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**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

LUCINA CALDERA, individually and
 on behalf of all others similarly situated,

Plaintiff,

vs.

ACE CASH EXPRESS INSURANCE
 SERVICES LLC, and DOES 1 through
 10, inclusive, and each of them,

Defendant.

Case No. 2:22-cv-00330

CLASS ACTION

**COMPLAINT FOR VIOLATIONS
 OF:**

1. NEGLIGENT VIOLATIONS
 OF THE TELEPHONE
 CONSUMER PROTECTION
 ACT [47 U.S.C. §227(b)]
2. WILLFUL VIOLATIONS
 OF THE TELEPHONE
 CONSUMER PROTECTION
 ACT [47 U.S.C. §227(b)]
3. VIOLATIONS OF THE
 FAIR DEBT COLLECTION
 PRACTICES ACT, [15
 U.S.C. § 1692, *et seq.*]
4. VIOLATIONS OF THE
 ROSENTHAL FAIR DEBT
 COLLECTION PRACTICES
 ACT [CAL. CIV. CODE
 §1788 ET SEQ.]

DEMAND FOR JURY TRIAL

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1 Plaintiff LUCINA CALDERA (“Plaintiff”), individually and on behalf of all
2 others similarly situated, alleges the following upon information and belief based
3 upon personal knowledge:

4 **NATURE OF THE CASE**

5 1. Plaintiff brings this action individually and on behalf of all others
6 similarly situated seeking damages and any other available legal or equitable
7 remedies resulting from the illegal actions of ACE CASH EXPRESS
8 INSURANCE SERVICES LLC (“Defendant”), in negligently, knowingly, and/or
9 willfully contacting Plaintiff on Plaintiff’s cellular telephone in violation of the
10 Telephone Consumer Protection Act, 47. U.S.C. § 227 *et seq.* (“TCPA”) and related
11 regulations thereby invading Plaintiff’s privacy.

12 2. The TCPA was designed to prevent calls like the ones described
13 within this complaint, and to protect the privacy of citizens like Plaintiff.
14 “Voluminous consumer complaints about abuses of telephone technology – for
15 example, computerized calls dispatched to private homes – prompted Congress to
16 pass the TCPA.” *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 744 (2012).

17 3. In enacting the TCPA, Congress intended to give consumers a choice
18 as to how creditors and telemarketers may call them, and made specific findings
19 that “[t]echnologies that might allow consumers to avoid receiving such calls are
20 not universally available, are costly, are unlikely to be enforced, or place an
21 inordinate burden on the consumer. TCPA, Pub.L. No. 102–243, § 11. Toward this
22 end, Congress found that

23 “[b]anning such automated or prerecorded telephone calls
24 to the home, except when the receiving party consents to
25 receiving the call or when such calls are necessary in an
26 emergency situation affecting the health and safety of the
27 consumer, is the only effective means of protecting
28

1 telephone consumers from this nuisance and privacy
2 invasion.”

3 *Id.* at § 12; see also *Martin v. Leading Edge Recovery Solutions, LLC*, 2012 WL
4 3292838, at* 4 (N.D.Ill. Aug. 10, 2012) (citing Congressional findings on TCPA’s
5 purpose).

6 4. Congress also specifically found that “the evidence presented to the
7 Congress indicates that automated or prerecorded calls are a nuisance and an
8 invasion of privacy, regardless of the type of call....” *Id.* at §§ 12-13. *See also*,
9 *Mims*, 132 S. Ct. at 744.

10 5. In a recent decision, the Supreme Court interpreted the term
11 “automatic telephone dialing system” and held that “[t]o qualify as an ‘automatic
12 telephone dialing system,’ a device must have the capacity either to store a
13 telephone number using a random or sequential generator *or* to produce a telephone
14 number using a random or sequential number generator.” *Facebook, Inc. v. Duguid*,
15 141 S.Ct. 1163 (2021) (emphasis added).

16 6. In *Duguid*, the Supreme Court provided an example of such systems,
17 stating: “For instance, an autodialer might use a random number generator to
18 determine the order in which to pick phone numbers from a preproduced list. It
19 would then store those numbers to be dialed at a later time.” *Id.* at 1171-72 fn. 7.

20 7. The Sixth Circuit has recognized a distinction between automated
21 calls placed by a dialing system and fielded by a live agent, and agentless
22 prerecorded voice calls: “Congress drew an explicit distinction between ‘automated
23 telephone calls that deliver an artificial or prerecorded voice message’ on the one
24 hand and ‘calls place by ‘live’ persons’ on the other.” *Ashland Hosp. Corp. v. Serv.*
25 *Employees Int’l Union, Dist. 1199 WV/KY/OH*, 708 F.3d 737,743 (6th Cir. 2013).

26 8. Similarly, the FTC has observed that “prerecorded calls are by their
27 very nature one-sided conversations, and if there is no opportunity for consumers
28 to ask questions, offers may not be sufficiently clear for consumers to make

1 informed choices before pressing a button or saying yes to make a purchase.” 73
2 FR 51164-01, 51167 (Aug. 29, 2008).

3 9. In the present case, Defendant and its agent utilized ATDS to initiate
4 calls to Plaintiff. Plaintiff never provided express consent to Defendant prior to
5 Defendant placing the calls to Plaintiff. As such, the use of ATDS gives rise to a
6 claim for violations of the TCPA.

7 10. In addition to Plaintiff’s Class Claims, Plaintiff also brings an action
8 for damages as an individual consumer for Defendant’s violations of the federal
9 Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* (hereinafter
10 “FDCPA”) and the Rosenthal Fair Debt Collection Practices Act, Cal Civ. Code
11 §1788, *et seq.* (hereinafter “RFDCPA”) which prohibit debt collectors from
12 engaging in abusive, deceptive, and unfair practices.

13 **JURISDICTION & VENUE**

14 11. Jurisdiction is proper under 28 U.S.C. § 1331 because Plaintiff alleges
15 claims under two federal laws: the TCPA, 47 U.S.C § 227 *et seq.*, and the FDCPA,
16 15 U.S.C. §1692, *et seq.* Furthermore, while the RFDCPA is California state law,
17 jurisdiction is proper for the pursuant to 28 U.S.C §1367 because the claim forms
18 part of the same case or controversy as the TCPA and FDCPA claims.

19 12. Venue is proper in the United States District Court for the Central
20 District of California pursuant to *28 U.S.C. § 1391(b)(2)* because Defendant does
21 business within the State of California and Plaintiff resides within the County of
22 Los Angeles. Further, Defendant targeted this County by calling Plaintiff.

23 **PARTIES**

24 13. Plaintiff, LUCINA CALDERA (“Plaintiff”), is a natural person
25 residing in Los Angeles County in the state of California, and is a “person” as
26 defined by *47 U.S.C. § 153 (39)*. Furthermore, Plaintiff is a “consumer” as defined
27 by the FDCPA, 15 U.S.C. §1692a(3) and a “debtor” as defined by the RFDCPA,
28 Cal. Civ. Code § 1788.2(h).

1 14. At all relevant times herein, Defendant, ACE CASH EXPENSE
2 INSURANCE SERVICES LLC (“Defendant”) is a debt collection company, and
3 is a “person” as defined by 47 U.S.C. § 153(39). Furthermore, Defendant, at all
4 relevant times herein, was a company engaged, by use of the mails and telephone,
5 in the business of collecting a debt from Plaintiff which qualifies as a “debt,” as
6 defined by 15 U.S.C. §1692a(5). Defendant regularly attempts to collect debts
7 alleged to be due another, and therefore is a “debt collector” as defined by the
8 FDCPA, 15 U.S.C. §1692a(6) and the RFDCPA, Cal. Civ. Code § 1788.2(c).

9 15. The above-named Defendant, and its subsidiaries and agents, are
10 collectively referred to as “Defendants.” The true names and capacities of the
11 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are
12 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious
13 names. Each of the Defendants designated herein as a DOE is legally responsible
14 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the
15 Complaint to reflect the true names and capacities of the DOE Defendants when
16 such identities become known.

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

23 **COMMON FACTUAL ALLEGATIONS - TCPA**

24 **A. Defendant Utilizes an ATDS to Place its Debt Collection Calls**

25 17. Plaintiff was called by a predictive dialer, which was characteristically
26 identified by no live agent being on the line when it was picked up, a pause, a click,
27 and then being transferred to a live agent. Defendant called Plaintiff using a system
28 that dials campaigns of numbers without human intervention.

1 18. Upon information and belief, Defendant uses a predictive dialer to
2 place calls *en masse* to the members of the prospective class

3 19. On information and belief, Plaintiff alleges that Defendant uses a
4 predictive dialing platform for outbound campaigns. Predictive dialing platforms
5 always have automated and predictive dialing capacity. Plaintiff alleges on
6 information and belief that the platform used by Defendant integrates programming
7 code substantially similar to the code described herein below. Upon information
8 and belief, the platform used by Defendant has the capacity to allow an operator to
9 1) import CSV files containing phone numbers of consumers, 2) utilize number
10 generators to assign these telephone numbers to a dialing campaign, and otherwise
11 store the telephone numbers, and 3) schedule outbound dialing campaigns at a later
12 time to happen automatically using number generation and other algorithmic
13 dialing tools.

14 20. The capacity of the Defendant's dialing platform to use random or
15 sequential number generators to store or produce telephone numbers will be
16 confirmed or refuted based on the code. Plaintiff alleges that such code exists in
17 the dialing platform used by Defendant.

18 *i. The Predictive Dialer*

19 21. The following is the FCC's description of a predictive dialer:

20 “A predictive dialer is an automated dialing system that uses a
21 complex set of algorithms to automatically dial consumers’
22 telephone numbers in a manner that “predicts” the time when a
23 consumer will answer the phone and a telemarketer will be available
24 to take the call. Such software programs are set up in order to
25 minimize the amount of downtime for a telemarketer. In some
26 instances, a consumer answers the phone only to hear “dead air”
27 because no telemarketer is free to take the call...A predictive dialer
28 is equipment that dials numbers and, when certain computer
software is attached, also assists telemarketers in predicting when a
sales agent will be available to take calls. The hardware, when paired
with certain software, has the capacity to store or produce numbers

1 and dial those numbers at random, in sequential order, or from a
2 database of numbers. Predictive dialers initiate phone calls while
3 telemarketers are talking to other consumers and frequently
4 disconnect those calls when a telemarketer is unavailable to take the
5 next call...Predictive dialers reduce the amount of down time for
sales agents, as consumers are more likely to be on the line when the
telemarketer completes a call.”

6 *In re Rules and Regulations Implementing the Telephone Consumer Protection Act*
7 *of 1991*, Report and Order, 18 FCC Rcd. 14014, 14115 ¶¶ 8 fn 31, 131, and 146
8 (2003) (“2003 FCC Order”).

9 22. The following is description, in plain English, of a predictive dialer
10 typically operates: A dialer operator accesses a database of consumer contact
11 information, which is typically contained in a text delimited file, either in a CSV
12 file, text file, Microsoft Excel, or Microsoft Access file. In essence, this is a
13 spreadsheet, containing rows and columns of data, which includes telephone
14 numbers. The operator will load this data set into the dialing platform. The dialing
15 system will cut the data set into individual lines, unique to each telephone number
16 with an assigned row using a parser. Parsers will separate the data, and then index
17 the telephone numbers using either random or sequential number generators, but
18 most commonly sequential number generators. The program will then store the
19 telephone number using that number generator. The data is stored in temporary
20 cache or RAM memory, to be accessed by the dialer platform thereafter. A random
21 or sequential number generator is programmed to select and produce,
22 automatically, without any organic triggering event by a human being, the
23 telephone numbers, i.e. in accessing them from storage. Once the number
24 generator corresponds to a matching number in the stored list, that telephone
25 number will be “produced” from storage to the dialer, which then automatically
26 dials that telephone number. Thus, predictive dialers have the capacity to use
27 random or sequential number generators to both store and produce the telephone
28 number to be automatically dialed by the dialing program, without human

1 intervention.

2 23. To illustrate this using a real-world example that was provided to
3 undersigned counsel by a software engineer who is fluent in Java and has reviewed
4 dialer code, imagine a list of numbers as a lengthy sheet of lined notebook paper. A
5 parser cuts this into strips, and stores it in a paper tray, which is attached to a
6 scanner. Each strip of paper has a row number, and a telephone number. The
7 scanner uses a program to generate numbers, either sequentially or randomly. That
8 generator is hooked to the paper feed, which instructs the scanner to match the
9 generated number, to the corresponding strip of paper in the tray, and then scan that
10 telephone number from the stored list, through the scanner, and out the other side,
11 at which time the scanner is dialing the telephone number on that strip of
12 paper. Now imagine a scanner that accomplishes this with a tray containing
13 thousands of pages of paper in the blink of an eye. Once the tray is empty, the
14 dialing campaign is complete.

15 24. The program for dialing campaigns can be pre-set like a sprinkler
16 timer to dial the phone numbers at pre-set intervals and pre-set time periods, based
17 on how many available agents there are expected to receive calls. This is done by
18 way of yet another algorithm that is programmed to “predict” how long an average
19 call with a consumer takes, and dial only a certain volume of phone numbers per
20 time interval, so as to attempt to reach the highest possible volume of consumers,
21 without reaching so many consumers that the “abandonment rate” exceeds
22 regulatory limits set forth by the FCC. In crude terms, imagine a call center with
23 100 agents, a 10% chance that a call will be answered, and an average call length
24 of one minute. The predictive dialer will “predict” that it should place 1,000 calls
25 per minute, because 100 of those calls will be answered, and so 100 agents will be
26 available to speak with the consumer. Once those agents get off the line, calls will
27 already be automatically happening in the background from the autodialer’s
28 random and sequential number generator described above, and agents will be

1 connected with callers who pick up the line. This process is sometimes referred to
2 as algorithmic dialing.

3 25. Due to natural statistical variation, sometimes calls will last longer
4 than a minute, and there will be no available agent right away. This results in dead
5 air at the beginning of such calls, or abandoned calls. The percentage of such calls
6 that are picked up and result in dead air, is referred to as the “abandonment rate”
7 and is regulated by the FCC, because it is incredibly annoying to pick up the line
8 and be greeted with silence. This was heavily discussed during the congressional
9 hearings as highly problematic in 1991 during the TCPA hearings. In other words,
10 this is not new technology. It is the same technology Congress was trying to
11 regulate when it enacted the TCPA. It is the same technology that has been subject
12 to FCC regulations for decades.

13 26. Plaintiff alleges on information and belief that Defendant’s system has
14 predictive dialing capacity substantively similar to the illustrations described
15 herein, and therefore has the capacity to store and produce telephone numbers to
16 be called using a random or sequential number generator.

17 ***ii. The Radom/Sequential Number Generator***

18 27. Undersigned counsel have studied the code used to program predictive
19 dialers and other similarly-functioning autodialers in the past, with the assistance
20 of software engineers fluent in Java, and have found that such autodialers, when
21 used in automated mode, execute code that relies upon random or sequential
22 number generation to both store and produce numbers to be dialed by the
23 dialer. For instance, a common “parser” used in SMS blasters and predictive
24 dialing coding integrates the following open-source Apache code into an
25 autodialing dialing platform:

```
26      730      if (!this.recordList.isEmpty()) {
27      731          this.recordNumber++;
28      732          final String comment = sb == null ? null : sb.toString();
```

```

733      result=newCSVRecord(this,this.recordList.toArray(Constants.E
734      MPTY_STRING_ARRAY), comment,
735      this.recordNumber, startCharPosition);
736      }
737      return result;
738  }1

```

28. These lines of code, and specifically the “++” in line 731, represent an operator token that generates sequential numbers as part of a loop. This loop is used to select which number from the CSV file, will be dialed, and produce that number to the dialer using a CSV parser. Such programs can dial thousands of consumers in mere seconds, without any human intervention whatsoever, based on whatever abandonment rate is targeted by the operator of the dialing platform. The sequential number generator in the code above is executed in the process of mass predictive dialing. The program cannot function, and therefore cannot dial any phone numbers at all, without this sequential number generator.

29. Plaintiff alleges that Defendant used a predictive dialing system with the similar capacity to autodial numbers as shown above. Functionally, that is simply how predictive dialers work. They rely on random or sequential number generators to instruct the data set to produce telephone numbers to the dialer. Without this key component, a dialing campaign would require an agent to manually place the call, through organic decision making, or as was the case in *Duguid v. Facebook*, through some other organic one-to-one triggering event that instructs the dialer to place the call.

30. Plaintiff will not be able to demonstrate whether the code for Defendant’s dialing system contains such random or sequential number generators

¹ Available here: <https://commons.apache.org/proper/commons-csv/apidocs/src-html/org/apache/commons/csv/CSVParser.html>

1 without doing discovery and obtaining the code for the dialing platform.

2 31. The problem with these known realities is that because Plaintiff does
3 not and could not ever have access to Defendant's proprietary code, which is in its
4 sole possession, Plaintiff cannot allege with any more specificity that the system's
5 code contains such language. However, based on detailed discussions with experts
6 and years of litigation and expertise surrounding such technology, Plaintiff, and her
7 counsel, have a legitimate and sufficient good faith basis to make these allegations,
8 and assert that if the system is a traditional predictive dialer as alleged, *then it will*
9 *have some variation on the coding that is described herein*, which will undoubtedly
10 include either random or sequential number generators that are being executed in
11 conjunction with storing and dialing the telephone numbers, including the dialing
12 of Plaintiff's phone number.

13 32. In Defendant's overzealous attempt to market its services, it placed
14 (and continues to place) phone calls via ATDS to consumers who never provided
15 consent to call and to consumers having no relationship with Defendant.

16 33. Defendant knowingly made (and continues to make) these debt
17 collection calls via ATDS without the prior express written consent of the call
18 recipients. As such, Defendant not only invaded the personal privacy of Plaintiff
19 and members of the putative Class, but also intentionally and repeatedly violated
20 the TCPA.

21 **FACTS SPECIFIC TO PLAINTIFF LUCINA CALDERA - TCPA**

22 34. Plaintiff is the regular carrier and exclusive user of her cellular
23 telephone number. The number is assigned to a cellular telephone service for which
24 Plaintiff is charged for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

25 35. Plaintiff never provided Defendant with prior express consent to
26 contact her on her phone via a telephone call.

27 36. Nonetheless, beginning in or around June of 2021, Defendant called
28 Plaintiff on her cell phone, attempting to collect an alleged debt owed from

1 Plaintiff.

2 37. Defendant placed its phone calls from the telephone number
3 confirmed to belong to Defendant, (626) 593-5549.

4 38. Upon information and belief, Defendant used a predictive dialer,
5 which is a form of an “automatic telephone dialing system” as defined by 47 U.S.C.
6 § 227(a)(1), to place the calls.

7 39. Plaintiff suffered a concrete and particularized injury in fact as a result
8 of the unsolicited debt collection calls she received. The call invaded Plaintiff’s
9 privacy, causing annoyance, wasting her time, consuming use of her smartphone
10 device without authorization, and otherwise invading her privacy and intruding into
11 her personal affairs without permission. The debt collection calls also constituted
12 a form of the precise harm that Congress was attempting to prohibit with the TCPA,
13 which was designed to remedy known tortious acts including invasions of privacy
14 and nuisances caused to Americans by automated calls placed without consent.
15 Plaintiff actually suffered this precise injury by receiving the unwanted telephone
16 calls, and having her privacy so invaded through a disturbance of her solitude, and
17 unwanted intrusion of her technology and personal space. Accordingly, Plaintiff
18 has Article III standing to seek redress for these violations in Federal Court.

19 40. The calls Defendant made to Plaintiff invaded Plaintiff’s privacy and
20 violated 47 U.S.C. § 227(b)(1).

21 41. Plaintiff has reason to believe Defendant has called, and continues to
22 call, thousands of wireless telephone customers to market its products and services
23 without consent required by the TCPA.

24 42. In order to redress injuries caused by Defendant’s violations of the
25 TCPA, Plaintiff, on behalf of herself and a class of similarly situated individuals,
26 brings suit under the TCPA, 47 U.S.C. § 227, *et seq.*, which prohibits certain
27 unsolicited calls to cell phones.

28 43. On behalf of the Class, Plaintiff seeks an injunction requiring

1 Defendant to cease all wireless debt collection and spam activities and an award of
2 statutory damages to the class members, together with costs and reasonable
3 attorneys' fees.

4 **FACTS SPECIFIC TO PLAINTIFF LUCINA CALDERA -**
5 **FDCPA/RFDCPA**

6 44. In addition to the facts pled above, at various times prior to the filing
7 of the instant complaint, including within one year preceding the filing of this
8 complaint, Defendant contacted Plaintiff in an attempt to collect an alleged
9 outstanding debt.

10 45. Beginning on or about June 2021, Plaintiff began receiving numerous
11 calls from Defendant.

12 46. Each of these calls were made to Plaintiff in connection with
13 collection on an alleged debt.

14 47. Furthermore, Plaintiff did not owe the alleged debt question.

15 48. Defendant's conduct violated the FDCPA and RFDCPA in multiple
16 ways, including but not limited to:

- 17 a) Causing a telephone to ring repeatedly or continuously to annoy
18 Plaintiff (Cal. Civ. Code § 1788.11(d));
- 19 b) Communicating, by telephone or in person, with Plaintiff with such
20 frequency as to be unreasonable and to constitute an harassment to
21 Plaintiff under the circumstances (Cal. Civ. Code § 1788.11(e));
- 22 c) Causing Plaintiffs telephone to ring repeatedly or continuously with
23 intent to harass, annoy or abuse Plaintiff (15 U.S.C. § 1692d(5));
- 24 d) Communicating with Plaintiff at times or places which were known
25 or should have been known to be inconvenient for Plaintiff (15 U.S.C.
26 § 1692c(a)(1)); and
- 27 e) Engaging in conduct the natural consequence of which is to harass,
28 oppress, or abuse Plaintiff (15 U.S.C. § 1692d)).

1 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
2 The Class includes thousands of members. Plaintiff alleges that The Class
3 members may be ascertained by the records maintained by Defendant.

4 54. Plaintiff and members of The Class were harmed by the acts of
5 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
6 and The Class members via their cellular telephones thereby causing Plaintiff and
7 The Class members to incur certain charges or reduced telephone time for which
8 Plaintiff and The Class members had previously paid by having to retrieve or
9 administer messages left by Defendant during those illegal calls, and invading the
10 privacy of said Plaintiff and The Class members.

11 55. Common questions of fact and law exist as to all members of The
12 Class which predominate over any questions affecting only individual members of
13 The Class. These common legal and factual questions, which do not vary between
14 Class members, and which may be determined without reference to the individual
15 circumstances of any Class members, include, but are not limited to, the following:

- 16 a. Whether, within the four years prior to the filing of this
17 Complaint, Defendant made any debt collection call (other than
18 a call made for emergency purposes or made with the prior
19 express consent of the called party) to a Class member using
20 any automatic telephone dialing system or any artificial or
21 prerecorded voice to any telephone number assigned to a
22 cellular telephone service;
- 23 b. Whether Plaintiff and The Class members were damaged
24 thereby, and the extent of damages for such violation; and
- 25 c. Whether Defendant should be enjoined from engaging in such
26 conduct in the future.

27 56. As a person that received numerous debt collection calls from
28 Defendant using an automatic telephone dialing system or an artificial or

1 prerecorded voice, without Plaintiff's prior express consent, Plaintiff is asserting
2 claims that are typical of The Class.

3 57. Plaintiff will fairly and adequately protect the interests of the members
4 of The Class. Plaintiff has retained attorneys experienced in the prosecution of
5 class actions.

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

17 59. The prosecution of separate actions by individual Class members
18 would create a risk of adjudications with respect to them that would, as a practical
19 matter, be dispositive of the interests of the other Class members not parties to such
20 adjudications or that would substantially impair or impede the ability of such non-
21 party Class members to protect their interests.

22 60. Defendant has acted or refused to act in respects generally applicable
23 to The Class, thereby making appropriate final and injunctive relief with regard to
24 the members of the Classes as a whole.

25 **FIRST CAUSE OF ACTION**

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

27 **47 U.S.C. §227(b).**

28 **By Plaintiff and The Class Against Defendant**

61. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-60.

62. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above cited provisions of 47 U.S.C. § 227(b), and in particular 47 U.S.C. § 227 (b)(1)(A).

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

64. Plaintiff and The Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection

Act

47 U.S.C. §227(b)

By Plaintiff and The Class Against Defendant

65. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-64.

66. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of 47 U.S.C. § 227(b), and in particular 47 U.S.C. § 227 (b)(1)(A).

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

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

THIRD CAUSE OF ACTION

Violations of the Federal Fair Debt Collection Practices Act

15 U.S.C. § 1692 et seq.

By Plaintiff, Individually, Against Defendant

69. Plaintiff repeats and reincorporates by reference into this cause of action allegations set forth above at paragraphs 1-68.

70. To the extent that Defendant's actions, counted above, violated the FDCPA, those actions were done knowingly and willfully.

FOURTH CAUSE OF ACTION

Violations of the Rosenthal Fair Debt Collection Practices Act

Cal. Civ. Code § 1788 et seq.

By Plaintiff, Individually, Against Defendant

71. Plaintiff repeats and reincorporated by refence into this cause of action allegations set forth above at paragraphs 1-70.

72. To the extent that Defendant's actions, counted above, violated the RFDCPA, those actions were done knowingly and willfully

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendant for the following:

FIRST CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227(b)

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

SECOND CAUSE OF ACTION

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

47 U.S.C. §227(b)

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and The Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).
- Any and all other relief that the Court deems just and proper.

THIRD CAUSE OF ACTION

Violations of the Federal Fair Debt Collection Practices Act

15 U.S.C. § 1692 et seq.

WHEREFORE, Plaintiff respectfully prays that judgment be entered against

Defendant for the following:

- A. Actual damages;
- B. Statutory damages for willful and negligent violations;
- C. Costs and reasonable attorney's fees,
- D. For such other and further relief as may be just and proper.

FOURTH CAUSE OF ACTION

Violations of the Rosenthal Fair Debt Collection Practices Act

Cal. Civ. Code § 1788 et seq.

WHEREFORE, Plaintiff respectfully prays that judgment be entered against

Defendant for the following:

- A. Actual damages;
- B. Statutory damages for willful and negligent violations;

1 C. Costs and reasonable attorney's fees,

2 D. For such other and further relief as may be just and proper.

3 **JURY DEMAND**

4 73. Pursuant to the Seventh Amendment to the Constitution of the United
5 States of America, Plaintiff is entitled to, and demands, a trial by jury.

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7 Respectfully Submitted this 14th day of January, 2022.

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

9
10 By: /s/ Todd M. Friedman

11 Todd M. Friedman

12 Law Offices of Todd M. Friedman

13 Attorney for Plaintiff
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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Alleges Ace Cash Express Placed Illegal Debt Collection Robocalls](#)
