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KING COUNTY

SUPERIOR COURT CLERK

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CASE #: 26-2-18595-6 SEA

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF KING

DIVYA GAUTAM, LARUA HERRERA,
and XENIA HABEKOSS individually and on
behalf of all others and similarly situated,

Plaintiffs,

vs.

JANIE AND JACK LLC,

Defendant.

Case No.: _____ SEA

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

I. INTRODUCTION

1. This is a putative class action under Washington law brought to address deceptive and unlawful emails that plague consumers' inboxes. The Washington legislature, concerned with deception in emails, enacted the Washington Commercial Electronic Mail Act ("CEMA"), RCW 19.190, which, among other things, prohibits any person from sending a commercial email with a false or misleading subject line. RCW 19.190.020.

2. Defendant Janie and Jack LLC ("J&J" or Defendant) is a children's fashion design house that sells children's apparel (the "Products"). On information and belief, the Products are sold by J&J through the website <https://www.janieandjack.com/>.

1 3. Defendant markets its Products by email to Washington residents. The subject lines
2 in these emails often promote “sales” and “discounts” on the Products. However, many subject
3 lines are false, misleading, and unlawful because they promote misleading discounts, under false
4 time restrictions, and/or from misleading regular and former prices.

5 4. Getting an advertised bargain is important to consumers. Consumers are more
6 likely to purchase an item if it is advertised as a good deal.

7 5. Further, if a sale is advertised as ending soon, consumers are even more likely to
8 buy now, rather than wait, comparison shop, and/or buy something else.

9 6. There is nothing wrong with a legitimate sale. But a fictitious sale—that is, one
10 with made-up regular/former prices or made-up expirations—is deceptive and illegal. Moreover,
11 advertising false and misleading discounts in the subject line of a promotional email violates
12 CEMA and the Washington Consumer Protection Act (“CPA”). *Brown v. Old Navy LLC*, 567 P.3d
13 38 (Wash. 2025).

14 7. For many Products, Defendant’s sales were not legitimate because the Products are
15 regularly available on the website at a discount from a higher regular and former price (called the
16 “Reference Price”). So, the purported discounts were false and misleading because discounts are
17 regularly available. Additionally, Defendant promoted these misleading discounts by sending
18 emails with false and misleading subject lines.

19 8. Defendant also sent emails with misleading subject lines regarding “sales” that
20 would supposedly end on a specific day when in truth the sales were extended or not limited to the
21 extent represented.

22 9. For example, Defendant’s emails contained subject lines such as “It’s the last day—
23 shop 25% off + free shipping.” These subject lines lead reasonable consumers to believe that there
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1 is a substantial sale in effect and Defendant's regular and former prices are normally much higher.
2 In truth, Defendant's Products were often available for purchase on the website for less than the
3 Reference Price. So, the regular price is actually a discounted price, and the amount of the
4 advertised discount is misleading.

5 10. As another example, Defendant's emails often contained subject lines describing
6 sales that are time limited and end soon—e.g., "Ends tonight: extra 25% off sale." These subject
7 lines lead reasonable consumers to believe that if they don't buy before the sale ends, they won't
8 be able to get the advertised discount. In truth, the sale was either extended, reinstituted, or replaced
9 shortly thereafter by another sale. So, the deals did not genuinely expire as advertised.

10 11. This false urgency wastes consumers' time by enticing them to engage with the
11 defendant's marketing efforts for fear of missing out. It also floods consumers' email inboxes with
12 repeated false notifications that the time to act—*i.e.*, *purchase*—is short.

13 12. Plaintiffs are Washington residents who received Defendant's deceptive email
14 advertisements. Plaintiffs bring this case to protect Washington residents from Defendant's false
15 and misleading emails about its purported limited-time discounts.

16 II. PARTIES

17 13. Plaintiff Divya Gautam is domiciled in King County, Washington and has been a
18 citizen and resident of Washington during at least the preceding three years.

19 14. Plaintiff Laura Herrera is domiciled in King County, Washington and has been a
20 citizen and resident of Washington during at least the preceding three years.

21 15. Plaintiff Xenia Habekoss is domiciled in King County, Washington and has been a
22 citizen and resident of Washington during at least the preceding three years.

23 16. The proposed class includes citizens of Washington.
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17. Defendant Janie and Jack LLC is a California limited liability company.

III. JURISDICTION AND VENUE

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

19. This Court has personal jurisdiction over Defendant under RCW 4.28.185. Defendant transacts business in Washington. The claims giving rise to this action arise from Defendant's transaction of business in this state and Defendant's purposeful transmission of electronic mail messages to Washington residents. This Court also has personal jurisdiction over Defendant under RCW 19.86.160 because Defendant engaged in conduct in violation of the CPA that had an impact in Washington. Finally, Plaintiffs received emails from Defendant while in Washington.

20. Venue is proper in King County Superior Court because Defendant resides here for purposes of venue. RCW 4.12.025. At all relevant times, Defendant transacted business in King County, including by sending electronic mail messages to residents of King County and by selling products to customers living in King County.

IV. FACTUAL ALLEGATIONS

A. Defendant's False and Misleading Emails Regarding Discounts.

21. Defendant sells children's apparel directly to consumers through Defendant's website <https://www.janieandjack.com/>. Defendant's marketing includes emails to consumers.

1 22. Defendant's emails created the false impression that the Products' regular and
2 former prices as charged on the website are higher than they truly are, the discounts are limited in
3 time, and the discounts are genuine.

4 23. Defendant advertised these discounts extensively through emails to recipients on
5 their mailing list who either registered an account on <https://www.janieandjack.com/>, previously
6 made purchases from <https://www.janieandjack.com/>, or made purchases in store. Additionally,
7 this information is contained in the subject lines of emails.

8 24. When Defendant advertises the discounts through emails with subject lines such as
9 "Up to 70% off," reasonable consumers interpret the advertisements to mean that recipients will
10 get a discount off of the former and regular prices charged by Defendant on the website in the
11 recent past and for a substantial time.

12 25. In other words, reasonable recipients believe that they will receive up to "___% off"
13 the former and regular prices charged on the website in the recent past, and those higher prices
14 represent the amount that consumers formerly and consistently had to pay for Defendant's goods
15 on the website before the sale began, and represent the prices that consumers will consistently have
16 to pay in the future for Defendant's goods when the sale ends. This creates a sense of value and
17 urgency: buy now, and you will receive something worth more than you pay for; or wait, and you
18 will pay more for the same thing later.

19 26. Defendant also sent emails with subject lines stating that purported sales were set
20 to expire soon, or on a specific date, or when a holiday ends. But when many sales ended, they
21 were either extended upon expiration or another comparable sale began shortly thereafter
22 (oftentimes within a week), and the Products' prices did not immediately revert to and stay at the
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1 supposed pre-sale Reference Prices for a reasonably substantial time period. The cycle continues
2 repeatedly.

3 27. Defendant sent numerous commercial emails to Class Members containing the
4 following subject lines on the following dates. The emails below are examples and are not
5 exhaustive.

E-Mail Subject	Date
Surprise, surprise: free shipping + up to 70% off	5/27/2026
⌚ Final hours to shop...	5/26/2026
VIPs, you get one more day to shop	5/18/2026
Final hours: 25% off (almost) everything	5/17/2026
Shop soon—our VIP Event ends tonight	5/17/2026
Back for a limited time: extra 30% off	4/27/2026
⌚ Only hours left for sale on sale	4/26/2026
48 Hours Only: extra 30% off	4/26/2026
An extra day for sale on sale	3/23/2026
48 hours only: extra 30% off	3/21/2026
Friends & Family is back (but not for long)	3/10/2026
⌚ Final hours for Friends & Family ⌚	3/9/2026
It's the last day—shop 25% off + free shipping	3/9/2026
Sale on sale is back, only until tonight	3/3/2026
Only hours left for sale on sale...	3/2/2026
An extra day for an extra 25% off	1/28/2026

E-Mail Subject	Date
Only hours left...	1/27/2026
Ends tonight: extra 25% off sale	1/27/2026
Be quick, this sale ends tomorrow	1/26/2026
48 Hours Only: extra 25% off sale	1/26/2026
One more day for an extra 20% off	1/7/2026
Final hours—sale on sale	1/6/2026
Ends tonight: extra 20% off + up to 60% off	1/6/2026
You get 20% off for one more day	12/29/2025
Final hours for 20% off sitewide	12/28/2025
Merry Monday? It's here early...	11/30/2025
Ends tonight: 30% off + up to 70% off	11/29/2025
Our Fall Sale starts now: 20% off your purchase	10/15/2025
⌚ Only hours left ⌚	10/14/2025
Last day: extra 20% off 100s of styles	10/14/2025
3 Days Only: 25% off + free shipping	10/7/2025
Final hours—we don't want you to miss it	10/6/2025
Everything you love is on sale, only until tonight...	10/6/2025
Only hours left: 25% off + free shipping	9/24/2025
Friends & Family is back (but not for long)	9/23/2025
Our Friends & Family Event ends tonight...	9/22/2025
Surprise: Up to 70% off + 30% off is back	9/2/2025

E-Mail Subject	Date
Last chance to shop our Labor Day Event	9/1/2025
Don't forget—up to 70% off ends tomorrow	8/31/2025
You get free shipping, just for today	7/3/2025
Only hours left for free shipping	6/30/2025
Last day: free shipping on every order	6/30/2025
Sale extended! Up to 70% off styles for her + extra 25% off	5/28/2025
 Only a few hours left: take 25% off sale styles	5/27/2025
Ends tonight: Extra 25% off + free shipping on sale styles	5/27/2025
ICYMI: up to 70% off for one more day	3/31/2025
48 hours only: up to 70% off sale	3/29/2025
New arrivals are here & up to 30% off	3/24/2025
Final hours for extra 20% off & free shipping	3/23/2025
Our event is back, but not for long...	3/11/2025
Last day: 25% off for Friends & Family	3/10/2025
It's back, just for today: 20% off + free shipping	2/18/2025
Final hours for 20% off + free shipping	2/17/2025
One more day for up to 70% off + free shipping	1/21/2025
Final hours: up to 70% off + 20% off sitewide	1/20/2025
Only a few hours left...	1/20/2025
Ends tonight: up to 70% off + free shipping	1/20/2025
We have a surprise for you...	1/7/2025

E-Mail Subject	Date
Sale countdown: extra 20% off ends tonight	1/6/2025
⌚ Only hours left for holiday delivery	12/19/2024
Last chance for holiday delivery	12/18/2024
3 days only: up to 70% off + extra 20% off sale	12/17/2024
Final hours: free holiday delivery + 20% off	12/16/2024
Our merriest Cyber Monday: up to 70% off + free shipping	12/2/2024
Friendly reminder: 30% off sitewide ends tonight	11/30/2024
Surprise: an extra day for 25% off everything	11/12/2024
Final hours for Friends & Family	11/11/2024
Take the stage: 20% off your purchase	10/15/2024
Your (very) last chance...	10/14/2024
You heard right: 20% off + free shipping for one more day	6/11/2024
Everything ships free + our sale disappears soon...	6/10/2024
You deserve it: extra 30% off sale for one more day	5/29/2024
You get an extra 30% off sale (only until tonight)	5/28/2024
An extra day to shop our Memorial Day Event	5/28/2024
Disappears tonight: extra 30% off + up to 70% off	5/27/2024
Surprise: an extra day for sale on sale	4/30/2024
⌚ Only. Hours. Left. ⌚	4/29/2024

28. To further confirm Defendant regularly offers and advertises discounts through emails for Products sold via the website, Plaintiffs' counsel reviewed the subject lines of emails sent by Defendant from December 6, 2025 to June 6, 2026. Almost every day, and sometimes

multiple times per day, Defendant sent an email advertising a limited-time sale. This investigation revealed that Defendant sent emails containing the following subject lines on the listed dates:

E-Mail Subject	Date
Where to? Let an extra 20% off lead the way...	6/4/2026
So many styles, up to 60% off	6/3/2026
The Summer Edit Sale: up to 60% off	6/2/2026
Dresses for every escape—now up to 60% off	6/1/2026
Americana favorites just joined our sale	5/31/2026
A new wave of swim, up to 60% off	5/30/2026
The Summer Edit Sale has arrived	5/29/2026
Final hours for our Memorial Day Event	5/28/2026
New to sale and an extra 25% off	5/28/2026
⌚ Up to 70% off ends at midnight ⌚	5/27/2026
Surprise, surprise: free shipping + up to 70% off	5/27/2026
Our Memorial Day Event is (almost) over	5/26/2026
⌚ Final hours to shop...	5/26/2026
100s of new sale styles + extra 25% off	5/25/2026
Up to 70% off summer dresses & more	5/24/2026
For a good night: up to 50% off PJs	5/24/2026
Your long weekend, our Memorial Day Event	5/23/2026
Memorial Day Event: up to 70% off	5/22/2026
The dress-tination? Up to 70% off + free shipping	5/21/2026

E-Mail Subject	Date
Wear-now looks, up to 70% off	5/21/2026
Memorial Day Event: up to 70% off	5/20/2026
Here today, gone tomorrow...	5/18/2026
VIPs, you get one more day to shop	5/18/2026
Final hours: 25% off (almost) everything	5/17/2026
Shop soon—our VIP Event ends tonight	5/17/2026
Island-inspired dresses + 25% off	5/16/2026
Catch of the day: 25% off new arrivals	5/15/2026
New to sale + an extra 25% off	5/14/2026
Ends tonight: extra 20% off + free shipping	5/11/2026
Time is almost up...	5/11/2026
It's a sale (on sale) + free shipping	5/11/2026
Free shipping is yours + an extra 20% off	5/9/2026
So many looks, up to 60% off	5/7/2026
Sale on sale: up to 60% off	5/6/2026
Final hours: free Mother's Day delivery	5/4/2026
Final hours for 20% off + free shipping	5/3/2026
Perfect for paradise (and 20% off)	5/2/2026
If you love free shipping...	5/2/2026
Up to 60% off so many styles...	5/1/2026
New swim styles + 20% off sitewide	4/30/2026
Take 20% off (even new arrivals)	4/29/2026

E-Mail Subject	Date
New to sale: our pink collection	4/29/2026
Sun, style & 20% off sitewide	4/28/2026
Final countdown: extra 30% off	4/27/2026
Back for a limited time: extra 30% off	4/27/2026
⌚ Only hours left for sale on sale	4/26/2026
Open ASAP: extra 30% off sale	4/26/2026
Extra 30% off wear-now favorites	4/25/2026
Ends tomorrow: 20% off, in stores only	4/25/2026
48 Hours Only: extra 30% off	4/25/2026
Our sale on sale ends tonight...	4/24/2026
Last day: extra 20% off + up to 60% off	4/24/2026
Sale on sale: extra 20% off + up to 60% off	4/23/2026
It's a sale (on sale): up to 60% off	4/22/2026
Only hours left for this event + free shipping	4/21/2026
Surprise: free shipping for one more day	4/21/2026
Last chance for free shipping...	4/20/2026
Everything is 20% off (even new arrivals)	4/20/2026
Online only: 20% off + free shipping	4/19/2026
Now blooming: free shipping + 20% off	4/18/2026
Next stop, 20% off sitewide	4/17/2026
For you: free shipping + a sitewide sale	4/17/2026

E-Mail Subject	Date
New embroidered dresses + 20% off	4/16/2026
Your next dress-tination: 20% off	4/15/2026
Exclusive access to our sitewide sale...	4/15/2026
We mean it this time—it all ends tonight	4/14/2026
Free shipping is back (but not for long)	4/14/2026
Final hours: free shipping + extra 25% off	4/13/2026
Sun, style & an extra 25% off	4/13/2026
Free shipping + extra 25% off ? Yes and Yes	4/11/2026
Our sale just got better—free shipping is here	4/11/2026
100s of styles, now an extra 25% off	4/10/2026
More styles added to sale + extra 25% off	4/9/2026
Sale on sale: extra 25% off so many styles	4/9/2026
Only hours left for this event	4/8/2026
Ends tonight: up to 25% off new arrivals	4/8/2026
Swim this way for up to 25% off	4/5/2026
In stores tomorrow: up to 40% off	4/3/2026
On the horizon: up to 25% off dresses	4/3/2026
So many new arrivals, up to 25% off	4/2/2026
New to sale: our favorite spring blues	4/1/2026
Final hours: extra 20% off + up to 60% off	3/30/2026
Only hours left for Easter delivery	3/30/2026
Our best Easter looks are up to 60% off	3/29/2026

E-Mail Subject	Date
Dress(es) for spring: up to 60% off	3/28/2026
New to sale: spring's favorite shade	3/28/2026
New to sale: spring's favorite shade	3/26/2026
Free Easter delivery ends tomorrow	3/25/2026
Extra 20% off sale? Hop to it	3/24/2026
Final countdown: extra 30% off sale	3/23/2026
An extra day for sale on sale	3/23/2026
Only hours left: extra 30% off sale & free shipping	3/22/2026
Open ASAP: free shipping + extra 30% off sale	3/22/2026
You get an extra 30% off sale	3/21/2026
48 hours only: extra 30% off	3/21/2026
Final hours—shop our Easter Edit	3/20/2026
Set sale for spring: up to 50% off	3/19/2026
Last day for an extra 30% off sale	3/16/2026
100s of styles are up to 50% off...	3/15/2026
Sale on sale & our Easter Edit	3/14/2026
Limited time: extra 30% off sale + up to 50% off	3/14/2026
Sale this way: up to 50% off 100s of styles	3/12/2026
Our favorite Easter dresses, now on sale	3/11/2026
The Easter Edit: up to 50% off	3/11/2026
Your (very) last chance: 25% off + free shipping	3/10/2026
Friends & Family is back (but not for long)	3/10/2026

E-Mail Subject	Date
You (almost) missed 25% off + free shipping	3/10/2026
⌚ Final hours for Friends & Family ⌚	3/9/2026
An event you won't want to miss...	3/9/2026
It's the last day—shop 25% off + free shipping	3/9/2026
Limited time: 25% off + free shipping	3/8/2026
More styles added to sale + extra 25% off + free shipping	3/7/2026
Say hello to new dresses + 25% off	3/7/2026
Now on sale: our most-loved Easter looks	3/6/2026
For Friends & Family (that means you)	3/6/2026
Our Friends & Family Event starts now	3/6/2026
Be quick: early access ends tonight	3/5/2026
You get early access—25% off everything	3/4/2026
Just for you: early access to our event	3/4/2026
Final hours—extra 20% off sale	3/3/2026
Sale on sale is back, only until tonight	3/3/2026
Only hours left for sale on sale...	3/2/2026
Last day: extra 20% off + up to 60% off	3/2/2026
Our sale's on sale—shop soon	3/1/2026
Sale on Sale: extra 20% off + up to 60% off	2/28/2026
Easter favorites: extra 20% off	2/27/2026
Sale on sale? Yes and yes	2/26/2026

E-Mail Subject	Date
A wave of swimsuits + extra 20% off	2/25/2026
New to sale: Easter dresses with all the frills	2/25/2026
If you love a sale on sale...	2/24/2026
Final hours: up to 30% off new arrivals	2/23/2026
Free shipping? It ends tonight...	2/22/2026
New for you: up to 30% off new arrivals	2/22/2026
Pack your bags: swim is on sale + free shipping	2/21/2026
Best news: up to 30% off our latest looks	2/21/2026
Happening now: up to 30% off + free shipping	2/20/2026
Spring looks to love + up to 30% off	2/19/2026
It's here: up to 30% off new arrivals	2/18/2026
It's your (very) last chance	2/17/2026
You almost missed this: extra 20% off	2/17/2026
Final hours for extra 20% off + free shipping	2/16/2026
You won't want to miss extra 20% off sale	2/16/2026
Our sale's on sale: extra 20% off + up to 60% off	2/15/2026
More sale dresses & an extra 20% off	2/15/2026
New reductions, plus extra 20% off for the long weekend...	2/14/2026
Must-see: extra 20% off swimsuits & more	2/14/2026
Did someone say free shipping & extra 20% off?	2/14/2026
All yours, all weekend: up to 60% off + extra 20% off	2/13/2026
So many dresses, now on sale	2/13/2026

E-Mail Subject	Date
New Easter looks, free shipping & an extra 20% off	2/12/2026
Starts now: extra 20% off + up to 60% off	2/12/2026
Spotted: our ladybug print, now on sale	2/8/2026
New to sale: the must-have spring jacket	2/5/2026
Our latest sale dresses + extra 20% off	2/5/2026
Just for you: extra 20% off in stores & online	1/29/2026
This time, we mean it...	1/28/2026
An extra day for an extra 25% off	1/28/2026
Only hours left...	1/27/2026
Ends tonight: extra 25% off sale	1/27/2026
Be quick, this sale ends tomorrow	1/26/2026
48 Hours Only: extra 25% off sale	1/26/2026
Final hours for free shipping	1/25/2026
ICYMI: Free shipping ends tonight	1/25/2026
New spring things + free shipping	1/24/2026
Free shipping is yours for a limited time	1/24/2026
New to sale + free shipping too	1/23/2026
Most-loved dresses: up to 60% off	1/22/2026
The Winter Event officially ends tonight	1/20/2026
You almost missed up to 70% off...	1/20/2026
Final hours: up to 70% off + 20% off sitewide	1/19/2026
It's all 20% off, but not for long	1/19/2026

E-Mail Subject	Date
You won't want to miss this...	1/19/2026
All yours: 20% off + free shipping	1/18/2026
Most-loved winter looks, up to 70% off	1/18/2026
End of Winter Sale: up to 70% off + 20% off sitewide	1/17/2026
Freshly picked: new arrivals + 20% off	1/16/2026
You'll ♥ this: take 20% off sitewide	1/16/2026
The sale you've been waiting for....	1/16/2026
Dress for sun with 20% off sitewide	1/15/2026
A matching moment, now on sale	1/15/2026
Up to 70% off 100s of winter styles...	1/14/2026
Must-have dresses + 20% off sitewide	1/14/2026
Major sale: up to 70% off + 20% off sitewide	1/13/2026
The Winter Event: up to 60% off	1/12/2026
We heard you love free shipping...	1/11/2026
ICYMI: 100s of styles are on sale	1/9/2026
Winter's most-loved event: up to 60% off	1/8/2026
It's your (very) last chance...	1/7/2026
One more day for an extra 20% off	1/7/2026
Final hours—sale on sale	1/6/2026
Ends tonight: extra 20% off + up to 60% off	1/6/2026
Après-ready & extra 20% off	1/5/2026

E-Mail Subject	Date
Inside: up to 60% off 100s of styles	1/4/2026
A sale on sale? Yes and yes	1/4/2026
Up to 60% off wear-now looks	1/3/2026
Our sale's on sale: up to 60% off	1/2/2026
Black, white and up to 60% off	12/30/2025
Only hours left: 20% off sitewide	12/29/2025
You get 20% off for one more day	12/29/2025
Final hours for 20% off sitewide	12/28/2025
Everything you love is 20% off...	12/28/2025
Your winter wardrobe, up to 60% off	12/27/2025
○ Bright this way: new arrivals + 20% off ○	12/27/2025
The Winter Event: up to 60% off + 20% off sitewide	12/26/2025
This sale on sale is wrapping up	12/19/2025
Final hours for holiday delivery	12/19/2025
Order soon: holiday delivery ends tomorrow	12/18/2025
Limited time: extra 20% off sale + up to 60% off	12/18/2025
Holiday delivery: order by tomorrow to get it in time...	12/18/2025
Wrap up your list: up to 60% off sale	12/17/2025
Only hours left: free holiday delivery + 20% off	12/16/2025
Just in time: 20% off + free holiday delivery	12/15/2025
To give & get: 20% off our American Girl collection	12/15/2025

E-Mail Subject	Date
This way to free holiday delivery	12/14/2025
✦ Just added to sale & extra 20% off ✦	12/14/2025
Gifts to stand out + 20% off sitewide	12/13/2025
Shop the event: 20% off sitewide	12/13/2025
Free holiday delivery + 20% off all your favorites	12/12/2025
First look at Resort 2026 + 20% off	12/10/2025
Make things merry: 20% off sitewide	12/10/2025
Final hours: extra 25% off so many styles	12/9/2025
Your time to shine: extra 25% off + 15% off new arrivals	12/9/2025
Extra 25% off sale won't last long...	12/8/2025
A (very) merry sale: extra 25% off	12/8/2025
A good night starts with 40% off PJs	12/7/2025
Sale on sale: up to 60% off so many styles	12/6/2025

29. Reasonable recipients of these emails would believe that Defendant was offering a limited time sale. They would believe that, if they purchase during the sale, they will receive a genuine discount off the regular and former prices of the Products which Defendant consistently charged on the website in the recent past. Moreover, they would believe that the sale would end at the stated time, and if they wait beyond that time, then the sale will be over, and the Products' prices would immediately return to and *stay* at their regular prices.

30. But as shown above, many emails contain false subject lines representing that sales were active, limited in time, and about to end, while in truth Defendant always planned to (1)

1 “extend” or reinstitute the same sale shortly after expiration, or (2) offer comparable discounts
2 shortly after expiration and for a longer time.

3 31. These false time scarcity claims are a staple of Defendant’s marketing scheme to
4 compel consumers to purchase its products.

5 32. This misleading marketing strategy is intended to maximize sales during both the
6 initial promotion, as well as the subsequent extension. While Defendant may present these
7 extensions as though they are an unexpected favor to consumers, they are anything but. By
8 deploying false time pressure with surprise extensions—which are only disclosed once the original
9 promotion has ended—Defendant compels consumers to purchase quickly while withholding
10 terms that consumers need so they can make informed buying decisions.

11 33. For example, on 4/25/2026 and on 4/26/2026, Defendant sent two separate emails
12 stating “48 Hours Only: extra 30% off” and “⌚ Only hours left for sale on sale.” But Defendant’s
13 sales styled as “30% off” were not limited to 4/26/2026. Indeed, as shown above, Defendant sent
14 another email the following day on 4/27/2026 stating “Back for a limited time: extra 30% off.” So,
15 the email subject line was false and deceptive.

16 34. As another example, on 1/26/2026 and 1/27/2024 Defendant sent four separate
17 emails stating “48 Hours Only: extra 25% off sale,” “Be quick, this sale ends tomorrow,” “Ends
18 tonight: extra 25% off sale,” and “Only hours left...” However, Defendant sent another email the
19 following day stating “An extra day for an extra 25% off.” So again, the subject line was false and
20 misleading.

21 35. Similarly, on 12/28/2025 Defendant sent an email stating “Final hours for 20% off
22 sitewide.” Reasonable consumers interpret these subject lines to mean the advertised sale would
23
24
25

1 terminate on 12/28/2025. However, according to the subject line of an email from Defendant dated
 2 12/29/2025 stating “You get 20% off for one more day,” the sale did not terminate on 12/28/2025.

3 36. These are just a few examples from a very narrow time frame. As the subject lines
 4 of its marketing emails demonstrate, Defendant employs a strategy where it pressures consumers
 5 to purchase products from its website by falsely representing the extent and limited availability of
 6 its discounts.

7 **B. Defendant’s Emails to Plaintiffs and Class Members Violate CEMA and the**
 8 **CPA.**

9 37. Washington’s CEMA regulates deceptive email marketing. CEMA prohibits the
 10 sending of a commercial email that “[c]ontains false or misleading information in the subject line.”
 11 RCW 19.190.020.

12 38. Violating this provision of CEMA also violates the CPA. RCW 19.190.030.

13 39. Advertising fake discounts in the subject line of a promotional email, with fake
 14 time pressure, violates CEMA and, accordingly, the CPA. *Brown v. Old Navy LLC*, 567 P.3d 38
 15 (Wash. 2025).

16 40. Defendant’s email advertisements contain subject lines that misstate the duration
 17 of the purported sales and/or misstate the discount that recipients would purportedly receive for
 18 purchasing during the sale. As a result, these promotional emails contain false or misleading
 19 information in the subject line, in violation of CEMA and the CPA.

20 41. Defendant sends these emails for the purpose of promoting the Products for sale
 21 and to drive sales to the website.

22 42. Defendant’s email subject lines stating the supposed duration of its sales are false
 23 and misleading because, as discussed above, sales either (1) are regularly available, or (2) did not
 24 expire at the advertised time.

1 43. Defendant's email subject lines stating that recipients will receive significant
2 savings if the recipients purchase during the sale are false and misleading because, as discussed
3 above, consumers do not truly receive the advertised discounts. Instead, because substantial
4 discounts are commonly available, the purported discount is actually much smaller (or there is no
5 discount at all).

6 44. By misrepresenting the duration of its purported sales in email subject lines,
7 Defendant creates a false sense of urgency. Recipients who read the email subject lines believe
8 that if they act now, they can purchase a higher value item at a limited-time discount; but if they
9 wait, then the discount will expire and if they want to purchase a Product, they will have to pay
10 the former or regular price.

11 45. Defendant designs the subject lines of the promotional emails to induce recipients
12 to make a purchase during the supposedly limited-time sales. Defendant's email subject lines often
13 contain words spurring recipients to make purchases immediately before time runs out. But
14 because the Products are regularly on sale, each of these email subject lines stating the sale is
15 ending soon are false and misleading.

16 46. Defendant is constantly sending commercial emails to recipients on its mailing list,
17 typically multiple times a week, and sometimes multiple times per day. Plaintiffs and Class
18 Members received such emails from Defendant, many of which include false or misleading subject
19 lines regarding fake discounts with fake time limitations.

20 47. Defendant knows, or has reason to know, its emails containing false and misleading
21 subject lines are sent to Washington residents. Defendant knows or has reason to know where
22 recipients of its emails reside for at least the following reasons.

- 1 a. For consumers who made a purchase on Defendant’s website, Defendant
2 has physical addresses associated with the recipient’s name, email address,
3 and order.
- 4 b. For consumers who made a purchase in one of Defendant’s physical store
5 locations and opted into Defendant’s loyalty program, mailing list(s) or
6 other similar programs, Defendant has physical addresses associated with
7 the recipient’s name, email address, and order.
- 8 c. For consumers who visit Defendant’s website and register to receive
9 marketing emails, on information and belief, Defendant collects and has
10 access to data regarding the recipient’s state of residence via geolocation
11 and IP address tracking. First, IP addresses are sufficient to confirm the
12 user’s physical location including city, state, and zip code.¹
- 13 d. Second, under the heading “What Categories of Personal Information Have
14 We Collected?” Defendant’s Privacy Policy states that Defendant collects
15 “Contact and Identifying Information. This includes your name, *address*,
16 phone number, email address, date of birth, account name, and similar
17 details that help Us identify You” and “*Geolocation Data*. We may collect
18 your device’s location or movements, for example, when You use Our store
19 locator or App features.” (Emphasis added.)
- 20 e. For consumers who browse Defendant’s website or click on Defendant’s
21 emails, on information and belief, Defendant can track their IP addresses. It
22

23
24 ¹ See <https://nordvpn.com/ip-lookup/> (“Looking up an IP address shows you the geolocation of
that IP address, including the country, state, city, and zip code.”)

1 is a standard business practice among major e-commerce companies to
2 employ email and website marketing tools, like tracking pixels, which allow
3 the sender to identify the person opening and clicking on the email by IP
4 address, or the person browsing the website by IP address. Indeed,
5 Defendant's Privacy Policy explicitly provides under the heading "Types of
6 Information We Collect" that it collected information "directly from You
7 when You provide it to Us; automatically as You navigate through or
8 interact with the Platforms, use Our services, or visit a store. Information
9 collected automatically may include usage details, *IP addresses*,
10 information collected through cookies, and video footage or photographs
11 captured when You are on Our premises." (Emphasis added). Defendant's
12 Privacy Policy again admits under the heading "Information We Collect
13 Through Automatic Data Collection Technologies" that it collects "data
14 such as your IP address, browser type, operating system, and information
15 about your internet connection."

- 16 f. Defendant has access to granular location information tied to email
17 addresses from commercial data brokers like Oracle, Equifax, and Lexis.
18 Defendant can purchase consumer data from these brokers which connects
19 individuals to email addresses, state of residence, and physical location. To
20 that end, Defendant's Privacy Policy under the header "Information We
21 Collect From Other Sources" states that it collected information from "Our
22 Family of Brands," "Partners and Service Providers," and "Social Media
23 and Third-Party Platforms."

g. Defendant may obtain information that some recipients of marketing emails are Washington residents because that information is available, upon request, from the registrant of the Internet domain names contained in the recipients' email addresses. *See* RCW 19.190.020(2).

h. Defendant had reason to know the marketing emails were sent to Washington residents based on the extremely high volume of outbound marketing emails which are continuously sent to everyone on its mailing list.

48. Defendant knows what sales it offers on its website and the prices advertised on its website. Defendant also knows that, in truth, the sales are not truly ending as advertised and products are regularly discounted on the website.

C. Defendant's Deceptive Emails Violate Federal Law.

49. The Federal Trade Commission Act ("FTCA") prohibits "unfair or deceptive acts or practices in or affecting commerce[.]" 15 U.S.C. § 45(a)(1). Under FTC regulations, discounting schemes like that employed in Defendant's email subject lines are deceptive practices that violate the FTCA.

50. Pursuant to 16 C.F.R. § 233.1, entitled Former Price Comparisons:

(a) One of the most commonly used forms of bargain advertising is to offer a reduction from the advertiser's own former price for an article. If the *former price* is the actual, bona fide price at which the article was offered to the public on a *regular basis* for a *reasonably substantial period of time*, it provides a legitimate basis for the advertising of a price comparison. Where the former price is genuine, the bargain being advertised is a true one. If, on the other hand, the former price being advertised is not bona fide but fictitious – for example, where an *artificial, inflated price* was established for the purpose of enabling the subsequent offer of a large reduction – the "bargain" being advertised is a false one; the purchaser is not receiving the unusual value he expects.

(b) A former price is not necessarily fictitious merely because no sales at the advertised price were made. The advertiser should be especially careful, however, in such a case, that the price is one at which the product was openly and actively offered for sale, for a *reasonably substantial period of time*, in the *recent*, regular course of her business, honestly and in good faith – and, of course, not for the purpose of establishing a fictitious higher price on which a deceptive comparison might be based.

(c) The following is an example of a price comparison based on a fictitious former price. John Doe is a retailer of Brand X fountain pens, which cost him \$5 each. His usual markup is 50 percent over cost; that is, his regular retail price is \$7.50. In order subsequently to offer an unusual “bargain,” Doe begins offering Brand X at \$10 per pen. He realizes that he will be able to sell no, or very few, pens at this inflated price. But he doesn’t care, for he maintains that price for only a few days. Then he “cuts” the price to its usual level—\$7.50—and advertises: “Terrific Bargain: X Pens, Were \$10, Now Only \$7.50!” *This is obviously a false claim.* The advertised “bargain” is not genuine.

(d) Other illustrations of fictitious price comparisons could be given. An advertiser might use a price at which he *never offered the article at all*; he might feature a price which was *not used in the regular course of business*, or which was *not used in the recent past* but at some *remote period in the past*, without making disclosure of that fact; he might use a price that was not openly offered to the public, or that was *not maintained for a reasonable length of time*, but was immediately reduced.

(e) If the former price is set forth in the advertisement, *whether accompanied or not* by descriptive terminology such as “Regularly,” “Usually,” “Formerly,” etc., the advertiser should make certain that the former price is not a fictitious one. If the former price, or the amount or percentage of reduction, is not stated in the advertisement, as when the ad merely states, “Sale,” the advertiser must take care that the amount of reduction is not so insignificant as to be meaningless. It should be sufficiently large that the consumer, if he knew what it was, would believe that a genuine bargain or saving was being offered. An advertiser who claims that an item has been “Reduced to \$9.99,” when the former price was \$10, is misleading the consumer, who will understand the claim to mean that a much greater, and not merely nominal, reduction was being offered.

51. FTC regulations also prohibit false and misleading claims regarding the duration and expiration of sales, like those employed in the subject lines of Defendant’s emails. Indeed, retailers “should not offer an advance sale under circumstances where they do not in good faith

expect to increase the price at a later date, or *make a 'limited' offer which, in fact, is not limited.*"
16 C.F.R. § 233.5.

D. Research Confirms That Time-Limited Discounts Influence Consumer Behavior and Perceptions of Value.

52. Studies and articles support the effectiveness of Defendant's deceptive email scheme.

53. "By creating an impression of savings, the presence of a higher reference price enhances subjects' perceived value and willingness to buy the product."² Thus, "empirical studies indicate that, as discount size increases, consumers' perceptions of value and their willingness to buy the product increase, while their intention to search for a lower price decreases."³

54. "[R]eference prices are important cues consumers use when making the decision concerning how much they are willing to pay for the product."⁴ This study also concluded that "consumers are likely to be misled into a willingness to pay a higher price for a product simply because the product has a higher reference price."⁵

55. Additionally, as "considerable evidence" suggests, "consumers react to scarcity and divert their attention to information where they might miss opportunities."⁶

² Dhruv Grewal & Larry D. Compeau, *Comparative Price Advertising: Informative or Deceptive?*, 11 J. Pub. Pol'y & Mktg. 52, 55 (Spring 1992).

³ *Id.* at 56.

⁴ Jerry B. Gotlieb & Cyndy Thomas Fitzgerald, *An Investigation Into the Effects of Advertised Reference Prices On the Price Consumers Are Willing To Pay For the Product*, 6 J. of App'd Bus. Res. 1 (1990).

⁵ *Id.*

⁶ U.K. Competition & Mkts. Auth., *Online Choice Architecture—How Digital Design Can Harm Competition and Consumers* 26 (2022), <https://perma.cc/V848-7TVV/>

56. A study regarding the effect of the time-limited advertisement “10 Hours Only Super Sale” concluded that “[t]he willingness to buy was significantly higher” and “the attitude towards the deal was more favorable.”⁷

57. An article explains that, in a test case, the addition of countdown timers increased conversion rates “from ~3.5% to ~10%.”⁸

58. Another article explains: “We compared the performance to previous ‘big sale’ campaigns featuring a similar single-minded design, but without the countdown timer. The uplift was impressive showing . . . 400% higher conversion rate” with countdown timer.⁹

59. Thus, creating a false sense of urgency is a common way that online marketers manipulate consumer choice. The FTC has identified the “False Limited Time Message” as one example of false time scarcity claims, in which the marketer creates “pressure to buy immediately by saying the offer is good only for a limited time or that the deal ends soon—but without a deadline or with a meaningless deadline that just resets when reached.”¹⁰

60. False scarcity claims are psychologically effective and harm consumers by manipulating their decision-making to their detriment—and the seller’s benefit.

61. Accordingly, research confirms that deceptive discount advertising is intended to, and does, influence consumer behavior by artificially inflating consumer perceptions of an item’s

⁷ See Aggarwal, P., *Use it or lose it: Purchase acceleration effects of time-limited promotions*, Journal of Consumer Behaviour (Sept. 17, 2002) at 399-401.

⁸ See CXL, *How Creating a Sense of Urgency Increased Sales by 332%* (Feb. 28, 2023), at pp. 10-18, available at <https://cxl.com/blog/creating-urgency> (last visited May 26, 2026).

⁹ See Upland Software, *Dynamic email content leads to 400% increase in conversions for Black Friday email*, available at <https://uplandsoftware.com/adestra/resources/case-study/dynamic-email-content-leads-to-400-increase-in-conversions-for-black-friday-email/> (last visited May 26, 2026).

¹⁰ Fed. Trade Comm’n, *Bringing Dark Patterns to Light* 22 (2022), <https://perma.cc/847M-EY69/>.

1 value and causing consumers to spend money they otherwise would not have, purchase items they
2 otherwise would not have, and/or purchase products from a specific retailer.

3 **E. Plaintiff Divya Guatam**

4 62. Plaintiff Guatam visited J&J's website and signed up to receive emails from J&J in
5 or around 2018. In so doing, she provided Defendant with her email address. She received emails
6 from J&J while physically located in King County, Washington.

7 63. Thus, Defendant knew that Plaintiff Guatam was a resident of Washington and that
8 any emails sent to Plaintiff Guatam would be sent to a Washington resident.

9 64. On information and belief, Plaintiff Guatam received each of the emails listed in
10 paragraphs 27 and 28 above. At minimum, Plaintiff Guatam received the following emails, which
11 are only representative examples.

12 a. 4/26/2026: ⌚ Only hours left for sale on sale

13 b. 5/26/2026: ⌚ Final hours to shop...

14 c. 5/17/2026: Final hours: 25% off (almost) everything

15 65. On information and belief, Plaintiff Guatam received Defendant's emails at issue
16 while she was physically present in Washington.

17 66. Plaintiff Guatam would have liked to receive truthful information from Defendant
18 regarding its Products. However, due to Defendant's conduct, Plaintiff Guatam cannot be certain
19 which emails from Defendant contain truthful information and which emails are spam with false
20 and misleading information in subject lines designed to spur consumers into making a purchase.
21 Thus, without a court order requiring Defendant to only send honest emails about sales, Plaintiff
22 Guatam cannot discern which emails are not false or misleading.

1 **F. Plaintiff Laura Herrera**

2 67. Plaintiff Herrera visited J&J's website and signed up to receive emails from J&J
3 prior to April 22, 2026. She did so while physically located in King County, Washington. In so
4 doing, she provided Defendant with her email address.

5 68. Thus, since at least April 22, 2026, Defendant knew that Plaintiff Herrera was a
6 resident of Washington and that any emails sent to Plaintiff Herrera would be sent to a Washington
7 resident.

8 69. On information and belief, Plaintiff Herrera received each of the emails listed in
9 paragraphs 27 and 28 above that are dated on or after April 22, 2026. At minimum, Plaintiff
10 Herrera received the following emails, which are only representative examples.

11 a. 5/26/2026: ⌚ Final hours to shop...

12 b. 5/17/2026: Shop soon—our VIP Event ends tonight

13 c. 4/25/2026: 48 Hours Only: extra 30% off

14 70. On information and belief, Plaintiff Herrera received Defendant's emails at issue
15 while she was physically present in Washington.

16 71. Plaintiff Herrera would have liked to receive truthful information from Defendant
17 regarding its Products. However, due to Defendant's conduct, Plaintiff Herrera cannot be certain
18 which emails from Defendant contain truthful information and which emails are spam with false
19 and misleading information in subject lines designed to spur consumers into making a purchase.
20 Thus, without a court order requiring Defendant to only send honest emails about sales, Plaintiff
21 Herrera cannot discern which emails are not false or misleading.

1 **G. Plaintiff Xenia Habekoss**

2 72. Plaintiff Habekoss visited J&J's website and signed up to receive emails from J&J
3 in or around 2025. She did so while physically located in King County, Washington. In so doing,
4 she provided Defendant with her email address.

5 73. Thus, since at least 2025, Defendant knew that Plaintiff Habekoss was a resident of
6 Washington and that any emails sent to Plaintiff Habekoss would be sent to a Washington resident.

7 74. On information and belief, Plaintiff Habekoss received each of the emails listed in
8 paragraphs 27 and 28 above that are dated on or after September 22, 2025. At minimum, Plaintiff
9 Habekoss received the following emails, which are only representative examples.

- 10 a. 4/26/2026: ⌚ Only hours left for sale on sale
- 11 b. 4/25/2026: 48 Hours Only: extra 30% off
- 12 c. 3/21/2026: 48 hours only: extra 30% off
- 13 d. 3/9/2026: ⌚ Final hours for Friends & Family ⌚
- 14 e. 3/9/2026: It's the last day—shop 25% off + free shipping
- 15 f. 3/2/2026: Only hours left for sale on sale...
- 16 g. 1/27/2026: Only hours left...
- 17 h. 1/26/2026: 48 Hours Only: extra 25% off sale
- 18 i. 1/26/2026: Be quick, this sale ends tomorrow
- 19 j. 1/6/2026: Final hours—sale on sale
- 20 k. 1/6/2026: Ends tonight: extra 20% off + up to 60% off
- 21 l. 12/28/2025: Final hours for 20% off sitewide
- 22 m. 11/29/2025: Ends tonight: 30% off + up to 70% off
- 23 n. 10/14/2025: ⌚ Only hours left ⌚
- 24
- 25

- o. 10/14/2025: Last day: extra 20% off 100s of styles
- p. 10/6/2025: Everything you love is on sale, only until tonight...
- q. 10/6/2025: Final hours—we don't want you to miss it
- r. 9/22/2025: Our Friends & Family Event ends tonight...

75. On information and belief, Plaintiff Habekoss received Defendant's emails at issue while she was physically present in Washington.

76. Plaintiff Habekoss would have liked to receive truthful information from Defendant regarding its Products. However, due to Defendant's conduct, Plaintiff Habekoss cannot be certain which emails from Defendant contain truthful information and which emails are spam with false and misleading information in subject lines designed to spur consumers into making a purchase. Thus, without a court order requiring Defendant to only send honest emails about sales, Plaintiff Habekoss cannot discern which emails are not false or misleading.

H. No Adequate Remedy at Law.

77. Plaintiffs seek an injunction. Plaintiffs are permitted to seek an injunction because they have no adequate remedy at law. Legal remedies here are not adequate because they would not stop Defendant from continuing to transmit emails with false or misleading subject lines to Washington residents.

V. CLASS ACTION ALLEGATIONS

78. Plaintiffs bring the asserted claims on behalf of the following proposed class (the "Class") and subclasses:

All Washington residents who, during the Class Period and while present in Washington, received promotional emails from Defendant with subject lines either (i) advertising "% off" discounts; (ii) stating a sale, discount, or price would end at a specified date but the same sale, discount, or price was extended

1 upon expiration; or (iii) stating a sale, discount, or price is time limited, ending,
2 or tethered to a holiday or event, when Defendant reinstated the same or
comparable sale, discount, or price for a longer time.

3 79. Plaintiffs reserve the right to propose additional subclasses based on specific
4 subcategories of emails and Class Members at class certification.

5 80. The Class Period is the time period beginning on the date established by the Court's
6 determination of any applicable statute of limitations and ending on the date a class certification
7 order is entered in this action. Thus, the statute of limitations begins no later than the date four
8 years before this Complaint is filed.

9 81. The following people are excluded from the proposed Class: (1) any Judge or
10 Magistrate Judge presiding over this action and the members of their family; (2) Defendant,
11 Defendant's subsidiaries, parents, successors, predecessors, and any entity in which the Defendant
12 or its parents have a controlling interest and their current employees, officers and directors; and
13 (3) Plaintiffs' counsel and Defendant's counsel.

14 ***Numerosity***

15 82. The proposed Class contains members so numerous that separate joinder of each
16 member of the class is impractical. There are at least tens of thousands of Class Members in
17 Washington.

18 83. Class Members can be identified through Defendant's electronic mailing lists,
19 internal records, and public notice.

20 ***Predominance of Common Questions***

21 84. There are questions of law and fact common to the proposed Class. Common
22 questions of law and fact include, without limitation:

- a. whether Defendant's email subject lines regarding purported discounts are false or misleading;
- b. whether Defendant's email subject lines violate CEMA;
- c. whether Defendant's email subject lines violate the CPA; and
- d. the greater of actual damages or statutory damages due to the Plaintiffs and the proposed Class.

Typicality & Adequacy

85. Like members of the proposed Class, Plaintiffs received emails from Defendant that contained false or misleading subject lines regarding discounts.

86. There are no conflicts of interest between Plaintiffs and the Class.

Superiority

87. A class action is superior to all other available methods for the fair and efficient adjudication of this litigation because individual litigation of each claim is impractical. It would be unduly burdensome to have individual litigation of thousands of individual claims in separate lawsuits, every one of which would present the issues presented in this lawsuit.

VI. CLAIMS

Count 1: Violations of Washington's Commercial Electronic Mail Act

(By Plaintiffs and the Class)

88. Plaintiffs incorporate paragraphs 1-87 above.

89. Plaintiffs bring this cause of action individually and on behalf of members of the Class.

90. CEMA provides that "[n]o person may initiate the transmission, conspire with another to initiate the transmission, or assist the transmission, of a commercial electronic mail

1 message ... to an electronic mail address that the sender knows, or has reason to know, is held by
2 a Washington resident that ... [c]ontains false or misleading information in the subject line.” RCW
3 19.190.020(1)(b).

4 91. Defendant is a “person” under CEMA. RCW 19.190.010(11).

5 92. As alleged more fully above, Defendant violated CEMA by initiating the
6 transmission of commercial electronic mail messages that contained false or misleading
7 information in the subject line to Plaintiffs’ and Class Members’ electronic mail addresses.

8 93. Defendant sent these emails to Plaintiffs and Class Members for the purpose of
9 promoting the Products for sale.

10 94. Defendant knew or had reason to know that it transmitted such emails to email
11 addresses held by Washington residents, including Plaintiffs.

12 95. Defendant’s acts and omissions violated RCW 19.190.020(1)(b).

13 96. Defendant’s acts and omissions injured the Plaintiffs and Class Members.

14 97. The balance of equities favors the entry of permanent injunctive relief against
15 Defendant. Plaintiffs, the members of the Class, and the general public will be irreparably harmed
16 absent the entry of permanent injunctive relief. Defendant’s unlawful behavior is ongoing as of the
17 date of the filing of this pleading, so without the entry of a permanent injunction, Defendant’s
18 unlawful behavior will not cease and, in the unlikely event that it voluntarily ceases, is likely to
19 reoccur.

20 98. Plaintiffs and Class Members are therefore entitled to injunctive relief in the form
21 of an order enjoining further violations of RCW 19.190.020(1)(b).

Count 2: Violations of the Washington Consumer Protection Act via Misleading Emails

(By Plaintiffs and the Class)

99. Plaintiffs incorporate paragraphs 1-87 above.

100. Plaintiffs bring this cause of action individually and on behalf of members of the Class.

101. Plaintiffs and Class Members are “persons” within the meaning of the CPA. RCW 19.86.010(1).

102. As alleged above, Defendant violated CEMA by initiating the transmission of commercial electronic mail messages to Plaintiffs and Class Members that contained false or misleading information in the subject line.

103. A violation of CEMA is a per se violation of the CPA. RCW 19.190.030(1).

104. A violation of CEMA establishes all elements of the CPA as a matter of law. *Wright v. Lyft*, 189 Wn. 2d 718 (2017).

105. As alleged more fully above, Defendant’s transmission of commercial electronic messages to Plaintiffs and Class Members that contained false or misleading information in the subject line also violates the CPA because it constitutes unfair or deceptive practices that occur in trade or commerce.

Unfair Acts or Practices

106. As alleged in detail above, Defendant committed “unfair” acts by falsely stating in email subject lines that it was offering a discount off the regular and former prices of its Products, and that the discount was only available for a limited time, when none of this was true (or at minimum was highly misleading).

1 107. The harm to Plaintiffs and the Class greatly outweighs the public utility of
2 Defendant's conduct. There is no public utility to misrepresenting whether the Products are
3 discounted and misrepresenting the duration of sales. Plaintiffs and the Class's injury was not
4 outweighed by any countervailing benefits to consumers or competition. Misleading consumers
5 only injures healthy competition and harms consumers.

6 ***Deceptive Acts or Practices***

7 108. As alleged in detail above, Defendant's representations in email subject lines that
8 the Products were on sale, that the sale was limited in time, and that customers were receiving
9 substantial discounts, are deceptive.

10 109. Defendant's representations were misleading to Plaintiffs and other reasonable
11 recipients. Defendant knew, through the exercise of reasonable care, that these statements were
12 inaccurate and misleading.

13 110. Defendant's unfair or deceptive acts or practices vitally affect the public interest
14 and thus impact public interest for purposes of applying the CPA. RCW 19.190.030(3); RCW
15 19.190.100.

16 111. Defendant's acts and omissions caused injury to Plaintiffs and Class Members.
17 Violations of CEMA establish the injury and causation elements of a CPA claim as a matter of
18 law.

19 112. Under the CPA, "[p]rivate rights of action may ... be maintained for recovery of
20 actual damages, costs, and a reasonable attorney's fee. A private plaintiff may be eligible for treble
21 damages," and "may obtain injunctive relief, even if the injunction would not directly affect the
22 individual's own rights." Washington Pattern Jury Instruction Civil No. 310.00 (Consumer
23 Protection Act—Introduction) (internal citations omitted); RCW § 19.86.090.

113. Under the CPA, Plaintiffs and Class Members are entitled to seek, and do seek, the greater of actual damages and statutory damages of \$500 per email that violates CEMA. In addition, Plaintiffs and Class Members seek treble damages, which are permitted under the CPA, including for CEMA violations. Plaintiffs seek treble damages to further Plaintiffs' and Class Members' financial rehabilitation, encourage citizens to bring CPA actions, deter Defendant and other persons from committing CEMA violations, and punish Defendant for false and misleading advertising practices.

114. Plaintiffs and Class Members are also entitled to, and seek, injunctive relief prohibiting further violations of the CPA.

VII. JURY DEMAND

115. Plaintiffs demand the right to a jury trial on all claims so triable.

VIII. PRAYER FOR RELIEF

116. Plaintiffs seek the following relief for themselves and the proposed Class:

- A. An order certifying the asserted claims, or issues raised, as a class action;
- B. A judgment in favor of Plaintiffs and the proposed Class;
- C. The greater of actual or statutory damages, treble damages, and punitive damages where applicable;
- D. Pre- and post-judgment interest;
- E. An injunction prohibiting Defendant's deceptive conduct, as allowed by law;
- F. Reasonable attorneys' fees and costs, as allowed by law;
- G. Any additional relief that the Court deems reasonable and just.

[Counsel signatures to follow on next page.]

1 Date: June 9, 2026

/s/ Samuel J. Strauss

Samuel J. Strauss, WSBA No. #46971

2 Raina C. Borrelli (*pro hac vice* forthcoming)

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