

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WASHINGTON

Jill Merrick, for herself, as a private attorney general, and/or on
behalf of all others similarly situated v. Premium Brands Opco LLC

Merrick v. Premium Brands Opco LLC · No. 2:25-cv-02291-JNW · Decided January 28, 2026

SUMMARY

This document is a stipulated motion and proposed order requesting consolidation of two related putative class actions against Premium Brands Opco LLC. The actions involve alleged violations of Washington's Commercial Electronic Mail Act and Consumer Protection Act based on allegedly false or misleading email subject lines. The order consolidates the cases under Merrick v. Premium Brands Opco LLC, Case No. 2:25-cv-02291-JNW, and establishes a briefing schedule.

CASE DETAILS

COURT	United States District Court for the Western District of Washington
WRITING FOR THE COURT	Jamal N. Whitehead
JURISDICTION	United States District Court for the Western District of Washington
DECIDED	January 28, 2026
DOCKET	2:25-cv-02291-JNW
DISPOSITION	other
PROCEDURAL POSTURE	The parties filed a stipulated motion to consolidate two related putative class actions involving the same defendant and overlapping claims. The district court granted the motion and directed consolidation under the earlier-filed action.
STANDARD OF REVIEW	Discretionary consolidation under Federal Rule of Civil Procedure 42(a), considering common questions of law or fact and the interests of justice, efficiency, conservation of resources, avoidance of inconsistent results, inconvenience, delay, confusion, and prejudice.
PRECEDENTIAL VALUE	Unknown

TOPICS

- joinder
- class actions
- consumer protection
- civil procedure
- commercial litigation

PRACTICE AREAS

civil procedure

class actions

consumer protection

commercial litigation

QUESTIONS PRESENTED

1. Whether the Merrick and Breach actions involved common questions of law or fact warranting consolidation under Federal Rule of Civil Procedure 42(a) and Local Civil Rule 42.
2. Whether the actions should be consolidated for all purposes, including trial, under the earlier-filed Merrick docket.

HOLDINGS

1. The Merrick and Breach actions should be consolidated for all purposes, including through trial, under Case No. 2:25-cv-02291-JNW.

KEY QUOTATIONS

“If actions before the court involve a common question of law or fact, the court may . . . consolidate the actions.” (at 2)

“The CLERK is directed to consolidate Merrick v. Premium Brands Opco LLC, Case No. 2:25-CV-02291-JNW and Breach v. Premium Brands Opco, LLC, No. 2:26-cv-0021-TL, under Case No. 2:25-CV-02291-JNW.” (at 5)

FACTUAL BACKGROUND

Jill Merrick and Gayla Sue Breach brought separate putative class actions against Premium Brands Opco LLC. Both actions assert similar claims under Washington's Commercial Electronic Mail Act and Consumer Protection Act based on allegedly false or misleading email subject lines. The actions involve overlapping factual and legal issues and were pending before the same federal district court.

PROCEDURAL HISTORY

The Merrick action was filed in King County Superior Court on October 10, 2025, and removed to the Western District of Washington on November 14, 2025. The Breach action was filed in King County Superior Court on December 4, 2025, and removed on January 5, 2026. The parties agreed that the actions should be consolidated for all purposes, and the court ordered consolidation under the Merrick docket.

DISPOSITION

other

CASES CITED

- Rittmann v. Amazon.com, Inc., No. C16-1554-JCC, 2019 WL 2994634, at *1 (W.D. Wash. July 9, 2019)

OPINION

1 2 3 4 5 6 THE HONORABLE JAMAL N. WHITEHEAD UNITED STATES DISTRICT
COURT 7 WESTERN DISTRICT OF WASHINGTON 8 JILL MERRICK, for herself, as a private
attorney general, and/or on behalf of all others NO. 2:25-cv-02291-JNW 9 similarly situated,
STIPULATED MOTION AND 10 Plaintiff, [PROPOSED] ORDER TO 11 CONSOLIDATE
CASES v. 12 NOTED FOR CONSIDERATION: PREMIUM BRANDS OPCO LLC, JANUARY
23, 2026 13 Defendant.

14 15 I. INTRODUCTION 16 Plaintiff Jill Merrick in the action entitled Merrick v. Premium
Brands Opco LLC, Case 17 No. 2:25-CV-02291-JNW (“Merrick Action”) and Plaintiff Gayla Sue
Breach in the action 18 entitled Breach v. Premium Brands Opco, LLC, No. 2:26-cv-0021-TL
 (“Breach Action”), 19 respectfully request that the Court consolidate the Merrick and Breach
actions into a single 20 consolidated action under Case No. 2:25-CV-02291-JNW.

See Fed. R. Civ. P. 42; LCR 42(b). 21 II. STIPULATION 22 1. The Merrick action was originally
filed in King County Superior Court on 23 October 10, 2025. Defendant Premium Brands Opco
LLC removed the Merrick Action to this 24 Court on November 14, 2025. 25 2.

The Breach Action was originally filed in King County Superior Court on 26 December 4, 2025.
Defendant Premium Brands removed the Breach Action to this Court on 27 1 January 5, 2026.
Premium Brands filed a notice of related case in the Breach Action on the same 2 day (at ECF No.
3). 3 3.

The Merrick Action is the earlier filed action under Local Civil Rule 42(a). 4 4. All parties to both
the Merrick and Breach actions agree that the cases should be 5 consolidated for all purposes,
including through trial. LCR 42(b). 6 5. “If actions before the court involve a common question of
law or fact, the court 7 may... consolidate the actions.” Fed R. Civ.

P. 42(a). Once the court identifies a common 8 question of law or fact, it “considers factors such as
the interests of justice, expeditious results, 9 conservation of resources, avoiding inconsistent
results, and the potential for prejudice.” 10 Rittmann v. Amazon.com, Inc., No. C16-1554-JCC,
2019 WL 2994634, at *1 (W.D. Wash. July 11 9, 2019).

The court balances “the savings of time and effort of consolidation will produce against 12 any
inconvenience, delay, confusion, or prejudice that may result.” Id. 13 6. Here, the parties agree that
the Merrick and Breach actions should be 14 consolidated because they involve overlapping
factual and legal issues against the same 15 defendant. Plaintiffs have asserted similar claims
against Premium Brands for violations of 16 Washington’s Commercial Electronic Mail Act and
Consumer Protection Act based alleged false 17 or misleading email subject lines.

The parties ask that the Court consolidate these two related 18 actions and propose that Plaintiffs
file a single consolidated amended class action complaint. 19 7. The due date for Premium Brands’

response to the complaints in both the Merrick 20 and Breach actions is currently January 26, 2026. See ECF No. 17 in Merrick Action and ECF 21 No. 7 in Breach Action.

22 8. The parties are concurrently filing a stipulated motion to transfer the Breach 23 Action so that the cases may be consolidated in accordance with LCR 42 24 9. The parties request that the Court consolidate the Merrick and Breach Actions, 25 and that the Court adopt the following schedule: 26 27 1 Event Proposed Deadline 2 Filing of Plaintiffs' Consolidated Class Action Complaint 01/27/2026 3 Defendant's Motion to Dismiss 02/27/2026 4 Plaintiffs' Response to Defendant's Motion to Dismiss 03/20/2026 5 Defendant's Reply 03/27/2025 6 RESPECTFULLY SUBMITTED AND DATED this 28th day of January, 2026.

7 8 HATTIS LUKACS & CORRINGTON BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP 9 By: /s/ Daniel M. Hattis By: /s/ Meegan B. Brooks 10 Daniel M. Hattis, WSBA No. 50428 Meegan B. Brooks, WSBA #62516 Email: dan@hattislaw.com Email: mbrooksb@beneschlaw.com 11 Che Corrington, WSBA No. 54241 100 Pine Street, Suite 3100 12 Email: che@hattislaw.com San Francisco, California 94111 11711 SE 8th Street, Suite 120 Telephone: (628) 600-2250 13 Bellevue, Washington 98005 Telephone: (425) 233-8650 Attorneys for Premium Brands Opco LLC 14 Facsimile: (425) 412-7171 15 16 Daniel M. Hutchinson Admitted Pro Hac Vice Email: dhutchinson@lchb.com 17 Roger N. Heller Admitted Pro Hac Vice Email: rheller@lchb.com 18 Courtney J. Liss Admitted Pro Hac Vice Email: cliss@lchb.com 19 Sara B. Evall Admitted Pro Hac Vice 20 Email: sevall@lchb.com LIEFF CABRASER HEIMANN & 21 BERNSTEIN LLP 275 Battery Street, 29th Floor 22 San Francisco, California 94111-3339 Telephone: (415) 956-1000 23 Facsimile: (415) 956-1008 24 Attorneys for Plaintiff Jill Merrick 25 26 27 1 TERRELL MARSHALL LAW GROUP PLLC 2 By: /s/ Beth E. Terrell 3 Beth E. Terrell, WSBA #26759 Email: bterrell@terrellmarshall.com 4 Jennifer Rust Murray, WSBA #36983 Email: jmurray@terrellmarshall.com 5 Blythe H. Chandler, WSBA #43387 6 Email: bchandler@terrellmarshall.com Eden B. Nordby, WSBA #58654 7 Email: enordby@terrellmarshall.com 936 North 34th Street, Suite 300 8 Seattle, Washington 98103 Telephone: (206) 816-6603 9 10 Sophia M. Rios, Pro Hac Vice Forthcoming Email: srios@bergermontague.com 11 BERGER & MONTAGUE, P.C.

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Floor Suite 400 East 25 Washington, DC 20001 Telephone: (202) 869-4524 26 Attorneys for Plaintiff Gayla Sue Breach in 27 Case No. 2:26-cv-0021-TL 1 III.

ORDER 2 IT IS SO ORDERED. The CLERK is directed to consolidate Merrick v. Premium Brands 3 Opco LLC, Case No. 2:25-CV-02291-JNW and Breach v. Premium Brands Opco, LLC, No. 4 2:26-cv-0021-TL, under Case No. 2:25-CV-02291-JNW. 5 The Court sets the following schedule: 6 Event Due Date 7 Filing of Plaintiffs' Consolidated Class Action Complaint 01/29/2026 8 Defendant's Motion to Dismiss 02/28/2026 9 Plaintiffs' Response to Defendant's Motion to Dismiss 03/20/2026 10 Defendant's Reply 03/27/2025 11 12 13 DATED this 28th day of January, 2026.

14 15 A 16 Jamal N. Whitehead 17 United States District Judge 18 19 20 21 22 23 24 25 26 27