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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

**LAURENCE CLAYTON**, individually) Case No.  
and on behalf of all others similarly )  
situated, ) **CLASS ACTION**  
)  
Plaintiff, ) **COMPLAINT FOR VIOLATIONS**  
) **OF:**  
vs. )  
) 1. NEGLIGENT VIOLATIONS  
) OF THE TELEPHONE  
16 **EGS FINANCIAL CARE, INC.;** ) CONSUMER PROTECTION  
DOES 1-10 inclusive, ) ACT [47 U.S.C. §227 ET  
) SEQ.]  
) 2. WILLFUL VIOLATIONS  
18 Defendants. ) OF THE TELEPHONE  
) CONSUMER PROTECTION  
) ACT [47 U.S.C. §227 ET  
) SEQ.]  
) **DEMAND FOR JURY TRIAL**

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

5 **JURISDICTION & VENUE**

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

14 3. Venue is proper in the United States District Court for the CENTRAL  
15 District of California pursuant to 28 U.S.C. § 1391(b)(2) because Defendant does  
16 business within the state of California and the County of Kern.

17 **PARTIES**

18 4. Plaintiff, LAURENCE CLAYTON (“Plaintiff”), is a natural person  
19 residing in Ridgecrest, California, and is a “person” as defined by 47 U.S.C. § 153  
20 (10).

21 5. Defendant, EGS FINANCIAL CARE, INC. (“Defendant”), is a  
22 company that purchases consumer debts and collecting thereon from debtors, and  
23 is a “person” as defined by 47 U.S.C. § 153 (10).

24 6. The above named Defendant, and its subsidiaries and agents, are  
25 collectively referred to as “Defendants.” The true names and capacities of the  
26 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are  
27 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious  
28 names. Each of the Defendants designated herein as a DOE is legally responsible

1 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the  
2 Complaint to reflect the true names and capacities of the DOE Defendants when  
3 such identities become known.

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

10 **FACTUAL ALLEGATIONS**

11 8. Beginning in or around March of 2016, and continuing through July  
12 of 2016, Defendant contacted Plaintiff on his cellular telephone ending in -1596 in  
13 connection with attempted collection on an alleged outstanding debt.

14 9. Defendant placed multiple calls to Plaintiff, often averaging at least  
15 one (1) call per to Plaintiff's cellular telephone in the span of several months.

16 10. Defendant made these calls seeking to collect an alleged debt owed by  
17 Plaintiff.

18 11. Defendant called from phone numbers confirmed to belong to  
19 Defendant, including without limitation (877) 278-5297.

20 12. Defendant used an "automatic telephone dialing system," as defined  
21 by *47 U.S.C. § 227(a)(1)* to place its frequent and incessant calls to Plaintiff seeking  
22 to collect the debt allegedly owed.

23 13. Defendant's calls constituted calls that were not for emergency  
24 purposes as defined by *47 U.S.C. § 227(b)(1)(A)*.

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

28 15. Plaintiff has never provided any personal information, including his

1 cellular telephone number, to Defendant for any purpose whatsoever. Accordingly,  
2 Defendant never received Plaintiff's "prior express consent" to receive calls using  
3 an automatic telephone dialing system or an artificial or prerecorded voice on his  
4 cellular telephone pursuant to 47 U.S.C. § 227(b)(1)(A).

5 **CLASS ALLEGATIONS**

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

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

15 17. Plaintiff represents, and is a member of, The Class, consisting of All  
16 persons within the United States who received any collection telephone calls from  
17 Defendant to said person's cellular telephone made through the use of any  
18 automatic telephone dialing system and such person had not previously not  
19 provided their cellular telephone number to Defendant within the four years prior  
20 to the filing of this Complaint.

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

25 19. The Class is so numerous that the individual joinder of all of its  
26 members is impractical. While the exact number and identities of The Class  
27 members are unknown to Plaintiff at this time and can only be ascertained through  
28 appropriate discovery, Plaintiff is informed and believes and thereon alleges that

1 The Class includes thousands of members. Plaintiff alleges that The Class  
2 members may be ascertained by the records maintained by Defendant.

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

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

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

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

28 23. Plaintiff will fairly and adequately protect the interests of the members

1 of The Class. Plaintiff has retained attorneys experienced in the prosecution of  
2 class actions.

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

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

19 26. Defendant has acted or refused to act in respects generally applicable  
20 to The Class, thereby making appropriate final and injunctive relief with regard to  
21 the members of the California Class as a whole.

22 **FIRST CAUSE OF ACTION**

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

24 **47 U.S.C. §227 et seq.**

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

27 28. The foregoing acts and omissions of Defendant constitute numerous  
28 and multiple negligent violations of the TCPA, including but not limited to each

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

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

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

7 **SECOND CAUSE OF ACTION**

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

9 **47 U.S.C. §227 et seq.**

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

12 32. The foregoing acts and omissions of Defendant constitute numerous  
13 and multiple knowing and/or willful violations of the TCPA, including but not  
14 limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et*  
15 *seq.*

16 33. As a result of Defendant's knowing and/or willful violations of *47*  
17 *U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of  
18 \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C.*  
19 *§ 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

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

22 **PRAYER FOR RELIEF**

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

24 **FIRST CAUSE OF ACTION**

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

26 **47 U.S.C. §227 et seq.**

- 27 • As a result of Defendant's negligent violations of *47 U.S.C. §*  
28 *227(b)(1)*, Plaintiff and the Class members are entitled to and request

1 \$500 in statutory damages, for each and every violation, pursuant to  
2 *47 U.S.C. § 227(b)(3)(B)*.

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

4 **SECOND CAUSE OF ACTION**

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

6 **47 U.S.C. §227 et seq.**

- 7 • As a result of Defendant’s willful and/or knowing violations of *47*  
8 *U.S.C. § 227(b)(1)*, Plaintiff and the Class members are entitled to  
9 and request treble damages, as provided by statute, up to \$1,500, for  
10 each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)* and  
11 *47 U.S.C. § 227(b)(3)(C)*.

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

13 **JURY DEMAND**

14 35. Plaintiff demands a trial by jury on all issues so triable pursuant to his  
15 rights under the Seventh Amendment to the Constitution of the United States of  
16 America.

17  
18 Respectfully Submitted this 3d day of April, 2017.

19 **LAW OFFICES OF TODD M. FRIEDMAN, P.C.**

20 By: /s/ Todd M. Friedman  
21 Todd M. Friedman  
22 Law Offices of Todd M. Friedman  
23 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

LAURENCE CLAYTON, individually and on behalf of all others similarly situated,

(b) County of Residence of First Listed Plaintiff Kern (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 (877) 206-4741

DEFENDANTS

EGS FINANCIAL CARE, INC.; DOES 1-10 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)

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)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, 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)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Real Estate, etc.

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, 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 et seq. Brief description of cause: Violation 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 \$ 5,000,001.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 04/03/2017 SIGNATURE OF ATTORNEY OF RECORD s/Todd M. Friedman

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Case 1:17-cv-00473-DAD-JLT Document 1-1 Filed 04/03/17 Page 2 of 2  
**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.

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Filed Against EGS Financial for Unwanted Robocalls](#)

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