

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

CATHERINE BELL, on behalf of herself and
all others similarly situated,

Plaintiff,

v.

GOVX, INC.,

Defendant.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff, Catherine Bell, on behalf of herself and all others similarly situated, complains of Defendant GovX, Inc. (“Defendant” or “GovX”), as follows, on information and belief except as to her own experiences and matters of public record:

INTRODUCTION

1. In 2003, 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. GovX spams Hoosiers, including Plaintiff, with email subject lines that employ various tactics to create a false sense of urgency in their minds and, ultimately, their wallets.

5. This false urgency wastes consumers' time by enticing them to engage with GovX'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, GovX falsely narrows the field—steering consumers away from shopping for better deals—to its own products that must be purchased *now*.

7. Plaintiff brings this action to put an end to Defendant's harassment of Indiana residents and to remedy the injuries it has caused, additionally seeking injunctive relief against such violations in the future.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this action pursuant to I.C. § 33-33-2-20, which provides that the Allen Superior Court has the same jurisdiction as the Allen Circuit Court, and I.C. § 33-28-1-2(a)(1), which confers original and concurrent jurisdiction over civil cases upon the circuit court.

9. This Court has jurisdiction over Defendant under I.C. § 24-5-22-10, which provides that a person who initiates or assists the transmission of a commercial electronic mail message that violates the chapter, and who knows or should know that the message will be received in Indiana, submits to the jurisdiction of Indiana courts for purposes of the chapter. Jurisdiction is also proper under T.R. 4.4(A) and the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution because Defendant purposefully conducts business in Indiana, markets and sells its products to Indiana consumers, including the commercial electronic email messages giving rise to Plaintiff's claims. *See, e.g., Ford Motor Co. v. Montana Eighth Jud. Dist. Ct.*, 592 U.S. 351 (2021).

10. Venue is proper in this Court under T.R. 75(A)(10) because GovX is a nonresident organization without a principal office in Indiana and Plaintiff is a resident of Allen County.

PARTIES

11. Plaintiff Catherine Bell is a resident of Allen County, Indiana.

12. Defendant GovX, Inc., is a Delaware Corporation with its headquarters at 9605 Scranton Road, Suite 650, San Diego, CA 92121, and may be served with process through its registered agent, Corporation Service Company, at 251 Little Falls Drive, Wilmington, DE, 19808.

FACTUAL ALLEGATIONS

I. DCEMA protects Indiana residents from deceptive spam emails.

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

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

15. 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).

16. 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).

17. 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.” Daniel J. Solove, *Murky Consent: An Approach to the Fictions of Consent in Privacy Law*, 104 Boston Univ. L. Rev. 593, 596 (2024).

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

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

20. 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.” Kaitlyn Wells, *Email Unsubscribe Services Don’t Really Work*, N.Y. Times Wirecutter (Aug. 19, 2024), <https://perma.cc/U8S6-R8RU/>.

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

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

II. False time scarcity claims are an insidious tool in the commercial spammer’s toolkit.

23. 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/>.

24. 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.” *Bringing Dark Patterns to Light*, supra para. 23, at 22.

25. “False or misleading scarcity claims can change the behavior of consumers.” *Online Choice Architecture*, supra para. 23, at 27.

26. 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. *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://pmc.ncbi.nlm.nih.gov/articles/PMC8710754/pdf/fpsyg-12-720151.pdf/>.

27. 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.” *Online Choice Architecture*, supra para. 23, at 26.

28. 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.” *Id.*

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

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

31. 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.” *Id.* at 27.

32. 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.” *Id.*

III. The subject lines of GovX’s commercial emails deploy false time scarcity tactics against consumers.

33. GovX operates a private e-commerce platform, accessible at www.govx.com, through which it offers certain discounts to eligible public service professionals.

34. To promote its products, GovX floods consumers’ inboxes with a constant stream of marketing emails.

35. False time scarcity claims are a staple of Defendant’s email marketing practices. These claims are part of a preplanned, preconceived marketing strategy that GovX orchestrates in advance to maximize sales by distorting information about the duration and availability of its sales, promotions, and other offers. The idea is to gin up urgency where in reality, there is none.

36. **Urgent Spam Emails.** GovX is practiced in this trick of luring in consumers through urgent subject headings in emails that do not reflect the true availability of the deal itself, as these examples demonstrate.

37. Indeed, Defendant has established a pattern of using emails with misleading subject lines meant to entice consumers to purchase their products or services promptly, or else lose the opportunity for savings, by peppering those subject lines with words or phrases such as “FINAL HOURS,” and “LAST CHANCE,” among others. A 2025 “Military Appreciation Month” promotion provides an apt example of this strategy at work.

38. First, GovX sends consumers an email advertising a new promotion. It did so on May 30, 2025, in an email titled: “Up to 70% off? Time to stack your savings.” Text within the

message features a timer counting down the days, hours, minutes and seconds left on the sale, warning consumers the sale would expire on “May 31, 2025 at 2359pst[.]”

39. The use of a countdown timer within the body of an email adds to the urgency expressed in the subject heading: a clear and unambiguous message to consumers that the deal ends imminently.

40. For its next step, GovX uses the subject lines of its follow-up emails to assert false time pressures on recipients. Such headlines urge consumers to purchase from Defendant’s website by warning them that the offer is coming to an end.

41. GovX did so, regarding its “Military Appreciation Month” sale. On May 31, 2025, Defendant sent an email with the subject line: “FINAL HOURS: Up to 70% off with code.”

42. Despite the unambiguous warning communicated in the May 31 subject line, the 70% off sale did not end on the advertised date.

43. In the final stage of its scheme, GovX replaces the advertised deadline with the real deadline, purportedly extending the life of the promotion. For the “Military Appreciation Month” deal, GovX announced the extension on June 1, 2025, in an email titled: “EXTENDED: Grand Finale savings up to 70% off.” The subject heading of the June 1 email confirmed that the promotion would continue beyond the deadline that GovX previously, and unambiguously, communicated to consumers in its May 31, 2025, subject line.

44. Thus, after warning consumers that the sale was ending, GovX extended the sale, thereby proving the falsity of its May 31 subject line. Consumers in receipt of that email were not at risk of missing the offer because GovX did not end the sale on the date it advertised. The false conclusion of the “Military Appreciation Month” sale is simply one component of GovX’s cohesive marketing strategy meant to drive consumers to purchase items from its website.

45. Indeed, Defendant sent an email to Hoosiers confirming the opportunity to obtain discounts of up to 70% off remained available well beyond the date previously advertised. On June 3, 2025, GovX transmitted an email with the subject heading, “Window’s closing, Last shot to save up to 70% off[,]” proving the falsity of the May 31 subject line.

46. GovX leverages the trust and credibility associated with military and government credentials to pretend that it is providing a unique benefit to eligible consumers. In reality, this is a deceptive marketing scheme designed to get consumers to buy now.

47. In another example a few months later, on September 1, 2025, Defendant redeployed this scheme when it sent an email about launching the “No Labor Required” Labor Day Sale, offering up to 80% off merchandise. The subject heading read: “These deals mean business. Get up to 80% off.”

48. Consistent with GovX’s typical approach, a follow-up email emphasized the promotion’s impending deadline.

49. An email sent on September 2, 2025, communicated the conclusion of the sale in its subject line: “LAST CHANCE: Labor Day deals up to 80% off.” The body of the email reinforced that message, warning in large, bold font that it was the “**FINAL CHANCE to SAVE UP TO 80% off**” and urged consumers to “hustle up” because it was “over for this sale **TONIGHT.**”

50. Unfortunately for consumers, the September 2, 2025 email subject line misrepresented the end of the Labor Day Sale.

51. Proof of the headline’s falsity came the very next day, on September 3, 2025, when GovX announced that the promotion was still available in an email with the subject heading: “Up to 80% off – EXTENDED.”

52. The Labor Day Sale did not conclude on September 2, 2025, as GovX advertised. Instead, the promotion continued for nearly a week thereafter. On September 9, 2025, Defendant sent consumers an email with the subject heading: “LAST CALL: Up to 80% off ends tonight[,]” demonstrating that the advertised September 2 subject line sent to consumers was false.

53. The false time scarcity claims that GovX communicated to consumers in its September 2 subject line was contrived. The Labor Day Sale did not end as advertised. By filling consumers’ inboxes with misinformation about important terms, such as deadlines, GovX ensures that email recipients lack the accurate details necessary to make educated buying decisions.

54. As recently as the summer of 2026, this practice of deception remained a cornerstone of GovX’s marketing campaign as it revisited its “Military Appreciation Month” scheme.

55. On May 23, 2026, Defendant sent consumers two emails with the subject lines: “Military Appreciation Month: Theme park edition” and “Up to 60% off all this (but not for long).” Text within the message informed recipients that “these deals won’t last long.”

56. Three days later, on May 26, 2026, GovX sent consumers two additional emails designed to heighten the sense of urgency surrounding the promotion. The first email bore the subject line, “ENDS TONIGHT: Military Appreciation Month deals.” Consistent with that message, the body of the email stated that the “Sale ends 5/26 11:59pm.” Just hours later, Defendant sent a second email with the subject line, “Deals, dismissed. Up to 60% off ends tonight.” A prominent banner at the top of the email likewise proclaimed that the sale “ENDS TODAY[.]”

57. However, the factual representations that the sale would conclude on May 26, 2026, were false. The purported deadline, along with the accompanying email subject lines, were carefully designed deceptions.

58. The sale did not end “tonight” as the two May 26, 2026 subject lines claimed.

59. True to form, the falsity of GovX’s May 26, 2026 subject lines was confirmed the very next day. An email sent on May 27 revealed the true deadline for the promotion. The email was titled: “ICYMI: Grand Finale Deals EXTENDED.” The May 26, 2026 subject lines were merely tactics—a ruse planned in advance by Defendant and intended to prompt quick sales by falsely informing consumers that the promotion was about to end.

60. In some instances, Defendant does not merely extend a sale that consumers were led to believe was ending. In another integration of its scheme, GovX announces that a sale has ended, only to silently continue offering the same deal beyond the purported deadline previously communicated to consumers.

61. These strategies are intended to mislead consumers.

62. For example, on May 16, 2025, GovX sent consumers an email announcing that their opportunity to redeem a \$10 credit would soon be unavailable. The email bore the subject line: “Heads up, Catherine. Your \$10 bonus credit expires soon.”

63. Three days later, on May 19, 2025, Defendant sent consumers an email, this time bearing the subject line: “FINAL HOURS: \$10 Military Appreciation Month bonus credit.” Yet the email’s assertion that consumers were in the “final hours” of the promotion was false, as GovX continued to make the \$10 bonus credit available beyond the purported deadline.

64. Spamming consumers’ inboxes with manufactured time pressure, the next morning, on May 20, 2025, GovX sent another email regarding the same \$10 credit, stating in the subject

line: “Expires tonight: \$10 Military Appreciation Month credit.” Later that same evening, Defendant transmitted yet another email: “LAST CALL: \$10 Military Appreciation Month Credit expires tonight.”

65. GovX confirmed the falsity of its May 19, 2025 email subject line in its May 20 email subject headings, which confirmed the \$10 Military Appreciation Month credit promotion was *ongoing* beyond the previously advertised deadline.

66. GovX has continually employed the same promotional sequence in connection with its annual Military Appreciation Month sale: advertising the annual sale as ending on a specified date, emphasizing the purported deadline through urgency-based subject lines, and then extending the same promotion immediately after that deadline expires. Defendant’s repeated use of the same false deadlines followed by pyrrhic “extension” scheme demonstrates that the extensions were preplanned, as part of GovX’s established marketing strategy meant to motivate consumer action beyond what Defendant believed truthful marketing would produce.

67. As these examples demonstrate, GovX is engaged in a scheme where it pressures consumers to purchase products from its website using subject lines which falsely represent the availability of its offers.

IV. GovX knows, actually or constructively, when it sends emails to Indiana residents.

68. A sophisticated commercial enterprise, like GovX, which is engaged in persistent marketing through mass email campaigns across the United States, has several ways of knowing where the recipients of its marketing emails are located. The means it employs are peculiarly within its knowledge.

69. First, the sheer volume of email marketing that GovX engages in put it on notice that Indiana residents would receive its emails.

70. Second, GovX may obtain location information tied to email addresses when consumers purchase Defendant's products, or otherwise self-report such information to Defendant.

71. Third, GovX may obtain location information tied to email addresses by tracking the IP addresses of devices used to open Defendant's emails, which in turn can be correlated to physical location (as illustrated, for example, by the website <https://whatismyipaddress.com/>).

72. Specifically, GovX appears to use third-party applications to manage its email marketing campaigns, including Cordial and MailGun. These platforms should allow Defendant to access a list of every email address that was sent a marketing email. It should also allow Defendant to determine which email recipients viewed the emails and who clicked on any links within them.

73. Fourth, Defendant may obtain location information tied to email addresses by purchasing consumer data from commercial data brokers such as Acxiom, Oracle, and Equifax, which sell access to databases linking email addresses to physical locations, among other identifiers.

74. Fifth, GovX 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.

75. It is highly probable that a seller of Defendant'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.

V. GovX has violated Plaintiff's right under DCEMA to be free of deceptive commercial spam.

76. GovX 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 DCEMA.

77. Each of the GovX emails discussed herein was sent to and received by Plaintiff at her personal email address.

78. The subject lines of those emails are false or misleading, in violation of DCEMA, because they made false or misleading factual representations about the duration or availability of GovX's sales, offers, or other promotions.

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

VI. CLASS ALLEGATIONS

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

81. Subject to future amendment or revision, Plaintiff seeks to represent the following putative class ("Class"):

All Indiana residents who, during the Class Period, received a commercial email sent by Defendant or with Defendant's assistance that contained messaging in the email's subject line which misrepresented the facts of a sale, deal, or other promotion.

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

83. The Class Period extends from the date six years before this Complaint is filed to the date a class certification order is entered in this action.

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

85. The Class is so numerous that joinder of all members is impracticable because the Class is estimated to contain, at minimum, thousands of members.

86. There are questions of law or fact common to the class, including without limitation whether Defendant transmitted or assisted the transmission of commercial emails containing false or misleading information in the subject line; whether Defendant sent such emails to email addresses it knew or had to reason to know were held by Indiana residents; whether Defendant's conduct violated DCEMA; and whether Defendant should be enjoined from such conduct.

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

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

89. Defendant has acted on grounds generally applicable to the Class, in that, among other ways, it engaged in the uniform conduct of sending uniform commercial emails to Plaintiff and the Class, which violate DCEMA in the same way, and from which it may be enjoined as to

Plaintiff and all Class members, thereby making appropriate final injunctive relief with respect to the Class as a whole.

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

91. A class action is superior to other available methods for the fair and efficient adjudication of the controversy because, among other reasons, the claims at issue may be too small to justify individual litigation and management of this action as a class presents no special difficulties.

VII. CLAIM TO RELIEF

COUNT I

Violation of the Indiana Deceptive Commercial Electronic Mail Act Ind. Code § 24-5-22-7 On behalf of the Class

92. Plaintiff incorporates and realleges paragraphs 1-75 above.

93. 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 knows or has reason to know are held by residents of Indiana.

94. 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.

95. 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.

VIII. PRAYER FOR RELIEF

96. Plaintiff asks the Court to:

a. Certify this action as a class action under Trial Rule 23; appoint Plaintiff as Class representative; and appoint Plaintiff's counsel as Class counsel;

b. Enter a final judgment in Plaintiff's and the Class's favor that awards actual or presumptive damages to Plaintiff and the Class, according to proof; permanently enjoins Defendant from the unlawful conduct alleged; and awards pre- and postjudgment interest, as allowed by law;

c. Award Plaintiff and her counsel her reasonable costs and fees incurred in prosecuting this action, as allowed by law; and

d. Order such further relief as the Court finds appropriate.

IX. JURY DEMAND

97. Plaintiff demands a trial by jury on all issues so triable.

DATE: September 22, 2026

Respectfully submitted,

/s/ Lynn A. Toops

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