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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SAN FRANCISCO**

11 JASMINE WEAVER, individually and
12 on behalf of all others similarly situated,

13 Plaintiff,

14 vs.

15 FENTY BEAUTY, LLC,

16 Defendant.

Case No.

CLASS ACTION COMPLAINT

CGC-26-640163

17 Plaintiff Jasmine Weaver (“Plaintiff”), individually and on behalf of all others
18 similarly situated, brings this class action complaint against Defendant Fenty Beauty,
19 LLC (“Defendant” or “Fenty”). Plaintiff makes the following allegations based upon,
20 *inter alia*, the investigation made by her counsel, and based upon information and
21 belief, except as to those allegations specifically pertaining to Plaintiff which are based
22 on her personal knowledge, and alleges the following:

23 **PRELIMINARY STATEMENT**

24 1. This is a proposed class action seeking monetary damages, restitution, and
25 injunctive and declaratory relief from Defendant arising from its deceptive email
26 marketing practices, including false and misleading promotional email subject lines
27 designed to create a false sense of urgency and time pressure.

28 2. Defendant operates a nationwide retail business selling cosmetics,
skincare, and related beauty products under the Fenty Beauty and Fenty Skin brands.

1 3. Defendant maintains a mass email marketing program through which it
2 sends promotional emails to hundreds of thousands, and likely millions, of consumers
3 who have provided Defendant their email addresses.

4 4. These consumers reasonably rely on representations that Defendant
5 makes in email subject lines, including the time limits Defendant represents for
6 discounts and sales, when deciding whether and when to open an email, visit
7 Defendant's website, and consider a purchase.

8 5. Through its mass email marketing program, Defendant routinely
9 fabricates urgency to drive traffic and sales. Defendant deploys subject lines and
10 marketing language that create the false impression that a promotional sale or discount
11 is about to expire, when in fact the same or a materially identical promotion continues
12 or Defendant later relaunches it under an "EXTENDED" subject line.

13 6. A legitimate, time-limited sale poses no problem. Defendant's fake sales,
14 with fabricated deadlines and "extension" or one-time-only framing, is deceptive.

15 7. Defendant's "EXTENDED" subject lines suggest that Defendant
16 unexpectedly continued a promotion because of consumer demand, when in fact the
17 purported "extension" is a marketing tactic that Defendant planned in advance rather
18 than a genuine extension of an otherwise-expiring offer.

19 8. False time-scarcity marketing of this kind is a recognized "dark pattern."
20 The Federal Trade Commission has identified the "False Limited Time Message" as a
21 species of manipulative design in which a marketer creates "pressure to buy
22 immediately by saying the offer is good only for a limited time or that the deal ends
23 soon—but without a deadline or with a meaningless deadline that just resets when
24 reached." Fed. Trade Comm'n, *Bringing Dark Patterns to Light* at 21-22 (2022).

25 9. False deadline marketing harms consumers by substituting manufactured
26 time pressure for informed choice: it pushes them to buy now rather than compare,
27 deliberate, or decline and the seller captures the resulting sales.

28

1 19. Defendant Fenty Beauty, LLC is a limited liability company incorporated
2 and headquartered in San Francisco, California.

3 **JURISDICTION AND VENUE**

4 20. This Court has personal jurisdiction over Defendant pursuant to Code of
5 Civil Procedure § 410.10, because Defendant maintains its principal place of business
6 in San Francisco, California, and is therefore subject to general jurisdiction in this State.

7 21. This Court has jurisdiction over the claims set forth below under the
8 California Constitution, Article VI § 10 because this case is a cause not given by statute
9 to the other trial courts.

10 22. Venue is proper in this Court under Code of Civil Procedure §§ 395(a)
11 and 395.5 because Defendant is headquartered in this County.

12 23. The total amount in controversy exceeds the \$35,000 jurisdictional
13 minimum of this Court.

14 **FACTUAL BACKGROUND AND GENERAL ALLEGATIONS**

15 **A. Defendant's Promotional Email Marketing Program**

16 24. Defendant operates a nationwide retail business selling cosmetics,
17 skincare, and related beauty products under the Fenty Beauty and Fenty Skin brands,
18 including through its website, fentybeauty.com.

19 25. Defendant maintains a mass email marketing program through which it
20 sends promotional emails to hundreds of thousands, and likely millions, of consumers
21 who have provided their email addresses.

22 26. Upon information and belief, Defendant designed the program to reach
23 consumers nationwide.

24 27. Defendant collects consumer email addresses through its website.
25 Consumers who create accounts, make purchases, or sign up for promotional
26 communications provide their email addresses to Defendant, which Defendant then
27 uses to send marketing emails.

28 28. Defendant's promotional emails include sales announcements, product

1 launch notifications, limited-time discount offers, and “last chance” reminders urging
2 consumers to act before a stated deadline.

3 29. These emails are part of a calculated marketing strategy that Defendant
4 orchestrates in advance to maximize sales by creating a false sense of urgency about
5 the duration and availability of its promotions.

6 30. Consumers reasonably rely on the representations made in email subject
7 lines, including representations about time limits on discounts and sales, when deciding
8 whether and when to open an email, visit Defendant’s website, and consider a purchase.
9 That reliance is precisely what Defendant’s marketing is designed to exploit.

10 **B. The Washington Commercial Electronic Mail Act and the Harm It Was**
11 **Enacted to Prevent**

12 31. In 1998, the Washington Legislature recognized that deceptive
13 commercial email was becoming a growing threat to consumers. The Legislature found
14 that the volume of commercial email was increasing and generating consumer
15 complaints, and enacted CEMA to address those concerns, including by prohibiting
16 commercial emails whose subject lines contain false or misleading information. Laws
17 of 1998, ch. 149, § 1; RCW 19.190.005.

18 32. CEMA’s subject-line prohibition serves a distinct consumer-protection
19 purpose. The subject line is the gateway through which a commercial email first
20 reaches a consumer’s attention. Before a recipient decides whether to open, ignore, or
21 delete a message, the subject line has already conveyed a representation about a
22 product, a price, a deadline, or an opportunity. When that representation is false, it
23 compromises the recipient’s decision-making at the first point of contact.

24 33. The harm CEMA targets is concrete, not hypothetical or abstract.

25 34. Deceptive commercial emails intrude on recipients’ inboxes in a manner
26 analogous to a common-law nuisance, consuming time and attention that the recipient
27 did not choose to devote to a false message.

28 35. Deceptive commercial emails distort purchasing decisions in a manner

1 analogous to common-law fraud, leading consumers to act on information the sender
2 knows to be untrue. Further, they erode trust in legitimate commercial communications
3 and burden consumers with the task of separating truthful promotions from fabricated
4 ones.

5 36. These real-world injuries are not novel or abstract. They bear the essential
6 characteristics of harms that the legal system has traditionally addressed, and the
7 Washington Legislature enacted CEMA to provide a remedy for them.

8 37. CEMA does not create a bare procedural right untethered to a real-world
9 consequence. It protects consumers from the tangible injury that occurs when the first
10 information in a commercial message deceives them. That injury begins when a false
11 subject line reaches the recipient's inbox and starts influencing whether, when, and
12 how the recipient engages with the email.

13 38. CEMA's protection does not depend on whether the recipient ultimately
14 opens the email, clicks through to the sender's website, or makes a purchase. The
15 statute addresses the truthfulness of the subject line itself. That information shapes the
16 consumer's initial decision about whether and how to engage with the message.

17 39. CEMA's truthfulness requirement likewise does not turn on whether the
18 recipient solicited the email or relied on the false subject line in making a purchasing
19 decision.

20 40. A consumer who agrees to receive promotional emails from a retailer
21 consents to the channel of communication, not to deception in the content of those
22 communications. When a sender uses that email relationship to place false information
23 in its subject lines, the resulting harm falls within the conduct that the Legislature
24 sought to prohibit when it enacted CEMA.

25 41. When a consumer gives an email address to a retailer, the consumer enters
26 a relationship of trust. The consumer expects the retailer to use that access responsibly
27 and to communicate truthfully. A retailer that exploits the email relationship by placing
28

1 false information in its subject lines abuses the trust the consumer extended and turns
2 a legitimate marketing channel into a vehicle for deception.

3 42. A consumer who agrees to receive promotional emails does not waive the
4 right to receive truthful ones. Consent covers the medium, not the message.

5 43. Deceptive emails sent to consenting recipients can cause harms beyond
6 those associated with unsolicited spam.

7 44. Because the consumer chose to receive emails from the sender, the
8 consumer is more likely to open and engage with them and to credit the subject line's
9 representations as truthful. The sender's exploitation of that trust magnifies the
10 deception and increases the likelihood of consumer harm.

11 45. Defendant's marketing exploits the very reliance on email subject lines
12 that CEMA was enacted to protect.

13 46. That reliance is reasonable because an offer's end date is an objective,
14 verifiable fact. A consumer who reads that a sale ends on a specific date reasonably
15 understands that the discount will no longer be available after the stated deadline.

16 47. Defendant's challenged practices concern the content of commercial
17 emails, not merely the form, formatting, routing, or procedural transmission of those
18 emails.

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

24 **C. Defendant's False Deadline Marketing Scheme**

25 49. One common way online marketers "manipulate consumer choice by
26 inducing false beliefs" is to create a false sense of urgency or to falsely claim that
27 consumers' time to act is scarce. Fed. Trade Comm'n, *Bringing Dark Patterns to Light*,
28 4 (2022).

1 50. Defendant has engaged in a systematic scheme of false deadline
2 marketing, repeatedly representing that promotional sales are ending imminently while
3 planning to continue those same promotions.

4 51. Defendant regularly sends promotional emails with subject lines
5 containing false time-limited language designed to create an artificial sense of urgency.
6 Subject lines representing a promotional offer as expiring imminently pressure
7 consumers to act immediately to take advantage of the advertised discount.

8 52. The following examples, spanning nearly three years, from September
9 2023 through July 2026, demonstrate that Defendant's false deadline marketing is not
10 accidental or isolated, but a deliberate and coordinated strategy.

11 **September 2023 Fenty Fam Sale (20% off sitewide)**

12 53. On September 22, 2023, Defendant sent consumers an email with the
13 subject line "20% off today only & dare to feel sexy," expressly representing that the
14 discount would be available for that day only.

15 54. However, on September 26, 2023, Defendant sent consumers an email
16 with the subject line "JK, the party ain't over yet-1 MORE DAY," with body text
17 stating "Plus one more time: 20% off Fenty Eau de Parfum."

18 55. The "JK" ("just kidding") framing shows that the "today only"
19 representation made just four days earlier was not genuine and that the same or
20 materially similar discount continued.

21 **November 2023 "Cyber Monday" (25% off sitewide)**

22 56. On November 27, 2023, Defendant sent consumers an email with the
23 subject line "25% OFF SHUTS DOWN TONIGHT," expressly representing that the
24 Cyber Monday 25% off promotion would end that day.

25 57. The same day, Defendant sent another email with the subject line "NEW
26 📺 + 25% OFF for Cyber Monday," with body text urging consumers to "Bag it before
27 the entire sale shuts down," reinforcing the false representation that the promotion
28 would end imminently.

58. However, on the very next day, November 28th, Defendant sent consumers an email with the subject line “Forreal this time, 25% OFF IS LEAVING”. This clearly shows that Defendant misled consumers in its previous emails, and pre-planned the sale to end on November 28, 2023.

September 2024 Fenty Fam Sale (25% off sitewide)

59. In September 2024, over a year after the September 2023 campaign discussed above, Defendant employed the same false deadline scheme for the “Fenty Fam Sale”. On September 22, 2024, Defendant sent consumers an email with the subject line “Don’t be salty when Fenty Fam Sale dips 😬,” implying the sale was ending. The same day, Defendant sent another email with the subject line “Fall dryness, where? 25% off fresh faves 🍂 - ... Fenty Fam Sale ends tomorrow,” expressly representing that the sale would end the following day.

60. On September 23, 2024, Defendant sent consumers emails with the subject lines “25% off everything ends tonight 😭 - Deeper Dealz + free gifts are leaving too. Come say goodbye” and “🚫 25% off is ending-don’t pay full price,” reinforcing the representation that the promotion would expire that day.

61. However, on September 24, 2024, Defendant sent consumers an email with the subject line “You got anotha chance 🙌 at 25% off sitewide - Fenty Fam Sale Extended cuz we know you like to be fashionably late,” falsely characterizing the continuation of the same promotion as an unexpected “extension.” The same day, Defendant sent yet another email with the subject line “🚫 Forreal this time-last call on 25% off - Today only,” again representing finality.

62. The September 2024 sequence demonstrates that Defendant’s false deadline marketing was already a deliberate, coordinated strategy, and that the language used was designed to obscure the preplanned nature of the extension.

November–December 2024 “Cyber Week” (30% off sitewide)

63. In late November and early December 2024, Defendant launched a “Cyber Week” promotion offering 30% off sitewide for VIP customers. On November 26,

2024, Defendant sent consumers emails with the subject lines “LAST CHANCE | 30% off sitewide is dippin’ 🍷 - And it’s taking these VIP-exclusive 🎁’s with it” and “Final hours: VIP 30% off + freebies - Cyber Week Early Access ends tonight,” expressly representing that the 30% off promotion would end that day.

64. On December 2, 2024, Defendant sent consumers emails with the subject lines “LAST CHANCE to save big: 30% off sitewide” and “SAVE BIG WITH 30% OFF + NEW FREE GIFT - Go quick-it’s the last day to shop,” again representing that the 30% off promotion would end that day.

65. However, on December 3, 2024, Defendant sent consumers an email with the subject line “TODAY ONLY 🙌 30% off extended - Sitewide savings, Deeper Dealz + free 🍷 ends tonight,” falsely characterizing the continuation of the same 30% off promotion as an unexpected one-day “extension.”

March 2025 “Fenty Fam Sale” (25% off sitewide)

66. In March 2025, Defendant again launched its “Fenty Fam Sale” offering 25% off sitewide. On March 24, 2025, Defendant sent consumers emails with the subject lines “25% off sitewide-it’s now or never, fam 🙌 - Your fave sale is ending...” and “LAST CALL 📞 25% off sitewide,” representing that the promotion was ending.

67. On March 25, 2025, Defendant sent consumers an email with the subject line “25% off sitewide is *not* coming back - Fenty Fam Sale forreal leaves tonight. Hurry, before you’re completely outta luck,” expressly representing not only that the promotion was ending that night, but that it would not return.

68. However, later the same day, March 25, 2025, Defendant sent consumers an email with the subject line “You’re in luck-25% off extended 🍷 - Final chance to shop the Fenty Fam Sale, Deeper Dealz + get glowy gifts with min. spend,” falsely characterizing the continuation of the same promotion as an unexpected “extension” and telling consumers they were “in luck” despite having just represented hours earlier that the sale was “not coming back.”

69. The March 2025 sequence is particularly egregious because Defendant affirmatively represented that the sale was “not coming back”—only to extend it the very same day. This was not an unexpected change. It was a calculated deception designed to pressure consumers into immediate purchases by falsely representing that the opportunity was about to vanish forever.

September 2025 “Fenty Fam Sale” (30% off sitewide)

70. In September 2025, Defendant launched yet another “Fenty Fam Sale,” this time offering 30% off sitewide. On September 22, 2025, Defendant sent consumers an email with the subject line “30% off sitewide ends tonight 🔥,” expressly representing that the promotion would end that day.

71. However, on September 23, 2025, Defendant sent consumers an email with the subject line “One. More. Day. 🙌🙌 The sale’s still on - Extended: 30% off sitewide + up to 60% off select faves + freebies with min. spend,” falsely characterizing the continuation of the same promotion as an unexpected extension and framing it as a favor to consumers.

72. Later that same day, September 23, 2025, Defendant sent another email with the subject line “Last chance for 30% off sitewide 🙌🙌,” again representing finality, even though Defendant had just declared the sale “extended” hours earlier.

July 2026 Fenty Skin Anniversary Promotion (25% off bundles)

73. Most recently, on July 28, 2026, Defendant sent consumers a promotional email with the subject line “Happy anni, Fenty Skin! 🎂 25% off bundles” advertising 25% off skincare routine bundles in celebration of Fenty Skin’s anniversary. In the body of the email, the Defendant represented that the promotion would end on July 29, 2026.

74. On July 29, 2026, Defendant sent consumers a follow-up email with the subject line “Hurry 🚨 25% off skincare routine bundles,” again representing that the same 25% off sale would end that same day.

1 75. The use of “Hurry” and the alarm emoji reinforced the misleading
2 appearance that the opportunity was about to disappear.

3 76. However, on July 30, 2026, Defendant sent consumers yet another email
4 with the subject line “Extended ✨ 25% off skincare bundles.” The email represented
5 that Defendant had extended the same 25% off sale and that the sale would end on July
6 30, 2026.

7 77. The sequence of these emails demonstrates that an equivalent or
8 substantially similar discount remained available through at least July 30, 2026,
9 although Defendant marketed it as expiring on July 29, 2026, and then falsely
10 characterized the continuation as an “extension.” Defendant had planned the
11 promotion’s term all along.

12 78. The foregoing examples spanning from September 2023 through July
13 2026, establish that Defendant’s false deadline marketing is a coordinated,
14 premeditated scheme that Defendant has knowingly executed across multiple
15 promotional campaigns over nearly three years.

16 79. Upon information and belief, Defendant has employed these deceptive
17 marketing practices for years and continues to employ these same tactics because they
18 work. The false sense of urgency pressures consumers to make immediate purchasing
19 decisions they would not otherwise make, and the subsequent “extension” emails
20 capture additional sales from consumers who missed the original deadline. Defendant
21 has refined and repeated this playbook because it generates revenue at consumers’
22 expense.

23 80. The consistency of Defendant’s conduct, using the same “Fenty Fam
24 Sale” branding, the same “ends tonight” and “last chance” language, and the same
25 “extended” follow-up emails across different promotional periods, demonstrates that
26 these emails are part of a standardized marketing playbook, not genuine responses to
27 unexpected circumstances.
28

1 81. Defendant pairs its deceptive deadline marketing with reinforcing
2 language and design elements within the email body, such as specific end dates (“Ends
3 July 29”), calls to action like “SAVE NOW,” and celebratory framing (“HAPPY
4 ANNIVERSARY, FENTY SKIN!”). These elements amplify the urgency that the
5 subject line communicates and reinforce the false impression that the offer is genuinely
6 time-limited.

7 82. Defendant manufactured this scheme to replay it indefinitely. Defendant’s
8 promotional calendar, email templates, and scheduling tools allow it to plan and queue
9 promotional emails in advance. Upon information and belief, the July 2026 emails were
10 scheduled as part of a coordinated campaign, deliberately planning the artificial
11 expiration date and the renewal as components of a single marketing sequence.

12 83. The deception operates at the point of first contact: the subject line is the
13 first information a recipient sees and often determines whether the recipient opens the
14 email. A false deadline or false “extension” short-circuits rational comparison shopping
15 by causing consumers to focus on an allegedly expiring offer and diverting their
16 attention from competing products, prices, and promotions.

17 **D. Defendant’s Knowledge Under CEMA**

18 84. Defendant is a sophisticated national brand with access to real-time email
19 analytics showing how urgency language affects recipient engagement. Defendant can
20 measure the performance of different subject lines and promotional campaigns and can
21 compare the resulting opens, clicks, website visits, and purchases.

22 85. Upon information and belief, Defendant’s email marketing platform
23 tracks and reports open rates, click-through rates, and conversion rates, and Defendant
24 uses that data to optimize its use of urgency language. The repeated scheduling of
25 “EXTENDED” emails after stated deadlines, together with the commercial benefits
26 that a contrived sense of urgency generated, supports the inference that Defendant
27 knowingly or recklessly continued the practice.
28

1 86. Defendant knows, or has reason to know, that its promotional emails reach
2 Washington residents.

3 87. As a sophisticated national retailer operating a large-scale email
4 marketing program, Defendant maintains customer account records containing names,
5 billing addresses, and shipping addresses. It also obtains location information from
6 purchases made through its website, and its email marketing platform tracks recipient
7 IP addresses that correlate to geographic location at least at the state level. These
8 ordinary business records give Defendant actual or constructive knowledge of where
9 its email recipients reside.

10 88. RCW 19.190.020(2) independently presumes the sender's knowledge of
11 Washington residency when that information is available, upon request, from the
12 registrant of the recipient's email domain. Defendant therefore has no basis to claim
13 that it was unaware of its recipients' Washington residency.

14 89. Upon information and belief, Defendant may obtain location information
15 associated with its email recipients by purchasing or licensing consumer data from
16 third-party data aggregators and brokers that maintain databases correlating email
17 addresses with geographic and demographic information, including state of residence.

18 90. Upon information and belief, Defendant may further determine the
19 geographic location of its email recipients through third-party identity resolution and
20 data enrichment services that match email addresses to consumer profiles containing
21 physical location data.

22 91. The sheer volume of Defendant's email marketing puts it on notice that
23 Washington residents would receive its emails.

24 92. Upon information and belief, Defendant sends promotional emails to
25 consumers on a near-daily basis across its product lines. Given the nationwide reach of
26 Defendant's email program and Washington's share of the national population, it is
27 highly probable that a substantial number of recipients are Washington residents.
28

1 93. Defendant’s knowledge that the represented deadlines were false or
2 misleading is, at minimum, fairly implied by objective circumstances. Defendant sets
3 its promotional calendar, drafts its subject lines, and schedules its “EXTENDED”
4 emails in advance, before the original promotion launches. It has repeated the same
5 sequence of announcing a deadline and then continuing the promotion across multiple
6 campaigns. A company that controls every aspect of its promotional timeline and
7 repeats that sequence cannot plausibly claim that it did not know its stated deadlines
8 were false.

9 94. CEMA does not require proof that a particular Defendant employee
10 subjectively recognized the falsity of the deadlines. The statute requires either actual
11 knowledge or knowledge fairly implied on the basis of objective circumstances. Those
12 circumstances are present here: Defendant controls its promotional schedule, prepares
13 the “EXTENDED” email before the original promotion begins, and repeats the same
14 sequence across campaigns.

15 95. Statements that a sale ends on a particular date, that consumers must
16 “hurry,” or that Defendant has “extended” an offer convey verifiable facts about the
17 offer’s duration and availability. They do not amount to mere puffery.

18 96. Defendant could obtain the legitimate benefits of promotional email
19 marketing without deception by using genuine deadlines and accurately describing any
20 continuation. That straightforward alternative shows that Defendant chose to
21 manufacture scarcity rather than acting from business necessity.

22 97. Defendant’s status as a major national beauty brand makes it implausible
23 that these emails resulted from carelessness. Defendant employs marketing
24 professionals, uses sophisticated email marketing platforms, and has access to real-time
25 analytics that track campaign performance.

26 98. Defendant knows or should know that consumers respond to the urgency
27 its subject lines convey because it designed its email program to capitalize on that
28 response.

E. CAN-SPAM Does Not Preempt These Claims

99. CAN-SPAM generally preempts state regulation of commercial email, but expressly preserves state laws “to the extent that [they] prohibit[] falsity or deception in any portion of a commercial electronic mail message.” 15 U.S.C. § 7707(b)(1).

100. Plaintiff’s claims fall within that savings clause because they target materially false or misleading subject-line content about how long Defendant’s promotions would last and whether they remained available, rather than mere formatting, routing, or procedural transmission of email.

101. The subject line is the first information a recipient sees and can determine whether the recipient opens the email. A false deadline or purported “extension” is a material misrepresentation that induces consumers to act under false time pressure rather than compare competing offers, and the alleged deception is not cured by accurate information elsewhere in the email.

102. Because the challenged conduct concerns falsity or deception in the content of commercial emails, Plaintiff’s CEMA, CPA, and related state-law claims are preserved and are not preempted by CAN-SPAM.

F. Plaintiff’s Experience

103. Plaintiff is a Washington consumer who provided her email address to Defendant in connection with Defendant’s business. Defendant subsequently enrolled Plaintiff in its promotional email marketing program.

104. Plaintiff expected that any promotional communications she would receive from Defendant would be sent at a reasonable frequency and would contain truthful information about Defendant’s products, promotions, and sales.

105. Plaintiff did not consent to receive commercial emails containing false or misleading information in the subject line or body.

106. Defendant flooded Plaintiff’s email inbox with promotional emails, and upon information and belief, Plaintiff has received hundreds, and likely thousands, of Defendant’s promotional emails.

1 107. Defendant's emails contained false or misleading subject lines in violation
2 of CEMA, exceeding the scope of any consent Plaintiff may have given to Defendant.

3 108. On September 22, 2023, Plaintiff received Defendant's deceptive email
4 with the subject line "20% off today only & dare to feel sexy," representing the discount
5 was available that day only.

6 109. On September 26, 2023, Plaintiff received Defendant's email with the
7 subject line "JK, the party ain't over yet-1 MORE DA[Y]," revealing that the "today
8 only" deadline communicated in the previous email, was false.

9 110. On November 27, 2023, Plaintiff received Defendant's deceptive email
10 with the subject line "25% OFF SHUTS DOWN TONIGHT." However, the next day,
11 on November 28th, Plaintiff received Defendant's email with the subject line "Forreal
12 this time, 25% OFF IS LEAVING," showing that the sale was still going on, and
13 acknowledging that Defendant's prior representations about the sale ending were not
14 genuine.

15 111. On November 5, 2024, Plaintiff unsubscribed from Defendant's
16 promotional email list due to the excessive volume of emails she was receiving.
17 Defendant sent Plaintiff an email confirming she unsubscribed on the same day.

18 112. On November 12, 2024, Defendant sent Plaintiff another email stating that
19 it was "sad to see her go" and that she was being removed from Defendant's email list.

20 113. Despite Plaintiff's confirmed request to unsubscribe and Defendant's own
21 confirmation that Plaintiff was being removed, Defendant resumed sending Plaintiff
22 promotional emails.

23 114. Plaintiff never resubscribed and continues to receive promotional emails
24 from Defendant to this day.

25 115. Every email Plaintiff received after November 5, 2024, including many of
26 the promotional emails discussed herein, was sent without Plaintiff's consent and over
27 her express objection.
28

1 116. Plaintiff received emails from Defendant with subject lines representing
2 that sales were ending imminently, using phrases such as “last chance,” “last call,”
3 “final hours,” and “ends tonight”, when Defendant had planned to continue or “extend”
4 those promotions all along.

5 117. Plaintiff saw these subject lines in her inbox. The subject line is the first
6 piece of information a recipient encounters and determines whether the recipient opens
7 the email.

8 118. Upon information and belief, Plaintiff purchased products from Defendant
9 because she believed the advertised discounts were genuinely limited-time offers. Had
10 Plaintiff known that Defendant’s stated deadlines were artificial, she would have taken
11 more time to deliberate, compared competing offers, or declined to purchase altogether.

12 119. Plaintiff understood these communications to mean that promotional
13 discounts would end on the stated dates, and she believed those representations to be
14 true.

15 120. Defendant’s representations about when its promotional sales would end
16 were false or misleading. The promotions did not end on the dates Defendant
17 represented.

18 121. As a result of Defendant’s conduct, Plaintiff suffered concrete harm,
19 including: (a) economic injury from purchases made in reliance on Defendant’s false
20 deadline representations; (b) wasted time and attention diverted to Defendant’s
21 promotional offers under false pretenses; (c) distortion of her consumer decision-
22 making process; (d) lost opportunity to make informed decisions about whether and
23 when to engage with Defendant’s promotions; (e) the annoyance, intrusion, and burden
24 of receiving excessive promotional emails, including emails sent after Plaintiff
25 unsubscribed; and (f) undermined ability to trust Defendant’s representations going
26 forward.

27 122. The repeated cycle of cutoff dates that Defendant manufactured and
28 continuations that it choreographed constitutes an ongoing pattern of deceptive email

1 marketing that burdened Plaintiff's inbox, wasted her time and attention, distorted her
2 consumer decision-making, and eliminated her ability to make informed consumer
3 decisions.

4 123. Plaintiff also opened Defendant's emails sooner than she otherwise would
5 have, felt pressured to act before the stated deadlines, and devoted time and attention
6 to Defendant's promotions under the false impression that the opportunities were about
7 to expire.

8 124. By sending Plaintiff emails with subject lines that falsely represented
9 when promotions would end, Defendant exceeded the scope of any consent Plaintiff
10 provided and subjected Plaintiff to deceptive commercial communications she did not
11 bargain for.

12 CLASS ALLEGATIONS

13 125. Pursuant to Code of Civil Procedure § 382, Plaintiff brings this action on
14 behalf of herself and a Class of similarly situated persons, defined as follows:

15 All Washington residents who, within the applicable statute of limitations,
16 received one or more commercial emails from Defendant with a subject
17 line that misrepresented the facts of a sale, discount, or promotion.

18 126. Excluded from the Class is Defendant, any entities in which it has a
19 controlling interest, any of its parents, subsidiaries, affiliates, officers, directors,
20 employees and members of such persons' immediate families, and the presiding
21 judge(s) in this case, and their staff. Plaintiff reserves the right to expand, limit, modify,
22 or amend this class definition, including the addition of one or more subclasses, in
23 connection with her motion for class certification, or at any other time, based upon,
24 *inter alia*, changing circumstances and/or new facts obtained during discovery.

25 127. **Numerosity:** At this time, Plaintiff does not know the exact size of the
26 Class; however, due to the nature of the trade and commerce involved, Plaintiff
27 believes that the Class members are well into the hundreds of thousands, and possibly
28 even millions, and thus are so numerous that joinder of all members is impractical. The

1 number and identities of the members of the Class are administratively feasible and can
2 be determined through appropriate discovery in the possession of the Defendant.

3 128. **Commonality:** There are questions of law or fact common to the Class,
4 which include, but are not limited to, the following:

- 5 a. Whether Defendant sent commercial emails to email addresses it
6 knew or had reason to know were held by Washington residents,
7 using subject lines containing false or misleading information about
8 the duration or availability of promotional sales or discounts;
- 9 b. Whether Defendant knew, or its knowledge was fairly implied from
10 objective circumstances, that its challenged subject lines were false
11 or misleading;
- 12 c. Whether Defendant's false-urgency email marketing violated
13 CEMA and constituted a per se unfair or deceptive act under the
14 CPA;
- 15 d. Whether Defendant's standardized promotional schedules, subject
16 lines, and "EXTENDED" campaigns misrepresented the duration
17 or availability of its promotions and deceived consumers;
- 18 e. Whether Defendant's conduct caused the injury alleged, including
19 the receipt of violating emails, the time and attention Defendant
20 diverted, website engagement, and purchases that consumers made
21 or made on different terms under false pretenses;
- 22 f. Whether Plaintiff and the Class are entitled to statutory damages,
23 treble damages, attorneys' fees and costs, restitution, disgorgement,
24 injunctive relief, and other appropriate relief.

25 129. **Typicality:** Like Plaintiff, many other consumers received promotional
26 emails from Defendant containing subject lines that falsely represented that a
27 promotion was limited time, or that Defendant had extended it. Plaintiff's claims are
28 typical because Defendant exposed Plaintiff and each Class member to the same

1 standardized representations, and the same false-urgency practice injured them. The
2 claims arise from the same legal theory, making class treatment appropriate.

3 130. **Adequacy of Representation:** Plaintiff is committed to pursuing this
4 action and has retained counsel competent and experienced in prosecuting and
5 resolving consumer class actions. Plaintiff will fairly and adequately represent the
6 interests of the Class and has no interests antagonistic to those of the Class.

7 131. **Predominance:** The common questions that Plaintiff identified above
8 predominate over questions affecting only individual members because liability turns
9 on Defendant's standardized email content, promotional schedules, and conduct in
10 representing the duration or availability of sales.

11 132. **Superiority:** A class action is superior to other available methods for
12 fairly and efficiently adjudicating this controversy. Individual actions would require
13 substantial time and expense compared with the modest individual value of the claims,
14 while a class action will conserve judicial resources and provide access to relief.

15 133. **Ascertainability:** Defendant's email-distribution, account, and customer
16 records can identify class members. Objective criteria allow the Court to ascertain the
17 proposed Class.

18 134. As stated above, Defendant has acted or refused to act on grounds
19 generally applicable to the Class, thereby making appropriate corresponding
20 declaratory relief with respect to the Class as a whole.

21 **CAUSES OF ACTION**

22 **FIRST CLAIM FOR RELIEF**

23 ***Violation of Washington's Commercial Electronic Mail Act, RCW 19.190.020*** 24 **(On Behalf of Plaintiff and the Class)**

25 135. Plaintiff repeats, realleges, and incorporates the allegations in Paragraphs
26 1 through 134 as if fully set forth herein.

27 136. CEMA provides that "[n]o person may initiate the transmission, conspire
28 with another to initiate the transmission, or assist the transmission, of a commercial
electronic mail message ... to an electronic mail address that the sender knows, or has

1 reason to know, is held by a Washington resident that ... contains false or misleading
2 information in the subject line.” RCW 19.190.020(1)(b).

3 137. Defendant is a “person” within the meaning of CEMA. RCW
4 19.190.010(11).

5 138. Defendant initiated the transmission, conspired with another to initiate the
6 transmission, or assisted the transmission of “commercial electronic mail messages”
7 within the meaning of CEMA, including the promotional emails described herein.
8 RCW 19.190.010(2).

9 139. Defendant initiated the transmission, conspired with another to initiate the
10 transmission, or assisted the transmission of such messages to electronic mail addresses
11 that Defendant knew, or had reason to know, were held by Washington residents,
12 including through customer account, billing, shipping, and location data, and through
13 “information [that] is available, upon request, from the registrant of the internet domain
14 name contained in the recipient’s electronic mail address.” RCW 19.190.020(2).

15 140. Defendant initiated the transmission, conspired with another to initiate the
16 transmission, or assisted the transmission of such messages that contained false or
17 misleading information in the subject line, as this complaint describes, in violation of
18 CEMA. RCW 19.190.020(1)(b).

19 141. The representations that promotions end on specified dates, that
20 consumers must “hurry,” and that Defendant has used the word “extended” to describe
21 an offer communicate objective facts about duration and availability, not puffery. They
22 contain false or misleading information within the meaning of CEMA.

23 142. CEMA requires truthfulness in email subject lines, and that truthfulness
24 does not depend on what the rest of the email conveys. *See Brown v. Old Navy, LLC*,
25 567 P.3d 38 (Wash. 2025).

26 143. Each violating email is a separate violation of CEMA giving rise to
27 statutory damages.
28

144. Defendant's knowledge that the subject-line representations were false or misleading is actual or, at a minimum, fairly implied on the basis of objective circumstances because Defendant controls its promotional calendar, drafts and schedules its emails in advance, and repeated the same declare-it-over-then-extend-it pattern.

145. Plaintiff and the Class are entitled to all available relief, including statutory damages of \$100 per violation, or actual damages, whichever is greater, under RCW 19.190.040(1), and injunctive relief.

SECOND CLAIM FOR RELIEF
Violation of Washington's Consumer Protection Act, RCW 19.86.020
(On Behalf of Plaintiff and the Class)

146. Plaintiff repeats, realleges, and incorporates the allegations in Paragraphs 1 through 134 as if fully set forth herein.

147. The CPA provides that "[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful." RCW 19.86.020.

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

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

150. CEMA's statutory damages provision establishes the injury and causation elements as a matter of law. The injury is the receipt of an email that violates CEMA.

151. Defendant violated CEMA as alleged herein by initiating the transmission of commercial electronic mail messages with false or misleading subject lines to email addresses it knew or had reason to know were held by Washington residents.

152. Defendant's conduct also constitutes independently unfair acts or practices because false-urgency marketing offends established public policy favoring truthful advertising and informed consumer choice, is immoral, unethical, oppressive, and substantially injurious to consumers. Further, the harm of these false-urgency marketing emails outweighs any utility.

153. Defendant's conduct constitutes independently deceptive acts or practices because the false-urgency subject lines are likely to deceive reasonable consumers about the duration and availability of promotional offers.

154. Defendant's unfair or deceptive acts vitally affect the public interest. RCW 19.190.030(3); RCW 19.190.100.

155. For Defendant's violations of the CPA, Plaintiff and the Class are entitled to the greater of actual damages or statutory damages, trebled; costs of suit, including reasonable attorneys' fees; and injunctive relief. RCW 19.86.090.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the Class, seeks an Order:

1. Certifying the proposed Class, appointing Plaintiff as Class Representative, and appointing the undersigned counsel as Class Counsel;
2. Declaring that Defendant violated CEMA and the CPA;
3. Providing any and all injunctive and declaratory relief the Court deems appropriate, including prohibiting Defendant from using false or misleading subject lines that represent that a promotion is ending or that Defendant has genuinely extended a promotion even though the same or a materially identical promotion continues;
4. Awarding statutory damages of \$100 for each violating commercial email that a Class member received, or actual damages, whichever is greater, under RCW 19.190.040(1), to the extent available;
5. Awarding treble damages under RCW 19.86.090, subject to the \$25,000 cap per Claimant, and actual, compensatory, incidental, consequential, reliance, benefit-of-the-bargain, and other damages in an amount that the Court or jury determines, in accordance with applicable law;
6. Awarding Plaintiff and the Class reasonable attorneys' fees and costs;
7. Awarding pre- and post-judgment interest to the extent applicable law permits;

1 8. Providing such further relief as this Court may deem just, equitable, and
2 proper.

3 **DEMAND FOR JURY TRIAL**

4 Plaintiff and all others similarly situated hereby demand trial by jury on all issues
5 in this complaint that are so triable as a matter of right.

6
7 Dated: August 21, 2026

8 By: /s/ Scott Edelsberg
9 Scott Edelsberg (SBN 330990)
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