plaintiff and members of the Class are “persons” within the meaning of the CPA, RCW 19.86.010(1).

72. Ulta violated WCEMA by initiating or conspiring to initiate the transmission of a commercial electronic mail message to Named Plaintiff and members of the Class that contain false or misleading information in the subject line.

73. A violation of WCEMA is a “*per se*” violation of the Washington CPA, RCW 19.86.010, *et seq.*; RCW 19.190.030. *See Brown v. Old Navy, LLC*, 4 Wn.3d 580, 567 P.3d 38 (2025).

74. A violation of the CEMA establishes all five elements of Washington’s Consumer Protection Act as a matter of law.

75. Ulta’s violations of the CEMA are unfair or deceptive acts or practices that occur in trade or commerce under the CPA, RCW 19.190.100.

76. Ulta’s unfair or deceptive acts or practices vitally affect the public interest and thus impact the public interest for purposes of applying the CPA, RCW 19.190.100.

77. Pursuant to RCW 19.19.040(1), damages to each recipient of a commercial electronic mail message sent in violation of the CEMA are the greater of \$500 for each such message or actual damages, which establishes the injury and causation elements of a CPA claim as a matter of law.

78. As a result of Ulta’s acts and omissions, Named Plaintiff and Class members are entitled to \$500 in statutory damages for each and every email that violates WCEMA.

1 79. Ultra engaged in a pattern and practice of violating WCEMA.

2 80. As a result of Ultra's acts and omissions, Named Plaintiff and members of the Class
3 are entitled to \$500 in statutory damages for each and every email that violates the WCEMA. The
4 full amount of damages will be proven at trial.

5 81. Named Plaintiff and members of the Class are entitled to recover actual damages
6 and treble damages, together with reasonable attorneys' fees and costs, pursuant to RCW §
7 19.86.090.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Named Plaintiff respectfully prays for judgment as follows:

- 10 A. An order assuming jurisdiction of this case;
- 11 B. an order certifying the Class;
- 12 C. an order appointing Named Plaintiff Maxwell as representative of the Class and
13 undersigned counsel as Class counsel for the Class;
- 14 D. an order awarding statutory damages where applicable;¹
- 15 E. an award of attorneys' fees, pursuant to RCW § 19.86.090;
- 16 F. an award of pre-judgment and post-judgment interest on all sums awarded to
17 Named Plaintiff and the members of the proposed Class; and
- 18 G. awards such other relief as the court deems appropriate.

19 **VII. DEMAND FOR JURY TRIAL**

20 Named Plaintiff demands a trial by jury on all issues so triable.

21

22

23 ¹Named Plaintiff states that her individual claim for relief totals \$19,500 (39 emails x \$500
24 =\$19,500).

Respectfully submitted,

Dated: October 7, 2025



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