

STATE OF INDIANA) IN THE ADAMS COUNTY CIRCUIT COURT NO.
) SS:
COUNTY OF ADAMS) CAUSE NO. **01C01-2608-PL-000020**

CAITLIN COELHO, on her own behalf and
on behalf of all others similarly situated,

Plaintiff,

v.

**NEIGHBORHOOD INTELLIGENCE,
INC., d/b/a BED BATH & BEYOND,**

Defendant.

DEMAND FOR A JURY TRIAL

COMPLAINT

Plaintiff Caitlin Coelho, on behalf of herself and all others similarly situated, complains of Defendant Neighborhood Intelligence, Inc., doing business as Bed Bath & Beyond (“Bed Bath & Beyond”) 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. Bed Bath & Beyond does just what DCEMA prohibits.

4. Defendant 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 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, Bed Bath & Beyond 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 Bed Bath & Beyond'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. The Court has jurisdiction over this action under I.C. § 33-28-1-2(a) and I.C. § 33-29-1-4(1).

9. 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. *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)(5) because Plaintiff resides in Adams County.

PARTIES

11. Plaintiff Caitlin Coelho is a resident of Adams County, Indiana.

12. Defendant Neighborhood Intelligence, Inc., d/b/a Bed Bath & Beyond is a corporation incorporated in Delaware with its principal place of business at 433 W. Ascension Way, Suite 300, Murray, UT 84123.

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 they 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 Defendant’s commercial emails deploy false time scarcity tactics against consumers.

33. Bed Bath & Beyond is an online retailer specializing in home goods and décor. The company offers merchandise to the public through its websites, including www.bedbathandbeyond.com.

34. To advertise the products, accessories, and other offers available on its website, Bed Bath & Beyond sends spam emails to consumers.

35. Unfortunately for those recipients, Bed Bath & Beyond regularly titles its emails with urgent subject headings that do not reflect the true availability of the advertised deal. This strategy is demonstrated in the examples discussed below.

36. Bed Bath & Beyond has tailored its approach to fit a variety of offers, including promotion extensions. In these examples, Bed Bath & Beyond sends consumers emails to advertise an offer, promotion, or sale. Then, it uses the subject lines of follow-up emails to present the promotional pricing as a scarce or time-limited opportunity. This strategy commands consumers’ attention and pressures them to purchase from Bed Bath & Beyond’s website. Finally, once the originally advertised “deadline” has passed, Bed Bath & Beyond knowingly extends the promotion to a new end date. Each step is planned in advance to gin up consumer interest.

37. This misleading marketing strategy allows Bed Bath & Beyond to maximize sales during both the initial promotion, as well as the subsequent extension. While Bed Bath & Beyond may present these extensions as though they are a favor or some unexpected blessing to consumers, they are anything but. By pairing false time pressures with surprise extensions—which are only disclosed once the original promotion has ended—Bed Bath & Beyond compels consumers to purchase quickly while withholding terms that consumers need so they can make informed buying decisions. A Presidents’ Day sale from 2024 provides an apt example of this strategy at work.

38. First, Bed Bath & Beyond sends consumers an email advertising a new promotion. It did so on February 17, 2024, in an email titled: “Hot off the Press! Presidents Day Doorbuster Deals Up to 70% Off 🦃 [.]” The message provided a link that consumers could use to access Bed Bath & Beyond’s website and shop the sale merchandise.

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

40. Bed Bath & Beyond did so, regarding its Presidents’ Day Sale, on February 19, 2024. An email sent that afternoon included the subject line: “Presidential Savings End Tonight!”

41. Despite the unambiguous warning communicated in the February 19 subject line, the Presidents’ Day Sale did not end on the advertised date.

42. In the final stage of its scheme, Bed Bath & Beyond replaces the advertised deadline with the real deadline, purportedly extending the life of the promotion. For the Presidents’ Day Sale, Bed Bath & Beyond announced the extension on February 20, 2024, in an email titled: “Presidents Day Sale Extended! Plus, Last Chance for an Exclusive Credit Card Offer.” The subject heading of the February 20 email confirmed that the promotion would continue beyond the deadline that Bed Bath & Beyond previously, and unambiguously, communicated to consumers in its February 19, 2024, subject line.

43. Thus, after warning consumers that the sale was ending, Bed Bath & Beyond extended the sale, thereby proving the falsity of its February 19 subject line. Consumers in receipt of the February 19 email were not at risk of missing the offer because Bed Bath & Beyond did not end the sale on February 19, as advertised. The false conclusion of the Presidents’ Day Sale is

simply one component of Bed Bath & Beyond's cohesive marketing strategy meant to compel consumers to purchase items from its website.

44. In another example of its deceptive marketing scheme, the home décor retailer draped a 2024 Memorial Day sale with deceit as well.

45. On May 21, 2024, the company transmitted an email announcing a holiday-themed promotion in an email titled: "Our BIGGEST Sale of the Season 🌟 [.]". According to text within the message, the Memorial Day Sale would offer up to 70% off "1000s of items[.]"

46. Consistent with Bed Bath & Beyond's typical approach, follow-up emails emphasized the promotion's impending end.

47. An email sent on May 26, 2024, clearly communicated the conclusion of the sale in its subject line: "The Memorial Day sale ENDS Tomorrow!" Within the email, large text repeated the subject line's warning: "ends tomorrow!"

48. Bed Bath & Beyond fabricated more misrepresentations for its follow-up emails.

49. The next day, May 27, 2024, it sent a message with the subject line: "Up to 70% off 1000s of Items ends TONIGHT ⌚ [.]". Text within the email again emphasized that the promotion, "ends tonight!"

50. Later, on the evening of May 27, 2024, Bed Bath & Beyond pelted consumers' inboxes with yet another email. The message was titled, "LAST CALL: 70% Off 1000s of items 📣 [.]", and included large text within the email exclaiming, "final hours!"

51. Unfortunately for consumers, all three messages misrepresented the end of the Memorial Day Sale. The subject lines clearly presented May 27, 2024, as the final day of the promotion. It was not.

52. Proof of the headlines' falsity came on May 28, 2024. On that date, Bed Bath & Beyond announced that the promotion was still available in an email with the subject line: "Up to 70% Off 1000s of Items--Now EXTENDED 🎉 [.]"

53. Clearly, the false time scarcity claims that Bed Bath & Beyond communicated to

consumers in its May 26 and May 27 subject lines were contrived. The Memorial Day Sale did not end as advertised. By filling consumers' inboxes with misinformation about important terms, such as deadlines, Bed Bath & Beyond ensures that email recipients lack the accurate details needed to make educated buying decisions.

54. As the summer of 2024 went on, deception continued to be the anchor piece for Bed Bath & Beyond's marketing campaign.

55. On July 15, 2024, it sent consumers an email with the subject line: "Up to 70% off 1000s of Items at Our 72-Hour Flash Sale[.]" A countdown timer featured at the top of the message indicated that the "flash sale" would be over in roughly 2 days and 17 hours, while text confirmed that the opportunity "ends Wednesday[.]"

56. When Wednesday, July 17, 2024, arrived, Bed Bath & Beyond continued to emphasize the short duration of the promotion. An email sent that morning contained a warning within its subject line: "72-Hour Flash Deals End Tonight 🕒 [.]". The use of an alarm clock emoji and a countdown timer within the body of the message all add to the urgency expressed in the subject heading: a clear and unambiguous message to consumers that the deal ends imminently.

57. Within a few hours, Bed Bath & Beyond transmitted a follow-up email layering more time pressure upon consumers. The message was titled: "Hurry! Just Hours Left to Save 🕒 [.]"

58. Despite having "just hours" remaining until the alleged deadline, Bed Bath & Beyond had enough time to send consumers at least one more email to warn them about the promotion's upcoming deadline. On the afternoon of July 17, 2024, it sent an email titled: "Final Chance to Shop Flash Deals[.]"

59. However, the claims that the sale would end on Wednesday and the multiple email subject lines were carefully designed deceptions.

60. The flash sale did not end "tonight" as the first July 17 subject line claimed. There were more than "just hours" remaining for the sale, in contrast to the claim made in the second July 17 subject line. July 17 was also not the "final chance" to participate in the sale, despite the

warning reflected in the third July 17 subject line.

61. The falsity of Bed Bath & Beyond’s July 17 subject lines was confirmed on July 18, 2024. An email sent on that date revealed that July 17 was not the real deadline for the promotion. The email was titled: “🇺🇸 FLASH SALE EXTENDED: Save Up to 70% off 1000s of Items[.]” The July 17, 2024, subject lines were merely tactics—deceptions planned in advance by the Defendant and intended to prompt quick sales by falsely informing consumers that the promotion was about to end.

62. The use of misleading subject lines is more than a passing fad for Bed Bath & Beyond. Indeed, such misrepresentations are a fixture in the retailer’s marketing campaign.

63. A Labor Day Sale in late August and early September of 2024, purporting to offer 70% off “1000s of items,” provides additional examples. As the holiday approached, Bed Bath & Beyond sent consumers emails to warn them that the sale was nearing its end.

64. A message sent on September 1, 2024, was titled: “The Top Deals of The Season End Tomorrow! ⌚ [.]”

65. On Labor Day itself, September 2, 2024, Bed Bath & Beyond continued to represent that the sale would end with the holiday. An email sent on that date featured the subject line: “🔔 Labor Day Sale Ends TONIGHT 🔔 [.]”

66. Rather than provide consumers with accurate information, the September 1 and September 2 subject lines were meant to induce consumers to purchase from Defendant’s website using false time pressure.

67. Bed Bath & Beyond provided proof that the September 2 deadline was false when it was communicated by announcing an “extension” on September 3, 2024. The email sent on that date touted the headline: “We’re Extending Our Labor Day Sale!! 🙌 [.]” The deadline communicated in both the September 1 and September 2 subject lines was incorrect. Those email subject headings deployed tactics rather than truths.

68. The following year brought additional examples of Bed Bath & Beyond’s misleading marketing scheme.

69. On May 26, 2025, Defendant sent an email with the subject heading: “🔔 Up to 70% off Ends TONIGHT: The Memorial Day Sale 🔔 [.]” Inside the email, large text warned, “ends soon!”

70. That same day, Bed Bath & Beyond sent a second email featuring a warning within its subject heading: “🕒 FINAL HOURS to shop Memorial Day deals up to 70% off[.]”

71. Proof that both subject lines were false arrived the following day, May 27, 2025. An email sent on that date carried the subject heading, “Surprise! There's still time to save! 🎉 [.]” while text within the email confirmed that the Memorial Day Sale was still active.

72. So, Bed Bath & Beyond confirmed the falsity of its May 26, 2025, subject lines, in its May 27, 2025, email which continued to advertise the *still ongoing* sale.

73. More deceptive marketing occurred in the context of a “Fall Clearance” in 2025.

74. On October 21, 2025, Bed Bath & Beyond announced the promotion in an email titled: “4-Day Fall Clearance starts now! 🕒 [.]” According to text within the email, the promotion offered up to 70% off merchandise included in the sale.

75. Shortly thereafter, Bed Bath & Beyond began to leverage false time pressures against consumers.

76. On October 23, 2025, it sent an email with the headline: “Up to 70% off Fall Clearance ends tomorrow! 🍁 [.]”

77. The following day, October 24, 2025, Bed Bath & Beyond transmitted another email carrying the headline: “Fall Clearance ends tonight 🍁 [.]”

78. Later that day, Defendant sent yet another email warning consumers that the sale was nearing its alleged deadline in its title: “Still deciding? Fall Clearance ends tonight! 🔥 [.]”

79. Despite unambiguously communicating that October 24, 2025, was the last day of the promotion, the sale did not end on that date. The October 23 and 24 subject lines were false because Bed Bath & Beyond did not end the promotion on October 24. The clearance event would continue beyond the false deadline.

80. Proof came on October 25, 2025, when Defendant sent an email announcing an

extension within its subject line: “Extended! Fall Clearance Deals 🍁[.]”

81. As the October 25, 2025, email demonstrates, the October 23 and 24 subject lines did not communicate a true deadline. Consumers in receipt of those messages had at least one more day during which they could participate in the promotion.

82. Within days, Bed Bath & Beyond deployed the same deceptive approach yet again. On October 26, 2025, it announced a “Beyond a Deal” event which offered up to 70% off select items. Then, falsely informed consumers that the sale was ending on October 30, 2025, only to extend the promotion once the advertised deadline arrived. The subject lines used in the emails advertising the sale demonstrate the deceptive routine:

- a. October 26, 2025: “The Semi-Annual Beyond A Deal Event Starts NOW 🔥[.]”
- b. October 29, 2025: “Ends tomorrow: Up to 70% off ⚡[.]”
- c. October 30, 2025: “Ends tonight: Semi-Annual Beyond a Deal Event 🕒[.]”
- d. October 31, 2025: “EXTENDED: Semi-Annual Beyond a Deal Event ⚡[.]”

83. Bed Bath & Beyond continued to deceive consumers beyond the “Beyond a Deal Event[.]” The following week featured a new target promotion described as the “Private Holiday Event” and offering up to 50% off select merchandise. Bed Bath & Beyond adhered to its typical pattern in executing its scheme. An email was sent to consumers announcing the promotion. Then, follow-up emails carried subject lines which communicated the promotion’s deadline. Finally, once the advertised deadline arrived, Bed Bath & Beyond sent an email revealing the promotion’s real deadline. The subject lines sent to consumers reveal the deceptive strategy:

- a. November 1, 2025: “Private Holiday Sale: Up to 50% Off ✨[.]”
- b. November 2, 2025: “Ends tomorrow: Up to 50% off top picks 🕒[.]”
- c. November 3, 2025: “Up to 50% off holiday savings ends tonight ⌚[.]”
- d. November 4, 2025: “EXTENDED: Up to 50% off holiday savings ✨[.]”

84. Consistent with Bed Bath & Beyond’s typical routine, consumers were informed of a promotion, told that promotion was nearing its end, then advised that the sale would continue for at least another day. Bed Bath & Beyond simply manufactures false time pressure, such as that contained within the November 2 and November 3 subject lines, to influence consumers’ purchasing behavior with false information.

85. Bed Bath & Beyond finished the year in much the same way.

86. On December 1, 2025, it announced a “Cyber Monday Sale” in an email titled: “Cyber Monday just clocked in—25% off your cart 🛒[.]” According to the email, the sale offered up to 70% off included items. The message also provided an “email exclusive” offer of 25% off a recipient’s entire order from Bed Bath & Beyond’s website. A countdown timer featured within the message showed that approximately 17 hours remained in the sale at the time the email was transmitted.

87. Later in the day, Bed Bath & Beyond sent consumers another email with the subject line: “Final hours! Up to 70% off + new deals inside 🕒[.]” Large text within the email reiterated the “FINAL HOURS” warning.

88. However, to the detriment of consumers, the December 1, 2025, subject line exerted false time pressure and the countdown clock included in the email kept bad time.

89. On December 2, 2025, Bed Bath & Beyond sent an email confirming that consumers could still access the up-to 70% off pricing as well as 25% off their entire order. The email was titled: “Cyber Monday EXTENDED: Up to 70% off ⚡[.]” and featured a new countdown timer that reset the deadline for the evening of December 2, 2025.

90. Thus, the same discounts were available after the advertised deadline despite the claims made in the December 1, 2025, subject line.

91. Bed Bath & Beyond has continued to deploy its misleading marketing scheme in 2026.

92. For instance, on February 16, 2026, it sent an email titled: “Last chance: Presidents Day Sale ends tonight[.]”

93. Despite this unambiguous warning that the opportunity would end on February 16, the promotion continued.

94. The next day, February 17, 2026, Bed Bath & Beyond sent an email titled, “Presidents Day Sale extended!” Thus, the advertised promotion continued beyond the deadline communicated in Defendant’s February 16 subject line.

95. The very next day, Bed Bath & Beyond recycled its ruse for another deceptive campaign.

96. On February 18, 2026, it sent an email titled: “25% off your entire order ends tomorrow[.]” The email warned that an “App Exclusive” promotion offering 25% off purchases was coming to an end. Small print at the bottom of the email reiterated the supposed deadline: “Offer ends February 19, 2026 10:00PM MST.”

97. The following day, February 19, 2026, Bed Bath & Beyond continued to layer time pressure on consumers. An email sent on that date featured the subject line: “Ends tonight: 25% off your entire order us[.]” Small text at the bottom of the email maintained the same February 19 end date.

98. True to form, the February 18 and February 19 subject lines conveyed false information to consumers. Bed Bath & Beyond never intended for the promotion to end on February 19.

99. On February 20, 2026, Bed Bath & Beyond confirmed the falsity of both subject lines when it revealed that the promotion was still active. An email sent on that date was titled: “EXTENDED: 25% off only in the app  [.]” The small print contained within that email stated that offer would continue through February 23, 2026.

100. The following month yielded yet another example of Defendant’s scheme.

101. On March 8, 2026, Bed Bath & Beyond sent an email with the subject line: “Up to 60% off ends tomorrow—72-Hour Spring Flash Sale[.]” Within the email, large text proclaiming “ENDS TOMORROW” echoed the ending that Bed Bath & Beyond communicated in the subject line.

102. However, the opportunity did not end on March 9 as Bed Bath & Beyond represented to consumers in its March 8, 2026, subject line.

103. On March 10, 2026, Defendant confirmed that the sale was still active in an email titled: “EXTENDED: Up to 60% off flash deals[.]”

104. A “Bed & Bath Deals” promotion from July provides a more recent example of Bed Bath & Beyond’s misleading marketing strategy.

105. On July 5, 2026, Defendant sent an email with the subject line: “Last day for bed & bath deals!” Inside, the email touted discounts of up to 70% off and exclaimed that the opportunity “ENDS TODAY.”

106. Consistent with its other pre-planned misrepresentations, however, the July 5 subject heading communicated a false end date for the advertised promotion.

107. An email sent on July 6, 2026, featured the subject heading: “Extended: Up to 70% off ends tonight[.]”

108. Bed Bath & Beyond uses a variety of ploys when implementing its scheme to deceive consumers. Often, Bed Bath & Beyond doesn’t explicitly declare an “extension.” It simply continues to offer the discount, sale, promotion, or special pricing beyond the advertised deadline.

109. For example, on April 13, 2025, it sent an email with the subject line: “The Outdoor Living Sale ends TONIGHT 🕒 🕒 🔔 [.]”

110. So, rather than deploying the guise of a fake deadline and extension, Defendant simply transmitted a subject line communicating a false end date for the Outdoor Living Sale.

111. Bed Bath & Beyond transmitted confirmation of its deceit the following day. On April 14, 2025, it sent consumers an email titled, “Last chance! The Outdoor Living Sale ends tonight 🕒 🔥 [.]”

112. Defendant never planned for the sale to end on April 13. The follow-up email on April 14 confirmed that Bed Bath & Beyond intended for the Outdoor Living Sale to continue beyond April 13, despite the unambiguous deadline announced in the title of its April 13 email.

113. Similar examples arose in July 2025 when Bed Bath & Beyond transmitted

marketing emails to advertise “The Legendary Coupon Event” which offered 20% off “thousands of items sitewide.”

114. An email sent on July 28, 2025, provided a clear deadline for the promotion in its subject heading: “Don’t miss 20% off select top brands 🚨 Ends tomorrow!” Inside, the email reiterated the impending close of the opportunity with text warning, “Ends Tomorrow.”

115. That same day, Bed Bath & Beyond sent at least one additional email asserting time pressure on consumers regarding the approaching deadline. The message was titled: “Ends tomorrow: 20% off thousands of items sitewide 🚨 [.]”

116. The next day, July 29, 2025, Defendant continued to pelt consumers with warnings about the sale’s alleged end. An email sent on that date featured the subject line: “Ends Tonight: 20% off thousands of items sitewide 🕒 [.]”

117. Despite transmitting three subject lines presenting July 29 as consumers’ final opportunity to participate in the promotion, Bed Bath & Beyond never intended to end “The Legendary Coupon Event” on that date.

118. On July 30, 2025, Defendant confirmed that the sale continued beyond the advertised deadline by sending an email titled: “20% off thousands of items 🎉 [.]” A large graphic featured within the email again presented “The Legendary Coupon” and the 20% off opportunity.

119. In another string of examples from later in the year, Bed Bath & Beyond used the subject lines of its marketing emails to mislead consumers concerning the end of its Labor Day Sale which offered up to 70% off select products.

120. Defendant transmitted at least three subject lines communicating a false conclusion for the Labor Day Sale.

121. On August 31, 2025, it sent an email titled, “Up to 70% off ends tomorrow! 🚨” and featuring text exclaiming “ENDS TOMORROW!” within the body of the message.

122. On September 1, 2025, Defendant sent two additional emails to urge consumers to act quickly. The first featured the subject line: “This is it! Our Labor Day Sale ends TONIGHT 🕒 [.]”

123. Later that day, Bed Bath & Beyond sent another email titled, “Final Hours! Up to 70% off is ending ! ”

124. All three subject lines contained false information concerning the availability of the Labor Day Sale as confirmed on September 2, 2025, when Defendant sent an email titled: “Still time to save! Shop Last Chance Labor Day Deals[.]” Inside, the email continued to advertise the Labor Day Sale and it’s up to 70% off discounts.

125. As the subject lines of its marketing emails demonstrate, Bed Bath & Beyond employs a scheme where it pressures consumers to make purchases from its website by falsely representing the limited availability of its offers.

IV. Bed Bath & Beyond knows, actually or constructively, when it sends emails to Indiana residents.

126. A sophisticated commercial enterprise, like Bed Bath & Beyond, 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.

127. First, the sheer volume of email marketing that Bed Bath & Beyond engages in put it on notice that Indiana residents would receive its emails. From 2023 to 2025, Bed Bath & Beyond sent marketing emails at a rate averaging roughly 1,208 per year, 100 per month, and 3.31 per day.

128. Second, Bed Bath & Beyond may obtain location information tied to email addresses when consumers purchase its products, or otherwise self-report such information to Bed Bath & Beyond.

129. Third, Bed Bath & Beyond may obtain location information tied to email addresses by tracking the IP addresses of devices used to open Bed Bath & Beyond emails, which in turn can

be correlated to physical location (as illustrated, for example, by the website <https://whatismyipaddress.com/>).

130. Specifically, Bed Bath & Beyond likely uses Bird (formerly SparkPost) to manage its email marketing campaigns. Among other features, Bird promises its clients “[c]omprehensive email analytics,” including “over 40 real-time metrics that track every aspect of your email performance while integrating data across campaigns, segments, and customer interactions for a complete view.”¹ Similarly, Bird promises to facilitate “AI-powered campaigns that adapt and optimize across every channel,” including target “[s]egments that update automatically.”²

131. Fourth, Bed Bath & Beyond 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.

132. Fifth, Bed Bath & Beyond 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.

133. It is highly probable that a seller of Bed Bath & Beyond’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.

¹ *Gain Deeper Insights with Email Analytics*, BIRD, <https://bird.com/en/channels/email-marketing/analytics> (last accessed Mar. 23, 2026).

² *Launch Campaigns that Drive the Full Customer Lifecycle*, BIRD, <https://bird.com/en/marketing/campaigns> (last accessed Aug. 18, 2026).

V. Bed Bath & Beyond has violated Plaintiff's rights under DCEMA to be free of deceptive commercial spam.

134. Bed Bath & Beyond 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.

135. Plaintiff received, for example, the following emails from Bed Bath & Beyond at a personal email address:

a. The May 26, 2025, email titled, “🔔 Up to 70% off Ends TONIGHT: The Memorial Day Sale 🗓️” as described above at paragraphs 68 to 72.

b. The May 26, 2025, email titled, “🕒 FINAL HOURS to shop Memorial Day deals up to 70% off” as described above at paragraphs 68 to 72.

c. The July 28, 2025, email titled, “Ends tomorrow: 20% off thousands of items sitewide 🗓️” as discussed above at paragraphs 113 to 118.

d. The July 29, 2025, email titled, “Ends Tonight: 20% off thousands of items sitewide 🕒” as discussed above at paragraphs 113 to 118.

e. The August 31, 2025, email titled, “Up to 70% off ends tomorrow! 🗓️” as described above at paragraphs 119 to 124.

f. The September 1, 2025, email titled, “This is it! Our Labor Day Sale ends TONIGHT 🕒” as described above at paragraphs 119 to 124.

g. The October 23, 2025, email titled, “Up to 70% off Fall Clearance ends tomorrow! 🍁” as described above at paragraphs 73 to 81.

h. The October 24, 2025, email titled, “Fall Clearance ends tonight 🍁” as described above at paragraphs 73 to 81.

i. The October 29, 2025, email titled, “Ends tomorrow: Up to 70% off ⚡” as described above at paragraph 82.

j. The October 30, 2025, email titled, “Ends tonight: Semi-Annual Beyond a Deal Event 🕒” as described above at paragraph 82.

k. The November 2, 2025, email titled, “Ends tomorrow: Up to 50% off top picks 🕒” as discussed above at paragraphs 83 to 84.

l. The November 3, 2025, email titled, “Up to 50% off holiday savings ends tonight 🕒” as described above at paragraphs 83 to 84.

m. The December 1, 2025, email titled, “Final hours! Up to 70% off + new deals inside 👁️” as described above at paragraphs 85-90.

n. The February 16, 2026, email titled, “Last chance: Presidents Day Sale ends tonight” as described above at paragraphs 91 to 94.

o. The February 18, 2026, email titled, “25% off your entire order ends tomorrow” as described above at paragraphs 95 to 99.

p. The February 19, 2026, email titled: “Ends tonight: 25% off your entire order us” as described above at paragraphs 95 to 99.

136. 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 Bed Bath & Beyond sales, offers, or other promotions.

137. It is likely that Plaintiff has received additional marketing emails sent by Bed Bath & Beyond since Plaintiff’s email address was added to Defendant’s marketing list, beyond those which Plaintiff happened to save in her inbox.

CLASS ALLEGATIONS

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

139. 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.

140. 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.

141. 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.

142. 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.

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

144. 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 reason to know were held by Indiana residents; whether Defendant’s conduct violated DCEMA; and whether Defendant should be enjoined from such conduct.

145. 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.

146. 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.

147. 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.

148. 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.

149. 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.

CLAIMS TO RELIEF

COUNT I

Violation of the Indiana Deceptive Commercial Electronic Mail Act

Ind. Code § 24-5-22-7

On behalf of the Class

150. Plaintiff incorporates and realleges paragraphs 1–137 above.

151. 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.

152. 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.

153. 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.

PRAYER FOR RELIEF

154. Plaintiff asks the Court to

- a. Certify this action as a class action under T.R. 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 their reasonable costs and fees incurred in prosecuting this action, as allowed by law; and

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

JURY DEMAND

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

[Signature page follows.]

DATE: August 25, 2026

Respectfully submitted,

/s/ Lynn A. Toops

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**pro hac vice application forthcoming*