

SCHUBERT JONCKHEER & KOLBE LLP
Three Embarcadero Center, Suite 1650
San Francisco, CA 94111
(415) 788-4220

1 ROBERT C. SCHUBERT S.B.N. 62684
2 WILLEM F. JONCKHEER S.B.N. 178748
3 SCHUBERT JONCKHEER & KOLBE LLP
4 Three Embarcadero Center, Suite 1650
5 San Francisco, California 94111
6 Telephone: (415) 788-4220
7 Facsimile: (415) 788-0161
8 rschubert@schubertlawfirm.com
9 wjonckheer@schubertlawfirm.com

10 *Local Counsel for Plaintiff*

11 BRIAN J. WANCA
12 ANDERSON & WANCA
13 3701 Algonquin Road, Ste 760
14 Rolling Meadows, IL 60008
15 Telephone: (847)368-1500
16 Facsimile: (847)368-1501
17 bwanca@andersonwanca.com

18 *Counsel for Plaintiff*

19 **UNITED STATES DISTRICT COURT**
20 **NORTHERN DISTRICT OF CALIFORNIA**

21 JOHN C. ETTER, individually and as the)
22 representative of a class of similarly-situated)
23 persons,)

24 Plaintiff,)

Civil Action No.:

25 v.)

CLASS ACTION

26 ALLSTATE INSURANCE COMPANY,)
27 ALLSTATE INDEMNITY COMPANY,)
28 ALLSTATE PROPERTY AND)
CASUALTY INSURANCE COMPANY,)
ALLSTATE NORTHBROOK)
INDEMNITY COMPANY, ALLSTATE)
INSURANCE COMPANY OF)
CALIFORNIA, LOUIS ODAISE and JOHN)
DOES 1-5,)

Defendants.)

SCHUBERT JONCKHEER & KOLBE LLP
Three Embarcadero Center, Suite 1650
San Francisco, CA 94111
(415) 788-4220

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CLASS ACTION COMPLAINT

Plaintiff JOHN C. ETTER (“Plaintiff”) brings this action on behalf of himself and all others similarly situated, through his attorneys, and except as to those allegations pertaining to Plaintiff or his attorneys, which are based upon personal knowledge, alleges the following upon information and belief against Defendants ALLSTATE INSURANCE COMPANY, ALLSTATE INDEMNITY COMPANY, ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY, ALLSTATE NORTHBROOK INDEMNITY COMPANY, ALLSTATE INSURANCE COMPANY OF CALIFORNIA, LOUIS ODIASE and JOHN DOES 1-5 (“Defendants”).

PRELIMINARY STATEMENT

1. This case challenges Defendants’ practice of sending unsolicited facsimiles.
2. The federal Telephone Consumer Protection Act of 1991, as amended by the Junk Fax Prevention Act of 2005, 47 USC § 227 (“JFPA” or the “Act”), and the regulations promulgated under the Act, prohibit a person or entity from faxing or having an agent fax advertisements without the recipient’s prior express invitation or permission. The JFPA provides a private right of action and provides statutory damages of \$500 per violation. Upon information and belief, Defendants have sent facsimile transmissions of unsolicited advertisements to Plaintiff and the Class in violation of the JFPA, including, but not limited to, the facsimile transmission of unsolicited advertisement on October 11, 2016 (“the Fax”), a true and correct copy of which is attached as Exhibit A and made a part hereof. The Fax promotes the services and goods of Defendants. Plaintiff is informed and believes that Defendants have sent, and continue to send, unsolicited advertisements via facsimile transmission in violation of the JFPA, including those advertisements sent to Plaintiff.
3. Unsolicited facsimiles damage their recipients. A junk fax recipient loses the use of

its fax machine, paper, and ink toner. An unsolicited fax wastes the recipient’s valuable time that

SCHUBERT JONCKHEER & KOLBE LLP
Three Embarcadero Center, Suite 1650
San Francisco, CA 94111
(415) 788-4220

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

would have been spent on something else. A junk fax interrupts the recipient’s privacy. Unsolicited faxes prevent fax machines from receiving authorized faxes, prevent their use for authorized outgoing faxes, cause undue wear and tear on the recipients’ fax machines, and require additional labor to attempt to discern the source and purpose of the unsolicited message.

4. On behalf of himself and all others similarly situated, Plaintiff brings this case as a class action asserting claims against Defendants under the JFPA. Plaintiff seeks to certify a class including faxes sent to Plaintiff and other advertisements sent without prior proper opt-out language or without prior express invitation or permission, whether sent to Plaintiff or not.

5. This action is based upon a common nucleus of operative fact because the facsimile transmissions at issue were and are being done in the same or similar manner. This action is based on the same legal theory, namely liability under the JFPA. This action seeks relief expressly authorized by the JFPA: (a) injunctive relief enjoining Defendants, their employees, agents, representatives, contractors, affiliates, and all persons and entities acting in concert with them, from sending unsolicited advertisements in violation of the JFPA; and (b) an award of statutory damages in the minimum amount of \$500 for each violation of the JFPA, and to have such damages trebled, as provided by § 227(b)(3) of the Act.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and 47 U.S.C. § 227.

7. Venue is proper in this District because Defendants committed a statutory tort within this District and a significant portion of the events took place within this District.

PARTIES

8. Plaintiff JOHN C. ETTER is a sole proprietor who does business as Reliable Plumbing & Heating Services with its principal place of business located in Monterey, California.

1 9. On information and belief, Defendants ALLSTATE INSURANCE COMPANY,
2 ALLSTATE INDEMNITY COMPANY, ALLSTATE PROPERTY AND CASUALTY
3 INSURANCE COMPANY and ALLSTATE NORTHBROOK INDEMNITY COMPANY are
4 Illinois corporations registered to do business in California.

5 10. On information and belief, Defendant ALLSTATE INSURANCE COMPANY OF
6 CALIFORNIA is a corporation registered to do business in California.

7
8 11. On information and belief, Defendant LOUIS ODIASE is a California resident who
9 owns and operates an Allstate insurance agency in Richmond, California.

10 12. John Does 1-5 will be identified through discovery, but are not presently known.

11 **FACTS**

12 13. On or about October 11, 2016, Defendants transmitted by telephone facsimile
13 machine an unsolicited facsimile to Plaintiff. A copy is attached hereto as Exhibit A.

14 14. On information and belief, Defendants receive some or all of the revenues from the
15 sale of the products, goods and services advertised on Exhibit A, and Defendants profit and benefit
16 from the sale of the products, goods and services advertised on Exhibit A.

17
18 15. Plaintiff had not given prior express invitation or permission to Defendants to send
19 the facsimile.

20 16. On information and belief, Defendants sent the same and similar unsolicited
21 facsimiles without the required opt-out language to Plaintiff and more than forty other recipients or
22 sent the same and other advertisements by fax with the required opt-out language but without first
23 receiving the recipients' express invitation or permission and without having an established business
24 relationship as defined by the TCPA and its regulations.
25
26
27
28

SCHUBERT JONCKHEER & KOLBE LLP
Three Embarcadero Center, Suite 1650
San Francisco, CA 94111
(415) 788-4220

17. There is no reasonable means for Plaintiff (or any other class member) to avoid receiving unauthorized faxes. Fax machines are left on and ready to receive the urgent communications their owners desire to receive.

18. Defendants’ facsimiles did not display a proper opt-out notice as required by 47 C.F.R. 64.1200.

CLASS ACTION ALLEGATIONS

19. In accordance with Fed. R. Civ. P. 23(b)(1), (b)(2) and (b)(3), Plaintiff brings this class action pursuant to the JFPA, on behalf of the following class of persons:

All persons who (1) on or after four years prior to the filing of this action, (2) were sent telephone facsimile messages of material advertising the commercial availability or quality of any property, goods, or services by or on behalf of Defendants, (3) from whom Defendants did not obtain “prior express invitation or permission” to send those faxes, and (4) with whom Defendants did not have an established business relationship, and/or (5) did not display a proper opt-out notice.

Excluded from the Class are the Defendants, their employees, agents and members of the Judiciary. Plaintiff reserves the right to amend the class definition upon completion of class certification discovery.

20. Class Size (F. R. Civ. P. 23(a)(1)): Plaintiff is informed and believes, and upon such information and belief alleges, that the number of persons and entities of the Plaintiff Class is numerous and joinder of all members is impracticable. Plaintiff is informed and believes, and upon such information and belief alleges, that the number of class members is at least forty.

21. Commonality (F. R. Civ. P. 23 (a) (2)): Common questions of law and fact apply to the claims of all class members. Common material questions of fact and law include, but are not limited to, the following:

- a) Whether the Defendants sent unsolicited fax advertisements;

SCHUBERT JONCKHEER & KOLBE LLP
Three Embarcadero Center, Suite 1650
San Francisco, CA 94111
(415) 788-4220

SCHUBERT JONCKHEER & KOLBE LLP
Three Embarcadero Center, Suite 1650
San Francisco, CA 94111
(415) 788-4220

1 b) Whether the Defendants' fax advertised the commercial availability or quality
2 of property, goods, or services;

3 c) The manner and method the Defendants used to compile or obtain the list of
4 fax numbers to which they sent Exhibit A, other unsolicited faxed advertisements or other
5 advertisements without the required opt-out language;

6 d) Whether the Defendants faxed advertisements without first obtaining the
7 recipient's prior invitation or permission;

8 e) Whether the Defendants sent the faxed advertisements knowingly;

9 f) Whether the Defendants violated the provisions of 47 U.S.C. § 227 and the
10 regulations promulgated thereunder;

11 g) Whether the faxes contain an "opt-out notice" that complies with the
12 requirements of § (b)(1)(C)(iii) of the Act, and the regulations promulgated thereunder, and
13 the effect of the failure to comply with such requirements;

14 h) Whether the Defendants should be enjoined from faxing advertisements in the
15 future;

16 i) Whether the Plaintiff and the other members of the class are entitled to
17 statutory damages; and

18 j) Whether the Court should award treble damages.

19
20
21
22 22. Typicality (F. R. Civ. P. 23 (a) (3)): The Plaintiff's claims are typical of the claims of
23 all class members. The Plaintiff received faxes sent by or on behalf of the Defendants advertising
24 goods and services of the Defendants during the Class Period. The Plaintiff is making the same
25 claims and seeking the same relief for himself and all class members based upon the same federal
26 statute. The Defendants have acted the same or in a similar manner with respect to the Plaintiff and
27 all the class members.
28

SCHUBERT JONCKHEER & KOLBE LLP
Three Embarcadero Center, Suite 1650
San Francisco, CA 94111
(415) 788-4220

1 23. Fair and Adequate Representation (F. R. Civ. P. 23 (a) (4)): The Plaintiff will fairly
2 and adequately represent and protect the interests of the class. He is interested in this matter, has
3 no conflicts and has retained experienced class counsel to represent the class.

4 24. Need for Consistent Standards and Practical Effect of Adjudication (F. R. Civ. P. 23
5 (b) (1)): Class certification is appropriate because the prosecution of individual actions by class
6 members would: (a) create the risk of inconsistent adjudications that could establish incompatible
7 standards of conduct for the Defendants, and/or (b) as a practical matter, adjudication of the
8 Plaintiff's claims will be dispositive of the interests of class members who are not parties.

9 25. Common Conduct (F. R. Civ. P. 23 (b) (2)): Class certification is also appropriate
10 because the Defendants have acted in the same or similar manner with respect to all class members
11 thereby making injunctive and declaratory relief appropriate. The Plaintiff demands such relief as
12 authorized by 47 U.S.C. §227.

13 26. Predominance and Superiority (F. R. Civ. P. 23 (b) (3)): Common questions of law
14 and fact predominate over any questions affecting only individual members, and a class action is
15 superior to other methods for the fair and efficient adjudication of the controversy because:

- 16 a) Proof of the claims of the Plaintiff will also prove the claims of the class without the
17 need for separate or individualized proceedings;
- 18 b) Evidence regarding defenses or any exceptions to liability that the Defendants may
19 assert and prove will come from the Defendants' records and will not require individualized
20 or separate inquiries or proceedings;
- 21 c) The Defendants have acted and are continuing to act pursuant to common policies or
22 practices in the same or similar manner with respect to all class members;
- 23 d) The amount likely to be recovered by individual class members does not support
24 individual litigation. A class action will permit a large number of relatively small claims
25
26
27
28

SCHUBERT JONCKHEER & KOLBE LLP
Three Embarcadero Center, Suite 1650
San Francisco, CA 94111
(415) 788-4220

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

involving virtually identical facts and legal issues to be resolved efficiently in one (1) proceeding based upon common proofs; and

e) This case is inherently manageable as a class action in that:

(i) The Defendants identified persons or entities to receive the fax transmissions and it is believed that the Defendants' computer and business records will enable the Plaintiff to readily identify class members and establish liability and damages;

(ii) Liability and damages can be established for the Plaintiff and the class with the same common proofs;

(iii) Statutory damages are provided for in the statute and are the same for all class members and can be calculated in the same or a similar manner;

(iv) A class action will result in an orderly and expeditious administration of claims and it will foster economics of time, effort and expense;

(v) A class action will contribute to uniformity of decisions concerning the Defendants' practices; and

(vi) As a practical matter, the claims of the class are likely to go unaddressed absent class certification.

COUNT I

Claim for Relief for Violation of the JFPA, 47 U.S.C. § 227 et seq.

27. Plaintiff and the Plaintiff Class reassert and incorporate herein by reference the allegations set forth in paragraphs 1-26 above.

28. The JFPA makes it unlawful for any person to "use any telephone facsimile machine, computer or other device to send, to a telephone facsimile machine, an unsolicited advertisement ..." 47 U.S.C. § 227(b)(1)(C).

29. The JFPA defines "unsolicited advertisement" as "any material advertising the

SCHUBERT JONCKHEER & KOLBE LLP
Three Embarcadero Center, Suite 1650
San Francisco, CA 94111
(415) 788-4220

1 commercial availability or quality of any property, goods, or services which is transmitted to any
2 person without that person's prior express invitation or permission, in writing or otherwise." 47
3 U.S.C. § 227 (a) (5).

4 30. **Opt-Out Notice Requirements.** The JFPA strengthened the prohibitions against the
5 sending of unsolicited advertisements by requiring, in §(b)(1)(C)(iii) of the Act, that senders of faxed
6 advertisements place a clear and conspicuous notice on the first page of the transmission that
7 contains the following among other things (hereinafter collectively the "Opt-Out Notice
8 Requirements"):
9

- 10 1. a statement that the recipient is legally entitled to opt-out of receiving future
- 11 faxed advertisements – knowing that he or she has the legal right to request an opt-
- 12 out gives impetus for recipients to make such a request, if desired;
- 13
- 14 2. a statement that the sender must honor a recipient’s opt-out request within 30
- 15 days and the sender’s failure to do so is unlawful – thereby encouraging recipients to
- 16 opt-out, if they did not want future faxes, by advising them that their opt-out requests
- 17 will have legal “teeth”;
- 18
- 19 3. a statement advising the recipient that he or she may opt-out with respect to
- 20 all of his or her facsimile telephone numbers and not just the ones that receive a faxed
- 21 advertisement from the sender – thereby instructing a recipient on how to make a
- 22 valid opt-out request for all of his or her fax machines;
- 23
- 24 4. the opt-out language must be conspicuous.

25 The requirement of (1) above is incorporated from § (b)(D)(ii) of the Act. The requirement
26 of (2) above is incorporated from § (b)(D)(ii) of the Act and the rules and regulations of the Federal
27 Communications Commission (the “FCC”) in ¶31 of its 2006 Report and Order (*In the Matter of*
28 *Rules and Regulations Implementing the Telephone Consumer Protection Act, Junk Prevention Act*

1 of 2005, 21 F.C.C.R. 3787, 2006 WL 901720, which rules and regulations took effect on August 1,
2 2006). The requirements of (3) above are contained in § (b)(2)(E) of the Act and incorporated into
3 the Opt-Out Notice Requirements via § (b)(2)(D)(ii). Compliance with the Opt-Out Notice
4 Requirements is neither difficult nor costly. The Opt-Out Notice Requirements are important
5 consumer protections bestowed by Congress upon the owners of fax machines giving them the right,
6 and means, to stop unwanted faxed advertisements.

7
8 31. **2006 FCC Report and Order.** The JFPA, in § (b)(2) of the Act, directed the FCC to
9 implement regulations regarding the JFPA, including the JFPA’s Opt-Out Notice Requirements and
10 the FCC did so in its 2006 Report and Order, which in addition provides among other things:

11 A. The definition of, and the requirements for, an established business
12 relationship for purposes of the first of the three prongs of an exemption to liability under §
13 (b)(1)(C)(i) of the Act and provides that the lack of an “established business relationship” precludes
14 the ability to invoke the exemption contained in § (b)(1)(C) of the Act (*See* 2006 Report and Order
15 ¶¶8-12 and 17-20);

16
17 B. The required means by which a recipient’s facsimile telephone number must
18 be obtained for purposes of the second of the three prongs of the exemption under § (b)(1)(C)(ii) of
19 the Act and provides that the failure to comply with these requirements precludes the ability to
20 invoke the exemption contained in § (b)(1)(C) of the Act (*See* 2006 Report and Order ¶¶13-16);

21
22 C. The things that must be done in order to comply with the Opt-Out Notice
23 Requirements for the purposes of the third of the three prongs of the exemption under § (b)(1)(C)(iii)
24 of the Act and provides that the failure to comply with these requirements precludes the ability to
25 invoke the exemption contained in § (b)(1)(C) of the Act (*See* 2006 Report and Order ¶¶24-34);

26
27 D. The failure of a sender to comply with the Opt-Out Notice Requirements
28 precludes the sender from claiming that a recipient gave “prior express permission or invitation” to

1 receive the sender's fax (*See* Report and Order ¶48);

2 As a result thereof, a sender of a faxed advertisement who fails to comply with the Opt-Out
3 Notice Requirements has, by definition, transmitted an unsolicited advertisement under the JFPA.
4 This is because such a sender can neither claim that the recipients of the faxed advertisement gave
5 "prior express invitation or permission" to receive the fax nor can the sender claim the exemption
6 from liability contained in § (b)(C)(1) of the Act.

7
8 32. **The Fax.** Defendant sent the advertisement on or about October 11, 2016, via
9 facsimile transmission from telephone facsimile machines, computers, or other devices to the
10 telephone facsimile machines of Plaintiff and members of the Plaintiff Class. The Fax constituted
11 an advertisement under the Act. Defendants failed to comply with the Opt-Out Requirements in
12 connection with the Fax. The Fax was transmitted to persons or entities without their prior express
13 invitation or permission and/or Defendants are precluded from asserting any prior express invitation
14 or permission because of the failure to comply with the Opt-Out Notice Requirements. By virtue
15 thereof, Defendants violated the JFPA and the regulations promulgated thereunder by sending the
16 Fax via facsimile transmission to Plaintiff and members of the Class. Plaintiff seeks to certify a
17 class which includes this Fax and all others sent during the four years prior to the filing of this case
18 through the present.

19
20 33. **Defendant's Other Violations.** Plaintiff is informed and believes, and upon such
21 information and belief avers, that during the period preceding four years of the filing of this
22 Complaint and repeatedly thereafter, Defendants have sent via facsimile transmission from
23 telephone facsimile machines, computers, or other devices to telephone facsimile machines of
24 members of the Plaintiff Class faxes that constitute advertisements under the JFPA that were
25 transmitted to persons or entities without their prior express invitation or permission (and/or that
26 Defendants are precluded from asserting any prior express invitation or permission because of the
27
28

1 failure to comply with the Opt-Out Notice Requirements in connection with such transmissions).
2 By virtue thereof, Defendants violated the JFPA and the regulations promulgated thereunder.
3 Plaintiff is informed and believes, and upon such information and belief avers, that Defendants are
4 continuing to send unsolicited advertisements via facsimile transmission in violation of the JFPA
5 and the regulations promulgated thereunder, and absent intervention by this Court, will do so in the
6 future.

7
8 34. The TCPA/JFPA provides a private right of action to bring this action on behalf of
9 Plaintiff and the Plaintiff Class to redress Defendants' violations of the Act, and provides for
10 statutory damages. 47 U.S.C. § 227(b)(3). The Act also provides that injunctive relief is appropriate.

11 *Id.*

12 35. The JFPA is a strict liability statute, so the Defendants are liable to the Plaintiff and
13 the other class members even if their actions were only negligent.

14 36. The Defendants knew or should have known that (a) the Plaintiff and the other class
15 members had not given express invitation or permission for the Defendants or anybody else to fax
16 advertisements about the Defendants' goods or services; (b) the Plaintiff and the other class members
17 did not have an established business relationship; (c) Defendants transmitted an advertisement; (d)
18 the Fax did not contain the required Opt-Out Notice; and (e) Defendants' transmission of
19 advertisements that did not contain the required opt-out notice or were sent without prior express
20 invitation or permission was unlawful.

21
22 37. The Defendants' actions caused damages to the Plaintiff and the other class members.
23 Receiving the Defendants' junk fax caused the recipients to lose paper and toner consumed in the
24 printing of the Defendants' fax. Moreover, the Defendants' fax used the Plaintiff's fax machine. The
25 Defendants' fax cost the Plaintiff time, as the Plaintiff and its employees wasted their time receiving,
26 reviewing and routing the Defendants' unauthorized fax. That time otherwise would have been spent
27
28

1 on the Plaintiff's business activities. The Defendants' fax unlawfully interrupted the Plaintiff's and
2 other class members' privacy interests in being left alone.

3 WHEREFORE, Plaintiff, JOHN C. ETTER, individually and on behalf of all others similarly
4 situated, demands judgment in his favor and against Defendants, ALLSTATE INSURANCE
5 COMPANY, ALLSTATE INDEMNITY COMPANY, ALLSTATE PROPERTY AND
6 CASUALTY INSURANCE COMPANY, ALLSTATE NORTHBROOK INDEMNITY
7 COMPANY, ALLSTATE INSURANCE COMPANY OF CALIFORNIA, LOUIS ODIASE and
8 JOHN DOES 1-5, jointly and severally, as follows:
9

10 A. That the Court adjudge and decree that the present case may be properly maintained
11 as a class action, appoint the Plaintiff as the representative of the class and appoint the Plaintiff's
12 counsel as counsel for the class;

13 B. That the Court award actual monetary loss from such violations or the sum of five
14 hundred dollars (\$500.00) for each violation, whichever is greater, and that the Court award treble
15 damages if the violations are deemed "willful or knowing";
16

17 C. That Court enjoin the Defendants from additional violations; and

18 D. That the Court award pre-judgment interest, costs and such further relief as the Court
19 may deem just and proper.
20

21 January 13, 2017

22 By: *Willem F. Jonckheer*
23 ROBERT C. SCHUBERT
24 WILLEM F. JONCKHEER
25 SCHUBERT JONCKHEER & KOLBE LLP
26 Three Embarcadero Center, Suite 1650
27 San Francisco, CA 94111
28 Telephone: 415-788-4220
Fax: 415-788-0161
rschubert@schubertlawfirm.com
wjonckheer@schubertlawfirm.com

Local Counsel for Plaintiff

SCHUBERT JONCKHEER & KOLBE LLP
Three Embarcadero Center, Suite 1650
San Francisco, CA 94111
(415) 788-4220

SCHUBERT JONCKHEER & KOLBE LLP
Three Embarcadero Center, Suite 1650
San Francisco, CA 94111
(415) 788-4220

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BRIAN J. WANCA (*pro hac vice to be submitted*)
ANDERSON + WANCA
3701 Algonquin Road, Suite 500
Rolling Meadows, IL 60008
Telephone: 847-368-1500 / Fax: 847-368-1501
bwanca@andersonwanca.com

Counsel for Plaintiff

EXHIBIT A

Commercial Auto Quote

Dear Owner/Owner,

Benjamin Franklin Plumbing

Commercial Auto Quote from a leading Commercial auto writer in California. If you would like to potentially save **40-60%** off your Commercial auto Insurance, just take a few minutes to fill out the form below and fax it back for your **free** quote. Give us a call today!!! You have nothing to lose!!!

FAX YOUR REQUEST TO: 510-234-0518, TEL 510-234-0516, OR EMAIL: A036315@ALLSTATE.COM

Company Name: _____ Incorporated? (Y/N) _____

Contact Name: _____ Phone () _____ Fax () _____

Email: _____

Address: _____ City: _____ County _____ State _____ zip _____

Of Employees _____ Company Description: _____

Automobile Information:

Please List Company owned vehicles (year, make, and exact model VIN# if available). Check in the box if the car carries collision & comprehensive coverage. Attach an additional page for more vehicles if necessary.

- 1) _____ 2) _____
- 3) _____ 4) _____
- 5) _____ 6) _____
- 7) _____ 8) _____

Which company currently provides your commercial Auto Policy? _____

Renewal Date? _____

Current Coverage

Desired Coverage

Liability\$ _____

Liability\$ _____

Deductible _____

Deductible _____

Collision\$ _____

Collision\$ _____

Comp\$ _____

Comp _____

*If you wish to be removed from our Fax list, please call 888-828-3086

The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

John C. Etter

DEFENDANTS

Allstate Insurance Company, et al.

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

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number) Schubert Jonckheer & Kolbe LLP (415) 788-4220 3 Embarcadero Ctr Ste 1650 San Francisco, CA 94111

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, 1 Incorporated or Principal Place of Business in This State, 2 Incorporated and Principal Place of Business in Another State, 3 Foreign Nation, 4, 5, 6

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

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FOREFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Personal Injury, Labor, and Taxes.

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. Section 227. Brief description of cause: Violation of the Telephone Consumer Protection Act ("TCPA")

VII. REQUESTED IN COMPLAINT:

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

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE: 1/13/17

SIGNATURE OF ATTORNEY OF RECORD: [Signature]

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of California

John C. Etter, individually and as the representative
of a class of similarly-situated persons

Plaintiff(s)

v.

Allstate Insurance Company, et al

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Allstate Insurance Company
3075 Sanders Road, Ste. H1A
Northbrook, IL 60062-7127

(Full list of defendants attached)

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Schubert Jonckheer & Kolbe LLP
3 Embarcadero Ctr Ste 1650
San Francisco, CA 94111

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____
_____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Attachment

Full List of Defendants:

1. Allstate Indemnity Company
2. Allstate Property and Casualty Insurance Company
3. Allstate Northbrook Indemnity Company
4. Allstate Insurance Company of California
5. Louis Odaise
6. John Does 1-5

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Allstate Insurance Facing Junk Fax Class Action](#)
