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KING COUNTY
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CASE #: 26-2-17077-1 SEA

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

MARY ANN TOLENTINO, on her own behalf
and on behalf of others similarly situated,

Plaintiff,

v.

OFFICE DEPOT, LLC,

Defendant.

Case No.: _____ SEA

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Mary Ann Tolentino, on her own behalf and on behalf of others similarly situated, on information and belief except to her own experiences and matters of public record, complains of Office Depot, LLC, (“Office Depot”) as follows:

I. INTRODUCTION

1. In 1998, to protect Washington consumers from the annoyance and harassment caused by the burgeoning spam email industry, the Washington State Legislature enacted the Commercial Electronic Mail Act (CEMA), codified at chapter 190 of title 19 of the Revised Code of Washington (RCW).

2. Among other things, CEMA prohibits transmitting a commercial email with “false or misleading information in the subject line” to the email address of a Washington resident.” RCW

19.190.020(1)(b).

3. Defendant Office Depot engages in the precise activity which CEMA prohibits.

4. Office Depot spams Washington consumers, including Plaintiff, with commercial emails featuring subject lines which employ various tactics to create a false sense of urgency in consumers' minds—and ultimately, from consumers' wallets.

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

6. Through this deceptive time-sensitivity, Office Depot falsely narrows the field—steering consumers away from shopping for better deals—to its own products that must be purchased *now*.

7. Plaintiff challenges Office Depot's harassment of Washington consumers with deceptive marketing for violations of the Commercial Electronic Mail Act (RCW 19.190.020) and the Consumer Protection Act (RCW 19.86.020) for injuries caused, additionally seeking injunctive relief against such violations in the future.

II. JURISDICTION AND VENUE

8. The Court has jurisdiction of this case under RCW 2.08.010.

9. Venue is proper in King County under RCW 4.12.020(3) because Plaintiff's cause of action, or some part thereof, arose in King County.

10. Defendant sells its products in Washington through its retail locations and website and is thus subject to personal jurisdiction in this Court. *See, e.g., Ford Motor Co. v. Montana Eighth Jud. Dist. Ct.*, 592 U.S. 351 (2021).

III. PARTIES

11. Plaintiff Mary Ann Tolentino is a resident of King County, Washington.

12. Defendant Office Depot, LLC, is a Delaware company with its principal address at 6600 North Military Trail, Boca Raton, FL 33496 and a registered agent in the State of Washington at 711 Capitol Way S, Suite 204, Olympia, Washington, 98501.

IV. FACTUAL ALLEGATIONS

A. CEMA protects Washington consumers from deceptive spam emails.

13. The Supreme Court of Washington has made clear: “[A]ll Internet users ... bear the cost of deceptive spam.” *State v. Heckel*, 143 Wn. 2d 824, 835 (2001) (en banc).

14. In 1998, the Legislature found that the “volume of commercial electronic mail” was “growing,” generating an “increasing number of consumer complaints.” Laws of 1998, ch. 149, § 1.

15. While it’s been nearly three decades since CEMA’s enactment, the problems caused by unsolicited commercial email, *i.e.* spam email, have grown exponentially.

16. The problems, however, are not limited to email content. Subject lines of emails are framed to attract consumers’ attention away from the spam barrage to a message that entices consumers to click and, ultimately, *purchase*.

17. 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).

18. In 2012, one study estimated that Americans bear “costs of almost \$20 billion annually” due to unsolicited commercial email. Justin M. Rao & David H. Reiley, *The Economics of Spam*, 26 J. of Econ. Perspectives 87, 88 (2012).

1 19. Even when bulk commercial email marketers are operating under color of consumer
2 consent, the reality is that “[m]ost privacy consent”—especially under the “notice-and-choice”
3 approach predominant in the United States—“is a fiction.” Daniel J. Solove, *Murky Consent: An*
4 *Approach to the Fictions of Consent in Privacy Law*, 104 Boston Univ. L. Rev. 593, 596 (2024).

5 20. Consumers therefore routinely “consent” to receive flurries of commercial emails
6 which they did not meaningfully request and in which they have no genuine interest.

7 21. This includes emails sent to consumers from businesses with which they have no
8 prior relationship—by virtue of commercial data brokers and commercial data sharing agreements.

9 22. Simply conducting the routine affairs of daily life often exposes consumers to
10 unanticipated and unwanted volumes of commercial email. “Nowadays, you need an email address
11 for everything from opening a bank account to getting your dog’s nails trimmed, and ... [o]nce
12 you hand over your email address, companies often use it as an all-access pass to your inbox:
13 Think of shopping websites that send account updates, deals, ‘we miss you’ messages, and holiday
14 promotions throughout the year. It’s too much.” Kaitlyn Wells, *Email Unsubscribe Services Don’t*
15 *Really Work*, N.Y. Times Wirecutter (Aug. 19, 2024), <https://perma.cc/U8S6-R8RU/>.

16 23. The Legislature presciently intended CEMA to “provide some immediate relief”
17 for these problems by prohibiting among other things commercial emails that “contain untrue or
18 misleading information in the subject line.” Laws of 1998, ch. 149, § 1.

19 24. CEMA thereby protects Washington consumers against the “harms resulting from
20 deceptive commercial e-mails,” which “resemble the type of harms remedied by nuisance or fraud
21 actions.” *Harbers v. Eddie Bauer, LLC*, 415 F. Supp. 3d 999, 1008 (W.D. Wash. 2019).

22 25. CEMA’s “truthfulness requirements” increase the costs of sending deceptive
23 commercial emails and thereby reduce their volume. *Heckel*, 143 Wn. 2d at 836.

26. CEMA’s “truthfulness requirements” thereby advance the statute’s aim of protecting consumers “from the problems associated with commercial bulk e-mail” while facilitating commerce “by eliminating fraud and deception.” *Id.*

27. CEMA “mean[s] exactly what it says”: in “broad” but “patently clear” language, CEMA unambiguously prohibits “sending Washington residents commercial e-mails that contain *any* false or misleading information in the subject lines of such e-mails.” *Certification from U.S. Dist. Ct. for W. Dist. of Wash. in Brown v. Old Navy, LLC*, 567 P.3d 38, 44, 46–47 (Wash. 2025).

28. CEMA’s protections do not depend on whether an email was (really or fictively) solicited by consumers, nor on whether consumers relied on any false or misleading statement contained in its subject line. *See Harbers*, 415 F. Supp. 3d at 1011.

29. The statute’s only concern is to suppress false or misleading information in the subject line of commercial emails. *See Brown*, 567 P.3d at 44–45.

B. The subject lines of Office Depot’s marketing emails make false time scarcity claims.

30. 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 scarce. Fed. Trade Comm’n, *Bringing Dark Patterns to Light* 4 (2022), <https://perma.cc/847M-EY69/>; *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/>.

31. 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.” *Bringing Dark Patterns to Light*, *supra*

1 para. 30, at 22.

2 32. “False or misleading scarcity claims can change the behavior of consumers.”
3 *Online Choice Architecture*, *supra* para. 30, at 27.

4 33. Representations about the timing and duration of sales, discounts, and other special
5 offers are fundamentally representations about prices, and such representations matter to ordinary
6 consumers. *See, e.g., Huiliang Zhao et al., Impact of Pricing and Product Information on*
7 *Consumer Buying Behavior with Customer Satisfaction in a Mediating Role*, 12 *Frontiers in*
8 *Psychology* 720151 (2021), available at
9 <https://pmc.ncbi.nlm.nih.gov/articles/PMC8710754/pdf/fpsyg-12-720151.pdf/>.

10 34. False scarcity claims are psychologically effective. As “considerable evidence”
11 suggests, “consumers react to scarcity and divert their attention to information where they might
12 miss opportunities.” *Online Choice Architecture*, *supra* para. 30, at 26.

13 35. Invoking this time pressure achieves a seller’s aim to narrow the field of
14 competitive products and deals, by “induc[ing] consumers to rely on heuristics (mental shortcuts),
15 like limiting focus to a restricted set of attributes or deciding based on habit.” *Id.*

16 36. Under time pressure, “consumers might take up an offer to minimize the uncertainty
17 of passing it up.” *Id.*

18 37. False time scarcity claims thus *harm consumers* by manipulatively distorting their
19 decision-making to *their detriment—and the seller’s benefit*.

20 38. Indeed, one 2019 study found that “customers who took timed deals rather than
21 waiting to see wider options ended up worse off than those who waited.” *Id.* at 27.

22 39. False time scarcity claims also harm market competition. Consumers learn to ignore
23 scarcity claims, “meaning that when a product [or offer] is truly scarce, the seller will not be able
24

1 to credibly communicate this information.” *Id.*

2 40. These false time scarcity claims are a staple of the defendant’s marketing scheme
3 to compel consumers to purchase its products.

4 41. Office Depot is a retailer specializing in office supplies, office furniture, printing
5 services, and related products. The company’s merchandise is available on its website,
6 www.officedepot.com, and at its retail locations.

7 42. To advertise its products and encourage purchases, Office Depot routinely sends
8 spam emails to consumers. These emails are part of a calculated marketing strategy that Defendant
9 orchestrates in advance to maximize sales by distorting factual information about the duration and
10 availability of its promotions.

11 43. **Urgent Spam Emails.** Unfortunately for those recipients, Office Depot regularly
12 titles its emails with urgent subject headings that do not reflect the true availability of the advertised
13 deal. This strategy is demonstrated in the examples discussed below.

14 44. Office Depot has tailored its approach to fit a number of offers, including promotion
15 extensions. In these examples, Office Depot sends consumers emails to advertise an offer,
16 promotion, or sale. Then, it uses the subject lines of follow-up emails to present the promotional
17 pricing as a scarce or time-limited opportunity. This strategy commands consumers’ attention and
18 pressures them to purchase from Office Depot’s website. Finally, once the originally advertised
19 “deadline” has passed, Office Depot knowingly extends the promotion to a new end date.

20 45. This misleading marketing strategy allows Office Depot to maximize sales during
21 both the initial promotion, as well as the subsequent extension. While Office Depot may present
22 these extensions as though they are a favor or unexpected blessing to consumers, they are anything
23 but. By deploying false time pressure with surprise extensions—which are only disclosed once the
24

1 original promotion has ended—Office Depot compels consumers to purchase quickly while
2 withholding terms that consumers need so they can make informed buying decisions. A 2025
3 promotion provides an apt example of this strategy at work.

4 46. First, Office Depot sends consumers emails advertising a new promotion. For
5 instance, on January 20, 2025, it transmitted an email with the subject line: “NEED PAPER? Don't
6 miss \$39.99 Boise® X-9® 10-rm case! Online only!” The promotion invited consumers to
7 purchase 10 reams of Boise X-9 multi-use paper on Office Depot’s website.

8 47. For the next step in its scheme, Office Depot uses the subject lines of its follow-up
9 emails to assert false time pressure on recipients. Such headlines urge consumers to purchase from
10 Office Depot by warning them that the offer is coming to an end.

11 48. Office Depot did so, regarding the \$39.99 paper sale, on January 22, 2025. Early
12 that day, it sent an email with the subject line: “LAST DAY! \$39.99 Boise® X-9® 10-rm case
13 paper! Online only!” Within the email, Office Depot provided an image of the case above bold text
14 exclaiming that it was the “LAST DAY!” to obtain the special pricing.

15 49. Despite these unambiguous warnings, January 22, 2025, was not the expiration date
16 for the promotion. Instead of providing consumers with accurate terms, the office supplies retailer
17 chose to keep them in the dark regarding the sale’s end date.

18 50. In the final stage of its scheme, Office Depot replaces the advertised deadline with
19 the real deadline, purportedly extending the life of the promotion. For the \$39.99 paper sale, Office
20 Depot announced the “extension” on January 23, 2025, in an email titled: “EXTENDED: \$39.99
21 Boise® X-9® 10-rm case paper! Online only!”

22 51. Thus, one day after warning consumers that the sale was ending, Office Depot
23 extended the promotion, thereby proving the falsity of its January 22, 2025, subject line.
24

1 Consumers in receipt of the earlier emails were not at risk of missing the discount/promotion
2 because Office Depot did not end the promotion on January 22, as advertised. The false deadline
3 for the \$39.99 promotion is simply one element of Office Depot's cohesive marketing strategy
4 meant to compel consumers to purchase its merchandise.

5 52. January 2025 was not the first time that Office Depot paired a false deadline with a
6 surprise extension. It did so in 2022 as well.

7 53. An email sent on December 12, 2022, was titled: “🔔🔔 1-Day Only! Choose your
8 \$39.99 10-ream paper case[.]” Inside, the email reiterated that the offer was “Today only!” and
9 allowed consumers to purchase a 10-ream case of Hammermill or Boise paper for \$39.99.

10 54. The very next day, Office Depot confirmed the falsity of its December 12, 2022,
11 subject line. On December 13, 2022, it transmitted an email with the subject heading: “Extra!
12 Extra! 📄 Deal Extension! \$39.99 10-ream paper case[.]”

13 55. So, despite the unambiguous deadline that it communicated in its December 12,
14 2022, subject line, Office Depot was still advertising the same offer the following day.

15 56. By stuffing consumer inboxes with such misinformation, Office Depot ensures that
16 email recipients lack the accurate details needed to make educated buying decisions.

17 57. Sales extensions are not the only means by which Office Depot deploys its
18 deceptive strategy. It has leveraged false time scarcity claims against consumers with other
19 promotions as well. In some instances, Office Depot pressures consumers to buy quickly—because
20 the opportunity to receive an offer or obtain special pricing is coming to an end—only to advertise
21 the same or better terms shortly thereafter.

22 58. A June 2024 promotion offering special pricing on paper provides an example.

23 59. On June 17, 2024, Office Depot sent consumers an email announcing the sale in its
24

1 subject line: “Today only! 🔥 \$38.99 for Boise® X-9® 10rm case paper!” Text within the email
2 confirmed that the discount was for “1 DAY ONLY” and that the promotion “Ends 6/17/24.”

3 60. Despite representing that the special pricing would only last for a single day, Office
4 Depot returned to consumers’ inboxes two days later, on June 19, 2024, to offer the same item at
5 an improved price. An email sent that day was titled: “Wow! Only \$37.99 for Boise® X-9® 10-
6 ream case paper!”

7 61. The misleading nature of these communications couldn’t be clearer. Consumers in
8 receipt of the June 17, 2024, email are urged to visit Office Depot’s website for a “today only”
9 deal. But the deal wasn’t “today only.” Just two days later, consumers could get the same deal (a
10 better deal, actually) as confirmed by the June 19, 2025, email.

11 62. So, Office Depot deceived consumers by stating that June 17 was the “only” day to
12 get the deal on Boise paper while, in fact, consumers could get an even better deal by waiting one
13 day.

14 63. A few months later, Office Depot deployed the same deceptive strategy concerning
15 the same item.

16 64. On September 10, 2024, Office Depot transmitted an email advising consumers that
17 Boise paper was offered at \$39.99 for a limited time. An email sent on that date was titled: “Today
18 Only! \$39.99 Boise® X-9® 10-ream paper deal[.]” Again, the body of the email advised that the
19 pricing was an “Email Exclusive” and available for “1 DAY ONLY[.]”

20 65. Yet the \$39.99 price for the Boise product was not limited to a single day. An email
21 sent seven days later confirmed the falsity of the September 10, 2024, subject line.

22 66. The following week, Office Depot advertised the same price when it transmitted an
23 email, on September 17, 2024, with the subject line: “🔥 Today only! \$39.99 Boise® X-9® 10rm
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1 case paper for your business!” The email confirmed that Office Depot was offering the same
2 product at the same price as previously advertised in the September 10, 2024, subject line.

3 67. Office Depot repeated its ruse in December as well.

4 68. On December 3, 2024, it sent an email clearly communicating that special pricing
5 on Boise paper was coming to an end within its subject line: “LAST DAY Online for Boise® X-
6 9® at just \$38.99!” The email’s preview text claimed, “It’s true!” while text within the email
7 clearly stated it was the “Last day” to obtain the savings.

8 69. However, December 3 was not the last day to obtain the product for \$38.99.

9 70. On December 9, 2024, Office Depot transmitted an email titled: “TODAY ONLY!
10 Just \$38.99 for Boise X-9 10rm paper case. Stock up & SAVE[.]” Again, the opportunity was
11 presented as “online-only” with the same price for the same item.

12 71. Thus, a deal which was supposedly in its “LAST DAY” on December 3, 2024, was
13 available again in less than a week.

14 72. This is an established pattern for Office Depot. It regularly transmits subject lines
15 warning consumers that the product is available at special pricing for a single day. Shortly
16 thereafter, Office Depot proves those subject lines are false by sending additional marketing emails
17 which advertise the same product for an identical or improved price. The following subject lines
18 demonstrate Office Depot’s consistent strategy:

19 a. December 10, 2024: “1 DAY ONLY! 10rm Boise® X-9® paper ONLY
20 \$39.99. Stock up!”

21 b. December 12, 2024: “🕒 FINAL DAY for \$39.99 Boise® X-9® 10rm case
22 paper[.]”

23 c. January 2, 2025: “TODAY ONLY! \$39.99 Office Depot® Multi-Use 10-rm
24

case paper!”

d. January 6, 2025: “Great paper deal...\$39.99 Office Depot® Multi-Use 10-rm case!”

e. January 16, 2025: “ONE DAY ONLY! \$39.99 Boise® X-9® 10-rm case paper! Online only!”

f. January 20, 2025: “NEED PAPER? Don't miss \$39.99 Boise® X-9® 10-rm case! Online only!”

73. So, the subject lines sent on December 10, 2024, January 2, 2025, and January 16, 2025, all informed consumers that promotional pricing was available for the duration of the respective day, only to revive the exact same offer a few days later.

74. Office Depot continued to transmit misleading subject lines as 2025 continued. The subject lines alone confirm the deceptive pattern:

a. January 28, 2025: “🔥 1-Day Paper Deal: \$39.99 Office Depot® 10rm case paper! Online only!”

b. January 28, 2025: “👉 1-Day Deal: \$39.99 Office Depot® 10-rm case paper! Online Only!”

c. January 30, 2025: “TODAY ONLY! \$39.99 Office Depot® 10-rm case paper! Online only!”

d. February 4, 2025: “One Day Only: Boise® X-9® 10rm case paper only \$39.99! Online only[.]”

e. February 6, 2025: “ONLINE ONLY DEAL! Boise® X-9® 10-rm paper case for just \$39.99[.]”

75. Both subject lines transmitted on January 28, 2025, along with the subject line sent

on February 4, 2025, falsely presented the advertised pricing as a time-limited opportunity limited to a single day. In reality, and as confirmed by the emails which followed, the same pricing was offered again shortly thereafter.

76. However, Office Depot does not limit its scheme to paper products.

77. On March 19, 2025, it sent an email with a subject line advertising discounts on furniture: “🕒 FINAL DAY! Save up to 60% on select furniture!” Within the email, text warned that it was the “Final day!” for the “FLASH SALE.”

78. Yet by March 24, 2025, the same discount was available again. An email transmitted on that date was titled: “Furniture FLASH ⚡ Sale starts today: Save up to 60% on select furniture!” So, after warning consumers that the discount was coming to an end in its March 19, 2025, subject line, Office Depot made the same pricing available five days later.

79. By mid-April, the retailer reprised the scheme when advertising special pricing on Boise paper. In at least three different emails within the same month, Office Depot presented the product at a special price for a short duration. In each instance, the time scarcity claims which Office Depot leveraged against consumers were false, as demonstrated by the subject lines it used to execute its scheme:

a. April 16, 2025: “LAST DAY 🕒 \$38.99 Boise® X-9® 10 ream paper.

Online only!”

b. April 22, 2025: “📅 2 Days Only: \$38.99 Boise® X-9® 10-Ream Paper.

Online only.”

c. April 24, 2025: “One day, online only! Boise® X-9® 10-ream paper now \$39.99!”

d. April 28, 2025: “🔥 Email exclusive deal: ONLY \$39.99 Boise® X-9®

10rm paper! Online only.”

e. April 30, 2025: “Last day! Score this \$39.99 Boise® X-9® paper deal while you can!”

f. May 6, 2025: “🔔 Email Exclusive! \$39.99 Boise® X-9® 10-Ream Paper. Online only.”

80. Office Depot replicated the deceptive strategy again in September 2025. Twice.

81. On September 4, 2025, it transmitted an email containing an explicit end date within its title: “Ends 9/4 ➡ Email Exclusive \$39.99 Boise® 10rm paper. Online only.” The body of the email confirmed that the offer was “Valid through 9/4/25.”

82. However, September 4 was not consumers’ last opportunity to obtain the product for \$39.99.

83. By September 11, 2025, Office Depot was advertising the \$39.99 price yet again as demonstrated by a subject line it sent consumers on that date: “Your price: \$39.99 Boise® 10rm paper. Online only. Email exclusive[.]”

84. Unfortunately for consumers, the September 4, 2025, subject line was not Office Depot’s only deceptive transmission for the month.

85. On September 25, 2025, Office Depot sent consumers an email titled: “Ends 9/25 ➡ Email Exclusive \$39.99 Boise® 10rm paper. Online only.” Text within the email confirmed the offer’s deadline: “Valid through 9/25/25.”

86. In keeping with its typical pattern, Office Depot confirmed the falsity of the September 25, 2025, subject line within a matter of days. On September 30, 2025, it transmitted an email advertising the same product for the same price within the message’s subject heading: “Email Exclusive Online Paper Deal ✅ \$39.99 10rm case just a click away!”

1 87. The scheme was deployed in November 2025 as well.

2 88. On November 13, 2025, Office Depot sent an email with the subject line: "Online
3 Only DEAL. Ends 11/13 ► \$39.99 10-ream case paper[.]" Again, the body of the email confirmed
4 the impending end date for the online only offer: "Valid 11/13/25."

5 89. Again, within a matter of days, Office Depot confirmed the misleading nature of
6 the November 13, 2025, subject line.

7 90. Proof of the retailer's deception arrived in consumers' inboxes on November 18,
8 2025, when Office Depot sent an email titled: "🔔 Your \$39.99 10rm paper deal is here! Online
9 only." The November 18 email confirmed that the supposedly time-limited pricing advertised in
10 the November 13, 2025, subject line was nothing more than a false time scarcity claim meant to
11 drive sales rather than inform consumers.

12 91. As the subject lines of its marketing emails demonstrate, Office Depot employs a
13 strategy where it pressures consumers to purchase products from its website by falsely representing
14 the limited availability of its offers.

15 **C. Office Depot knows when it sends emails to Washington residents.**

16 92. A sophisticated commercial enterprise, like Office Depot, which is engaged in
17 persistent marketing through mass email campaigns across the United States, has several ways of
18 knowing where the recipients of its marketing emails are located. The means it employs are
19 peculiarly with its knowledge.

20 93. First, the sheer volume of email marketing that Office Depot engages in put it on
21 notice that Washington residents would receive its emails. For example, during the years 2023
22 through 2025, Office Depot sent marketing emails at a rate averaging roughly, 516 per year, 43 per
23 month, and 1.42 per day.

1 94. Second, Office Depot may obtain location information tied to email addresses when
2 consumers make purchases from Office Depot through digital platforms, or otherwise self-report
3 such information to Office Depot.

4 95. Third, Office Depot may obtain location information tied to email addresses by
5 tracking the IP addresses of devices used to open Office Depot emails, which in turn can be
6 correlated to physical location (as illustrated, for example, by the website
7 <https://whatismyipaddress.com/>).

8 96. Specifically, Office Depot appears to use Adobe Journey Optimizer with Movable
9 Ink to manage its email marketing campaigns. This platform should allow Office Depot to access
10 a list of every email address that was sent a marketing email. It should also allow Office Depot to
11 determine which email addresses viewed the emails and to produce a list of every link that each
12 mail recipient clicked on.

13 97. Fourth, Office Depot may obtain location information tied to email addresses by
14 purchasing consumer data from commercial data brokers such as Acxiom, Oracle, and Equifax,
15 which sell access to databases linking email addresses to physical locations, among other
16 identifiers.

17 98. Fifth, Office Depot may obtain location information tied to email addresses by
18 using “identity resolution” services offered by companies such as LiveRamp, which can connect
19 consumers’ email addresses to their physical locations, among other identifiers.

20 99. Sixth, Office Depot may obtain information that the recipients of its marketing
21 emails are Washington residents because that information is available, upon request, from the
22 registrant of the Internet domain names contained in the recipients’ email addresses. *See* RCW
23 19.190.020(2).

100. It is thus highly probable that a seller of Office Depot's size and sophistication employs not just one but several means of tying consumers' email addresses to their physical locations, at least at the state level.

D. Office Depot violated Plaintiff's right under CEMA to be free from deceptive commercial emails.

101. Office Depot has spammed Plaintiff with commercial emails whose subject lines contain false or misleading statements in violation of her right to be free from such annoyance and harassment under CEMA.

102. For example, Plaintiff received the following emails from Office Depot:

- a. An email sent on June 17, 2024, titled: "Today only! 🔥 \$38.99 for Boise® X-9® 10rm case paper!" This email contained a false or misleading subject line sent by Office Depot as described above at paragraphs 59 through 62.
- b. An email sent on September 10, 2024, titled: "Today Only! \$39.99 Boise® X-9® 10-ream paper deal[.]" This email contained a false or misleading subject line sent by Office Depot as described above at paragraphs 64 through 66.
- c. An email sent on December 3, 2024, titled: "LAST DAY Online for Boise® X-9® at just \$38.99!" This email contained a false or misleading subject line sent by Office Depot as described above at paragraphs 68 through 71.
- d. An email sent on December 10, 2024, titled: "1 DAY ONLY! 10rm Boise® X-9® paper ONLY \$39.99. Stock up!" This email contained a false or misleading subject line sent by Office Depot as described above at paragraphs 72 and 73.
- e. An email sent on January 2, 2025, titled: "TODAY ONLY! \$39.99 Office

1 Depot® Multi-Use 10-rm case paper!” This email contained a false or
2 misleading subject line sent by Office Depot as described above at
3 paragraphs 72 and 73.

4 f. An email sent on January 16, 2025, titled: “ONE DAY ONLY! \$39.99
5 Boise® X-9® 10-rm case paper! Online only!” This email contained a false
6 or misleading subject line sent by Office Depot as described above at
7 paragraphs 72 and 73.

8 g. An email sent on January 22, 2025, titled: “LAST DAY! \$39.99 Boise® X-
9 9® 10-rm case paper! Online only!” This email contained a false or
10 misleading subject line sent by Office Depot as described above at
11 paragraphs 48 and 49.

12 h. An email sent on January 28, 2025, titled: “👉 1-Day Deal: \$39.99 Office
13 Depot® 10-rm case paper! Online Only!” This email contained a false or
14 misleading subject line sent by Office Depot as described above at
15 paragraphs 74 and 75.

16 i. An email sent on January 28, 2025, titled: “🔥 1-Day Paper Deal: \$39.99
17 Office Depot® 10rm case paper! Online only!” This email contained a false
18 or misleading subject line sent by Office Depot as described above at
19 paragraphs 74 and 75.

20 j. An email sent on February 4, 2025, titled: “One Day Only: Boise® X-9®
21 10rm case paper only \$39.99! Online only[.]” This email contained a false
22 or misleading subject line sent by Office Depot as described above at
23 paragraphs 74 and 75.

- k. An email sent on March 19, 2025, titled: “🕒 FINAL DAY! Save up to 60% on select furniture!” This email contained a false or misleading subject line sent by Office Depot as described above at paragraph 77.
- l. An email sent on April 16, 2025, titled: “LAST DAY 🕒 \$38.99 Boise® X-9® 10 ream paper. Online only!” This email contained a false or misleading subject line sent by Office Depot as described above at paragraph 79.
- m. An email sent on April 24, 2025, titled: “One day, online only! Boise® X-9® 10-ream paper now \$39.99!” This email contained a false or misleading subject line sent by Office Depot as described above at paragraph 79.
- n. An email sent on April 30, 2025, titled: “Last day! Score this \$39.99 Boise® X-9® paper deal while you can!” This email contained a false or misleading subject line sent by Office Depot as described above at paragraph 79.
- o. An email sent on September 4, 2025, titled: “Ends 9/4 ➡ Email Exclusive \$39.99 Boise® 10rm paper. Online only.” This email contained a false or misleading subject line sent by Office Depot as described above at paragraph 81.
- p. An email sent on September 25, 2025, titled: “Ends 9/25 ➡ Email Exclusive \$39.99 Boise® 10rm paper. Online only.” This email contained a false or misleading subject line sent by Office Depot as described above at paragraphs 85 and 86.
- q. An email sent on November 13, 2025, titled: “Online Only DEAL. Ends 11/13 ➤ \$39.99 10-ream case paper.” This email contained a false or misleading subject line sent by Office Depot as described above at

1 paragraphs 88 and 89.

2 103. The subject line of these emails are false or misleading in violation of CEMA.

3 104. The subject line contained false statements of fact as to the “duration or availability
4 of a promotion.” *Brown*, 567 P.3d at 47.

5 **V. CLASS ALLEGATIONS**

6 105. Plaintiff brings this action under Civil Rule 23 on behalf of the following putative
7 class (“Class”):

8 All Washington residents who, during the Class Period, received a
9 commercial email sent by the Defendant, on behalf of the
10 Defendant, or with the Defendant’s assistance, that contained
messaging in the email subject line which misrepresented the facts
of a sale, deal or promotion.

11 106. Excluded from this definition of the Class are Defendant’s officers, directors, and
12 employees; Defendant’s parents, subsidiaries, affiliates, and any entity in which Defendant has a
13 controlling interest; undersigned counsel for Plaintiff; and all judges and court staff to whom this
14 action may be assigned, as well as their immediate family members.

15 107. The Class Period extends from the date four years before this Class Action
16 Complaint is filed to the date a class certification order is entered in this action.

17 108. Plaintiff reserves the right to amend the Class definition as discovery reveals
18 additional emails containing false or misleading information in the subject line that Defendant sent
19 or caused to be sent during the Class Period to email addresses held by Washington residents.

20 109. The Class is so numerous that joinder of all members is impracticable because the
21 Class is estimated to minimally contain thousands of members.

22 110. There are questions of law or fact common to the class, including without limitation
23 whether Defendant sent commercial emails containing false or misleading information in the
24 subject line; whether Defendant sent such emails to email addresses it knew or had to reason to

1 know were held by Washington residents; whether Defendant's conduct violated CEMA; whether
2 Defendant's violation of CEMA constituted a *per se* violation of the Consumer Protection Act,
3 RCW 19.86.020 (CPA); and whether Defendant should be enjoined from such conduct.

4 111. Plaintiff's claims are typical of the Class's because, among other reasons, Plaintiff
5 and Class members share the same statutory rights under CEMA and the CPA, which Defendant
6 violated in the same way by the uniform false or misleading marketing messages it sent to all
7 putative members.

8 112. Plaintiff will fairly and adequately protect the Class's interests because, among
9 other reasons, Plaintiff shares the Class's interest in avoiding unlawful false or misleading
10 marketing; has no interest adverse to the Class; and has retained competent counsel extensively
11 experienced in consumer protection and class action litigation.

12 113. Defendant has acted on grounds generally applicable to the Class, in that, among
13 other ways, it engaged in the uniform conduct of sending uniform commercial emails to Plaintiff
14 and the Class, which violate CEMA and the CPA in the same way, and from which it may be
15 enjoined as to Plaintiff and all Class members, thereby making appropriate final injunctive relief
16 with respect to the Class as a whole.

17 114. The questions of law or fact common to the members of the Class predominate over
18 any questions affecting only individual members, in that, among other ways, Defendant has
19 violated their rights under the same laws by the same conduct, and the only matters for individual
20 determination are the number of false or misleading emails received by each Class member and
21 that Class member's resulting damages.

22 115. A class action is superior to other available methods for the fair and efficient
23 adjudication of the controversy because, among other reasons, the claims at issue may be too small
24

1 to justify individual litigation and management of this action as a class presents no special
2 difficulties.

3 VI. CLAIMS TO RELIEF

4 First Claim to Relief

5 **Violation of the Commercial Electronic Mail Act, RCW 19.190.020**

6 116. Plaintiff incorporates and realleges paragraphs 1-104 above.

7 117. CEMA provides that “[n]o person may initiate the transmission, conspire with
8 another to initiate the transmission, or assist the transmission, of a commercial electronic mail
9 message ... to an electronic mail address that the sender knows, or has reason to know, is held by
10 a Washington resident that ... [c]ontains false or misleading information in the subject line.”
11 RCW 19.190.020(1)(b).

12 118. Defendant is a “person” within the meaning of CEMA. RCW 19.190.010(11).

13 119. Defendant initiated the transmission, conspired with another to initiate the
14 transmission, or assisted the transition of “commercial electronic mail messages” within the
15 meaning of CEMA. RCW 19.190.010(2).

16 120. Defendant initiated the transmission, conspired with another to initiate the
17 transmission, or assisted the transmission of such messages to electronic mail addresses that
18 Defendant knew, or had reason to know, were held by Washington residents, including because
19 Defendant knew that Plaintiff and putative members were Washington residents through
20 “information is available, upon request, from the registrant of the internet domain name contained
21 in the recipient’s electronic mail address”. RCW 19.190.020(b)(2).

22 121. Defendant initiated the transmission, conspired with another to initiate the
23 transmission, or assisted the transmission of such messages that contained false or misleading
24

1 information in the subject line, as described herein, in violation of CEMA. RCW 19.190.020(1)(b).

2 122. For Defendant's violation of CEMA, Plaintiff is entitled to all available relief,
3 including an injunction against further violations.

4
5 **Second Claim to Relief**

6 **Violation of the Consumer Protection Act, RCW 19.86.020**

7 123. Plaintiff incorporates and realleges paragraphs 1–104 above.

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

11 125. A violation of CEMA is a *per se* violation of the CPA. RCW 19.190.030.

12 126. A violation of CEMA establishes all the elements necessary to bring a private action
13 under the CPA. *Wright v. Lyft*, 189 Wn. 2d 718 (2017).

14 127. CEMA provides that “[n]o person may initiate the transmission, conspire with
15 another to initiate the transmission, or assist the transmission, of a commercial electronic mail
16 message ... to an electronic mail address that the sender knows, or has reason to know, is held by
17 a Washington resident that ... [c]ontains false or misleading information in the subject line.”
18 RCW 19.190.020(1)(b).

19 128. Defendant is a “person” within the meaning of CEMA. RCW 19.190.010(11).

20 129. Defendant initiated the transmission, conspired with another to initiate the
21 transmission, or assisted the transition of “commercial electronic mail messages” within the
22 meaning of CEMA. RCW 19.190.010(2).

23 130. Defendant initiated the transmission, conspired with another to initiate the
24

1 transmission, or assisted the transmission of such messages to electronic mail addresses that
2 Defendant knew, or had reason to know, were held by Washington residents.

3 131. Defendant initiated the transmission, conspired with another to initiate the
4 transmission, or assisted the transmission of such messages that contained false or misleading
5 information in the subject line, as described herein, in violation of CEMA. RCW 19.190.020(1)(b).

6 132. For Defendant's violation of the CPA, Plaintiff and putative members are entitled
7 to an injunction against further violations; the greater of Plaintiff's actual damages or liquidated
8 damages of \$500 per violation, trebled; and costs of the suit, including a reasonable attorney's fee.

9 **VII. JURY DEMAND**

10 133. Plaintiff will demand a jury trial by separate document in accordance with Local
11 Civil Rule 38(b).

12 **VIII. PRAYER FOR RELIEF**

13 Plaintiff asks that the Court:

14 A. Certify the proposed Class, appoint Plaintiff as Class representative, and appoint
15 undersigned counsel as Class counsel;

16 B. Enter a judgment in Plaintiff's and the Class's favor permanently enjoining
17 Defendant from the unlawful conduct alleged;

18 C. Enter a judgment in Plaintiff's and the Class's favor awarding actual or liquidated
19 damages, trebled, according to proof;

20 D. Award Plaintiff costs of suit, including reasonable attorneys' fees; and

21 E. Order such further relief the Court finds appropriate.

22 *[Counsel signatures to follow on next page.]*
23
24

1 Date: May 26, 2026

Respectfully submitted,

2 /s/ Samuel J. Strauss

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19 *Counsel for Plaintiff*

20 *and the Putative Class*

21 *** Applications for admission**

22 ***pro hac vice* forthcoming**