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CASE #: 26-2-18653-7 SEA

SUPERIOR COURT FOR THE STATE OF WASHINGTON
FOR KING COUNTY

ELYSE O'CALLAGHAN LEWIS, on her own behalf and on behalf of other similarly situated persons, Plaintiff, v. EARNEST LLC, a Delaware limited liability company, EARNEST OPERATIONS LLC, a Delaware limited liability company, and NAVIENT CORPORATION, a Delaware corporation Defendants.	**CLASS ACTION** No. **COMPLAINT FOR DAMAGES**

I. INTRODUCTION

1.1 In order to protect Washingtonians from deceptive electronic mail advertising, Washington law sets limits on how and when businesses may send e-mail messages to potential customers. Earnest LLC, Earnest Operations LLC, and Navient Corporation (collectively, "Earnest") and its affiliates ignore these limitations by sending commercial e-mail messages with misleading subject lines to Washingtonians to further its business.

1.2 Earnest markets its products to consumers for their businesses through e-mail advertisements sent in violation of the Washington Commercial Electronic Mail Act, RCW 19.190.010 *et seq.*, and the Washington Consumer Protection Act, RCW 19.86.010 *et seq.*

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1.3 Plaintiff Elyse O'Callaghan Lewis ("Representative Plaintiff" or "Plaintiff"), on her own behalf and on behalf of all other similarly situated persons, brings this Complaint for Damages to obtain from Defendants all damages, attorneys' fees, costs, and other remedies Plaintiff is entitled to recover under law and equity.

II. PARTIES

2.1 Plaintiff is an individual residing in King County, Washington.

2.2 Defendant Earnest LLC, is a Delaware limited liability company with its principal place of business in California, that transacts business in King County.

2.3 Defendant Earnest Operations LLC is a Delaware limited liability company with its principal place of business in California, that transacts business in King County. Earnest Operations LLC is a subsidiary of Earnest LLC.

2.4 Defendant Navient Corporation is a Delaware corporation with its principal place of business in Delaware. Navient Corporation is the parent company of Earnest LLC.

III. JURISDICTION AND VENUE

3.1 Acts complained of herein occurred in the State of Washington.

3.2 At all times material to this action, Defendants transacted business within King County.

3.3 This action has been filed within the applicable statutory time periods.

3.4 Jurisdiction is proper in this Court under RCW 2.08.010.

3.5 Venue is proper in this Court under RCW 4.12.025 because Defendants presently transact business in King County, transacted business in King County at the time Plaintiff's causes of action arose, and because the tortious conduct occurred in King County.

IV. FACTUAL BACKGROUND

4.1 Earnest Operations LLC provides personal loan and student loan refinancing to borrowers.

4.2 Earnest Operations is enormously successful, raking in millions in revenue.

4.3 In order to drive its significant revenues, Earnest Operations markets its products

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to potential customers through electronic mail messages.

4.4 Many of these e-mails are sent with misleading subject lines that encourage recipients to open the e-mails on misleading pretenses.

4.5 In particular, multiple e-mails advertise financial terms in their subject lines with specific time limitations that are untrue or misleading and encourage already desperate buyers to make financial decisions with a false sense of urgency.

4.6 Plaintiff has received multiple such e-mails from Earnest.

4.7 One e-mail, dated May 4, 2026, advertised in the subject line the "FINAL DAYS" of a "0.50% rate drop," which the subject line warned "won't stick around."

4.8 Another e-mail, sent May 6, 2025, advertised the same .5% savings in its subject line warning it was the "Last Chance" to take advantage of the deal.

4.9 Notwithstanding, Earnest again advertised the .5% savings in the subject lines of emails sent May 15, and May 18, 2026. Those subject lines urged Plaintiff "don't miss" the same savings it had advertised as imminently ending for weeks and would continue to advertise as imminently ending for weeks more.

4.10 Ernest continued to market the same .5% savings in the subject line of yet another e-mail to Plaintiff, sent May 20, 2026. That subject line assured that the .5% lower rate "won't be around much longer."

4.11 Yet, Earnest continued advertising the rate drop for days, in the subject lines of emails sent on May 26, 28, and 29, 2026.

4.12 Notwithstanding the fact that it had been advertising the imminent end to the .5% rate drop for nearly a month, Earnest's May 26, 2026 email implied that that the promotion was new, saying in the subject line "Limited Time: Elyse we just dropped our rates by 0.50%".

4.13 Earnest continued marketing the urgency of its .5% savings in the subject line of emails sent on June 1, and 3, 2026 email, urging Plaintiff to "Act now" to secure the savings.

4.14 Finally, on June 5, 2026, Earnest sent another email with an identical subject line to its May 4, 2026 email, urging Plaintiff that the .5% rate drop was in its "FINAL DAYS," and

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the rate "won't stick around."

4.15 These misleading subject lines encourage consumers to view e-mails and make decades-long financial commitments with a false sense of urgency.

4.16 On information and belief, other individuals residing in the State of Washington received e-mail messages with misleading or false subject lines from Earnest for the commercial purpose of marketing Earnests' financial products.

V. CLASS ACTION ALLEGATIONS

5.1 Representative Plaintiff realleges paragraphs 1.1 through 4.16 of the Complaint and hereby incorporates the same by reference.

5.2 Representative Plaintiff brings this class action on behalf of herself and as a representative of the following persons who are entitled to remedies under Washington State law including, but not limited to, damages:

> All persons who received a commercial electronic mail message in the State of Washington that was transmitted by Earnest LLC, Earnest Operations LLC, or someone acting on behalf of Earnest LLC, or Earnest Operations LLC, at any time within the period beginning four years prior to the date of this Complaint to the date of certification of the class.

5.3 Plaintiff's class claims satisfy all the requirements for class action certification pursuant to the Civil Procedure Rules 23(a) and 23(b)(1), 23(b)(2), and 23(b)(3).

5.4 Satisfying all requisite numerosity requirements, numerous consumers in Washington State are believed to be members of this class. Joinder of so many class members into a single action is impracticable. In fact, given the number of class members, the only way to deliver substantial justice to all members of the class is by means of a single class action.

5.5 There are questions of fact and law common to the class, which predominate over any questions affecting only individual members. The questions of law and fact common to the class arising from Defendants' conduct include, without limitation, the following:

a. Whether Defendants' electronic mail messages are "commercial electronic mail messages" under the Washington Commercial Electronic Mail Act?

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b. Whether the subject lines of Defendants' commercial electronic mail messages are false or misleading in violation of the Washington Commercial Electronic Mail Act and Consumer Protection Act?

c. Whether Defendants are vicariously or otherwise liable for misleading commercial electronic mail messages sent to Plaintiff?

5.6 The questions set forth above predominate over any questions affecting only individual persons, and a class action is superior with respect to considerations of consistency, economy, efficiency, fairness and equity, to other available methods for the fair and efficient adjudication of Plaintiff's claims.

5.7 Representative Plaintiff's claims are typical of those of the class in that she, just like the other members of the class, was the victim of the unlawful marketing practices referenced in this complaint. The electronic mail messages which Representative Plaintiff received are typical of the electronic mail messages which were transmitted to other members of the class.

5.8 A class action is the appropriate method for the fair and efficient adjudication of this controversy. Defendants have acted in a general manner to the damage of the class. The presentation of separate actions by individual class members could create a risk of inconsistent and varying adjudications, establish incompatible standards of conduct for Defendants, and/or substantially impair or impede the ability of class members to protect their interests. Moreover, the individual damages of each of the class members are so low that it would be economically impracticable for putative class members to bring their claims individually.

5.9 Representative Plaintiff is an adequate representative of the class because she is a member of the class, and her interests do not conflict with the interests of the members of the class she seeks to represent. The interests of the members of the class will be fairly and adequately protected by Representative Plaintiff. Representative Plaintiff is represented by attorneys who have extensive, multi-jurisdictional experience representing clients in complex class action litigation.

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5.10 Maintenance of this action as a class action is a fair and efficient method for the adjudication of this controversy. It would be impractical and undesirable for each member of the class who suffered harm to bring a separate action. In addition, the maintenance of separate actions would place a substantial and unnecessary burden on the courts and could result in inconsistent adjudications, while a single class action can determine, with judicial economy, the rights of all class members.

5.11 If this action is not certified as a class action, then the only way that the court system will not be overburdened by a multiplicity of suits over the subject matter of this complaint is if members of the class cannot or do not pursue an action against Defendants for reasons altogether unrelated to the merits of their claims, e.g., challenges in accessing legal counsel, the mundane realities of surviving in a challenging economy, et cetera. Most plaintiffs can obtain legal representation for their claims only through a class action. The only practical way to ensure that all members of the class are afforded an opportunity to obtain substantial justice with regard to the wrongs and injuries inflicted upon them by Defendants is to resolve the subject matter of this complaint through a class action.

VI. CAUSE OF ACTION

VIOLATIONS OF THE WASHINGTON CONSUMER PROTECTION ACT

(Representative Plaintiff and the Class vs. Defendant)

6.1 Plaintiff realleges paragraphs 1.1 through 5.11 of the Complaint and hereby incorporates the same by reference.

6.2 At all times material herein, Plaintiff has been entitled to the rights, protections, and benefits provided under the Washington Consumer Protection Act and related Washington statutes including the Washington Commercial Electronic Mail Act, RCW 19.190.010 *et seq.*

6.3 Defendants' practice of transmitting and/or assisting in the transmission of commercial electronic mail messages with misleading subject lines to Plaintiff and the putative class is a violation of RCW 19.190.020(b) and RCW 19.190.030. This violation, per statute, is a per se violation of Washington's Consumer Protection Act, RCW 19.86.010 *et seq.*

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6.4 Defendants' practice of transmitting and/or assisting in the transmission of commercial electronic mail messages with false or misleading subject lines to Plaintiffs is conduct that vitally affects the public interest and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the Consumer Protection Act, RCW 19.86.010 *et seq.*

6.5 Defendants conducted these practices in the scope of its trade and in furtherance of the development and preservation of such business services.

6.6 Defendants' violations of the Consumer Protection Act are intentional and willful.

6.7 Plaintiffs have suffered injuries to their persons and property as a direct result of Defendants' numerous violations of RCW 19.86.010 *et seq.*

6.8 Defendants' practices are emblematic of organizational policies and agreements which have caused and, if unabated, will continue to cause incidents, occurrences, and conduct which violate RCW 19.86.010 *et seq.*, and RCW 19.190.010 *et seq.*

6.9 Plaintiffs are entitled to recover damages for each of the violations of RCW 19.86.010 *et seq.*, in amounts set forth by law.

6.10 Plaintiffs are further entitled to recover damages for each of the violations under RCW 19.190.010 *et seq.*, in amounts set forth by law and otherwise in accord with proof to be provided at trial.

6.11 Plaintiffs are further entitled to all attorneys' fees, costs, and treble damages as allowed by RCW 19.86.010 *et seq.*, and as otherwise permitted by law.

VII. PRAYER FOR RELIEF

WHEREFORE, Representative Plaintiff, and all others similarly situated, demand judgment against Defendant and pray this Court do the following:

A. Issue a declaration which makes clear the illegality of Defendants' wrongful conduct.

B. Order Defendants to make Representative Plaintiff and the other class members whole by providing compensation for past and future pecuniary losses resulting from the

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unlawful practices described above in amounts to be determined at trial, but in no event less than a $500.00 statutory penalty for each violation of RCW 19.86.010 *et seq.* and/or RCW 19.190.010 *et seq.*

C. Order Defendants to make Representative Plaintiff and the other class members whole by providing appropriate prejudgment interest, in an amount to be determined at trial, and other affirmative relief necessary to eradicate the effects of the unlawful practices.

D. Order Defendants to pay Representative Plaintiff and the other class members punitive and/or treble damages to the fullest extent allowed by law, including but not limited to all punitive and/or treble damages for a knowing or willful violation of the Consumer Protection Act.

E. Award Representative Plaintiff and the other class members the costs of this action, including attorneys' fees, as authorized by law and/or as sounds in tort, contract, or equity.

F. Grant any additional or further relief as provided by law or equity which this Court finds appropriate, equitable, or just.

DATED this 9th day of June, 2026.

/s/ Joseph W. Wright
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Jason A. Rittereiser, WSBA No. 43628
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