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10 *Attorneys for Plaintiff*

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 COOPER MOORE, on his own behalf and on
behalf of others similarly situated,
14
15 Plaintiff,

16 v.

17 ROBINHOOD FINANCIAL LLC, a
Delaware limited liability company,
18
19 Defendant.

Case No.: 21-cv-6117

COMPLAINT

CLASS ACTION

DEMAND FOR TRIAL BY JURY

20 **I. NATURE OF THE ACTION**

21 1. Robinhood Financial LLC is an online investments brokerage service firm
22 headquartered in Menlo Park, California. Robinhood sells products and services that enable users
23 to invest commission free in stocks, exchange-traded funds, and options. Robinhood’s products
24 and services can be accessed through its mobile application or on its website. On its website,
25 Robinhood touts that it is “on a mission to democratize finance for all.”

26 2. To market its products and services, Robinhood created a referral program called
27 “Refer a Friend.” Robinhood encourages users to refer their contacts to the service by offering
28 free stock for each successful referral. As soon as the user’s contact signs up for Robinhood and

1 links his or her bank account, Robinhood credits both the referring user and the referred contact
2 with reward stock—sometimes offering more than one free stock for each successful referral.

3 Users can receive reward stocks worth up to \$500 in each calendar year.

4 3. Robinhood’s mobile application (“The Robinhood App”) assists users in referring
5 friends. All the user has to do is tap “Rewards” or “Earn Rewards” in the top right corner of the
6 home page of The Robinhood App, tap “Invite Contacts”, and tap “Invite” next to the contacts
7 the user wants to refer. The Robinhood App also displays alerts to users within the application
8 reminding them to “Invite Friends” to earn free stock. The refer-a-friend model is a powerful
9 method of mass marketing. At very minimal cost, Robinhood achieves targeted, immediate, and
10 extensive promotion of its brand.

11 4. Robinhood initiated and/or assisted in sending to Plaintiff a refer-a-friend text
12 message while Plaintiff was a Washington resident.

13 5. Robinhood’s conduct violated the Washington Consumer Electronic Mail Act
14 (“CEMA”), RCW 19.190.010 *et seq.*, which makes it illegal for a person to “initiate or assist in
15 the transmission of an electronic commercial text message to a telephone number assigned to a
16 Washington resident for cellular telephone or pager service...” RCW 19.190.060.

17 6. “Assist the transmission” means “actions taken by a person to provide substantial
18 assistance or support which enables any person to formulate, compose, send, originate, initiate,
19 or transmit a commercial electronic mail message or a commercial electronic text message when
20 the person providing the assistance knows or consciously avoids knowing that the initiator of the
21 commercial electronic mail message or the commercial electronic text message is engaged, or
22 intends to engage, in any practice that violates the consumer protection act.” RCW 19.190.010.

23 7. A violation of CEMA is a “per se” violation of the Washington Consumer
24 Protection Act (“CPA”), RCW 19.86.010, *et seq.* RCW 19.190.100; *Wright v. Lyft, Inc.*, 406
25 P.3d 1149, 1154-55 (Wash. 2017).

26 8. Plaintiff brings this action as a class action on behalf of persons who also received
27 Robinhood’s illegal spam texts. Plaintiff’s requested relief includes an injunction to end these
28

1 practices, an award to Plaintiff and class members of statutory and exemplary damages for each
2 illegal text, and an award of attorneys' fees and costs.

3 **II. PARTIES**

4 9. Plaintiff Cooper Moore is a citizen of Washington State, residing in King County,
5 Washington.

6 10. Defendant Robinhood Financial LLC (Robinhood) is a Delaware Corporation
7 with its principal place of business in Menlo Park, California. Robinhood is engaged in
8 substantial business activities in the State of Washington and the United States, including, but
9 not limited to initiating or assisting the transmission of the texts at issue in this case.

10 **III. JURISDICTION AND VENUE**

11 11. The Court has subject matter jurisdiction under 28 U.S.C. § 1332(d) because (a)
12 this is a proposed class action; (b) at least one member of the proposed class is a citizen of a state
13 different than Defendant; (c) the number of members of the proposed class is not less than 100;
14 and (d) the aggregate amount in controversy exceeds \$5,000,000, exclusive of interest and costs.

15 12. Venue is proper in this District under 28 U.S.C. § 1391(b) because Defendant is
16 headquartered and transacts business in this District and some or all of the unlawful acts giving
17 rise to this Complaint occurred in this District.

18 **IV. FACTUAL ALLEGATIONS**

19 **A. The CEMA prohibits initiating or facilitating commercial text messages.**

20 13. The CEMA originally precluded unwanted emails that contain false or misleading
21 information.

22 14. The Washington legislature amended the CEMA to "limit the practice" of sending
23 commercial text messages to cell phones. *Lyft*, 406 P.3d at 1152 (quoting WASH. LAWS OF
24 2003, CH. 137, § 1).

25 15. The CEMA prohibits persons conducting business in the state of Washington to
26 "initiate or assist in the transmission of an electronic commercial text message to a telephone
27 number assigned to a Washington resident for cellular telephone or pager service that is equipped
28

1 with short message capability or any similar capability allowing the transmission of text
2 messages.” RCW 19.190.060(1).

3 16. The statute provides a private cause of action to persons who received texts in
4 violation of CEMA to enjoin further violations. RCW 19.190.090.

5 17. A person who receives a text message in violation of the CEMA may bring a
6 claim for damages under Washington’s Consumer Protection Act (CPA), RCW 19.86 *et seq.*

7 18. To establish a violation of Washington’s CPA, a claimant must establish five
8 elements: (1) an unfair or deceptive act or practice, (2) in trade or commerce, (3) that affects the
9 public interest, (4) injury to plaintiff’s business or property, and (5) causation. *Hangman Ridge*
10 *Stables, Inc. v. Safeco Title Ins. Co.*, 719 P.2d 531, 533 (Wash. 1986).

11 19. A violation of RCW 19.190.060 establishes all five elements of the CPA vis a vis
12 RCW 19.190.060(2) (providing the practices prohibited under the statute “are matters vitally
13 affecting the public interest” and “are not reasonable in relation to the development and
14 preservation of business” and constitute “an unfair or deceptive act in trade or commerce and an
15 unfair method of competition” for the purpose of applying the CPA). *See also Lyft*, 406 P.3d at
16 1155 (holding a violation of RCW 19.190.060 establishes the injury and causation elements of a
17 CPA claim as a matter of law).

18 **B. Defendant initiates or assists the transmission of commercial marketing texts.**

19 20. Defendant promotes its products and services through its “refer-a-friend”
20 marketing program.

21 21. Defendant actively encourages its users to participate in its referral program by
22 offering free stock to users who refer someone who then signs up for a Robinhood account.
23 Users are encouraged to send referrals to as many people as possible in order to improve the
24 odds that someone they refer actually signs up, resulting in free stock for the referrer.

25 22. The Robinhood App, which is designed and maintained from Defendant’s
26 headquarters in Menlo Park, initiates and assists in the transmission of illegal text messages
27 using two primary methods.

28 23. Specifically, when a Robinhood user clicks on either “Rewards” or “Earn

1 Rewards” in the Robinhood App, the user is then prompted to either “Invite Contacts” or “Share
2 Link.”

3 24. Clicking on either option¹ prompts the user to select individuals from the contacts
4 stored on the user’s phone to whom to send Robinhood commercial marketing text messages.

5 25. Once the contacts to whom the message will be sent are selected, the user’s native
6 text messaging application opens with a pre-composed text message directed to the selected
7 recipient(s) containing Robinhood marketing content.

8 26. The pre-addressed text message includes an invitation to join Robinhood, a
9 promise of free stock, and a referral link that allows Robinhood to identify the sender of the
10 message.

11 27. All the user has to do is hit send and the message that Defendant composed is sent
12 to the selected contacts.

13 28. Defendant substantially assists and supports its users in sending illegal text
14 messages by, *inter alia*: a) encouraging and incentivizing its users to send referral messages by
15 compensating them with free stock; b) technologically enabling its users to initiate referral text
16 messages through the Robinhood App; c) suggesting which contacts should receive referral text
17 messages when the user uses the “Share Contacts” method; d) composing the text messages; e)
18 composing and providing unique user-specific referral links that a text recipient can use to sign
19 up for Defendant’s services; and f) formulating text and images to be sent as part of the refer-a-
20 friend text messages.

21 29. Defendant does not obtain recipients’ clear and affirmative consent in advance to
22 receive the referral text messages and consciously avoids knowing whether its users send the
23 commercial marketing text messages without obtaining recipients’ clear and affirmative consent
24 in advance to receive the referral text messages.

25
26 ¹ If a Robinhood user selects “Invite Contacts,” then the Robinhood App accesses the user’s
27 address book, displays the user’s contacts in the Robinhood App, and sometimes recommends
28 particular recipients. Using the “Share Link” method skips the step of the Robinhood App
displaying these recommendations and instead directs the user to the native address book on the
user’s phone.

1 30. Defendant does not inform its users that they should obtain any recipient’s clear
2 and affirmative consent in advance to receive the referral text messages.

3 31. Defendant does not employ any controls from within the application to ensure that
4 its users obtain recipient’s clear and affirmative consent in advance to receive the referral text
5 messages before enabling them to send the commercial marketing text messages.

6 **C. Defendant initiated and assisted in the transmission of an illegal text message to**
7 **Plaintiff.**

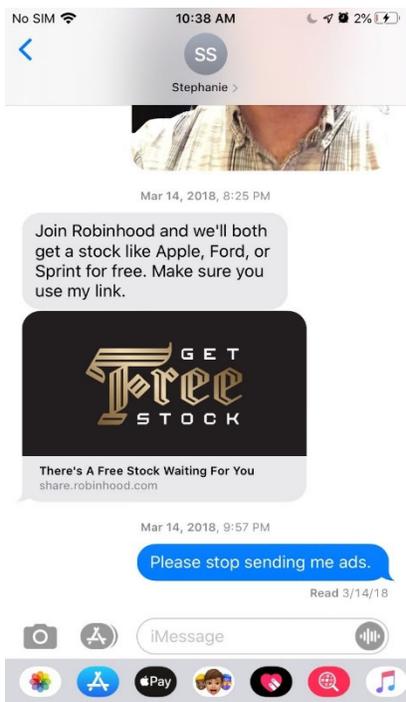
8 32. At all times relevant to this Complaint, Plaintiff has resided in Washington State.

9 33. At all times relevant to this Complaint, Plaintiff has subscribed to a cellular
10 telephone number.

11 34. Plaintiff’s cellular telephone has the capacity to send and receive transmissions of
12 electronic text messages.

13 35. On March 14, 2018, Plaintiff received an unsolicited commercial electronic text
14 message inviting him to sign up for Defendant’s online brokerage services. The text, which
15 included formulaic language and stock images, stated: “Join Robinhood and we’ll both get a
16 stock like Apple, Ford, or Sprint for free. Make sure you use my link.”

17 36. Below is a screenshot of the text Plaintiff received:



1 37. Plaintiff did not provide clear and affirmative consent in advance to receive the
2 text message.

3 38. Plaintiff's privacy was invaded by the text messages he received promoting
4 Defendant's products and services. Plaintiff did not understand why he was receiving annoying
5 and harassing spam texts, which are a nuisance. Plaintiff responded to the text by saying, "Please
6 stop sending me ads."

7 **V. CLASS ACTION ALLEGATIONS**

8 39. Class Definition. Pursuant to Federal Rule of Civil Procedure 23(b)(3), Plaintiff
9 brings this case as a class action on behalf of a Class defined as:

10 All persons²:

- 11 1) to whose telephone number Defendant initiated or assisted in the
12 transmission of one or more commercial electronic text
13 messages as part of its referral program from August 9, 2017
14 through the date the Court certifies the Class;
- 15 2) where such message was sent while such person was a
16 Washington resident; and
- 17 3) while the number to which the message was sent was assigned
18 for cellular phone or pager service that is equipped with short
19 message capability or any similar capability allowing the
20 transmission of text messages.

21 Excluded from the Class are any persons who initiated a commercial electronic text
22 message as part of Defendant's referral program, Defendant, any entity in which Defendant has a
23 controlling interest or that has a controlling interest in Defendant, and Defendant's legal
24 representatives, assignees, and successors. Also excluded are the judge to whom this case is
25 assigned and any member of the judge's immediate family.

26 40. Numerosity. The Class is so numerous that joinder of all members is
27 impracticable. The Class has more than 1,000 members. Moreover, the disposition of the claims
28 of the Class in a single action will provide substantial benefits to all parties and the Court.

29 41. Commonality. There are numerous questions of law and fact common to Plaintiff
and members of the Class. The common questions of law and fact include, but are not limited to:

² As that term is defined in RCW 19.190.010(11) and RCW 19.86.010(a)

1 a. Whether Defendant initiated the transmission of commercial electronic
2 text messages to recipients residing in Washington State in violation of RCW 19.190.060;

3 b. Whether Defendant assisted the transmission of commercial electronic text
4 messages to recipients residing in Washington State in violation of RCW 19.190.060;

5 c. Whether a violation of RCW 19.190.060 establishes all the elements of a
6 claim under Washington’s Consumer Protection Act, RCW 19.86 *et seq.*;

7 d. Whether Plaintiff and the proposed Class are entitled to an injunction
8 enjoining Defendant from sending the unlawful texts in the future; and

9 e. The nature and extent of Class-wide injury and damages.

10 42. Typicality. Plaintiff’s claims are typical of the claims of the Class. Plaintiff’s
11 claims, like the claims of the Class arise out of the same common course of conduct by
12 Defendant and are based on the same legal and remedial theories.

13 43. Adequacy. Plaintiff will fairly and adequately protect the interests of the Class.
14 Plaintiff had retained competent and capable attorneys with significant experience in complex
15 and class action litigation, including consumer class actions and class actions involving unlawful
16 text messages under Washington law. Plaintiff and his counsel are committed to prosecuting this
17 action vigorously on behalf of the Class and have the financial resources to do so. Neither
18 Plaintiff nor his counsel have interests that are contrary to or that conflict with those of the
19 proposed Class.

20 44. Predominance. Defendant has a standard practice of initiating or assisting the
21 transmission of commercial electronic text messages to subscribers of cellular telephone
22 numbers residing in Washington State. The common issues arising from this conduct
23 predominate over any individual issues. Adjudication of these issues in a single action has
24 important and desirable advantages of judicial economy.

25 45. Superiority. Plaintiff and members of the Class have been injured by Defendant’s
26 unlawful conduct. Absent a class action, however, most Class members likely would find the
27 cost of litigating their claims prohibitive. Class treatment is superior to multiple individual suits
28 or piecemeal litigation because it conserves judicial resources, promotes consistency and

1 efficiency of adjudication, provides a forum for small claimants, and deters illegal activities. The
2 members of the Class are readily identifiable from Defendant’s records and there will be no
3 significant difficulty in the management of this case as a class action.

4 46. Injunctive Relief. Defendant’s conduct is uniform as to all members of the Class.
5 Defendant has acted or refused to act on grounds that apply generally to the Class, so that final
6 injunctive relief or declaratory relief is appropriate with respect to the Class as a whole. Plaintiff
7 further alleges, on information and belief, that the texts described in this Complaint are
8 substantially likely to continue in the future if an injunction is not entered.

9 **VI. CAUSES OF ACTION**

10 **FIRST CLAIM FOR RELIEF**

11 **(Violations of Washington’s Commercial Electronic Mail Act, RCW 19.190 *et seq.*)**

12 47. Plaintiff realleges and incorporates by reference each and every allegation set
13 forth in the preceding paragraphs.

14 48. Washington’s CEMA prohibits any “person,” as that term is defined in RCW
15 19.190.010(11), from initiating or assisting the transmission of an unsolicited commercial
16 electronic text message to a Washington resident’s cellular telephone or similar device.

17 49. Defendant is a “person” within the meaning of the CEMA, RCW 19.190.010(11).

18 50. Defendant initiated or assisted the transmission of one or more commercial
19 electronic text messages to Plaintiff and proposed Class members.

20 51. Defendant’s acts and omissions violated RCW 19.190.060(1).

21 52. Defendant’s acts and omissions injured Plaintiff and proposed Class members.

22 53. Plaintiff and Class members are therefore entitled to injunctive relief in the form
23 of an order enjoining further violations of RCW 19.190.060(1).

24 **SECOND CLAIM FOR RELIEF**

25 **(*Per se* violation of Washington’s Consumer Protection Act, RCW 19.86 *et seq.*)**

26 54. Plaintiff realleges and incorporates by reference each and every allegation set
27 forth in the preceding paragraphs.

28 55. Plaintiff and Class members are “persons” within the meaning of the CPA, RCW

1 19.86.010(1).

2 56. Defendant violated the CEMA by initiating or assisting in the transmission of an
3 unsolicited commercial electronic text message to Plaintiff and Class members' cellular
4 telephone or similar devices.

5 57. A violation of the CEMA establishes all five elements of Washington's Consumer
6 Protection Act as a matter of law. RCW 19.190.100 & *Lyft*, 406 P.3d at 1155.

7 58. Defendant's violations of the CEMA are unfair or deceptive acts or practices that
8 occur in trade or commerce under the CPA. RCW 19.190.100.

9 59. Defendant's unfair or deceptive acts or practices vitally affect the public interest
10 and thus impact the public interest for purposes of applying the CPA. RCW 19.190.100.

11 60. Pursuant to RCW 19.19.040(1), damages to each recipient of a commercial
12 electronic text message sent in violation of the CEMA are the greater of \$500 for each such
13 message or actual damages, which establishes the injury and causation elements of a CPA claim
14 as a matter of law. *Lyft*, 406 P.3d at 1155.

15 61. Defendant engaged in a pattern and practice of violating the CEMA. As a result of
16 Defendant's acts and omissions, Plaintiff and Class members have sustained damages, including
17 \$500 in statutory damages, for each and every text that violates the CEMA. The full amount of
18 damages will be proven at trial. Plaintiff and Class members are entitled to recover actual
19 damages and treble damages, together with reasonable attorneys' fees and costs, pursuant to
20 RCW 19.86.090.

21 62. Under the CPA, Plaintiff and members of the Class are also entitled to, and do
22 seek, injunctive relief prohibiting Defendant from violating the CPA in the future.

23 **VII. REQUEST FOR RELIEF**

24 WHEREFORE, Plaintiff, on his own behalf and on behalf of the members of the Class,
25 request judgment against Defendant as follows:

- 26 A. That the Court certify the proposed Class;
27 B. That the Court appoint Plaintiff as a Class Representative.
28 C. That the Court appoint the undersigned counsel as counsel for the Class;

1 D. That the Court should grant declaratory, equitable, and/or injunctive relief as
2 permitted by law to ensure that Defendant will not continue to engage in the unlawful conduct
3 described in this Complaint;

4 E. That, should the Court permit Defendant to engage in or rely on spam texting, it
5 enter a judgment requiring them to adopt measures to ensure CEMA compliance, and that the
6 Court retain jurisdiction for a period of at least six months to ensure that Defendant complies
7 with those measures;

8 F. That the Court enter a judgment awarding any other injunctive relief necessary to
9 ensure Defendant's compliance with the CEMA;

10 G. That Defendant be immediately restrained from altering, deleting or destroying
11 any documents or records that could be used to identify members of the Class;

12 H. That Plaintiff and all Class members be awarded statutory damages in the amount
13 of \$500 for each violation of the CEMA pursuant to RCW 19.190.040(1) and treble damages
14 pursuant to RCW 19.86.090;

15 I. That the Court enter an order awarding Plaintiff reasonable attorneys' fees and
16 costs; and

17 J. That Plaintiff and all Class members be granted other relief as is just and equitable
18 under the circumstances.

19 **VIII. TRIAL BY JURY**

20 Plaintiff demands a trial by jury for all issues so triable.

21
22 Dated: August 8, 2021

Respectfully Submitted,

23 BERGER MONTAGUE PC

24 By: /s/ Sophia M. Rios, CSB #305801

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Dated: August 8, 2021

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Attorneys for Plaintiff

ATTESTATION

I, Sophia M. Rios, am the ECF User whose ID and password are being used to file the foregoing document. In compliance with Civil Local Rule 5-1(i)(3), I attest that concurrence in this filing has been obtained from all signatories above.

By: /s/ Sophia M. Rios