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

) Case No.
)
TERRY FABRICANT, individually)
and on behalf of all others similarly) **CLASS ACTION**
situated,)
) **COMPLAINT FOR VIOLATIONS**
Plaintiff,) **OF:**
)
vs.) 1. NEGLIGENT VIOLATIONS OF
) THE TELEPHONE CONSUMER
WORLD BUSINESS LENDERS, LLC;) PROTECTION ACT [47 U.S.C.
) §227(b)]
FIVERR INC., and DOES 1 through 10,) 2. WILLFUL VIOLATIONS OF THE
) TELEPHONE CONSUMER
inclusive, and each of them,) PROTECTION ACT [47 U.S.C.
) §227(b)]
Defendant.) 3. NEGLIGENT VIOLATIONS OF
) THE TELEPHONE CONSUMER
) PROTECTION ACT [47 U.S.C.
) §227(c)]
) 4. WILLFUL VIOLATIONS OF THE
) TELEPHONE CONSUMER
) PROTECTION ACT [47 U.S.C.
) §227(c)]
) 5. CALIFORNIA PENAL CODE §
) 632.7
)
) **DEMAND FOR JURY TRIAL**

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

4 **NATURE OF THE CASE**

5 1. Plaintiff brings this action individually and on behalf of all others
6 similarly situated seeking damages and any other available legal or equitable
7 remedies resulting from the illegal actions of WORLD BUSINESS LENDERS,
8 LLC and FIVERR INC. (“Defendants”), in negligently, knowingly, and/or
9 willfully contacting Plaintiff on Plaintiff’s cellular telephone in violation of the
10 Telephone Consumer Protection Act, *47. U.S.C. § 227 et seq.* (“TCPA”) and related
11 regulations, specifically the National Do-Not-Call provisions, thereby invading
12 Plaintiff’s privacy.

13 2. Plaintiff also brings this action, individually and on behalf of all others
14 similarly situated, in connection with Defendant’s practice of recording calls to
15 consumers without having first notified said consumers or obtaining their consent
16 to have the call recorded, in violation of the California Invasion of Privacy Act
17 (“CIPA”), Cal. Penal Code § 632.7.

18 3. The CIPA, Cal. Penal Code § 632.7 prohibits one party to a telephone
19 call from intentionally recording the conversation without the knowledge or
20 consent of the other while the person being recorded is on a cellular telephone.
21 Penal Code § 632.7 is violated the moment the recording is made without the
22 consent of all parties thereto, regardless of whether it is subsequently disclosed.
23 The only intent required by Penal Code § 632 is that the act of recording itself be
24 done intentionally. There is no requirement under California Penal Code § 632.7
25 that the communication be confidential. Plaintiff alleges that Defendants continue
26 to violate Penal Code § 632.7 by impermissibly recording its telephone
27 conversations with California residents while said residents are on cellular
28 telephones.

1 **JURISDICTION & VENUE**

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

10 5. Venue is proper in the United States District Court for the Central
11 District of California pursuant to *28 U.S.C. § 1391(b)* and because Defendant does
12 business within the State of California and Plaintiff resides within the County of
13 Los Angeles.

14 **PARTIES**

15 6. Plaintiff, TERRY FABRICANT (“Plaintiff”), is a natural person
16 residing in Los Angeles County, California and is a “person” as defined by *47*
17 *U.S.C. § 153 (39)*.

18 7. Defendant, WORLD BUSINESS LENDERS, LLC (hereinafter
19 “WBL”) is a lender and service provider company, and is a “person” as defined by
20 *47 U.S.C. § 153 (39)*.

21 8. Defendant, FIVERR INC. (hereinafter “FIVERR”) is an online
22 marketing company, and is a “person” as defined by *47 U.S.C. § 153 (39)*.

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

1 Complaint to reflect the true names and capacities of the DOE Defendants when
2 such identities become known.

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

9 **FACTUAL ALLEGATIONS**

10 11. Beginning in or around May 2019, Defendants contacted Plaintiff on
11 Plaintiff's cellular telephone number ending in -1083, in an attempt to solicit
12 Plaintiff to purchase Defendants' services.

13 12. On information and belief, Defendant WBL hired Defendant FIVERR
14 to generate leads and place calls on Defendant's behalf. That is, Defendant hired
15 FIVERR to place calls to telephones numbers of potential leads with whom
16 FIVERR and Defendant might solicit services. Under this arrangement, FIVERR
17 placed calls utilizing pre-recorded voice messages to Plaintiff and others similarly
18 situated by using an "automatic telephone dialing system" as defined by *47 U.S.C.*
19 *§ 227(a)(1)*. FIVERR would call Plaintiff and others similarly situated and then
20 transfer the call to Defendant WBL.

21 13. Defendant contacted or attempted to contact Plaintiff from telephone
22 number (212) 271-8288 confirmed to be Defendant's number.

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

25 15. During all relevant times, Defendant did not possess Plaintiff's "prior
26 express consent" to receive calls using an automatic telephone dialing system or an
27 artificial or prerecorded voice on his cellular telephone pursuant to *47 U.S.C. §*
28 *227(b)(1)(A)*.

1 16. Further, Plaintiff's cellular telephone number ending in -1083 was
2 added to the National Do-Not-Call Registry on or about June 4, 2008.

3 17. Defendant placed calls soliciting its business to Plaintiff on his cellular
4 telephone ending in -1083 in or around May 1, 2019.

5 18. Such calls constitute solicitation calls pursuant to 47 C.F.R. §
6 64.1200(c)(2) as they were attempts to promote or sell Defendant's services.

7 19. Plaintiff received at least one solicitation call from Defendant within
8 a 12-month period.

9 20. Defendant called Plaintiff in an attempt to solicit its services and in
10 violation of the National Do-Not-Call provisions of the TCPA.

11 21. Upon information and belief, and based on Plaintiff's experiences of
12 being called by Defendant after being on the National Do-Not-Call list for several
13 years prior to Defendant's initial call, and at all relevant times, Defendant failed to
14 establish and implement reasonable practices and procedures to effectively prevent
15 telephone solicitations in violation of the regulations prescribed under 47 U.S.C. §
16 227(c)(5).

17 22. Further, during each conversation between Plaintiff and Defendants,
18 Plaintiff maintained a reasonable expectation of privacy. That is, Plaintiff had a
19 reasonable expectation during his phone conversations with Defendants that the
20 conversations would neither be recorded nor overheard.

21 23. Defendants intentionally recorded their calls with Plaintiff through the
22 use of an electronic device without having first obtaining Plaintiff's consent to be
23 recorded or otherwise notifying Plaintiff that the call was being recorded, thereby
24 violating the CIPA, Cal. Penal Code § 632.7.

25 **CLASS ALLEGATIONS**

26 24. Plaintiff brings this action individually and on behalf of all others
27 similarly situated, as a member the three proposed classes (hereafter, jointly, "The
28 Classes").

1 25. The class concerning the ATDS claim for no prior express consent
2 (hereafter “The ATDS Class”) is defined as follows:

3 All persons within the United States who received any
4 solicitation/telemarketing telephone calls from
5 Defendant to said person’s cellular telephone made
6 through the use of any automatic telephone dialing
7 system or an artificial or prerecorded voice and such
8 person had not previously consented to receiving such
9 calls within the four years prior to the filing of this
10 Complaint

11 26. The class concerning the National Do-Not-Call violation (hereafter
12 “The DNC Class”) is defined as follows:

13 All persons within the United States registered on the
14 National Do-Not-Call Registry for at least 30 days, who
15 had not granted Defendant prior express consent nor had
16 a prior established business relationship, who received
17 more than one call made by or on behalf of Defendant
18 that promoted Defendant’s products or services, within
19 any twelve-month period, within four years prior to the
20 filing of the complaint.

21 27. The class concerning Defendants’ recordings of phone calls in
22 violation of Cal. Penal Code § 632.7 (“The CIPA Class”) is defined as follows:

23 All persons in California whose inbound and outbound
24 telephone conversations were recorded without their
25 consent and without notification that the calls were being
26 recorded by Defendant or its agent(s) within the one year
27 prior to the filing of this action.

28 28. Plaintiff represents, and is a member of, The ATDS Class, consisting
of all persons within the United States who received any collection telephone calls

1 from Defendant to said person's cellular telephone made through the use of any
2 automatic telephone dialing system or an artificial or prerecorded voice and such
3 person had not previously not provided their cellular telephone number to
4 Defendant within the four years prior to the filing of this Complaint.

5 29. Plaintiff represents, and is a member of, The DNC Class, consisting
6 of all persons within the United States registered on the National Do-Not-Call
7 Registry for at least 30 days, who had not granted Defendant prior express consent
8 nor had a prior established business relationship, who received more than one call
9 made by or on behalf of Defendant that promoted Defendant's products or services,
10 within any twelve-month period, within four years prior to the filing of the
11 complaint.

12 30. Plaintiff represents, and is a member of, The CIPA Class, consisting
13 of all persons within California whose inbound and outbound telephone
14 conversations were recorded without their consent and without notification the
15 calls were being recorded by Defendants or their agent(s) within the one year prior
16 to the filing of this Complaint.

17 31. Defendants, their employees and agents are excluded from The
18 Classes. Plaintiff does not know the number of members in The Classes, but
19 believes the Classes members number in the thousands, if not more. Thus, this
20 matter should be certified as a Class Action to assist in the expeditious litigation of
21 the matter.

22 32. The Classes are so numerous that the individual joinder of all of its
23 members is impractical. While the exact number and identities of The Classes
24 members are unknown to Plaintiff at this time and can only be ascertained through
25 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
26 The Classes includes thousands of members. Plaintiff alleges that The Classes
27 members may be ascertained by the records maintained by Defendant.

28 ///

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

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

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

25 35. As a person that received numerous telemarketing/solicitation calls
26 from Defendants using an automatic telephone dialing system or an artificial or
27 prerecorded voice, without Plaintiff's prior express consent, Plaintiff is asserting
28 claims that are typical of The ATDS Class.

1 36. Plaintiff and members of The DNC Class were harmed by the acts of
2 Defendants in at least the following ways: Defendants illegally contacted Plaintiff
3 and DNC Class members via their telephones for solicitation purposes, thereby
4 invading the privacy of said Plaintiff and the DNC Class members whose telephone
5 numbers were on the National Do-Not-Call Registry. Plaintiff and the DNC Class
6 members were damaged thereby.

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

- 13 a. Whether, within the four years prior to the filing of this
14 Complaint, Defendants or their agents placed more than one
15 solicitation call to the members of the DNC Class whose
16 telephone numbers were on the National Do-Not-Call Registry
17 and who had not granted prior express consent to Defendants
18 and did not have an established business relationship with
19 Defendants;
- 20 b. Whether Defendants obtained prior express written consent to
21 place solicitation calls to Plaintiff or the DNC Class members'
22 telephones;
- 23 c. Whether Plaintiff and the DNC Class member were damaged
24 thereby, and the extent of damages for such violation; and
- 25 d. Whether Defendants and its agents should be enjoined from
26 engaging in such conduct in the future.

27 38. As a person that received numerous solicitation calls from Defendants
28 within a 12-month period, who had not granted Defendants prior express consent

1 and did not have an established business relationship with Defendants, Plaintiff is
2 asserting claims that are typical of the DNC Class.

3 39. Plaintiff and members of The CIPA Class were harmed by the acts of
4 Defendants in at least the following ways: Defendants, either directly or through
5 its agents, illegally recorded inbound and outbound cellular telephone
6 conversations without their consent and without giving them prior notice of the
7 recording within the one year prior to the filing of this action, thereby running afoul
8 of CIPA Class members' reasonable expectations of privacy and causing them
9 damage.

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

- 16 a. Whether Defendants have a policy of recording incoming or
17 outgoing calls;
- 18 b. Whether Defendants have a policy of recording incoming or
19 outgoing calls initiated to or from a cellular telephone;
- 20 c. Whether Defendants disclose to callers or obtains their consent that
21 their incoming or outgoing telephone conversations were being
22 recorded;
- 23 d. Whether Defendants' policy of recording incoming or outgoing
24 calls to cellular telephones constitutes a violation of the CIPA, Cal.
25 Penal Code § 632.7;
- 26 e. Whether Plaintiff and The CIPA Class were damaged thereby, and
27 the extent of damages for such violations; and,
- 28 f. Whether Defendants should be enjoined from engaging in such

1 conduct in the future.

2 41. As a California resident whose telephone communications from
3 Defendants were recorded without consent or notice, Plaintiff is asserting claims
4 that are typical of The CIPA Class because every other member of The CIPA Class,
5 like Plaintiff, was a person in California who was exposed to practically identical
6 conduct, and they are entitled to the greater of either \$5,000 in statutory damages
7 or three times the amount of actual damages for each violation

8 42. Plaintiff will fairly and adequately protect the interests of the members
9 of The Classes. Plaintiff has retained attorneys experienced in the prosecution of
10 class actions.

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

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

27 45. Defendants have acted or refused to act in respects generally
28 applicable to The Classes, thereby making appropriate final and injunctive relief

1 with regard to the members of the Classes as a whole.

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3 ///

4 **FIRST CAUSE OF ACTION**

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

6 **47 U.S.C. §227(b).**

7 **On Behalf of the ATDS Class**

8 46. Plaintiff repeats and incorporates by reference into this cause of action
9 the allegations set forth above at Paragraphs 1-35.

10 47. The foregoing acts and omissions of Defendants constitute numerous
11 and multiple negligent violations of the TCPA, including but not limited to each
12 and every one of the above cited provisions of *47 U.S.C. § 227(b)*, and in particular
13 *47 U.S.C. § 227 (b)(1)(A)*.

14 48. As a result of Defendants' negligent violations of *47 U.S.C. § 227(b)*,
15 Plaintiff and the Class Members are entitled an award of \$500.00 in statutory
16 damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

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

19 **SECOND CAUSE OF ACTION**

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

21 **Act**

22 **47 U.S.C. §227(b)**

23 **On Behalf of the ATDS Class**

24 50. Plaintiff repeats and incorporates by reference into this cause of action
25 the allegations set forth above at Paragraphs 1-39.

26 51. The foregoing acts and omissions of Defendants constitute numerous
27 and multiple knowing and/or willful violations of the TCPA, including but not
28 limited to each and every one of the above cited provisions of *47 U.S.C. § 227(b)*,

1 and in particular *47 U.S.C. § 227 (b)(1)(A)*.

2 52. As a result of Defendants' knowing and/or willful violations of *47*
3 *U.S.C. § 227(b)*, Plaintiff and the ATDS Class members are entitled an award of
4 \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C.*
5 *§ 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

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

8 **THIRD CAUSE OF ACTION**

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

10 **47 U.S.C. §227(c)**

11 **On Behalf of the DNC Class**

12 54. Plaintiff repeats and incorporates by reference into this cause of action
13 the allegations set forth above at Paragraphs 1-43.

14 55. The foregoing acts and omissions of Defendants constitute numerous
15 and multiple negligent violations of the TCPA, including but not limited to each
16 and every one of the above cited provisions of *47 U.S.C. § 227(c)*, and in particular
17 *47 U.S.C. § 227 (c)(5)*.

18 56. As a result of Defendant's negligent violations of *47 U.S.C. § 227(c)*,
19 Plaintiff and the DNC Class Members are entitled an award of \$500.00 in statutory
20 damages, for each and every violation, pursuant to *47 U.S.C. § 227(c)(5)(B)*.

21 57. Plaintiff and the DNC Class members are also entitled to and seek
22 injunctive relief prohibiting such conduct in the future.

23 **FOURTH CAUSE OF ACTION**

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

25 **Act**

26 **47 U.S.C. §227 et seq.**

27 **On Behalf of the DNC Class**

28 58. Plaintiff repeats and incorporates by reference into this cause of action

1 the allegations set forth above at Paragraphs 1-47.

2 59. The foregoing acts and omissions of Defendants constitute numerous
3 and multiple knowing and/or willful violations of the TCPA, including but not
4 limited to each and every one of the above cited provisions of *47 U.S.C. § 227(c)*,
5 in particular *47 U.S.C. § 227 (c)(5)*.

6 60. As a result of Defendant's knowing and/or willful violations of *47*
7 *U.S.C. § 227(c)*, Plaintiff and the DNC Class members are entitled an award of
8 \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C.*
9 *§ 227(c)(5)*.

10 61. Plaintiff and the DNC Class members are also entitled to and seek
11 injunctive relief prohibiting such conduct in the future.

12 **FIFTH CAUSE OF ACTION**

13 **Violation of the California Invasion of Privacy Act**

14 **Cal. Penal Code § 632.7**

15 **On Behalf of The CIPA Class**

16 62. Plaintiff repeats and incorporates by reference into this cause of action
17 the allegations set forth above.

18 63. Californians have a constitutional right to privacy. Moreover, the
19 California Supreme Court has definitively linked the constitutionally protected
20 right to privacy within the purpose, intent and specific protections of the Privacy
21 Act, including specifically, Penal Code § 632. "In addition, California's explicit
22 constitutional privacy provision (Cal. Const., 1 § 1) was enacted in part specifically
23 to protect California from overly intrusive business practices that were seen to pose
24 a significant and increasing threat to personal privacy. (Citations omitted). Thus,
25 Plaintiff believes that California must be viewed as having a strong and continuing
26 interest in the full and vigorous application of the provisions of section 632
27 prohibiting the recording of telephone conversations without the knowledge or
28 consent of all parties to the conversation.

1 64. California Penal Code § 632.7 prohibits in pertinent part “[e]very
2 person who, without the consent of all parties to a communication...intentionally
3 records, or assists in the...intentional recordation of, a communication transmitted
4 between...a cellular radio telephone and a landline telephone.” Thus, on its face,
5 California Penal Code § 632.7 precludes the recording of all communications
6 involving a cellular telephone.

7 65. Though similar, California Penal Code § 632 and 632.7 are not
8 duplicative and protect separate rights. California Penal Code § 632.7 grants a
9 wider range of protection to conversations where one participant uses a cellular
10 phone or cordless phone. For example, the “confidential communication”
11 requirement of California Penal Code § 632 is absent from California Penal Code
12 § 632.7.

13 66. Defendants caused to be employed certain recording equipment on the
14 telephone lines of all employees, officers, directors, and managers of Defendants.

15 67. Plaintiff is informed and believes, and thereupon alleges, that all these
16 devices were maintained and utilized to record each and every outgoing telephone
17 conversation over said telephone lines.

18 68. Said recording equipment was used to record the telephone
19 conversations of Plaintiff and the members of the Class utilizing cellular
20 telephones, all in violation of California Penal Code § 632.7.

21 69. Based on the foregoing, Plaintiff and the members of the Class are
22 entitled to, and below herein do pray for, their statutory remedies and damages,
23 including but not limited to, those set forth in California Penal Code § 632.7; and
24 California Penal Code § 637.2.

25 70. Because this case is brought for the purposes of enforcing important
26 rights affecting the public interest, Plaintiffs and the Class seek recovery of their
27 attorney’s fees pursuant to the private attorney general doctrine codified in Code
28 of Civil Procedure § 1021.5, or any other statutory basis.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff requests judgment against Defendants for the following:

3 **FIRST CAUSE OF ACTION**

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

5 **47 U.S.C. §227(b)**

- 6 • As a result of Defendant’s negligent violations of *47 U.S.C.*
- 7 *§227(b)(1)*, Plaintiff and the ATDS Class members are entitled to and
- 8 request \$500 in statutory damages, for each and every violation,
- 9 pursuant to *47 U.S.C. 227(b)(3)(B)*.
- 10 • Any and all other relief that the Court deems just and proper.

11 **SECOND CAUSE OF ACTION**

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

13 **Act**

14 **47 U.S.C. §227(b)**

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

21 **THIRD CAUSE OF ACTION**

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

23 **47 U.S.C. §227(c)**

- 24 • As a result of Defendant’s negligent violations of *47 U.S.C.*
- 25 *§227(c)(5)*, Plaintiff and the DNC Class members are entitled to and
- 26 request \$500 in statutory damages, for each and every violation,
- 27 pursuant to *47 U.S.C. 227(c)(5)*.
- 28 • Any and all other relief that the Court deems just and proper.

1 **FOURTH CAUSE OF ACTION**

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

3 **Act**

4 **47 U.S.C. §227(c)**

- 5 • As a result of Defendant's willful and/or knowing violations of 47
6 *U.S.C. §227(c)(5)*, Plaintiff and the DNC Class members are entitled
7 to and request treble damages, as provided by statute, up to \$1,500,
8 for each and every violation, pursuant to *47 U.S.C. §227(c)(5)*.
9 • Any and all other relief that the Court deems just and proper.

10 **FIFTH CAUSE OF ACTION**

11 **Violation of the California Invasion of Privacy Act**

12 **Cal. Penal Code § 632.7**

- 13 • For statutory damages of \$5,000 per violation of Cal. Penal Code §
14 632.7 for Plaintiff and each member of The CIPA Class pursuant to
15 Cal. Penal Code § 637.2(a).
16 • Injunctive relief in the form of an order prohibiting Defendant from
17 unilaterally recording telephone conversations, without first
18 informing and receiving consent from the other party to the
19 conversation.
20 • That the Court preliminarily and permanently enjoin Defendant from
21 overhearing, recording, and listening to each and every oncoming and
22 outgoing telephone conversation with California resident, including
23 Plaintiff and The CIPA Class, without their prior consent, as required
24 by Cal. Penal Code § 630, et seq., and to maintain the confidentiality
25 of the information of Plaintiff and The CIPA Class.
26 • For general damages according to proof.
27 • For costs of suit.
28 • For prejudgment interest at the legal rate.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action: Fiverr, World Business Lenders Placed, Recorded Robocalls Without Consent](#)
