

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

TYLER BAKER, on behalf of himself and all others
similarly situated,

Plaintiff,

-vs.-

**CHW GROUP, INC. d/b/a CHOICE HOME
WARRANTY**,

Defendant.

COMPLAINT

21 CV _____

Class Action

Jury Demanded

Plaintiff Tyler Baker (“Mr. Baker”), on behalf of himself and all others similarly situated, alleges as follows:

1. Mr. Baker is bringing this class action against defendant CHW Group, Inc. d/b/a/ Choice Home Warranty (“CHW” or “Defendant”) for violating the Telephone Consumer Protection Act, 47 U.S.C. § 227 and the regulations promulgated thereunder (collectively, the “TCPA”), as well as 9 VT Stat. Ann. §§ 2464a, 2464c.

2. Upon information and belief, at all times relevant to this Complaint, Defendant physically called thousands of persons in the United States and Vermont, including Mr. Baker, on their residential and/or cellular telephone lines, using a prerecorded or artificial-voice, encouraging them to purchase Defendant’s home warranty services.

3. Upon information and belief, Defendants did not obtain any prior express consent from the persons called to make such calls using a prerecorded or artificial voice.

4. Upon information and belief, these calls violated the TCPA, and 9 VT Stat. Ann. §§ 2464a, 2464c in numerous ways. Accordingly, Mr. Baker is bringing this class action.

PARTIES, JURISDICTION AND VENUE

5. Mr. Baker is a citizen and resident of Vermont.

6. Upon information and belief, Defendant CHW, Inc. is incorporated in, and has its principal place of business in New Jersey.

7. This Court has federal question jurisdiction under 28 U.S.C. § 1331 over Mr. Baker and proposed Classes A and B's claims pursuant to the TCPA (47 U.S.C. § 227).

8. This Court has jurisdiction under 28 U.S.C. §§ 1332(d), 1367 over Mr. Baker and proposed Classes C and D's claims pursuant to 9 VT Stat. Ann. §§ 2464a, 2464c.

9. Venue is proper under 28 U.S.C. § 1391(b)(1) because Defendant resides in this judicial district.

FACTS

10. Upon information and belief, on numerous occasions in over the last 12 months, Defendant physically called Mr. Baker on his cellphone in Vermont that, using an artificial or prerecorded voice to promote the purchase of Defendants' home warranty services.

11. Mr. Baker's cell phone is a personal cell phone and he uses it for personal purposes only. Mr. Baker's cell phone number is 802-238-2723.

12. On December 3, 2020, one of the calls Defendant physically made to Mr. Baker's cell phone left the following prerecorded or artificial voice message on his voicemail: "Hi this is Erica calling from Choice Home Warranty and we're running our special Cyber Monday sale. We are able to offer you 20 percent off and your first month free. You can reach us directly at 1-

800-814-4345 to take advantage of this special Cyber Monday rate. You don't want to miss this sale! So again, be sure to give us a call back at 1-800-814-4345. Have a great day."

13. On January 1, 2021, one of the calls Defendant physically made to Mr. Baker's cell phone left the following prerecorded or artificial voice message his voicemail: "This is Cynthia with Choice Home Warranty calling to offer you a better deal that you're able to get online. You're able to get a cheaper deal with me, a customer service representative. So when you get this message, please call me directly at 800-814-2534 extension 4025. Again this is Cynthia Clemens with Choice Home Warranty able to get you a better rate than you are able to get online. My direct extension is 800-814-2534 extension 4025.

14. Plaintiff believes that the above messages were left using an artificial or prerecorded voice because the messages were generic and was not aimed at him personally.

15. Mr. Baker's cell phone number to which Defendant physically made the above calls was registered by Mr. Baker on the national do not call registry more than 31 days prior to his receiving those calls.

16. Upon information and belief, Defendant is not, and has never been registered or licensed with, or regulated or chartered by, the Vermont Secretary of State, the Vermont Public Utility Commission, the Vermont Department of Financial Regulation, or the Vermont Department of Taxes or is a financial institution subject to regulations adopted pursuant to 15 U.S.C. § 6804(a) by a federal functional regulator.

17. Upon information and belief, over the last four years, Defendant has physically made calls using an artificial or prerecorded voice to more than ten-thousand (10,000) landline telephones and cellular telephones throughout the United States, including Vermont, that contained messages identical to or substantially similar to the message listed in paragraphs 12

and 13 above without having obtained the prior express consent of the persons called.

18. Upon information and belief, over the last four years, Defendant physically made more than one telephone call within any 12-month period to more than ten-thousand (10,000) of residential and cellular telephones whose numbers were and are registered on the national do not call list, throughout the United States, including Vermont, that contained messages identical to or substantially similar to the message listed in paragraphs 12 and 13 above.

19. Upon information and belief, over the last four years, Defendant did not (a) maintain a do-not call list; (b) maintain a written policy about the list; (c) inform or train its employees about the use of the list; or (d) honor within a reasonable time a do-not-call request.

20. Neither Mr. Baker nor, upon information and belief, any of the persons to whom Defendant physically made the foregoing calls (1) signed a written agreement that provided the signatories' telephone numbers and also authorized the delivery of advertisements or telemarketing messages using an automatic telephone dialing system or an artificial or prerecorded voice to those telephone numbers; (2) signed a written agreement that informed the signatory that that by executing the agreement the signatory authorized another person to deliver or cause to be delivered to the signatory telemarketing calls using an automatic telephone dialing system or an artificial or prerecorded voice; and (3) signed a written agreement which stated that the signatory was not required to sign the agreement (directly or indirectly), or agree to enter into such an agreement as a condition of purchasing any property, goods or services.

21. Upon information and belief, over the last six years, Defendant physically made, and/or persons hired by Defendant physically made at least one telephone call to more than ten-thousand (10,000) telephones in Vermont that contained messages identical to or substantially similar to the message listed in paragraphs 12 and 13 above.

22. Upon information and belief, over the last six years, Defendant physically made, and/or persons hired by Defendant physically made at least one telephone call to more than ten-thousand (10,000) telephones in Vermont whose numbers were and are registered on the national do not call list, that contained messages identical to or substantially similar to the message listed in paragraphs 12 and 13 above.

23. Upon information and belief, Defendant has been sued numerous times for its violations of the TCPA and other telemarketing statutes but continues those violations notwithstanding those lawsuits.

24. Mr. Baker suffered concrete harm as a result of receiving the telephone calls described above because the calls tied up Mr. Baker's telephone line, invaded Mr. Baker's privacy, annoyed Mr. Baker, used up a portion of Mr. Baker's cell phone battery's charge, and wasted Mr. Baker's time.

CLASS ALLEGATIONS

25. Mr. Baker brings this class action on behalf of himself and all others similarly situated, under Rules 23(a) and 23(b)(1)-23(b)(3) of the Federal Rules of Civil Procedure, against Defendants for Defendants' violations of the TCPA.

26. Mr. Baker seeks to represent four classes (the "Classes") defined as follows:

Class A: All persons in the United States that, without having given any prior express written consent, whose cellular phone and/or residential landline phone Defendant physically called over the last four years, using a prerecorded or artificial voice that delivered a message identical or substantially similar to the message left for Mr. Baker as described in paragraphs 12 and 13 above.

Class B: All persons and entities in the United States, whose residential landline

and/or residential cellular phone numbers are registered on the national do not call list, to whose residential phones (including cellular phones) Defendant physically made more than one telephone call within any 12-month period over the last four years, that delivered a message identical or substantially similar to the messages left for Mr. Baker as described in paragraphs 12 or 13 above.

Class C: All persons in the state of Vermont to whom Defendant physically made a call or to whom a person hired by Defendant physically made a call over the last six years that delivered a message identical or substantially similar to the messages left for Mr. Baker as described in paragraphs 12 or 13 above.

Class D: All persons in the state of Vermont whose telephone numbers are registered on the national do not call list, to whose telephone numbers on the national do-not-call list Defendant physically made or to whose telephone number on the national do-not-call list a person hired by Defendant physically made a call over the last six years, that delivered a message identical or substantially similar to the messages left for Mr. Baker as described in paragraphs 12 or 13 above.

27. Numerosity: Upon information and belief, each of Classes contains more than ten thousand members. The Classes are so numerous that joinder of all individual members in one action would be impracticable. The disposition of the individual claims of the respective Classes' members through this class action will benefit both the parties and this Court.

28. Ascertainability: Upon information and belief, the Classes' sizes and the identities of the individual members thereof are ascertainable through Defendant's records, including, but not limited to Defendant's call records. Members of the Classes may be notified of the pendency of this action by techniques and forms commonly used in class actions, such as

published notice, e-mail notice, website notice, fax notice, first class mail, or combinations thereof, or by other methods suitable to the Classes and deemed necessary and appropriate by the Court.

29. Typicality: Mr. Baker's claims are typical of the claims of the members of the Classes. The claims of Mr. Baker and the members of the Classes are based on the same legal theories and arise from the same unlawful conduct.

30. Common Questions of Fact and Law: There is a well-defined community of common questions of fact and law affecting the Plaintiff and members of the Classes. The questions of fact and law common to Mr. Baker and the Classes predominate over questions that may affect individual members,

31. As to Class A those questions include:

- (a) Whether Defendant's conduct violated the 47 U.S.C. § 227(b);
- (b) whether Mr. Baker and the members of Class A are entitled to statutory damages from Defendant under the TCPA;
- (c) whether Defendant's violations of the TCPA were willful or knowing;
- (d) whether Mr. Baker and the members of the Class A are entitled to up to triple statutory damages under the TCPA from Defendants for Defendants' willful and knowing violations of the TCPA; and
- (e) whether Mr. Baker and the members of the Class A are entitled to injunctive relief against Defendant under the TCPA

32. As to Class B those questions include:

- (a) Whether Defendant's conduct violated the 47 U.S.C. § 227(c);
- (b) whether Mr. Baker and the members of Class B are entitled to statutory damages

from Defendant under the TCPA;

(c) whether Defendant's violations of the TCPA were willful or knowing;

(d) whether Mr. Baker and the members of the Class B are entitled to up to triple statutory damages under the TCPA from Defendants for Defendants' willful and knowing violations of the TCPA; and

(e) whether Mr. Baker and the members of the Class B are entitled to injunctive relief against Defendant under the TCPA.

33. As to Class C those questions include:

(a) Whether Defendant's conduct violated 9 VT Stat. Ann. § 2464a(b)(1);

(b) whether Mr. Baker and the members of Class C are entitled to statutory damages from Defendant under 9 VT Stat. Ann. § 2464c;

(c) whether Mr. Baker and the members of Class C are entitled to punitive damages from Defendant under 9 VT Stat. Ann. § 2464c; and

(d) whether Mr. Baker and the members of the Class C are entitled to injunctive relief against Defendant under 9 VT Stat. Ann. § 2464c

34. As to Class D those questions include:

(a) Whether Defendant's conduct violated 9 VT Stat. Ann. § 2464a(b)(2);

(b) whether Mr. Baker and the members of Class C are entitled to statutory damages from Defendant under 9 VT Stat. Ann. § 2464c;

(c) whether Mr. Baker and the members of Class C are entitled to punitive damages from Defendant under 9 VT Stat. Ann. § 2464c; and

(d) whether Mr. Baker and the members of the Class C are entitled to injunctive relief against Defendant under 9 VT Stat. Ann. § 2464c.

35. Adequacy of Representation: Mr. Baker is an adequate representative of the Classes because Mr. Baker's interests do not conflict with the interests of the members of the Classes. Mr. Baker will fairly, adequately and vigorously represent and protect the interests of the members of the Classes, and has no interests antagonistic to the members of the Classes. Mr. Baker has retained counsel who are competent and experienced in litigation in the federal courts and class actions.

36. Superiority: A class action is superior to other available means for the fair and efficient adjudication of the claims of the Classes. While the aggregate damages that may be awarded to the members of the Classes are likely to be substantial, the damages suffered by individual members of the Classes are relatively small. As a result, the expense and burden of individual litigation makes it economically infeasible and procedurally impracticable for each member of the Classes to individually seek redress for the wrongs done to him, her or it. The likelihood that individual members of the Classes may prosecute separate claims is remote. Individualized litigation would also present the potential for varying, inconsistent or contradictory judgments, and would increase the delay and expense to all parties and the court system resulting from multiple trials of the same factual issues. This action's proceeding as a class action will present fewer management difficulties, conserve the resources of the parties and the court system, and protect the rights of each member of the Classes. Mr. Baker is unaware of any difficulty that might arise in managing this action that would preclude its maintenance as a class action.

FIRST CLAIM

37. Mr. Baker repeats each and every allegation contained in all the preceding paragraphs and incorporates such allegations by reference.

38. By engaging in the conduct described above, Defendant committed more than 10,000 of violations of the TCPA and the regulations promulgated thereunder, specifically 47 U.S.C. § 227(b)(1)(A)(iii) & (b)(1)(B) and 47 C.F.R. §§ 64.1200(a)(1)(iii) & (a)(2), against Mr. Baker and the members of Class A.

39. Mr. Baker and the members of the Class A are entitled to statutory damages from Defendant under 47 U.S.C. § 227(b)(3) of at least \$500 per violation, which amounts to greater than \$5,000,000.

40. If it is found that Defendant willfully and/or knowingly violated the TCPA, Mr. Baker and the members of the Class request that the Court increase the damage award against Defendant to \$1,500 per violation, as authorized by 47 U.S.C. § 227(b)(3), which amounts to more than \$15,000,000.

41. Mr. Baker and the members of the Class A are also entitled to an injunction against Defendant under 47 U.S.C. 227(b)(3).

SECOND CLAIM

42. Mr. Baker repeats each and every allegation contained in all the preceding paragraphs and incorporates such allegations by reference.

43. By engaging in the conduct described above, Defendant committed more than 10,000 of violations of the TCPA and the regulations promulgated thereunder, specifically 47 U.S.C. § 227(c) and 47 C.F.R. §§ 64.1200(c)(2) & (d) against Mr. Baker and the members of Class B.

44. Mr. Baker and the members of the Class B are entitled to statutory damages from Defendant under 47 U.S.C. § 227(b)(3) of at least \$500 per violation, which amounts to greater than \$5,000,000.

45. If it is found that Defendant willfully and/or knowingly violated the TCPA, Mr. Baker and the members of the Class request that the Court increase the damage award against Defendant to \$1,500 per violation, as authorized by 47 U.S.C. § 227(b)(3), which amounts to more than \$15,000,000.

46. Mr. Baker and the members of the Class B are also entitled to an injunction against Defendant under 47 U.S.C. 227(b)(3).

THIRD CLAIM

47. Mr. Baker repeats each and every allegation contained in all the preceding paragraphs and incorporates such allegations by reference.

48. By engaging in the conduct described above, Defendant committed more than 10,000 of violations of 9 VT Stat. Ann. § 2464a(b)(1) against Mr. Baker and the members of Class C.

49. Mr. Baker and the members of the Class C are entitled to statutory damages from Defendant under 9 VT Stat. Ann. § 2464c of at least \$500 per violation, which amounts to greater than \$5,000,000.

50. Mr. Baker and the members of the Class C are also entitled to punitive damages from Defendants under 9 VT Stat. Ann. § 2464c in an amount to be determined at trial.

51. Mr. Baker and the members of the Class C are also entitled to an injunction against Defendant under 9 VT Stat. Ann. § 2464c.

52. Mr. Baker and the members of the Class C are also entitled to reasonable costs and attorney's fees for this action from Defendants under 9 VT Stat. Ann. § 2464c.

FOURTH CLAIM

53. Mr. Baker repeats each and every allegation contained in all the preceding

paragraphs and incorporates such allegations by reference.

54. By engaging in the conduct described above, Defendant committed more than 10,000 of violations of 9 VT Stat. Ann. § 2464a(b)(2) against Mr. Baker and the members of Class C.

55. Mr. Baker and the members of the Class D are entitled to statutory damages from Defendant under 9 VT Stat. Ann. § 2464c of at least \$500 per violation, which amounts to greater than \$5,000,000.

56. Mr. Baker and the members of the Class D are also entitled to punitive damages from Defendant under 9 VT Stat. Ann. § 2464c in an amount to be determined at trial.

57. Mr. Baker and the members of the Class D are also entitled to an injunction against Defendant under 9 VT Stat. Ann. § 2464c.

58. Mr. Baker and the members of the Class D are also entitled to reasonable costs and attorney's fees for this action from Defendants under 9 VT Stat. Ann. § 2464c.

PRAYER FOR RELIEF

WHEREFORE, Mr. Baker requests:

A. An order certifying the Classes, appointing Mr. Baker as representative of the Classes, and appointing the law firms representing Mr. Baker as counsel for the Classes;

B. an award to Mr. Baker and the members of Classes A and B, and against Defendant, of at least \$500 for each of Defendant's violations of the TCPA, which amounts to more than \$5,000,000 for each of Classes A and B;

C. if it is found that Defendants willfully and/or knowingly violated the TCPA, an increase of the damage award against Defendant to \$1,500 for each of Defendant's violations of the TCPA, which amounts to more than \$15,000,000 for each of Classes A and B;

D. an injunction under the TCPA against Defendant for Mr. Baker and each of Classes A and B for Defendant's violations of the TCPA;

E. an award to Mr. Baker and the members of Classes C and D under 9 VT Stat. Ann. §§ 2464c, and against Defendant, of at least \$500 for each of Defendant's violations of 9 VT Stat. Ann. §§ 2464a(b)(1), (b)(2), which amounts to more than \$5,000,000 for each of Classes C and D;

F. an award to Mr. Baker and the members of Classes C and D under 9 VT Stat. Ann. § 2464c, and against Defendant, of punitive damages in an amount to be determined at trial;

G. an injunction under 9 VT Stat. Ann. §§ 2464c against Defendant for Mr. Baker and each of the classes for Defendant's violations of 9 VT Stat. Ann. §§ 2464a(b)(1), (b)(2);

H. an award under 9 VT Stat. Ann. § 2464c for the reasonable costs and attorney's fees of this action to Mr. Baker and Classes C and D;

I. such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff demands a trial by jury.

Dated: White Plains, New York
January 28, 2021

Respectfully submitted,

BELLIN & ASSOCIATES LLC

/s/ Aytan Y. Bellin
By: Aytan Y. Bellin
50 Main Street, Suite 1000
White Plains, NY 10606
Tel: (914) 358-5345
Fax: (212) 571-0284

E-mail: aytan.bellin@bellinlaw.com

Richard Bennett (*pro hac vice* motion to be
filed shortly)

BENNETT & BENNETT

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*Attorneys for Plaintiff and the Proposed
Classes*

civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
 Tyler Baker, on behalf of himself and all others similarly situated

(b) County of Residence of First Listed Plaintiff Chittenden
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
 Bellin & Associates LLC, 50 Main St., Ste. 1000, White Plains, NY 10606; see attachment

DEFENDANTS
 CHW Group, Inc. d/b/a Choice Home Warranty

County of Residence of First Listed Defendant Middlesex
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from Another District (specify)

6 Multidistrict Litigation - Transfer

8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 47 U.S.C. Sec. 227,

Brief description of cause:
 Lawsuit against Defendant for illegal marketing telephone calls, 9 VT Stat. Ann. §§ 2464a, 2464c.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ 60,000,000

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE: Jan 28, 2021

SIGNATURE OF ATTORNEY OF RECORD: *Aydan J. Bellin*

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

ATTACHMENT

Attorneys for Plaintiff (continued)

BENNETT & BENNETT
1200 Anastasia Avenue, Office 360
Coral Gables, FL 33134
Tel: (305) 444-5925

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Dem.and. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Choice Home Warranty Hit with Lawsuit Over Alleged Warranty Robocalls](#)
