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Clark Circuit Court 6
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Clark County, Indiana

STATE OF INDIANA) IN THE CLARK COUNTY CIRCUIT COURT NO.
) SS:
) CAUSE NO.
COUNTY OF CLARK)

HEATHER KYLE, individually and on behalf of all others similarly situated, *Plaintiff*, vs. MICHAELS STORES, INC. D/B/A MICHAELS, *Defendant*.	Case No. CLASS ACTION COMPLAINT JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Heather Kyle, on behalf of herself and all others similarly situated, complains of Defendant Michaels Stores, Inc. d/b/a Michaels ("Michaels" or "Defendant") as follows on information and belief except as to her own experiences and matters of public record:

I. INTRODUCTION

1. This is a putative class action under Indiana law brought to address deceptive and unlawful emails that plague consumers' inboxes. In 2003, like other states around the same time, to protect Indiana residents from the annoyance and harassment caused by the burgeoning spam email industry, the General Assembly enacted and the Governor signed the Deceptive Commercial Electronic Mail Act ("DCEMA"), codified at Indiana Code title 24, article 5, chapter 22.

2. Among other things, DCEMA prohibits transmitting commercial email that "contains false or misleading information in the subject line" to email addresses actually or constructively known to be held by Indiana residents. Ind. Code § 24-5-22-7(b)(3), (c)(2).

3. Defendant does just what DCEMA prohibits.

4. Defendant Michaels Stores, Inc. is a retailer of consumer goods (the "Products") including arts, crafts, and décor. The Products are sold by Defendant through its website https://www.michaels.com/.

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

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

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

8. There is nothing wrong with a legitimate sale. But a fictitious sale—that is, one with made-up regular/former prices or made-up expirations—is deceptive and illegal. Moreover, advertising false and misleading discounts in the subject line of a promotional email violates DCEMA.

9. For most if not all Products, Defendant's sales were not legitimate because the Products are regularly offered by Defendant on the website at a discount from a higher regular and former price (called the "Reference Price"). This is because Defendant continuously offers coupons of at least 20% off the supposed Reference Price, in addition to traditional category-specific discounts. So, the extent of purported discounts were false and misleading because discounts of at least 20% are regularly available. Additionally, Defendant promoted these misleading discounts by sending emails with false and misleading subject lines.

10. Defendant also sent emails with misleading subject lines regarding "sales" that would supposedly end on a specific day when in truth the sales were extended or not limited to the extent represented.

11. For example, Defendant's emails contained subject lines such as "LAST DAY for up to 50% off! This sale ENDS TODAY -->." These subject lines lead reasonable consumers to believe that there is a substantial sale in effect, discounts are not regularly available, and Defendant's regular and former prices are normally much higher. In truth, Defendant's Products were regularly offered by Defendant for less than the Reference Price—largely because of the recurring available coupons and discounts of at least 20%. So, the regular price is actually a discounted price, and the amount of the advertised discount is misleading.

12. As another example, Defendant's emails often contained subject lines describing sales that are time limited and end soon—e.g., "🏃 DON'T MISS: 50% off Memorial Day Sale ends today." These subject lines lead reasonable consumers to believe that if they don't buy before the sale ends, they won't be able to get the advertised discount. In truth, the sale was either extended, reinstituted, or replaced shortly thereafter by another sale. So, the deals did not genuinely expire as advertised.

13. This false urgency is an attempt to entice consumers to engage with Defendant's marketing efforts for fear of missing out.

14. Plaintiff is an Indiana resident who received Defendant's deceptive email advertisements. Plaintiff brings this case to protect Indiana residents from Defendant's false and misleading emails about its purported limited-time discounts.

II. PARTIES

15. Plaintiff Kyle is domiciled in Clark County, Indiana and has been a citizen and resident of Indiana during at least the preceding three years.

16. The proposed class includes citizens of Indiana.

17. Defendant Michaels Stores, Inc. is a Delaware corporation with its principal place of business in Texas.

18. On information and belief, Defendant created and sent the marketing emails at issue in this action to Plaintiff and Indiana residents. For example, based on counsel's investigation, Defendant's marketing emails state "Michaels and the Michaels logo and other trademarks and logos used in this email are owned or licensed by Michaels Stores, Inc." and the emails are sent from a domain that includes the term "Michaels" (e.g., michaels@emdeals.michaels.com). Similarly, the Privacy Policy on the website states it "describes the information that Michaels Stores, Inc., its affiliated companies, subsidiaries, and service partners (collectively, 'Michaels') collects about you; how we use and protect this information; and the choices you can make about how we use this information." It then states: "We only send you promotional mobile or email messages if you provide us with your contact information and opt in to receive the mobile messages or if we obtain your email address in another legitimate way that originated with you."

19. On information and belief, The Michaels Companies Inc. also directly participates in creating and sending the marketing emails at issue in this action to Plaintiff and Indiana residents. For example, the corporate website and LinkedIn page for The Michales Companies Inc. states: "At The Michaels Companies Inc., our purpose is to fuel the joy of creativity and

celebration. As the leading destination for creating and celebrating in North America, we operate over 1,300 stores in 49 states and Canada and online at Michaels.com and Michaels.ca."[1]

III. JURISDICTION AND VENUE

20. The Court has jurisdiction over this action under I.C. § 33-28-1-2(a) and I.C. § 33-29-1-4(1).

21. The Court has jurisdiction over Defendant under T.R. 4.4(A) and the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution because Defendant markets and sells its products in Indiana.

22. Venue is proper in this Court under T.R. 75(A)(10) because Plaintiff resides in Clark County.

IV. FACTUAL ALLEGATIONS

A. DCEMA protects Indiana residents from deceptive spam emails

22. All Internet users—which is to say, virtually everyone—bear the cost of deceptive commercial spam.

23. In the more than two decades since DCEMA's enactment, the problem of commercial spam has only grown exponentially.

24. In 2003, the United States Congress found that "[m]any senders of unsolicited commercial electronic mail purposefully include misleading information in the messages' subject lines in order to induce the recipients to view the messages." 15 U.S.C. § 7701(a)(8).

25. In 2012, one study estimated that Americans bear "costs of almost $20 billion annually" due to unsolicited commercial email.[2]

[1] See https://www.michaelspressroom.com/about (last visited August 24, 2026).
[2] Justin M. Rao & David H. Reiley, The Economics of Spam, 26 J. of Econ. Perspectives 87, 88 (2012).

26. Even when bulk commercial email marketers are operating under color of consumer consent, the reality is that "[m]ost privacy consent"—especially under the "notice-and-choice" approach predominant in the United States—"is a fiction."[3]

27. Consumers therefore routinely "consent" to receive flurries of commercial emails which they did not meaningfully request and in which they have no genuine interest.

28. This includes emails sent to consumers from businesses with which they have no prior relationship, thanks to commercial data brokers and commercial data sharing agreements.

29. Simply conducting the routine affairs of daily life often exposes consumers to unanticipated and unwanted volumes of commercial email. "Nowadays, you need an email address for everything from opening a bank account to getting your dog's nails trimmed, and … [o]nce you hand over your email address, companies often use it as an all-access pass to your inbox: Think of shopping websites that send account updates, deals, 'we miss you' messages, and holiday promotions throughout the year. It's too much."[4]

30. DCEMA exists to remedy and deter these harms, akin to those remedied and deterred by nuisance or fraud actions.

31. DCEMA's requirement of truthfulness in commercial email marketing simultaneously protects consumers from nuisance and deception and facilitates honest commerce.

B. False time scarcity claims are an insidious tool in the commercial spammer's toolkit.

32. One common way online marketers "manipulate consumer choice by inducing false beliefs" is to create a false sense of urgency or to falsely claim that consumers' time to act is

[3] Daniel J. Solove, Murky Consent: An Approach to the Fictions of Consent in Privacy Law, 104 Boston Univ. L. Rev. 593, 596 (2024).
[4] Kaitlyn Wells, Email Unsubscribe Services Don't Really Work. Follow this (Free) Advice Instead., N.Y. Times Wirecutter (Aug. 19, 2024), https://perma.cc/U8S6-R8RU/ (last visited August 24, 2026).

scarce.[5]

33. The Federal Trade Commission 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."[6]

34. "False or misleading scarcity claims can change the behavior of consumers."[7]

35. Representations about the timing and duration of sales, discounts, and other special offers are fundamentally representations about prices, and such representations matter to ordinary consumers.[8]

36. False scarcity claims are psychologically effective. As "considerable evidence" suggests, "consumers react to scarcity and divert their attention to information where they might miss opportunities."[9]

37. Invoking this time pressure achieves a seller's aim to narrow the field of competitive products and deals, by "induc[ing] consumers to rely on heuristics (mental shortcuts), like limiting focus to a restricted set of attributes or deciding based on habit."[10]

38. Under time pressure, "consumers might take up an offer to minimize the uncertainty

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[5] Fed. Trade Comm'n, Bringing Dark Patterns to Light 4 (2022), https://perma.cc/847M-EY69/ (last visited August 24, 2026); *see also* U.K. Competition & Mkts. Auth., Online Choice Architecture—How Digital Design Can Harm Competition and Consumers 26 (2022), https://perma.cc/V848-7TVV/ (last visited August 24, 2026).
[6] Bringing Dark Patterns to Light, *supra* para. 23, at 22.
[7] Online Choice Architecture, *supra* para. 23, at 27.
[8] *See*, e.g., Huiliang Zhao *et al., Impact of Pricing and Product Information on Consumer Buying Behavior with Customer Satisfaction in a Mediating Role*, 12 Frontiers in Psychology 720151 (2021), available at https://www.frontiersin.org/journals/psychology/articles/10.3389/fpsyg.2021.720151/full (last visited August 24, 2026).
[9] *Online Choice Architecture*, *supra* para. 23, at 26.
[10] *Id*.

of passing it up."[11]

39. False time scarcity claims thus harm consumers by manipulatively distorting their decision-making to their detriment—and the seller's benefit.

40. Indeed, one 2019 study found that "customers who took timed deals rather than waiting to see wider options ended up worse off than those who waited."[12]

41. False time scarcity claims also harm market competition. Consumers learn to ignore scarcity claims, "meaning that when a product [or offer] is truly scarce, the seller will not be able to credibly communicate this information."[13]

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

23. Defendant sells arts, crafts, and various other Products directly to consumers through Defendant's website. Defendant's marketing includes emails to consumers.

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

25. Defendant advertised these discounts extensively through emails to recipients on its mailing list who either registered an account on https://www.michaels.com/, previously made purchases from https://www.michaels.com/, or made purchases in store. Additionally, this information is contained in the subject lines of emails.

26. When Defendant advertises the discounts through emails with subject lines such as "Up to 50% off," reasonable consumers interpret the advertisements to mean that recipients will

[11] *Id*.
[12] *Id*. at 27.
[13] *Id*.

get a discount off of the former and regular prices charged by Defendant on the website in the recent past and for a substantial time.

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

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

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

E-Mail Subject	Date
EXTENDED! 1 more day to shop our Memorial Day Sale - online only.	5/26/2026
🏃 DON'T MISS: 50% off Memorial Day Sale ends today.	5/25/2026
Hurry! Only 3 days left to save during our Memorial Day Sale.	5/23/2026
!!4 days only— 50% off your faves— Get'em before they're gone!!	5/23/2026
50% off 📣 4 days only 📣 Sale starts TODAY!	5/22/2026
😳 Extended today online only! Shop epic deals at our Lowest Prices of the Season.	3/22/2026

E-Mail Subject	Date
⏰ Time's running out — final hours! Our Lowest Prices of the Season sale ends soon!	3/21/2026
The Big Spring Sale starts TODAY! 🌸	3/1/2026
LAST DAY for up to 50% off! This sale ENDS TODAY -->	2/28/2026
EXTENDED TODAY ONLY 😎 Up to 70% off Trees 🎄	11/16/2025
Final hours of The Great Big Tree Spree! 🎄 Have you found your tree yet?	11/15/2025
EXTENDED: Up to 60% off Christmas trees online only! Plus, FREE shipping!	10/1/2025
ENDS TODAY: Up to 60% off trees online only! Plus, FREE shipping!	9/27/2025
👐 Extended today online only! Shop epic deals at our Lowest Prices of the Season.	9/22/2025
🚨 FINAL HOURS: Our Lowest Prices of the Season sale ends today	9/21/2025
🚨 Last day! Shop our Lowest Prices Of The Season sale.	9/21/2025
ENDS TOMORROW! 🚨 Shop our Lowest Prices of the Season now to get up to 60% off	9/20/2025
40% off coupon extended today only!	9/2/2025
ENDS TODAY: 40% off in store & online with coupon!	9/1/2025
Starting today! ☑ 📋 Complete your school checklist at our Back to Class Sale.	7/20/2025
!!ENDS TODAY: Last chance to grab supplies during our School Days Sale.	7/19/2025
EXTENDED TODAY ONLY: Get up to 60% off online at our Flash Cyber Sale! 🛍	7/12/2025
👋 Flash Cyber Sale ends today! Plus, check out deals picked especially for you.	7/11/2025
Happy 4th of July! Grab last-minute supplies or stock up for next year for 50% off.	7/4/2025
LAST DAY to get 40% off! See coupon inside.	6/22/2025
Happy first day of summer! You have 2 DAYS LEFT to score up to 60% off during Hot Summer Savings.	6/20/2025
📣 Extended one day only! Get just one extra day of up to 70% off Spring & Summer.	6/16/2025
!! LAST CHANCE to get up to SEVENTY PERCENT OFF spring & summer !!	6/15/2025
The Ultimate Sale ENDS TOMORROW! 🤯 Shop now to get up to 70% off spring & summer.	6/14/2025
⚠ ENDS TODAY: This sale & this 35% off coupon!	6/5/2025
LAST CHANCE to get 30% off in store & online!	5/18/2025
🚚 Special delivery: Your 30% off in store and online coupon is here!	5/15/2025
BIG SUMMER SALE Get up to 40% off décor, floral and more.	5/11/2025

E-Mail Subject	Date
⚠ TODAY ONLY: Get 10% off your ENTIRE PURCHASE incl. sale with coupon – when you find the digital egg on our site.	4/13/2025
UP TO 60% OFF: Take advantage of sweet savings during our Easter Sale.	4/12/2025
Today only! Get 30% off online only with your coupon!	4/10/2025
SURPRISE 😲 SALE EXTENDED! Get up to 60% off for 1 more day online only.	4/7/2025
Up to 60% off (talk about a big deal!) Don't miss these best sellers	3/29/2025
It's almost gone 😳 Don't miss up to 50% off viral faves.	3/23/2025
FINAL HOURS Up to 50% off ends today.	3/15/2025
Last week! Decorate your space for up to 50% off 🌷	3/9/2025
SALE EXTENDED 1 more day! 👐 You can still score all these items on sale online only today.	6/17/2024
LAST CALL! Shop these best sellers at our Lowest Prices of the Season sale today.	6/16/2024
ONLINE ONLY! Last day to get 30% off all regular price purchases.	1/8/2024
Go time, Santa. 🎅 Take 30% off regular price purchases + get 40% off Kids' Activity Kits →	12/17/2023
FINAL DAY: 25% off your ENTIRE purchase + Save big during our Holiday Gift Haul.	12/10/2023
Big Holiday Sale ENDS SOON! Get 60% off ALL Christmas Décor + 25% off ENTIRE purchase with coupon inside	12/8/2023
EARLY ACCESS: Shop our Black Friday Sale and get up to 70% off 1,000s of items STOREWIDE. 🛒	11/17/2023
TODAY ONLY: Get 25% off your ENTIRE online purchase!	11/13/2023
Want 25% off? YOU GOT IT! Last Day to use this special coupon on your ENTIRE purchase.	11/12/2023
COUPON INSIDE: Get 25% off regular AND sale price items during our Friends & Family Event.	11/9/2023
Final hours! ⚠ Get 30% off ALL reg. price purchases before this coupon expires.	11/5/2023
🎅 Sleigh the holidays with décor and floral deals and 30% off ALL reg. price purchases! 🎅	11/3/2023
LAST DAY: 50% off highest regular price item + 30% off all other regular price items.	10/29/2023
4 days only: 50% off highest regular price item + 30% off all other regular price items. Save on your entire cart -->	10/26/2023
SAVINGS ALERT: Get 60% OFF Halloween, plus save 40% off all reg. price purchases.	10/20/2023
SAVINGS ALERT: Make more for less with a 30% off coupon + rewards	10/13/2023
🎃 Get up to 50% off ALL Halloween + 20% off with coupon!	9/29/2023

E-Mail Subject	Date
🚨 COUPON ALERT: Get 30% off your regular price purchase! Plus, our Lowest Prices of the Season sale is EXTENDED online.	9/25/2023
Last day of the sale 😳	9/24/2023
ENDS TOMORROW ⏰ Our Lowest Prices of the Season on 1,000s of items!	9/23/2023
BOGOs, BOGOs, BOGOS! ✨ Plus, here's a coupon for 30% off your regular price purchase.	9/17/2023
Yay, long weekend! Shop the Labor Day Sale for BOGOs and a 40% off coupon ☑️	9/1/2023
BOGO FREE Home Wall Frames & a 35% OFF Coupon 👀	8/20/2023
Shop the sale for BIG deals on frames, floral and more! 🎉 (+ Grab your 40% off coupon)	8/13/2023
Summer Clearance is going on now! 🤩 Up to 60% off 1,000s of items.	7/5/2023
Save on your faves with an online only coupon for 40% off your regular price purchase.	6/24/2023
2 DAYS LEFT! 😳 Shop now to get up to 60% off during our STOREWIDE Lowest Prices of the Season sale 🦁	6/17/2023
Hurry in for up to 60% off! 🏃 It's our Lowest Prices of the Season sale.	6/12/2023
Our STOREWIDE SALE starts now! 🎉 Get up to 60% off during our Lowest Prices of the Season →	6/9/2023
Hurry 🏃 40% off coupon ends today + check out great deals inside!	4/13/2023
🐰 Coupon alert! Plus, get FIFTY percent off Easter essentials. 🐰	4/6/2023
❗ Last day ❗ Claim your coupon for 30% off ALL Regular Price Purchases.	3/5/2023
BIG COUPON ALERT! Get 30% off ALL Regular Price Purchases	3/4/2023

30. To further confirm Defendant regularly offers and advertises discounts through emails for Products sold via the website, Plaintiff's counsel reviewed the subject lines of emails sent by Defendant from December 1, 2025 to August 24, 2026. Almost every 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
🚀 3... 2... 1... The back-to-school countdown is ON with 50% off classroom décor.	8/23/2026
Heads up: a new clearance sale is here! ⚡ Enjoy discounts of up to 70% storewide.	8/20/2026
⚡ Last week of our sale! Stock up and save on vinyl, frames, beads and more!	7/25/2026

E-Mail Subject	Date
Get your MEGA savings on with up to 70% off clearance ➡️	7/16/2026
Don't miss up to 70% off during our Mega Clearance Event.	7/11/2026
🍁 Celebrate and save! Stock up during our final days of summer savings and stay screen-free.	7/1/2026
Up to 50% off! It's time to stop scrolling and start creating. ➡️	6/20/2026
Enjoy relaxing crafts with screen-free savings – up to 50% off! ⭕	6/19/2026
🚫 Phone off, savings on! Up to 50% off happening NOW!	6/18/2026
Up to 50% off! ⭕ Shop Screen Free Summer Savings for deals on creative supplies ➡️	6/17/2026
Extended online – TODAY ONLY! Get up to 60% off at The Ultimate Sale.	6/14/2026
Up to 50% off! ⭕ Shop Screen Free Summer Savings for deals on creative supplies ➡️	6/14/2026
These deals END SOON: The Ultimate Sale is almost over... ⏰	6/13/2026
🤩 This. Is. Big! Get up to 60% off 1,000s of items at The Ultimate Sale and a 40% off coupon.	6/13/2026
Heeyyy! 👋 We don't want you to miss The Ultimate Sale. Shop now →	6/12/2026
👋 Shop The Ultimate Sale and restock your craft stash for less!	6/10/2026
🔥 Score SIZZLING savings: Up to 60% off 1,000s of items at The Ultimate Sale!	6/9/2026
Score 70% off all custom frames during The Ultimate Sale. ⚡	6/7/2026
Come in TODAY! You're invited to party at the one-stop-party-shop 🥳 🎉	6/7/2026
👉 It's here! Up to 60% off 1,000s of items at The Ultimate Sale in store and online.	6/7/2026
🎉 Starts NOW – online only! Up to 60% off 1,000s of items at The Ultimate Sale.	6/6/2026
Shop up to 50% off all weekend long during our sale! 🛒	6/6/2026
Our sale is still going on with up to 50% off deals! 🛍️	6/5/2026
Up to 60% off everything you need to celebrate summer! ⭕	6/3/2026
SALE! 🛒 Fill your cart for less with limited-time savings.	6/2/2026
Score up to 50% off during our sale!	5/31/2026
Our Sale = Big. Savings. Only!	5/30/2026
🛍️ Shop our sale for up to 50% off! 🔥	5/30/2026
🤩 Wait till you see your deals!	5/29/2026
BRB: Our Sale is ON 💪 🕺	5/28/2026
EXTENDED! 1 more day to shop our Memorial Day Sale - online only.	5/26/2026
🏃 DON'T MISS: 50% off Memorial Day Sale ends today.	5/25/2026
Hurry! Only 3 days left to save during our Memorial Day Sale.	5/23/2026
!!4 days only— 50% off your faves— Get'em before they're gone!!	5/23/2026

E-Mail Subject	Date
Deals picked just for you: Get 50% off at our Memorial Day Sale.	5/22/2026
50% off 4 days only Sale starts TODAY!	5/22/2026
Up to 50% off your summer faves during The Big Summer Sale!	5/20/2026
Make it a summer of savings — Up to 50% off your faves!	5/15/2026
Up to 50% off summer favorites during The Big Summer Sale!	5/13/2026
Mother's Day is Sunday! Get up to 60% off at our Mother's Day Sale.	5/8/2026
Frame medals, uniforms and more to create a touching tribute — now for 70% off	5/3/2026
Up to 50% off! Save on gifts Mom will love.	5/2/2026
Get up to 50% off at our Mother's Day Sale!	5/1/2026
Get up to 50% off gifts for out-of-this-world Moms →	4/28/2026
Grab 70% off custom frames to showcase your family memories.	4/26/2026
Our Mother's Day Sale starts now! --->	4/26/2026
LAST DAY OF MAKER HAUL! You can shop now for up to 50% off 1,000s of items!	4/25/2026
Who wants up to 50% off? Shop our biggest stock-up event of the year now →	4/16/2026
Get up to 50% off creative faves at Maker Haul	4/14/2026
ENDS TODAY: Score up to 50% off.	4/11/2026
Get 70% off custom frames before the final buzzer sounds.	4/10/2026
ENDS TOMORROW: SALE! Get up to 50% off floral, décor and more. --->	4/10/2026
LAST CALL Up to 60% off at the Easter Sale	4/4/2026
TWO 40% COUPONS - what are you waiting for?	4/2/2026
Hoppy Hosting! Get up to 60% off all things Easter.	4/1/2026
Hop to it! Up to 60% OFF Easter Sale ends soon.	4/1/2026
Don't blink … these deals are hopping away	3/31/2026
Here's 70% off to custom frame your art	3/29/2026
One week to Easter: Crack into our epic sale — up to 60% off	3/29/2026
Get up to 60% off at our Easter Sale. It's on!	3/28/2026
30% off instore & online — you found the golden egg!	3/27/2026
70% off all custom frames in store & online.	3/27/2026
Up to 60% off your faves at our Easter Sale	3/26/2026
Up to 60% off: Our NEW Easter Bunny & Bloom Décor Collection is so adorbs -->	3/25/2026
We've got TWO SALES for you: Up to 60% Off	3/25/2026
Up to 60% off — Easter sale starts TODAY!	3/22/2026

E-Mail Subject	Date
😳 Extended today online only! Shop epic deals at our Lowest Prices of the Season.	3/22/2026
⏰ Time's running out — final hours! Our Lowest Prices of the Season sale ends soon!	3/21/2026
Ends soon! ⚠ Shop Lowest Prices of the Season today	3/20/2026
Everything in this email is SIXTY PERCENT OFF! 🤯	3/20/2026
PRICE DROP! Easter is now up to 60% off.	3/19/2026
60% off thousands of items? Oh, yeah.	3/18/2026
⏳ Ends soon: Get up to 60% off during our Lowest Prices of the Season sale.	3/18/2026
🍀 You don't need luck to score our Lowest Prices of the Season	3/17/2026
😳 This email is full of BOGO deals and more!	3/17/2026
💲 Get deals for under $5 at our Lowest Prices of the Season sale!	3/16/2026
😎 Shop our best sellers for up to 60% off during our Lowest Prices of the Season sale!	3/16/2026
Your favorite sale is back! Get our Lowest Price of the Season on custom frames. 🖼	3/15/2026
🗣 Our Lowest Prices of the Season sale is back!	3/15/2026
🐯 It's baaack: Our Lowest Prices of the Season Sale starts now.	3/15/2026
LAST CHANCE to shop our Big Spring Sale 😎	3/14/2026
🚨 Lowest Prices of the Season sale is here early & online only! Score up to 60% off 1,000s of items >	3/14/2026
ENDS TOMORROW 🌸 Up to 50% off at The Big Spring Sale.	3/13/2026
Post Break Refresh 🛄 Here's 70% off to custom frame your travel pics.	3/13/2026
Spring is in bloom with up to 50% off must-have items! 🌸	3/13/2026
👋 Our Big Spring Sale ends soon — see the deals we think you'll love! 🌷	3/12/2026
Up to 50% off supplies you need for your spring refresh 🌼	3/11/2026
Let the good times bloom with up to 50% off + coupons inside 🌼	3/11/2026
🐰 Hoppy Hosting! Get up to 40% off all things Easter.	3/10/2026
Spring-ify your space 🌷 up to 50% off spring decor!	3/9/2026
Spring into savings 🧹 🛍 Get up to 50% off at The Big Spring Sale.	3/7/2026
We have BIG deals on spring + check out coupons inside.	3/7/2026
Shop The Big Spring Sale! Find everything you need to update your space.	3/6/2026
Up to fifty percent off spring + THREE coupons to brighten your day ⭕ 🌸	3/5/2026
Up to 50% off supplies you need for your spring refresh 🌼	3/4/2026
Get up to 40% off Easter décor. 🐰	3/2/2026
Keep vacay on replay with 70% off custom frames ⭕ 🖼	3/1/2026
The Big Spring Sale starts TODAY! 🌸	3/1/2026
LAST DAY for up to 50% off! This sale ENDS TODAY -->	2/28/2026

E-Mail Subject	Date
ENDS TODAY: Score up to 50% off 🛒	2/28/2026
🤑 What a deal: Get 70% off custom frames and put what matters on display.	2/27/2026
Get up to 50% off and fill your cart for less.	2/27/2026
Just for you: take 30% off online.	2/26/2026
Score up to 50% off eclectic and bold accents for your space.	2/26/2026
🚨 Heeeyyy! These deals END SOON. Get up to 50% off now!	2/25/2026
🌈 ☘️ Lucky you: Score St. Patrick's Day deals to rock your parties, parades and celebrations.	2/24/2026
🧶 Check Out New Yarn from Your Fave Brands + Buy 1 Get 1 50% Off!	2/23/2026
SALE! Get up to 50% off floral, décor, yarn and more ->	2/22/2026
SALE! 👀 Get up to 50% off floral, décor and more ->	2/21/2026
SALE! 🎉 Fill your cart for less with limited-time savings ->	2/20/2026
Limited-time deals have arrived! 🤑 Score sale prices up to 50% off.	2/19/2026
Sale! 🎉 Grab fun finds and get up to 50% for a limited time ->	2/15/2026
Happy Valentine's Day! Here's TWO coupons for 40% off 💌	2/14/2026
Coupon alert! Get 40% off in store and online!	2/13/2026
Score up to HALF OFF Valentine's Day! 💝 (It's almost here!)	2/12/2026
Only 1 week 'til Valentine's Day: Get up to 50% off! 💝	2/7/2026
Last day for up to 60% off at our Flash Cyber Sale! Plus, use our online coupon for 40% off all regular price purchases.	2/7/2026
Weekend treat: 40% off coupon inside!	2/6/2026
Take 40% OFF with your coupon + up to 50% off Valentine's! 💔	2/5/2026
🚨 Our Flash Cyber Sale starts now!	2/5/2026
Up to 50% off Valentine's Supplies	2/4/2026
Prep for heart-day with sweet savings. 💌	2/3/2026
Enjoy sunny savings: Get up to 40% off our Spring Décor.	2/2/2026
Score up to 50% off items you love with our Valentine's Day Sale! 💝	2/1/2026
Two events. TWO DAYS LEFT! 😳 Up to 50% off Spring Floral, Greenery and Décor | B2G1 Free Yarn	1/29/2026
Cozy up & create: Your 20% off online coupon is waiting 🧶	1/27/2026
It's the Yarnormous Sale! All yarn is on sale – every brand, every color, every size, every skein!	1/23/2026
🚨 ENDING SOON: Our Yarnormous and 2026 Style Edit sales. 🚨	1/23/2026
🧶 Warm up to savings on inspiring supplies	1/22/2026
👉 Save now on BOGOs on floral and NEW décor at our 2026 Style Edit Sale.	1/21/2026
Look what just blew in! 🍃 NEW DEALS you'll love	1/20/2026
LAST CHANCE: Our Super Storage Sale ends today! Get up to 50% off now.	1/17/2026
Make your Valentine's Day extra special with up to 40% off 💗	1/12/2026

E-Mail Subject	Date
Ending soon! Up to 60% off during our Mega Clearance Event!	12/31/2025
🚨 Going on now! Up to 60% off during our Mega Clearance Event!	12/28/2025
Clearance Season starts NOW! 🎉 Get up to 60% off at our Mega Clearance Event.	12/26/2025
This is it! Up to 60% off during our Mega Clearance Event! 😳	12/25/2025
Still looking for last-minute gifts? 🎁 Find them at The Big Gift Sale.	12/23/2025
Final Days Get up to 50% off at our Big Gift Sale.	12/21/2025
Our Big Gift Sale is in full swing! 🎁 Fill your sleigh with something for everyone on your list.	12/16/2025
Last-minute holiday shopping? 🎁 We've got you. 🎅 Grab holiday essentials before it's too late.	12/15/2025
It's the Big Gift Sale! Find creative gifts for everyone on your list 🎁	12/14/2025
The Big Holiday Sale wraps up today! Don't miss these deals.	12/13/2025
It's not too late to save on holiday must-haves! Shop The Big Holiday Sale.	12/12/2025
The Big Holiday Sale wraps up tomorrow. 🎁 Get your merry must-haves today	12/12/2025
Last day! Up to 70% off online during our Cyber Sale.	12/6/2025
This 40% off coupon expires tonight!	12/4/2025
Limited time: Get up to 70% off online during our Cyber Sale!	12/3/2025
Get up to 60% off everything you need for the holidays. Our Big Holiday Sale starts now!	12/1/2025

31. As additional confirmation that Defendant consistently offered sitewide or virtually sitewide sales using coupons or automatic discounts of at least 20%, counsel recently sampled dozens of historical Michaels marketing emails, plus randomly selected archived screenshots of Defendant's homepage (Michaels.com) and coupon page (Michaels.com/coupons) via the Wayback Machine, covering January to December 2023. The investigation shows that Defendant did not simply run isolated short-term sales on discrete Products. Rather, Defendant consistently offered either (1) sitewide or virtually sitewide coupons of at least 20% off, or (2) category-specific "sales" that effectively cover most Products. Representative examples are shown below.



Advertised Discount	Date
20% off regular price purchases with code 22MADEBYYOU	1/5/2023
20% off all regular price purchases with code DAILY23US	2/6/2023
20% off all regular price purchases with code DAILY23US	3/6/2023
20% off all regular price purchases with code DAILY23US	3/7/2023
20% off all regular price purchases, Online Promo Code: DAILY23US	4/6/2023
35% off all regular price purchases, Online Only, valid thru Wed 8/23/23, Promo Code: MIKSAVE35	8/21/2023
30% off all regular price purchases, Online Only, valid thru Sun 9/10/23, Promo Code: SAVE30908	9/8/2023
30% off all regular price purchases valid thru Sun 9/24/23	9/18/2023
30% off all regular price purchases valid thru Sun 9/24/23	9/20/2023

Advertised Discount	**Date**
Up to 70% off storewide event	9/20/2023
30% off all regular price purchases, valid in store & online, valid thru Wed 9/27/23	9/26/2023
20% off all regular price purchases, valid in store & online, valid thru Sat 10/7/23	10/2/2023
40% off all regular price purchases, Online Only, valid thru Wed 10/11/23	10/10/2023
30% off all regular price purchases, valid in store & online, valid thru Mon 10/16/23	10/13/2023
40% off all regular price purchases, valid in store & online, valid thru Mon 10/23/23	10/20/2023
30% off all regular price items, valid thru Sunday 10/29/23	10/26/2023
30% off all regular price purchases, valid in store & online, valid thru Sun 11/5/23	11/2/2023
Extra 25% off entire purchase include sale items now thru Sunday	11/8/2023
30% off all regular price purchases, valid in store & online, valid thru Sun 11/26/23	11/17/2023
40% off all regular price purchases, Promo Code: USCYBER40, valid thru 11/27/23	11/27/2023
40% off all regular price purchases, Promo Code: USCYBER40, valid thru 11/28/23	11/28/2023
Up to 60% off Big Holiday Sale	12/1/2023
Up to 60% off Big Holiday Sale	12/3/2023
25% off all regular price purchases, valid in store & online, valid thru Sun 12/16/23	12/6/2023
30% off all regular price purchases, online only, valid thru 12/19/23	12/19/2023

32. 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.

33. 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)

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

34. These false time scarcity claims are a staple of Defendant's marketing scheme to compel consumers to purchase its products.

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

36. For example, on 9/27/2025, Defendant sent an email stating "ENDS TODAY: Up to 60% off trees online only! Plus, FREE shipping!" But Defendant's sale styled as "Up to 60% off" was not limited to 9/27/2025. Indeed, as shown above, Defendant sent another email four days later on 10/1/2025 stating "EXTENDED: Up to 60% off Christmas trees online only! Plus, FREE shipping!" So, the email subject line was false and deceptive.

37. As another example, on 9/20/2025 and 9/21/2025 Defendant sent three separate emails stating "ENDS TOMORROW! 🚨 Shop our Lowest Prices of the Season now to get up to 60% off," " 🚨 Last day! Shop our Lowest Prices Of The Season sale," and " 🚨 FINAL HOURS: Our Lowest Prices of the Season sale ends today." However, Defendant sent another email the following day on 9/22/2025 stating "🙌 Extended today online only! Shop epic deals at our Lowest Prices of the Season." So again, the subject line was false and misleading.

38. Similarly, on 9/1/2025 Defendant sent an email stating "ENDS TODAY: 40% off in store & online with coupon!" Reasonable consumers interpret the subject line to mean the

advertised sale would terminate on 9/1/2025. However, according to the subject line of an email from Defendant dated 9/2/2025 stating "40% off coupon extended today only!" the sale did not terminate on 9/1/2025.

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

D. Defendant's Emails to Plaintiff and Class Members Violate DCEMA.

40. Indiana's DCEMA regulates deceptive email marketing. CEMA prohibits the sending of a commercial email that "contains false or misleading information in the subject line" to email addresses actually or constructively known to be held by Indiana residents. Ind. Code § 24-5-22-7(b)(3), (c)(2).

41. Advertising fake discounts in the subject line of a promotional email, with fake time pressure, violates DCEMA.

42. Defendant's email advertisements contain subject lines that misstate the duration of the purported sales and/or misstate the discount that recipients would purportedly receive for purchasing during the sale. As a result, these promotional emails contain false or misleading information in the subject line, in violation of DCEMA.

43. Additionally, for most if not all Products, Defendant's sales were not legitimate because the Products are regularly offered by Defendant on the website at a discount from a higher Reference Price. This is because Defendant continuously offers coupons of at least 20% off the supposed Reference Price, in addition to traditional category-specific discounts. So, the extent of purported discounts were false and misleading because discounts of at least 20% are regularly

available. Additionally, Defendant promoted these misleading discounts by sending emails with false and misleading subject lines.

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

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

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

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

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

49. Defendant is constantly sending commercial emails to recipients on its website's mailing list, typically multiple times a week, and sometimes multiple times per day. Plaintiff and Class Members received such emails from Defendant, many of which include false or misleading subject lines regarding fake discounts with fake time limitations.

50. Defendant knows, or has reason to know, its emails containing false and misleading subject lines are sent to Indiana residents. Defendant knows or has reason to know where recipients of its emails reside for at least the following reasons:

a. For consumers who made a purchase on Defendant's website, Defendant has physical addresses associated with the recipient's name, email address, and order.

b. For consumers who made a purchase in one of Defendant's physical store locations and opted into Defendant's loyalty program, mailing list(s) or other similar programs, Defendant has physical addresses associated with the recipient's name, email address, and order.

c. For consumers who visit Defendant's website and register to receive marketing emails, on information and belief, Defendant collects and has access to data regarding the recipient's state of residence via geolocation and IP address tracking. First, IP addresses are sufficient to confirm the user's physical location including city, state, and zip code.[14]

d. Second, under the heading "Information We Collect" Defendant's Privacy Statement provides that Defendant collects "Geolocation data to provide

[14] *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.") (last visited August 24, 2026).

your location for curbside pickup or to determine the nearest store and with your specific consent." Under the same heading, Defendant's Privacy Statement further provides that Defendant also collects identifiers such as "real name, alias, *postal address*, email address, telephone number*, date of birth or age, online identifier, social media profile information, or username and password, *Internet Protocol address*, signature, special status designations (i.e. teacher, student, military), or other similar identifiers." (Emphasis added.) Moreover, under the heading "Loyalty Programs (Financial Incentive Programs) Defendant's Privacy Statement provides that it collects consumers' "personal information, which may include [their] name, phone number, *address*, characteristics of protected classes (i.e. age/birthdate, gender), purchase history, *geolocation data*, preferences, characteristics, network data including browser or search history, and other personal information." (Emphasis added.)

e. For consumers who browse Defendant's website or click on Defendant's emails, on information and belief, Defendant can track their IP addresses. It is a standard business practice among major e-commerce companies to employ email and website marketing tools, like tracking pixels, which allow the sender to identify the person opening and clicking on the email by IP address, or the person browsing the website by IP address. Indeed, Defendant's Privacy Statement under the heading "Information We Collect" expressly provides that it collects IP addresses and other related information such as "Internet, mobile device, or other similar network

activity: when you use the Websites, some data is automatically transferred from your browser to our server, including through use of social media, cookies, web beacons, tracking pixels, clear gifs, and/or other similar technologies, including browsing history, search history, viewed webpages, Michaels emails you open and forward, Michaels offers and links you collect to via email, links that are clicked, keystrokes typed, movement of the mouse or pointer, device model, operating system version, unique device identifiers, mobile network information, sites or apps visited before coming to our Websites, videos viewed, the amount of time you spend viewing or using the Websites and the pages visited, the number of times you return, or other click-stream or site usage data, and other information on a consumer's interaction with the Websites or advertisement."

f. Defendant has access to granular location information tied to email addresses from commercial data brokers like Oracle, Equifax, and Lexis. Defendant can purchase consumer data from these brokers which connects individuals to email addresses, state of residence, and physical location. To that end, Defendant's Privacy Statement states under the heading "How We Collect Information" that it collects information "about you from other sources, including social media and commercially available sources such as data aggregators and public databases."

g. Defendant may obtain location information tied to email addresses by using "identity resolution" services offered by companies such as LiveRamp,

which can connect consumers' email addresses to their physical locations, among other identifiers.

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

51. 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.

E. Defendant's Deceptive Emails Violate Federal Law.

52. 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.

53. 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.

54. 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.

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

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

56. "By creating an impression of savings, the presence of a higher reference price enhances subjects' perceived value and willingness to buy the product."[15] 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."[16]

57. "[R]eference prices are important cues consumers use when making the decision concerning how much they are willing to pay for the product."[17] 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."[18]

58. Additionally, as "considerable evidence" suggests, "consumers react to scarcity and divert their attention to information where they might miss opportunities."[19]

59. 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."[20]

60. An article explains that, in a test case, the addition of countdown timers increased conversion rates "from ~3.5% to ~10%."[21]

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[15] Dhruv Grewal & Larry D. Compeau, *Comparative Price Advertising: Informative or Deceptive?*, 11 J. Pub. Pol'y & Mktg. 52, 55 (Spring 1992).
[16] *Id.* at 56.
[17] 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).
[18] *Id.*
[19] U.K. Competition & Mkts. Auth., *Online Choice Architecture—How Digital Design Can Harm Competition and Consumers* 26 (2022), https://perma.cc/V848-7TVV/ (last visited August 24, 2026).
[20] *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.
[21] *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 August 24, 2026).

61. 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.[22]

62. 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."[23]

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

64. Accordingly, research confirms that deceptive discount advertising is intended to, and does, influence consumer behavior by artificially inflating consumer perceptions of an item's value and causing consumers to spend money they otherwise would not have, purchase items they otherwise would not have, and/or purchase products from a specific retailer.

G. Plaintiff Heather Kyle

65. Defendant has spammed Plaintiff with commercial emails whose subject lines contain false or misleading statements in violation of her rights to be free from such annoyance and harassment under DCEMA.

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[22] *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 August 24, 2026).

[23] *Fed. Trade Comm'n, Bringing Dark Patterns to Light* 22 (2022), https://perma.cc/847M-EY69/ (last visited August 24, 2026).

66. Between 2021 and 2026, Plaintiff Kyle visited and made purchases at various Michaels stores located in or around Clark County, Indiana.

67. Plaintiff Kyle signed up to receive emails from Defendant in or around 2021 and in doing so provided Defendant with her email address. She did so while physically located in Clark County, Indiana.

68. Thus, since at least March 4, 2023, on information and belief, Defendant knew that Plaintiff Kyle was a resident of Indiana and that any emails sent to Plaintiff Kyle would be sent to an Indiana resident.

69. Plaintiff Kyle received each of the e-mails listed in paragraphs 29 above. On information and belief, she also received the emails listed in paragraph 30 above. At minimum, Plaintiff Kyle received the following emails, which are only representative examples.

a. 5/25/26: 🏃 DON'T MISS: 50% off Memorial Day Sale ends today.

b. 5/22/26: 50% off 📣 4 days only 📣 Sale starts TODAY!

70. Plaintiff Kyle received Defendant's emails at issue while she was an Indiana resident.

71. The subject lines of these emails are false or misleading, in violation of DCEMA, because they made false or misleading factual representations about the duration or availability of Defendant's sales, offers, or other promotions. Additionally, Defendant's sales were not legitimate because the Products are regularly offered by Defendant on the website at a discount from a higher Reference Price.

72. It is likely that Plaintiff has received all the marketing emails sent by Defendant because her email address was added to Defendant's marketing list, beyond those which they happened to save in their inbox.

73. Plaintiff Kyle would have liked to receive truthful information from Defendant regarding its Products. However, due to Defendant's conduct, Plaintiff Kyle 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 Kyle cannot discern which emails are not false or misleading.

H. No Adequate Remedy at Law.

74. Plaintiff seeks an injunction. Plaintiff is permitted to seek an injunction because she has 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 Indiana residents.

V. CLASS ACTION ALLEGATIONS

75. Plaintiff brings this action under T.R. 23, on behalf of herself and all others similarly situated.

76. Plaintiff brings the asserted claims on behalf of the following proposed class (the "Class") and subclasses:

> All Indiana residents who, during the Class Period, 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 upon expiration; or (iii) stating a sale, discount, or price is time limited, ending, or tethered to a holiday or event, when Defendant reinstated the same or comparable sale, discount, or price for a longer time.

77. Plaintiff reserves the right to propose additional subclasses based on specific subcategories of emails and Class Members at class certification.

78. The Class Period is the time period beginning on the date established by the Court's determination of any applicable statute of limitations and ending on the date a class certification

order is entered in this action. Thus, the statute of limitations begins no later than the date six years before this Complaint is filed.

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

Numerosity

80. The proposed Class contains members so numerous that separate joinder of each member of the class is impractical. There are at least tens of thousands of Class Members in Indiana.

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

Predominance of Common Questions

82. There are questions of law and fact common to the proposed Class. Common 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 DCEMA; and

c. the greater of actual damages or statutory damages due to the Plaintiff and the proposed Class.

Typicality & Adequacy

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

84. There are no conflicts of interest between Plaintiff and the Class.

Superiority

85. 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 I
Violation of the Indiana Deceptive Commercial Electronic Mail Act
Ind. Code § 24-5-22-7
(By Plaintiff and the Class)

86. Defendant has initiated the transmission, within the meaning of Indiana Code § 24-5-22-4, or assisted the transmission, within the meaning of Indiana Code § 24-5-22-1, of commercial electronic mail messages, within the meaning of Indiana Code § 24-5-22-2, that contain false or misleading information in the subject line to electronic email addresses, within the meaning of Indiana Code § 24-5-22-3, that Defendant knew or has reason to know are held by residents of Indiana.

87. Plaintiff has received commercial electronic mail messages containing false or misleading information in the subject line of which Defendant has initiated the transmission or assisted the transmission.

88. For Defendant's violations of the Deceptive Commercial Electronic Mail Act, Plaintiff seeks an injunction against future violations, as well as actual damages or presumptive damages of $500 for each violation, whichever is greater.

VII. PRAYER FOR RELIEF

89. Plaintiff seeks 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 Plaintiff 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.

VIII. JURY DEMAND

90. Plaintiff demands the right to a jury trial on all claims so triable.

[Counsel signatures to follow on next page.]

RESPECTFULLY SUBMITTED this 25th day of September, 2026.

/s/ Lynn A. Toops
Lynn A. Toops, No. 26386-49
Natalie A. Lyons, No. 36583-32
Ian R. Bensberg, No. 33956-53
COHENMALAD, LLP
One Indiana Square, Suite 1400
Indianapolis, IN 46204
Telephone: (317) 636-6481
ltoops@cohenmalad.com
nlyons@cohenmalad.com
ibensberg@cohenmalad.com

J. Gerard Stranch, IV (*pro hac vice* forthcoming)
Michael C. Tackeff (*pro hac vice* forthcoming)
Andrew K. Murray (*pro hac vice* forthcoming)
STRANCH, JENNINGS & GARVEY, PLLC
223 Rosa L. Parks Avenue, Suite 200
Nashville, TN 37203
Telephone: (615) 254-8801
gstranch@stranchlaw.com
mtackeff@stranchlaw.com
amurray@stranchlaw.com

Samuel J. Strauss (*pro hac vice* forthcoming)
Raina C. Borrelli (*pro hac vice* forthcoming)
STRAUSS BORRELLI PLLC
980 N. Michigan Avenue, Suite 1610
Chicago, IL 60611
Telephone: (872) 236-1100
Facsimile: (872) 263-1109
sam@straussborrelli.com
raina@straussborrelli.com

Counsel for Plaintiff and the Putative Class