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

JONATHAN HENSLEY, Individually)
and On Behalf of All Others Similarly)
Situating,)
Plaintiff,)
vs.)
EQUIDATA, INC.,)
Defendant.)

Case No.
CLASS ACTION COMPLAINT
FOR DAMAGES AND DEMAND
FOR JURY TRIAL

1 **NATURE OF THE CASE**

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

8 **JURISDICTION & VENUE**

9 2. Jurisdiction is proper as Plaintiff seeks redress under a federal statute,
10 thus this Court has jurisdiction as this matter involves questions of federal law.

11 3. Venue is proper in the United States District Court for the Central
12 District of California pursuant to 18 U.S.C. 1391(b) and 18 U.S.C. § 1441(a)
13 because Defendant does business within the state of California and the Central
14 District of California and Plaintiff resides within Los Angeles County and this
15 district.

16 **PARTIES**

17 4. Plaintiff, Jonathan Hensley (“Plaintiff”), is a natural person residing
18 Los Angeles County, California and is a “person” as defined by 47 U.S.C. § 153
19 (10).

20 5. Defendant, Equidata, Inc. (“Defendant”), is third party account
21 receivables entity, commonly known as a collection agency, with its corporate
22 headquarters in Newport News, Virginia and is a “person” as defined by 47 U.S.C.
23 § 153 (10).

24 **FACTUAL ALLEGATIONS**

25 6. Beginning in or around January of 2017, Defendant began placing
26 numerous telephone calls to Plaintiff’s cellular telephone number ending in 0727,
27 seeking to collect an alleged debt owed not by Plaintiff, but some unknown third
28 party.

1 7. Defendant's automated collection calls often came from telephone
2 numbers: 757-873-3200 and/or 800-888-2274.

3 8. In sum, at present, Defendant has placed approximately ten (10) calls
4 to Plaintiff's cellular telephone seeking to collect the alleged debt owed by
5 someone other than Plaintiff.

6 9. On numerous occasions when Plaintiff failed to answer Defendant's
7 calls, including calls on January 13, 2017, February 1, 2017, February 15, 2017
8 (3x), March 15, 2017 and March 29, 2017, Defendant placed the same verbatim
9 pre-recorded and/or artificial voicemail message for Plaintiff:

10
11 Hello, this is Mrs. Duncan, a debt collector from Equidata.
12 I have a very important personal business matter to discuss
13 with you. Please be advised, this is not a telemarketing
14 call. At the end of this message, you will receive a
15 reference number. Write this number down as it will help
16 identify the purpose of this call. Please dial Monday
17 through Friday 757-873-3200 or toll free 800-888-2274
18 between the hours of 8am and 8pm eastern time. Please
19 ask for Mrs. Duncan and refer to reference number
20 4626918. Again, call 757-873-3200 or toll free 800-888-
21 2274. Thank you.

22 10. Defendant used an "automatic telephone dialing system," as defined
23 by 47 U.S.C. § 227(a)(1) to place its calls to Plaintiff.

24 11. Defendant used an artificial or prerecorded voice to place its calls to
25 Plaintiff.

26 12. The voicemail messages Plaintiff received were created using a pre-
27 recorded and/or artificial voice. As it is highly unlikely that Defendant's
28 representative manually dialed Plaintiff's telephone number and subsequently
placed a prerecorded message when Plaintiff did not answer. Defendant's use of
an artificial or prerecorded message indicates that Defendant's call was placed with
an automatic telephone dialing system.

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

3 14. Defendant's calls were placed to a telephone number assigned to a
4 cellular telephone service for which Plaintiff incurs a charge for incoming calls
5 pursuant to 47 U.S.C. § 227(b)(1).

6 15. Plaintiff has no business relationship with Defendant whatsoever and
7 never provided Defendant with his cellular telephone number for any purpose.
8 Accordingly, Defendant did not have Plaintiff's "prior express consent" to receive
9 calls using an automatic telephone dialing system and/or prerecorded or artificial
10 voice on his cellular telephone pursuant to 47 U.S.C. § 227(b)(1)(A).

11 16. As a result of Defendant's alleged violations of law by placing these
12 automated calls to Plaintiff's cellular telephone without prior express consent,
13 Defendant caused Plaintiff harm and/or injury such that Article III standing is
14 satisfied in at least the following, if not more, ways:

- 15 a. Invading Plaintiff's and the putative class' privacy;
- 16 b. Electronically intruding upon Plaintiff's and the putative class'
17 seclusion;
- 18 c. Intrusion into Plaintiff's and the putative class' use and enjoyment
19 of their cellular telephones;
- 20 d. Impermissibly occupying minutes, data, availability to answer
21 another call, and various other intangible rights that Plaintiff and the
22 putative class have as to complete ownership and use of their cellular
23 telephones;
- 24 e. Causing Plaintiff and the putative class to expend needless time in
25 receiving, answering, and attempting to dispose of Defendant's
26 unwanted calls.

CLASS ALLEGATIONS

1
2 17. Plaintiff brings this action on behalf of himself and all others similarly
3 situated, as a member of the proposed class (hereafter “The Class”) defined as
4 follows:

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

12 18. Plaintiff represents, and is a member of, The Class, consisting of All
13 persons within the United States who received any telephone calls from Defendant
14 or Defendant’s agent/s and/or employee/s to said person’s cellular telephone made
15 through the use of any automatic telephone dialing system and/or artificial or
16 prerecorded voice within the four years prior to the filing of this Complaint where
17 said person had not previously consented to receive such calls.

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

22 20. The Class is so numerous that the individual joinder of all of its
23 members is impractical. While the exact number and identities of The Class
24 members are unknown to Plaintiff at this time and can only be ascertained through
25 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
26 The Class includes hundreds of members. Plaintiff alleges that The Class members
27 may be ascertained by the records maintained by Defendant.
28

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

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

13 a. Whether, within the four years prior to the filing of this
14 Complaint, Defendant made any telephone call (other than a call made
15 for emergency purposes or made with the prior express consent of the
16 called party) to a Class member using any automatic telephone dialing
17 system and/or artificial or prerecorded voice to any telephone number
18 assigned to a cellular telephone service;

19 b. Whether Plaintiff and the Class members were damaged
20 thereby, and the extent of damages for such violation; and

21 c. Whether Defendant should be enjoined from engaging in such
22 conduct in the future.

23 23. As a person that received calls from Defendant using an automatic
24 telephone dialing system and/or prerecorded or artificial voice without Plaintiff's
25 prior express consent, Plaintiff is asserting claims that are typical of The Class.

26 24. Plaintiff will fairly and adequately protect the interests of the members
27 of The Class. Plaintiff has retained attorneys experienced in the prosecution of
28 consumer class actions generally and under the TCPA.

1 25. A class action is superior to other available methods of fair and
2 efficient adjudication of this controversy, since individual litigation of the claims
3 of all Class members is impracticable. Even if every Class member could afford
4 individual litigation, the court system could not. It would be unduly burdensome
5 to the courts in which individual litigation of numerous issues would proceed.
6 Individualized litigation would also present the potential for varying, inconsistent,
7 or contradictory judgments and would magnify the delay and expense to all parties
8 and to the court system resulting from multiple trials of the same complex factual
9 issues. By contrast, the conduct of this action as a class action presents fewer
10 management difficulties, conserves the resources of the parties and of the court
11 system, and protects the rights of each Class member.

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

17 27. Defendant has acted or refused to act in respects generally applicable
18 to The Class, thereby making appropriate final and injunctive relief with regard to
19 the members of the Class as a whole.

20 **FIRST CAUSE OF ACTION**

21 **Negligent Violations of the Telephone Consumer Protection Act,**
22 **47 U.S.C. §227 et seq.**

23 28. Plaintiff repeats and incorporates by reference into this cause of action
24 the allegations set forth above at Paragraphs 1-27.

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

28 30. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et*

1 *seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory
2 damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

3 31. Plaintiff and the Class members are also entitled to and seek injunctive
4 relief prohibiting such conduct in the future.

5 **SECOND CAUSE OF ACTION**
6 **Knowing and/or Willful Violations of the Telephone Consumer Protection**
7 **Act**

8 **47 U.S.C. §227 et seq.**

9 32. Plaintiff repeats and incorporates by reference into this cause of action
10 the allegations set forth above at Paragraphs 1-31.

11 33. The foregoing acts and omissions of Defendant constitute numerous
12 and multiple knowing and/or willful violations of the TCPA, including but not
13 limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et*
14 *seq.*

15 34. As a result of Defendant's knowing and/or willful violations of *47*
16 *U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of
17 \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C.*
18 *§ 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

19 35. Plaintiff and the Class members are also entitled to and seek injunctive
20 relief prohibiting such conduct in the future.

21 **PRAYER FOR RELIEF**

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

23 **FIRST CAUSE OF ACTION**

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

25 **47 U.S.C. §227 et seq.**

- 26 • As a result of Defendant's negligent violations of *47 U.S.C.*
27 *§227(b)(1)*, Plaintiff and the Class members are entitled to and
28 request \$500 in statutory damages, for each and every violation,
pursuant to *47 U.S.C. 227(b)(3)(B)*.

- Injunctive relief.
- Any and all other relief that the Court deems just and proper.

SECOND CAUSE OF ACTION

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

47 U.S.C. §227 et seq.

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).

- Injunctive relief.
- Any and all other relief that the Court deems just and proper.

DEMAND FOR JURY TRIAL

Please take notice that Plaintiff demands a trial by jury in this action.

Date: April 5, 2017

MARTIN & BONTRAGER, APC

By: /s/ Nicholas J. Bontrager
Nicholas J. Bontrager
Attorneys for Plaintiff

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Equidata Hit with TCPA Lawsuit Over Prerecorded Calls](#)
