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8 Attorneys for Plaintiff

10 **UNITED STATES DISTRICT COURT**  
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 **Melissa Humphreys, Individually**  
13 **and on behalf of All Others**  
14 **Similarly Situated,**

15 **Plaintiff,**

16 **v.**

17 **Auto Insurance Specialists, LLC.,**

18 **Defendant.**

19 **Case No.: '17CV1498 DMS JMA**

**CLASS ACTION**

**CLASS ACTION COMPLAINT**  
**FOR DAMAGES AND**  
**INJUNCTIVE RELIEF**  
**PURSUANT TO THE**  
**TELEPHONE CONSUMER**  
**PROTECTION ACT, 47 U.S.C. §**  
**227 ET SEQ.**

**Jury Trial Demanded**

20 **INTRODUCTION**

21  
22  
23  
24  
25 1. Melissa Humphreys (referred to individually as “Ms. Humphreys” or  
26 “Plaintiff”), brings this class action for damages, injunctive relief, and any  
27 other available legal or equitable remedies, resulting from the illegal actions  
28 of Auto Insurance Specialists, LLC, (referred to as “AIS” or “Defendant”), in





1 negligently, knowingly, and/or willfully contacting Plaintiff on Plaintiff's  
2 cellular telephone, in violation of the Telephone Consumer Protection Act, 47  
3 U.S.C. § 227, et seq., ("TCPA"), thereby invading Plaintiff's privacy.  
4 Plaintiff alleges as follows upon personal knowledge as to herself and her  
5 own acts and experiences, and, as to all other matters, upon information and  
6 belief, including investigation conducted by her attorneys.

7 2. The TCPA was designed to prevent calls and texts like the ones described  
8 within this complaint, and to protect the privacy of citizens like Plaintiff.  
9 "Voluminous consumer complaints about abuses of telephone technology –  
10 for example, computerized calls dispatched to private homes – prompted  
11 Congress to pass the TCPA." *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740,  
12 744 (2012).

13 3. In enacting the TCPA, Congress intended to give consumers a choice as to  
14 how creditors and telemarketers may call them, and made specific findings  
15 that "[t]echnologies that might allow consumers to avoid receiving such calls  
16 are not universally available, are costly, are unlikely to be enforced, or place  
17 an inordinate burden on the consumer." TCPA, Pub.L. No. 102-243, § 11.  
18 Toward this end, Congress found that:

19 Banning such automated or prerecorded telephone calls to the  
20 home, except when the receiving party consents to receiving the  
21 call or when such calls are necessary in an emergency situation  
22 affecting the health and safety of the consumer, is the only  
23 effective means of protecting telephone consumers from this  
24 nuisance and privacy invasion.

25 *Id.* at § 12; *see also, Martin v. Leading Edge Recovery Solutions, LLC*, 2012  
26 WL 3292838, at \*4 (N.D. Ill. Aug. 10, 2012) (citing Congressional finding  
27 on TCPA's purpose).

28 4. Congress also specifically found that "the evidence presented to the Congress  
indicates that automated or prerecorded calls are a nuisance and an invasion

1 of privacy, regardless of the type of call [...].” *Id.* At §§ 12-13. *See also,*  
2 *Mims*, 132 S. Ct. at 744.

- 3 5. As Judge Easterbrook of the Seventh Circuit explained in a TCPA case  
4 regarding calls to a non-debtor similar to this one:

5 The Telephone Consumer Protection Act [...] is well known for its  
6 provisions limiting junk-fax transmissions. A less litigated part of  
7 the Act curtails the use of automated dialers and prerecorded  
8 messages to cell phones, whose subscribers often are billed by the  
9 minute as soon as the call is answered – and routing a call to  
10 voicemail counts as answering the call. An automated call to a  
landline phone can be an annoyance; an automated call to a cell  
phone adds expense to annoyance.

11 *Soppet v. Enhanced Recovery Co., LLC*, 679 F.3d 637, 638 (7<sup>th</sup> Cir. 2012).

### 12 **JURISDICTION AND VENUE**

- 13
- 14 6. Jurisdiction is proper under 47 U.S.C §227(b); *Mims v. Arrow Fin. Servs.,*  
15 *LLC*, 132 S.Ct. 740 (2012), because Plaintiff alleges violations of federal law.
- 16 7. Venue is proper in the United States District Court for the Southern District of  
17 California pursuant to 18 U.S.C. § 1391(b) and 1441(a) because Plaintiff lives  
18 in San Diego County, CA, and the events giving rise to Plaintiff’s causes of  
19 action against Defendant occurred in the State of California within the  
20 Southern District of California and Defendant conducts business in the area of  
21 San Diego, California.

### 22 **PARTIES**

- 23
- 24 8. Plaintiff is, and at all times mentioned herein was, an individual citizen and  
25 resident of the County of San Diego, in the State of California.
- 26 9. Plaintiff is informed and believes, and thereon alleges, that Defendant Auto  
27 Insurance Specialists, LLC is, and at all times mentioned herein was Limited  
28 Liability Company, registered in the state of California, headquartered in

1 Cerritos, CA, doing business throughout CA and numerous other states, and at  
2 all times mentioned herein was, a “person,” as defined by 47 U.S.C. § 153  
3 (39).

4 10. Plaintiff is informed and believes, and thereon alleges, that at all relevant  
5 times, Defendant conducted business in the State of California and in the  
6 County of San Diego, and within this judicial district.

7  
8 **FACTUAL ALLEGATIONS**

9 11. At all times relevant, Plaintiff was a citizen of the State of California.  
10 Plaintiff is, and at all times mentioned herein was, “persons” as defined by 47  
11 U.S.C § 153 (39).

12 12. Defendant is, and at all times mentioned herein was, a “person” as defined by  
13 47 U.S.C. §153 (39).

14 13. Sometime prior to January 1, 2013, Ms. Humphreys was assigned, and  
15 became the owner of, a cellular telephone number ending in 6370 from her  
16 wireless provider.

17 14. On or about July 7, 2017, at 11:56 AM, Ms. Humphreys received a text  
18 message on her cellular telephone from Defendant, in which Defendant  
19 utilized an automatic telephone dialing system (“ATDS”) as defined by 47  
20 U.S.C. § 227(a)(1).

21 15. The text to Ms. Humphreys’s cellular telephone number (ending in 6370)  
22 from Defendant came from phone number: (647) 952-3361.

23 16. The text message read: “Home MSG: I can help reduce care insurance to only  
24 \$29 a month if you call now Melissa! It takes 5 minutes to complete, but if  
25 not, you can reply NO”

26 17. The ATDS used by Defendant has the capacity to store or produce telephone  
27 numbers to be called or texted, using a random or sequential number  
28 generator.





1 18. The ATDS used by Defendant also has the capacity to, and does, call and/or  
2 text telephone numbers from a list of databases of telephone numbers  
3 automatically and without human intervention.

4 19. The telephone number Defendant texted was assigned to a cellular telephone  
5 service for which Plaintiff incurred a charge for incoming calls/texts pursuant  
6 to 47 U.S.C. § 227 (b)(1).

7 20. Plaintiff at no time provided “prior express consent” for Defendant to place  
8 text messages to Plaintiff’s cellular telephone utilizing an ATDS as proscribed  
9 under 47 U.S.C. § 227(b)(1).

10 21. Plaintiff had not provided her cellular telephone number to Defendant.  
11 Plaintiff was not a customer of Defendant. Plaintiff had no “established  
12 business relationship” with defendant, as defined by 47 U.S.C. § 227 (a)(2).

13 22. The text made by Defendant or its agents was in violation of 47 U.S.C. §  
14 227(b)(1).

## 15 16 **STANDING**

17 23. Standing is proper under Article III of the Constitution of the United States of  
18 America because Plaintiff’s claims state:

- 19 a. a valid injury in fact;
- 20 b. which is traceable to the conduct of Defendant;
- 21 c. and is likely to be redressed by a favorable judicial decision.

22 See, *Spokeo, Inc. v. Robins*, 578 U.S. \_\_\_\_ (2016) at 6, and *Lujan v.*  
23 *Defenders of Wildlife*, 504 U.S. 555 at 560.

24 24. In order to meet the standard laid out in *Spokeo* and *Lujan*, Plaintiff must  
25 clearly allege facts demonstrating all three prongs above.

### 26 27 **A. *The “Injury in Fact” Prong***

1 25. Plaintiff's injury in fact must be both "concrete" and "particularized" in order  
2 to satisfy the requirements of Article III of the Constitution, as laid out in  
3 *Spokeo (Id.)*.

4 26. For an injury to be "concrete" it must be a *de facto* injury, meaning that it  
5 actually exists. In the present case, Plaintiff was texted on her cellular phone  
6 by Defendant. Such calls and texts are a nuisance, an invasion of privacy, and  
7 an expense to Plaintiff. *Soppet v. Enhanced Recovery Co., LLC*, 679 F.3d  
8 637, 638 (7<sup>th</sup> Cir. 2012). All three of these injuries are concrete and *de facto*.

9 27. For an injury to be "particularized" means that the injury must "affect the  
10 plaintiff in a personal and individual way." *Spokeo, Inc. v. Robins*, 578 U.S.  
11 \_\_\_\_ (2016) at 7. In the instant case, it was plaintiff's phone that was texted  
12 and it was plaintiff herself who answered the text. It was plaintiff's personal  
13 privacy and peace that was invaded by Defendant's text message using an  
14 ATDS. Finally, plaintiff alone is responsible to pay the bill on her cellular  
15 phone. All of these injuries are particularized and specific to plaintiff, and  
16 will be the same injuries suffered by each member of the putative class.

17  
18 **B. *The "Traceable to the Conduct of Defendant" Prong***

19 28. The second prong required to establish standing at the pleadings phase is that  
20 Plaintiff must allege facts to show that her injury is traceable to the conduct of  
21 Defendant(s).

22 29. In the instant case, this prong is met simply by the fact that the message sent  
23 to plaintiff's cellular phone was sent either, by Defendant directly, or by  
24 Defendant's agent at the direction of Defendant.

25  
26 **C. *The "Injury is Likely to be Redressed by a Favorable Judicial Opinion"***  
27 ***Prong***  
28



1 30. The third prong to establish standing at the pleadings phase requires Plaintiff  
2 to allege facts to show that the injury is likely to be redressed by a favorable  
3 judicial opinion.

4 31. In the present case, Plaintiff's Prayers for Relief include a request for  
5 damages for each call made by Defendant, as authorized by statute in 47  
6 U.S.C. § 227. The statutory damages were set by Congress and specifically  
7 redress the financial damages suffered by Plaintiff and the members of the  
8 putative class.

9 32. Furthermore, Plaintiff's Prayers for Relief request injunctive relief to restrain  
10 Defendant from the alleged abusive practices in the future. The award of  
11 monetary damages and the order for injunctive relief redress the injuries of  
12 the past, and prevent further injury in the future.

13 33. Because all standing requirements of Article III of the U.S. Constitution have  
14 been met, as laid out in *Spokeo, Inc. v. Robins*, 578 U.S. \_\_\_\_ (2016), Plaintiff  
15 has standing to sue Defendant on the stated claims.

16  
17 **CLASS ACTION ALLEGATIONS**

18 34. Plaintiff brings this action on behalf of herself and on behalf of all others  
19 similarly situated ("the Class").

20 35. Plaintiff represents, and is a member of, the Class, consisting of:

- 21 a. All persons within the United States who had or have a number  
22 assigned to a cellular telephone service, who received at least one text  
23 message using an ATDS from Auto Insurance Specialists, LLC, or its  
24 agents, calling on behalf of Auto Insurance Specialists, LLC, between  
25 the date of filing this action and the four years preceding, where such  
26 text messages were sent for marketing purposes, to non-customers of  
27 Auto Insurance Specialists, LLC, at the time of the text messages.  
28



1 36. Defendant and its employees or agents are excluded from the Class. Plaintiff  
2 does not know the number of members in the Class, but believes the Class  
3 members number in the thousands, if not more. Thus, this matter should be  
4 certified as a Class action to assist in the expeditious litigation of this matter.

5 37. Plaintiff and members of the Class were harmed by the acts of Defendant in at  
6 least the following ways: Defendant illegally contacted Plaintiff and the Class  
7 members via their cellular telephones thereby causing Plaintiff and the Class  
8 members to incur certain cellular telephone charges or reduce cellular  
9 telephone time for which Plaintiff and the Class members previously paid, by  
10 having to retrieve or administer messages left by Defendant or their agents,  
11 during those illegal calls, and invading the privacy of said Plaintiff and the  
12 Class members. Plaintiff and the Class members were damaged thereby.

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

19 39. The joinder of the Class members is impractical and the disposition of their  
20 claims in the Class action will provide substantial benefits both to the parties  
21 and to the Court. The Class can be identified through Defendant's records  
22 and/or Defendant's agent's records.

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

- 27 i. Whether, within the four years prior to the filing of the  
28 Complaint, Defendant sent any text message(s) (other than a call



1 made for emergency purposes or made with the prior express  
2 consent of the called party) to the Class members using any  
3 ATDS to any telephone number assigned to a cellular telephone  
4 service;

5 ii. Whether Defendant texted non-customers of Defendant for  
6 marketing purposes;

7 iii. Whether Plaintiff and the Class members were damaged thereby,  
8 and the extent of damages for such violation(s); and

9 iv. Whether Defendant should be enjoined from engaging in such  
10 conduct in the future.

11 41. As a person who received a text message from Defendant, or Defendant's  
12 agent, in which Defendant used an ATDS, without Plaintiff's prior express  
13 consent, Plaintiff is asserting claims that are typical of the Class. Plaintiff will  
14 fairly and adequately represent and protect the interests of the Class in that  
15 Plaintiff has no interests antagonistic to any member of the Class.

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

23 43. Plaintiff has retained counsel experienced in handling class action claims and  
24 claims involving violations of the Telephone Consumer Protection Act.

25 44. A class action is a superior method for the fair and efficient adjudication of  
26 this controversy. Class-wide damages are essential to induce Defendant to  
27 comply with federal and California law. The interest of Class members in  
28 individually controlling the prosecution of separate claims against Defendant

1 is small because the maximum statutory damages in an individual action for  
2 violation of privacy are minimal. Management of these claims is likely to  
3 present significantly fewer difficulties than those that would be presented in  
4 numerous individual claims.

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

8  
9 **FIRST CAUSE OF ACTION:**  
10 **NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER**  
11 **PROTECTION ACT 47 U.S.C. § 227 ET SEQ.**

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

14 47. The foregoing acts and omissions of Defendant constitutes numerous and  
15 multiple negligent violations of the TCPA, including but not limited to each  
16 and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

17 48. As a result of Defendant's negligent violations of 47 U.S.C. § 227 et seq.,  
18 Plaintiff and the Class are entitled to an award of \$500.00 in statutory  
19 damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

20 49. Plaintiff and the Class are also entitled to and seek injunctive relief  
21 prohibiting such conduct in the future.

22 **SECOND CAUSE OF ACTION:**  
23 **KNOWING AND/OR WILLFUL VIOLATIONS OF THE TELEPHONE**  
24 **CONSUMER PROTECTION ACT 47 U.S.C. § 227 ET SEQ.**

25 50. Plaintiff incorporates by reference all of the above paragraphs of this  
26 Complaint as though fully stated herein.

27 51. The foregoing acts and omissions of Defendant constitute numerous and  
28 multiple knowing and/or willful violations of the TCPA, including but not

1 limited to each and every one of the above-cited provisions of 47 U.S.C. §  
2 227 et seq.

3 52. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. §  
4 227 et seq., Plaintiff and each of the Class are entitled to treble damages, as  
5 provided by statute, up to \$1,500.00, for each and every violation, pursuant to  
6 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

7 53. Plaintiff and the Class are also entitled to and seek injunctive relief  
8 prohibiting such conduct in the future.

9  
10 **PRAYER FOR RELIEF**

11 54. Wherefore, Plaintiff respectfully requests the Court grant Plaintiff and the  
12 Class members the following relief against Defendant:

13  
14 **FIRST CAUSE OF ACTION FOR NEGLIGENT VIOLATION OF  
15 THE TCPA, 47 U.S.C. § 227 ET SEQ.**

16 55. As a result of Defendant's negligent violations of 47 U.S.C. § 227(b)(1),  
17 Plaintiff seeks for herself and each Class member \$500.00 in statutory  
18 damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

19 56. Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such  
20 conduct in the future.

21 57. Any other relief the Court may deem just and proper.

22 **SECOND CAUSE OF ACTION FOR KNOWING AND/OR WILLFUL  
23 VIOLATION  
24 OF THE TCPA, 47 U.S.C. § 227 ET SEQ.**

25 58. As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §  
26 227(b)(1), Plaintiff seeks for herself and each Class member treble damages,  
27 as provided by statute, up to \$1,500.00 for each and every violation, pursuant  
28 to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

1 59. Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such  
2 conduct in the future.

3 60. Any other relief the Court may deem just and proper.

4  
5 **TRIAL BY JURY**

6 61. Pursuant to the seventh amendment to the Constitution of the United States of  
7 America, Plaintiff is entitled to, and demands, a trial by jury.

8  
9 Respectfully submitted,

10  
11  
12 Date: July 20, 2017

**HYDE & SWIGART**

13  
14 By: s/Kevin Lemieux  
15 Kevin Lemieux  
16 Attorneys for Plaintiff

17  
18  
19 **Other Attorneys of Record, besides caption page:**

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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

Melissa Humphreys, Individually and on behalf of all 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)

Kevin Lemieux, Esq., Hyde & Swigart 619-233-7770 2221Camino Del Rio S., Ste. 101, San Diego, CA 92108

DEFENDANTS

Auto Insurance Specialists, LLC

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)

'17CV1498 DMS JMA

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)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

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

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Labor, etc.

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, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 47 U.S.C. § 227 et seq. ("TCPA") Brief description of cause: Defendant violated Telephone Consumer Protection Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 07/25/2017 SIGNATURE OF ATTORNEY OF RECORD s/ Kevin Lemieux

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 the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six 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. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- 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: [Auto Insurance Specialists Sued Over Alleged Spam Text Messages](#)

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