

1 KAZEROUNI LAW GROUP, APC

2 Abbas Kazerounian, Esq. (249203)
3 ak@kazlg.com

4 Mona Amini, Esq. (296829)
5 mona@kazlg.com

6 245 Fischer Avenue, Unit D1
7 Costa Mesa, CA 92626

8 Telephone: (800) 400-6808
9 Facsimile: (800) 520-5523

10 HYDE & SWIGART

11 Joshua B. Swigart, Esq. (225557)
12 josh@westcoastlitigation.com

13 2221 Camino Del Rio South, Suite 101
14 San Diego, CA 92108

15 Telephone: (619) 233-7770
16 Facsimile: (619) 297-1022

17 *Attorneys for Plaintiff,*
18 Jennifer Goodwin

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

21 **JENNIFER GOODWIN,
22 INDIVIDUALLY AND ON
23 BEHALF OF ALL OTHERS
24 SIMILARLY SITUATED,**

25 Plaintiff,

26 v.

27 **PIONEER CREDIT RECOVERY,
28 INC.,**

Defendant.

KIESEL LAW LLP

Jeffrey A. Koncius, Esq. (189803)
koncius@kiesel-law.com

Matthew A. Young, Esq. (266291)
young@kiesel-law.com

8648 Wilshire Blvd.

Beverly Hills, CA 90211

Telephone: (310) 854-4444

Facsimile: (310) 854-0812

Case No.:

CLASS ACTION

**COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF
PURSUANT TO CALIFORNIA
PENAL CODE § 632.7**

JURY TRIAL DEMANDED

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INTRODUCTION

- 1
2 1. JENNIFER GOODWIN (“Plaintiff”) brings this class action for damages,
3 injunctive relief, and any other available legal or equitable remedies,
4 resulting from the illegal actions of Defendant PIONEER CREDIT
5 RECOVERY, INC., and its related entities, subsidiaries and agents
6 (“Defendant”) in willfully employing and/or causing to be employed certain
7 recording equipment in order to record the telephone conversations of
8 Plaintiff without the knowledge or consent of Plaintiff, in violation of
9 California Penal Code § 632.7 thereby invading Plaintiff’s privacy. Plaintiff
10 alleges as follows upon personal knowledge as to Plaintiff’s own acts and
11 experiences, and, as to all other matters, upon information and belief,
12 including the investigation conducted by Plaintiff’s attorneys.
- 13 2. California Penal Code § 632.7 prohibits one party to a telephone call from
14 intentionally recording the same conversation without the knowledge or
15 consent of the other while the person being recorded is on a cellular
16 telephone. Unlike California Penal Code § 632, there is no requirement
17 under California Penal Code § 632.7 that the communication be confidential.
18 Plaintiff alleges that Defendant continues to violate Penal Code § 632.7 by
19 impermissibly recording its telephone conversations with California
20 residents while said residents are on cellular telephones.

JURISDICTION AND VENUE

- 21
- 22 3. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff, a
23 resident of the State of California, seeks relief on behalf of a national class,
24 which will result in at least one class member belonging to a different state
25 than that of Defendant, a company incorporated under the laws of the State
26 of Delaware with a principal place of business in the State of New York.
27 Plaintiff also seeks the greater of statutory damages of \$5,000 per violation
28 or three times actual damages per violation pursuant to Penal Code

1 § 637.2(a), which, when aggregated among a proposed class number in the
2 tens of thousands, exceeds the \$5,000,000 threshold for federal court
3 jurisdiction. Therefore, both diversity jurisdiction and the damages threshold
4 under the Class Action Fairness Act of 2005 (“CAFA”) are present, and this
5 Court has jurisdiction.

- 6 4. Venue is proper pursuant to 28 U.S.C. § 1391 for the following reasons: (i)
7 Plaintiff resides in the County of Los Angeles, State of California which is
8 within this judicial district; (ii) the conduct complained of herein occurred
9 within this judicial district; and, (iii) Defendant conducted business within
10 this judicial district at all times relevant.

11 **PARTIES**

- 12 5. Plaintiff is, and at all times mentioned herein was, an individual citizen and
13 resident of the County of Los Angeles, State of California.
- 14 6. Plaintiff is informed and believes, and thereon alleges, that Defendant is, and
15 at all times mentioned herein was, a corporation incorporated in the State of
16 Delaware, with a principal place of business in the State of New York.
17 Defendant is in the business of debt collection and regularly collects debts.
18 Defendant has a policy and practice of recording telephone conversations
19 with the public, including California residents. Defendant’s employees and
20 agents are directed, trained and instructed to, and do, record cellular
21 telephone conversations with the public, including California residents.

22 **FACTUAL ALLEGATIONS**

- 23 7. At all times relevant, Plaintiff is an individual residing within the State of
24 California.
- 25 8. On or about March 24, 2015, at approximately 8:49 a.m. PST, Plaintiff
26 received a call on Plaintiff’s cellular telephone from Defendant using the
27 telephone number 855-202-7001.
- 28

- 1 9. On the same day, at approximately 10:39 a.m. PST, Plaintiff received
2 another phone call on Plaintiff's cellular telephone from Defendant.
- 3 10. Shortly thereafter, on or about April 9, 2015, Plaintiff returned Defendant's
4 call by dialing Defendant at 855-202-7001 on Plaintiff's cellular telephone
5 and confirmed the number belonged to Defendant.
- 6 11. Upon dialing this number, Plaintiff was greeted by an automated message;
7 however, this message did not warn Plaintiff that Defendant recorded
8 Defendant's calls with consumers.
- 9 12. Defendant continued to contact Plaintiff numerous times thereafter seeking
10 to collect a debt alleged to be due it from a third party. Defendant contacted
11 the Plaintiff on the following dates and times, utilizing the following
12 telephone numbers:

13 April 15, 2015	14 4:02 p.m. PST	15 845-598-9270
16 May 4, 2015	9:38 a.m. PST	973-602-3509
May 14, 2015	9:38 a.m. PST	973-602-3509

- 17 13. During the telephone call Defendant placed to Plaintiff on May 14, 2015,
18 after speaking with Defendant's representative for a period of time, Plaintiff
19 inquired as to whether the telephone call was being recorded.
- 20 14. Defendant's representative informed Plaintiff that the entire conversation
21 had been recorded. Plaintiff subsequently terminated the call with
22 Defendant's representative because Plaintiff was angered that Defendant had
23 recorded Plaintiff without Plaintiff's knowledge and/or consent.
- 24 15. Plaintiff had no reasonable expectation that any of Plaintiff's cellular
25 telephone conversations with Defendant would be recorded due to the
26 private subject matter being discussed. Had Plaintiff known that said
27 conversation/s were being recorded, Plaintiff would have conducted and
28 spoken differently to the representative/s of Defendant.

- 1 16. Plaintiff was shocked to discover that such a confidential communication
2 was being recorded by Defendant without Plaintiff's knowledge or consent.
- 3 17. Plaintiff found Defendant's clandestine recording to be highly offensive due
4 to the delicacy of the topics discussed during said conversations.
- 5 18. Had Plaintiff received a recording disclosure at the outset of the call, as
6 Plaintiff is accustomed to hearing, Plaintiff would have not discussed such
7 private information with Defendant.
- 8 19. The conversations with Plaintiff, were without Plaintiff's knowledge or
9 consent, recorded by Defendant, causing harm and damage to Plaintiff.
- 10 20. Prior to Plaintiff's inquiry on the matter, Plaintiff was never informed that
11 Plaintiff's cellular telephone calls were being recorded. At no time during
12 the call did Plaintiff give consent for the cellular telephone call to be
13 monitored, recorded and/or eavesdropped upon. Defendant failed to provide
14 an automated, pre-recorded warning or a periodically repeated beep tone or
15 other sound to warn Plaintiff that the calls were being recorded.
- 16 21. Plaintiff is informed and believes, and thereon alleges, that during the
17 relevant time period, Defendant has had a policy and a practice of recording
18 telephone conversations with consumers. Defendant's employees and agents
19 are directed, trained and instructed to, and do, record cellular telephone
20 conversations with the public, including Plaintiff and other California
21 residents.
- 22 22. Plaintiff is informed and believes, and thereon alleges, that during the
23 relevant time period, Defendant has had all of its calls to the public,
24 including those made to California residents, recorded without the
25 knowledge or consent of the public, including Plaintiff and other California
26 residents.
- 27
28

1 23. Defendant’s conduct alleged herein constitutes violations of the right to
2 privacy to the public, including Plaintiff and other California residents, and
3 California Penal Code § 630 et seq.

4 **CLASS ACTION ALLEGATIONS**

5 24. Plaintiff brings this action on behalf of herself and on behalf of all others
6 similarly situated (“the Class”).

7 25. Plaintiff represents, and is a member of, “the Class” defined as follows:

8 “All persons in California whose inbound and/or
9 outbound cellular telephone conversations were recorded
10 without their consent by Defendant within one year prior
11 to the filing of the original Complaint in this action.”

12 26. Defendant, and its employees and agents are excluded from the Class.
13 Plaintiff does not know the number of members in the Class, but believes
14 this number to be in the tens of thousands, if not more. Thus, this matter
15 should be certified as a Class action to assist in the expeditious litigation of
16 this matter.

17 27. This suit seeks only statutory damages and injunctive relief on behalf of the
18 Class and it expressly is not intended to request any recovery for personal
19 injury and claims related thereto. Plaintiff reserves the right to expand the
20 Class definition to seek recovery on behalf of additional persons as
21 warranted as facts are learned in further investigation and discovery.

22 28. The joinder of the Class members is impractical and the disposition of their
23 claims in the Class action will provide substantial benefits both to the parties
24 and to the Court. The Class can be identified through Defendant’s records.

25 29. There is a well-defined community of interest in the questions of law and
26 fact involved affecting the parties to be represented. The questions of law
27 and fact to the Class predominate over questions which may affect
28 individual Class members, including the following:

- 1 a. Whether Defendant has a policy of recording incoming and/or outgoing
- 2 calls made to cellular telephones;
- 3 b. Whether Defendant discloses to callers and/or obtains their consent that
- 4 their incoming and/or outgoing cellular telephone conversations were
- 5 being recorded;
- 6 c. Whether Defendant's policy of recording incoming and/or outgoing calls
- 7 constituted a violation of California Penal Code §§ 632.7 and/or 637;
- 8 d. Whether Defendant should be enjoined from engaging in such conduct in
- 9 the future.

10 30. Plaintiff is asserting claims that are typical of the Class because every other
11 member of the Class, like Plaintiff, was exposed to virtually identical
12 conduct and are entitled to the greater of statutory damages of \$5,000 per
13 violation or three times actual damages per violation pursuant to Penal Code
14 § 637.2(a).

15 31. Plaintiff will fairly and adequately represent and protect the interests of the
16 Class in that Plaintiff has no interest antagonistic to any member of the
17 Class. Plaintiff has retained counsel experienced in handling class action
18 claims to further ensure such protection.

19 32. Plaintiff and the members of the Class have all suffered irreparable harm as
20 a result of the Defendant's unlawful and wrongful conduct. Absent a class
21 action, the Class will continue to face the potential for irreparable harm. In
22 addition, these violations of law will be allowed to proceed without remedy
23 and Defendant will likely continue such illegal conduct. Because of the size
24 of the individual Class member's claims, few, if any, Class members could
25 afford to seek legal redress for the wrongs complained of herein.

26 33. A class action is a superior method for the fair and efficient adjudication of
27 this controversy. Class-wide damages are essential to induce Defendant to
28 comply with federal and California law. The interest of the Class members

1 in individually controlling the prosecution of separate claims against
2 Defendant is small because the maximum statutory damages in an individual
3 action for violation of privacy are minimal. Management of these claims is
4 likely to present significantly fewer difficulties than those presented in many
5 class claims.

6 34. Defendant has acted on grounds generally applicable to the Class, thereby
7 making appropriate final injunctive relief and corresponding declaratory
8 relief with respect to the Class as a whole.

9 35. Plaintiff anticipates providing notice to the members of the Class by direct
10 mail notice and/or publication notice by internet website.

11 **FIRST CAUSE OF ACTION**

12 **INVASION OF PRIVACY: VIOLATION OF PENAL CODE § 632.7**

13 36. Plaintiff incorporates by reference all of the above paragraphs of this
14 Complaint as though fully stated herein.

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

27 38. California Penal Code § 632.7 prohibits in pertinent part “[e]very person
28 who, without the consent of all parties to a communication...intentionally

1 records, or assists in the...intentional recordation of, a communication
2 transmitted between...a cellular radio telephone and a landline telephone.”

3 Thus, on its face, California Penal Code § 632.7 precludes the recording of
4 all communications involving a cellular telephone.

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

11 40. Plaintiff is informed and believes, and thereupon alleges, that Defendant
12 employed and/or caused to be employed certain recording equipment on the
13 telephone lines of all employees, officers, directors, and managers of
14 Defendant.

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

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

21 43. At no time during which these cellular telephone conversations were taking
22 place between Defendant or any employee, agent, manager, officer, or
23 director of Defendant, and any other person, did Defendant inform Plaintiff
24 or any other member of the Class recording of their cellular telephone
25 conversations were taking place and at no time did Plaintiff or any other
26 member of the Class consent to this activity.

27 44. Defendant, knowing that this conduct was unlawful and a violation of
28 Plaintiff and the members of the Class’ right to privacy and a violation of

1 California Penal Code § 630, *et seq.*, did intrude on Plaintiff and the
2 members of the Class' privacy by knowingly and/or negligently and/or
3 intentionally engaging in the aforementioned intercepting, eavesdropping,
4 listening, and recording activities relative to the telephone conversations
5 between Plaintiff and the Class members, on the one hand, and Defendant on
6 the other hand, as alleged herein above.

7 45. Based on the foregoing, Plaintiff and the members of the Class are entitled
8 to, and below herein do pray for, their statutory remedies and damages,
9 including but not limited to, those set forth in California Penal Code § 637.2.

10 46. Because this case is brought for the purposes of enforcing important rights
11 affecting the public interest, Plaintiff and the Class seek recovery of their
12 attorney's fees pursuant to the private attorney general doctrine codified in
13 Code of Civil Procedure § 1021.5, or any other statutory basis.

14 **PRAYER FOR RELIEF**

15 Wherefore, Plaintiff respectfully requests the Court grant Plaintiff and the
16 Class members the following relief against Defendant:

- 17 • That this action be certified as a class action on behalf of the Class and
18 Plaintiff be appointed as the representative of the Class;
- 19 • For \$5,000 per violation of California Penal Code § 632.7 for Plaintiff
20 and each member of the Class;
- 21 • That the Court preliminarily and permanently enjoin Defendant from
22 recording, each and every incoming and outgoing cellular telephone
23 conversation with California residents, including Plaintiff and the Class,
24 without their prior consent, as required by California Penal Code § 630,
25 *et seq.*, and to maintain the confidentiality of the information of Plaintiff
26 and the Class;
- 27 • For costs of suit;
- 28 • For prejudgment interest at the legal rate; and

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- For such further relief as this Court deems necessary, just, and proper.

TRIAL BY JURY

47. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Dated: December 21, 2015

KAZEROUNI LAW GROUP, APC

BY: /s/ ABBAS KAZEROUNIAN
 ABBAS KAZEROUNIAN, ESQ.
 MONA AMINI, ESQ.
 ATTORNEYS FOR PLAINTIFF