

1 Todd M. Friedman (SBN 216752)  
 2 Meghan E. George (SBN 274525)  
 3 Adrian R. Bacon (SBN 280332)  
 4 Thomas E. Wheeler (SBN 308789)  
 5 LAW OFFICES OF TODD M. FRIEDMAN, P.C.  
 6 21550 Oxnard St., Suite 780  
 7 Woodland Hills, CA 91367  
 8 Phone: (323) 306-4234  
 9 Fax: 866-633-0228  
 10 tfriedman@toddfllaw.com  
 11 mgeorge@toddfllaw.com  
 12 abacon@toddfllaw.com  
 13 twheeler@toddfllaw.com  
 14 Attorneys for Plaintiff

11 **UNITED STATES DISTRICT COURT**  
 12 **CENTRAL DISTRICT OF CALIFORNIA**

13 **TERRY FABRICANT**, individually ) Case No.  
 14 and on behalf of all others similarly )  
 15 situated, ) **CLASS ACTION**  
 16 )  
 17 Plaintiff, ) **COMPLAINT FOR VIOLATIONS**  
 18 ) **OF:**  
 19 vs. )  
 20 ) 1. NEGLIGENT VIOLATIONS OF  
 21 **1ST RELIANT HOME LOANS,** ) THE TELEPHONE CONSUMER  
 22 **INC.;** and DOES 1 through 10, ) PROTECTION ACT [47 U.S.C.  
 23 inclusive, ) §227 ET SEQ.]  
 24 ) 2. WILLFUL VIOLATIONS OF THE  
 25 ) TELEPHONE CONSUMER  
 26 Defendant. ) PROTECTION ACT [47 U.S.C.  
 27 ) §227 ET SEQ.]  
 28 ) **DEMAND FOR JURY TRIAL**  
 )  
 )  
 )

26 Plaintiff, TERRY FABRICANT (“Plaintiff”), individually and on behalf of  
 27 all others similarly situated, alleges the following upon information and belief  
 28 based upon personal knowledge:

1 **NATURE OF THE CASE**

2 1. Plaintiff brings this action individually and on behalf of all others  
3 similarly situated seeking damages and any other available legal or equitable  
4 remedies resulting from the illegal actions of Defendant 1ST RELIANT HOME  
5 LOANS, INC. (“Defendant”), in negligently, knowingly, and/or willfully  
6 contacting Plaintiff on Plaintiff’s cellular telephone in violation of the Telephone  
7 Consumer Protection Act, *47 U.S.C. § 227 et seq.* (“TCPA”), thereby invading  
8 Plaintiff’s privacy.

9 **JURISDICTION & VENUE**

10 2. Jurisdiction is proper under 28 U.S.C. § 1331 because this action  
11 arises under a Federal Question, namely the Telephone Consumer Protection Act,  
12 47 U.S.C. § 227, et seq.. Plaintiffs also seek up to \$1,500.00 in damages for each  
13 call in violation of the TCPA, which, when aggregated among a proposed class in  
14 the thousands, exceeds the \$5,000,000.00 threshold for federal court jurisdiction.  
15 Therefore, both federal question jurisdiction and the damages threshold under the  
16 Class Action Fairness Act of 2005 (“CAFA”) are present, and this Court has  
17 jurisdiction.

18 3. Venue is proper in the United States District Court for the Central  
19 District of California pursuant to *28 U.S.C. § 1391(b)(2)* because Defendant does  
20 business within the state of California and Plaintiff resides within this District.

21 **PARTIES**

22 4. Plaintiff, TERRY FABRICANT (“Plaintiff”), is a natural person  
23 residing in Vallejo, California and is a “person” as defined by *47 U.S.C. § 153 (39)*.

24 5. Defendant, 1ST RELIANT HOME LOANS, INC. (“Defendant” or  
25 “DEFENDANT”), is a lender providing business loans, lines of credit and other  
26 financial products, and is a “person” as defined by *47 U.S.C. § 153 (39)*.

27 6. The above named Defendant, and its subsidiaries and agents, are  
28 collectively referred to as “Defendants.” The true names and capacities of the

1 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are  
2 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious  
3 names. Each of the Defendants designated herein as a DOE is legally responsible  
4 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the  
5 Complaint to reflect the true names and capacities of the DOE Defendants when  
6 such identities become known.

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

13 **FACTUAL ALLEGATIONS**

14 8. Beginning in or around October of 2018, Defendant contacted  
15 Plaintiff on Plaintiff's cellular telephone ending in -1083, in an effort to solicit  
16 Plaintiff to purchase Defendants' services.

17 9. Defendant called Plaintiff on Plaintiff's cellular telephone from phone  
18 numbers confirmed to belong to Defendant, including without limitation (949) 346  
19 - 9002.

20 10. Defendant used an "automatic telephone dialing system", as defined  
21 by *47 U.S.C. § 227(a)(1)* to place its calls to Plaintiff seeking to sell or solicit its  
22 business services.

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

25 12. 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 13. Plaintiff is not a customer of Defendant's services and never provided

1 his cellular telephone number to Defendant.

2 14. Defendant never received Plaintiff's "prior express consent" to  
3 receive calls using an automatic telephone dialing system or an artificial or  
4 prerecorded voice on Plaintiff's cellular telephone pursuant to 47 U.S.C. §  
5 227(b)(1)(A).

6 15. Plaintiff alleges upon information and belief, including without  
7 limitation his experiences as recounted herein, especially his experience of being  
8 called despite Defendant's lack of express consent to call him, that Defendant lacks  
9 reasonable policies and procedures to avoid the violations of the Telephone  
10 Consumer Protection act herein described.

11 **CLASS ALLEGATIONS**

12 16. Plaintiff brings this action individually and on behalf of all others  
13 similarly situated, as a member the proposed class (hereafter, "The Class") defined  
14 as follows:

15 All persons within the United States who received any  
16 solicitation/telemarketing telephone calls from  
17 Defendant to said person's cellular telephone made  
18 through the use of any automatic telephone dialing  
19 system or an artificial or prerecorded voice and such  
20 person had not previously consented to receiving such  
21 calls within the four years prior to the filing of this  
22 Complaint

23 17. Plaintiff represents, and is a member of, The Class, consisting of all  
24 persons within the United States who received any solicitation telephone calls from  
25 Defendant to said person's cellular telephone made through the use of any  
26 automatic telephone dialing system or an artificial or prerecorded voice and such  
27 person had not previously not provided their cellular telephone number to  
28 Defendant within the four years prior to the filing of this Complaint.

18. Defendant, its employees and agents are excluded from The Class.

1 Plaintiff does not know the number of members in The Class, but believes the Class  
2 members number in the thousands, if not more. Thus, this matter should be  
3 certified as a Class Action to assist in the expeditious litigation of the matter.

4 19. The Class is so numerous that the individual joinder of all of its  
5 members is impractical. While the exact number and identities of The Class  
6 members are unknown to Plaintiff at this time and can only be ascertained through  
7 appropriate discovery, Plaintiff is informed and believes and thereon alleges that  
8 The Class includes thousands of members. Plaintiff alleges that The Class  
9 members may be ascertained by the records maintained by Defendant.

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

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

- 22 a. Whether, within the four years prior to the filing of this  
23 Complaint, Defendant made any telemarketing/solicitation call  
24 (other than a call made for emergency purposes or made with  
25 the prior express consent of the called party) to a Class member  
26 using any automatic telephone dialing system or any artificial  
27 or prerecorded voice to any telephone number assigned to a  
28 cellular telephone service;

- 1           b. Whether Plaintiff and the Class members were damaged  
2           thereby, and the extent of damages for such violation; and  
3           c. Whether Defendant should be enjoined from engaging in such  
4           conduct in the future.

5           22. As a person that received a telemarketing/solicitation call from  
6 Defendant using an automatic telephone dialing system or an artificial or  
7 prerecorded voice, without Plaintiff's prior express consent, Plaintiff is asserting  
8 claims that are typical of The Class.

9           23. Plaintiff will fairly and adequately protect the interests of the members  
10 of The Class. Plaintiff has retained attorneys experienced in the prosecution of  
11 class actions.

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

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

28           26. Defendant has acted or refused to act in respects generally applicable

1 to The Class, thereby making appropriate final and injunctive relief with regard to  
2 the members of the Class as a whole.

3 **FIRST CAUSE OF ACTION**

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

5 **47 U.S.C. §227 et seq.**

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

8 28. The foregoing acts and omissions of Defendant constitute numerous  
9 and multiple negligent violations of the TCPA, including but not limited to each  
10 and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

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

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

16 **SECOND CAUSE OF ACTION**

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

18 **47 U.S.C. §227 et seq.**

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

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

25 33. As a result of Defendant's knowing and/or willful violations of *47*  
26 *U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of  
27 \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C.*  
28 *§ 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

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

3 **PRAYER FOR RELIEF**

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

5 **FIRST CAUSE OF ACTION**

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

7 **47 U.S.C. §227 et seq.**

- 8 • As a result of Defendant’s negligent violations of *47 U.S.C.*
- 9 *§227(b)(1)*, Plaintiff and the Class members are entitled to and
- 10 request \$500 in statutory damages, for each and every violation,
- 11 pursuant to *47 U.S.C. 227(b)(3)(B)*; and
- 12 • Any and all other relief that the Court deems just and proper.

13 **SECOND CAUSE OF ACTION**

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

15 **47 U.S.C. §227 et seq.**

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

22 ///  
23 ///  
24 ///  
25 ///  
26 ///  
27 ///  
28 ///



**JURY DEMAND**

35. Pursuant to Plaintiff's rights under the Seventh Amendment to the United States Constitution, Plaintiff demands a jury on all issues so triable.

Respectfully Submitted this 20th day of August, 2020.

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

By: /s/ Todd M. Friedman

Todd M. Friedman

Law Offices of Todd M. Friedman

Attorney for Plaintiff

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

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [1st Reliant Home Loans Hit with TCPA Suit Over Alleged Spam Calls](#)

---