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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA**

TRILEISE BARBER, individually and) Case No.
on behalf of all others similarly situated,)

Plaintiff,

vs.

SANTANDER CONSUMER USA,
INC.,
Defendants.

COMPLAINT -- CLASS ACTION

**COMPLAINT FOR VIOLATIONS
OF:**

1. NEGLIGENT VIOLATIONS
OF THE TELEPHONE
CONSUMER PROTECTION
ACT [47 U.S.C. §227 ET
SEQ.]
2. WILLFUL VIOLATIONS
OF THE TELEPHONE
CONSUMER PROTECTION
ACT [47 U.S.C. §227 ET
SEQ.]

DEMAND FOR JURY TRIAL

Plaintiff, TRILEISE BARBER ("Plaintiff"), individually and on behalf of
all others similarly situated, alleges the following upon information and belief
based upon personal knowledge:

NATURE OF THE CASE

1. Plaintiff brings this action individually and on behalf of all others
similarly situated seeking damages and any other available legal or equitable

1 remedies resulting from the illegal actions of SANTANDER CONSUMER USA,
2 INC., (“Defendant”), in negligently, knowingly, and/or willfully contacting
3 Plaintiff on Plaintiff’s cellular telephone in violation of the Telephone Consumer
4 Protection Act, 47. U.S.C. § 227 *et seq.* (“TCPA”), thereby invading Plaintiff’s
5 privacy.

6 **JURISDICTION & VENUE**

7 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,
8 a resident of Pennsylvania, seeks relief on behalf of a Class, which will result in
9 at least one class member belonging to a different state than that of Defendant, a
10 company with its principal place of business in Texas and State of Incorporation
11 in Illinois. Plaintiff also seeks up to \$1,500.00 in damages for each call in
12 violation of the TCPA, which, when aggregated among a proposed class in the
13 thousands, exceeds the \$5,000,000.00 threshold for federal court jurisdiction.
14 Therefore, both diversity jurisdiction and the damages threshold under the Class
15 Action Fairness Act of 2005 (“CAFA”) are present, and this Court has
16 jurisdiction.

17 3. Venue is proper in the United States District Court for the
18 WESTERN District of Pennsylvania pursuant to 18 U.S.C. 1391(b) and 18
19 U.S.C. § 1441(a) because Defendant does business within the state of
20 Pennsylvania and the county of Allegheny.

21 **PARTIES**

22 4. Plaintiff, TRILEISE BARBER (“Plaintiff”), is a natural person
23 residing in Allegheny, Pennsylvania and is a “person” as defined by 47 U.S.C. §
24 153 (39).

25 5. Defendant, SANTANDER CONSUMER USA, INC. (“Defendant”),
26 is in the business of providing loans, and is a “person” as defined by 47 U.S.C. §
27 153 (39).

28 6. The above named Defendant, and its subsidiaries and agents, are

collectively referred to as “Defendants.” The true names and capacities of the Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are currently unknown to Plaintiff, who therefore sues such Defendants by fictitious names. Each of the Defendants designated herein as a DOE is legally responsible for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the Complaint to reflect the true names and capacities of the DOE Defendants when such identities become known.

7. Plaintiff is informed and believes that at all relevant times, each and every Defendant was acting as an agent and/or employee of each of the other Defendants and was acting within the course and scope of said agency and/or employment with the full knowledge and consent of each of the other Defendants. Plaintiff is informed and believes that each of the acts and/or omissions complained of herein was made known to, and ratified by, each of the other Defendants.

FACTUAL ALLEGATIONS

8. Beginning in or around July of 2017, Defendant contacted Plaintiff on her cellular telephone, number ending in -7075, in an attempt to collect an alleged outstanding debt owed.

9. However, Plaintiff has never owed such a debt to Defendant and has never provided her contact information to Defendant. In addition, Plaintiff informed Defendant multiple times that Plaintiff is not the owner of this debt and to cease calling her.

10. Despite this, Defendant continued to contact Plaintiff multiple times to collect on this alleged debt.

11. Defendant used an “automatic telephone dialing system”, as defined by 47 U.S.C. § 227(a)(1) to place its daily calls to Plaintiff seeking to collect the debt allegedly owed.

12. Defendant’s calls constituted calls that were not for emergency

purposes as defined by 47 U.S.C. § 227(b)(1)(A).

13. Defendant's calls were placed to telephone number assigned to a cellular telephone service for which Plaintiff incurs a charge for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

14. Plaintiff told the Defendant that Plaintiff did not owe the alleged debt and not to contact Plaintiff.

15. Despite receiving this information on numerous occasions, Defendant continued to place daily calls to Plaintiff, on her cellular telephone, using an "automated telephone dialing system."

16. Plaintiff does not owe the alleged debt Defendant is calling her about and has never provided any personal information, including her cellular telephone number, to Defendant for any purpose whatsoever. Accordingly, Defendant never received Plaintiff's "prior express consent" to receive calls using an automatic telephone dialing system or an artificial or prerecorded voice on her cellular telephone pursuant to 47 U.S.C. § 227(b)(1)(A).

CLASS ACTION ALLEGATIONS

17. Plaintiff brings this action on behalf of herself and all others similarly situated, as a member of the proposed class (hereafter "The Class") defined as follows:

All persons within the United States who received any collection telephone calls from Defendant to said person's cellular telephone made through the use of any automatic telephone dialing system and such person had not previously consented to receiving such calls within the four years prior to the filing of this Complaint

18. Plaintiff represents, and is a member of, The Class, consisting of All persons within the United States who received any collection telephone calls from Defendant to said person's cellular telephone made through the use of any

1 automatic telephone dialing system and such person had not previously not
2 provided their cellular telephone number to Defendant within the four years prior
3 to the filing of this Complaint.

4 19. Defendant, its employees and agents are excluded from The Class.
5 Plaintiff does not know the number of members in The Class, but believes the
6 Class members number in the thousands, if not more. Thus, this matter should be
7 certified as a Class Action to assist in the expeditious litigation of the matter.

8 20. The Class is so numerous that the individual joinder of all of its
9 members is impractical. While the exact number and identities of The Class
10 members are unknown to Plaintiff at this time and can only be ascertained
11 through appropriate discovery, Plaintiff is informed and believes and thereon
12 alleges that The Class includes thousands of members. Plaintiff alleges that The
13 Class members may be ascertained by the records maintained by Defendant.

14 21. Plaintiff and members of The Class were harmed by the acts of
15 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
16 and Class members via their cellular telephones thereby causing Plaintiff and
17 Class members to incur certain charges or reduced telephone time for which
18 Plaintiff and Class members had previously paid by having to retrieve or
19 administer messages left by Defendant during those illegal calls, and invading the
20 privacy of said Plaintiff and Class members.

21 22. Common questions of fact and law exist as to all members of The
22 Class which predominate over any questions affecting only individual members
23 of The Class. These common legal and factual questions, which do not vary
24 between Class members, and which may be determined without reference to the
25 individual circumstances of any Class members, include, but are not limited to,
26 the following:

- 27 a. Whether, within the four years prior to the filing of this
28 Complaint, Defendant made any collection call (other than a

1 call made for emergency purposes or made with the prior
2 express consent of the called party) to a Class member using
3 any automatic telephone dialing system to any telephone
4 number assigned to a cellular telephone service;

5 b. Whether Plaintiff and the Class members were damages
6 thereby, and the extent of damages for such violation; and

7 c. Whether Defendant should be enjoined from engaging in such
8 conduct in the future.

9 23. As a person that received numerous collection calls from Defendant
10 using an automatic telephone dialing system, without Plaintiff's prior express
11 consent, Plaintiff is asserting claims that are typical of The Class.

12 24. Plaintiff will fairly and adequately protect the interests of the
13 members of The Class. Plaintiff has retained attorneys experienced in the
14 prosecution of class actions.

15 25. A class action is superior to other available methods of fair and
16 efficient adjudication of this controversy, since individual litigation of the claims
17 of all Class members is impracticable. Even if every Class member could afford
18 individual litigation, the court system could not. It would be unduly burdensome
19 to the courts in which individual litigation of numerous issues would proceed.
20 Individualized litigation would also present the potential for varying, inconsistent,
21 or contradictory judgments and would magnify the delay and expense to all
22 parties and to the court system resulting from multiple trials of the same complex
23 factual issues. By contrast, the conduct of this action as a class action presents
24 fewer management difficulties, conserves the resources of the parties and of the
25 court system, and protects the rights of each Class member.

26 26. The prosecution of separate actions by individual Class members
27 would create a risk of adjudications with respect to them that would, as a practical
28 matter, be dispositive of the interests of the other Class members not parties to

1 such adjudications or that would substantially impair or impede the ability of such
2 non-party Class members to protect their interests.

3 27. Defendant has acted or refused to act in respects generally applicable
4 to The Class, thereby making appropriate final and injunctive relief with regard to
5 the members of the Pennsylvania Class as a whole.

6 **FIRST CAUSE OF ACTION**

7 **Negligent Violations of the Telephone Consumer Protection Act**

8 **47 U.S.C. §227 et seq.**

9 28. Plaintiff repeats and incorporates by reference into this cause of
10 action the allegations set forth above at Paragraphs 1-27.

11 29. The foregoing acts and omissions of Defendant constitute numerous
12 and multiple negligent violations of the TCPA, including but not limited to each
13 and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

14 30. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et*
15 *seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in
16 statutory damages, for each and every violation, pursuant to *47 U.S.C. §*
17 *227(b)(3)(B).*

18 31. Plaintiff and the Class members are also entitled to and seek
19 injunctive relief prohibiting such conduct in the future.

20 **SECOND CAUSE OF ACTION**

21 **Knowing and/or Willful Violations of the Telephone Consumer Protection**
22 **Act**

23 **47 U.S.C. §227 et seq.**

24 (Against All Defendants)

25 32. Plaintiff repeats and incorporates by reference into this cause of
26 action the allegations set forth above at Paragraphs 1-31.

27 33. The foregoing acts and omissions of Defendant constitute numerous
28 and multiple knowing and/or willful violations of the TCPA, including but not

1 limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et*
2 *seq.*

3 34. As a result of Defendant's knowing and/or willful violations of *47*
4 *U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of
5 \$1,500.00 in statutory damages, for each and every violation, pursuant to *47*
6 *U.S.C. § 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

7 35. Plaintiff and the Class members are also entitled to and seek
8 injunctive relief prohibiting such conduct in the future.

9
10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff requests judgment against Defendant for the following:

12
13 **FIRST CAUSE OF ACTION**

14 **Negligent Violations of the Telephone Consumer Protection Act**

15 ***47 U.S.C. §227 et seq.***

- 16 • As a result of Defendant's negligent violations of *47 U.S.C. §*
17 *227(b)(1)*, Plaintiff and the Class members are entitled to and
18 request \$500 in statutory damages, for each and every violation,
19 pursuant to *47 U.S.C. § 227(b)(3)(B)*.
20 • Any and all other relief that the Court deems just and proper.

21 **SECOND CAUSE OF ACTION**

22 **Knowing and/or Willful Violations of the Telephone Consumer Protection**
23 **Act**

24 ***47 U.S.C. §227 et seq.***

- 25 • As a result of Defendant's willful and/or knowing violations of *47*
26 *U.S.C. § 227(b)(1)*, Plaintiff and the Class members are entitled to
27 and request treble damages, as provided by statute, up to \$1,500, for
28 each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)* and

1 47 U.S.C. § 227(b)(3)(C).

- 2 • Any and all other relief that the Court deems just and proper.

3 **PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY**

4 Respectfully Submitted this 20th Day of September, 2017.

5 LAW OFFICES OF TODD M. FRIEDMAN, P.C.

6 By: s/ Cynthia Z. Levin

7 Cynthia Z. Levin

8 Law Offices of Todd M. Friedman

9 Attorney for Plaintiff

CIVIL COVER SHEET

The JS 44 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 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. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

TRILEISE BARBER, individually and on behalf of all others similarly situated

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

Cynthia Z. Levin, Esq., Law Offices of Todd M. Friedman, PC
1150 First Ave., Ste. 501, King of Prussia, PA 19406

DEFENDANTS

SANTANDER CONSUMER USA, INC.

County of Residence of First Listed Defendant _____
(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)

- | | 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 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)

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"/> 840 Trademark 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"/> 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 <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 <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	CIVIL RIGHTS <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 PRISONER PETITIONS 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

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. 227

Brief description of cause:

Violations of the Telephone Consumer Protection Act

VII. REQUESTED IN COMPLAINT:

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

DEMAND \$ 5000001

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

09/20/2017

SIGNATURE OF ATTORNEY OF RECORD

s/Cynthia Levin

FOR OFFICE USE ONLY

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

JS 44AREVISED June, 2009
 IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA
 THIS CASE DESIGNATION SHEET MUST BE COMPLETED

PART A

This case belongs on the (☐ Erie ☐ Johnstown ☒ Pittsburgh) calendar.

1. **ERIE CALENDAR** - If cause of action arose in the counties of Crawford, Elk, Erie, Forest, McKean, Venang or Warren, OR any plaintiff or defendant resides in one of said counties.
2. **JOHNSTOWN CALENDAR** - If cause of action arose in the counties of Bedford, Blair, Cambria, Clearfield or Somerset OR any plaintiff or defendant resides in one of said counties.
3. Complete if on **ERIE CALENDAR**: I certify that the cause of action arose in _____ County and that the _____ resides in _____ County.
4. Complete if on **JOHNSTOWN CALENDAR**: I certify that the cause of action arose in _____ County and that the _____ resides in _____ County.

PART B (You are to check ONE of the following)

1. ☐ This case is related to Number _____. Short Caption _____.
2. ☒ This case is not related to a pending or terminated case.

DEFINITIONS OF RELATED CASES:

CIVIL: Civil cases are deemed related when a case filed relates to property included in another suit or involves the same issues of fact or it grows out of the same transactions as another suit or involves the validity or infringement of a patent involved in another suit

EMINENT DOMAIN: Cases in contiguous closely located groups and in common ownership groups which will lend themselves to consolidation for trial shall be deemed related.

HABEAS CORPUS & CIVIL RIGHTS: All habeas corpus petitions filed by the same individual shall be deemed related. All pro se Civil Rights actions by the same individual shall be deemed related.

PART CI. CIVIL CATEGORY (Place **x** in only applicable category).

1. ☐ Antitrust and Securities Act Cases
2. ☐ Labor-Management Relations
3. ☐ Habeas corpus
4. ☐ Civil Rights
5. ☐ Patent, Copyright, and Trademark
6. ☐ Eminent Domain
7. ☒ All other federal question cases
8. ☐ All personal and property damage tort cases, including maritime, FELA, Jones Act, Motor vehicle, products liability, assault, defamation, malicious prosecution, and false arrest
9. ☐ Insurance indemnity, contract and other diversity cases.
10. ☐ Government Collection Cases (shall include HEW Student Loans (Education), V A Overpayment, Overpayment of Social Security, Enlistment Overpayment (Army, Navy, etc.), HUD Loans, GAO Loans (Misc. Types), Mortgage Foreclosures, SBA Loans, Civil Penalties and Coal Mine Penalty and Reclamation Fees.)

I certify that to the best of my knowledge the entries on this Case Designation Sheet are true and correct

s/Cynthia Levin

Date: September 20, 2017

ATTORNEY AT LAW

NOTE: ALL SECTIONS OF BOTH FORMS MUST BE COMPLETED BEFORE CASE CAN BE PROCESSED.

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 the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six 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. When the petition for removal is granted, check this box.
 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. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- 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 Demand. 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.

UNITED STATES DISTRICT COURT

for the

Western District of Pennsylvania

TRILEISE BARBER, individually and on behalf of all
others similarly situated

Plaintiff

v.

SANTANDER CONSUMER USA, INC.

Defendant

)
)
)
)
)
)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* SANTANDER CONSUMER USA, INC.
c/o C T CORPORATION SYSTEM
818 W 7TH ST STE 930
LOS ANGELES CA 90017

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: The Law Offices of Todd M. Friedman, PC
1150 First Ave., Ste. 501
King of Prussia, PA 19406

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [TCPA Lawsuit: Santander Consumer USA Repeatedly Called Wrong Person](#)
