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7 **UNITED STATES DISTRICT COURT**  
8 **FOR THE WESTERN DISTRICT OF WASHINGTON**  
9 **AT SEATTLE**

10 CHRISTOPHER BROWN, SCOTT  
11 GRAEBER, LAURA LOES, LETICIA  
12 SHAW, and DAVID ATWOOD, on behalf of  
themselves and all others similarly situated,

13 Plaintiffs,

14 v.

15 AMAZON.COM, INC., a Delaware  
16 corporation,

17 Defendant.

No.

**CLASS ACTION COMPLAINT**

**DEMAND FOR JURY TRIAL**

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1 Plaintiffs allege the following upon personal knowledge as to themselves and their own  
2 acts, and as to all other matters upon information and belief, based upon the investigation made  
3 by and through their attorneys:

#### 4 I. INTRODUCTION

5 1. In *Leegin Creative Leather Products v. PSKS, Inc.*, the Supreme Court warned that  
6 that “the potential anticompetitive consequences of vertical price restraints must not be ignored or  
7 underestimated.”<sup>1</sup> The Court emphasized that there is a significant “likelihood that the restraint  
8 facilitates” anticompetitive purposes when a dominant retailer is “the impetus for a vertical price  
9 restraint[.]” In particular, the Court warned that a dominant retailer could pressure a manufacturer  
10 into adopting minimum retail prices and “if the manufacturer believes it needs access to the  
11 retailer’s distribution network,” it “might consider it has little choice but to accommodate the  
12 retailer’s demands for vertical price restraints.”<sup>23</sup> In that situation, “the manufacturer does not  
13 establish the practice to stimulate services or to promote its brand”—procompetitive purposes—  
14 but rather to give an “inefficient retailer[] higher profits,” while “[r]etailers with better distribution  
15 systems and lower cost structures would be prevented from charging lower prices.”<sup>4</sup>

16 2. These concerns are precisely encapsulated by Amazon’s anticompetitive minimum  
17 margin agreements (MMAs) with its suppliers, which Amazon uses to prevent other online  
18 retailers from offering the same product Amazon sells at a lower price. They violate Section 1 of  
19 the Sherman Act’s prohibition against price-fixing by setting a *de facto* minimum retail price for  
20 the products under agreement. By restraining competition from Amazon’s online retail rivals, these  
21 agreements injure consumers by artificially raising online retail prices for thousands of retail  
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24

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25 <sup>1</sup> 551 U.S. 877, 893 (2007).

26 <sup>2</sup> *Id.* at 893-94.

27 <sup>3</sup> *Id.* at 897-98.

28 <sup>4</sup> *Id.* at 893.

1 brands that Amazon sells. This conduct is a naked restraint under the Sherman Act and a *per se*  
2 violation of the Cartwright Act (California) and the Maryland Antitrust Act.<sup>5</sup>

3 3. Under the MMAs, Amazon suppliers guarantee both that Amazon will be able to  
4 price the supplier's product competitively against other online competition at least 95% of the time  
5 *and* that Amazon will receive a minimum margin on each sale regardless of the actual price that  
6 Amazon sells the product at retail.<sup>6</sup> Amazon enforces this agreement by requiring its suppliers to  
7 compensate it monthly for any lost margins necessitated by lowering its retail price to match a  
8 competitor.<sup>7</sup>

9 4. To illustrate how the MMAs work, a supplier may agree, for example, to sell its  
10 product at a wholesale price of \$5 per unit and that it will compensate Amazon if it receives less  
11 than \$4 over its marginal cost. If Amazon sells at least 95% of the supplier's product for \$9 or  
12 more, the supplier owes Amazon no money. But if, in this example, Amazon lowers its price to \$8  
13 to match a competitor's price that month, then the supplier will owe Amazon \$1 for every product  
14 sold at \$8 beyond the 5% threshold.

15 5. So instead of Amazon risking its own profit margins to compete with its retail rivals  
16 on price, Amazon contractually shifts that risk to its suppliers. This shift ensures that Amazon's  
17 suppliers adopt a *de facto* minimum retail price (or floor price) for their products market-wide.  
18 That floor price is the combined sum of the supplier's wholesale price and its minimum margin  
19 guarantee, in the previous example \$9 (\$5+\$4). By requiring suppliers to compensate Amazon  
20 whenever their products sell below the agreed floor price, the MMA agreements fix prices by  
21 penalizing suppliers unless they suppress competitive pricing from Amazon's rivals.

22 6. MMAs add to the suppliers' cost of doing business and are implemented to  
23 accommodate Amazon, not as a means of promoting the suppliers' products or fostering price

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24 <sup>5</sup> *Frame-Wilson v. Amazon.com, Inc.*, 2022 U.S. Dist. LEXIS 44109, at \*35-36 (W.D. Wash. Mar. 11, 2022)  
25 (holding that price-fixing under California and Maryland's antitrust statutes is a *per se* violation whether the scheme  
is horizontal (between competitors) or vertical (between entities at different levels of the distribution chain)).

26 <sup>6</sup> Boyd Evert, *The squeeze continues for retail suppliers*, [https://talkbusiness.net/2017/10/the-squeeze-](https://talkbusiness.net/2017/10/the-squeeze-continues-for-retail-suppliers/)  
continues-for-retail-suppliers/; Lesley Hensell, Amazon Sellers Are Losing Control of Pricing Due to "Standards for  
Brands, Webretailer, Nov 08, 2021, <https://www.webretailer.com/b/amazon-standards-for-brands/>.

27 <sup>7</sup> *Id.*

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