

**THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION**

MICHAEL FRIDMAN, individually and  
on behalf of all those similarly situated,

Plaintiff,

vs.

Case No.

1-800 CONTACTS, INC.,

State Court Case No. 2021-006323-CA-01

Defendant.

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**NOTICE OF REMOVAL OF CIVIL ACTION**

Pursuant to 28 U.S.C. §§ 1332, 1441, 1446, and 1453, defendant 1-800 Contacts, Inc. ("1-800 Contacts" or "Defendant") hereby removes this action from the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, and styled as Case No. 2021-006323-CA-01 (the "State Court Action"), to the United States District Court for the Southern District of Florida, Miami Division.

In support of removal, 1-800 Contacts states as follows:

**I. BACKGROUND**

1. On March 16, 2021, Plaintiff Michael Fridman ("Plaintiff"), individually and on behalf of all others similarly situated, commenced a putative class action by filing a Class Action Complaint ("Complaint") against 1-800 Contacts. A true and correct copy of the Complaint is attached hereto as **Exhibit A**.

2. On April 6, 2021, 1-800 Contacts was served with the Complaint. A true and correct copy of the Service of Process is attached hereto as **Exhibit B**.

3. True and correct copies of all process, pleadings, and orders in the State Court Action not previously referenced are attached hereto as **Exhibit C**.

4. The Complaint alleges that 1-800 Contacts unlawfully intercepted Plaintiff's and putative class members' "electronic communications" in violation of the Florida Security of Communications Act, Fla. Stat. § 934.01, *et seq.* ("FSCA"). (Ex. A ¶ 1).

5. This Notice of Removal is timely under 28 U.S.C. § 1446(b), as it is filed within thirty (30) days after Plaintiff's service of the Complaint upon 1-800 Contacts.

6. Nothing in this Notice of Removal shall constitute a waiver of Defendant's right to assert any defense, including motions pursuant to Federal Rule of Civil Procedure 12, as the case progresses.

## **II. VENUE**

7. The basis for removal and this Court's original jurisdiction derives from 28 U.S.C. § 1332. This is a purported class action in which the Complaint alleges that the putative class includes no less than 100 individuals, the amount in controversy exceeds the sum of \$5,000,000, exclusive of interest and costs, and is a class action in which the plaintiff is a citizen of a State different from the defendant.

Removal is proper under 28 U.S.C. § 1441 because this Court has original diversity jurisdiction over the underlying dispute pursuant to 28 U.S.C. § 1332(d)(2).

8. Venue is proper under 28 U.S.C. § 1441(a) because this Court is the district and division embracing Miami-Dade County, Florida, the location where the State Court Action is pending.

### **III. JURISDICTION**

9. This action is properly removable under the Class Action Fairness Act, 28 U.S.C. § 1332 (“CAFA”), because, as discussed in more detail below, (i) it is a purported class action, (ii) the putative class exceeds 100 individuals, (iii) the plaintiff is a citizen of a State different from the defendant, and (iv) the amount in controversy exceeds \$5,000,000 in the aggregate, exclusive of interest and costs. *See* 28 U.S.C. § 1332(d).

#### **A. This Action Meets the “Class Action” Definition Under CAFA**

10. The State Court Action is a “class action.” CAFA provides:

[T]he term “class action” means any civil action filed under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by 1 or more representative persons as a class action . . . .

28 U.S.C. § 1332(d)(1)(B). CAFA further provides “[t]his subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.” 28 U.S.C. § 1332(d)(8).

11. Plaintiff filed the State Court Action as a putative class action. *See* (Ex. A ¶ 1) (“This is a class action. . . .”)

12. Plaintiff also asserts that he seeks to represent a class, defined as:

Florida residents who visited the Website [1800contacts.com], and whose electronic communications were intercepted or recorded by QM on behalf of Defendant, without their prior consent . . .

(Ex. A ¶¶ 3, 43).

**B. The Putative Class Exceeds 100 Members**

13. Plaintiff alleges that the putative class is, upon information and belief, “in the thousands.” (Ex. A ¶ 47; *see also* **Exhibit D**, Declaration of John T. Williams, ¶ 10 indicating that the putative class, based only on Plaintiff’s allegations would at least exceed 5000 individuals). Accordingly, the proposed class has at least one hundred members in the aggregate. 28 U.S.C. § 1332(d)(5)(b).<sup>1</sup>

**C. The Action Meets CAFA’s Minimal Diversity Requirement**

14. CAFA applies when “any member of a class of plaintiffs is a citizen of a State different from any defendant.” 28 U.S.C. § 1332(d)(2)(A). “Under CAFA, federal courts now have original jurisdiction over class actions in which the amount in controversy exceeds \$5,000,000 and there is minimal diversity (at least one

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<sup>1</sup> Although the putative class proposed by Plaintiff meets the threshold for jurisdictional purposes, 1-800 Contacts denies that this action ultimately will prove appropriate for class treatment.

plaintiff and one defendant are from different states).” *Evans v. Walter Indus., Inc.*, 449 F.3d 1159, 1163 (11th Cir. 2006).

15. Plaintiff alleges that he is a citizen of Miami-Dade County, Florida. (Ex. A ¶ 7).

16. 1-800 Contacts is a Delaware corporation with its principal place of business in Draper, Utah. (Ex. A ¶ 8; *see also* Ex. D, ¶10 and **Exhibit E** (the Delaware Division of Corporations webpage reflecting the corporate information of 1-800 Contacts). 1-800 Contacts is therefore a citizen of Delaware and Utah. *See* 28 U.S.C. § 1332 (“a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business.”).

17. Accordingly, because Plaintiff is a citizen of Florida, and 1-800 Contacts is a citizen of Delaware and Utah, CAFA’s minimal diversity requirement is satisfied. *See* 28 U.S.C. § 1332(d)(2)(A).

**D. This Action Meets CAFA’s Amount-in-Controversy Requirement**

18. CAFA creates original jurisdiction for “any civil action in which the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs.” 28 U.S.C. § 1332(d)(2). The claims of the individual class members are aggregated to determine whether the matter in controversy exceeds \$5,000,000. 28 U.S.C. § 1332(d)(6).

19. The amount-in-controversy analysis considers the amount the plaintiff has placed in controversy, not the amount the plaintiff is likely to recover. *McDaniel v. Fifth Third Bank*, No. 14-11615, 2014 U.S. App. LEXIS 10489, \*2-\*3 (11th Cir. June 5, 2014) (“[T]he plaintiff[’s] likelihood of success on the merits is largely irrelevant to the court’s jurisdiction because the pertinent question is what is in controversy in the case, not how much the plaintiffs are ultimately likely to recover.”) (citing *Pretka v. Kolter City Plaza II, Inc.*, 608 F.3d 744, 751 (11th Cir. 2010) (emphasis in original)).

20. To satisfy this requirement, “a defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold; the notice need not contain evidentiary submissions.” *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 81 (2014); *see also Anderson v. Wilco Life Ins. Co.*, 943 F.3d 917, 925 (11th Cir. 2019).

21. Nevertheless, 1-800 Contacts has submitted a declaration in support of its notice of removal that supports how the amount in controversy requirement is satisfied. *See* Ex. D ¶ 10. When determining whether the \$5,000,000 threshold has been surpassed, “a court may rely on evidence put forward by the removing defendant, as well as reasonable inferences and deductions drawn from that evidence.” *Anderson*, 943 F.3d at 925 (citing *S. Fla. Wellness, Inc. v. Allstate Ins. Co.*, 745 F.3d 1312, 1315 (11th Cir. 2014)).

22. Although Plaintiff's Complaint filed in the State Court Action does not specify the amount of damages Plaintiff and the class seek in total, it includes allegations that indicate the amount in controversy exceeds \$5,000,000, exclusive of interests and costs.

23. Plaintiff's Complaint seeks declarative and injunctive relief, liquidated damages, punitive statutory damages, and attorneys' fees and costs. (Ex. A ¶ 71). The damages sought by Plaintiff are set forth by the FSCA, which provides for "liquidated damages computed at the rate of \$100 a day for each day of violation or \$1,000, whichever is higher." (Ex. A ¶ 39). The statute of limitations for an FSCA claim is two years. Fla. Stat. Ann. § 934.10(3).

24. Further, Plaintiff's Complaint alleges three causes of action<sup>2</sup> against 1-800 Contacts, two of which request statutory damages and attorneys' fees. (*See* Ex. A ¶¶ 71, 78). These allegations provide additional support that the amount-in-controversy requirement under CAFA is met.

25. More than 5,000 unique Florida visitors placed an order via the Website and entered billing and shipping addresses based in Florida between March 16, 2019 and March 16, 2021. *See* Ex. D, Declaration of John T. Williams, ¶ 10. Thus, since Plaintiff seeks to recover up to the maximum statutory damages of \$1,000 for each

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<sup>2</sup> Plaintiff's Complaint contains three causes of action. 1-800 Contacts reserves the right to challenge whether the causes of action are properly pled.

class member, the aggregated sum of alleged statutory damages alone therefore exceeds \$5,000,000 (the amount if the 5,000 unique Florida visitors who entered billing and shipping addresses based in Florida when they placed an order via the Website each recovered the maximum statutory damages of \$1,000) . Plaintiff’s claims for attorneys’ fees and injunctive relief further increase the “sum or value” his demand places in controversy and, when taken together with the statutory damages Plaintiff demands, yields a value that satisfies the jurisdiction amount under CAFA. *See* 28 U.S.C. § 1332(d)(2); *see also Federated Mut. Ins. Co. v. McKinnon Motors, LLC*, 329 F.3d 805, 808 (11th Cir. 2003) (“The general rule is that attorneys’ fees do not count towards the amount in controversy unless they are allowed for by statute or contract.”).

**IV. NOTICE**

26. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served on Plaintiff’s counsel and a copy is being filed with the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida.

27. A copy of the civil cover sheet is attached hereto.

**V. CONCLUSION**

WHEREFORE, 1-800 Contacts respectfully requests this Court to assume full jurisdiction over the cause herein, as provided by law, and to issue all necessary orders and process.



May 3, 2021

Respectfully submitted,

By: /s/ Jason H. Baruch

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**EXHIBIT A**

**IN THE CIRCUIT COURT OF  
THE ELEVENTH JUDICIAL CIRCUIT,  
IN MIAMI-DADE COUNTY, FLORIDA**

**MICHAEL FRIDMAN, individually and  
on behalf of all those similarly situated,**

**Plaintiff,**

**Case No.:**

**v.**

**1-800 CONTACTS, INC.**

**Defendant.**

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**CLASS ACTION COMPLAINT**

Plaintiff, Michael Fridman, appearing both individually and on behalf of all others similarly situated, by and through his attorneys, brings this class action against Defendant, 1-800 Contacts, Inc., based upon personal knowledge as to his own acts and experiences and, as to all other matters, based upon information and belief, including the investigation conducted by his counsel, and alleges as follows:

**NATURE OF THE ACTION**

1. This is a class action under the Florida Security of Communications Act, Fla. Stat. § 934.01, *et seq.* (“FSCA”), against Defendant, 1-800 Contacts, Inc. (“Defendant” or “1-800 Contacts”), arising from Defendant’s unlawful interception—or “wiretapping”—of Plaintiff’s and Class Members’ electronic communications with the website 1800contacts.com (the “Website”).

2. Specifically, Defendant uses wiretaps, which are embedded in the computer code on the Website, to intercept Plaintiff’s and Class Members’ electronic communications with Defendant’s Website.

3. To accomplish this wiretapping, Defendant uses tracking, recording, and/or “session replay” software to secretly observe and record Plaintiff’s and Class Members’ electronic communications with the Website, including their keystrokes, mouse movements and clicks, information inputted into the Website, and/or pages and content viewed on the Website.

4. Defendant intercepted or allowed for the interception of the electronic communications at issue without the knowledge or prior consent of Plaintiff and the Class Members, for its own financial gain.

5. By doing so, Defendant has invaded Plaintiff’s and Class Members’ privacy rights under Florida Law and violated the FSCA, Fla. Stat. §§ 934.03 and 934.04. Defendant has caused Plaintiff and Class Members to suffer injuries as a result of invading their privacy and/or exposing their private information.

6. Through this action, Plaintiff seeks injunctive relief to halt Defendant’s unlawful wiretapping. Plaintiff additionally seeks damages as authorized by the FSCA on behalf of Plaintiff and the Class Members, and any other available legal or equitable remedies resulting from the actions of Defendant described herein.

#### **THE PARTIES**

7. Plaintiff, Michael Fridman (“Plaintiff” or “Fridman”), is a citizen and resident of Miami-Dade County, Florida.

8. Defendant, 1-800 Contacts, Inc. (“Defendant” or “1-800 Contacts”), is a legal corporation incorporated in Delaware with its principal place of business in Draper, Utah.

9. 1-800 Contacts operates as a direct marketer of contact lenses. 1-800 Contacts offers a wide range of contact lenses through its Website to customers in the United States, including in Florida.

10. 1-800 Contacts owns and operates 1800contacts.com (the “Website”). 1-800-Contacts conducts substantial and not isolated activity and business in Florida.

#### **JURISDICTION AND VENUE**

11. This Court has subject matter jurisdiction pursuant to Florida Rule of Civil Procedure 1.220 and Fla. Stat. § 26.012(2). The matter in controversy exceeds the sum or value of \$30,000, exclusive of interest, costs, and attorneys’ fees.

12. Defendant is subject to personal jurisdiction in Florida because this suit arises out of and relates to Defendant’s contacts with Florida. Plaintiff’s and Class Members’ used the Website in Florida. Defendant’s unlawful interception of those electronic communications without the consent of Plaintiff and Class Members therefore occurred in Florida, and Plaintiff and Class Members were injured by Defendant’s acts while residing and physically present in Florida.

13. Venue for this action is proper in this Court because all facts giving rise to this action occurred in this Circuit.

#### **STATEMENT OF FACTS**

##### **Wiretapping via Session Replay Software**

14. At all relevant times herein, 1-800 Contacts has engaged Quantum Metric, Inc. (“QM”), a marketing software-as-a-service (“SaaS”) company, to provide marketing analytics software for its Website.

15. QM is a Delaware corporation with its principal place of business in Colorado Springs, Colorado.

16. QM develops, owns, and markets a software of the same name that provides marketing analytics, which is used by 1-800 Contacts on its Website.

17. QM software provides a feature called “Session Replay,” which purports to help businesses improve their website design and customer experience. QM operates on both desktop and mobile devices.

18. According to QM, “Session replay is the reproduction of a user’s interactions on web or native mobile applications. Session replay captures things like mouse movements, clicks, typing, scrolling, swiping, tapping, etc.” Session Replay allows companies to “to pull up any user who ha[s] visited [a] website and watch their journey as if [the company] was standing over their shoulder.” A company can “see every click, every tap and exactly what the website responded with – an error, a success message, or nothing.”

19. QM says its Session Replay feature “capture[s] all the metadata behind the replay—like user platform, API calls, and network details—as well as dozens of out of the box events and errors, plus the custom ones you’ll configure in our UI.”

20. QM’s product demo allows a preview of the Session Replay interface and demonstrates how the software works, highlighting that the software allows a company to see each website visitor’s electronic communications, including what a visitor clicked on, when a visitor reloaded a page, and where a visitor’s mouse pointer is located at any given moment.

21. QM notes that “[o]nce data is captured, it’s sent encrypted via a forward secrecy SSL connection, to the Quantum Metric cloud service, hosted in a secured Google Compute cloud.”

22. QM’s website includes a marketing video that discusses the Session Replay feature. The video touts that companies can “[s]ee actual customer interactions.” The marketing presentation then shows a mock mobile user visiting and interacting with a website. The video

shows what items the visitor viewed and added to their cart. The presentation then proceeds to show where exactly the mock visitor clicked on the website.

23. Technology like QM's is not only highly intrusive, but dangerous. A 2017 study by Princeton University found that session recording technologies like QM's Session Replay were collecting sensitive user information such as passwords and credit card numbers. The research notes that this wasn't simply the result of a bug, but rather insecure practices. Thus, technologies such as QM's leave users vulnerable to data leaks and the harm resulting therefrom.

24. QM's business model involves entering into voluntary partnerships with various companies and providing their software to their partners.

25. One of QM's partners is 1-800 Contacts.

26. 1-800 Contacts has installed and utilizes QM's software on its Website for the purpose of capturing information about the visitors on its Website.

27. 1-800 Contacts knows that QM's software captures the keystrokes, mouse clicks, and other communications of visitors to its Website, and pays QM to supply that information.

28. Pursuant to an agreement with QM, 1-800 Contacts enabled QM's software by intentionally embedding QM's software code on the Website.

29. As currently deployed, QM's software, as employed by 1-800 Contacts, functions as a wiretap.

**Defendant Wiretapped or Facilitated the Wiretap of  
Plaintiff's and Class Members' Electronic Communications**

30. On or around December 25, 2020, Plaintiff visited 1800contacts.com.

31. During Plaintiff's visit to the Website, Plaintiff placed an order for prescription contact lenses.

32. During that visit, and upon information and belief, the Session Replay feature in QM's software as embedded on Defendant's Website created a video capturing each of Plaintiff's keystrokes and mouse clicks on the Website. The QM wiretap used by Defendant also captured the date and time of the visit, the duration of the visit, Plaintiff's IP address, his location at the time of the visit, his browser type, and the operating system on his device.

33. Class Members share a similar narrative, and each experienced the interception of their electronic communications while visiting Defendant's Website as a result of the QM software acting as a wiretap.

34. Defendant's and QM's tracking and recording of keystrokes, mouse clicks, data entry, and other electronic communications begins the moment a visitor first accesses or interacts with Defendant's Website.

35. When visitors access the Website and make a purchase, they enter personally identifiable information ("PII") and protected health information ("PHI"). QM's software captures these electronic communications throughout each step of the process.

36. QM's software captures, among other things:

- (a) The visitor's mouse clicks;
- (b) The visitor's keystrokes;
- (c) The visitor's email address;
- (d) The visitor's shipping and billing address;
- (e) The visitor's payment card information, including card number, expiration date, and CVV code;
- (f) The visitor's prescription information and other PHI;
- (g) The visitor's IP address;



(h) The visitor's location at the time of the visit; and

(i) The visitor's browser type and the operating system on their devices.

37. Crucially, Defendant 1-800 Contacts does not ask visitors, including Plaintiff and Class Members, whether they consent to being wiretapped by Defendant and QM. Visitors are never actively told that their electronic communications are being wiretapped by Defendant and QM.

38. Further, 1-800 Contacts' privacy policy is located at the very bottom of the Website's home page with no notice directing visitors to the privacy policy, *i.e.*, the hyperlink to the privacy policy functions as browserwrap. Additionally, Defendant began recording visitors before any purported disclosure was made *after* the wiretap had already begun.

39. Moreover, visitors are not on notice of the hyperlink to the privacy policy when they select to place an order, or at any other time during their visit to the Website.

40. Therefore, visitors like Plaintiff and Class Members never agree or are never given the option to agree to the privacy policy when using the Website, nor are they on notice of the privacy policy.

41. Even if visitors do agree to the privacy policy by using the Website or otherwise—and they do not for the reasons stated above—1-800 Contacts does not mention QM or its Session Replay software (such as by disclosing that visitors will have their mouse clicks and keystrokes recorded in real time) in the Website's privacy policy. As such, visitors do not agree to be wiretapped even if they agree to the privacy policy.

42. Plaintiff and Class Members did not consent to being wiretapped on the Website, nor to having their communications recorded and shared with QM and Defendant. Any purported consent that was obtained was ineffective because (i) the wiretapping began from the moment

Plaintiff and Class Members accessed the Website; (ii) the privacy policy did not explicitly disclose the wiretapping or QM; and (iii) the hyperlink to the privacy policy is inconspicuous and therefore insufficient to provide notice.

#### **CLASS REPRESENTATION ALLEGATIONS**

43. Plaintiff seeks to represent a class of similarly situated individuals pursuant to Florida Rule of Civil Procedure 1.220(b)(2) and (b)(3), consisting of:

Florida residents who visited the Website, and whose electronic communications were intercepted or recorded by QM on behalf of Defendant, without their prior consent (the “Class” or “Class Members”).

44. Defendant and its employees or agents are excluded from the Class. Plaintiff reserves the right to modify or amend the Class definitions, as appropriate, during the course of this litigation.

45. Plaintiff brings all claims in this action individually and on behalf of Class Members against Defendant.

#### **Numerosity**

46. Members of the Class are so numerous that their individual joinder is impracticable.

47. On information and belief, Members of the Class number in the thousands.

48. The precise number of Class Members and their identities are unknown to Plaintiff at this time but may be determined through discovery.

49. Class Members may be notified of the pendency of this action by mail and/or publication through the distribution records of Defendant.

#### **Commonality**

50. Common questions of law and fact exist as to all Class Members and predominate over questions affecting only individual Class Members.

51. Common legal and factual questions include, but are not limited to, whether Defendants have violated the Florida Security of Communications Act (“FSCA”), Fla. Stat. §§ 934.03 and 934.04, and invaded Plaintiff’s privacy rights in violation of Florida law; and whether Class Members are entitled to actual and/or statutory damages for the aforementioned violations.

### **Typicality**

52. The claims of the named Plaintiff are typical of the claims of the Class because the named Plaintiff, like all other Class Members, visited Defendant’s Website and had his electronic communications intercepted and disclosed to QM and Defendant through the use of QM’s wiretaps on Defendant’s Website.

### **Adequacy of Representation**

53. Plaintiff is an adequate representative of the Class because his interests do not conflict with the interests of the Class Members he seeks to represent, he has retained competent counsel experienced in prosecuting class actions, and he intends to prosecute this action vigorously.

54. The interests of Class Members will be fairly and adequately protected by Plaintiff and his counsel.

### **Superiority**

55. The class mechanism is superior to other available means for the fair and efficient adjudication of the claims of Class Members.

56. Many of the Class Members likely lack the ability and/or resources to undertake the burden and expense of individually prosecuting what may be a complex and extensive action to establish Defendant’s liability.

57. Individualized litigation increases the delay and expense to all parties and multiplies the burden on the judicial system. This strain on the parties and the judicial system would be heightened in this case, given the complex legal and factual issues at play.

58. Individualized litigation also presents a potential for inconsistent or contradictory judgments.

59. In contrast, the class action device presents far fewer management difficulties and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court on the issue of Defendant's liability.

60. Class treatment of the liability issues will ensure that all claims and claimants are before this Court for consistent adjudication of the liability issues.

## COUNT I

### **Violation of the Florida Security of Communications Act, Fla. Stat. § 934.03**

61. Plaintiff repeats and incorporates the allegations set forth in paragraphs 1 through 60 as if fully set forth herein.

62. Plaintiff brings this claim individually and on behalf of the Class Members against Defendant.

63. To establish liability under Fla. Stat. § 934.03, captioned "Interception and disclosure of wire, oral, or electronic communications prohibited," a plaintiff need only establish that a defendant:

(a) Intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept any wire, oral, or electronic communication;

(b) Intentionally uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when:

1. Such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication; or

2. Such device transmits communications by radio or interferes with the transmission of such communication;

(c) Intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection;

(d) Intentionally uses, or endeavors to use, the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection; or

(e) Intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication intercepted by means authorized by subparagraph (2)(a)2., paragraph (2)(b), paragraph (2)(c), s. 934.07, or s. 934.09 when that person knows or has reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, has obtained or received the information in connection with a criminal investigation, and intends to improperly obstruct, impede, or interfere with a duly authorized criminal investigation.

Fla Stat. § 934.03(1).

64. Pursuant to Fla. Stat. § 934.02, “‘Electronic communication’ means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical system that affects intrastate, interstate, or foreign commerce[.]” such as through the internet.

65. At all relevant times, QM’s software, including the Session Replay feature, was intentionally used by Defendant to intercept, endeavor to intercept, use, endeavor to use, disclose, and/or endeavor to disclose Plaintiff’s and Class Members’ electronic communications.

66. At all relevant times, by using QM's technology, Defendant willfully and without the consent of all parties to the communication, in an unauthorized manner, read or attempted to read or learn the contents or meaning of electronic communications of Plaintiff and Class Members, while the electronic communications were in transit or passing over any wire, line, or cable, or were being sent from or received at any place within Florida.

67. Defendant aided, agreed with, and conspired to implement QM's technology and to accomplish the wrongful conduct at issue here.

68. Plaintiff and Class Members did not consent to any of Defendant's actions in implementing QM's wiretaps on the Website. Nor have Plaintiff or Class Members consented to Defendant's intentional access, interception, reading, learning, recording, and collection of Plaintiff and Class Members' electronic communications.

69. The violation of Fla. Stat. § 934.03 constitutes an invasion of privacy sufficient to confer Article III standing.

70. Unless enjoined, Defendant will continue to commit or facilitate the illegal acts alleged herein.

71. Plaintiff and Class Members seek all relief available under Fla. Stat. § 934.10, including declaratory and injunctive relief, statutory damages at the rate of \$100 a day for each day of violation or \$1,000, whichever is higher, punitive damages, attorneys' fees, and costs.

## **COUNT II**

### **Violation of the Florida Security of Communications Act, Fla. Stat. § 934.04**

72. Plaintiff repeats and incorporates the allegations set forth in paragraphs 1 through 60 as if fully set forth herein.

73. Plaintiff brings this claim individually and on behalf of the Class Members against Defendant.

74. Fla Stat. § 934.04 provides a private right of action against:

[A]ny person who intentionally:

(a) Sends through the mail or otherwise sends or carries any electronic, mechanical, or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the illegal interception of wire, oral, or electronic communications as specifically defined by this chapter; or

(b) Manufactures, assembles, possesses, or sells any electronic, mechanical, or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the illegal interception of wire, oral, or electronic communications as specifically defined by this chapter[.]

Fla Stat. § 934.04(1).

75. At all relevant times, by implementing QM's wiretaps, Defendant intentionally possessed a wiretap device that is primarily or exclusively designed or intended for eavesdropping upon the communications of another.

76. QM's code is a "device" that is "primarily useful" for eavesdropping. That is, QM's embedded code is designed to gather PII, including keystrokes, mouse clicks, and other electronic communications.

77. Plaintiff and Class Members did not consent to any of Defendant's actions in implementing QM's wiretaps.

78. Plaintiff and Class Members seek all relief available under Fla. Stat. § 934.10, including declaratory and injunctive relief, statutory damages at the rate of \$100 a day for each day of violation or \$1,000, whichever is higher, punitive damages, attorneys' fees, and costs.

### **COUNT III**

#### **Invasion of Privacy Under Florida Law**

79. Plaintiff repeats and incorporates the allegations set forth in paragraphs 1 through 60 as if fully set forth herein.

80. Plaintiff brings this claim individually and on behalf of the Class Members against Defendant.

81. Plaintiff and Class Members have an interest in: (1) precluding the dissemination and/or misuse of their sensitive, confidential PII and/or PHI; and (2) making personal decisions and/or conducting personal activities without observation, intrusion, or interference.

82. At all relevant times, by implementing QM's wiretaps on 1-800 Contacts' Website, Defendant intentionally invaded Plaintiff's and Class Members' privacy rights under Florida law.

83. Plaintiff and Class Members had a reasonable expectation that their PII, PHI, and other data would remain confidential and that Defendant would not install wiretaps on the Website.

84. Plaintiff and Class Members did not consent to any of Defendant's actions in implementing QM's wiretaps on the Website.

85. This invasion of privacy is serious in nature, scope, and impact.

86. The invasion of privacy alleged herein constitutes an egregious breach of the social norms underlying the right to privacy.

87. Plaintiff and Class Members seek all relief available for invasion of privacy claims under Florida law.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff individually and on behalf of all others similarly situated, seeks judgment against Defendant, as follows:



- (a) For an order certifying the Class under Florida Rule of Civil Procedure 1.220 and naming Plaintiff as the representative of the Class and Plaintiff's attorneys as Class Counsel to represent the Class;
- (b) For an order declaring that the Defendant's conduct violates the statutes referenced herein;
- (c) For an order finding in favor of Plaintiff and the Class on all Counts asserted herein;
- (d) For compensatory, punitive, and/or statutory damages in amounts to be determined by the Court and/or jury;
- (e) For prejudgment interest on all amounts awarded;
- (f) For an order of restitution and all other forms of equitable monetary relief;
- (g) For injunctive relief as pleaded or as the Court may deem proper; and
- (h) For an order awarding Plaintiff and the Class their reasonable attorneys' fees and expenses and costs of suit.

**JURY DEMAND**

Plaintiff and Class Members hereby demand a trial by jury.

**DOCUMENT PRESERVATION DEMAND**

Plaintiff demands that Defendant take affirmative steps to preserve all records, lists, electronic databases, or other itemizations associated with the allegations herein, including all records, lists, electronic databases, or other itemizations in the possession of any vendors, individuals, and/or companies contracted, hired, or directed by Defendant to assist in sending the alleged communications.

Dated: March 16, 2021

Respectfully submitted,

By: /s/ Brian Levin  
**LEVIN LAW, P.A.**  
Brian Levin, Esq.  
Florida Bar No. 26392  
2665 South Bayshore Drive, PH-2B  
Miami, Florida 33133  
brian@levinlawpa.com  
(305) 402-9050

*Counsel for Plaintiff and  
Putative Class*

/s/ Avi R. Kaufman  
**KAUFMAN P.A**  
Avi R. Kaufman, Esq.  
Florida Bar No. 84382  
400 Northwest 26th Street  
Miami, Florida 33127  
kaufman@kaufmanpa.com  
(305) 469-5881

*Counsel for Plaintiff and  
Putative Class*

**EXHIBIT B**

**From:** [SOPDelivery@wolterskluwer.com](mailto:SOPDelivery@wolterskluwer.com) <[SOPDelivery@wolterskluwer.com](mailto:SOPDelivery@wolterskluwer.com)>

**Sent:** Tuesday, April 6, 2021 5:06 PM

**To:** Roy Montclair <[RMONTCLAIR@1800Contacts.com](mailto:RMONTCLAIR@1800Contacts.com)>

**Subject:** C T received Process (Log # 539337859) in Delaware for 1-800 Contacts, Inc., DE - Paperless

**CT Corporation: Service of Process Instant Notification**

[Click Here](#) to access this service of process in real-time at CTAdvantage.

Or, [Click Here](#) to go to SOP Hub directly.

Roy Montclair  
1-800 Contacts, Inc.  
261 W DATA DR  
DRAPER, UT, 84020-2315

PROCESS SERVED IN: Delaware

FOR: 1-800 Contacts, Inc. (Domestic State: DE)

**NOTICE OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY**

TITLE OF ACTION: MICHAEL FRIDMAN, ETC., PLTF. vs. 1-800 CONTACTS, INC., DFT.

DOCUMENT(S) SERVED: -

COURT/AGENCY: None Specified  
Case # 2021006323CA01

PROCESS SERVED ON: The Corporation Trust Company, Wilmington, DE

DATE/METHOD OF SERVICE: By Process Server on 04/06/2021 at 14:35

JURISDICTION SERVED : Delaware

APPEARANCE OR ANSWER DUE: None Specified

ATTORNEY(S)/SENDER(S): None Specified

REGISTERED AGENT ADDRESS: The Corporation Trust Company  
1209 Orange Street  
Wilmington, DE, 19801  
866-539-8692  
[CorporationTeam@wolterskluwer.com](mailto:CorporationTeam@wolterskluwer.com)

ACTIONS: CT has retained the current log, Retain Date: 04/06/2021, Expected Purge Date: 04/11/2021  
Image SOP  
Email Notification, Roy Montclair [rmontclair@1800contacts.com](mailto:rmontclair@1800contacts.com)  
Email Notification, DJ Walker [rxrenewal@1800contacts.com](mailto:rxrenewal@1800contacts.com)  
Email Notification, Karen Howse [khowse@1800contacts.com](mailto:khowse@1800contacts.com)

[Click Here](#) to access this service of process in real-time at CTAdvantage.

Or, [Click Here](#) to go to SOP Hub directly.

Or copy and paste the following URL into your web browser.

<https://sop.ctadvantage.com/sophub/App/index.aspx#/search/BasicSearch/1/539337859>

The information contained in this notification is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.



**EXHIBIT C**

IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT IN AND  
FOR MIAMI-DADE COUNTY, FLORIDA

CASE NO. 2021 006323 CA 01

MICHAEL FRIDMAN, individually and  
on behalf of all those similarly situated,

Plaintiff,

v.

1-800 CONTACTS, INC.,

Defendant.

---

**NOTICE OF APPEARANCE AND DESIGNATION OF EMAIL ADDRESSES**

Jessica S. Kramer, of Holland & Knight LLP, gives notice of her appearance as counsel in this action for Defendant 1-800 Contacts, Inc. and requests that she be served with copies of all future pleadings, papers, notices and orders filed or served in this action.

Pursuant to Rule 2.516, Fla. R. Jud. Admin., counsel designates the following e-mail addresses for service:

Primary: jessica.kramer@hkllaw.com

Secondary: gloria.mcknight@hkllaw.com

*/s/Jessica S. Kramer*

---

Jason H. Baruch  
Florida Bar 10280  
Jessica S. Kramer  
Florida Bar 125420  
HOLLAND & KNIGHT LLP  
100 North Tampa Street, Suite 4100  
Tampa, Florida 33602  
Telephone: 813-227-8500  
Fax: 813-229-0134  
jason.baruch@hkllaw.com  
Secondary: wendysue.henry@hkllaw.com

jessica.kramer@hkllaw.com  
Secondary: gloria.mcknight@hkllaw.com

and

Brandon T. White  
Florida Bar 106792  
HOLLAND & KNIGHT LLP  
701 Brickell Avenue, Suite 3300  
Miami, FL 33131  
Tel. 305.374.8500  
Fax: 305.789.7799  
brandon.white@hkllaw.com

*Counsel for Defendant, 1-800 Contacts, Inc.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on April 16, 2021, a true and correct copy of the foregoing was electronically filed via the Florida Courts e-Filing Portal, which will serve this Notice on all counsel of record via the Court's system as listed below:

Brian Levin, Esq.  
**LEVIN LAW, P.A.**  
2665 South Bayshore Drive, H-2B  
Miami FL 33133  
brian@levinlawpa.com

*Counsel for Plaintiff and Putative Class*

Avi R. Kaufman, Esq.  
**KAUFMAN P.A.**  
400 N.W. 26<sup>th</sup> Street  
Miami, FL 33127  
kaufman@kaufmanpa.com

*Counsel for Plaintiff and Putative Class*

/s/Jessica S. Kramer  
Attorney



IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT IN AND  
FOR MIAMI-DADE COUNTY, FLORIDA

CASE NO. 2021 006323 CA 01

MICHAEL FRIDMAN, individually and  
on behalf of all those similarly situated,

Plaintiff,

v.

1-800 CONTACTS, INC.

Defendant.

---

**NOTICE OF APPEARANCE AND NOTICE OF COMPLIANCE WITH  
FLA. R. JUD. ADMIN. 2.516 AND DESIGNATION OF EMAIL ADDRESSES**

The law firm of Holland & Knight LLP serves notice of its appearance for Defendant, 1-800 CONTACTS, INC., in the above-captioned case, and requests that copies of all pleadings, notices, orders, and documents relative to this case be served upon the undersigned. The emails for service are:

Primary: [jason.baruch@hklaw.com](mailto:jason.baruch@hklaw.com)  
[brandon.white@hklaw.com](mailto:brandon.white@hklaw.com)  
[jessica.kramer@hklaw.com](mailto:jessica.kramer@hklaw.com)

Dated: April 12, 2021

Respectfully submitted,

HOLLAND & KNIGHT LLP  
701 Brickell Avenue, Suite 3300  
Miami, FL 33131  
Tel. 305.374.8500  
Fax: 305.789.7799

By: /s/ Brandon White  
Brandon White, Florida Bar 106792  
[brandon.white@hklaw.com](mailto:brandon.white@hklaw.com)

HOLLAND & KNIGHT LLP  
100 North Tampa Street, Suite 4100  
Tampa, FL 33602  
Jason Baruch, Florida Bar 10280  
[jason.baruch@hkllaw.com](mailto:jason.baruch@hkllaw.com)  
Jessica Kramer, Florida Bar 125420  
[jessica.kramer@hkllaw.com](mailto:jessica.kramer@hkllaw.com)

*Counsel for Defendant, 1-800 Contacts, Inc.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on April 12, 2021, a true and correct copy of the foregoing was electronically filed via the Florida Courts e-Filing Portal, which will serve this Notice on all counsel of record via the Court's system as listed below:

*/s/ Brandon White* \_\_\_\_\_

**SERVICE LIST**

**LEVIN LAW, P.A.**

Brian Levin, Esq.  
[brian@levinlawpa.com](mailto:brian@levinlawpa.com)  
2665 South Bayshore Drive, PH-2B  
Miami FL 33133  
(305) 402-9050

*Counsel for Plaintiff and Putative Class*

**KAUFMAN P.A.**

Avi R. Kaufman, Esq.  
[kaufman@kaufmanpa.com](mailto:kaufman@kaufmanpa.com)  
400 N.W. 26<sup>th</sup> Street  
Miami, FL 33127  
(305) 469-5881

*Counsel for Plaintiff and Putative Class*

IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT IN AND  
FOR MIAMI-DADE COUNTY, FLORIDA

CASE NO. 2021 006323 CA 01

MICHAEL FRIDMAN, individually and  
on behalf of all those similarly situated,

Plaintiff,

v.

1-800 CONTACTS, INC.,

Defendant.

---

**NOTICE OF APPEARANCE AND DESIGNATION OF EMAIL ADDRESSES**

Jessica S. Kramer, of Holland & Knight LLP, gives notice of her appearance as counsel in this action for Defendant 1-800 Contacts, Inc. and requests that she be served with copies of all future pleadings, papers, notices and orders filed or served in this action.

Pursuant to Rule 2.516, Fla. R. Jud. Admin., counsel designates the following e-mail addresses for service:

Primary: jessica.kramer@hkllaw.com

Secondary: gloria.mcknight@hkllaw.com

*/s/Jessica S. Kramer*

---

Jason H. Baruch  
Florida Bar 10280  
Jessica S. Kramer  
Florida Bar 125420  
HOLLAND & KNIGHT LLP  
100 North Tampa Street, Suite 4100  
Tampa, Florida 33602  
Telephone: 813-227-8500  
Fax: 813-229-0134  
jason.baruch@hkllaw.com  
Secondary: wendysue.henry@hkllaw.com

jessica.kramer@hklaw.com  
Secondary: gloria.mcknight@hklaw.com

and

Brandon T. White  
Florida Bar 106792  
HOLLAND & KNIGHT LLP  
701 Brickell Avenue, Suite 3300  
Miami, FL 33131  
Tel. 305.374.8500  
Fax: 305.789.7799  
brandon.white@hklaw.com

*Counsel for Defendant, 1-800 Contacts, Inc.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on April 16, 2021, a true and correct copy of the foregoing was electronically filed via the Florida Courts e-Filing Portal, which will serve this Notice on all counsel of record via the Court's system as listed below:

Brian Levin, Esq.  
**LEVIN LAW, P.A.**  
2665 South Bayshore Drive, H-2B  
Miami FL 33133  
brian@levinlawpa.com

*Counsel for Plaintiff and Putative Class*

Avi R. Kaufman, Esq.  
**KAUFMAN P.A.**  
400 N.W. 26<sup>th</sup> Street  
Miami, FL 33127  
kaufman@kaufmanpa.com

*Counsel for Plaintiff and Putative Class*

/s/Jessica S. Kramer  
Attorney

IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT IN AND  
FOR MIAMI-DADE COUNTY, FLORIDA

CASE NO. 2021 006323 CA 01

MICHAEL FRIDMAN, individually and  
on behalf of all those similarly situated,

Plaintiff,

v.

1-800 CONTACTS, INC.,

Defendant.

---

**AGREED NOTICE FOR AN EXTENSION OF TIME  
FOR DEFENDANT TO RESPOND TO PLAINTIFF'S COMPLAINT**

Defendant, 1-800 Contacts, Inc. ("1-800 Contacts"), and Plaintiff, Michael Fridman ("Plaintiff") (collectively, the "Parties"), have agreed on a brief extension of time by which Defendant shall respond to Plaintiff's Complaint, through May 25, 2021. In support, the Parties state as follows:

1. On March 16, 2021, Plaintiff filed a Complaint against 1-800 Contacts.
2. On April 6, 2021, Plaintiff served 1-800 Contacts with the Complaint. 1-800 Contacts' response to the Complaint would ordinarily be due on April 25, 2021. However, the Parties agreed that 1-800 Contacts' deadline could be extended through May 25, 2021.
3. 1-800 Contacts requires additional time to fully investigate the allegations in the Complaint in order to provide a proper and thorough response.
4. This notice for an extension of time will not prejudice either party in this action.

The Parties jointly agreed to this extension.

WHEREFORE, Plaintiff and 1-800 Contacts agree that 1-800 Contacts' deadline to respond to Plaintiff's Complaint, shall be through and including May 25, 2021.

/s/ Jessica S. Kramer

Jason H. Baruch  
Florida Bar 10280  
Jessica S. Kramer  
Florida Bar 125420  
HOLLAND & KNIGHT LLP  
100 North Tampa Street, Suite 4100  
Tampa, Florida 33602  
Telephone: 813-227-8500 / Fax: 813-229-0134  
jason.baruch@hklaw.com  
Secondary: wendysue.henry@hklaw.com  
jessica.kramer@hklaw.com  
Secondary: gloria.mcknight@hklaw.com

and

Brandon T. White  
Florida Bar 106792  
HOLLAND & KNIGHT LLP  
701 Brickell Avenue, Suite 3300  
Miami, FL 33131  
Tel. 305.374.8500 / Fax: 305.789.7799  
brandon.white@hklaw.com

*Counsel for Defendant, 1-800 Contacts, Inc.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on April 28, 2021, a true and correct copy of the foregoing was electronically filed via the Florida Courts e-Filing Portal, which will serve this Notice on all counsel of record via the Court's system as listed below:

Brian Levin, Esq.  
**LEVIN LAW, P.A.**  
2665 South Bayshore Drive, H-2B  
Miami FL 33133  
brian@levinlawpa.com

Avi R. Kaufman, Esq.  
**KAUFMAN P.A.**  
400 N.W. 26<sup>th</sup> Street  
Miami, FL 33127  
kaufman@kaufmanpa.com

*Counsel for Plaintiff and Putative Class*

*Counsel for Plaintiff and Putative Class*

/s/ Jessica S. Kramer

Attorney

**EXHIBIT D**

**THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION**

MICHAEL FRIDMAN, individually and  
on behalf of all those similarly situated,

Plaintiff,

vs.

Case No.

1-800 CONTACTS, INC.,

State Court Case No. 2021-006323-CA-01

Defendant.

\_\_\_\_\_ /

**DECLARATION OF JOHN T. WILLIAMS**

I, John T. Williams, declare as follows:

1. I submit this declaration in my capacity as Manager of Data Engineering on behalf of 1-800 Contacts, Inc. ("1-800 Contacts") in support of 1-800 Contacts' Notice of Removal in the above-referenced lawsuit ("Lawsuit").

2. I have personal knowledge of the facts set forth in this declaration and if called and sworn as a witness, I could and would competently testify to the information contained herein.

3. 1-800 Contacts is a Delaware corporation with its principal place of business in Draper, Utah.

4. For purposes of preparing this declaration, I am familiar with the issues appearing in this Lawsuit, including the allegations in Plaintiff's Complaint.



5. I have worked at 1-800 Contacts for a little more than sixteen (16) years in a variety of roles, and have spent the last year in my current role as Manager of Data Engineering. In my current role, among other responsibilities, I oversee a team that is responsible for querying data from 1-800 Contacts' production system and preparing that data for analysis.

6. In order to complete an order using 1800contacts.com (the "Website"), a customer must enter certain information on the Website, such as the customer's billing and shipping address. Users who complete an order on the Website are referred to as customers.

7. For completed orders, the customer's billing and shipping address data are automatically transferred from the Website and stored in the secure database where customer data are maintained.

8. Given the allegations in the Lawsuit, I searched the secure database where customer data is maintained to determine the number of unique customers who made an order via the Website and also entered a Florida address for their billing and shipping addresses.

9. The search was limited to orders made between March 16, 2019 and March 16, 2021.

10. Based on my review of the records, more than 5,000 unique visitors placed an order via the Website and entered a billing and shipping addresses based in Florida.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on 29 day of April 2021 in Draper, UT.

A handwritten signature in blue ink, appearing to read 'J. Williams', is written over a horizontal line. The signature is stylized and cursive.

**John T. Williams**

**EXHIBIT E**

Department of State: Division of Corporations

[Allowable Characters](#)

HOME

Entity Details

**THIS IS NOT A STATEMENT OF GOOD STANDING**

**File Number:** 2816007      **Incorporation Date / Formation Date:** 11/3/1997 (mm/dd/yyyy)

**Entity Name:** 1-800 CONTACTS, INC.

**Entity Kind:** Corporation      **Entity Type:** General

**Residency:** Domestic      **State:** DELAWARE

**REGISTERED AGENT INFORMATION**

**Name:** THE CORPORATION TRUST COMPANY

**Address:** CORPORATION TRUST CENTER 1209 ORANGE ST

**City:** WILMINGTON      **County:** New Castle

**State:** DE      **Postal Code:** 19801

**Phone:** 302-658-7581

Additional Information is available for a fee. You can retrieve Status for a fee of \$10.00 or more detailed information including current franchise tax assessment, current filing history and more for a fee of \$20.00.

Would you like  Status  Status, Tax & History Information

Submit

View Search Results

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# MIAMI-DADE COUNTY CLERK OF THE COURTS

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### CIVIL, FAMILY AND PROBATE COURTS ONLINE SYSTEM

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<b>MICHAEL FRIDMAN VS 1-800 CONTACTS, INC.</b>	
<b>Local Case Number:</b> 2021-006323-CA-01	<b>Filing Date:</b> 03/16/2021
<b>State Case Number:</b> 132021CA006323000001	<b>Judicial Section:</b> CA08
<b>Consolidated Case No.:</b> N/A	<b>Case Type:</b> Other Civil Complaint
<b>Case Status:</b> OPEN	

Parties	Total Of Parties: 2 <b>+</b>
---------	------------------------------

Hearing Details	Total Of Hearings: 0 <b>+</b>
-----------------	-------------------------------

Dockets	Total Of Dockets: 12 <b>-</b>
---------	-------------------------------

	Number	Date	Book/Page	Docket Entry	Event Type	Comments
	11	04/28/2021		Notice:	Event	<b>AGREED FOR AN EXTENSION OF TIME FOR DEFENDANT TO RESPOND TO PLTF'S COMPLAINT</b>
	10	04/16/2021		Notice of Appearance	Event	Parties: Kramer Jessica Sarah; 1-800 Contacts Inc.
	9	04/16/2021		Notice of Appearance	Event	
	8	04/12/2021		Notice of Appearance	Event	Parties: WHITE BRANDON T.; 1-800 Contacts Inc.
	7	04/12/2021		Notice of Appearance	Event	Parties: WHITE BRANDON T.; 1-800 Contacts Inc.
		03/17/2021		20 Day Summons Issued	Service	
	6	03/17/2021		ESummons 20 Day Issued	Event	Parties: 1-800 Contacts Inc.
	5	03/17/2021		Receipt:	Event	<b>RECEIPT#:2620282 AMT PAID:\$10.00 NAME:KAUFMAN, AVI R 2525 PONCE DE LEON BLVD STE 625 CORAL GABLES FL 33134-6051 COMMENT: ALLOCATION CODE QUANTITY UNIT AMOUNT 3139-SUMMONS ISSUE FEE 1 \$10.00 \$10.00 TENDER TYPE:E-FILING ACH TENDER AMT:\$10.00 RECEIPT DATE:03/17/2021 REGISTER#:262 CASHIER:EFILINGUSER</b>
	4	03/17/2021		Receipt:	Event	<b>RECEIPT#:2620198 AMT PAID:\$401.00 NAME:KAUFMAN, AVI R 2525 PONCE DE LEON BLVD STE 625 CORAL GABLES FL 33134-6051 COMMENT: ALLOCATION CODE QUANTITY UNIT AMOUNT 3100-CIRCUIT FILING FEE 1 \$401.00 \$401.00 TENDER TYPE:E-FILING ACH TENDER AMT:\$401.00 RECEIPT DATE:03/17/2021 REGISTER#:262 CASHIER:EFILINGUSER</b>

Number	Date	Book/Page	Docket Entry	Event Type	Comments
3	03/16/2021		(M) 20 Day (C) Summons (Sub) Received	Event	
2	03/16/2021		Complaint	Event	
1	03/16/2021		Civil Cover Sheet - Claim Amount	Event	

◀ BACK

**Please be advised:**

The Clerk’s Office makes every effort to ensure the accuracy of the following information; however it makes no warranties or representations whatsoever regarding the completeness, accuracy, or timeliness of such information and data. Information on this website has been posted with the intent that it be readily available for personal and public non-commercial (educational) use and to provide the public with direct online access to information in the Miami-Dade Clerk’s Office information systems. Other than making limited copies of this website’s content, you may not reproduce, retransmit, redistribute, upload or post any part of this website, including the contents thereof, in any form or by any means, or store it in any information storage and retrieval system, without prior written permission from the Miami-Dade Clerk’s Office.

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## HARVEY RUVIN

Miami-Dade County  
Clerk of the Courts

73 W. Flagler Street  
Miami, Florida 33130

305-275-1155

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
MICHAEL FRIDMAN, individually and on behalf of all those similarly situated
(b) County of Residence of First Listed Plaintiff Miami-Dade (EXCEPT IN U.S. PLAINTIFF CASES)
(c) Attorneys (Firm Name, Address, and Telephone Number) Brian Levni, Esq., Levin Law, P.A., 2665 S. Bayshore Dr., PH-2B, Miami, FL 33133; 305-402-9050

DEFENDANTS
1-800 CONTACTS, INC.
County of Residence of First Listed Defendant Salt Lake County (IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known) Jason H. Baruch, Esq., Holland & Knight LLP, 100 N. Tampa St., Tampa, FL 33602; 813-227-8500

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)
PTF DEF
Citizen of This State [X] 1 [ ] 1
Citizen of Another State [ ] 2 [ ] 2
Citizen or Subject of a Foreign Country [ ] 3 [ ] 3
Incorporated or Principal Place of Business In This State [ ] 4 [ ] 4
Incorporated and Principal Place of Business In Another State [ ] 5 [X] 5
Foreign Nation [ ] 6 [ ] 6

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions.

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

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding [ ]
2 Removed from State Court [X]
3 Remanded from Appellate Court [ ]
4 Reinstated or Reopened [ ]
5 Transferred from Another District (specify) [ ]
6 Multidistrict Litigation - Transfer [ ]
7 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): Florida Security of Communications Act, Fla. Stat. § 934.01, et seq.
Brief description of cause: Plaintiffs allege 1-800 Contacts, Inc. unlawfully intercepts "electronic communications" with 1-800 Contacts, Inc.'s website

VII. REQUESTED IN COMPLAINT:
[X] CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000
CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [ ] No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE May 3, 2021 SIGNATURE OF ATTORNEY OF RECORD /s/ Brandon T. Wihite

FOR OFFICE USE ONLY
RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [1-800 Contacts Hit with Class Action Over Alleged 'Wiretapping' of Florida Website Visitors](#)

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