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Scott G. Weber, Clerk
Clark County

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**IN SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK**

Karina Revenko, on her own behalf and
on behalf of others similarly situated,

Plaintiff,

v.

FASHION NOVA, LLC., d/b/a
FASHION NOVA,

Defendant.

No. 26-2-01468-06

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Karina Revenko, on behalf of herself and others similarly situated, by and through their attorneys, based on personal knowledge with respect to their circumstances and based upon information and belief pursuant to the investigation of counsel as to all other allegations, alleges the following:

1 **I. INTRODUCTION**

2 *“Every inbox is a battlefield.”¹*

3 1. In 1998, the Washington State Legislature passed the Commercial Electronic
4 Mail Act, RCW § 19.190.005, *et seq.* (“CEMA”), in response to complaints that Washington
5 citizens reported to the state Attorney General’s office.²

6 2. The Attorney General’s office reported it received more than 1,000 complaints
7 about spam email, including about 322 complaints about unsolicited email during a five-month
8 period in 1997.³

9 3. Users also reported that senders sometimes disguise advertisements by putting
10 false or misleading information on the subject line of commercial e-mail messages.⁴

11 4. The legislation was not expected to be a “cure-all,” but it was targeted to address
12 the hundreds of thousands of unsolicited and/or fraudulent emails Washington residents
13 received daily.⁵

14 5. Legislative testimony emphasized that CEMA “allows expansion of Internet
15 usage while curtailing abuses before they reach crisis.”⁶

16 6. As the State of Washington has repeatedly reminded state and federal trial
17 courts, private actions are “integral” to the State’s ability to enforce CEMA.⁷

18 _____
19 ¹ THE PSYCHOLOGY OF SUBJECT LINES: DATA-BACKED WORDS THAT BOOST OPEN RATES,
20 <https://growthwayadvertising.com/the-psychology-of-subject-lines-data-backed-words-that-boost-open-rates/> (last visited Mar. 12, 2026).

21 ² See Wash. S. Comm. on Energy & Utilities Rep. on ESHB 2758, at 1-2 (Wash. Feb. 16,
1998).

22 ³ *Id.* at 2, 3.

23 ⁴ *Id.* at 3.

24 ⁵ *Id.*

25 ⁶ Wash. S. Comm. on Energy, Technology & Telecommunications Rep. on H.B. 1037 (Wash.
1999); see also Wash. H. Comm. on Technology, Telecommunications & Energy
Appropriations Rep. on HB 1037 (1999) (“The efficacy of the Internet is being endangered by
the proliferation of spam.”).

26 ⁷ See, e.g. *Agnew, et. al., v. Macy’s Retail Holdings, LLC*, Plaintiff-Intervenor State of
Washington’s Response in Opposition to Defendant Macy’s Retail Holdings, LLC’s Motion to
Dismiss, 2:25-cv-02006; ECF No. 22, (W.D. Wash. Feb. 03, 2026).

1 7. Despite the enactment of CEMA and the Washington legislature’s clear
2 intention to prohibit spam emails, including those with false or misleading information in the
3 email’s subject line, Defendant continues to send emails expressly prohibited by the Act.

4 8. Specifically, Defendant is sending emails that violate CEMA by using emails
5 whose subject lines create a false sense of urgency.

6 9. For example, Defendant Fashion Nova Fitness repeatedly sent emails to
7 Washington residents telling them that sales were ending imminently, only to extend them once
8 they were set to expire.

9 10. The false sense of urgency entices consumers to engage with Defendant’s
10 marketing with repeated false notifications that there is only a limited time available to take
11 advantage of sales-based savings.

12 11. In reality, these sales are extended or repeated. Thus, consumers, like Ms. Otis
13 and Ms. Revenko, are induced to act quickly and under a false sense of pressure.

14 12. Plaintiff seeks redress for Defendant’s violations of the CEMA by, *inter alia*, by
15 obtaining an order enjoining Defendant from sending emails with deceptive subject lines to
16 Washington residents.

17 **II. PARTIES**

18 13. Plaintiff Karina Revenko is a resident of Vancouver, Washington, which is
19 located in Clark County. Plaintiff Revenko has received emails from Fashion Nova since she
20 made a purchase from the website in 2024. She has received Defendant’s deceptive emails
21 while residing and present in Washington.

22 14. The proposed class includes citizens of Washington.

23 15. Defendant Fashion Nova, LLC., d/b/a Fashion Nova (“Fashion Nova”), is
24 limited liability company organized and existing under the laws of California and has a principal
25
26

1 place of business in Beverly Hills, California. It describes itself as “the world’s leading trend-
2 to-market fashion and lifestyle brand” and having annual sales of “approximately \$2 billion.”⁸

3 16. On information and belief, Fashion Nova offers, sells, and distributes products
4 to customers and potential customers across the United States, including to consumers in the
5 State of Washington, through various websites. Fashion Nova advertises its products for sale to
6 Washington residents by sending numerous soliciting emails, described below.

7 **III. JURISDICTION AND VENUE**

8 17. This Court has subject matter jurisdiction under the Washington State
9 Constitution, which sets forth the jurisdiction of Washington Superior Courts. This Court also
10 has subject matter jurisdiction under the Consumer Protection Act (CPA), RCW 19.86.090, and
11 the Commercial Electronic Mail Act (CEMA), RCW 19.190.090, which gives Washington
12 Superior Courts jurisdiction over claims brought under CEMA and the CPA.

13 18. This Court has personal jurisdiction over Defendant under RCW 4.28.185.
14 Defendant transacts business in Washington. The claims giving rise to this action arise from
15 Defendant’s transaction of business in this state and also Defendant’s purposeful transmission
16 of electronic mail messages to Washington residents, including Plaintiff. This Court also has
17 personal jurisdiction over Defendant under RCW 19.86.160 because Defendant engaged in
18 conduct in violation of the CPA that had an impact in Washington. Defendant has certain
19 minimum contacts with the State of Washington. Defendant has and continues to purposefully
20 perform some acts or consummate some transactions in the State of Washington, and Plaintiff’s
21 claims arise from, or are connected with, Defendant’s actions in this State. The assumption of
22 jurisdiction by this Court does not offend traditional notions of fair play and substantial justice,
23 consideration being given to the quality, nature, and extent of the activity in the State of
24 Washington, the relative convenience of the parties, the benefits and protection of laws of the
25 State of Washington afforded the respective parties, and the basic equities of the situation
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⁸ See <https://www.fashionnova.com/pages/job/5317629>, last accessed March 27, 2026.

1 19. “CEMA sought to give consumers relief from commercial spam e-mail by
2 requiring accuracy and truthfulness in the subject lines of such e-mails. The legislature sought
3 to achieve this objective by targeting an e-mail’s header and subject lines: the two pieces of
4 information consumers first glean when faced with the choice of deleting a message or engaging
5 with its content.” *Brown v. Old Navy, LLC*, 567 P.3d 38, 45 (Wash. 2025)

6 20. CEMA sought to give consumers relief from commercial spam e-mail by
7 requiring accuracy and truthfulness in the subject lines of such e-mails. The legislature sought
8 to achieve this objective by targeting an e-mail’s header and subject lines: the two pieces of
9 information consumers first glean when faced with the choice of deleting a message or engaging
10 with its content. *Brown*, 567 P.3d at 45.

11 21. A violation of CEMA’s email regulations is a *per se* violation of Washington’s
12 Consumer Protection Act. RCW § 19.190.030(1).

13 22. CEMA does not require a showing of actual damages. The injury is receiving
14 the email that violates the regulations.

15 23. “[C]ommercial e-mails containing false or misleading subject lines pose a risk
16 to an individual’s interest in being free from the nuisance and loss of productivity, given the
17 fact that such e-mails are less likely to be screened by a service provider’s filtering system.”
18 *Harbers v. Eddie Bauer, LLC*, 415 F. Supp. 3d 999, 1010 (W.D. Wash. 2019).

19 24. The subject lines of emails may be materially misleading even if the emails
20 themselves were not solicited. *See Harbers*, 415 F. Supp. 3d at 1011.

21 25. Practices governed by CEMA “are matters vitally affecting the public interest
22 for the purpose of applying the consumer protection act, chapter 19.86 RCW.” RCW §
23 19.190.030(3). “A violation of this chapter is not reasonable in relation to the development and
24 preservation of business and is an unfair or deceptive act in trade or commerce and an unfair
25 method of competition for the purpose of applying the consumer protection act, chapter 19.86.”
26 RCW § 19.190.030(3).

1 26. “[I]ndividuals have a right to be free from certain forms of deceptive
2 commercial e-mail advertisements, and [CEMA] imposes restrictions to accomplish this goal
3 and decrease the risk of harm related to deceptive spam practices.” *Harbers*, 415 F. Supp. 3d at
4 1008.

5 27. “[C]lass actions [like this] are a critical piece of the enforcement of consumer
6 protection law.” *Scott v. Cingular Wireless*, 160 Wash. 2d 843, 853, 161 P.3d 1000, 1006
7 (2007).

8 **B. Subject Lines that Create a False Sense of Urgency are False and
9 Misleading**

10 28. Creating urgency is a “tried-and-true tactic to get [an advertiser’s] emails opened
11 and read . . .”¹⁰

12 29. Advertisers use time-limited discounts to drive sales, describing it as like
13 playing a “time-sensitive game” which “forces” consumers to “take action.”¹¹

14 30. When the time limitation is not true or is not intended to be imposed, this is a
15 material misrepresentation because it misleads the recipients as to the duration of the sales
16 promotion, affecting consumer behavior. *Ma v. Nike, Inc.*, No. C25-1235JLR, 2026 LX 45808,
17 at *9 (W.D. Wash. Jan. 14, 2026).

18 31. “Representations of fact-like the duration or availability of a promotion, its
19 terms and nature, the cost of goods, and other facts” that Washington residents rely upon in
20 their consumer decision-making process are subject to CEMA’s subject-line provision. *Brown*,
21 567 P.3d at 47.

22 32. In 2022, the Federal Trade Commission issued a report about so called digital
23 “dark practices” in electronic advertising, which manipulate users into making choices that they

24 ¹⁰ Burdon, Mark, “150+ Sales Email Subject Lines That Get Opened, Read, and Responded
25 To” available at <https://blog.hubspot.com/sales/sales-email-subject-lines-that-get-prospects-to-open-read-and-respond>, last accessed March 3, 2026.

26 ¹¹ Taylor, Marcus, “How to Effectively Create Urgency in Sales (11 Best Ways)” March 17,
2025. available at [How to Effectively Create Urgency in Sales \(11 Best Ways\)](#) (last accessed
March 5, 2026).

1 might not have otherwise made¹². The report identified false limited time messages as one such
 2 “dark practice” describing it as a way of creating pressure either without a deadline or with a
 3 meaningless deadline that just resets when reached.”¹³

4 33. Similarly, the United Kingdom’s Competition and Markets Authority reviewed
 5 empirical studies of consumer interactions with commercial emails and found that “false or
 6 misleading scarcity claims can change the behavior of consumers and cause them harm.”¹⁴
 7 Beyond financial injuries, false scarcity claims can lead consumers to having a negative
 8 attitude towards shopping, to consider fewer brands, and to have lower satisfaction with their
 9 choices.. ¹⁵False scarcity claims can damage trust in markets because consumers will learn to
 10 ignore these claims. Indeed, in the United Kingdom, it is specifically prohibited to “falsely
 11 stat[e] that a product will only be available for a very limited time, or that it will only be
 12 available on particular terms for a very limited time, in order to elicit an immediate decision
 13 and deprive consumers of sufficient opportunity or time to make an informed choice.”¹⁶

14 **V. FACTUAL ALLEGATIONS**

15 **A. The Subject Lines of Fashion Nova’s Marketing Emails Are False and** 16 **Misleading**

17 34. Fashion Nova frequently engages in sending emails with false or misleading
 18 subject lines, particularly emails with false time-limited sales information.

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 21
 22 ¹² FTC Staff Report, “Bringing Dark Patterns to Light”, available at Bringing Dark Patterns
 to Light (last accessed March 5, 2026).

23 ¹³ *Id.*

24 ¹⁴ Competition and Markets Authority, “Online Choice Architecture: How Digital Design Can
 Harm Competition and Consumers,” April 2022, available at
 25 https://assets.publishing.service.gov.uk/media/624c27c68fa8f527710aaf58/Online_choice_architecture_discussion_paper.pdf, last accessed March 5, 2026.

26 ¹⁵ *Id.*

¹⁶ Consumer Protections from Unfair Trading Regulations 2008, Schedule 1, available at
<https://www.legislation.gov.uk/uksi/2008/1277/schedule/1/made> (last accessed March 5, 2026).

1 35. On March 17, 2024, Fashion Nova sent an email with the subject line: “Babe,
2 Don’t Miss 40% Off Sitewide.” Later that day, the Company sent another email with a subject
3 line that warned: “!! 40% OFF SITEWIDE IS ENDING!!”

4 36. The 40% off sitewide sale, was not, in fact, ending. The very next day, Fashion
5 Nova announced that the sale had been extended, sending an email with a subject line that read:
6 “EXTENDED 40% Off Sitewide!”



16 37. On Monday, November 24, 2024, Fashion Nova sent an email whose subject
17 line read “!!50% OFF BLACK FRIDAY IS HERE!!.” “Black Friday” is a term that is generally
18 applied by merchants for sales that occur the day after Thanksgiving.¹⁷ It sent a second email
19 that same Monday repeating its notification about “Black Friday, identifying also in the subject
20 line that “50% OFF 50% OFF EVERYTHING.” On Wednesday, November 27, 2024, Fashion
21 Nova sent an email with the subject line saying “50% Off Everything Time is Running Out!”
22 On Friday, November 29, 2024, the Friday after Thanksgiving that year, Fashion Nova sent
23 several emails. One had a subject line reading, “Black Friday: 50- 90% Off EVERYTHING.”
24 Another had a subject line that read “FINAL 24 HOURS 50-90% OFF EVERYTHING.”
25

26 ¹⁷ Vaughan, Don, “Why Is It Called Black Friday?”, Britannica, available at
<https://www.britannica.com/story/why-is-it-called-black-friday> (last accesses April 8, 2026).

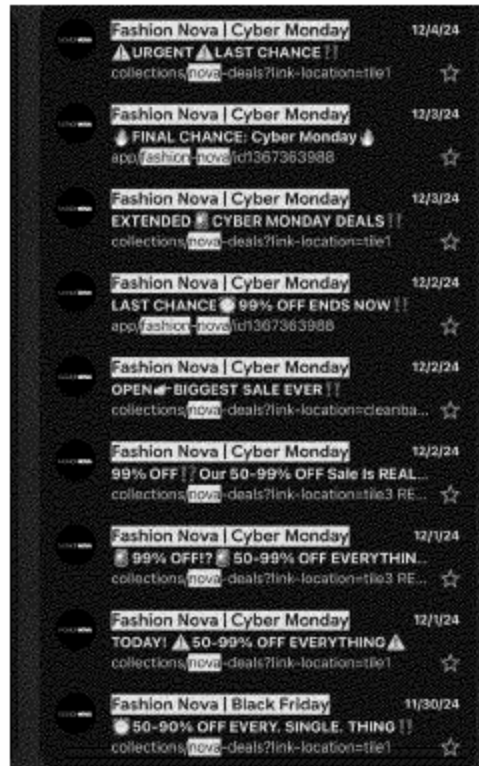
From: **Fashion Nova** <noreply@fashionnova.com>
Date: Fri, Nov 29, 2024 at 9:58 PM
Subject: 🕒 FINAL 2HRS 🕒 50-90% OFF EVERYTHING!!

38. Despite the numerous admonishments that the “Black Friday” (during which time its entire inventory was represented to be discounted by between 50% and 90%) was in fact a time limited offer that would end on Black Friday, this turned out not be true. On Saturday, November 30, 2024, Fashion Nova sent an email with a subject line reading “Black Friday EXTENDED 50-90% OFF EVERYTHING!!”



39. The same sale was extended again through Sunday and Monday (December 1 and 2, 2024) this time repackaged as “Cyber Monday,” though the same sale terms applied:

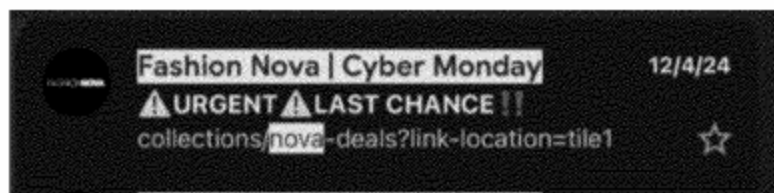
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40. As depicted above, even the “Cyber Monday” sale did not end on Cyber Monday. Rather, the sale was “extended” first to Tuesday, December 3, 2024. Again the subject line of these emails warned that Tuesday, December 3, 2024 would be the “FINAL CHANCE” for the Cyber Monday Deals:

From: **Fashion Nova | Cyber Monday** <noreply@fashionnova.com>
 Date: Tue, Dec 3, 2024 at 6:31 PM
 Subject: 🍁 FINAL CHANCE: Cyber Monday 🍁

41. But this was not the last “final” chance. On Wednesday, December 4, 2024, Fashion Nova sent an email with the subject line announcing that the sale continued, that that this was indeed the “LAST CHANCE” for Cyber Monday sales.



1 42. On February 15, 2025, Fashion Nova announced in the subject lines of emails
2 that a sale was ending, saying, “40-80% Off is ENDING!!” and “The Semi Annual Sale Ends
3 SOON”

4 43. Again, this urgency was false. On February 16, 2025, Fashion Nova announced
5 that it was extending its sale in an email whose subject line read, “EXTENDED!! SEMI
6 ANNUAL SALE!!”

7 44. On November 28, 2025, Fashion Nova sent several emails with subject lines
8 advertising a sale of 50% to 90% off “everything,” culminating in two emails with subject lines
9 that represented that the sale ended that day (“50-90% Off EVERYTHING ENDS 2NITE!! !!!”
10 and “6 HRS LEFT!! BLACK FRIDAY ENDS TONIGHT!!”). Unsurprisingly, the sale[s] did
11 not end that night. The very next day, November 29, 2025, Fashion Nova emails with the subject
12 lines reading “EXTENDED: BLACK FRIDAY SALE!!” and “EXTENDED! 50-90% OFF
13 EVERYTHING.”

14 45. Similarly, on December 1, 2025, Fashion Nova sent a series of emails whose
15 subject lines stated that, for a limited time, merchandise would be “50-90% Off Everything.”
16 First, Fashion Nova announced that there was only “5 HRS LEFT!!.” Shortly thereafter, it sent
17 another email advising that there were only “4RS LEFT.” This trend continued, with Fashion
18 Nova sending additional emails that day announcing “FINAL 3 HRS!!” and “LAST 2 HRS
19 FOR 50-99% OFF EVERYTHING.”

20 Fashion Nova | Cybe.  12/1/25
21 Fashion Nova | Cybe.  12/1/25
22 Fashion Nova | Cybe.  12/1/25
23 Fashion Nova | Cybe.  12/1/25
24 Fashion Nova | Cybe.  12/1/25

25 46. This sale, however, was not so limited in time. The very next day, on December
26 2, 2025, Fashion Nova announced the sale was extended, saying in the subject line of the email,
“SURPRISE EXTENDED 50-99% OFF EVERYTHING!! All the urgency generated the
previous day was false.

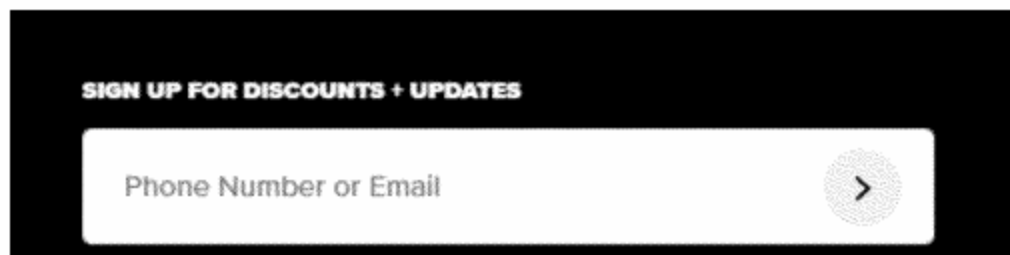
1 47. On March 15, 2026 Fashion Nova sent an email with the subject line “Last Day
2 of BOGO Free.”¹⁸ But it was not the last day for this offer in reality. The very next day, on
3 March 16, 2026, Fashion Nova sent an email with the subject line, “LAST CALL FOR BOGO.”

4 48. Fashion Nova has created a false sense of urgency to customers on numerous
5 occasions by acting as if its “sales” were ending or in its final days and hours, but—as evidenced
6 by the fact that Fashion Nova continually extends these “sales”—knowing that these email
7 subjects would create a false sense of urgency because the sale was actually not ending.

8 **B. Fashion Nova Knows Its Emails Are Sent to Washington Residents**

9 49. Fashion Nova does not limit its email distribution list to residents of any
10 particular state.

11 50. Indeed, when visiting Fashion Nova’s website, www.fashionnova.com, Fashion
12 Nova only asks for an individual’s email address—indicating that Fashion Nova accepts email
13 addresses from individuals located nationwide, or even around the globe:



19 51. Fashion Nova thus has reason to know that some of the email addresses it
20 collects are from individuals located in the State of Washington.

21 52. Fashion Nova also enrolls individuals who purchase products from their website
22 into their email subscription.

23 53. The purchase need not be consummated. Fashion Nova enrolls individuals who
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26 ¹⁸ “BOGO” is an acronym for “Buy One Get One” and often refers to sales where customers receive a free or discounted item when purchasing another product at full price.

1 simply *start* the purchasing process in their email subscriptions. Such consumers need not agree
2 to Fashion Nova’s terms and conditions to become enrolled in the subscription.

3 54. Fashion Nova thus has information regarding those individuals, including the
4 state in which they are located, because consumers provide that information when they make,
5 or initiate purchases.

6 55. Fashion Nova may obtain location information tied to email addresses by
7 tracking the IP addresses of devices used to open its emails, which in turn can be correlated to
8 physical location (as illustrated, for example, by the website <https://whatismyipaddress.com/>).

9 56. Fashion Nova likely uses an Oracle service to manage its email marketing
10 campaigns. This platform should allow Fashion Nova to access a list of every email address
11 that was sent a marketing email. It should also allow Fashion Nova to determine who viewed
12 the emails and who clicked on any links within them.

13 57. Fashion Nova is likely able to infer the general geographic location of recipients
14 by state based on their IP address and email address at the time of email open or link click.

15 58. Fashion Nova explains in its privacy policy that it collects “personal information
16 in a variety of contexts” from every website user including the automatic collection of “Non-
17 precise location data, such as general location derived from an IP address that indicates city or
18 postal code level.”¹⁹ It also collects “contact identifiers” that users provide including their postal
19 addresses.²⁰

20 59. Additionally, Fashion Nova may obtain location information tied to email
21 addresses by purchasing consumer data from commercial data brokers such as Acxiom, Oracle,
22 and Equifax, which sell access to databases linking email addresses to physical locations,
23 among other identifiers.

24
25 ¹⁹ See “Privacy Policy (Effective 2025)”, available at
26 <https://www.fashionnova.com/pages/privacy-policy#personal-info-we-collect> (last accessed
April 14, 2026).

²⁰ See n. 18, *supra*.

1 60. Fashion Nova may obtain location information tied to email addresses by using
2 “identity resolution” services offered by companies such as LiveRamp, which can connect
3 consumers’ email addresses to their physical locations, among other identifiers.

4 61. Fashion Nova may obtain information that the recipients of its marketing emails
5 are Washington residents because that information is available, upon request, from the
6 registrant of the Internet domain names contained in the recipients’ email addresses. *See* RCW
7 19.190.020(2).

8 62. Fashion Nova thus has reason to know that some of the email addresses it
9 collects are from individuals located in the State of Washington.

10 63. Fashion Nova has knowledge, or at the very least should know, that its emails
11 are being sent to residents of the State of Washington.

12 **C. Fashion Nova Violated Plaintiff’s Rights Under CEMA and the CPA**

13 64. Fashion Nova knew that the subject lines of its emails were false or misleading
14 and created a false sense of urgency as to fake time-limited sales.

15 65. Upon information and belief, Fashion Nova is aware of its sales and marketing
16 strategies, including the schedule of its upcoming sales.

17 66. Upon information and belief, Fashion Nova does not actually intend to end a
18 sale on the dates it emails customers that a sale is ending. This is evidenced by the fact that *the*
19 *very next day*, Fashion Nova is emailing customers regarding the same exact sale continuing or
20 being extended.

21 67. Fashion Nova sent the emails listed above to Plaintiff and members of the Class.

22 68. In doing so, Fashion Nova violated Plaintiff’s and Class members’ rights under
23 CEMA and the CPA as they were sent numerous emails creating a false sense of urgency in the
24 hopes to generate sales for Fashion Nova.
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VI. CLASS ALLEGATIONS

69. Pursuant to Washington Civil Rule 23, Plaintiff seeks certification of the following class:

All Washington residents who, during the Class Period and while present in Washington, received promotional emails from Fashion Nova with subject lines either (i) stating a sale, discount, or price would end at a specified time but the same sale, discount, or price was extended upon expiration; or (ii) stating a sale, discount, or price is time limited, ending, or tethered to a holiday or event, when Fashion Nova continued to offer or reinstated the same or comparable sale, discount, or price for a longer time

70. Excluded from the Classes are (a) any officers, directors or employees, or immediate family members of the officers, directors, or employees of Defendant or any entity in which Defendant has a controlling interest, (b) any legal counsel or employee of legal counsel for Defendant, and (c) the presiding Judge in this lawsuit, as well as the Judge’s staff and their immediate family members.

71. The “Class Period” begins on date four years prior to the date this Complaint is filed and ends on the day that class certification is granted.

72. Plaintiff reserves the right to modify or amend the definitions of the proposed Class before the Court determines whether certification is appropriate.

73. The proposed Class meets the criteria for certification under Washington Civil Rule 23(a), (b)(2), and (b)(3).

74. **Numerosity**. This action is appropriately suited for a class action. The Class is so numerous and geographically dispersed that joinder of all members would be impracticable. Although the exact number of members is currently unknown, it is believed that the Class will consist of thousands of individuals. The members can be identified through objective methods, such as Defendant’s records. Notification of the Class members regarding the pendency of this action can be effectively achieved through established, Court-approved methods, including U.S. mail, email, internet postings, social media, and/or published notices.

75. **Predominance of Common Questions of Law and Fact**. This action raises

1 common questions of law and fact that are central to all Class members, and these common
2 issues overwhelmingly predominate over any individual differences. The key legal and factual
3 questions shared by all Class members include, but are not limited to:

4 76.

5 a. Whether Defendant sent emails identified in Exhibit A to email addresses it
knew or had reason to know were held by Washington Residents;

6 b. Whether the subject lines of the emails identified in Exhibit A are false and
7 misleading;

8 c. Whether Defendants' conduct violated CEMA;

9 d. Whether Defendants' conduct violated the CPA;

10 e. Whether Plaintiff and Class members are entitled to equitable relief, including
11 injunctive relief; and

12 f. Whether Plaintiff and Class members are entitled to damages or other monetary
13 relief, and if so, the appropriate amount.

14 77. **Typicality.** Plaintiff's claims are typical of those of the members of the Class.
15 Defendant's consistent pattern of unlawful conduct, as alleged in this case, has caused Plaintiff
16 and the Class members to suffer the same or similar injuries and damages. Moreover, Plaintiff's
17 claims are typical of those of the members of the Class because Plaintiff is advancing the same
18 claims and legal theories on behalf of themselves and all members of the Class. In addition,
19 Plaintiff is entitled to relief under the same causes of action and upon the same facts as all other
20 members of the proposed Class.

21 78. **Adequacy of Representation.** Plaintiff will fairly and adequately represent and
22 protect the interests of the Class and has retained competent counsel experienced in complex
23 litigation and class action litigation. Plaintiff's claims arise out of the same common course of
24 conduct giving rise to the claims of the other members of the Class. Plaintiff has no interests
25 antagonistic to those of the Class, and Defendant has no defenses unique to Plaintiff.

26 79. **Insufficiency of Separate Actions.** Absent a class action, Plaintiff and
members of the Class will continue to suffer the harm described herein, for which they would

1 have no remedy. Even if individual consumers could bring separate actions, the resulting
2 multiplicity of lawsuits would cause undue burden and expense for both the Court and the
3 litigants, as well as create a risk of inconsistent rulings and adjudications that might be
4 dispositive of the interests of similarly situated consumers, substantially impeding their ability
5 to protect their interests, while establishing incompatible standards of conduct for Defendant.

6 80. **Injunctive Relief.** Defendant has acted or refused to act on grounds generally
7 applicable to Plaintiff and all members of the Class, thereby making appropriate final injunctive
8 relief, as described below, concerning the members of the Class as a whole. The prosecution of
9 separate actions by individual members of the Class would create a risk of inconsistent or
10 varying adjudication concerning individual members, which would establish incompatible
11 standards of conduct for Defendant. And adjudications of claims of the individual members of
12 the Class against Defendant would, as a practical matter, be dispositive of the interests of other
13 members of the putative Classes who are not parties to the adjudication and may substantially
14 impair or impede the ability of other members to protect their interests.

15 81. **Superiority.** A class action is superior to any other available methods for the
16 fair and efficient adjudication of the present controversy for at least the following reasons:

17 a. The damages suffered by each individual member of the Class do not
18 justify the burden and expense of individual prosecution of the complex and extensive litigation
19 necessitated by Defendant's conduct;

20 b. Even if individual members of the Class had the resources to pursue
21 individual litigation, it would be unduly burdensome to the courts in which the individual
22 litigation would proceed;

23 c. The claims presented in this case predominate over any questions of law or
24 fact affecting individual members of the Class;

25 d. Individual joinder of all members of the Class is impracticable;

26 e. Absent a class action, Plaintiff and members of the Class will continue to
suffer harm as a result of Defendant's unlawful conduct; and

1 f. This action presents no difficulty that would impede its management by the
2 Court as a class action, which is the best available means by which Plaintiff and members of
3 the Class can seek redress for the harm caused by Defendant.

4 82. In the alternative to those claims seeking remedies at law, Plaintiff and class
5 members allege that no plain, adequate, and complete remedy exists at law to address
6 Defendant's unlawful and unfair business practices. The legal remedies available to Plaintiff
7 are inadequate because they are not "equally prompt and certain and in other ways efficient" as
8 equitable relief. *American Life Ins. Co. v. Stewart*, 300 U.S. 203, 214 (1937).

9 **FIRST COUNT**

10 **Violation of Washington's Commercial Electronic Mail Act**
11 **[RCW § 19.190.090, RCW § 19.190.020]**

12 83. Paragraphs 1-80 are incorporated by reference as though fully set forth herein.

13 84. Defendant is a "person" within the meaning of CEMA. RCW § 19.190.010(11).

14 85. Defendant initiated the sending of commercial electronic mail messages as those
15 terms are defined by CEMA. RCW § 19.190.010(2) and (7) to addresses that Defendant knew,
16 or had reason to know, were held by Washington residents because such information was
17 available upon request from the registrant of the internet domain name (RCW § 19.190.020(2)).

18 86. The commercial electronic mail messages that Defendant sent to Washington
19 residents contained false or misleading information in the subject lines in violation of the
20 CEMA. RCW § 19.190.020(1)(b).

21 87. Plaintiff and Class members are Washington residents who received
22 Defendant's emails with false or misleading subject lines and are therefore entitled to all
23 available relief, including an injunction against further violations and damages.

24 ///

25 ///

SECOND COUNT

**Violation of Washington’s Consumer Protection Act
[RCW § 19.86.020; RCW § 19.86.090]**

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4 88. Paragraphs 1 through 80 herein are re-alleged and incorporated by reference into
5 this Second Count.

6 89. The CPA provides that “[u]nfair methods of competition and unfair or deceptive
7 acts or practices in the conduct of any trade or commerce are hereby declared unlawful.”
8 RCW § 19.86.020.

9 90. A violation of CEMA is a *per se* violation of the CPA. RCW § 19.190.030(1).

10 91. As alleged in Paragraphs 1-122, *supra*, Defendant violated the CEMA.

11 92. Any person who is injured by a violation of the CPA may bring a civil action to
12 enjoin further violations and for damages. RCW § 19.86.090.

13 93. Plaintiff and Class members are Washington residents who have been harmed
14 by Defendant’s CPA violations.

15 94. For Defendant’s violation of the CPA, Plaintiff and putative members are
16 entitled to an injunction against further violations; the greater of Plaintiff’s actual damages or
17 liquidated damages of \$500 per violation and costs of the suit.

18 **WHEREFORE**, Plaintiff prays for the following relief:

- 19 A. An Order from this Court certifying the proposed Class, appoint Plaintiff
20 as class representative, and appoint the undersigned as class counsel;
- 21 B. A judgment in Plaintiff’s and the Class’s favor permanently enjoining
22 Defendant from the unlawful conduct alleged;
- 23 C. Awarding Plaintiff actual or liquidated damages;
- 24 D. Awarding Plaintiff reasonable attorneys’ fees and all costs of this action,
25 to be paid by Defendant, in accordance with CEMA and CPA;
- 26 E. Awarding pre-and post-judgment interest and court costs as further
allowed by law; and

1 F. Awarding any further legal or equitable relief the Court deems just,
2 equitable, and/or appropriate.

3 DATED this 22nd day of April, 2026.

4 /s/ M. Anderson Berry

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