

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

WALMART INC.,

Defendant.

Case No. 1:22-cv-03372

Hon. Manish S. Shah

**DEFENDANT WALMART INC.'S MOTION TO DISMISS**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendant Walmart Inc. hereby moves this Court for an order dismissing with prejudice the claims in Plaintiff Federal Trade Commission's (FTC) Complaint for Permanent Injunction, Monetary Relief, Civil Penalties, and Other Relief (ECF No. 1). In support of this motion, Walmart states as follows:

1. The FTC filed its complaint on June 28, 2022. The complaint asserts claims under Section 5 of the FTC Act, 15 U.S.C. § 45, and the Telemarketing Sales Rule, 16 C.F.R. § 310.3(b).
2. The FTC's claims should be dismissed pursuant to Rule 12(b)(6) for failure to state a claim upon which relief can be granted. The grounds for this motion are set forth in the memorandum of law filed concurrently with this motion.
3. Walmart's memorandum of law complies with the briefing deadline and 40-page limit contained in the Court's order dated August 17, 2022 (ECF No. 20). The remaining briefing deadlines and page limits contained in that order are as follows: The FTC's response to this motion is due on October 5, 2022, and may be up to 40 pages; and Walmart's reply in support of this motion is due on October 28, 2022, and may be up to 20 pages.

WHEREFORE, Walmart respectfully requests that the Court enter an order dismissing the FTC's claims with prejudice and granting such other relief as the Court deems appropriate.

Dated: August 29, 2022

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 29, 2022, I filed the foregoing document with the Court through the Court's electronic filing system. Service of this filing will be made on all ECF-registered counsel by operation of the Court's electronic filing system.

/s/ Sean M. Berkowitz  
Sean M. Berkowitz