

BARSHAY SANDERS, PLLC

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Attorneys for Plaintiff

Our File No.: 112452

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FT. PIERCE DIVISION**

Alycia A. Germond, individually and on behalf of all
others similarly situated,

Plaintiff,

vs.

Law Offices of Joel Cardis, LLC and Joel Cardis,
individually,

Defendants.

Docket No:

COMPLAINT-CLASS ACTION

JURY TRIAL DEMANDED

Alycia A. Germond, individually and on behalf of all others similarly situated (hereinafter referred to as “*Plaintiff*”), by and through the undersigned counsel, complains, states and alleges against Law Offices of Joel Cardis, LLC, and Joel Cardis (hereinafter referred to collectively as “*Defendants*”), as follows:

INTRODUCTION

1. This action seeks to recover for violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the “TCPA”) and the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.*, (“FDCPA”).

JURISDICTION AND VENUE

2. This Court has federal subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 1692k(d).

3. Venue is proper under 28 U.S.C. §1391(b) because a substantial part of the events or omissions giving rise to the claim occurred in this Judicial District.

4. At all relevant times, Defendants conducted business within the State of Florida.

PARTIES

5. Plaintiff Alycia A. Germond is an individual who is a citizen of the State of Florida residing in Saint Lucie County, Florida.

6. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3).

7. On information and belief, Defendant Law Offices of Joel Cardis, LLC, is a Pennsylvania Limited Liability Company with a principal place of business in Montgomery County, Pennsylvania. Defendant Law Offices of Joel Cardis, LLC is owned and operated by Defendant Joel Cardis.

8. Defendants are a “person” as defined by 47 U.S.C. § 153(39).

9. Defendants are regularly engaged, for profit, in the collection of debts allegedly owed by consumers.

10. Defendants are a “debt collector” as defined by 15 U.S.C. § 1692a(6)

ALLEGATIONS

11. Plaintiff owns a cellular telephone assigned the cellular telephone number (310) 666-XXXX.

12. Plaintiff has had the same telephone number for at least two (2) years.

13. Throughout 2016, beginning on an exact date known only to Defendants, Defendants began calling Plaintiff’s cellular phone using an automatic telephone dialing system.

14. Throughout 2016, beginning on an exact date known only to Defendants, Defendants began calling Plaintiff’s cellular phone using an artificial or prerecorded voice.

15. Such calls occurred serially throughout 2016, averaging 3-5 times per week, 2-3 times per day.

16. Defendants called Plaintiff’s cellular telephone hundreds of times during 2016.

17. Plaintiff repeatedly requested Defendants cease and desist calling her cellular telephone.

18. Despite Plaintiff’s direction, Defendants continued calling Plaintiff’s cellular telephone.

19. Certain calls were answered by Plaintiff.
20. Certain calls were received by Plaintiff's voicemail.
21. Plaintiff is not a customer of Defendants and did not give Defendants consent to call her cellular telephone using an auto-dialer.
22. Plaintiff is not a customer of Defendants and did not give Defendants consent to call her cellular telephone using an artificial or prerecorded voice.
23. Defendants allege Plaintiff owes a debt.
24. Defendants' calls were not for emergency purposes.
25. Defendants' calls were unwanted by Plaintiff.
26. Defendants acted willfully.
27. Defendants acted with full knowledge that their actions were unlawful.
28. The telephone calls are "communications" as defined by 15 U.S.C. § 1692a(2).

FIRST COUNT
Violations of 15 U.S.C. § 1692d(5)

29. Plaintiff repeats and realleges paragraphs 6, 9, 10, 15 through 18, 23 and 28 as if fully restated herein.

30. 15 U.S.C. § 1692d(5) provides that it is a violation of the FDCPA to cause a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

31. Defendants caused Plaintiff's telephone to ring repeatedly.

32. Defendants caused Plaintiff's telephone to ring repeatedly with intent to annoy, abuse, and harass Plaintiff.

33. Defendants caused Plaintiff's telephone to ring continuously with intent to annoy, abuse, and harass Plaintiff.

34. Defendants' conduct caused Plaintiff worry, frustration, aggravation, distress and lost time.

35. Defendants' conduct as described herein violates 15 U.S.C. § 1692d(5).

SECOND COUNT
Violations of 47 U.S.C. § 227(b)(1)

36. Plaintiff repeats and realleges paragraphs 8, 11 through 22 and 24 through 27 as if fully restated herein.

37. 47 U.S.C. § 227(b)(1) provides: “It shall be unlawful for any person within the United States – (A) to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice... (iii) to any ... cellular telephone service.”

38. Defendants’ conduct, as described herein, violated 47 U.S.C. § 227.

39. Defendants’ conduct, as described herein, caused Plaintiff’s voicemail to become full.

40. Defendants’ conduct, as described herein, was an electronic intrusion upon Plaintiff’s cellular phone.

41. Defendants’ conduct, as described herein, caused Plaintiff’s cellular phone’s battery to become depleted, causing Plaintiff to use electricity to recharge same.

42. Defendants’ conduct, as described herein, was an invasion of Plaintiff’s privacy.

43. Defendants’ conduct, as described herein, caused Plaintiff annoyance and aggravation.

44. Defendants’ conduct, as described herein, caused Plaintiff to waste time.

45. Defendants’ conduct, as described herein, caused Plaintiff to be distracted.

46. Defendants’ conduct as described herein violates 47 U.S.C. § 227.

CLASS ALLEGATIONS

47. Plaintiff brings this action individually and as a class action on behalf of all persons similarly situated in the State of Florida.

48. The class consists of, “All persons within the State of Florida who received calls from Defendants to such person’s cellular telephone, initiated by Defendants through the use of an automatic telephone dialing system and/or an artificial or prerecorded voice, without consent, within the four years prior to the filing of the Complaint.”

49. The Class consists of many more than 50 persons.

50. Plaintiff’s claims are typical of the claims of the Class. Common questions of law

or fact raised by this Complaint affect all members of the Class and predominate over any individual issues. Common relief is therefore sought on behalf of all members of the Class. This class action is superior to other available methods for the fair and efficient adjudication of this controversy.

51. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to the individual members of the Class, and a risk that any adjudications with respect to individual members of the Class would, as a practical matter, either be dispositive of the interests of other members of the Class not party to the adjudication, or substantially impair or impede their ability to protect their interests. Defendants have acted in a manner applicable to the Class as a whole such that declaratory relief is warranted.

52. Plaintiff will fairly and adequately protect and represent the interests of the Class. The management of the class action proposed is not extraordinarily difficult, and the factual and legal issues raised by this class action complaint will not require extended contact with the members of the Class, because Defendants' conduct was perpetrated on all members of the Class and will be established by common proof. Moreover, Plaintiff has retained counsel experienced in actions brought under the TCPA, FDCPA and consumer protection laws.

JURY DEMAND

53. Plaintiff hereby demands a trial of this action by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

- a. Certify this action as a class action; and
- b. Appoint Plaintiff as Class Representative of the Class, and Plaintiff's attorneys as Class Counsel; and
- c. Find that Defendants' actions violate the TCPA; and
- d. Grant statutory damages against Defendants pursuant to 47 U.S.C. § 227(b)(3)(C) and/or 47 U.S.C. § 227(b)(3)(B), for each and every violation; and

- e. Pursuant to 47 U.S.C. § 227(b)(3)(A), grant injunctive relief prohibiting such conduct in the future.
- f. Find that Defendants' actions violate the FDCPA; and
- g. Grant damages against Defendants pursuant to 15 U.S.C. § 1692k; and
- h. Grant Plaintiff's attorneys' fees as permitted by law; and
- i. Grant Plaintiff costs; together with
- j. Such other relief that the Court determines is just and proper.

DATED: April 6, 2017

BARSHAY SANDERS, PLLC

By: /s/ Craig B. Sanders
Craig B. Sanders, Esq.
100 Garden City Plaza, Suite 500
Garden City, New York 11530
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Fax: (516) 706-5055
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Our File No.: 112452

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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

ALYCIA A. GERMOND

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

BARSHAY SANDERS, PLLC
100 Garden City Plaza, Ste 500, Garden City, NY 11530
(516) 203-7600

DEFENDANTS

LAW OFFICES OF JOEL CARDIS, LLC

County of Residence of First Listed Defendant MONTGOMERY

(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 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 | | PIF | DEF |
|---|-------------------------|-------------------------|---|-------------------------|-------------------------|
| Citizen of This State | <input type="radio"/> 1 | <input type="radio"/> 1 | Incorporated or Principal Place of Business In This State | <input type="radio"/> 4 | <input type="radio"/> 4 |
| Citizen of Another State | <input type="radio"/> 2 | <input type="radio"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="radio"/> 5 | <input type="radio"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="radio"/> 3 | <input type="radio"/> 3 | Foreign Nation | <input type="radio"/> 6 | <input type="radio"/> 6 |

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="radio"/> 110 Insurance <input type="radio"/> 120 Marine <input type="radio"/> 130 Miller Act <input type="radio"/> 140 Negotiable Instrument <input type="radio"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="radio"/> 151 Medicare Act <input type="radio"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="radio"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="radio"/> 160 Stockholders' Suits <input type="radio"/> 190 Other Contract <input type="radio"/> 195 Contract Product Liability <input type="radio"/> 196 Franchise	PERSONAL INJURY <input type="radio"/> 310 Airplane <input type="radio"/> 315 Airplane Product Liability <input type="radio"/> 320 Assault, Libel & Slander <input type="radio"/> 330 Federal Employers' Liability <input type="radio"/> 340 Marine <input type="radio"/> 345 Marine Product Liability <input type="radio"/> 350 Motor Vehicle <input type="radio"/> 355 Motor Vehicle Product Liability <input type="radio"/> 360 Other Personal Injury <input type="radio"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="radio"/> 365 Personal Injury - Product Liability <input type="radio"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="radio"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="radio"/> 370 Other Fraud <input type="radio"/> 371 Truth in Lending <input type="radio"/> 380 Other Personal Property Damage <input type="radio"/> 385 Property Damage Product Liability	<input type="radio"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="radio"/> 690 Other LABOR <input type="radio"/> 710 Fair Labor Standards Act <input type="radio"/> 720 Labor/Management Relations <input type="radio"/> 740 Railway Labor Act <input type="radio"/> 751 Family and Medical Leave Act <input type="radio"/> 790 Other Labor Litigation <input type="radio"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="radio"/> 462 Naturalization Application <input type="radio"/> 465 Other Immigration Actions	<input type="radio"/> 422 Appeal 28 USC 158 <input type="radio"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="radio"/> 820 Copyrights <input type="radio"/> 830 Patent <input type="radio"/> 840 Trademark SOCIAL SECURITY <input type="radio"/> 861 HIA (1395ff) <input type="radio"/> 862 Black Lung (923) <input type="radio"/> 863 DIWC/DIWW (405(g)) <input type="radio"/> 864 SSID Title XVI <input type="radio"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="radio"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="radio"/> 871 IRS—Third Party 26 USC 7609	<input type="radio"/> 375 False Claims Act <input type="radio"/> 400 State Reapportionment <input type="radio"/> 410 Antitrust <input type="radio"/> 430 Banks and Banking <input type="radio"/> 450 Commerce <input type="radio"/> 460 Deportation <input type="radio"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="radio"/> 480 Consumer Credit <input type="radio"/> 490 Cable/Sat TV <input type="radio"/> 850 Securities/Commodities/Exchange <input type="radio"/> 890 Other Statutory Actions <input type="radio"/> 891 Agricultural Acts <input type="radio"/> 893 Environmental Matters <input type="radio"/> 895 Freedom of Information Act <input type="radio"/> 896 Arbitration <input type="radio"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="radio"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="radio"/> 210 Land Condemnation <input type="radio"/> 220 Foreclosure <input type="radio"/> 230 Rent Lease & Ejectment <input type="radio"/> 240 Torts to Land <input type="radio"/> 245 Tort Product Liability <input type="radio"/> 290 All Other Real Property	CIVIL RIGHTS <input type="radio"/> 440 Other Civil Rights <input type="radio"/> 441 Voting <input type="radio"/> 442 Employment <input type="radio"/> 443 Housing/Accommodations <input type="radio"/> 445 Amer. w/Disabilities - Employment <input type="radio"/> 446 Amer. w/Disabilities - Other <input type="radio"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="radio"/> 463 Alien Detainee <input type="radio"/> 510 Motions to Vacate Sentence <input type="radio"/> 530 General <input type="radio"/> 535 Death Penalty Other: <input type="radio"/> 540 Mandamus & Other <input type="radio"/> 550 Civil Rights <input type="radio"/> 555 Prison Condition <input type="radio"/> 560 Civil Detainee Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION: (Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.)

15 USC §1692 – Fair Debt Collection Practices

VII. Previous Bankruptcy Matters: ((For nature of suite 422 and 423, enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this Court. Use a separate attachment if necessary.

VIII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

IX. RELATED CASE(S) IF ANY

(See Instructions)

JUDGE

DOCKET NUMBER

X. This Case (check one box) ☐ Is not a refiling of a previously dismissed action ☐ is a refiling of case number _____ previously dismissed by Judge _____

DATE May 8, 2017

SIGNATURE OF ATTORNEY OF RECORD /s/ Craig B. Sanders

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

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

Alycia A. Germond, individually and on behalf of all
others similarly situated

Plaintiff(s)

v.

Law Offices of Joel Cardis, LLC and Joel Cardis,
individually

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Joel Cardis
2006 Swede Road
Suite 100
EAST NORRITON, Pennsylvania 19401

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Craig B. Sanders, Esq.
100 Garden City Plaza
Suite 500
Garden City, New York 11530

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

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

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

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

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

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

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

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____

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

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

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

Signature of Clerk or Deputy Clerk

Civil Action No. _____

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

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

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

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____

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

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [FL Woman Claims Law Office's Autodialed Calls 'Harass' Consumers](#)
