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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

THANE CHARMAN, individually) Case No. '21CV1423 BAS KSC
and on behalf of all others similarly)
situated,) **CLASS ACTION**
)
Plaintiff,) **COMPLAINT FOR VIOLATIONS**
) **OF:**
)
vs.)
) 1. NEGLIGENT VIOLATIONS OF
) THE TELEPHONE CONSUMER
) PROTECTION ACT [47 U.S.C. §
17 **TRINITY SOLAR INC.;** DOES 1) 227 ET SEQ.]
18 through 10, inclusive,) 2. WILLFUL VIOLATIONS OF THE
) TELEPHONE CONSUMER
) PROTECTION ACT [47 U.S.C. §
19 Defendants.) 227 ET SEQ.]
)
) **DEMAND FOR JURY TRIAL**

Plaintiff, THANE CHARMAN (“Plaintiff”), individually and 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 remedies resulting from the illegal actions of TRINITY SOLAR INC.

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

4 **JURISDICTION & VENUE**

5 2. Jurisdiction is proper under 28 U.S.C. § 1331 because Plaintiff’s
6 claims arise out of a law of the United States, the TCPA.

7 3. Venue is proper in the United States District Court for the Southern
8 District of California pursuant to 28 U.S.C. § 1391(b) because a substantial portion
9 of the events giving rise to Plaintiff’s claims occurred in this District.

10 **PARTIES**

11 4. Plaintiff, THANE CHARMAN (“Plaintiff”), is a natural person
12 residing in San Diego County of the state of California and is a “person” as defined
13 by 47 U.S.C. § 153(10).

14 5. Defendant, TRINITY SOLAR INC. (“Defendant”), is a solar energy
15 company formed in New Jersey, with its principal place of business located in Wall,
16 New Jersey, and is a “person” as defined by 47 U.S.C. § 153(10).

17 6. The above-named Defendant, and its subsidiaries and agents, are
18 collectively referred to as “Defendants.” The true names and capacities of the
19 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are
20 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious
21 names. Each of the Defendants designated herein as a DOE is legally responsible
22 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the
23 Complaint to reflect the true names and capacities of the DOE Defendants when
24 such identities become known.

25 7. Plaintiff is informed and believes that at all relevant times, each and
26 every Defendant was acting as an agent and/or employee of each of the other
27 Defendants and was acting within the course and scope of said agency and/or
28 employment with the full knowledge and consent of each of the other Defendants.

1 Plaintiff is informed and believes that each of the acts and/or omissions complained
2 of herein was made known to, and ratified by, each of the other Defendants.

3 **FACTUAL ALLEGATIONS**

4 8. During or about November 19, 2020, Defendant contacted Plaintiff on
5 his cellular telephone, (619) 300-1119, in an effort to sell or solicit its services.

6 9. When Plaintiff answered Defendant's call by saying "Hello," there
7 was a momentary pause and a "bloop" sound before Plaintiff heard another voice.

8 10. Plaintiff suspected that the caller was not a live agent, so he asked the
9 caller to say the word "giraffe," in order to determine whether he was speaking to
10 a human being and not a prerecorded voice message.

11 11. In response, the caller nervously laughed before going silent. Plaintiff
12 then said "hello?" which elicited the exact same nervous laugh.

13 12. Later in the call, the caller named a few companies that would be
14 contacting Plaintiff for his "free home solar consultation," which included
15 Defendant, TRINITY SOLAR INC.

16 13. The caller further stated, "just so you know these local installer
17 partners may use an automatic dialing system just like what I've used today to
18 contact you at this number."

19 14. Based on the above factual allegations, Defendant used an "automatic
20 telephone dialing system" ("ATDS"), as defined by 47 U.S.C. § 227(a)(1) to place
21 its call to Plaintiff seeking to sell or solicit its services, as the pause and tone that
22 Plaintiff heard at the outset of Defendant's call is indicative of an ATDS.

23 15. Further, Defendant utilized an "artificial or prerecorded voice" as
24 prohibited by 47 U.S.C. § 227(b)(1)(A) during the call.

25 16. Defendant's call constituted a call that was not for emergency
26 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

27 17. Defendant's call was placed to telephone number assigned to a cellular
28 telephone service for which Plaintiff incurs a charge for incoming calls pursuant to

1 47 U.S.C. § 227(b)(1).

2 18. Plaintiff is not a customer of Defendant’s services and never provided
3 any personal information, including his cellular telephone number, to Defendant
4 prior to Defendant’s call. Accordingly, Defendant never received Plaintiff’s “prior
5 express consent” to receive calls using an automatic telephone dialing system or an
6 artificial or prerecorded voice on his cellular telephone pursuant to 47 U.S.C. §
7 227(b)(1)(A).

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

20 **CLASS ALLEGATIONS**

21 20. Plaintiff brings this action on behalf of himself and all others similarly
22 situated, as a member of the proposed class (hereafter “The Class”) defined as
23 follows:

24 All persons within the United States who received any
25 telephone calls from Defendant to said person’s cellular
26 telephone made through the use of any automatic
27 telephone dialing system or an artificial or prerecorded
28 voice and such person had not previously consented to
receiving such calls within the four years prior to the
filing of this Complaint through the date of class

1 certification.

2 21. Plaintiff represents, and is a member of, The Class, consisting of All
3 persons within the United States who received any telephone calls from Defendant
4 to said person's cellular telephone made through the use of any automatic telephone
5 dialing system or an artificial or prerecorded voice and such person had not
6 previously provided their cellular telephone number to Defendant within the four
7 years prior to the filing of this Complaint through the date of class certification.

8 22. Defendant, its employees and agents are excluded from The Class.
9 Plaintiff does not know the number of members in The Class, but believes the Class
10 members number in the thousands, if not more. Thus, this matter should be
11 certified as a Class Action to assist in the expeditious litigation of the matter.

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

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

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

- 1 a. Whether, within the four years prior to the filing of this
2 Complaint through the date of class certification, Defendant
3 made any call (other than a call made for emergency purposes
4 or made with the prior express consent of the called party) to a
5 Class member using any automatic telephone dialing system or
6 any artificial or prerecorded voice to any telephone number
7 assigned to a cellular telephone service;
- 8 b. Whether Plaintiff and the Class members were damaged
9 thereby, and the extent of damages for such violation; and
- 10 c. Whether Defendant should be enjoined from engaging in such
11 conduct in the future.

12 26. As a person that received a call from Defendant using an automatic
13 telephone dialing system or an artificial or prerecorded voice, without Plaintiff's
14 prior express consent, Plaintiff is asserting claims that are typical of The Class.

15 27. Plaintiff will fairly and adequately protect the interests of the members
16 of The Class. Plaintiff has retained attorneys experienced in the prosecution of
17 class actions.

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

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

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

3 30. 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 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 31. Plaintiff repeats and incorporates by reference into this cause of action
10 the allegations set forth above at Paragraphs 1-30.

11 32. 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 33. As a result of Defendant's negligent violations of 47 U.S.C. § 227 *et*
15 *seq.*, Plaintiff and the Class Members are entitled to 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 34. 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 35. Plaintiff repeats and incorporates by reference into this cause of
25 action the allegations set forth above at Paragraphs 1-30.

26 36. The foregoing acts and omissions of Defendant constitute numerous
27 and multiple knowing and/or willful violations of the TCPA, including but not
28 limited to each and every one of the above cited provisions of 47 U.S.C. § 227 *et*

1 *seq.*

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

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

8 **PRAYER FOR RELIEF**

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

10 **FIRST CAUSE OF ACTION**

11 **Negligent Violations of the Telephone Consumer Protection Act**
12 **47 U.S.C. § 227 *et seq.***

- 13 • As a result of Defendant’s negligent violations of 47 U.S.C. §
14 227(b)(1), Plaintiff and the Class members are entitled to and request
15 \$500 in statutory damages, for each and every violation, pursuant to
16 47 U.S.C. 227(b)(3)(B); and
- 17 • Any and all other relief that the Court deems just and proper.

18 **SECOND CAUSE OF ACTION**

19 **Knowing and/or Willful Violations of the Telephone Consumer Protection**
20 **Act**
21 **47 U.S.C. § 227 *et seq.***

- 22 • As a result of Defendant’s willful and/or knowing violations of 47
23 U.S.C. § 227(b)(1), Plaintiff and the Class members are entitled to
24 and request treble damages, as provided by statute, up to \$1,500, for
25 each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and
26 47 U.S.C. § 227(b)(3)(C); and
- 27 • Any and all other relief that the Court deems just and proper.

1 39. Pursuant to the Seventh Amendment to the Constitution of the United
2 States of America, Plaintiff is entitled to, and demands, a trial by jury.

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6 Respectfully Submitted this 9th day of August, 2021.

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

8
9 By: /s Todd M. Friedman
10 Todd M. Friedman
11 Law Offices of Todd M. Friedman
12 Attorney for Plaintiff
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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

THANE CHARMAN, individually and on behalf of all others similarly situated,

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Law Offices of Todd M. Friedman, P.C. 21550 Oxnard St., Suite 780, Woodland Hills, CA 91367 Phone (323)-306-4234

DEFENDANTS

TRINITY SOLAR INC.; DOES 1 through 10, inclusive,

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)

'21CV1423 BAS KSC

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

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, HABES CORPUS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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. 227, et seq., Brief description of cause: Telephone Consumer Protection Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 500000 CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE August 9, 2021 SIGNATURE OF ATTORNEY OF RECORD /s/ Todd M. Friedman

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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 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.

ClassAction.org

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