

1 Nathan Brinton, Pro Se Plaintiff  
2 31606 NE 134th Ct,  
3 Battle Ground, WA 98604  
4 360-702-7846  
5 brintonnathan@gmail.com

6 SUPERIOR COURT FOR THE STATE OF WASHINGTON

7 FOR THE COUNTY OF CLARK

8 NATHAN BRINTON,  
9 Plaintiff,

Case No.:

10 vs.

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

11 VIVINT, INC,  
12 JOHN DOES 1-10, INCLUSIVE,  
13 Defendants.  
14

15  
16 COMES NOW the Plaintiff, Nathan Brinton hereby alleges the following against Vivint Inc.  
17

18 **I. INTRODUCTION**

19  
20 1. This action is brought to recover damages for Defendants’ persistent per se violations  
21 of Fla. Stat. § 668.603, Cal. Bus. & Prof. Code § 17529.5, and the Washington Consumer  
22 Protection Act (“CPA”), RCW 19.86 et seq. Defendants’ violations of the Consumer Protection  
23 Act are a result of Defendants’ violations of the Commercial Electronic Mail Act (“CEMA”),  
24 RCW 19.190 et seq.  
25

26 2. Defendants advertised, initiated, or assisted in the transmission of over twenty  
27 misleading and unsolicited bulk commercial email solicitations. These misleading and  
28

1 unpermitted email messages were sent to email addresses held by Plaintiff Nathan Brinton, a  
2 Washington resident.

## 3 4 **II. PARTIES**

5  
6 3. Nathan Brinton is the Plaintiff in this case. At all relevant times, Mr. Brinton was a  
7 resident of Clark County and a citizen of the United States.

8 4. Vivint, Inc (“Vivint”) is a Defendant in this case. Vivint is headquartered in Provo,  
9 Utah. They have branches in many states including Washington. Vivint sells home security  
10 products. Vivint conducts business in Washington by, in part, initiating the transmission,  
11 conspiring to initiate the transmission, or assisting in the transmission of bulk commercial emails  
12 to Washington residents.  
13

14 5. John Does 1-10 are Defendants in this case. To the best of Plaintiff’s knowledge,  
15 Vivint did not send these emails directly. They employed the use of John Does to advertise and  
16 transmit the emails to Plaintiff’s inbox. Plaintiff intends to conduct discovery to determine the  
17 identity of John Does and amend this complaint to include them.  
18

## 19 20 **III. JURISDICTION AND VENUE**

21 6. The Legislature has conferred jurisdiction over this action and similar actions to this  
22 Court. Jurisdiction is proper under RCW 19.86.090, RCW 19.86.160, and RCW 19.190.090.  
23

24 7. The violations alleged in this complaint have occurred in whole or in part in Clark  
25 County and venue is proper in this Court.  
26  
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1 8. Vivint is also subject to specific jurisdiction under the stream of commerce theory  
2 because they are a merchant advertiser who puts its products into the stream of commerce  
3 through nationwide distributors and specifically serves Clark County with those same products.  
4

#### 6 **IV. FACTS**

7 9. From August 2022 through the present, Defendants have initiated transmission,  
8 conspired to initiate transmission, or assisted in the transmission of unsolicited, unpermitted, or  
9 misleading commercial electronic mail messages, otherwise known as “spam” to Plaintiff’s  
10 email addresses.  
11

12 10. The spam email messages Defendants caused to be sent misrepresented or obscured  
13 information about the point of origin and transmission path of the spam email. For example, one  
14 of the emails was sent from mis75.ski35.tqu.healthcareszone.org. This domain is privately  
15 registered using Cosmotown as a proxy to hide the owner’s identity. This makes it impossible  
16 for Plaintiff to determine the identity of the entity sending the emails.  
17

18 11. The spam email messages Defendants caused to be sent misrepresented or obscured  
19 information about the point of origin and transmission path of the spam email. The messages  
20 used false or dishonest “from:” lines or obscured information in “from:” lines. The “from:” lines  
21 identify the address, person, or organization from which the email originated. Email recipients  
22 use the “from:” line to determine the sender of the email. The spam emails received by Plaintiff  
23 often used falsified “from:” lines. These falsified “from:” lines indicated the email originated  
24 from a nonexistent email address or domain name or otherwise obscured information about the  
25 sender. By obscuring the information in the “from:” email, Defendants made it unreasonably  
26 difficult or impossible to discover the actual sender of the spam email. One of the spam messages  
27  
28

1 received by Mr. Brinton, for example, used the “from:” line  
2 “plantat10nel-clnturon@endurableh0ckey.fishabidingused.com.” It is impossible to tell from  
3 this nonsensical email address who sent the email, and any message to this address would most  
4 likely be returned.  
5

6 12. Defendants used third-party domain names without the permission of the third party.  
7 Defendants did so in both the header content of spam messages and within the content of spam  
8 messages.  
9

10 13. Defendants’ actions caused spam emails to be sent to email addresses belonging to  
11 Mr. Brinton, a Washington resident. Plaintiff clicked through the link in the emails and was sent  
12 to a landing page to buy Vivint’s products.

13 14. Defendants' emails originated from several different servers in Florida, California,  
14 and France among others.  
15

## 16 **V. LEGAL ALLEGATIONS**

### 17 **COUNT ONE**

#### 18 **VIOLATIONS OF THE CONSUMER PROTECTION ACT, RCW 19.190 et seq.**

19 15. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs  
20 9 through 14.  
21

22 16. Defendants violated the Commercial Electronic Mail Act, RCW 19.190 et seq., by  
23 initiating the transmission, conspiring to initiate the transmission, or assisting in the transmission  
24 of commercial electronic mail messages which misrepresented or obscured information  
25 identifying the point of origin of those messages.  
26  
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28

1 17. Defendants violated the Commercial Electronic Mail Act, RCW 19.190 et seq., by  
2 using third-party domain names within the header information of spam emails and within the  
3 content of spam emails.

4 18. Violations of the Commercial Electronic Mail Act, RCW 19.190 et seq., are  
5 violations of the Consumer Protection Act, RCW 19.86 et seq.

6 19. Violations of the Commercial Electronic Mail Act, RCW 19.190 et seq., are per se  
7 unfair and deceptive acts for purposes of Consumer Protection Act claims.

8 20. Defendants' commercial solicitations occurred in trade or commerce.

9 21. Violations of the Commercial Electronic Mail Act, RCW 19.190 et seq., are per se  
10 matters vitally affecting the public interest for purposes of Consumer Protection Act claims.

11 22. Violations of the Commercial Electronic Mail Act, RCW 19.190 et seq, establish the  
12 injury element of a Consumer Protection Act claim as a matter of law.

13 23. Violations of the Commercial Electronic Mail Act, RCW 19.190 et seq, establish the  
14 causation element of a Consumer Protection Act claim as a matter of law.

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19 **COUNT TWO**

20 **VIOLATION OF Cal. Bus. & Prof. Code § 17529.5**

21 24. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs  
22 9 through 13.

23 25. Defendants violated Cal. Bus. & Prof. Code § 17529.5 for every email that originated  
24 from a server in California.



1 33. That the Court adjudge that each individual commercial electronic message  
2 Defendants caused to be sent was a separate and distinct violation of the Commercial Electronic  
3 Mail Act, RCW 19.190 et seq.;

4 33. For statutory liquidated damages as provided by RCW 19.190.040;

5 34. For treble damages as permitted by RCW 19.86.090;

6 35. For civil penalties under RCW 19.86.140;

7 36. For a permanent injunction, under RCW 19.86.090, prohibiting future and continuing  
8 violations of RCW 19.190 et seq., by Defendants;

9 37. For statutory liquidated damages as provided by Cal. Bus. & Prof. Code §  
10 17529.5(a)(3)(B)(ii);

11 38. For statutory liquidated damages as provided by Fla. Stat. § 668.606(3)(b)

12 39. For a permanent injunction as provided by Fla. Stat. § 668.606 to enjoin future  
13 violations of Fla. Stat. § 668.603 by Defendants.;

14 40. For an award of attorney fees and other costs incurred during this action and/or to the  
15 fullest extent allowed by law or equity;

16 41. For prejudgment and post-judgment interests to the maximum allowable rate; and

17 42. For such other relief as this Court deems just and equitable.  
18

19 Dated November 3rd, 2023.

20 DocuSigned by:  
21 *Nathan Brinton*  
22 6280F0D479F54B7...

23  
24  
25 Nathan Brinton, Pro Se Plaintiff  
26 (360) 702-7846  
27 31606 NE 134th Ct,  
28 Battle Ground WA, 98604

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6 SUPERIOR COURT FOR THE STATE OF WASHINGTON

7 FOR THE COUNTY OF CLARK

8 NATHAN BRINTON,  
9 Plaintiff,

Case No.:

10 vs.

SUMMONS (20 DAYS)

11 VIVINT, INC  
12 JOHN DOES 1-10, INCLUSIVE,  
13 Defendants.  
14

15  
16 TO THE DEFENDANTS: A lawsuit has been started against you in the above entitled  
17 court by Nathan Brinton, plaintiff. Plaintiff's claim is stated in the written complaint, a copy of  
18 which is served upon you with this summons.

19  
20 In order to defend against this lawsuit, you must respond to the complaint by stating your  
21 defense in writing, and by serving a copy upon the person signing this summons within 60 days  
22 after the service of this summons, excluding the day of service, or a default judgment may be  
23 entered against you without notice. A default judgment is one where plaintiff is entitled to what  
24 she or he asks for because you have not responded. If you serve a notice of appearance on the  
25 undersigned person, you are entitled to notice before a default judgment may be entered.  
26

27 You may demand that the plaintiff file this lawsuit with the court. If you do so, the demand  
28 must be in writing and must be served upon the person signing this summons. Within 14 days

1 after you serve the demand, the plaintiff must file this lawsuit with the court, or the service on  
2 you of this summons and complaint will be void.

3 If you wish to seek the advice of an attorney in this matter, you should do so promptly so  
4 that your written response, if any, may be served on time.

5  
6 This summons is issued pursuant to rule 4 of the Superior Court Civil Rules of the State of  
7 Washington.

8  
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12  
13  
14 Dated November 3rd, 2023.

15 DocuSigned by:  
16 *Nathan Brinton*  
6280F0D479F54B7...

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