

KAZEROUNI LAW GROUP, APC
245 FISCHER AVENUE, UNIT D1
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13 [Additional Attorneys on Signature Page]

14 *Attorneys for Plaintiff,*
Adrian Chavez

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

17 **ADRIAN CHAVEZ, Individually**
18 **and On Behalf of All Others**
Similarly Situated,

19 Plaintiff,

20 v.

21 **NAVY FEDERAL CREDIT**
22 **UNION,**

23 Defendant.
24
25

Case No.: '18CV372 MMABGS

26 **CLASS ACTION**

27 **COMPLAINT FOR DAMAGES**
AND INJUNCTIVE RELIEF
PURSUANT TO THE TELEPHONE
CONSUMER PROTECTION ACT,
47 U.S.C. §§ 227, ET SEQ.

28 **JURY TRIAL DEMANDED**

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1 INTRODUCTION

- 2 1. Plaintiff ADRIAN CHAVEZ (“Plaintiff”) brings this Class Action Complaint
3 for damages, injunctive relief, and any other available legal or equitable
4 remedies, resulting from the illegal actions of defendant NAVY FEDERAL
5 CREDIT UNION (“Defendant”) in negligently, willfully and knowingly
6 contacting Plaintiff on Plaintiff’s cellular telephone without consent, in
7 violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.*
8 (“TCPA”), thereby invading Plaintiff’s privacy.
- 9 2. Plaintiff alleges as follows upon personal knowledge as to himself and his own
10 acts and experiences, and, as to all other matters, upon information and belief,
11 including investigation conducted by his attorneys.
- 12 3. The TCPA was designed to prevent calls like the ones described within this
13 Complaint, and to protect the privacy of citizens like Plaintiff. “Voluminous
14 consumer complaints about abuses of telephone technology – for example,
15 computerized calls dispatched to private homes – prompted Congress to pass
16 the TCPA.” *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 744 (2012).
- 17 4. In enacting the TCPA, Congress intended to give consumers a choice as to how
18 creditors and telemarketers may call them, and made specific findings that
19 “[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
22 this 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 telephone consumers from this nuisance and privacy
invasion.

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

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1 on TCPA’s purpose).

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

6 6. Plaintiff brings this case as a class action seeking damages for himself and all
7 others similarly situated.

8 **JURISDICTION AND VENUE**

9 7. This Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331
10 because this case arises out of the TCPA, 47 U.S.C. § 227, *et seq*, which is a
11 federal consumer protection law.

12 8. Venue is proper before this Court pursuant to 28 U.S.C. § 1391(b)(2) because
13 (i) the events giving rise to Plaintiff’s claims occurred in this District; (ii)
14 Plaintiff resides in this District; and (iii) Defendant transacts business within
15 this District.

16 9. Upon information and belief, Defendant regularly and continuously conducts
17 business within this District, and thus, personal jurisdiction is established.

18 **PARTIES**

19 10. Plaintiff, at all times mentioned herein, is and was a resident of the County of
20 San Diego, in the State of California.

21 11. Plaintiff is, and at all times mentioned herein was, a “person” as defined by 47
22 U.S.C. § 153 (39).

23 12. Defendant is, and at all times mentioned herein was, a credit union chartered
24 and regulated under the authority of the National Credit Union Administration
25 (NCUA), with its principal place of business in Vienna, Virginia and is a
26 “person” as defined by 47 U.S.C. § 153 (39).

27 13. At all times relevant herein, Defendant conducted business in this judicial
28 District.

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FACTUAL ALLEGATIONS

1
2 14. Sometime prior to August 2017, Plaintiff opened a credit card and an unsecured
3 loan with Defendant. As it is irrelevant to this action, Plaintiff currently takes
4 no position as to whether or not these alleged accounts became delinquent due
5 to nonpayment.

6 15. On or about September 12, 2017, the Law Office of Daniel Shay (“Shay”), with
7 Plaintiff’s authorization and on Plaintiff’s behalf, faxed and mailed a cease and
8 desist letter to Defendant informing Defendant of the following:

9 [Plaintiff] hereby revokes any prior express consent that
10 may have been given to receive telephone calls,
11 expressively to [Plaintiff’s] cellular telephone, from an
12 Automated Telephone Dialing System or an artificial or
13 pre-recorded voice, as outlined in the Telephone
14 Consumer Protection Act, 47 U.S.C. § 227 *et seq.* and
[Plaintiff] also revokes any applicable business
relationship.

15 [Plaintiff] has retained [Shay] to stop creditor
16 harassment and to discharge your claim(s) through
17 bankruptcy. Whether you are an original creditor, or a
18 collector, you must cease and desist all communication
19 with [Plaintiff] as required by Cal. Civ. Code § 1788.17
via 15 U.S.C. 1692...

20 16. On or about September 13, 2017, Defendant acknowledged receipt of Plaintiff’s
21 cease and desist letter and informed Shay that Defendant would “cease and
22 desist all communications with [Plaintiff] for all accounts.”

23 17. Despite Plaintiff’s and Shay’s written request to cease and desist any further
24 communication with Plaintiff, and Defendant’s subsequent acknowledgement
25 on September 13, 2017 that Defendant had received the cease and desist letter
26 and would cease further communications, Defendant called Plaintiff on or
27 about September 13, 2017 on Plaintiff’s cellular telephone ending in “2208”
28 from phone number 713-272-2013.

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- 1 18. Upon information and belief, Defendant made this call and all other calls to
2 Plaintiff using an “automatic telephone dialing system” (“ATDS”), as defined
3 by 47 U.S.C. § 227(a)(1), because Plaintiff heard a long pause when answering
4 the phone before a voice came on the line and often times Defendant would not
5 leave Plaintiff a voice message. This is indicative of an ATDS because many
6 such ATDS programs have answering machine detection that recognizes when
7 a call connects to a consumer’s voicemail and instructs the system to
8 disconnect.
- 9 19. Upon information and belief, Defendant’s ATDS has the capacity to store or
10 produce telephone numbers to be called, using a random or sequential number
11 generator.
- 12 20. At all material times hereto, Defendant did not have a “prior express consent”
13 to place autodialed calls to Plaintiff’s cellular telephone, pursuant to 47 U.S.C.
14 § 227 (b)(1)(A).
- 15 21. Plaintiff never gave Defendant any consent to receive calls on his cellular
16 phone, pursuant to 47 U.S.C. § 227 (b)(1)(A).
- 17 22. Further, had Plaintiff previously given any prior express consent, any such
18 alleged consent was effectively revoked through Shay’s and Plaintiff’s cease
19 and desist letter sent to Defendant by facsimile and mail on or about September
20 12, 2017.
- 21 23. Defendant’s call constituted a call that was not made for emergency purposes,
22 as defined by 47 U.S.C. § 227(b)(1)(A).
- 23 24. Defendant’s call was placed to a telephone number assigned to a cell phone
24 service for which Plaintiff incurs a charge for incoming calls pursuant to 47
25 U.S.C. § 227(b)(1).
- 26 25. Through the unwanted call from Defendant, Plaintiff suffered an invasion of
27 his legally protected interest in privacy, which is specifically addressed and
28 protected by the TCPA.

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1 26. Plaintiff was personally affected by Defendant’s aforementioned conduct
2 because Plaintiff was frustrated and distressed that Defendant interrupted
3 Plaintiff with an unwanted call using an ATDS.

4 27. Defendant’s calls forced Plaintiff and other similarly situated class members to
5 live without the utility of their cell phones by forcing Plaintiff and class
6 members to silence their cellular phones and/or block incoming numbers and
7 by occupying their cell phones with one or more unwanted calls, causing a
8 nuisance and lost time.

9 28. Plaintiff is informed and believes and here upon alleges, that the unwanted calls
10 were made by Defendant and/or Defendant’s agent(s), with Defendant’s
11 permission, knowledge, and control, for Defendant’s benefit.

12 29. Through the aforementioned conduct, Defendant or its agent(s) has violated 47
13 U.S.C. § 227(b)(1).

14 **CLASS ACTION ALLEGATIONS**

15 30. Plaintiff brings this action on behalf of himself and all others similarly situated
16 (the “Class”).

17 31. Plaintiff represents, and is a member of the Class, consisting of:

18 All persons within the United States who received any
19 telephone call from Defendant Navy Federal Credit Union
20 or its agent/s and/or employee/s, not sent for emergency
21 purposes, to said person’s cellular telephone made through
22 the use of any automatic telephone dialing system and/or
with an artificial or prerecorded voice within the four years
prior to the filing of this Complaint.

23 32. Defendant and its employees or agents are excluded from the Class. Plaintiff
24 does not know the number of members in the Class, but believes the Class
25 members number in the thousands, if not more. Thus, this matter should be
26 certified as a Class action to assist in the expeditious litigation of this matter.

27 33. Plaintiff and members of the Class were harmed by the acts of Defendant in at
28 least the following ways: Defendant, either directly or through their agents,

1 illegally contacted Plaintiff and the Class members via their cell phones by
2 using an ATDS, thereby causing Plaintiff and the Class members to incur
3 certain cell phone charges or reduce cell phone time for which Plaintiff and the
4 Class members previously paid, and invading the privacy of said Plaintiff and
5 the Class members. Plaintiff and the Class members were damaged thereby.

6 34. This suit seeks only damages and injunctive relief for recovery of economic
7 injury on behalf of the Class, and it expressly is not intended to request any
8 recovery for personal injury and claims related thereto. Plaintiff reserves the
9 right to expand the Class definition to seek recovery on behalf of additional
10 persons as warranted as facts are learned in further investigation and discovery.

11 35. **Numerosity**. The joinder of the Class members is impractical and the
12 disposition of their claims in the Class action will provide substantial benefits
13 both to the parties and to the court. The Class can be identified through
14 Defendant's records or Defendant's agents' records.

15 36. **Existence and Predominance of Common Questions of Law and Fact.**
16 There is a well-defined community of interest in the questions of law and fact
17 involved affecting the parties to be represented. The questions of law and fact
18 to the Class predominate over questions which may affect individual Class
19 members, including the following:

- 20 a) Whether, within the four years prior to the filing of this Complaint,
21 Defendant or their agents initiated any telephonic communications to
22 the Class (other than a message made for emergency purposes or made
23 with the prior express consent of the called party) using any automatic
24 dialing system or prerecorded voice to any telephone number assigned
25 to a cellular phone service;
- 26 b) Whether Defendant can meet its burden of showing Defendant obtained
27 prior express consent;
- 28 c) Whether Defendant's conduct was knowing and/or willful;

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- 1 d) Whether Plaintiff and the Class members were damaged thereby, and
- 2 the extent of damages for such violation;
- 3 e) Whether Defendant and its agents should be enjoined from engaging in
- 4 such conduct in the future; and
- 5 f) Whether Plaintiff and the Class are entitled to any other relief.

6 37. **Typicality**. As a person that received at least one telephonic communication
7 from Defendant via an ATDS without Plaintiff’s prior express consent, Plaintiff
8 is asserting claims that are typical of the Class. Plaintiff will fairly and
9 adequately represent and protect the interests of the Class in that Plaintiff has
10 no interests antagonistic to any member of the Class.

11 38. Plaintiff and the members of the Class have all suffered irreparable harm as a
12 result of Defendant’s unlawful and wrongful conduct. Absent a class action,
13 the Class will continue to face the potential for irreparable harm. In addition,
14 these violations of law will be allowed to proceed without remedy and
15 Defendant will likely continue such illegal conduct. Because of the size of the
16 individual Class member’s claims, few, if any, Class members could afford to
17 seek legal redress for the wrongs complained of herein.

18 39. **Adequacy of Representation**. Plaintiff will fairly and adequately represent
19 and protect the interests of other members of the Class in that Plaintiff has no
20 interests antagonistic to any member of the Class. Further, Plaintiff has retained
21 counsel experienced in handling class action claims and claims involving
22 violations of the Telephone Consumer Protection Act.

23 40. **Superiority**. A class action is a superior method for the fair and efficient
24 adjudication of this controversy. Class-wide damages are essential to induce
25 Defendant to comply with federal and California law. The interest of Class
26 members in individually controlling the prosecution of separate claims against
27 Defendant is small because the maximum statutory damages in an individual
28 action for violation of privacy are minimal. Management of these claims is

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1 likely to present significantly fewer difficulties than those presented in many
2 class claims.

3 41. Defendant has acted on grounds generally applicable to the Class, thereby
4 making appropriate final injunctive relief and corresponding declaratory relief
5 with respect to the Class as a whole.

6 **FIRST CAUSE OF ACTION**

7 **NEGLIGENT VIOLATIONS OF THE TCPA**

8 **47 U.S.C. § 227, ET SEQ.**

9 42. Plaintiff incorporates by reference all of the above paragraphs of this Complaint
10 as though fully stated herein.

11 43. The foregoing acts and omissions of Defendant constitute numerous and
12 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 44. As a result of Defendant’s negligent violations of 47 U.S.C. § 227, *et seq.*,
15 Plaintiff and the Class are entitled to an award of \$500.00 in statutory damages,
16 for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

17 45. Plaintiff and the Class are also entitled to and seek injunctive relief prohibiting
18 such conduct in the future.

19 **SECOND CAUSE OF ACTION**

20 **KNOWING AND/OR WILLFUL VIOLATIONS OF THE TCPA**

21 **47 U.S.C. § 227, ET SEQ.**

22 46. Plaintiff incorporates by reference all of the above paragraphs of this Complaint
23 as though fully stated herein.

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

28 ///

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

5 49. Plaintiff and the Class are also entitled to and seek injunctive relief prohibiting
6 such conduct in the future.

7 **PRAYER FOR RELIEF**

8 **WHEREFORE**, Plaintiff respectfully requests the Court to grant Plaintiff
9 and the Class the following relief against Defendant:

- 10 • Certify the Class as requested herein;
- 11 • Appoint Plaintiff to serve as the Class Representative in this matter;
- 12 • Appoint Plaintiff’s Counsel as Class Counsel in this matter; and
- 13 • Any such further relief as may be just and proper.

14 In addition, Plaintiff and the Class members pray for further judgment as follows
15 against Defendant:

16 **FIRST CAUSE OF ACTION**
17 **NEGLIGENT VIOLATION OF**
18 **THE TCPA, 47 U.S.C. § 227, ET SEQ.**

- 19 • As a result of Defendant’s negligent violations of 47 U.S.C. § 227(b)(1),
20 Plaintiff seeks for himself and each Class member \$500.00 in statutory
21 damages, for each and every violation, pursuant to 47 U.S.C. §
22 227(b)(3)(B);
- 23 • Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such
24 conduct in the future; and
- 25 • Any other relief the Court may deem just and proper.

26 ///

27 ///

28 ///

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1 SECOND CAUSE OF ACTION
2 KNOWING/WILLFUL VIOLATION OF
3 THE TCPA, 47 U.S.C. § 227, ET SEQ.

- 4 • As a result of Defendant’s knowing and/or willful violation of 47 U.S.C. §
- 5 227(b)(1), Plaintiff seeks for himself and each Class member \$1,500.00 in
- 6 statutory damages, for each and every violation, pursuant to 47 U.S.C. §
- 7 227(b)(3)(B);
- 8 • Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such
- 9 conduct in the future; and
- 10 • Any other relief the Court may deem just and proper.

11 TRIAL BY JURY

12 50. Pursuant to the Seventh Amendment to the Constitution of the United States of
13 America, Plaintiff is entitled to, and demands, a trial by jury.

14
15
16 Dated: February 16, 2018

Respectfully submitted,

17 **KAZEROUNI LAW GROUP, APC**

18
19 By: s/ Abbas Kazerounian
20 ABBAS KAZEROUNIAN, ESQ.
21 AK@KAZLG.COM
ATTORNEYS FOR PLAINTIFF

22 Additional Plaintiff’s Counsel:

23
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Facsimile: (619) 297-1022

JS 44 (Rev. 06/17)

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.)

<p>I. (a) PLAINTIFFS</p> <p>ADRIAN CHAVEZ, Individually and On Behalf of All Others Similarly Situated, (b) County of Residence of First Listed Plaintiff <u>San Diego</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number)</p> <p>See "attachment"</p>	<p>DEFENDANTS</p> <p>NAVY FEDERAL CREDIT UNION</p> <p>County of Residence of First Listed Defendant <u>Fairfax County, Virginia</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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'18CV372 MMABGS

<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		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
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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																				

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	<p>PERSONAL INJURY</p> <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	<p>PERSONAL INJURY</p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <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	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157
			PROPERTY RIGHTS	<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 <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
			LABOR	
			SOCIAL SECURITY	
			FEDERAL TAX SUITS	
<p>REAL PROPERTY</p> <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	<p>CIVIL RIGHTS</p> <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	<p>PRISONER PETITIONS</p> <p>Habeas Corpus:</p> <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	<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	

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):
 Telephone Consumer Protection Act, 47 U.S.C. §§ 227, et seq.

Brief description of cause:
 Navy Federal Credit Union negligently, willfully, and knowingly contacted Mr. Chavez without his consent.

VII. REQUESTED IN COMPLAINT:

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

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: February 16, 2018 SIGNATURE OF ATTORNEY OF RECORD: /s/ Abbas Kazerounian

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. 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 – 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.

Attachment

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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: [TCPA Suit Filed Against Navy Federal Credit Union Over Unwanted Robocalls](#)
