UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WASHINGTON

Keagan O'Brien and Devin Nelson, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

Guitar Center, Inc.,

Defendant.

Case No. 3:26-cv-6350

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

JANOVE PLLC
115 Broadway, 5th Floor
New York, NY 10006
Telephone: (646) 347-3940

Plaintiffs Keagan O'Brien and Devin Nelson, individually and on behalf of all others similarly situated, bring this class action suit for damages and equitable relief against Guitar Center, Inc. ("Guitar Center" or "Defendant"). Plaintiffs make the following allegations based upon information and belief and the investigation of their counsel, except as to allegations specifically pertaining to Plaintiffs, which are based on personal knowledge:

NATURE OF THE ACTION

1. This class action complaint arises from Defendant's pattern and practice of sending marketing emails with false and misleading subject lines to Washington residents.

2. Defendant sells musical instruments and related equipment through its website, www.guitarcenter.com, and regularly sends commercial marketing emails to consumers nationwide, including to Washington residents. Those emails systematically misrepresent the nature of Defendant's promotions, falsely implying that discounts are temporary, that deals are expiring, and that offers are personalized to individual recipients. Defendant's scheme employs "dark patterns," or design practices intended to coerce consumers into making choices they would not have made on their own.

3. At the threshold, Defendant's advertised "discounts" are not discounts at all. Defendant promotes purported price reductions through subject lines such as "Daily Pick: Uncover your deal of the day" and "Daily Pick: Still Time to Shop Today's Deal." However, the discounts underlying many of these promotions are permanently active and available to any consumer at any time. These "discounts" are simply Defendant's ordinary, everyday prices.

4. Defendant nonetheless floods consumers' inboxes with subject lines advertising time-sensitive price reductions ("Almost Gone: Today's Daily Pick," "Daily Pick: Last chance to save," "Holiday Daily Pick—Today only") even though these products are either always on sale or continue to be on sale for longer than Defendant leads consumers to believe.

5. Defendant compounds this deception by fabricating personalization. Subject lines containing phrases such as "It's your Daily Pick" and "Daily Pick: Uncover your deal of the day" represent that the recipient has been singled out for a special deal. However, the same promotions are available to all consumers. Defendant deploys these misrepresentations to exploit consumer

JANOVE PLLC
115 Broadway, 5th Floor
New York, NY 10006
Telephone: (646) 347-3940

psychology and drive purchases under false pretenses.

6. Accordingly, Plaintiffs seek monetary and injunctive relief against Defendant for violating the Washington Consumer Electronic Mail Act ("CEMA"), RCW 19.190, *et seq*., and the Washington Consumer Protection Act ("CPA"), RCW 19.86 *et seq*.

THE PARTIES

7. Plaintiff Keagan O'Brien is a citizen of Washington State and resides in Camas, Washington. Plaintiff has been subjected to Defendant's misleading email marketing campaign since at least 2024.

8. Plaintiff Devin Nelson is a citizen of Washington State and resides in Vancouver, Washington. Plaintiff has been subjected to Defendant's misleading email marketing campaign since at least 2025.

9. Defendant Guitar Center, Inc. is a Delaware corporation headquartered in Westlake Village, California.

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d)(2), because the aggregate amount in controversy exceeds $5 million, exclusive of interest and costs; more than 100 class members are involved; and many members of the proposed Class are citizens of different states than the Defendant.

11. This Court has personal jurisdiction over Defendant because it committed the tortious acts alleged herein in Washington, regularly conducts business in this District, and has extensive contacts with this forum.

12. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because Plaintiffs reside in this District, a substantial part of the events or omissions giving rise to the claims occurred in this District, and Defendant transacts substantial business in this District.

FACTUAL ALLEGATIONS

13. "CEMA was enacted to protect concrete interests in being free from deceptive commercial e-mails. CEMA's prohibition on sending commercial e-mails with false or misleading subject lines . . . creates a substantive right to be free from deceptive commercial e-mails." *Harbers*

JANOVE PLLC
115 Broadway, 5th Floor
New York, NY 10006
Telephone: (646) 347-3940

v. Eddie Bauer, LLC, 415 F. Supp. 3d 999, 1011 (W.D. Wash. 2019).

14. It is therefore a violation of CEMA to "initiate the transmission, conspire with another to initiate the transmission, or assist the transmission, of a commercial electronic mail message from a computer located in Washington or to an electronic mail address that the sender knows, or has reason to know, is held by a Washington resident that . . . [u]ses a subject line which, based on the person's actual knowledge or knowledge fairly implied on the basis of objective circumstances, contains false or misleading information in the subject line." RCW 19.190.020(1).

15. As alleged herein, Defendant initiated or conspired to initiate the transmission of commercial emails with false and misleading subject lines to Washington residents, including Plaintiffs, and either actually knew or reasonably should have known of the subject lines' false and misleading nature, in violation of RCW 19.190.020(1).

I. Defendant Initiated or Conspired to Initiate the Transmission of Commercial Emails with Subject Lines Known to Be False and Misleading.

16. Defendant has initiated or conspired to initiate the transmission of commercial electronic mail messages with false or misleading subject lines to Plaintiffs and Class members, and either actually knew or reasonably should have known of the subject lines' false and misleading nature.

17. Defendant's false or misleading subject lines fall into three categories: (a) subject lines that describe a discount when the discount is perpetual and therefore not a genuine discount; (b) subject lines that contain urgency cues implying a limited-time offer when no such limitation exists; and (c) subject lines that advertise personalized sales that are not actually personalized.

18. Defendant has advertised its products using "Save [ ]%" and "Save $[ ]" pricing promotions in the subject lines of its marketing emails. In reality, discounts are continuously available, and consumers are falsely led to believe they are receiving a temporary promotional price reduction or special purchasing opportunity.

19. In doing so, Defendant "[c]reat[es] pressure to buy immediately by offering a fake 'discounted' or 'sale' price," a type of deceptive "dark pattern," or "design practice[] that trick[s] or

JANOVE PLLC
115 Broadway, 5th Floor
New York, NY 10006
Telephone: (646) 347-3940

manipulate[s] users into making choices that they might not otherwise have made."[1]

20. Defendant also uses urgency cues in its subject lines that create "pressure to buy immediately by saying the offer is good only for a limited time or that the deal ends soon," even though the advertised discounts are not actually expiring and continue to be offered on an ongoing basis. This is another type of "dark pattern."[2]

21. Plaintiffs and Class members received emails with the following non-exhaustive list of subject lines containing such urgency cues:

- "Almost Gone: Today's Daily Pick" (May 18, 2026)
- "Almost Gone: Today's Daily Pick" (June 13, 2026)
- "Daily Pick: Still Time to Shop Today's Deal" (July 14, 2026)
- "Daily Pick: Last chance to save $230 on []" (August 2, 2026)
- "Daily Pick: Save 53% on [ ]" (September 25, 2026)
- "Daily Pick: Save 32% on [ ]" (September 28, 2026)

22. These urgency cues are false. As detailed below, none of these discounts permanently expired at the end of the day, despite being represented as "daily" in nature in the subject lines in which they appeared.

23. On May 18, 2026, Devin Nelson received a Guitar Center email with the subject line "Almost Gone: Today's Daily Pick," the body of this email showing the product "Venue Tetra 12 VP RGBA Wash Light" on sale for $126.99. Contrary to the subject line's urgent messaging, Defendant offered this same product for sale 168 days later, on November 2, 2026, at the lower price of $119.99, and available archived webpages do not show that it ever ended this sale during the intervening dates.

24. On June 13, 2026, Keagan O'Brien received a Guitar Center email with the subject line "Almost Gone: Today's Daily Pick," the body of this email showing the product "Fender Classic Series Wood Strat/Tele Limited-Edition Case - Sonic Blue" on sale for $189.99. Contrary to the

[1] *Bringing Dark Patterns to Light,* FTC STAFF REPORT (2022), www.ftc.gov/system/files/ftc_gov/pdf/P214800%20Dark%20Patterns%20Report%209.14.2022%20-%20FINAL.pdf.

[2] *Id.*

JANOVE PLLC
115 Broadway, 5th Floor
New York, NY 10006
Telephone: (646) 347-3940

subject line's urgent messaging, Defendant offered this same product for sale eighty-two days later, on September 3, 2026, at the lower price of $187.99, and available archived webpages do not show that Defendant ended this sale on any intervening date.

25. On July 14, 2026, Keagan O'Brien received a Guitar Center email with the subject line "Daily Pick: Still Time to Shop Today's Deal," the body of this email showing the product "Jackson JS Series Dinky Arch Top JS22-7 DKA HT 7-String Electric Guitar – Black" on sale for $262.49. Contrary to the subject line's urgent messaging, Defendant offered this same product for sale 111 days later, on November 2, 2026, at the lower price of $229.99, and available archived webpages do not show that Defendant ended this sale on any intervening date.

26. On August 2, 2026, Keagan O'Brien received a Guitar Center email with the subject line "Daily Pick: Last chance to save $230 on the Fender Player II Stratocaster HSS PlusTop Electric Guitar," the body of this email showing the same product on sale for $699.99. Contrary to the subject line's urgent messaging, this product would be offered for sale at the same price or a lower price on at least one later date, as archived Guitar Center webpages show that Defendant offered this same product for sale at $650.99 on September 29, 2026.

27. On September 25, 2026, Devin Nelson received a Guitar Center email with the subject line "Daily Pick: Save 53% on the Electro-Harmonix Operation Overlord Overdrive Guitar Effects Pedal," the body of this email showing the same product on sale for $79.00. Contrary to the subject line's representation that this discount was "daily" in nature, Defendant offered this same product for sale twelve days later, on October 7, 2026, at the price of $79.00, and available archived webpages do not show that Defendant ended this sale on any intervening date.

28. On September 28, 2026, Keagan O'Brien received a Guitar Center email with the subject line "Daily Pick: Save 32% on the Yamaha F335 Dreadnought Acoustic Guitar," the body of this email showing the same product on sale for $149.99. Contrary to the subject line's representation that this discount was "daily" in nature, Defendant offered this same product for sale nine days later, on October 7, 2026, at the price of $149.99, and available archived webpages do not show that Defendant ended this sale on any intervening date.

29. Defendant had the sole power to set the price of the above products each day during

JANOVE PLLC
115 Broadway, 5th Floor
New York, NY 10006
Telephone: (646) 347-3940

the mentioned periods, and therefore Defendant necessarily knew that the foregoing discounts were not in fact "daily" or otherwise limited in duration. Furthermore, Defendant's exclusive control over setting prices, and its pattern and practice of doing so as described above, fairly imply that Defendant knew of the subject lines' false and misleading nature.

30. Defendant has also sent emails to Plaintiffs and Class members with subject lines falsely implying that recipients are receiving individualized or exclusive offers. For example, Defendant sent Plaintiffs and Class members emails with the following subject lines:

- "Daily Pick: Uncover your deal of the day" (April 8, 2025)
- "Daily Pick: Uncover your deal of the day" (April 24, 2025)
- "It's your Daily Pick, Black Friday style" (November 28, 2025)
- "It's your Daily Pick, Cyber Monday style" (December 1, 2025)

31. Not only do these subject lines misrepresent that they are "daily" in nature, these subject lines also falsely represent that the recipient is receiving a special, individualized, or exclusive offer, despite the fact that the advertised discounts are available to all consumers. As detailed below, none of the discounts were daily in nature or exclusively available to the recipient of the email.

32. On April 8, 2025, Devin Nelson received a Guitar Center email with the subject line "Daily Pick: Uncover your deal of the day," the body of the email showing the product "Williams Allegro IV In-Home Pack Digital Piano With Stand, Bench & Piano-Style Pedal Black" on sale for $499.99. Notwithstanding the email subject line's suggestion of limited duration and exclusivity, Defendant offered this same product for sale 146 days later, on September 1, 2025, at the same price and to all consumers, and none of the available archived webpages during the intervening dates show that the sale ever ended.

33. On April 24, 2025, Keagan O'Brien received a Guitar Center email with the subject line "Daily Pick: Uncover your deal of the day," the body of the email showing the product "Schecter Guitar Research C-1 Platinum Electric Guitar Translucent Black" on sale for $599. Notwithstanding the email's subject line, this same discount was offered on at least two other days that year and to all consumers, as archived Guitar Center webpages show the same deal was

JANOVE PLLC
115 Broadway, 5th Floor
New York, NY 10006
Telephone: (646) 347-3940

accessible via Guitar Center's public-facing website on April 17, 2025 and November 1, 2025.

34. On November 28, 2025, Devin Nelson received a Guitar Center email with the subject line "It's your Daily Pick, Black Friday style," the body of the email showing the product "Yamaha F335 Acoustic" on sale for $129.99. Notwithstanding the email subject line's suggestion of limited duration and exclusivity, this discount continued to be available for at least two more days and to all consumers, as archived Guitar Center webpages show the same deal was accessible via Guitar Center's public-facing website as of November 30, 2025.

35. On December 1, 2025, Keagan O'Brien received a Guitar Center email with the subject line "It's your Daily Pick, Cyber Monday style," the body of the email showing the product "Epiphone Les Paul Custom Widow Purple Burst" on sale for $649.00. Notwithstanding the email subject line's suggestion of limited duration and exclusivity, Defendant offered this same product for sale seventy-six days later, on February 15, 2026, at the same price and to all consumers, and none of the available archived webpages during the intervening dates show that the sale ever ended.

36. Defendant had the sole power to set the price of the above products each day during the mentioned periods, and therefore Defendant necessarily knew that the foregoing discounts were not in fact "daily" or otherwise limited in duration. Furthermore, Defendant's exclusive control over setting prices, and its pattern and practice of doing so as described above, fairly imply that Defendant knew of the subject lines' false and misleading nature.

37. Defendant had the sole power to decide whether it would offer the above products during the mentioned periods to either a select group of consumers, or alternatively, to all consumers, and therefore Defendant necessarily knew that the foregoing discounts were not exclusively offered to email recipients as the subject lines implied. Furthermore, Defendant's exclusive control over offering discounts, and its pattern and practice of doing so as described above, fairly imply that Defendant knew of the subject lines' false and misleading nature.

38. "When a visitor receives an offer that seems crafted specifically for their browsing behavior—perhaps a discount on that jacket they've been eyeing for the past three visits—

JANOVE PLLC
115 Broadway, 5th Floor
New York, NY 10006
Telephone: (646) 347-3940

something remarkable happens in their brain"[3] (emphasis added). Consumers feel seen, valued, and in control when they receive offers that appear tailored to their behavior—and it is precisely that manufactured emotional connection that makes fake personalization so deceptive, exploiting deep psychological responses to drive purchases under false pretenses.[4]

39. Defendant's subject lines were intentionally designed to manufacture false urgency, false exclusivity, and false personalization in order to pressure consumers into immediate purchasing decisions. These representations were materially false and misleading because the advertised promotions were not temporary, individualized, or exclusive, but instead continuously and universally available.

II. Defendant Initiated or Conspired to Initiate the Transmission of Such Emails to Washington Residents, Including Plaintiffs.

40. Defendant knows or has reason to know where its customers reside through several methods. When a customer places an order, Defendant associates their email address with their shipping and billing addresses.

41. Defendant also uses marketing analytics tools, cookies, and/or other tracking technologies that collect information sufficient to determine the geographic location, including the state, of consumers interacting with its website.

42. To the extent that Defendant can obtain information from the registrant of Plaintiffs' and Class members' internet domain names, Defendant also constructively knows that Plaintiffs and Class members are Washington residents. *See* RCW 19.190.020(2).

43. Accordingly, Defendant sent commercial emails with false and misleading subject lines to electronic mail addresses that it knew, or had reason to know, were held by Washington residents.

44. At all times relevant to this Complaint, Plaintiffs resided in Washington State.

45. Defendant knew, or had reason to know, that Plaintiffs were Washington residents, as Plaintiffs also made purchases from Defendant's website that were delivered to their Washington

[3] Muhammed Tüfekyapan, *Why "Just-for-You" Offers Outperform Public Sales*, GROWTH SUITE (2025), https://www.growthsuite.net/blog/why-just-for-you-offers-outperform-public-sales.

[4] *Id.*

JANOVE PLLC
115 Broadway, 5th Floor
New York, NY 10006
Telephone: (646) 347-3940

addresses. Defendant had every reason to know it was sending unlawful commercial emails to Washington residents and did so anyway.

46. Defendant repeatedly sent Plaintiffs, and Plaintiffs continue to receive, commercial emails containing false and misleading subject lines, including those described above, for the purpose of advertising Defendant's products and inducing consumers to make purchases based on false representations regarding discounts, urgency, exclusivity, and personalization.

CLASS ACTION ALLEGATIONS

47. Plaintiffs bring this action on behalf of themselves and on behalf of the following proposed Class, initially defined as follows:

> All individuals in Washington who received an email from Defendant with a false or misleading subject line within the relevant limitations period, and/or such subclasses as the Court may deem appropriate.

48. Excluded from the proposed Class are Defendant and its parents, subsidiaries, affiliates, officers, and directors, and any entity in which Defendant has a controlling interest.

49. Plaintiffs reserve the right to re-define the Class prior to class certification and after having the opportunity to conduct discovery.

50. The claims of all class members derive directly from a single course of conduct by the Defendant. Defendant has engaged and continues to engage in uniform and standardized conduct toward the putative class members. Defendant does not differentiate, in degree of care or candor, in its actions or inactions, or the content of its statements or omissions, among individual class members.

51. Certification of Plaintiffs' claims is appropriate because Plaintiffs can prove the elements of their claims on a class-wide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claims.

52. Accordingly, Plaintiffs bring this lawsuit as a class action on Plaintiffs' own behalf and on behalf of all other individuals similarly situated under Rule 23 of the Federal Rules of Civil Procedure. This action satisfies the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements of Rule 23.

53. Specifically, this action has been properly brought and may properly be maintained as

JANOVE PLLC
115 Broadway, 5th Floor
New York, NY 10006
Telephone: (646) 347-3940

a class action under Rule 23(a)(1)–(4), Rule 23(b)(1), (2), or (3), and/or Rule 23(c)(4) of the Federal Rules of Civil Procedure.

54. **Numerosity** (Fed. R. Civ. P. 23(a)(1)). The members of the proposed Class are so numerous that their individual joinder would be impracticable. While the exact number is not known at this time, it is generally ascertainable by appropriate discovery, and it is believed the Class includes many tens of thousands of members. The precise number of class members, and their addresses, are unknown to Plaintiffs at this time but can be ascertained from Defendant's records.

55. **Ascertainability.** The Class is ascertainable because its members can be readily identified using business records and other information kept by Defendant in the usual course of business and within its control. Plaintiffs anticipate providing appropriate notice to the Class to be approved by the Court after class certification, or pursuant to court order.

56. **Commonality and Predominance** (Fed. R. Civ. P. 23(a)(2); 23(b)(3)). Common questions of law and fact exist as to all class members. These questions predominate over the questions affecting only individual class members. The common legal and factual questions include, without limitation:

(a) Whether Defendant's subject lines are false and misleading to a reasonable consumer;

(b) Whether Defendant engaged in the conduct alleged in this Complaint;

(c) Whether Defendant violated the applicable statutes alleged herein;

(d) Whether Plaintiffs and the Class members are injured and harmed directly by Defendant's conduct;

(e) Whether Plaintiffs and the Class members are entitled to damages due to Defendant's conduct as alleged in this Complaint, and if so, in what amounts;

(f) Whether Plaintiffs and the Class members are entitled to equitable relief;

(g) Whether Plaintiffs and the Class members are entitled to actual, compensatory, nominal, statutory, enhanced, and/or punitive damages; and

(h) Whether Plaintiffs and the Class members are entitled to reasonable attorneys' fees and costs.

JANOVE PLLC
115 Broadway, 5th Floor
New York, NY 10006
Telephone: (646) 347-3940

57. **Typicality of Claims** (Fed. R. Civ. P. 23(a)(3)). The claims of Plaintiffs and the putative class members are based on the same legal theories and arise from the same unlawful and willful conduct of Defendant, resulting in the same injury to Plaintiffs and the putative class members. Plaintiffs and all class members are similarly affected by Defendant's wrongful conduct, were damaged in the same way, and seek the same relief. Plaintiffs' interests coincide with, and are not antagonistic to, those of the other class members. Plaintiffs have been damaged by the same wrongdoing set forth in this Complaint.

58. **Adequacy of Representation** (Fed. R. Civ. P. 23(a)(4)). Plaintiffs are adequate representatives of the Class because their interests do not conflict with the interests of the class members, and they have retained competent and experienced class counsel. Plaintiffs and their counsel will fairly and adequately protect the interests of the class members.

59. **Superiority of a Class Action** (Fed. R. Civ. P. 23(b)(3)). A class action is superior to other available means for the fair and efficient adjudication of the claims of Plaintiffs and class members. There is no special interest in class members individually controlling the prosecution of separate actions. The damages suffered by individual class members, while significant, are small given the burden and expense of individual prosecution of the complex and extensive litigation necessitated by Defendant's conduct. Further, it would be virtually impossible for the class members individually to redress effectively the wrongs done to them. And, even if class members themselves could afford such individual litigation, the court system could not, given the tens or even hundreds of thousands of cases that would need to be filed. Individualized litigation would also present a potential for inconsistent or contradictory judgments. Individualized litigation would increase the delay and expense to all parties and the court system, given the complex legal and factual issues involved. By contrast, the class action device presents far fewer management difficulties and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

60. **Risk of Inconsistent or Dispositive Adjudications and the Appropriateness of Final Injunctive or Declaratory Relief** (Fed. R. Civ. P. 23(b)(1) and (2)). In the alternative, this action may properly be maintained as a class action, because:

JANOVE PLLC
115 Broadway, 5th Floor
New York, NY 10006
Telephone: (646) 347-3940

(a) the prosecution of separate actions by individual class members would create a risk of inconsistent or varying adjudications with respect to individual class members, which would establish incompatible standards of conduct for Defendant; or

(b) the prosecution of separate actions by individual class members would create a risk of adjudications with respect to individual class members which would, as a practical matter, be dispositive of the interests of other class members not parties to the adjudications, or substantially impair or impede their ability to protect their interests; or

(c) Defendant has acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive or corresponding declaratory relief with respect to the Class as a whole.

FIRST CAUSE OF ACTION

Violations of CEMA, RCW 19.190 *et seq.*

(On Behalf of Plaintiffs and the Class)

61. Plaintiffs incorporate by reference all allegations in this Complaint and restate them as if fully set forth herein.

62. CEMA prohibits a "person" from initiating the transmission, conspiring with another to initiate the transmission, or assisting the transmission, of a commercial electronic mail message to an electronic mail address that the sender knows, or has reason to know, is held by a Washington resident that contains false or misleading information in the subject line. RCW 19.190.020(1)(b).

63. Defendant is a "person" within the meaning of CEMA. RCW 19.190.010(11). Defendant's marketing emails are commercial electronic mail messages within the meaning of CEMA. RCW 19.190.010(2).

64. Defendant's emails contained false or misleading information in the subject line within the meaning of RCW 19.190.020(1)(b). Specifically, Defendant's subject lines falsely represented that: (a) consumers were receiving genuine discounts when the advertised prices were Defendant's ordinary, everyday prices continuously available to all consumers; (b) the advertised offers were available for a limited time only when they were not; and (c) the advertised offers were personalized

JANOVE PLLC
115 Broadway, 5th Floor
New York, NY 10006
Telephone: (646) 347-3940

or exclusive to the recipient when they were universally available to all consumers.

65. Defendant knew, or had reason to know, that Plaintiffs and Class members were Washington residents. Defendant associated consumers' email addresses with their shipping and billing addresses, maintained account information reflecting Washington addresses, and used tracking technologies to monitor the geographic location of consumers who opened and interacted with its marketing emails. Defendant also constructively knew that Plaintiffs and Class members were Washington residents to the extent that it could obtain said information from the registrant of the internet domain name contained in each recipient's electronic mail address.

66. Defendant therefore initiated the transmission, conspired with another to initiate the transmission, or assisted the transmission of commercial electronic mail messages to an electronic mail address that the sender knows, or has reason to know, is held by a Washington resident that contains false or misleading information in the subject line.

67. Plaintiffs and Class members have no adequate remedy at law. Plaintiffs and Class members have been injured by receiving the unlawful emails themselves.

68. Pursuant to RCW 19.190.040(1), Plaintiffs and Class members seek relief for Defendant's violations of CEMA in the amount of the greater of $100 per commercial electronic mail message sent in violation of RCW 19.190.020(1)(b) or actual damages, along with reasonable attorneys' fees and costs. As the Washington Supreme Court has recognized, "the injury is receiving the e-mail that violates CEMA." *Brown v. Old Navy, LLC*, 4 Wash. 3d 580, 592 (2025).

69. Plaintiffs also seek injunctive relief in the form of an order enjoining Defendant from continuing to send emails with false and misleading subject lines to Washington residents. Plaintiffs, members of the Class, and the general public will be irreparably harmed absent such relief. Defendant's unlawful conduct is, on information and belief, ongoing as of the date of this filing and, absent the entry of a permanent injunction, will not cease or, in the unlikely event that it voluntarily ceases, is likely to recur. A permanent injunction against Defendant is in the public interest.

70. Plaintiffs and Class members are therefore entitled to injunctive relief in the form of an order enjoining Defendant from further violations of CEMA, including the transmission of commercial electronic mail messages with false or misleading subject lines to Washington residents.

JANOVE PLLC
115 Broadway, 5th Floor
New York, NY 10006
Telephone: (646) 347-3940

SECOND CAUSE OF ACTION

Per se* violations of CPA, RCW 19.86 *et seq.

(On Behalf of Plaintiffs and the Class)

71. Plaintiffs incorporate by reference all allegations in this Complaint and restate them as if fully set forth herein.

72. Plaintiffs and Class members are "persons" within the meaning of the CPA. RCW 19.86.010(1).

73. The CPA prohibits unfair or deceptive acts or practices in the conduct of trade or commerce. RCW 19.86.020.

74. CEMA violations constitute *per se* violations of the CPA, RCW 19.190.030, and "are predicated on the Legislature's recognition that certain conduct is categorically against the public interest." *Brown v. Old Navy, LLC*, 4 Wash. 3d 580, 592 (2025). Accordingly, by violating CEMA as alleged herein, Defendant has committed *per se* unfair or deceptive acts or practices in violation of the CPA.

75. To establish a violation of the CPA, Plaintiffs must establish five elements: (1) an unfair or deceptive act or practice, (2) in trade or commerce, (3) that affects the public interest, (4) injury to plaintiff's business or property, and (5) causation. *Hangman Ridge Stables, Inc. v. Safeco Title Ins. Co.*, 105 Wash. 2d 778, 784–85 (1986). A violation of CEMA establishes all five elements as a matter of law. *Wright v. Lyft, Inc.*, 189 Wash. 2d 718, 728–32 (2017). Nonetheless, each element is independently satisfied here.

76. First, Defendant's false and misleading subject lines constitute unfair or deceptive acts or practices. As alleged herein, Defendant systematically misrepresented the nature of its promotions by advertising fictitious discounts, manufacturing false urgency, and fabricating personalization for the purpose of inducing consumers to make purchases under false pretenses.

77. Second, Defendant's conduct occurred in trade or commerce. Defendant is an online retailer that sends commercial marketing emails to consumers nationwide, including Washington residents, in furtherance of the sale of its products.

78. Third, Defendant's conduct affects the public interest. Defendant engaged in a pattern

JANOVE PLLC
115 Broadway, 5th Floor
New York, NY 10006
Telephone: (646) 347-3940

and practice of sending false and misleading commercial emails to Washington residents as part of a systematic, ongoing marketing campaign directed at a large number of consumers.

79. Fourth, Plaintiffs and Class members have been injured in their business or property. Consumers who received Defendant's false and misleading emails and made purchases in reliance on the misrepresentations contained therein—misrepresentations regarding the existence of genuine discounts, the limited availability of offers, and the exclusivity or personalization of promotions—paid prices they would not otherwise have paid or made purchases they would not otherwise have made.

80. Fifth, there is a direct causal link between Defendant's deceptive subject lines and the injuries suffered by Plaintiffs and Class members. Defendant's subject lines were specifically designed to induce immediate purchasing decisions, and consumers who made purchases in response to those emails did so in reliance on materially false representations.

81. Plaintiffs and Class members seek relief for Defendant's violations of the CPA in the form of actual damages and treble damages up to $25,000 per violation, along with reasonable attorneys' fees and costs, pursuant to RCW 19.86.090.

82. Plaintiffs also seek injunctive relief in the form of an order enjoining Defendant from continuing to send emails with false and misleading subject lines to Washington residents. Plaintiffs, members of the Class, and the general public will be irreparably harmed absent such relief. Defendant's unlawful conduct is, on information and belief, ongoing as of the date of this filing and, absent the entry of a permanent injunction, will not cease or, in the unlikely event that it voluntarily ceases, is likely to recur. A permanent injunction against Defendant is in the public interest.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and the proposed Class, pray for relief and judgment against Defendant as follows:

a) certifying the Class pursuant to Rule 23 of the Federal Rules of Civil Procedure, appointing Plaintiffs as representatives of the Class, and designating Plaintiffs' counsel as Class Counsel;

JANOVE PLLC
115 Broadway, 5th Floor
New York, NY 10006
Telephone: (646) 347-3940

b) awarding Plaintiffs and the Class compensatory damages and actual damages, trebled, in an amount exceeding $5,000,000, to be determined by proof;

c) awarding Plaintiffs and the Class appropriate relief, including actual and statutory damages;

d) awarding Plaintiffs and the Class exemplary and punitive damages;

e) granting Plaintiffs and the Class declaratory and equitable relief;

f) enjoining Defendant from continuing to engage in the wrongful acts and practices alleged herein;

g) awarding Plaintiffs and the Class the costs of prosecuting this action, including expert witness fees;

h) awarding Plaintiffs and the Class reasonable attorneys' fees and costs as allowable by law;

i) awarding pre-judgment and post-judgment interest; and

j) granting any other relief as this Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiffs hereby demand a trial by jury on all issues so triable.

Dated: November 5, 2026

Respectfully submitted,

/s/ Raphael Janove

Raphael Janove (WSBA# 64988)
JANOVE PLLC
115 Broadway, 5th Fl.
New York, NY 10006
(646) 347-3940
raphael@janove.law

JS 44 (Rev. 03/24)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

Keagan O'Brien and Devin Nelson, individually and on behalf of all others similarly situated

(b) County of Residence of First Listed Plaintiff Clark County, WA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*

Janove PLLC; 115 Broadway, 5th Fl., New York, NY 10006; (646) 347- 3940

DEFENDANTS

Guitar Center, Inc.

County of Residence of First Listed Defendant Los Angeles, CA
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☒ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☒ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: Nature of Suit Code Descriptions.

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☒ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

INTELLECTUAL PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 835 Patent - Abbreviated New Drug Application
- ☐ 840 Trademark
- ☐ 880 Defend Trade Secrets Act of 2016

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit (15 USC 1681 or 1692)
- ☐ 485 Telephone Consumer Protection Act
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding | ☐ 2 Removed from State Court | ☐ 3 Remanded from Appellate Court | ☐ 4 Reinstated or Reopened | ☐ 5 Transferred from Another District *(specify)* | ☐ 6 Multidistrict Litigation - Transfer | ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
28 U.S.C. § 1332(d)(2)

Brief description of cause:
Diversity class action bringing Washington statutory claims

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE
11/5/2026

SIGNATURE OF ATTORNEY OF RECORD
/s/ Raphael Janove

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below**; NOTE: federal question actions take precedence over diversity cases.**)

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: Nature of Suit Code Descriptions.

V. **Origin.** Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.

VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS 44 is used to reference related cases, if any. If there are related cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Washington

Keagan O'Brien and Devin Nelson, individually and on behalf of all others similarly situated

Plaintiff(s)

v.

Guitar Center, Inc.,

Defendant(s)

Civil Action No. 3:26-cv-6350

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Guitar Center, Inc.
c/o The Corporation Trust Company, Registered Agent
Corporation Trust Center, 1209 Orange Street
Wilmington, DE 19801

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Raphael Janove
Janove PLLC
115 Broadway, 5th Floor
New York, NY 10006

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No. 3:26-cv-6350

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

Print Save As... Reset