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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Patricia Crawford, for herself and on
behalf of all others similarly situated,

Plaintiff;

Case No.:

CLASS ACTION COMPLAINT

Jury Trial Demanded

v.

**National Rifle Association of America
Political Victory Fund**, a Virginia
Corporation; and **John & Jane Does 1-10**;
and **Does 1–10**,

Defendants.

Plaintiff Patricia Crawford, on her own behalf and on behalf of all others similarly situated, for her Complaint and cause of action against National Rifle Association of America Political Victory Fund alleges as follows upon personal knowledge as to herself and her own acts and experiences:

I. PARTIES, JURISDICTION, AND VENUE

1. Plaintiff Patricia Crawford (“Crawford”) was a citizen of Arizona at all times material to this complaint.

1 2. Defendant National Rifle Association of America Political Victory Fund.
2 (“NRAPVF”) purports to be a political action committee supporting more than one federal
3 candidate, with its principal office located at 11250 Waples Mill Road, Fairfax, VA 22030.

4 3. This Court has federal question jurisdiction under 28 U.S.C. § 1331 because
5 this Complaint alleges violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227.

6 4. Venue is proper in this Court pursuant to 28 U.S.C. § 227(E) and
7 28 U.S.C. § 1391.

8 5. This Court has personal jurisdiction over Defendant because it purposefully
9 directed tortious and illegal conduct at the forum out of which Plaintiff’s claims arise, thus
10 satisfying the requirements of specific jurisdiction because the exercise of *in personam*
11 jurisdiction as to each Defendant comports with “fair play and substantial justice.”

12 **II. SUMMARY OF THE CASE**

13 6. Crawford’s allegations are based upon personal knowledge as to herself and her
14 own acts, and, as to all other matters, upon information and belief, including investigation
15 conducted by her attorneys.

16 7. NRAPVF purports to be a Political Action Committee.

17 8. NRAPVF is headquartered in Fairfax, Virginia.

18 9. NRAPVF operates under many fictitious names including “NRA-PVF” and
19 “NRA Political Victory Fund.”

20 10. NRAPVF targets Arizona residents with its political messages.

21 11. Crawford and Class Members have no relationship with Defendant, and never
22 provided their telephone numbers to Defendant.

23 12. Nevertheless, Defendant embarked on an unsolicited text message campaign,
24 causing Crawford and class members injuries, including invasion of their privacy,
25 aggravation, annoyance, intrusion on seclusion, trespass, and conversion.

1 13. Through this action, Crawford seeks injunctive relief to halt Defendant’s illegal
2 conduct.

3 14. Crawford also seeks statutory damages on behalf of herself and Class Members,
4 as defined below, and any other available legal or equitable remedies resulting from the illegal
5 actions of Defendant.

6 **III. TCPA**

7 15. The TCPA prohibits: (1) any person from calling a cellular telephone number;
8 (2) using an artificial or prerecorded voice; (3) without the recipient’s prior express consent.
9 47 U.S.C. § 227(b)(1)(A).

10 16. The TCPA (with exceptions that do not apply here) also prohibits the initiation
11 of “any telephone call to any residential telephone line using an artificial or prerecorded voice
12 to deliver a message without the prior express consent of the called party” 47
13 U.S.C. § 227(b)(1)(B).

14 17. The TCPA prohibits communications like the ones described within this
15 Complaint. *See Mims v. Arrow Fin. Servs., LLC*, 565 U.S. 368 (2012).

16 18. In an action under the TCPA, a plaintiff must show only that the defendant
17 “called a number assigned to a cellular telephone service using an automatic dialing system
18 or prerecorded voice.” *Breslow v. Wells Fargo Bank, N.A.*, 857 F. Supp. 2d 1316, 1319 (S.D.
19 Fla. 2012), *aff’d*, 755 F.3d 1265 (11th Cir. 2014).

20 19. The Federal Communications Commission (“FCC”) is empowered to issue
21 rules and regulations implementing the TCPA. According to the FCC’s findings, calls in
22 violation of the TCPA are prohibited because, as Congress found, automated or prerecorded
23 telephone calls are a greater nuisance and invasion of privacy than live calls, and such calls
24 can be costly and inconvenient. The FCC also recognized that wireless customers are charged
25 for incoming calls whether they pay in advance or after the minutes are used.

26

1 20. A defendant must demonstrate that it obtained the plaintiff’s prior express
2 consent before using an automatic dialing system to contact an individual. *See In the Matter*
3 *of Rules and Regulations Implementing the Tel. Consumer Prot. Act of 1991*, 30 FCC Rcd.
4 7961, 7991-92 (2015) (requiring express consent “for non-telemarketing and non-advertising
5 calls”).

6 21. Lastly, with respect to standing, as recently held by the United States Court of
7 Appeals for the Ninth Circuit:

8 Unsolicited [] phone calls or text messages, by their nature,
9 invade the privacy and disturb the solitude of their recipients. A
10 plaintiff alleging a violation under the TCPA “need not allege any
additional harm beyond the one Congress has identified.”

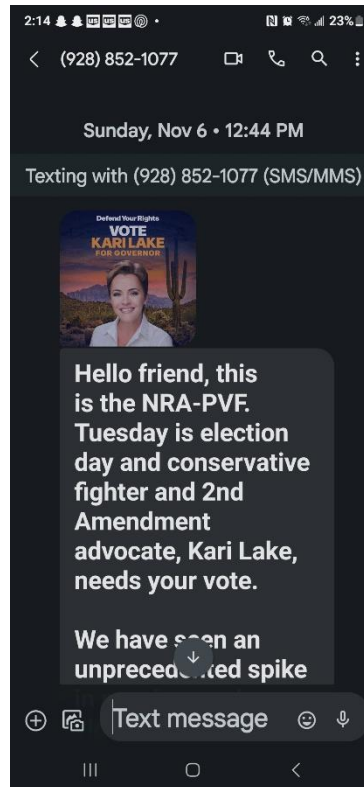
11 *Van Patten v. Vertical Fitness Grp., LLC*, 847 F.3d 1037 (9th Cir. 2017) (quoting *Spokeo,*
12 *Inc. v. Robins*, 578 U.S. 330 (2016)).

13 22. Similarly, the United States Court of Appeals for the Second Circuit recently
14 held that the receipt of an unsolicited call “demonstrates more than a bare violation and
15 satisfies the concrete-injury requirement for standing.” *Leyse v. Lifetime Entm't Servs., LLC*,
16 Nos. 16-1133-cv, 16-1425-cv, 2017 U.S. App. LEXIS 2607 (2d Cir. Feb. 15, 2017) (citing *In*
17 *re Methyl Tertiary Butyl Ether (MTBE) Prods. Liab. Litig.*, 725 F.3d 65, 105 (2d Cir. 2013)
18 (“The injury-in-fact necessary for standing need not be large; an identifiable trifle will
19 suffice.”); *Golan v. Veritas Entm't, LLC*, 788 F.3d 814, 819-21 (8th Cir. 2015) (holding that
20 receipt of two brief unsolicited robocalls as voicemail messages was sufficient to establish
21 standing under TCPA); *Palm Beach Golf Ctr.-Boca, Inc. v. John G. Sarris, D.D.S., P.A.*, 781
22 F.3d 1245, 1252 (11th Cir. 2015) (holding that injury under similar TCPA provision may be
23 shown by one-minute occupation of fax machine)).

24 **IV. GENERAL ALLEGATIONS**

25 23. Defendant embarked upon an intrusive automated text messaging campaign to
26 promote its political agenda.

1 24. On November 6, 2022, Defendant placed, or caused to be placed, an automated
2 text message to Crawford’s cellular telephone number ending in 2632 (“2632 Number”):
3



17

18 25. The text message included a video file that was automatically downloaded to
19 Crawford’s phone and contained an artificial or prerecorded voice.

20 26. Crawford received the subject text within the State of Arizona, therefore,
21 Defendant’s violations of the TCPA occurred within the State of Arizona.

22 27. Upon information and belief, Defendant caused similar texts to be sent to other
23 individuals residing within Arizona.

24 28. At no point in time did Crawford provide Defendant with her express consent
25 to be contacted by telephone using an artificial or prerecorded voice.
26

1 29. Crawford is the sole user of the 2632 Number. It is her only residential
2 telephone.

3 30. It is unknown how Defendant obtained the 2632 Number.

4 31. The reported phone number for the text message constantly returns a busy
5 signal.

6 32. The text message does not provide any identifiable characteristics of the
7 intended recipient; rather, the text message is drafted so that it can be sent out *en masse*
8 without variation.

9 33. Defendant's unsolicited text caused Crawford actual harm, including invasion
10 of her privacy, aggravation, annoyance, intrusion on seclusion, trespass, and conversion.

11 34. Defendant's text message also inconvenienced Crawford and caused disruption
12 to her daily life.

13 **V. CLASS ALLEGATIONS**

14 35. Courts regularly certify class actions seeking redress under the TCPA. *See, e.g.,*
15 *Meyer v. Portfolio Recovery Assocs., LLC*, 707 F.3d 1036 (9th Cir. 2012) (affirming
16 certification of provisional class under TCPA).

17 **A. Proposed Class**

18 36. Crawford brings this case as a class action pursuant to Federal Rule of Civil
19 Procedure 23, on behalf of herself and all others similarly situated.

20 37. The proposed class members (the "Class") are readily ascertainable.

21 38. The number and identity of the Class are determinable from the records of
22 Defendant.

23 39. For the purpose of notice and other purposes related to this action, upon
24 information and belief, the names and addresses of the Class are readily available from
25 Defendant.

26 40. Notice to the Class can be provided by means permissible under FRCP 23.

1 41. Crawford brings this case on behalf of the below defined Class:

2 All persons within the United States (1) who, within the four years
3 prior to the filing of this Complaint; (2) were sent a text message;
4 (3) from Defendant or anyone on Defendant's behalf; (4) to the
5 person's cellular telephone number or residential line; (5) that
6 included an artificial or prerecorded voice in a video; (6) without
7 the recipient's prior express consent.

8 42. Defendant and their employees or agents are excluded from the Class.

9 43. Crawford does not know the number of members in the Class but believes the
10 number to *at least* be in the thousands, if not tens-of-thousands.

11 **B. Numerosity**

12 44. Upon information and belief, Defendant has placed automated text messages to
13 cellular telephone numbers belonging to thousands of voters throughout Arizona without their
14 prior express consent.

15 45. Upon information and belief, the members of the Class are so numerous that
16 joinder of all members is impracticable.

17 46. The exact number and identities of the Class members are unknown at this time
18 and can be ascertained only through discovery.

19 47. Identification of the Class members is a matter capable of ministerial
20 determination from Defendant's text message records.

21 **C. Common Questions of Law and Fact**

22 48. There are numerous questions of law and fact common to the Class that
23 predominate over any questions affecting only individual members of the Class.

24 49. Among the questions of law and fact common to the Class are:

- 25 (i) Whether Defendant sent non-emergency text messages to Plaintiff and
26 Class members' cellular telephones that included an artificial or
prerecorded voice in a video file;

- 1 (ii) Whether Defendant can meet its burden of showing that it obtained prior
2 express written consent to send such text messages;
3 (iii) Whether Defendant is liable for damages, and the amount of such
4 damages; and
5 (iv) Whether Defendant should be permanently enjoined from such conduct
6 in the future.

7 50. The common questions in this case will have common answers. If Crawford's
8 claim that Defendant sent text messages to telephone numbers assigned to cellular telephone
9 services is accurate, Crawford and the Class members will have identical claims capable of
10 being efficiently adjudicated and administered in this case.

11 **D. Typicality**

12 51. Defendant has acted on grounds equally applicable to the entire Class, making
13 final relief appropriate to the Class as a whole.

14 **E. Adequacy of Representation**

15 52. Crawford can fairly and adequately protect the interests of the Class and has no
16 interests antagonistic to the same; to the extent necessary and appropriate, additional putative
17 representatives of the Class may be named as plaintiffs by way of amendment.

18 53. Plaintiff is represented by counsel who is experienced and competent in both
19 class actions and consumer rights litigation.

20 54. Counsel is willing and able to devote the resources necessary for the successful
21 prosecution of this action.

22 55. Crawford will fully and adequately assert and protect the interests of the Class
23 and has retained competent counsel that has previous experience in class action litigation.
24 *Zwicky et. al. v. Diamond Resorts International et. al.*, District of Arizona
25 2:20-CV-02322-PHX-DJH. Accordingly, Crawford is an adequate representative and will
26 fairly and adequately protect the interests of the Class.

1 **F. Superiority**

2 56. Class action treatment will permit many similarly situated persons to prosecute
3 their common claims in a single forum simultaneously, efficiently, and without the
4 unnecessary duplication of effort and expense that individual actions would entail.

5 57. Further, the dollar amounts of each individual claim are too small to
6 economically justify full-blown litigation efforts against Defendant with the result that most
7 of the individual claims of the Class would otherwise go unremedied, and Defendant would
8 be allowed to continue harassing people despite knowing that their conduct is illegal.

9 58. The likelihood of individual Class members prosecuting their own separate
10 claims is remote, and, even if every member of the Class could afford individual litigation,
11 the court system would be unduly burdened by individual litigation of such cases.

12 59. Individual litigation would also pose a risk of inconsistent adjudications on
13 identical facts and identical legal issues.

14 60. Individual litigation may also be dispositive of the interests of the Class,
15 although certain class members are not parties to such actions.

16 61. For the foregoing reasons, class treatment is superior to all other available
17 methods for the fair and efficient adjudication of this lawsuit as it represents the most efficient
18 and effective use of the Court's limited resources and the most efficient and effective way of
19 vindicating the rights of the Class.

20 **VI. CAUSE OF ACTION**

21 **1. COUNT I: VIOLATIONS OF THE TCPA, 47 U.S.C. § 227(b)(1)(A)**

22 62. All foregoing allegations are incorporated herein by reference.

23 63. It is a violation of the TCPA to make “any call (other than a call made for
24 emergency purposes or made with the prior express consent of the called party) using . . . an
25 artificial or prerecorded voice . . . to any telephone number assigned to a . . . cellular telephone
26 service” 47 U.S.C. § 227(b)(1)(A)(iii).

1 64. Defendant – or third parties directed by Defendant – sent text messages that
2 included a video that contained an artificial or prerecorded voice for non-emergency
3 telephone calls to the cellular telephones of Plaintiff and the other members of the Class.

4 65. These text messages were sent without regard to whether Defendant had first
5 obtained express permission from the text messaged party to make such text messages. In
6 fact, Defendant did not have prior express consent to text message the cellular phones of
7 Plaintiff and the other members of the putative Class when its text messages were made.

8 66. Defendant violated § 227(b)(1)(A)(iii) of the TCPA by sending text messages
9 that included a video that contained an artificial or prerecorded voice for non-emergency
10 telephone text messages to the cellular phones of Plaintiff and the other members of the
11 putative Class without their prior express consent.

12 67. Defendant is liable for each such violation of the TCPA.

13 68. As a result of Defendant’s conduct and pursuant to § 227(b)(3) of the TCPA,
14 Plaintiff and Class Members were harmed and are each entitled to a minimum of \$500.00 in
15 damages for each violation.

16 69. Crawford and the class are also entitled to a permanent injunction against future
17 calls or text messages.

18 **2. COUNT II: VIOLATIONS OF THE TCPA, 47 U.S.C. § 227(b)(1)(B)**

19 70. All foregoing allegations are incorporated herein by reference.

20 71. It is a violation of the TCPA to initiate “any telephone call to any residential
21 telephone line using an artificial or prerecorded voice to deliver a message without the prior
22 express consent of the called party” 47 U.S.C. § 227(b)(1)(B).

23 72. Defendant – or third parties directed by Defendant – sent text messages to
24 Crawford’s residential cellular phone containing a prerecorded voice to deliver NRAPVF’s
25 message to the cellular phones of Plaintiff and other members of the Class.

26

1 73. These text messages were sent without regard to whether Defendant had first
2 obtained express permission from the text messaged party to make such text messages. In
3 fact, Defendant did not have prior express consent to text message the cellular phones of
4 Plaintiff and the other members of the putative Class when its text messages were made.

5 74. Defendant violated § 227(b)(1)(B) of the TCPA by sending texts that included
6 video that contained an artificial or prerecorded voice to the cellular phones of Plaintiff and
7 the other members of the putative Class, without their prior express consent.

8 75. Defendant is liable for each such violation of the TCPA.

9 76. As a result of Defendant's conduct and pursuant to § 227(b)(3) of the TCPA,
10 Plaintiff and Class Members were harmed and are each entitled to a minimum of \$500.00 in
11 damages for each violation.

12 77. Crawford and the class are also entitled to a permanent injunction against future
13 calls or text messages.

14 **WHEREFORE**, Crawford, for herself and on behalf of all others similarly situated,
15 respectfully prays for the following relief:

16 A. A declaration that Defendants' practices described herein violate the Telephone
17 Consumer Protection Act, 47 U.S.C. § 227;

18 B. An injunction prohibiting Defendant from sending text messages that include a
19 video that contains an artificial or prerecorded voice to telephone numbers assigned to cellular
20 telephones without the prior express consent of the called party;

21 C. An injunction prohibiting Defendant from sending text messages that include a
22 video that contain an artificial or prerecorded voice to residential cellular telephones without
23 the prior express consent of the called party;

24 D. An award of actual and statutory damages;

25
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1 E. An award of costs and reasonable attorney’s fees incurred in the prosecution of
2 the Class claims herein;

3 F. Certification of the Class for the claim brought herein pursuant to Federal Rule
4 of Civil Procedure 23; and

5 G. For such other relief as the Court deems just and proper.

6 RESPECTFULLY SUBMITTED this 23rd day of May, 2023.

7
8 /s/ Jon L. Phelps
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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: [NRA Political Victory Fund Hit with Class Action Over Alleged Text Message Spam](#)
