

FILED
10/27/2025
Timothy W Fitzgerald
Spokane County Clerk

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
COUNTY OF SPOKANE**

JASON ROBERTS, on his own behalf and
on behalf of all others similarly situated

Plaintiff,

v.

VISTAPRINT NETHERLANDS B.V. and
CIMPRESS USA INCORPORATED

Defendants

Case No. 25-2-05325-32

**CLASS ACTION COMPLAINT
(RCW 19.190, 19.86) AND
REQUEST FOR JURY TRIAL**

1 **I. NATURE OF THE ACTION**

2 1. This is a class action brought by Named Plaintiff Jason Roberts (“Roberts”
3 or “Named Plaintiff”) against Defendants VistaPrint Netherlands B.V. and Cimpress USA
4 Incorporated (collectively “VistaPrint” or “Defendants”) for false and misleading email
5 marketing.

6 2. Defendants send two types of emails to Washington consumers which
7 contain false or misleading information in the subject lines.

8 3. First, Defendants send emails with subject lines that falsely represent
9 unqualified discounts on purchases without disclosing material exclusions (“Percentage
10 Discount Emails”). The subject lines of the Percentage Discount Emails imply a
11 straightforward percentage discount on the recipient’s entire purchase (such as “29% off
12

13 your entire order" or "20% off your entire cart" or "30% off your whole cart"), without
14 limitations or exclusions, enticing consumers to open the email in anticipation of a broad
15 bargain. Upon opening the email, however, the body reveals that there are significant
16 exclusions that do not qualify for the percentage discount.

17 4. The Percentage Discount Emails contain subject lines that are false or
18 misleading because they omit material exclusions, leading reasonable consumers to believe
19 that they will receive the promised percentage discount on their entire purchase. These
20 omissions are material as they mislead reasonable consumers about the discount's scope,
21 inducing interest in purchases that may not qualify and affect purchasing decisions.

22 5. Under FTC Guides Against Deceptive Pricing at 16 C.F.R. § 233.1, bargain
23 advertising like percentage-off offers must be genuine and not deceptive; reductions should
24 be from a regular price without undisclosed limitations that undermine the claimed savings.

25 6. Defendants' Percentage Discount Emails that contain subject lines with
26 unqualified percentage discounts off the purchase are misleading as the exclusions
27 contained in the fine print within the body of the email substantially restrict the offer's
28 applicability, failing to disclose terms "at the outset" in a manner that avoids
29 misunderstanding. Defendants knowingly omit these exclusions in Percentage Discount
30 Emails subject lines to drive email opens and engagement, as evidenced by their consistent
31 use of fine-print disclaimers in promotional emails.

32 7. Second, Defendants send emails that misstate the duration of given
33 promotions, in an apparent effort to drive sales by creating a false sense of urgency
34 ("Limited Sale Emails"). These misstatements are material because they mislead

35 reasonable consumers about sale durations, inducing urgency that affects purchasing
36 decisions, as recognized by the FTC in 16 C.F.R. § 233.5.

37 8. The subject lines of the Limited Sales Emails falsely claim that a certain
38 sale or discount is limited to a specific time, such as “ends soon” or “two days only” or
39 “one more day” or “ends tonight” or “final hours,” when, in reality, the offer lasts longer
40 than advertised or the item has already been on sale for longer than advertised.

41 9. Defendants also use its preconceived “sale extensions” as an excuse to send
42 consumers additional emails purporting to notify them that a sale is ending or that a sale
43 has been extended. This practice causes consumers’ inboxes to become inflated with spam.

44 10. Defendants’ practice of sending Percentage Discount Emails and Limited
45 Sale Emails that contain false and misleading information in the subject line violates the
46 Washington Commercial Electronic Mail Act (“CEMA”), RCW 19.190, and the
47 Washington Consumer Protection Act, RCW 19.86.

48 11. By sending Percentage Discount Emails and Limited Sale Emails with false
49 and misleading information to Named Plaintiff and the Class (defined below), Defendants
50 clog email inboxes with false information and violate Named Plaintiff and Class members
51 rights to be free from deceptive commercial emails.

52 12. Named Plaintiff brings this action as a class action on behalf of persons
53 residing in Washington who also received Defendants’ false and misleading emails. Named
54 Plaintiff’s requested relief includes an injunction to end these practices, an award to Named
55 Plaintiff and Class members of statutory damages under RCW 19.190.040 (1) and treble
56 damages under RCW 19.86.090 for each illegal email sent, and an award of attorneys’ fees
57 and costs.

58 **II. PARTIES**

59

60 13. Named Plaintiff Roberts is a citizen of Washington, residing in Spokane
61 County, Washington.

62 14. Defendant VistaPrint Netherlands B.V. is a corporation formed under the
63 laws of The Netherlands. Defendant currently is, and at all relevant times in the past has,
64 engaged in substantial business activities in Washington.

65 15. Defendant Cimpress USA Incorporated is a corporation formed under the
66 laws of Delaware. Defendant currently is, and at all relevant times in the past has, engaged
67 in substantial business activities in Washington.

68 16. Defendants own and operate a large online marketplace and sends the
69 marketing emails at issue in this Complaint to consumers throughout Washington.

70 **III. JURISDICTION AND VENUE**

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

76 18. This Court has personal jurisdiction over Defendants under RCW 4.28.185.
77 This Court may exercise personal jurisdiction over the out-of-state Defendants because the
78 claims alleged in this civil action arose from, without limitation, Defendants' purposeful
79 transmission of electronic mail messages to consumers within the State of Washington. In
80 addition, Defendants intended, knew, or is chargeable with the knowledge that its out-of-
81 state actions would have a consequence within Washington.

82 19. This Court also has personal jurisdiction over Defendants under RCW
83 19.86.160. For example, and without limitation, Defendants engaged and is continuing to
84 engage in conduct in violation of RCW 19.86 which has had and continues to have an
85 impact in Washington which said chapter reprehends.

86 20. Venue is proper in Spokane County Superior Court because Defendants
87 have its residence in Spokane County. RCW 4.12.025. Currently and at all relevant times,
88 Defendants have transacted business in Spokane County, including without limitation by
89 sending the marketing emails alleged herein to residents of Spokane County, and
90 maintaining stores for the transaction of business within Spokane County.

91 **IV. FACTUAL ALLEGATIONS**

92 A. **The CEMA prohibits initiating or conspiring to initiate the
93 transmission of commercial emails that contain any false or misleading
94 information in the subject lines.**

95
96 21. Washington's Commercial Electronic Mail Act ("CEMA") regulates
97 deceptive email marketing.

98 22. "CEMA was enacted to protect concrete interests in being free from
99 deceptive commercial e-mails. CEMA's prohibition on sending commercial e-mails with
100 false or misleading subject lines . . . creates a substantive right to be free from deceptive
101 commercial emails." *Harbers v. Eddie Bauer, LLC*, 415 F. Supp. 3d 999, 1011 (W.D.
102 Wash. 2019).

103 23. The Washington Supreme Court recently confirmed this understanding,
104 holding that RCW 19.190.020(1)(b) "prohibits the use of any false or misleading
105 information in the subject line of a commercial e-mail." *Brown v. Old Navy, LLC*, 4 Wn.3d
106 580, 583 (2025).

107 24. An injury occurs anytime a commercial email is transmitted that contains
108 false or misleading information in the subject line. *Id.* at 1011. In *Brown*, the Washington
109 Supreme Court reaffirmed that “the injury is receiving the e-mail that violates CEMA,”
110 and that a plaintiff need not show actual damages to recover statutory penalties. *Brown*, 4
111 Wn.3d at 585.

112 25. Under CEMA, it is irrelevant whether misleading commercial emails were
113 solicited. *Harbers*, 415 F. Supp. 3d at 1011. The Washington Supreme Court echoed this
114 point in *Brown*, emphasizing that the statute is not limited to deception about the nature or
115 solicitation of the message but applies broadly to any false or misleading subject line.
116 *Brown*, 4 Wn.3d at 590, 594.

117 26. CEMA creates an independent but limited private right of action which can
118 be asserted by a person who is the recipient of a commercial electronic mail message which
119 contains false or misleading information in the subject line. RCW 19.190.030(1)(b). A
120 plaintiff who successfully alleges and proves such a violation may obtain, among other
121 things, an injunction against the person who initiated the transmission. RCW
122 19.190.090(1). In addition, the statute authorizes statutory damages of \$500 per violation.
123 RCW 19.190.040(1); *see also Brown*, 4 Wn.3d at 585 (confirming that no showing of
124 actual damages is required to recover statutory damages under CEMA).

125 27. It is a violation of the Consumer Protection Act, RCW 19.86 *et seq.*, to
126 initiate the transmission or conspire with another person to initiate the transmission of a
127 commercial electronic mail message that contains false or misleading information in the
128 subject line. RCW 19.190.030(1). As the Washington Supreme Court explained, CEMA

129 violations are *per se* violations of the CPA because the Legislature recognized that such
130 conduct is categorically contrary to the public interest. *Brown*, 4 Wn.3d at 592.

131 28. To establish a violation of Washington's CPA, a claimant must establish
132 five elements: (1) an unfair or deceptive act or practice, (2) in trade or commerce, (3) that
133 affects the public interest, (4) injury to plaintiff's business or property, and (5) causation.
134 *Hangman Ridge Stables, Inc. v. Safeco Title Ins. Co.*, 719 P.2d 531, 533 (Wash. 1986).

135 29. Washington and federal courts have held that a plaintiff states a CPA claim
136 solely by alleging a violation of the CEMA. *See State v. Heckel*, 143 Wash.2d 824, 24 P.3d
137 404, 407 (2001).

138 **B. Defendants initiate or conspire to initiate the transmission of
139 commercial emails that contain false or misleading information in the
140 subject lines.**

141 30. Defendants have initiated (or conspired to initiate) the transmission of
142 hundreds of commercial electronic mail messages with false or misleading subject lines to
143 Named Plaintiff and the Class. The emails were electronic mail messages, in that they were
144 each an electronic message sent to an electronic mail address; the emails from Defendants
145 also referred to an internet domain, whether or not displayed, to which an electronic mail
146 message can or could be sent or delivered.

148 31. Defendants sent the emails for the purpose of promoting its goods for sale.

149 32. The emails were sent at Defendants' direction and were approved by
150 Defendants.

151 **1. Percentage Discount Emails**

152 33. Defendants frequently send emails with subject lines promising a
153 percentage off the recipient's purchase. The body of these emails (and fine print), however,
154 contains significant and material exclusions.

155 34. VISTAPRINT uses the terms "order" and "cart" interchangeably within its
156 Percentage Discount Emails.

157 35. For example, on February 29, 2024, Defendants sent Named Plaintiff and
158 Class members an email with a subject line that stated: "It's a Leap Year! Take 29% off
159 your Entire Order[.]"

160 36. June 10, 2024, Defendants sent Named Plaintiff and Class members an
161 email with a subject line that stated: "[siren emoji] NOW > \$15 off orders \$75+ [siren
162 emoji.]"

163 37. On November 22, 2024, Defendants sent Named Plaintiff and Class
164 members an email with a subject line that stated: "TODAY ONLY [siren emoji] Get 30%
165 off your whole cart[.]"

166 38. Also on November 22, 2024, Defendants sent Named Plaintiff and Class
167 members an email with a subject line that stated: "FINAL HOURS [present emoji] Just for
168 you: 30% off your whole cart[.]"

169 39. On February 10, 2025, Defendants sent Named Plaintiff and Class members
170 an email with a subject line that stated: "Don't miss 20% off orders \$75+ [stars emoji.]"

171 40. On March 18, 2025, Defendants sent Named Plaintiff and Class members
172 an email with a subject line that stated: "Get 20% off your ENTIRE cart [stars emoji] Give
173 your business a spring cleaning[.]"

174 41. Also on March 18, 2025, Defendants sent Named Plaintiff and Class
175 members an email with a subject line that stated: “FINAL HOURS to get 20% off your
176 entire cart [shopping cart emoji.]”

177 42. These subject lines imply that a straightforward discount will be applied on
178 the recipient’s purchase, without limitations or exclusions.

179 43. The fine print at the bottom of each email, however, states that exclusions
180 will apply from the unqualified offer in the subject line.

181 44. Thus, if the recipient purchases any product or service that is excluded from
182 the discount, they will not receive the discount offered in the subject line.

183 45. Such omissions as to what constitutes “order” or “cart” in the subject lines
184 of these types of emails create a reasonable probability that consumers will be misled about
185 the true scope of the discount.

186 46. And Defendants understand how to restrict an offer in the subject line of an
187 email because from time to time, Defendants do in fact restrict the scope of the sale in the
188 subject line.

189 47. For instance, on April 17, 2025, Defendants sent Class members an email
190 with a subject line that stated: “[eyes emoji] For your eyes only [eyes emoji] Up to 40%
191 off almost everything[.]”

192 **2. Limited Sale Emails**

193 48. Defendants also frequently send emails with subject lines advertising the
194 “limited” nature of sales, discounts, and prices. For example, Defendants send emails that
195 state a sale “ends tomorrow” or “ends tonight” or is available “today only,” implying
196 urgency and finality, but then follows up with extensions of the same offer. By stating that

197 a sale is only on for a limited time, Defendants suggest an offer's rarity or urgency,
198 stimulating consumers' desire to get the deal before it ends. Defendants knowingly
199 underestimate sale durations in subject lines, as evidenced by their routine extensions of
200 advertised "limited" periods, to create this false urgency. These misstatements are material
201 because they mislead reasonable consumers about sale durations, inducing urgency that
202 affects purchasing decisions, as recognized by the FTC in 16 C.F.R. § 233.5.

203 49. Defendants' Limited Sales Emails are false or misleading because the sales,
204 discounts, and prices advertised as limited in time are not actually limited in time, as
205 Defendants routinely extend them beyond the advertised end dates.

206 50. The following timelines related to these types of "limited" sales illustrate
207 this pattern.

208 51. On December 1, 2024, Defendants sent an email with a subject line stating
209 "Up to 40% off almost everything ends TONIGHT[.]"

210 52. Again, on December 1, 2024, Defendants sent an email with a subject line
211 stating "ENDS TONIGHT! Up to 40% off almost everything[.]"

212 53. But on December 2, 2024, Defendants sent an email with a subject line
213 stating "[siren emoji] Sale extended for ONE more day! [siren emoji.]"

214 54. Defendants followed a similar pattern where, on April 9, 2025, Defendants
215 sent an email with a subject line stating "Friends & Family Sale [hour glass emoji] ENDS
216 TOMORROW [hour glass emoji.]"

217 55. On April 10, 2025, Defendants doubled down on this urgency by sending
218 another email with the subject line "Up to 40% off select products [crescent moon emoji]
219 ENDS TONIGHT [crescent moon emoji.]"

220 56. But the sale did not end at the end on April 10, 2025 as represented. Rather,
221 on April 11, 2025, Defendants sent an email with the subject line “Friends & Family Sale
222 EXTENDED | Get up to 40% off[,]” expressly extending the same promotion beyond the
223 advertised deadline.

224 57. Defendants repeated this same cycle again starting on May 13, 2025, when
225 Defendants sent an email with a subject line stating “ENDS TOMORROW [hour glass
226 emoji] Up to 40% off!”

227 58. On May 14, 2025, Defendants doubled down on this urgency by sending
228 another email with the subject line “ENDS TONIGHT [running emoji] Hurry! Up to 40%
229 off[.]”

230 59. And contrary to the limited duration of the advertised sale, on May 15, 2025,
231 Defendants sent an email with the subject line “Sale extended for TODAY ONLY: Save
232 up to 40% off[,]” expressly extending the same promotion beyond the advertised deadline.

233 60. By falsely stating the duration of the sale and issuing serial “extension”
234 emails, Defendants misled consumers regarding the true time limits of the offer.

235 **C. Named Plaintiff and Washington residents have received commercial
236 emails from Defendants that contain false or misleading information in
237 the subject lines.**

238 61. Defendants sent the misleading commercial emails to email addresses that
239 Defendants knew, or had reason to know, were held by Washington residents, either
240 because (i) Defendants had a physical Washington address that was associated with the
241 recipient; (ii) Defendants had access to data regarding the recipient indicating that they
242 were in Washington state; or (iii) information was available to Defendants upon request

244 from the registrant of the internet domain name contained in the recipient's electronic mail
245 address.

246 62. Defendants know where many of its customers reside through several
247 methods.

248 63. First, for any person that places an order online from Defendants,
249 Defendants associate an email address with a shipping address and/or billing address for
250 that order.

251 64. Second, Defendants encourage online shoppers to create online accounts.
252 Customers save information in their Defendants accounts along with their email address,
253 such as shipping addresses, billing addresses, and phone numbers.

254 65. Third, discovery will show that Defendants employ methods to track the
255 effectiveness of its marketing emails and to identify consumers that click on links contained
256 in Defendants' marketing emails, including by identifying their physical location.

257 66. Fourth, Defendants also utilize cookies, pixels, and other online tracking
258 technologies to identify and locate the consumers that click on links contained in
259 Defendants' marketing emails and that visit its website.

260 67. Fifth, discovery will also show that Defendants employ sophisticated third
261 parties who create profiles of customers and potential customers, including their email
262 address and physical location.

263 68. Lastly, Defendants also knew, should have known, or had reason to know
264 that it sends marketing emails to Washington residents due to its large presence in the state
265 and the volume of marketing emails it sends to people around the country.

266 69. At all times relevant to this Complaint, Named Plaintiff resided in
267 Washington.

268 70. Named Plaintiff received Defendants' emails for several years.

269 71. Named Plaintiff received hundreds of marketing emails from Defendants
270 within the last four years, and typically received more than five emails every week.

271 72. Named Plaintiff received emails from Defendants through email providers
272 that have data limits. Named Plaintiff has several hundred emails from Defendants in his
273 inbox, but discovery will show that he has received more emails that were deleted to
274 conserve the finite space available in the email inbox.

275 73. Defendants know, or have reason to know, that Named Plaintiff's email
276 address is held by a Washington resident. Named Plaintiff has accounts with Defendants
277 that reflect his home address in Washington. Named Plaintiff has made several purchases
278 from the Defendants' website that have been delivered to his home in Washington. Named
279 Plaintiff has also repeatedly clicked on links contained in Defendants' emails from his
280 computer, which was registered to an IP address in Washington at all relevant times, or
281 from his smart phone, which was located in Washington unless Named Plaintiff happened
282 to be traveling.

283 74. Named Plaintiff received the emails with false and misleading subject lines
284 described above. Named Plaintiff received additional emails with false and misleading
285 subject lines from Defendants.

286 75. Defendants sent these emails to Named Plaintiff for the purpose of
287 promoting Defendants' goods for sale.

288 76. Defendants initiated the transmission or conspired to initiate the
289 transmission of these commercial electronic mail messages to Named Plaintiff.

290 77. Named Plaintiff does not want to receive emails with false and misleading
291 subject lines from Defendants, though he would like to continue receiving truthful
292 information from Defendants regarding its products. Due to Defendants' conduct,
293 however, Named Plaintiff cannot tell which emails from Defendants contain truthful
294 information or which emails are spam with false and misleading information designed to
295 spur purchases.

296 78. Named Plaintiff has identified more than fifty (50) of Defendants' emails
297 with false and misleading subject lines. These emails were sent between October 21, 2021
298 and the date this Complaint was filed, showing that Defendants engaged in this conduct
299 throughout the relevant time period.

300 79. Named Plaintiff continues to receive emails with false and misleading
301 subject lines. Because Named Plaintiff has deleted some of the emails he has received from
302 Defendants, Named Plaintiff is not presently able to identify all the emails with false and
303 misleading subject lines he received. Defendants are aware of all the emails they have sent
304 Named Plaintiff and discovery will show the full number of illegal false and misleading
305 emails Defendants has sent throughout the relevant time period.

306 **V. CLASS ACTION ALLEGATIONS**

307 80. Class Definition. Pursuant to Civil Rule 23(b)(3), Named Plaintiff brings
308 this case as a class action on behalf of a Class defined as:

309 All Washington residents¹ who, within four years before the
310 date of the filing of this complaint until the date any order
311 certifying a class is entered, received an email from or at the
312 behest of Defendants that contained a subject line stating or
313 implying that 1) a percentage discount off would apply to the
314 recipient's "order" or "cart" with no conditions or
315 exclusions; or 2) a sale, discount, price, or other offer would
316 end soon or on a definitive date, and the sale, discount, price,
317 or other offer continued to be offered for at least an
318 additional day.

319

320 Excluded from the Class are Defendants, any entity in which
321 Defendants has a controlling interest or that has a controlling
322 interest in Defendants, and Defendants' legal
323 representatives, assignees, and successors. Also excluded
324 are the judge to whom this case is assigned and any member
325 of the judge's immediate family.

326

327 81. Numerosity. The Class is so numerous that joinder of all members is
328 impracticable. The Class has more than 1,000 members. Moreover, the disposition of the
329 claims of the Class in a single action will provide substantial benefits to all parties and the
330 Court.

331

331 82. Commonality. There are numerous questions of law and fact common to
332 Named Plaintiff and members of the Class. The common questions of law and fact include,
333 but are not limited to:

334

- a. Whether Defendants sent commercial electronic mail messages with false and misleading information in the subject lines;
- b. Whether Defendants initiated the transmission or conspired to initiate the transmission of commercial electronic mail messages to recipients residing in Washington State in violation of RCW 19.190.020;

¹ Residents" shall have the same meaning as "persons" as defined in RCW 19.190.010(11) and RCW 19.86.010(a).

339 c. Whether a violation of RCW 19.190.020 establishes all the elements of
340 a claim under Washington's Consumer Protection Act, RCW 19.86 *et*
341 *seq.*;

342 d. Whether Named Plaintiff and the proposed Class are entitled to an
343 injunction enjoining Defendants from sending the unlawful emails in
344 the future; and

345 e. The nature and extent of Class-wide damages.

346 83. Typicality. Named Plaintiff's claims are typical of the claims of the Class.
347 Named Plaintiff's claims, like the claims of the Class, arise out of the same common course
348 of conduct by Defendants and are based on the same legal and remedial theories.

349 84. Adequacy. Named Plaintiff will fairly and adequately protect the interests
350 of the Class. Named Plaintiff has retained competent and capable attorneys with significant
351 experience in complex and class action litigation, including consumer class actions.
352 Counsel for Named Plaintiff has significant experience representing consumers in cases
353 involving violations of CEMA. Named Plaintiff and counsel are committed to prosecuting
354 this action vigorously on behalf of the Class and have the financial resources to do so.
355 Neither Named Plaintiff nor counsel have interests that are contrary to or that conflict with
356 those of the proposed Class

357 85. Predominance. Defendants have a standard practice of initiating or
358 conspiring to initiate commercial electronic mail messages to email addresses held by
359 Washington State residents. The common issues arising from this conduct predominate
360 over any individual issues. Adjudication of these issues in a single action has important
361 and desirable advantages of judicial economy.

362 86. Superiority. Named Plaintiff and members of the Class have been injured
363 by Defendants' unlawful conduct. Absent a class action, however, most Class members
364 likely would find the cost of litigating their claims prohibitive. Class treatment is superior
365 to multiple individual suits or piecemeal litigation because it conserves judicial resources,
366 promotes consistency and efficiency of adjudication, provides a forum for small claimants,
367 and deters illegal activities. The members of the Class are readily identifiable from
368 Defendants' records and there will be no significant difficulty in the management of this
369 case as a class action.

370 87. Injunctive Relief. Defendants' conduct is uniform as to all members of the
371 Class. Defendants have acted or refused to act on grounds that apply generally to the Class,
372 so that final injunctive relief or declaratory relief is appropriate with respect to the Class as
373 a whole. Named Plaintiff further alleges, on information and belief, that the emails
374 described in this Complaint are substantially likely to continue in the future if an injunction
375 is not entered.

376 VI. CAUSES OF ACTION

FIRST CLAIM FOR RELIEF

(Violation of Washington's Commercial Electronic Mail Act, RCW 19.190 *et seq.*)

380 88. Named Plaintiff realleges and incorporates by reference each and every
381 allegation set forth in the preceding paragraphs.

382 89. Washington's CEMA prohibits any "person," as that term is defined in
383 RCW 19.190.010(11), from initiating or conspiring to initiate the transmission of a
384 commercial electronic mail message from a computer located in Washington or to an
385 electronic mail address that the sender knows, or has reason to know, is held by a
386 Washington resident that contains false or misleading information in the subject line. These

387 prohibitions target falsity or deception, as interpreted in *Brown v. Old Navy, LLC*, 567 P.3d
388 38 (Wash. 2025).

389 90. Defendants are each a “person” within the meaning of the CEMA, RCW
390 19.190.010(11).

391 91. Defendants initiated the transmission or conspired to initiate the
392 transmission of one or more commercial electronic mail messages to Named Plaintiff and
393 proposed Class members with false or misleading information in the subject line.

394 92. Defendants’ acts and omissions violated RCW 19.190.020(1)(b).
395 Defendants knew or had reason to know of the falsity of the subject lines, as shown by its
396 repeated patterns of omitting conditions and exclusions in subject lines while burying them
397 in the fine print of the body of the email.

398 93. Defendants’ acts and omissions injured Named Plaintiff and proposed Class
399 members, as receipt of such misleading emails constitutes injury under CEMA and the
400 CPA as a matter of law, clogging inboxes and wasting time.

401 94. The balance of the equities favors the entry of permanent injunctive relief
402 against Defendants. Named Plaintiff, the members of the Class, and the general public will
403 be irreparably harmed absent the entry of permanent injunctive relief against Defendants.
404 A permanent injunction against Defendants is in the public interest. Defendants’ unlawful
405 behavior is, based on information and belief, ongoing as of the date of the filing of this
406 pleading; absent the entry of a permanent injunction, Defendants’ unlawful behavior will
407 not cease and, in the unlikely event that it voluntarily ceases, is likely to reoccur.

408 95. Pursuant to RCW 19.190.040(1), Named Plaintiff and each Class member
409 is entitled to the greater of \$500 per commercial electronic mail message sent in violation
410 of RCW 19.190.020(1)(b) or actual damages.

411 96. In addition, Named Plaintiff and Class members are therefore entitled to
412 injunctive relief in the form of an order enjoining further violations of RCW
413 19.190.020(1)(b).

414 **SECOND CLAIM FOR RELIEF**

415 (Per se violation of Washington's Consumer Protection Act, RCW 19.86 *et seq.*)

416 97. Named Plaintiff realleges and incorporates by reference each and every
417 allegation set forth in the preceding paragraphs.

419 98. Named Plaintiff and Class members are "persons" within the meaning of
420 the CPA, RCW 19.86.010(1).

421 99. Defendants violated the CEMA by initiating or conspiring to initiate the
422 transmission of commercial electronic mail messages to Named Plaintiff and Class
423 members that contain false or misleading information in the subject line, amounting to
424 material deception.

425 100. A violation of CEMA is a "per se" violation of the Washington Consumer
426 Protection Act ("CPA"), RCW 19.86.010, *et seq.* RCW 19.190.030.

427 101. A violation of the CEMA establishes all five elements of Washington's
428 Consumer Protection Act as a matter of law.

429 102. Defendants' violations of the CEMA are unfair or deceptive acts or
430 practices that occur in trade or commerce under the CPA. RCW 19.190.100.

431 103. Defendants' unfair or deceptive acts or practices vitally affect the public
432 interest and thus impact the public interest for purposes of applying the CPA. RCW
433 19.190.100.

434 104. Pursuant to RCW 19.190.040(1), damages to each recipient of a commercial
435 electronic mail message sent in violation of the CEMA are the greater of \$500 for each
436 such message or actual damages, which establishes the injury and causation elements of a
437 CPA claim as a matter of law.

438 105. Defendants engaged in a pattern and practice of violating the CEMA. As a
439 result of Defendants' acts and omissions, Named Plaintiff and Class members have
440 sustained damages, including \$500 in statutory damages, for each and every email that
441 violates the CEMA. The full amount of damages will be proven at trial. Named Plaintiff
442 and Class members are entitled to recover actual damages and treble damages, together
443 with reasonable attorneys' fees and costs, pursuant to RCW 19.86.090.

444 106. Under the CPA, Named Plaintiff and members of the Class are also entitled
445 to, and do seek, injunctive relief prohibiting Defendants from violating the CPA in the
446 future.

447 107. Defendants' deceptive practices are ongoing and likely to continue absent
448 injunction, as evidenced by its consistent email patterns, vitally affecting the public interest
449 in truthful commercial communications.

450 **VII. REQUEST FOR RELIEF**

451 WHEREFORE, Named Plaintiff, on their own behalf and on behalf of the members
452 of the Class, request judgment against Defendants as follows:

453 A. That the Court certify the proposed Class;

- B. That the Court appoint Named Plaintiff as Class Representative;
- C. That the Court appoint the undersigned counsel as counsel for the Class;
- D. That the Court grant injunctive relief as permitted by law to ensure that Defendants will not continue to engage in the unlawful conduct described in this Complaint;
- E. That the Court enter a judgment awarding any other injunctive relief necessary to ensure Defendants' compliance with the CEMA;
- F. That Defendants be immediately restrained from altering, deleting, or destroying any documents or records that could be used to identify members of the Class;
- G. That Named Plaintiff and all Class members be awarded statutory damages in the amount of \$500 for each violation of the CEMA pursuant to RCW 19.190.040(1) and treble damages pursuant to RCW 19.86.090;
- H. That the Court enter an order awarding Named Plaintiff reasonable attorneys' fees and costs; and
- I. That Named Plaintiff and all Class members be granted other relief as is just and equitable under the circumstances.

471 VIII. TRIAL BY JURY

472 Named Plaintiff demands a trial by jury for all issues so triable.

Dated this 27th day of October, 2025

Respectfully submitted,

ZLAW LLC

/s/ David M. Trojanowski (WSBA # 56258)

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