

BRADLEY/GROMBACHER, LLP

Marcus J. Bradley, Esq. (SBN 174156)
Kiley L. Grombacher, Esq. (SBN 245960)
Taylor L. Emerson, Esq. (SBN 225303)
2815 Townsgate Road, Suite 130
Westlake Village, California 91361
Telephone: (805) 270-7100
Facsimile: (805) 270-7589
mbradley@bradleygrombacher.com
kgrombacher@bradleygrombacher.com
temerson@bradleygrombacher.com

Attorneys for Plaintiff, KENNETH HOAGLAND

[Additional Counsel of Following Page]

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

KENNETH HOAGLAND,
individually and on behalf of others
similarly situated,

Plaintiff,

v.

H&R BLOCK, INC. and AXOS
BANK,

Defendants.

)
) Case No. '19CV0750 BAS JLB

)
) **CLASS ACTION**

)
) **JURY TRIAL DEMANDED**

1 Jeffrey S. Goldenberg
2 *(pro hac to be filed)*
3 GOLDENBERG SCHNEIDER, L.P.A.
4 One W. 4th St., 18th Floor
5 Cincinnati, OH 45202
6 Telephone: (513) 345-8297
7 jgoldenberg@gs-legal.com

8 Joseph M. Lyon *(pro hac to be filed)*
9 THE LYON FIRM
10 2021 Auburn Ave.
11 Cincinnati, OH 45219
12 Telephone: (513) 381-2333
13 jlyon@thelyonfirm.com

14 Alexander H. Burke *(pro hac to be filed)*
15 BURKE LAW OFFICES, LLC
16 155 N. Michigan Ave., Suite 9020
17 Chicago, IL 60601
18 Telephone: (312) 729-5288
19 aburke@burkelawllc.com

20
21
22
23
24
25
26
27
28
Counsel for Plaintiff

1 **CLASS ACTION COMPLAINT**

2 1. Plaintiff Kenneth Hoagland brings this action against H&R Block, Inc.
3 (“H&R Block”) and Axos Bank (“Axos”), collectively “Defendants,” to secure
4 redress for their sending numerous nonconsensual, autodialed text message calls to
5 the cellular telephone numbers of Plaintiff and others, in violation of the Telephone
6 Consumer Protection Act (“TCPA”), 47 U.S.C. § 227.
7

8
9 2. Defendants continued to send Plaintiff automated texts even after
10 Plaintiff had requested several times that the texts stop.
11

12 **INTRODUCTION**

13 3. Advancements in telephone dialing technology by the 1980s and 90s
14 made reaching a large number of consumers by telephone easier and more cost-
15 effective. However, this technology also has brought with it an onslaught of
16 unsolicited robocalls, spam text messages, and junk faxes that intrude on individual
17 privacy and waste consumer time and money. As a result, the federal government
18 and numerous states have enacted legislation to combat these widespread abuses.
19 *See Mims v. Arrow Fin. Servs., LLC*, 565 U.S. 368, 371 (2012) (noting that federal
20 legislation – the TCPA – was enacted after Congress found that callers, “by
21 operating interstate, were escaping state-law prohibitions on intrusive nuisance
22 calls”).
23
24
25

26 4. As is relevant here, the TCPA prohibits “mak[ing] any call (other than
27
28

1 a call made for emergency purposes or made with the prior express consent of the
2 called party) using any automatic telephone dialing system or an artificial or
3 prerecorded voice . . . to any telephone number assigned to a . . . cellular telephone
4 service[.]” 47 U.S.C. § 227(b)(1)(A)(iii).

5
6 5. Text messages are “calls” under the TCPA. *In re Rules & Regs.*
7
8 *Implementing the TCPA*, 18 FCC Rcd. 14014, 14115 ¶ 165 (2003).

9 6. The TCPA provides for injunctive relief and the greater of actual
10 damages or \$500 per violation, which can be trebled where the statute was “willfully
11 or knowingly” violated. 47 U.S.C. § 227(b)(3).

12
13 7. H&R Block and Axos Bank caused multiple, unsolicited, autodialed
14 text message calls to be made to Plaintiff’s cell phone, causing Plaintiff aggravation
15 and inconvenience. Plaintiff files this class action complaint on behalf of himself
16 and others similarly situated, seeking relief from these illegal calling practices.

17 18 **JURISDICTION AND VENUE**

19
20 8. This Court has federal question subject matter jurisdiction over this
21 action pursuant to 28 U.S.C. § 1331 with respect to Plaintiff’s TCPA claims. *Mims*,
22 565 U.S. at 372.

23
24 9. Additionally, the Court has subject matter jurisdiction pursuant to the
25 Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. 1332(d)(2). The matter in
26 controversy exceeds \$5,000,000 in the aggregate, exclusive of interest and costs, as
27
28

1 each member of the proposed Class of at least tens of thousands is entitled to up to
2 \$1,500 in statutory damages for each call that has violated the TCPA. Further,
3
4 Plaintiff alleges a nationwide class, which will result in at least one Class member
5 residing in a state different from Defendants.

6 10. Venue is appropriate in this District under 28 U.S.C. § 1391(a) because
7
8 Axos is based here, and because a substantial portion of the events giving rise to this
9 cause of action occurred in this District.

10 **PARTIES**

11
12 11. Plaintiff Kenneth Hoagland is a natural person and a citizen of the State
13 of Kentucky, who resides in Jefferson County, Kentucky. At all relevant times,
14 Plaintiff was the subscriber for the cellular telephone at issue.

15
16 12. Defendant H&R Block, Inc. is a Missouri company headquartered at
17 One H&R Block Way, Kansas City, Missouri 64105.

18
19 13. Defendant Axos Bank is a technology-driven financial services
20 company providing a diverse range of innovative banking products and services for
21 personal, business and institutional clients nationwide. Axos Bank is the bank behind
22 H&R Block's branded prepaid credit cards, including the Emerald card. Axos is
23 headquartered in San Diego, California.
24

25 **FACTS**

26 14. H&R Block and/or Axos have sent multiple text message calls to
27
28

1 Plaintiff's cellular telephone.

2 15. The text messages consisted largely of account-related
3 communications, such as a customer survey, notifications about charges to the
4 person's H&R Block Emerald Card debit card, H&R Block appointment reminders,
5 and messages about the person's tax return and a refund advance loan.
6

7
8 16. For example, H&R Block and Axos sent Plaintiff the following text
9 message on February 2, 2019, from short code 71577:

10 HRBLOCK: Axos Bank(R) has approved your Refund
11 Advance loan for \$500.00. Funds are being loaded to your
12 H&R Block Emerald Prepaid Mastercard(R).

13 17. Defendants also sent Plaintiff numerous credit-related text messages
14 from short code 58084 on February 7, 2019:

15 \$11.28 charge was made to Emerald Card 1533. Avail bal
16 \$1.26. Full access at hrblock.com/emeraldcard. Reply
17 STOP to Cancel.

18 18. H&R Block and/or Axos have sent Plaintiff more than fifty such text
19 messages.
20

21 19. Plaintiff has no relationship with either H&R Block or Axos. Neither
22 H&R Block nor Axos had Plaintiff's consent to receive these messages.
23

24 20. Defendants knew they did not have consent to send these messages:
25 Plaintiff notified H&R Block that it was sending texts to the wrong person and
26 requested that the texts stop multiple times, to no avail. Defendants kept sending him
27
28

1 text message calls.

2 21. On information and belief, H&R Block and/or Axos logged Plaintiff's
3 wrong-number notifications/do-not-call requests in their systems, but kept sending
4 texts in spite of this. Alternatively, they should have logged the request, but failed
5 to do so.
6

7 22. Within the four years prior to the filing of this action, Defendants – and
8 each of them – caused autodialed text message calls to be made to the cell phones of
9 Plaintiff and other consumers, without the prior express consent of the called party.
10

11 23. Defendants caused the text message calls at issue to be made using an
12 automatic telephone dialing system, as that term is used in the TCPA.
13

14 24. The equipment used to call Plaintiff and others not only had the
15 capacity to store or produce telephone numbers to be called using a random or
16 sequential number generator (and to dial such numbers), but was programmed to
17 sequentially or randomly access stored telephone numbers to automatically call such
18 numbers when it made the text message calls to plaintiff and the class. These text
19 message calls were made with equipment capable of dialing numerous phone
20 numbers in a short period of time without human intervention, as part of an
21 automated process.
22

23 25. The equipment had the capacity to store or produce telephone numbers
24 to be called using a random or sequential number generator, and to dial such
25
26
27
28

1 numbers. In other words, no human being physically dialed each digit of Plaintiff's
2 and the other class members' telephone numbers to call their phones—the text
3 message calls were made automatically pursuant to a computer program that was
4 programmed to automatically decided what phone numbers to call when, and what
5 to say in the text messages.
6

7
8 26. The autodialer accessed a dataset of Defendant, sorted through that
9 dataset to determine which data to use to generate a list of numbers to call, generated
10 a brand-new sequence for calling those numbers based upon complex algorithms,
11 and then called the numbers. The dialer randomly and sequentially generated phone
12 numbers for calling from a dataset, and then automatically called those numbers to
13 send the text messages.
14

15
16 27. Defendants' violations were negligent. Alternatively, Defendants made
17 these text message calls to Plaintiff and the other members of the class defined below
18 intentionally. Defendants were well aware of the TCPA's prohibitions against use
19 of autodialers in calls to consumers, but made the business decision to send these
20 text messages, anyway.
21

22
23 28. This is not H&R Block's first time facing allegations of TCPA
24 violations. In 2007, H&R Block received an official citation from the FCC for
25 violating the TCPA's prohibition against junk faxing. *See*
26 <https://docs.fcc.gov/public/attachments/DOC-303369A1.pdf>.
27
28

1 29. Upon information and belief, Defendants each keep records and data
2 from which they can determine which autodialed text message calls made without
3 consent.
4

5 30. Plaintiff and the class have been damaged by these text message calls.
6 Their privacy was improperly invaded, Defendant's text message calls temporarily
7 seized and trespassed upon the use of their phones, and they were forced to divert
8 attention away from other activities to address the text messages. Defendant's text
9 messages were annoying and a nuisance, and wasted the time of Plaintiff and the
10 class. *See, e.g., Mims*, 565 U.S. at 372 (discussing congressional findings of
11 consumer "outrage" as to autodialed calls).
12
13

14 **Class Action Allegations**

15
16 31. Plaintiff brings this action on behalf a class, defined as follows:

17 All non-customers in the United States whose cellular telephone
18 number, (a) H&R Block or Axos, or someone on either of their behalf,
19 placed a text message, (b) using the same or similar system used to
20 place any text message call to Plaintiff's phone number.

21 32. Based upon the automated nature of the messages at issue, it is
22 reasonable to infer that Defendants placed thousands such messages in the four years
23 leading up to this case.

24 33. Common questions of law or fact exist as to all members of the class,
25 which predominate over any questions solely affecting any individual member,
26 including Plaintiff. Such questions common to the class include but are not limited
27
28

1 to:

- 2 a. Whether the text messages identified herein were made using an
3 “automatic telephone dialing system” or an “artificial or prerecorded
4 voice” as such terms are defined or understood under the TCPA and
5 applicable FCC regulations and orders;
- 6 b. Whether Defendants had “prior express consent” to make the text
7 message calls to non-customers, such as Plaintiff and the class; and
- 8 c. Damages, including whether any violations were performed
9 willfully or knowingly such that Plaintiff and the other members of
10 the class are entitled to treble damages under 47 U.S.C. §
227(b)(3).

11 34. Plaintiff’s claims are typical of the claims of the other members of the
12 class. The factual and legal bases of Defendants’ liability to Plaintiff and the other
13 members of the class are the same: Defendants violated the TCPA by causing
14 autodialed text message calls to be made to the cellular telephone number of each
15 member of the class, without permission.
16

17 35. Plaintiff will fairly and adequately protect the interests of the class.
18 Plaintiff has no interests that might conflict with the interests of the class. Plaintiff
19 is interested in pursuing his claims vigorously, and he has retained counsel
20 competent and experienced in class and complex litigation, including with regards
21 to the claims alleged herein.
22

23 36. Class action treatment is superior to the alternatives for the fair and
24 efficient adjudication of the controversy alleged herein. Such treatment will permit
25 a large number of similarly situated persons to prosecute their common claims in a
26
27
28

1 single forum simultaneously, efficiently, and without the duplication of effort and
2 expense that numerous individual actions would entail. There are, on information
3 and belief, thousands of class members, such that joinder of all members is
4 impracticable.
5

6 37. No difficulties are likely to be encountered in the management of this
7 action that would preclude its maintenance as a class action, and no superior
8 alternative exists for the fair and efficient adjudication of this controversy.
9

10 38. Defendants have acted and failed to act on grounds generally applicable
11 to Plaintiff and the other members of the class, thereby making relief appropriate
12 with respect to the class as a whole. Prosecution of separate actions by individual
13 members of the class, should they even realize that their rights have been violated,
14 would likely create the risk of inconsistent or varying adjudications with respect to
15 individual members of the class that would establish incompatible standards of
16 conduct.
17
18

19 39. The identity of the class is, on information and belief, readily
20 identifiable from Defendants' records.
21

22 **COUNT I**

23 **Violations of the TCPA, 47 U.S.C. § 227**
24 **(Autodialed and/or Artificial or Prerecorded Voice Call Violations)**

25 40. Plaintiff re-alleges and incorporates all foregoing allegations.

26 41. It is a violation of the TCPA to make "any call (other than a call made
27
28

1 for emergency purposes or made with the prior express consent of the called party)
2 using any automatic telephone dialing system or an artificial or prerecorded voice
3
4 ... to any telephone number assigned to a . . . cellular telephone service” 47
5 U.S.C. § 227(b)(1)(A)(iii).

6 42. A text message is a “call” under the TCPA. *Satterfield v. Simon &*
7
8 *Schuster, Inc.*, 569 F.3d 946, 951 (9th Cir. 2009).

9 43. Defendants initiated or caused to be initiated text message calls to the
10 cellular telephone numbers of Plaintiff and the other members of the class using an
11 automatic telephone dialing system or an artificial or prerecorded voice.
12

13 44. These calls were made to non-customers who are persons who had not
14 previously provided permission to receive texts from Defendants. Plaintiff and the
15 class members are non-customers.
16

17 45. Defendants violated the TCPA when they made the calls alleged herein.

18 46. As a result of Defendants’ conduct, and pursuant to Section 227(b)(3)
19 of the TCPA, Plaintiff and the other members of the class were harmed and are each
20 entitled to a minimum of \$500 in damages for each violation.
21

22 47. Moreover, given the facts and circumstances here, including that H&R
23 Block has been cited by the FCC for TCPA violations before, it is apparent that
24 injunctive relief is necessary to wrench compliance. Plaintiff and the class therefore
25 request an injunction against future automated calls to non-customers, pursuant to
26
27
28

1 47 U.S.C. § 227(b)(3).

2 48. Because Defendants knew or should have known that neither Plaintiff
3 nor the class had given prior express consent to receive text messages to their cell
4 phones—and/or willfully caused such text message calls to be made to the cell
5 phones of Plaintiff and the other members of the class without prior express
6 consent—the Court should treble the amount of statutory damages available to
7 Plaintiff and the other members of the class, pursuant to Section 227(b)(3) of the
8 TCPA. *Krakauer v. Dish Network LLC*, 2017 WL 2242952 (M.D.N.C. May 22,
9 2017) (trebling TCPA damages after \$21M jury verdict in favor of class).

10
11
12
13 WHEREFORE, Plaintiff Kenneth Hoagland, individually and on behalf of the
14 class, respectfully requests that the Court enter judgment against each Defendant for:

- 15
16 A. Certification of the class as alleged herein;
- 17 B. A declaration that Defendants – and each of them – violated the TCPA
18 as to Plaintiff and the class;
- 19 C. Injunctive relief aimed at preventing future automated calls to non-
20 customers’ cell phones;
- 21 D. Damages pursuant to 47 U.S.C. § 227(b)(3);
- 22 E. Costs, expenses, and attorneys’ fees, to the extent permitted by law; and
- 23 F. Such other or further relief as the Court deems just and proper.

24 ///

25 ///

26 ///

27
28

1 Dated: April 23, 2019

Respectfully submitted,

2 KENNETH HOAGLAND, individually and
3 on behalf of others similarly situated,

4 By: /s/Kiley Grombacher

5 Kiley Grombacher
6 BRADLEY/GROMBACHER, LLP
7 2815 Townsgate Rd., Suite 130
8 Westlake Village, CA 91361
9 Telephone: (805) 270-7100
kgrombacher@bradleygrombacher.com

10 Jeffrey S. Goldenberg
11 (*pro hac to be filed*)
12 GOLDENBERG SCHNEIDER, L.P.A.
13 One W. 4th St., 18th Floor
14 Cincinnati, OH 45202
15 Telephone: (513) 345-8297
16 jgoldenberg@gs-legal.com

17 Joseph M. Lyon (*pro hac to be filed*)
18 THE LYON FIRM
19 2021 Auburn Ave.
20 Cincinnati, OH 45219
21 Telephone: (513) 381-2333
22 jlyon@thelyonfirm.com

23 Alexander H. Burke (*pro hac to be filed*)
24 BURKE LAW OFFICES, LLC
25 155 N. Michigan Ave., Suite 9020
26 Chicago, IL 60601
27 Telephone: (312) 729-5288
28 aburke@burkelawllc.com

Counsel for Plaintiff

JURY DEMAND

Plaintiff requests a trial by jury of all claims that can be so tried.

Dated: April 23, 2019

Respectfully submitted,

KENNETH HOAGLAND, individually and on behalf of others similarly situated,

By: /s/Kiley Grombacher

Kiley Grombacher
BRADLEY/GROMBACHER, LLP
2815 Townsgate Rd., Suite 130
Westlake Village, CA 91361
Telephone: (805) 270-7100
kgrombacher@bradleygrombacher.com

Jeffrey S. Goldenberg
(pro hac to be filed)
GOLDENBERG SCHNEIDER, L.P.A.
One W. 4th St., 18th Floor
Cincinnati, OH 45202
Telephone: (513) 345-8297
jgoldenberg@gs-legal.com

Joseph M. Lyon *(pro hac to be filed)*
THE LYON FIRM
2021 Auburn Ave.
Cincinnati, OH 45219
Telephone: (513) 381-2333
jlyon@thelyonfirm.com

Alexander H. Burke *(pro hac to be filed)*
BURKE LAW OFFICES, LLC
155 N. Michigan Ave., Suite 9020
Chicago, IL 60601
Telephone: (312) 729-5288
aburke@burkelawllc.com

Counsel for Plaintiff

JS 44 (Rev. 06/17)

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
KENNETH HOAGLAND, individually and on behalf of others similarly situated,

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
 Bradley/Grombacher, LLP, 2815 Townsgate Road, Suite 130, Westlake Village, CA 91361; (805) 270-7100

DEFENDANTS
H&R BLOCK, INC. and AXOS BANK,

County of Residence of First Listed Defendant _____
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) _____

'19CV0750 BAS JLB

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 | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

Click here for: [Nature of Suit Code Descriptions.](#)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES | |
|---|--|--|--|--|--|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY | CIVIL RIGHTS | PRISONER PETITIONS | LABOR | SOCIAL SECURITY | |
| <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education | Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act | <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) | |
| | | | IMMIGRATION | FEDERAL TAX SUITS | |
| | | | <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | |

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

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227

Brief description of cause:
TCPA Case (text message)

VII. 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

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

DATE 4/23/2019 SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [H&R Block, Axos Bank Sent More Than 50 Texts to Wrong Number, Lawsuit Says](#)
