

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CHRISTINE R. JOHNSON, individually, and
on behalf of all others similarly situated,

Plaintiff,

v.

HARLEY DAVIDSON FINANCIAL
SERVICES, INC.,

Defendant.

Case No. 1:21-cv-04117

CLASS ACTION COMPLAINT

NOW COMES Plaintiff, CHRISTINE R. JOHNSON, individually, and on behalf of all others similarly situated, by and through her undersigned counsel, complaining of Defendant, HARLEY DAVIDSON FINANCIAL SERVICES, INC., as follows:

NATURE OF ACTION

1. This action seeks redress for Defendant’s violations of the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227 *et seq.*, and the Illinois Consumer Fraud and Deceptive Business Practices Act (“ICFA”), 815 ILCS 505/1.

2. “The primary purpose of the TCPA was to protect individuals from the harassment, invasion of privacy, inconvenience, nuisance, and other harms associated with unsolicited, automated calls.” *Parchman v. SLM Corp.*, 896 F.3d 728, 738-39 (6th Cir. 2018) citing Telephone Consumer Protection Act of 1991, Pub. L. No. 102-243, § 2, 105 Stat. 2394 (1991).

3. As the Supreme Court recently observed, “Americans passionately disagree about many things. But they are largely united in their disdain for robocalls.” *Barr v. Am. Ass’n of Political Consultants*, 140 S. Ct. 2335, 2343 (2020).

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331.

6. This Court has supplemental jurisdiction over Plaintiff’s state law claim pursuant to 28 U.S.C. § 1367.

7. Venue in this district is proper under 28 U.S.C. § 1391(b)(2).

PARTIES

8. CHRISTINE R. JOHNSON (“Plaintiff”) is a natural person, over 18-years-of-age, who at all times relevant resided in this federal jurisdiction.

9. Plaintiff is a “person” as defined by 47 U.S.C. § 153(39).

10. HARLEY DAVIDSON FINANCIAL SERVICES, INC. (“Defendant”) is a financier of motorcycles for Harley Davidson and maintains its principal place of business at 222 West Adams Street, #2000, Chicago, Illinois 60606.

11. Defendant is a “person” as defined by 47 U.S.C. § 153(39).

FACTUAL ALLEGATIONS

12. At all times relevant, Plaintiff was the sole operator, possessor, and subscriber of the cellular telephone number ending in 6818.

13. At all times relevant, Plaintiff’s number ending in 6818 was assigned to a cellular telephone service as specified in 47 U.S.C. § 227(b)(1)(A)(iii).

14. At all times relevant, Plaintiff was financially responsible for her cellular telephone equipment and services.

15. In or around August 2020, Plaintiff purchased a 2018 Ultra Limited Harley Davidson motorcycle (“Vehicle”) from Defendant.

16. In purchasing the Vehicle, Plaintiff entered into a Retail Installment Contract (“Contract”) with Defendant to finance the purchase of the Vehicle.

17. The Contract required Plaintiff to make payments on the 6th of every month.

18. The Contract included a 10-day grace period for payments within which Plaintiff could make payments without any ramifications.

19. Plaintiff has always made the payment before the expiration of the 10-day grace period with the exception of the payment for April 2021, which was paid on the 11th day.

20. Every single month since Plaintiff purchased the vehicle, Defendant has placed collection calls to her starting the 9th of every month and not ceasing until payment is made.

21. Plaintiff finally became extremely frustrated with Defendant’s calls when she received 8 calls between March 9, 2021 and March 10, 2021.

22. On March 11, 2021, Plaintiff spoke with Defendant and advised payment would be made on the 12th, still within the 10-day grace period.

23. Plaintiff also asked that the collection calls cease as they were becoming excessive.

24. Initially, Defendant stopped the collection calls; however, on March 17, 2021 Defendant started again placing collection calls to Plaintiff.

25. In addition to the collection calls, Plaintiff has been receiving pre-recorded messages from Defendant as well.

26. In total, Plaintiff has received at minimum 20 pre-recorded messages from Defendant, all of which are 32 seconds long and are all the same recording.

27. Despite Plaintiff’s requests that the collection calls cease, Defendant continued placing harassing collection calls to Plaintiff’s cellular phone and leaving Plaintiff pre-recorded voice messages.

28. Plaintiff's request fell on deaf ears again and Defendant continued placing harassing collections calls to Plaintiff (including pre-recorded messages), including, but not limited to, calls from the phone numbers: (844) 970-2015; (833) 920-2051; (866) 433-5959; (833) 425-1627; and (733) 441-0068.

29. In total, Defendant placed no less than 150 harassing phone calls and 35 pre-recorded messages to Plaintiff after Plaintiff initially requested that Defendant cease contact with her.

DAMAGES

30. Defendant's harassing phone calls and pre-recorded messages have severely disrupted Plaintiff's everyday life and overall well-being.

31. Defendant's harassing calls and pre-recorded messages have caused Plaintiff damages, including, aggravation that accompanies frequent unwanted phone calls, anxiety, emotional distress, increased risk of personal injury resulting from the distraction caused by the phone calls and text messages, wear and tear to Plaintiff's cellular phone, temporary loss of use of Plaintiff's cellular phone, invasion of privacy, loss of battery charge, loss of concentration, mental anguish, nuisance, the per-kilowatt electricity costs required to recharge Plaintiff's cellular telephone as a result of increased usage of Plaintiff's telephone services, and wasting Plaintiff's time.

32. Moreover, each time Defendant placed a telephone call to Plaintiff, Defendant occupied Plaintiff's cellular phone such that Plaintiff was unable to receive other phone calls or otherwise utilize her cellular phone while her phone was ringing.

CLASS ALLEGATIONS

33. All paragraphs of this Complaint are expressly adopted and incorporated herein as though fully set forth herein.

34. Plaintiff brings this action pursuant to Fed. R. Civ. P. 23(b)(2) and 23(b)(3) individually, and on behalf of all others similarly situated (“Putative Class”) defined as follows:

All persons throughout the state of Illinois (1) to whom Defendant placed, or caused to be placed, a call; (2) directed to a number assigned to a cellular telephone service; (3) using an artificial or prerecorded voice; (4) without his/her consent; (5) within the four years preceding the date of this complaint through the date of class certification.

35. The following individuals are excluded from the Putative Class: (1) any Judge or Magistrate Judge presiding over this action and members of their families; (2) Defendant, Defendant’s subsidiaries, parents, successors, predecessors, and any entity in which Defendant or their parents have a controlling interest and their current or former employees, officers, and directors; (3) Plaintiff’s attorneys; (4) persons who properly execute and file a timely request for exclusion from the Putative Class; (5) the legal representatives, successors, or assigns of any such excluded persons; and (6) persons whose claims against Defendant have been fully and finally adjudicated and/or released.

A. Numerosity

36. Upon information and belief, the members of the Putative Class are so numerous that joinder of them is impracticable.

37. The exact number of the members of the Putative Class is unknown to Plaintiff at this time and can only be determined through targeted discovery.

38. The members of the Putative Class are ascertainable because the Class is defined by reference to objective criteria.

39. The members of the Putative Class are identifiable in that their names, addresses, and telephone numbers can be identified in business records maintained by Defendant.

B. Commonality and Predominance

40. There are many questions of law and fact common to the claims of Plaintiff and the Putative Class.

41. Those questions predominate over any questions that may affect individual members of the Putative Class.

C. Typicality

42. Plaintiff's claims are typical of members of the Putative Class because Plaintiff and members of the Putative Class are entitled to damages as a result of Defendant's conduct.

D. Superiority and Manageability

43. This case is also appropriate for class certification as class proceedings are superior to all other available methods for the efficient and fair adjudication of this controversy.

44. The damages suffered by the individual members of the Putative Class will likely be relatively small, especially given the burden and expense required for individual prosecution.

45. By contrast, a class action provides the benefits of single adjudication, economies of scale, and comprehensive supervision by a single court.

46. Economies of effort, expense, and time will be fostered and uniformity of decisions ensured.

E. Adequate Representation

47. Plaintiff will adequately and fairly represent and protect the interests of the Putative Class.

48. Plaintiff has no interests antagonistic to those of the Putative Class and Defendant has no defenses unique to Plaintiff.

49. Plaintiff has retained competent and experienced counsel in consumer class action litigation.

CLAIMS FOR RELIEF

COUNT I

**Telephone Consumer Protection Act (47 U.S.C. § 227 *et. seq.*)
(On behalf of Plaintiff and the Members of the Putative Class)**

50. All paragraphs of this Complaint are expressly adopted and incorporated herein as though fully set forth herein.

51. The TCPA defines ATDS as “equipment which has the capacity—(A) to store or produce telephone numbers to be called, using a random or sequential number generator; and (B) to dial such numbers.” 47 U.S.C. § 227(a)(1).

52. Upon information and belief, the system used by Defendant to place calls to Plaintiff has the capacity to use a random or sequential number generator to determine the order in which to pick phone numbers from a preloaded list of numbers of consumers that are allegedly in default on their payments.

53. Accordingly, the system employed by Defendant has the capacity – (A) to store or produce telephone numbers to be called, using a random or sequential number generator; and (B) to dial such numbers.

54. As pled above, Defendant used an artificial or prerecorded voice, which automatically played upon Plaintiff answering the call or upon the call reaching Plaintiff’s voicemail.

55. Defendant violated 47 U.S.C. § 227 (b)(1)(A)(iii) by placing no less than 150 non-emergency calls and 35 pre-recorded messages, including but not limited to the aforementioned

collection calls and pre-recorded messages, to Plaintiff's cellular telephone, utilizing an ATDS without Plaintiff's consent.

56. As pled above, Plaintiff revoked consent to be called on her cellular phone during an answered call on March 11, 2021.

57. As pled above, Plaintiff was severely harmed by Defendant's collection calls to her cellular phone.

58. Upon information and belief, Defendant has no system in place to document whether it has consent to contact consumers on their cellular phones.

59. Upon information and belief, Defendant has no policies and procedures in place to honor consumers' requests that collection calls cease.

60. Upon information and belief, Defendant knew its collection practices violated the TCPA, yet continued to employ them in order to maximize efficiency and revenue.

61. As a result of Defendant's violations of 47 U.S.C. §227(b)(1)(A)(iii). Plaintiff is entitled to receive \$500.00 in damages for each violation.

62. As a result of Defendant's knowing and willful violations of 47 U.S.C. §227 (b)(1)(A)(iii), Plaintiff is entitled to receive up to \$1,500.00 in treble damages for each violation.

WHEREFORE, Plaintiff, CHRISTINE R. JOHNSON, on behalf of herself and the members of the Putative Class, requests the following relief:

- A. An order granting certification of the proposed class, including the designation of Plaintiff as the named representative, and the appointment of the undersigned as Class Counsel;
- B. a finding that Defendant violated 47 U.S.C. § 227 *et seq.*;
- C. an award of statutory damages of at least \$500.00 for each and every violation to Plaintiff and the members of the Putative Class for each such violation;

D. an award of treble damages of up to \$1,500.00 for each and every violation to Plaintiff and the members of the Putative Class for each such violation; and

E. an award of such other relief as this Court deems just and proper.

**COUNT II:
Illinois Consumer Fraud and Deceptive Business Practices Act
(Plaintiff individually)**

63. All paragraphs of this Complaint are expressly adopted and incorporated herein as though fully set forth herein.

64. The Illinois Consumer Fraud and Deceptive Business Practices Act (“ICFA”) states:

Unfair methods of competition and unfair or deceptive acts or practices, including but not limited to the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact . . . in the conduct of any trade or commerce are hereby declared unlawful whether any person has in fact been misled, deceived or damaged thereby. 815 ILCS 505/2.

65. Plaintiff is a “person” as defined in ICFA, 815 ILCS 505/1 (c).

66. Plaintiff is a “consumer” as defined in ICFA, 815 ILCS 505/1 (e).

67. Defendant is engaged in “commerce” in the State of Illinois with regard to Plaintiff as defined by ICFA, 815 ILCS 505/1(f).

a. Unfairness and Deception

68. It was unfair for Defendant to attempt to collect a debt by placing the above referenced calls to Plaintiff’s cellular phone number after she requested that the phone calls cease.

69. Plaintiff had no choice but to submit to Defendant’s phone calls. Specifically, the only option available to Plaintiff to escape Defendant’s phone calls was to turn off her cellular phone.

However, given the imperative function that cellular phone numbers play in today's society, Plaintiff had no reasonable alternative other than to submit to Defendant's phone calls.

70. The phone harassment campaign that Defendant unleashed on Plaintiff was against public policy, unethical, and oppressive.

71. As pled above, Plaintiff was substantially harmed by Defendant's unfair conduct.

72. Upon information and belief, Defendant systematically places harassing phone calls to consumers in Illinois in order to aggressively collect debts.

73. Upon information and belief, placing unsolicited and harassing cellular phone calls to consumers is an unfair business practice willfully employed by Defendant and is conducted on a wide scale.

74. An award of punitive damages is appropriate because Defendant's conduct as described above was outrageous, willful, and wanton, and showed a reckless disregard for the rights of Plaintiff and consumers in general.

WHEREFORE, Plaintiff requests the following relief:

- A. a finding that Defendant violated the ICFA;
- B. an order enjoining Defendant from placing further violating calls to Plaintiff;
- C. an award of actual damages in an amount to be determined at trial;
- D. an award of punitive damages in an amount to be determined at trial;
- E. an award of reasonable attorney's fees and costs pursuant to 815 ILCS 505/10a(c);
and
- F. an award of any further relief that is equitable and just.

Date: August 3, 2021

Respectfully submitted,

CHRISTINE R. JOHNSON

By: /s/ Victor T. Metroff, Esq.

Mohammed O. Badwan, Esq.
Victor T. Metroff, Esq.
Counsel for Plaintiff
Sulaiman Law Group, Ltd
2500 S Highland Ave, Suite 200
Lombard, IL 60148
Telephone: (630) 575-8180
mbadwan@sulaimanlaw.com
vmetroff@sulaimanlaw.com

CIVIL COVER SHEET

The ILND 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
CHRISTINE R. JOHNSON, individually, and on behalf of all others similarly situated
(b) County of Residence of First Listed Plaintiff Cook County
(c) Attorneys (firm name, address, and telephone number)
Sulaiman Law Group, Ltd.
2500 South Highland Avenue, Suite 200, Lombard, IL 60148
(630) 575-8181

DEFENDANTS
HARLEY DAVIDSON FINANCIAL SERVICES, INC.
County of Residence of First Listed Defendant
Attorneys (if known)

II. BASIS OF JURISDICTION (Check one box, only.)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question
4 Diversity

III. CITIZENSHIP OF PRINCIPAL PARTIES (For Diversity Cases Only.)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country

IV. NATURE OF SUIT (Check one box, only.)

Table with 5 main columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, BANKRUPTCY, IMMIGRATION, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, SOCIAL SECURITY, FEDERAL TAXES, OTHER STATUTES. Each cell contains a list of legal categories with checkboxes.

V. ORIGIN (Check 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
8 Multidistrict Litigation Direct File

VI. CAUSE OF ACTION (Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.)
Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 et seq.

VII. PREVIOUS BANKRUPTCY MATTERS (For nature of suit 422 and 423, enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this Court. Use a separate attachment if necessary.)

VIII. REQUESTED IN COMPLAINT:
Check if this is a class action Under rule 23, Demand \$
Jury Demand: Yes No

IX. RELATED CASE(S) IF ANY
Judge Case Number

X. Is this a previously dismissed or remanded case? Yes No
If yes, Case # Name of Judge
Date Signature of attorney of record
8/3/2021 s:/ Victor T. Metroff

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. Previous Bankruptcy Matters For nature of suit 422 and 423 enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this court. Use a separate attachment if necessary.

VIII. Requested in Complaint. 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.

IX. 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.

X. Refiling Information. Place an "X" in the Yes box if the case is being refiled or if it is a remanded case, and indicate the case number and name of judge. If this case is not being refiled or has not been remanded, place an "X" in the No box.

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: [Harley Davidson Financial Arm Hit with Lawsuit Over Alleged Debt Collection Calls](#)
