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12 **THE SUPERIOR COURT OF THE STATE OF ARIZONA**
13 **IN AND FOR THE COUNTY OF MARICOPA**

14 STATE OF ARIZONA, *ex rel.*, KRISTIN K.
15 MAYES, Attorney General,

16 Plaintiff,

17 vs.

18 AMAZON.COM, INC., a Delaware
19 corporation,

20 Defendant.

Case No. _____

COMPLAINT

JURY TRIAL DEMANDED

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1 Plaintiff, the State of Arizona, brings this action against the above-named Defendant and
2 alleges as follows:

3 **I. INTRODUCTION**

4 1. The State brings this public enforcement action to protect Arizona consumers
5 from Defendant's unfair and deceptive acts and practices in the operation of its membership
6 services, and to protect Arizona consumers from Defendant's deceptive and unfair practices.

7 2. Amazon, the largest online retailer in the United States, is open to all shoppers,
8 but it offers benefits, including free shipping on Prime items, to its 163 million U.S.
9 subscribers.¹ Globally, Amazon collects \$25 billion a year in Prime subscription fees with U.S.
10 subscribers accounting for about three-quarters of its subscription revenue.² Amazon values its
11 Prime members not only for the subscription fees it collects from them, currently \$139 a year,
12 but also because Prime members spend more than twice as much as other Amazon customers,
13 averaging about \$1,400 per year.³

14 3. Having so many Prime members also increases Amazon's share of online retail
15 commerce. On average, Prime members in the U.S. do 53% of their shopping online and make
16 most of their online purchases on Amazon.⁴

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¹ David Chang, *The average Amazon Prime member spends this much per year*, MOTLEY
22 FOOL (July 12, 2022), <https://www.fool.com/the-ascent/personal-finance/articles/the-average-amazon-prime-member-spends-this-much-per-year/>.

23 ² Brian Dean, *Amazon Prime User and Revenue Statistics (2024)*, BACKLINKO (Dec. 13,
24 2023), <https://backlinko.com/amazon-prime-users>.

25 ³ Chang, *supra* note 1.

26 ⁴ Patrick Munden, *The Amazon Prime Effect - setting a new standard for customer loyalty*,
WUNDERMAN THOMPSON.

1 4. Amazon also values Prime members for the wealth of data they provide
2 Amazon.⁵ Prime members tend to spend more on Amazon and use more services within the
3 Amazon ecosystem, so they generate more data the company can use. As the Guardian reports,
4 “whether it’s the shopping app, the Kindle e-reader, the Ring doorbell, Echo smart speaker or
5 the Prime streaming service,” the more you use them, “the more their algorithms can infer what
6 kind of person you are and what you are most likely to buy next.”⁶

7 5. Because Prime members are so valuable to Amazon, it is loath to let them go.
8 And it shows. Until very recently, cancelling Prime “require[d] multiple steps of confirmation
9 offers before one [could] ultimately pull the plug on the ongoing fee.”⁷ In effect, the process
10 tested the Prime member’s will to quit Amazon.

11 6. The hurdles to cancellation were intentional. In March 2022, Business Insider
12 reviewed internal Amazon documents admitting that for several years, Amazon had engaged
13 in willfully deceptive practices to keep its Prime members locked into their memberships.⁸ The
14 documents refer to a secret project known as “Project Iliad,” evoking the long and arduous
15 Trojan War, which Amazon implemented to thwart Prime membership cancellations by adding
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19 ⁵ Kate O’Flaherty, *The data game: what Amazon knows about you and how to stop it*, THE
20 GUARDIAN (Feb. 27, 2022), [https://www.theguardian.com/technology/2022/feb/27/the-data-
game-what-amazon-knows-about-you-and-how-to-stop-it](https://www.theguardian.com/technology/2022/feb/27/the-data-game-what-amazon-knows-about-you-and-how-to-stop-it).

21 ⁶ *Id.*

22 ⁷ Gerald Lynch, *Amazon Prime memberships are now harder to cancel – and it’s no*
23 *accident*, TECH RADAR (Mar. 17, 2022), [https://www.techradar.com/news/amazon-prime-
memberships-are-now-harder-to-cancel-and-its-no-accident](https://www.techradar.com/news/amazon-prime-memberships-are-now-harder-to-cancel-and-its-no-accident).

24 ⁸ Hannah Towey & Eugene Kim, *Amazon used a sneaky tactic to make it harder to*
25 *quit Prime and cancellations dropped 14%, according to leaked data*, BUSINESS INSIDER
26 (updated Jun. 21, 2023), [https://www.businessinsider.com/amazon-project-iliad-made-cancel-
prime-membership-harder-leaked-data-2022-3](https://www.businessinsider.com/amazon-project-iliad-made-cancel-prime-membership-harder-leaked-data-2022-3).

1 multiple layers of questions and new offers before a Prime member could cancel their
2 subscription.⁹

3 7. Amazon launched its Iliad cancellation process in 2016, and it did not
4 substantially change it in the United States until approximately April 2023.¹⁰ To cancel a Prime
5 membership online, the consumer needed to click a minimum of six times on Amazon.com:
6 1) to Prime Central; 2) to “Manage Membership;” 3) to “End Membership;” 4) to “Continue to
7 Cancel;” to 5) “Continue to Cancel” [again]; to 6) “End Now.”¹¹

8 8. The project was a success. After launching Iliad, Amazon managed to reduce the
9 number of Prime cancellations by 14% at one point in 2017 as fewer members managed to
10 reach the final cancellation page.¹²

11 9. This layered and confusing cancellation process relied on “dark patterns,” *i.e.*,
12 methods of deception derived from behavioral psychology that exploit cognitive biases to
13 influence and manipulate consumer choices. “Dark patterns are design features used to deceive,
14 steer, or manipulate users into behavior that is profitable for an online service, but often harmful
15 to users or contrary to their intent This could include using buttons with the same style but
16 different language, a checkbox with double negative language, disguised ads, or time pressure
17 designed to dupe users into clicking, subscribing, consenting, or buying.”¹³

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20 ⁹ *Id.*

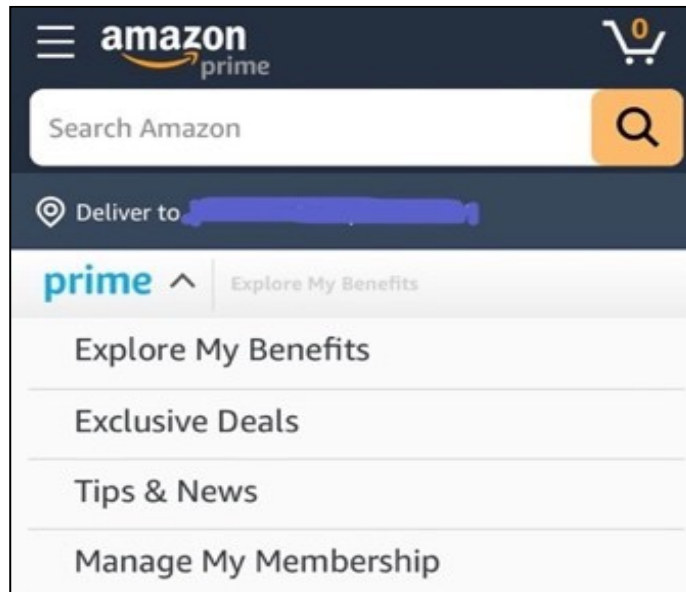
21 ¹⁰ *Federal Trade Commission v. Amazon.com, Inc.*, No. 2:23-cv-00932 (W.D. Wash),
22 Complaint (“FTC Complaint”) ¶ 116. The FTC conducted a lengthy pre-suit investigation to
23 verify its factual assertions.

24 ¹¹ *Id.* at ¶ 154, Attachment Q.

25 ¹² Towey & Kim, *supra* note 8.

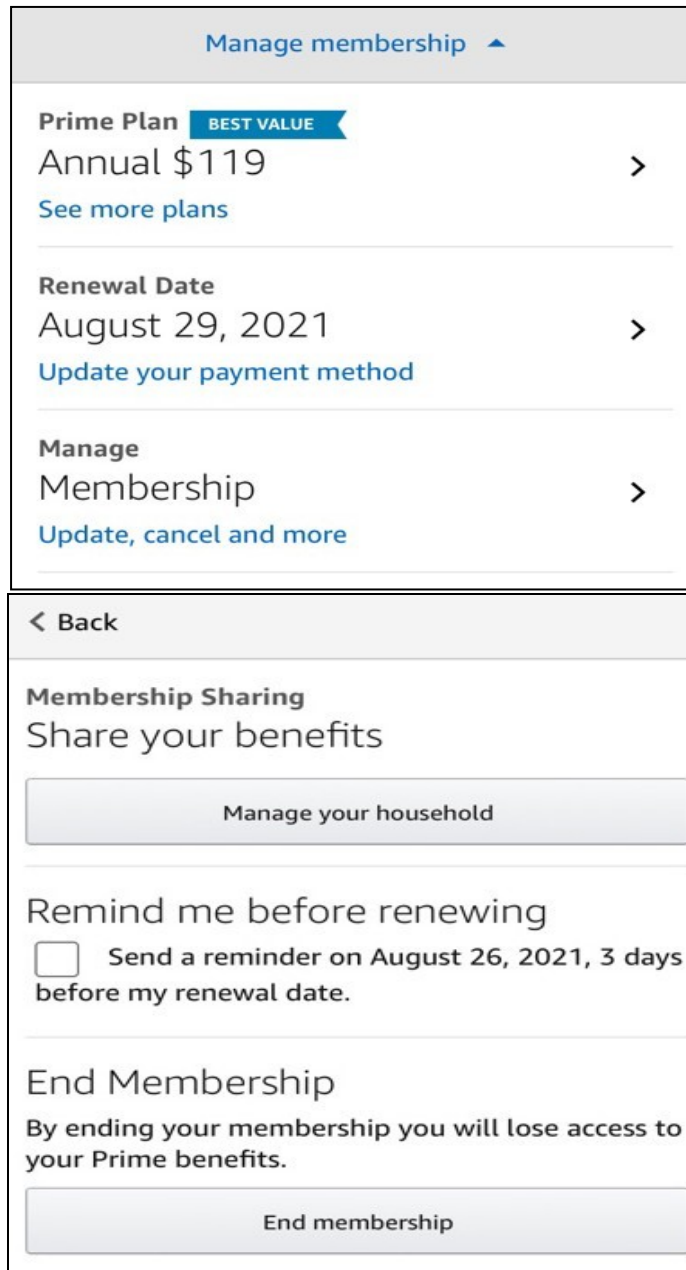
26 ¹³ Rohit Chopra, *Statement of Commissioner Rohit Chopra Regarding Dark Patterns in the*
27 *Matter of Age of Learning, Inc.*, FTC File No. 1723186 (Sept. 2, 2020), https://www.ftc.gov/system/files/documents/public_statements/1579927/172_3086_abcmouse_-_rchopra_statement.pdf.

1 10. As explained in a January 2021 report by the Norwegian Consumer Council,
2 Amazon employed dark patterns in the wording, graphic design, and redundancies which
3 Amazon employed to make its cancellation process needlessly difficult, time-consuming, and
4 frustrating to users.¹⁴ To begin with, whereas signing up with Amazon is simple and intuitive,
5 cancellation involved navigating through three pages or “clicks,” just to start the process. Users
6 who wanted to unsubscribe first needed to log in to their Amazon account, navigate to the
7 Amazon account menu, and find the “Prime membership” option:¹⁵



22 ¹⁴ Forbrukerrådet, *You Can Log Out, But You Can Never Leave. How Amazon manipulates*
23 *consumers to keep them subscribed to Amazon Prime* (Jan. 14, 2021), [https://storage02.](https://storage02.forbrukerradet.no/media/2021/01/2021-01-14-you-can-log-out-but-you-can-never-leave-final.pdf)
24 [forbrukerradet.no/media/2021/01/2021-01-14-you-can-log-out-but-you-can-never-leave-](https://storage02.forbrukerradet.no/media/2021/01/2021-01-14-you-can-log-out-but-you-can-never-leave-final.pdf)
[final.pdf](https://storage02.forbrukerradet.no/media/2021/01/2021-01-14-you-can-log-out-but-you-can-never-leave-final.pdf).

25 ¹⁵ Complaint filed against Amazon by the Electronic Privacy Information Center (EPIC)
26 with the D.C. Attorney General, at Figures E-G (Feb. 23, 2021), [https://epic.org/](https://epic.org/privacy/dccppa/amazon/EPIC-Complaint-In-Re-Amazon.pdf)
[privacy/dccppa/amazon/EPIC-Complaint-In-Re-Amazon.pdf](https://epic.org/privacy/dccppa/amazon/EPIC-Complaint-In-Re-Amazon.pdf) (hereafter “EPIC Complaint”).



11. Notably, the third page, which the user got to by clicking the “Manage membership” button, was confusingly labeled “Membership Sharing” and prompted the user in the first instance to “Share your benefits,” whereas the “End Membership” button was at the bottom of the page after the prompt “Remind me before renewing.” This pattern of multiple redundant layers and needless sidetracks, which Amazon used throughout the cancellation

1 process, is a dark pattern known as a “‘roach motel,’ where it is easy to get in, but almost
2 impossible to escape.”¹⁶ Whereas signing up with Amazon requires only a few clicks, that was
3 not the case for cancellation.¹⁷

4 12. The “End Membership” button was also accompanied by a warning that “[b]y
5 ending your membership you will lose access to your Prime benefits.” This warning is an
6 example of a dark pattern known as confirm-shaming, which Amazon’s cancellation process
7 also frequently relied on.¹⁸ This dark pattern exploits a cognitive bias of loss aversion, where
8 the disadvantages of leaving a service appear more prominent than the advantages, so that
9 individuals have a strong tendency to remain at the status quo (*i.e.*, subscribed to the service).¹⁹
10 Amazon exploits the user’s fear of missing out on benefits to undermine the user’s resolve to
11 cancel the Prime membership.²⁰

12 13. After clicking on the “End Membership” button, canceling a Prime subscription
13 further required multiple clicks, decisions, and confirmations. Prime members were required
14 to navigate as many as six additional webpages, and along the way Amazon provided confusing
15 or manipulative messages.²¹ Business Insider reported that when its reporter clicked on the
16 “End Membership” button, the first prompt said “don’t give up on movie night” and notified
17 her of the number of days left until the next billing cycle.²² The complaint filed by the
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20 ¹⁶ *Id.* ¶ 17 n.27 (quotation omitted).

21 ¹⁷ *Id.* ¶ 9.

22 ¹⁸ Forbrukerrådet, *supra* note 14, at 19.

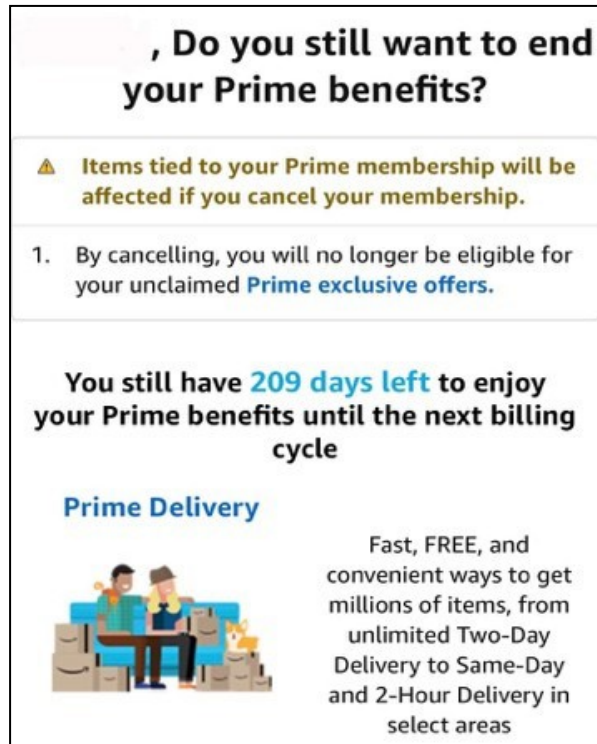
23 ¹⁹ *Id.* at 6.

24 ²⁰ *Id.* at 17.

25 ²¹ Emma Woollacott, *Amazon Prime Too Hard To Cancel, Consumer Watchdog Complains*,
FORBES (Jan. 14, 2021), <https://www.forbes.com/sites/emmawoollacott/2021/01/14/amazon-prime-too-hard-to-cancel-consumer-watchdog-complains/>.

26 ²² Towey & Kim, *supra* note 8.

1 Electronic Privacy Information Center (EPIC) with the Attorney General of the District of
2 Columbia reported similar prompts:²³



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15 14. Amazon continued with further confirm-shaming and visual interferences to
16 divert the Prime member from giving up his or her subscription.²⁴ For example, clicking on
17 any of the warnings of lost benefits took the user to a different Amazon page and stopped the
18 cancellation process.²⁵

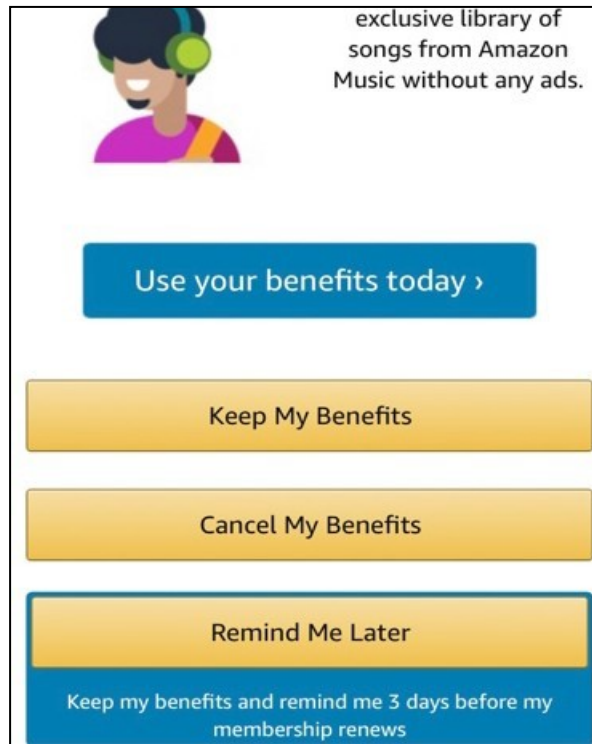
19 15. If Prime members persisted, after scrolling past the list of benefits that would be
20 lost, they were faced with multiple choices on the next page, along with further graphics and
21 descriptions of Prime membership benefits.²⁶

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24 ²³ EPIC Complaint, Figure H.

25 ²⁴ Forbrukerrådet, *supra* note 14, at 21.

26 ²⁵ *Id.* at 19.

27 ²⁶ EPIC Complaint, Figure I.

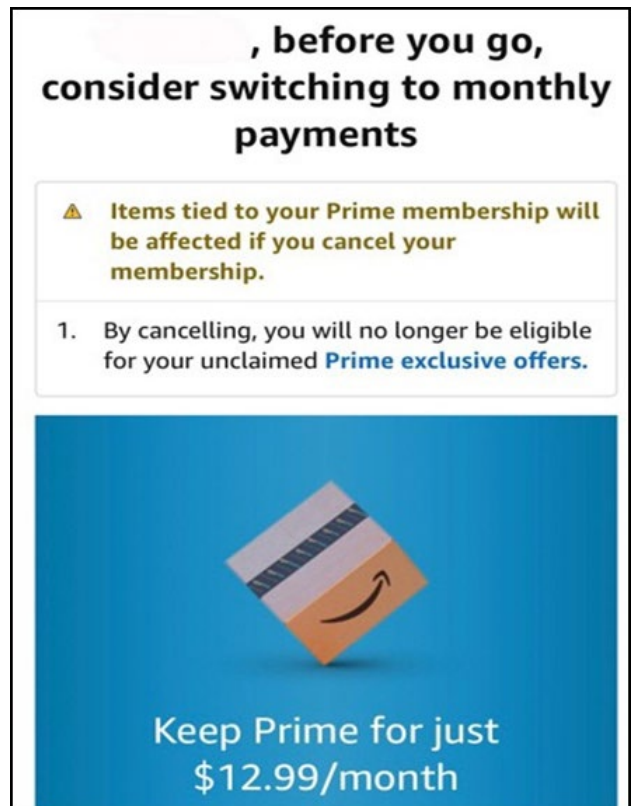
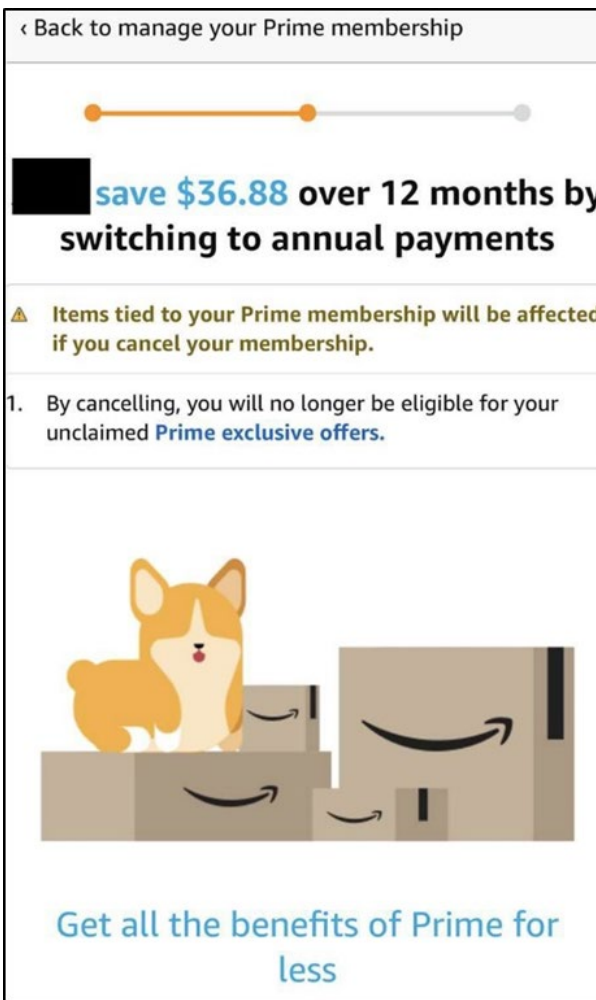


16. The first button, which was colored bright blue, stated “Use your benefits today.” This was followed by three yellow buttons. The first yellow button, “Keep My Benefits,” canceled the process, meaning that the user stayed subscribed to Amazon Prime. The second yellow button, “Cancel My Benefits,” continued the process to unsubscribe. Here, Amazon created uncertainty by changing the names of the buttons. On a previous page, the cancellation button was neutrally titled “End Membership,” but on this page the user needed to select “Cancel My Benefits” to proceed to cancellation. Changing the wording to “Cancel My Benefits” framed the option negatively and used confirm-shaming to make the user feel like they would lose out if they continued the process to cancel the subscription.²⁷ The third yellow button, “Remind Me Later,” was highlighted as a default option, which further exploited the

²⁷ Forbrukerrådet, *supra* note 14, at 20.

1 user's bias towards the status quo: it did not require any action by the user and offered to
2 provide a reminder three days before the membership renewed.²⁸

3 17. After clicking the "Cancel My Benefits" button, the user was taken to a new page,
4 where he or she was told how much money could be saved by switching to an annual
5 membership (if currently a monthly subscriber) or they were prompted to switch to a monthly
6 subscription (if currently an annual subscriber):²⁹

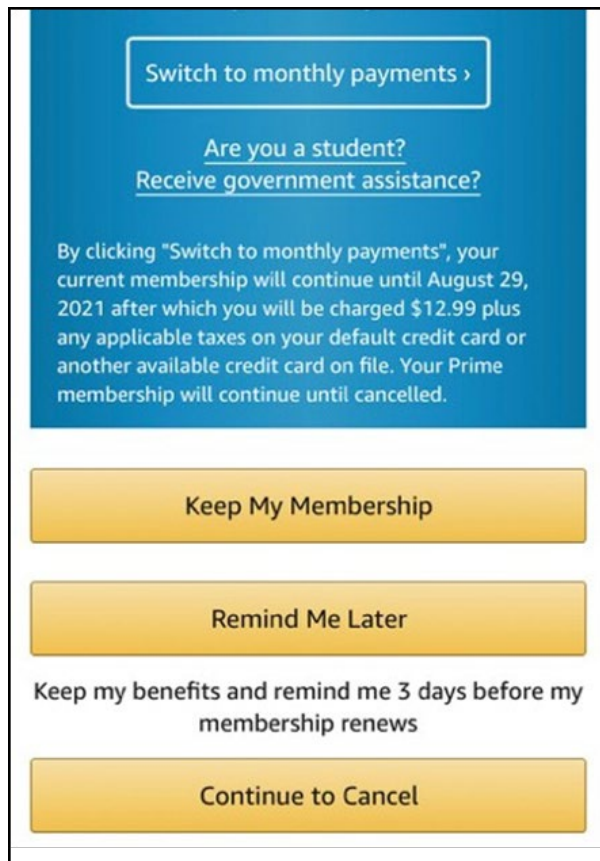


²⁸ *Id.* at 6.

²⁹ Forbrukerrådet, *supra* note 14, at 21; EPIC Complaint, Figure J.

1 18. These pages included a yellow triangle with the accompanying warning that
2 “Items tied to your Prime membership will be affected if you cancel your membership.” It was
3 not immediately clear what benefits or items would be affected, and in what way, which was
4 likely to cause unease at the prospect of losing access to paid services (for example, purchased
5 e-books or movies). This warning was followed by another alert that “[b]y cancelling, you will
6 no longer be eligible for your unclaimed Prime exclusive offers,” along with more graphics,
7 which the user had to scroll past to proceed to cancellation.³⁰

8 19. The next page reiterated the prompt to switch subscription types:³¹



25 ³⁰ *Id.*

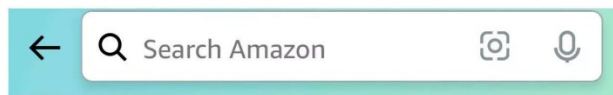
26 ³¹ EPIC Complaint, Figure K.

1 20. Like a previous page, it again offered three buttons to choose from, but this page
2 varied the language and presented the options in a slightly different order. The first two options,
3 “Keep My Membership” (no longer referring to the subscription as “Benefits”) and “Remind
4 Me Later” diverted the user from the cancellation process. Clicking on “Continue to Cancel,”
5 the third button (on a previous page it was the second option) allowed the user to continue the
6 cancellation.³²

7 21. The last prompt asked users to confirm the cancellation of their membership:³³
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25 ³² *Id.*

26 ³³ Towey & Kim, *supra* note 8.



Hannah, we're sorry to see you go. Please confirm the cancellation of your membership.

! Items tied to your Prime membership will be affected if you pause your membership.

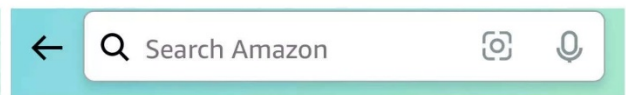
1. By pausing, you will no longer be eligible for your unclaimed **Prime exclusive offers**. [Click here](#) to see your offers.

Pause on March 22, 2022

Your benefits access will continue until March 22, 2022. After that date, your billing and benefits will be paused, and you will no longer be charged for your Prime membership. Use the quick-resume function anytime to regain access to your Prime benefits. [Learn More](#).

Keep My Membership

Remind Me Later



Remind me three days before my membership renews.

When would you like to cancel?

! Items tied to your Prime membership will be affected if you cancel your membership.

1. By cancelling, you will no longer be eligible for your unclaimed **Prime exclusive offers**.

End on March 22, 2022

Your benefits will continue until March 22, 2022, after which your card will not be charged.

OR

End Now

Your benefits will end immediately and you will be refunded \$12.99 for the remaining period of your membership.



22. Amazon again combined the vague warnings of lost benefits with the option of retaining the subscription or postponing the decision to a later date. The first three yellow buttons on the page offered to pause or keep the membership, or be reminded later, and further down the page were two final yellow buttons listing different options of when to cancel the membership. Clicking on any of the warnings or the alternative means of managing the user's membership (like pausing the membership) took the user to a different Amazon page and

1 stopped the cancellation process. To cancel Prime after that point, the user would have to start
2 the cancellation process over.³⁴

3 23. At this point in the procedure, the user had already confirmed multiple times the
4 desire to cancel his or her Prime subscription. But unless the user clicked the “End Now” button
5 on this final page, the user remained subscribed with Amazon Prime.³⁵

6 24. The consumer group, EPIC, described Amazon’s convoluted cancellation
7 process as a misdirection designed to foster uncertainty about the choice to cancel Amazon
8 Prime.³⁶ EPIC submitted a joint letter with other consumer groups to request that the FTC
9 investigate Amazon’s employment of dark patterns in the Amazon Prime subscription
10 cancellation process, which the agency acted on.³⁷ As part of its investigation, the FTC
11 subpoenaed 20 current and former Amazon employees and executives to testify, including
12 Amazon founder Jeff Bezos and current Amazon CEO Andy Jassy.³⁸ As part of its probe, the
13 FTC asked Amazon to identify its executives who use disappearing messaging apps to talk
14 about things like Prime program enrollment and cancellation processes, and to provide the
15 agency a log of those messages.³⁹

17 ³⁴ Forbrukerrådet, *supra* note 14, at 19.

18 ³⁵ FTC Complaint ¶ 160.

19 ³⁶ EPIC Complaint ¶ 14.

20 ³⁷ EPIC, Press Release, *D.C. Attorney General Files Antitrust Suit Against Amazon* (May 25,
21 2021), <https://epic.org/d-c-attorney-general-files-antitrust-suit-against-amazon/>.

22 ³⁸ Marcy Gordon, *Amazon: FTC probe hounding Bezos, execs; subpoenas too broad*, AP
23 WIRE, (Aug. 17, 2022), <https://apnews.com/article/technology-amazoncom-inc-subpoenas-federal-trade-commission-5a2ab123f8b395b4bb19949c7a70ee90>; Eugene Kim & Katie
24 Canales, *If Jeff Bezos or Amazon executives like CEO Andy Jassy used vanishing messages to*
25 *discuss Prime, the FTC wants them handed over as it investigates the company’s sign-up*
tactics, YAHOO! (Aug. 16, 2022), <https://www.yahoo.com/news/jeff-bezos-amazon-executives-ceo-203730883.html>.

26 ³⁹ Kim & Canales, *supra* note 38.

1 25. At the same time as the FTC initiated proceedings in the United States, the EU
2 Commission also launched a probe into Amazon’s conduct.⁴⁰ As part of its cooperation with
3 European authorities, Amazon began modifying its Prime web interface last year, labelling the
4 cancel button more clearly and shortening the explanatory text.⁴¹ In July 2022, to comply fully
5 with the agency, Amazon also eliminated distracting warnings that deterred consumers from
6 cancelling, enabling European consumers to cancel their Prime subscription with just two
7 clicks, using a prominent and clear “cancel button.”⁴² However, these changes applied only to
8 Prime members in Amazon’s European online marketplaces. Amazon’s dark patterns
9 continued for almost another year unabated in the U.S.⁴³ It was not until nearly a year later in
10 April 2023, shortly before the FTC filed its lawsuit to enjoin Amazon, that Amazon finally
11 ended its deceptive cancellation process in the United States.

12 **II. PARTIES**

13 **A. Plaintiff**

14 26. Plaintiff is the State of Arizona, *ex rel.* Kristin K. Mayes, Attorney General (the
15 “State”). Attorney General Mayes is acting pursuant to her authority under A.R.S. § 41-
16 193(A)(2), and A.R.S. § 44-1528 (Attorney General may seek relief under the Arizona
17 Consumer Fraud Act).

18 27. Plaintiff seeks relief for the harm suffered by Arizona consumers because of
19 Defendant’s unfair and deceptive Prime cancellation process.

21 ⁴⁰European Commission, Press Release, *Consumer protection: Amazon Prime changes its*
22 *cancellation practices to comply with EU consumer rules* (July 1, 2022), https://ec.europa.eu/commission/presscorner/detail/en/ip_22_4186.

23 ⁴¹ *Id.*

24 ⁴² *Id.*

25 ⁴³ Natasha Lomas, *Amazon agrees to drop Prime cancellation ‘dark patterns’ in*
26 *Europe*, TECHCRUNCH (July 1, 2022), <https://techcrunch.com/2022/07/01/amazon-ends-prime-cancellation-dark-patterns-europe/>.

1 **B. Defendant Amazon**

2 28. Amazon is the largest retailer in the United States and operates the largest
3 electronic commerce (“e-commerce”) marketplace in the world. The number of Amazon’s
4 Prime subscription members rivals Netflix subscribers.⁴⁴ Amazon, a Delaware corporation, is
5 registered with the Washington Secretary of State and has its principal headquarters in Seattle,
6 Washington.

7 29. Amazon has intentionally exploited markets in Arizona since at least 2010.⁴⁵
8 Today, through its wholly-owned subsidiary Amazon.com Services LLC,⁴⁶ Amazon has
9 corporate offices in Phoenix and Tempe, and it operates 17 “fulfillment and sortation centers”
10 and 13 “delivery stations” in Arizona.⁴⁷ Those facilities employ at least 33,000 Arizona
11 residents,⁴⁸ and they dispatch Amazon orders to millions of Arizona customers.⁴⁹ Amazon also
12 ships an enormous volume of goods to Arizonans from Arizona and other states on a daily
13 basis. Arizona residents spend on average \$91.55 per month on Amazon, i.e., \$1,098 per year.⁵⁰
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15 _____
16 ⁴⁴ Parkev Tatevosian, *Netflix Versus Amazon Prime: The Race to 200 Million Subscribers*,
THE MOTLEY FOOL (Oct. 17, 2020), <https://www.nasdaq.com/articles/netflix-versus-amazon-prime%3A-the-race-to-200-million-subscribers-2020-10-17>.

17 ⁴⁵ *Amazon Announces Plans to Create 550 New Jobs at Phoenix Tech Hub*, AMAZON PRESS
18 CENTER (Dec. 21, 2021) <https://press.aboutamazon.com/2021/12/amazon-announces-plans-to-create-550-new-jobs-at-phoenix-tech-hub>.

19 ⁴⁶ Amazon.com, Inc. Form 10-K (Feb. 2, 2024), <https://d18rn0p25nwr6d.cloudfront.net/CIK-0001018724/c7c14359-36fa-40c3-b3ca-5bf7f3fa0b96.pdf>.

20 ⁴⁷ *Amazon Announces Plans to Create 550 New Jobs at Phoenix Tech Hub*, *supra* note 45;
21 *see also* Maritza Dominquez, *Amazon to Bring More Than 800 Jobs at New 1.2 Million-*
22 *Square-Foot Facility In Mesa*, ARIZONA REPUBLIC (June 9, 2023), <https://www.azcentral.com/story/news/local/mesa/2023/06/09/new-amazon-facility-mesa-more-than-800-jobs-available/70303320007/>.

23 ⁴⁸ *Amazon to Bring More Than 800 Jobs at New 1.2 Million-Square-Foot Facility In Mesa*,
supra note 47.

24 ⁴⁹ *About Phoenix Area, The Valley of the Sun*, Amazon Jobs, <https://jobs-us-west.amazon.com/en/locations/phoenix-area-az>.

25 ⁵⁰ *Uncovering America’s Amazon Addiction, State by State [2023]*,
26 <https://upgradedpoints.com/news/uncovering-americas-amazon-addiction-state-by-state/>.

1 30. Amazon’s website is interactive, and it solicits the creation of profiles and
2 product reviews by consumers, including Arizona consumers. Amazon’s website contains
3 “state-specific required disclosures” directed at Arizona consumers,⁵¹ and it alerts Amazon
4 Business customers that Amazon Business is subject to taxes in Arizona.⁵² Amazon maintains
5 Amazon Business accounts with public entities in Arizona, including Arizona universities.⁵³
6 Additionally, Amazon partners with more than 37,500 independent authors and small- and
7 medium-sized businesses in Arizona to sell books and other products on Amazon
8 Marketplace.⁵⁴ Arizona third-party sellers generate an estimated \$134 million revenue per
9 year.⁵⁵

10 III. JURISDICTION AND VENUE

11 31. Jurisdiction is appropriate in this Court pursuant to A.R.S. § 12-123. The amount
12 in controversy exceeds the jurisdictional minimum.

13 32. This Complaint is filed, and these proceedings are instituted under, the provisions
14 of the Arizona Consumer Fraud Act, A.R.S. §§ 44-1521, *et seq.*

15 33. Authority for the Attorney General to commence this action for injunctions,
16 damages, restitution, disgorgement, civil penalties, costs and attorneys’ fees, and such other
17 relief as the Court deems proper, is conferred by, *inter alia*, A.R.S. §§ 44-1528 and 44-1534.
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19 ⁵¹ *Arizona – State-Specific Required Disclosures*, AMAZON.COM CUSTOMER SERVICE,
20 [https://www.amazon.com/gp/help/customer/display.html?ref=hp_ab_link_n_qa_ir
GCX9C2DZ9FKPTDDQ&nodeId=GCX9C2DZ9FKPTDDQ&qid=1707253784744&sr=13-
21 2-ac](https://www.amazon.com/gp/help/customer/display.html?ref=hp_ab_link_n_qa_ir_GCX9C2DZ9FKPTDDQ&nodeId=GCX9C2DZ9FKPTDDQ&qid=1707253784744&sr=13-2-ac).

22 ⁵² *Tax Payable on Business Prime*, AMAZON.COM CUSTOMER SERVICE,
[amazon.com/gp/help/customer/display.html?nodeId=GUQ448K7JN2CQCST](https://www.amazon.com/gp/help/customer/display.html?nodeId=GUQ448K7JN2CQCST).

23 ⁵³ *Amazon Business Added to Arizona BuyWays*, UNIVERSITY OF ARIZONA (Nov. 6, 2023),
24 <https://financialservices.arizona.edu/news/purchasing/2023/11/06>; *see also Sunrise*, ARIZONA
STATE UNIVERSITY, <https://cfo.asu.edu/purchasing-sunrise>.

25 ⁵⁴ *Amazon Announces Plans to Create 550 New Jobs at Phoenix Tech Hub*, *supra* note 45.

26 ⁵⁵ *What States Fully Embrace Amazon?*, [https://www.smartsout.com/reports/what-states-
fully-embrace-amazon](https://www.smartsout.com/reports/what-states-fully-embrace-amazon).

1 41. The term “dark patterns” as employed in this Complaint is not a science fiction
2 reference but a term of art from the field of user experience (“UX”). The International
3 Organization for Standardization (ISO) defines “user experience” as a “person’s perceptions
4 and responses that result from the use or anticipated use of a product, system or service.”⁵⁶
5 Dark patterns in UX are “carefully designed misleading interfaces by UX design experts that
6 trick the users into choosing paths that they didn’t probably want to take, thus fulfilling the
7 business objectives, completely ignoring the requirements and ethics of users.”⁵⁷

8 42. The term was first coined by cognitive scientist Harry Brignull, who borrowed
9 from existing UX terminology. In UX, designers refer to common, re-usable solutions to a
10 problem as a “design pattern,” and conversely to common mistakes as “anti-patterns.”⁵⁸ The
11 term “dark patterns” was intended to “communicate the unscrupulous nature” of the design
12 “and also the fact that it can be shadowy and hard to pin down.”⁵⁹

13 43. Dark patterns themselves can be traced to the use of applied psychology and A/B
14 testing in UX.⁶⁰ In the 1970s, behavioral science sought to understand irrational decisions and
15 behaviors and discovered that cognitive biases guide all our thinking.

16 44. Whereas the early behavioral research focused on understanding rather than
17 intervention, later researchers, like Cass Sunstein and Richard Thaler, authors of the
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21 ⁵⁶ UIUX Trend, *User Experience (UX): Process and Methodology*, [https://uiuxtrend.com/
22 user-experience-ux-process/](https://uiuxtrend.com/user-experience-ux-process/) (last accessed Nov. 8, 2022).

23 ⁵⁷ Joey Ricard, *UX Dark Patterns: The Dark Side Of The UX Design*, KLIZO SOLS. PVT.
LTD. (Nov. 9, 2020), <https://klizos.com/ux-dark-patterns-the-dark-side-of-the-ux-design/>.

24 ⁵⁸ Harry Brignull, *Bringing Dark Patterns to Light*, MEDIUM (June 6, 2021),
25 <https://harrybr.medium.com/bringing-dark-patterns-to-light-d86f24224ebf>.

26 ⁵⁹ *Id.*

27 ⁶⁰ *Id.*

1 book *Nudge*, made a policy argument that institutions should engineer “choice architectures”
2 in a way that uses behavioral science for the benefit of those whom they serve.⁶¹

3 45. Another step in the development is the use of A/B testing in UX. A/B testing is a
4 quantitative research method that presents an audience with two variations of a design and then
5 measures which actions they take (or do not take) in response to each variant.⁶² UX designers
6 use this method to determine which design or content performs best with the intended user
7 base.⁶³

8 46. Unscrupulous UX designers subverted the intent of the researchers who
9 discovered cognitive biases by using these principles in ways that undermined consumers’
10 autonomy and informed choice, and they used A/B testing to turn behavioral insights into
11 strikingly effective user interfaces that deceived consumers in ways that were profitable to the
12 company applying them.⁶⁴ Dark patterns increase a company’s ability to extract revenue from
13 its users by nudging or tricking consumers to spend more than they otherwise would, yield
14 more personal information, or see more ads.⁶⁵

15 47. A combination of dark patterns has a compounding effect, which will increase
16 the impact of each dark pattern and exacerbate the harm they present to the consumer.⁶⁶
17 Amazon used a combination of dark patterns to decrease the likelihood that its Prime
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19 ⁶¹ Arvind Narayanan *et al.*, *Dark Patterns: Past, Present, and Future. The evolution of*
20 *tricky user interfaces*, 18 ACM QUEUE 67-91 (2002), <https://queue.acm.org/detail.cfm?id=3400901>.

21 ⁶² UXPin, *A/B Testing in UX Design: When and Why It’s Worth It*,
22 <https://www.uxpin.com/studio/blog/ab-testing-in-ux-design-when-and-why/> (last accessed
Nov. 8, 2022).

23 ⁶³ *Id.*

24 ⁶⁴ Narayanan *et al.*, *supra* note 61.

25 ⁶⁵ *Id.*

26 ⁶⁶ FTC, Staff Report, *Bringing Dark Patterns to Light* at 2 (Sept. 2022),
https://www.ftc.gov/system/files/ftc_gov/pdf/P214800%20Dark%20Patterns%20Report%209.14.2022%20-%20FINAL.pdf at 2.

1 subscribers would make it all the way to the final confirmation of cancellation. For example,
2 Amazon employed misdirection, which is when “the design purposefully focuses your attention
3 on one thing in order to distract your attention from another.”⁶⁷ Brightly colored buttons
4 offering alternatives to cancelling and whimsical graphics to depict the value of remaining with
5 Prime were not intended to streamline the process of cancellation, but to confuse and distract
6 the Prime member and keep him or her from quitting the subscription.

7 48. Amazon also used confirm-shaming, where the “option to decline is worded in
8 such a way as to shame the user into compliance.”⁶⁸ For example, vague warnings about the
9 loss of benefits associated with cancelling Prime membership relied on the cognitive bias of
10 loss aversion, where a person’s aversion to giving something up is greater than the utility
11 associated with acquiring it.⁶⁹

12 49. Similarly, Amazon employed “interface interference,” a design element that
13 manipulates the user interface in ways that privilege certain specific information relative to
14 other information. Amazon used this dark pattern by emphasizing options that diverted the
15 consumer from the cancellation process without cancelling and by employing warning icons
16 near the option to cancel, which evoked anxiety and fear of loss in consumers.⁷⁰

17 50. Amazon also used “forced action,” a design element that requires users to
18 perform a certain action to complete a process. The presence of forced action—forcing Prime
19 subscribers to proceed through multiple screens to cancel—unnecessarily complicated the
20 cancellation process.⁷¹

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⁶⁷ Afrouz Azadi, *What Are Dark (Deceptive) Patterns?*, LINKEDIN (July 18, 2021),
<https://www.linkedin.com/pulse/what-dark-deceptive-patterns-afrouz-azadi/>.

24 ⁶⁸ *Id.*

25 ⁶⁹ Forbrukerrådet, *supra* note 14, at 19.

26 ⁷⁰ *Id.*

27 ⁷¹ FTC Complaint ¶ 231

1 51. More generally, Prime membership fit the roach motel dark pattern, where “you
2 get into a situation very easily, but then you find it is hard to get out of it (*e.g.*, a premium
3 subscription).”⁷² Signing up for Prime is very easy, whereas cancellation was very
4 burdensome.⁷³

5 52. Amazon knew how to simplify the process. Amazon and its leadership—
6 including Neil Lindsay, Russell Grandinetti, and Jamil Ghani—slowed or rejected user
7 experience changes that would have made Iliad simpler for consumers because those changes
8 adversely affected Amazon’s bottom line.⁷⁴

9 53. Under pressure from European regulators, Amazon removed the dark patterns
10 from its cancellation process in Europe,⁷⁵ but it needlessly delayed taking action in the United
11 States because it did not want to give up the advantages of its captive Prime members.

12 54. Arizona residents and Prime subscribers have been harmed by Amazon’s
13 deception. Through willfully deceptive practices, Amazon tricked Prime members into paying
14 more subscription fees than they intended.

15 **V. CLAIM FOR RELIEF**
16 **COUNT I**
17 **ARIZONA CONSUMER FRAUD ACT**
18 **A.R.S. §§ 44-1521 - 1534**

19 55. Plaintiff re-alleges and incorporates by reference all preceding and succeeding
20 factual allegations.

21 56. Arizona’s Consumer Fraud Act broadly prohibits the “act, use or employment by
22 any person of any deception, deceptive or unfair act or practice, fraud, false pretense, false
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24 ⁷² Azadi, *supra* note 70 at 3.

25 ⁷³ Forbrukerrådet, *supra* note 14, at 4.

26 ⁷⁴ FTC Complaint ¶ 6.

27 ⁷⁵ European Commission, Press Release, *supra* note 40.

1 promise, misrepresentation, or concealment, suppression or omission of any material fact with
2 intent that others rely on such concealment, suppression or omission, in connection with the
3 sale or advertisement of any merchandise whether or not any person has in fact been misled,
4 deceived or damaged thereby” as “unlawful practices.” A.R.S. § 44-1522(A).

5 57. Amazon is a “person” within the meaning of, and subject to, the provisions of the
6 Consumer Fraud Act, A.R.S. § 44-1521(6).

7 58. The Prime service for which Amazon charges its subscribers is a “service[]” and
8 thus constitutes “merchandise” under the Consumer Fraud Act. A.R.S. § 44-1521(5).

9 59. Because Amazon’s unlawful and deceptive practices, as described herein,
10 occurred in the management of its paid Prime subscription service, those practices were
11 committed “in connection with the sale or advertisement” of that merchandise. A.R.S. § 44-
12 1521(1), (7).

13 60. The Arizona Attorney General is authorized by statute to enforce the Consumer
14 Fraud Act whenever the Attorney General “has reasonable cause to believe that a person has
15 engaged in, is engaging in or is about to engage in any” practice which violates the Consumer
16 Fraud Act. A.R.S. § 44–1524. The Attorney General may seek injunctive relief, restitution, and
17 disgorgement. A.R.S. § 44-1528(A)(1)-(3).

18 61. The Attorney General may also recover a civil penalty of not more than \$10,000
19 per violation, if the violation was willful. A.R.S. § 44-1531(A). A willful violation “occurs
20 when the party committing the violation knew or should have known that his conduct was of
21 the nature prohibited” by the Act. *Id.* at (B).

22 62. The Attorney General is further “entitled to recover costs, which in the discretion
23 of the court may include a sum representing reasonable attorney's fees for the services rendered,
24 for the use of the state.” A.R.S. § 44-1534.

1 of this action, all appropriate civil penalties and fees, injunctive relief for Defendants'
2 violations of the Arizona Consumer Fraud Act, as authorized under § 44-1528(A), and any
3 other relief to which Plaintiff may be entitled. Specifically, the State seeks an injunction to
4 prevent Amazon from engaging in future violations of the Act.

5 71. The Attorney General has reason to believe, based on the facts alleged herein,
6 that Amazon's unfair and deceptive acts, practices, and omissions violated, and threaten to
7 violate again, the Arizona Consumer Fraud Act, absent the grant of an injunction.

8 72. Unless restrained by this Court, Amazon will likely reengage in the acts and
9 practices that are unfair and likely to deceive the public with respect to the Prime cancellation
10 process, in violation of the Arizona Consumer Fraud Act.

11 73. Amazon's unlawful practices—including its efforts to frustrate Prime
12 subscribers' efforts to cancel their subscriptions—were carried out with the intent that
13 consumers would rely upon them in connection with the sale or advertisement of merchandise.

14 74. While engaging in the unlawful practices alleged in this Complaint, Amazon at
15 all times acted "willfully" as defined by A.R.S. § 44-1531: Amazon knew or should have
16 known that its conduct was of the nature prohibited by the Arizona Consumer Fraud Act. This
17 Court, therefore, should impose on Defendant an appropriate civil penalty for each violation of
18 the Arizona Consumer Fraud Act.

19 75. The acts and practices alleged herein present a continuing harm and affect the
20 public interest.

21 76. Accordingly, Plaintiff seeks legal and equitable relief as allowed by law,
22 including, *inter alia*, disgorgement, injunctive relief, attorneys' fees and costs of investigation
23 and prosecution of this action, all appropriate civil penalties and fees, and any other relief to
24 which Plaintiff may be entitled.

1 E. Award to Plaintiff actual damages and such other relief as provided by the
2 Consumer Fraud Act.

3 F. Award to Plaintiff statutory or equitable disgorgement of any profits, gains, gross
4 receipts, or other benefit obtained through Defendant's unlawful conduct, restitution, or any
5 other equitable relief for the benefit of Arizona subscribers as appropriate under the Consumer
6 Fraud Act;

7 G. Award pre-judgment and post-judgment interest on such monetary relief;

8 H. Award to the State of Arizona its costs, including reasonable attorneys' fees
9 pursuant to A.R.S. § 44-1534; and

10 I. Order any additional relief that this Court deems just and proper.

11 **JURY TRIAL DEMANDED**

12 Plaintiff hereby demands a jury trial on all issues so triable.

13
14 Dated: May 15, 2024

Respectfully submitted,

15 /s/ Laura Dilweg

16 **KRISTIN K. MAYES**

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