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 9 ***Pro Hac Vice***

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

<p>KAI JOHNSON, individually and on behalf of all others similarly situated,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">-against-</p> <p>ONE TECHNOLOGIES, LLC,</p> <p style="text-align: center;">Defendant.</p>	<p style="text-align: center;">Civil Case No.: <u>'20CV2017 JM BLM</u></p> <p style="text-align: center;"><u>CIVIL ACTION</u></p> <p style="text-align: center;">CLASS ACTION COMPLAINT</p> <p style="text-align: center;">AND</p> <p style="text-align: center;">DEMAND FOR JURY TRIAL</p>
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Plaintiff Kai Johnson (hereinafter, “Plaintiff”), individually and on behalf of all others similarly situated, bring this Class Action Complaint (the “Complaint”) against Defendant One Technologies, LLC (“Defendant”), and allege, upon personal knowledge as to their own conduct, and upon information and belief as to the conduct of others, as follows:

1 **INTRODUCTION**

2 1. Plaintiff brings this Complaint against Defendant to secure redress
3 because Defendant willfully violated the Telephone Consumer Protection Act, 47
4 U.S.C § 227, et seq. (“TCPA”) and invaded Plaintiff’s privacy by causing unsolicited
5 text messages to be made to Plaintiff’s and other class members’ cellular telephones
6 through the use of an automatic telephone dialing system.

7
8 2. Defendant made one or more unauthorized phone call and/or text message
9 to Plaintiff’s cellular phone using an automatic telephone dialing system (“ATDS”)
10 in an attempt to profit.

11 3. The TCPA was enacted to protect consumers from unsolicited and phone
12 calls exactly like those alleged in this case. In response to Defendant’s unlawful
13 conduct, Plaintiff seeks an injunction requiring Defendant to cease all unsolicited
14 phone calls and/or text messages to consumers, and an award of statutory damages to
15 the members of the Classes (defined below) under the TCPA equal to \$1,500.00 per
16 violation, together with court costs, reasonable attorneys’ fees, and treble damages
17 (for knowing and/or willful violations).
18

19 **PARTIES**

20 4. Plaintiff at all time relevant hereto lives in San Diego, California.
21

22 5. Defendant is and was at all relevant times a business entity duly formed
23 with a principal address at 8144 Walnut Hill Lane #600, Dallas, Texas 75231.
24

25 6. Whenever in this Complaint it is alleged that Defendant committed any
26 act or omission, it is meant that the Defendant’s officers, directors, vice-principals,
27 agents, servants, or employees committed such act or omission and that at the time
28 such act or omission was committed, it was done with the full authorization,

1 ratification or approval of Defendant or was done in the routine normal course and
2 scope of employment of the Defendant’s officers, directors, vice-principals, agents,
3 servants, or employees.

4
5 **JURISDICTION AND VENUE**

6 7. This Court has subject matter jurisdiction under 28 U.S.C. § 1331, as this
7 action arises under the TCPA, a federal statute.

8
9 8. The Court has personal jurisdiction over Defendant because it conducts
10 significant business in this District, and the unlawful conduct alleged in this
11 Complaint occurred in, was directed to, and/or emanated from this District.

12 9. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because
13 the wrongful conduct giving rise to this case occurred in, was directed to, and/or
14 emanated from this District.

15
16 10. Defendant is subject to specific personal jurisdiction in this District
17 because it has continuous and systematic contacts with this District through its
18 telemarketing efforts that target this District, and the exercise of personal jurisdiction
19 over Defendant in this District does not offend traditional notions of fair play or
20 substantial justice.

21
22 **LEGAL BASIS FOR THE CLAIMS**

23 11. In 1991, Congress enacted the TCPA to regulate the explosive growth of
24 the telemarketing industry. In doing so, Congress recognized that “[u]nrestricted
25 telemarketing ... can be an intrusive invasion of privacy....” Telephone Consumer
26 Protection Act of 1991, Pub. L. No. 102-243 § 2(5) (1991) (codified at 47 U.S.C. §
27 227).

1 12. Specifically, the TCPA restricts telephone solicitations (i.e.,
2 telemarketing) and the use of automated telephone equipment. The TCPA limits the
3 use of automatic dialing systems, artificial or prerecorded voice messages, SMS text
4 messages, and fax machines. It also specifies several technical requirements for fax
5 machines, autodialers, and voice messaging systems – principally with provisions
6 requiring identification and contact information of the entity using the device to be
7 contained in the message.

8
9 13. In its initial implementation of the TCPA rules, the FCC included an
10 exemption to its consent requirement for prerecorded telemarketing calls. Where the
11 caller could demonstrate an “established business relationship” with a customer, the
12 TCPA permitted the caller to place pre-recorded telemarketing calls to residential
13 lines. The new amendments to the TCPA, effective October 16, 2013, eliminated this
14 established business relationship exemption. Therefore, all pre-recorded
15 telemarketing calls to residential lines and all ATDS calls to wireless numbers violate
16 the TCPA if the calling party does not first obtain express written consent from the
17 called party.

18
19 14. As of October 16, 2013, unless the recipient has given prior express
20 written consent,¹ the TCPA and Federal Communications Commission (“FCC”) rules
21 under the TCPA generally:
22
23

24
25 ¹ Prior express written consent means “an agreement, in writing, bearing the signature
26 of the person called that clearly authorizes the seller to deliver or cause to be delivered
27 to the person called advertisements or telemarketing messages using an automatic
28 telephone dialing system or an artificial or prerecorded voice, and the telephone
number to which the signatory authorizes such advertisements or telemarketing
messages to be delivered.” 47 C.F.R. § 64.1200(f)(8).

- 1 ● Prohibit solicitors from calling residences before 8 a.m. or after 9 p.m.,
2 local time.
- 3
- 4 ● Require that solicitors provide their name, the name of the person or
5 entity on whose behalf the call is being made, and a telephone number or
6 address at which that person or entity may be contacted.
- 7
- 8 ● Prohibit solicitations to residences that use an artificial voice or a
9 recording.
- 10 ● Prohibit any call or text made using automated telephone equipment or
11 an artificial or prerecorded voice to a wireless device or cellular
12 telephone.
- 13
- 14 ● Prohibit any call made using automated telephone equipment or an
15 artificial or prerecorded voice to an emergency line (e.g., "911"), a
16 hospital emergency number, a physician's office, a hospital/health care
17 facility/elderly room, a cellular telephone, or any service for which the
18 recipient is charged for the call.
- 19
- 20 ● Prohibit autodialed calls that engage two or more lines of a multi-line
21 business.
- 22
- 23 ● Prohibit unsolicited advertising faxes.
- 24 ● Prohibit certain calls to members of the National Do Not Call Registry.
- 25

26 15. Furthermore, in 2008, the FCC held that “a creditor on whose behalf an
27 autodialed or prerecorded message call is made to a wireless number bears the
28 responsibility for any violation of the Commission’s rules.” *In re Rules and*

1 *Regulations Implementing the Telephone Consumer Protection Act, Declaratory*
2 *Ruling on Motion by ACA International for Reconsideration*, 23 FCC Rcd. 559, 565,
3 ¶ 10 (Jan. 4, 2008); *Birchmeier v. Caribbean Cruise Line, Inc.*, 2012 WL 7062748
4 (N.D. Ill., Dec. 31, 2012).

5
6 16. Accordingly, the entity can be liable under the TCPA for a call made on
7 its behalf, even if the entity did not directly place the call. Under those circumstances,
8 the entity is deemed to have initiated the call through the person or entity.

9
10 **FACTUAL ALLEGATIONS**

11 17. Defendant operates a generation lead company in which it solicits
12 consumers in an attempt to divert them to one of their partner sites for profit.

13 18. Defendant utilizes a sophisticated telephone dialing system to text
14 consumers en masse in an effort to profit. However, Defendant fails to get the
15 requisite prior consent prior to texting.

16
17 19. In fact, there have been numerous complaints on the better business
18 bureau from consumers complaining of receiving numerous unsolicited and harassing
19 phone calls from the Defendant.

20
21 20. In Defendant's overzealous attempt to market its services, Defendant
22 knowingly made (and continues to make) telemarketing phone calls without the prior
23 express written consent of the call recipients and with the knowledge that they did
24 not have the prior express written consent. As such, Defendant not only invaded the
25 personal privacy of Plaintiff and members of the Classes, but also intentionally and
26 repeatedly violated the TCPA.

1 **FACTUAL BACKGROUND AS TO PLAINTIFF**

2 21. For at least the last ten years, Plaintiff has been the owner of a cellular
3 telephone number ending in 6842.

4
5 22. On November 19, 2014, Plaintiff’s cellular telephone was registered with
6 the National Do Not Call Registry.

7
8 23. Within the last four years, at times better known by Defendant, Defendant
9 began texting Plaintiff on his cellular telephone number via an ATDS, as defined by
10 47 U.S.C. § 227(a)(1).

11 24. Each text message included an unsolicited advertisement and requested a call to
12 action. Such messages included:

- 13
14 a. June 17, 2020 “Carlos There’s been an increase to your CreditScore”
15
16 b. July 23, 2020 “A Change Has been Made to Your Score(s)”
17
18 c. “Data-Breach Alert – Check If Your Information Is Involved”
19
20 d. “Notice, Change Detected On Your Credit File”,
21
22 e. “Score Update2: A Change Was Made To Your Three Score(s)”.

23 25. In each text message included a hyperlink at the end of the message. Upon
24 clicking on link, Plaintiff was redirected to a website warning Plaintiff that he may
25 be affected by the recent Equifax Data Breach, and instructing Plaintiff to click on
26 another link. Upon clicking on that link, Plaintiff would be redirected to one of the
27 many partner websites of One Technologies, LLC, including freescore360.com or
28 ScoreSense.

1 34. In order to redress injuries caused by Defendant’s violations of the TCPA,
2 Plaintiff, on behalf of themselves and the Classes of similarly situated individuals,
3 bring suit under the TCPA, 47 U.S.C. § 227, et seq., which prohibits certain
4 unsolicited text messages to cellular phones.

5
6 35. On behalf of Plaintiff and the Class, Plaintiff seek an award of statutory
7 damages to the Class members, together with costs and reasonable attorneys’ fees.

8
9 **CLASS ACTION ALLEGATIONS**

10 36. Plaintiff brings this action pursuant to Rule 23(a), Rule 23(b)(2), and Rule
11 23(b)(3) of the Federal Rules of Civil Procedure individually and on behalf of the
12 Class, which include:

13 a. “The Class”, consisting of all individuals in the United States who
14 received a text message made by or on behalf of One Technologies, LLC to an
15 individual’s cellular telephone, with the use of an automatic telephone dialing
16 system, without prior express consent, within the last four years.

17
18 b. “National Do Not Call Class”, consisting of all individuals in the
19 United States, whose phone numbers were registered on the national do not call
20 list, who received more than one text message made by or on behalf of
21 One Technologies, LLC to an individual’s telephone, where Defendant’s records
22 fail to indicate prior express written consent from the recipient to make such a
23 text.

24
25 37. Plaintiff reserves the right to modify the Class definitions as warranted as
26 facts are learned in further investigation and discovery.

1 38. Plaintiff and the Class members were harmed by Defendant's acts in at
2 least the following ways: Defendant, either directly or through its agents, illegally
3 contacted Plaintiff and the Class via their cellular telephones by using an ATDS,
4 thereby causing Plaintiffs and the Class to incur certain cellular telephone charges or
5 reduce cellular telephone time for which Plaintiffs and the Class members previously
6 paid; and Plaintiffs and Class members' privacy was invaded.

7
8 39. The exact size of the Class is presently unknown but can be ascertained
9 through a review of Defendant's records, and it is clear that individual joinder is
10 impracticable. Defendant made telephone calls to thousands of consumers who fall
11 into the definition of the Classes.

12
13 40. There are many questions of law and fact common to the claims of
14 Plaintiffs and the Classes, and those questions predominate over any questions that
15 may affect individual members of the Classes.

16 41. Common questions for the Classes include, without limitation:

- 17
- 18 a. Whether Defendant's conduct violated the TCPA;
 - 19
 - 20 b. Whether Class members are entitled to treble damages based on
21 the willfulness of Defendant's conduct;
 - 22
 - 23 c. Whether Defendant made phone calls to consumers using any
24 automatic dialing system to any telephone number assigned to a
25 cellular phone service; and
 - 26
 - 27 d. Whether Defendant and its agents should be enjoined from
28 engaging in such conduct in the future.

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42. Plaintiff's claims are typical of the claims of the other members of the Class. Plaintiff and the Class sustained damages as a result of Defendant's uniform wrongful conduct during transactions with Plaintiff and the Class.

43. Plaintiff will fairly and adequately represent and protect the interests of the Class, and has retained counsel competent and experienced in complex class actions.

44. Plaintiff has no interests antagonistic to those of the Class, and Defendant has no defenses unique to Plaintiff.

45. This class action is appropriate for class certification because Defendant has acted or refused to act on grounds generally applicable to the Class as a whole, thereby requiring the Court's imposition of uniform relief to ensure compatible standards of conduct toward the Class, and making final injunctive relief appropriate with respect to the Class as a whole.

46. Defendant's practices challenged herein apply to and affect the Class members uniformly, and Plaintiffs' challenge of those practices hinges on Defendant's conduct with respect to the Classes as a whole, not on facts or law applicable only to Plaintiff.

47. This case is also appropriate for class certification because class proceedings are superior to all other available methods for the fair and efficient adjudication of this controversy given that joinder of all parties is impracticable.

1 48. The damages suffered by the individual members of the Classes will
2 likely be relatively small, especially given the burden and expense of individual
3 prosecution of the complex litigation necessitated by Defendant's actions.

4
5 49. Thus, it would be virtually impossible for the individual members of the
6 Classes to obtain effective relief from Defendant's misconduct.

7
8 50. Even if members of the Classes could sustain such individual litigation,
9 it would still not be preferable to a class action, because individual litigation would
10 increase the delay and expense to all parties due to the complex legal and factual
11 controversies presented in this Complaint.

12 51. By contrast, a class action presents far fewer management difficulties and
13 provides the benefits of single adjudication, economy of scale, and comprehensive
14 supervision by a single court. Economies of time, effort and expense will be fostered,
15 and uniformity of decisions ensured.

16
17 **FIRST CAUSE OF ACTION**
18 **VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT**
19 **47 U.S.C. § 227**

20 52. Plaintiff re-alleges and incorporates by reference each preceding
21 paragraph as though fully set forth herein.

22
23 53. Defendant made unsolicited and unauthorized phone calls to Plaintiff's
24 and the Class members cellular telephones for the purpose of marketing products
25 and/or services to Plaintiff and the Class, with the use of an ATDS or pre-recorded
26 messages.

1 54. Defendant made the phone calls with the knowledge that they did not
2 have the requisite prior express consent.

3
4 55. The foregoing acts and omissions of Defendant constitute numerous and
5 multiple violations of the TCPA, including but not limited to each and every one of
6 the above-cited provisions of 47 U.S.C. § 227, *et seq.*

7
8 56. Defendant made unsolicited and unauthorized calls to Plaintiff, and to the
9 National Do Not Call Registry Class, for the purpose of marketing products and/or
10 services to those Plaintiffs and the Class.

11 57. Defendant's conduct invaded Plaintiff's privacy.

12
13 58. As a result of Defendant's violations of 47 U.S.C. § 227, *et seq.*, Plaintiff
14 and the Class are entitled to an award of \$500.00 in statutory damages, for each and
15 every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

16
17 59. Because Defendant had knowledge that Plaintiff and the Class revoked
18 consent to the receipt of the aforementioned telephone solicitations, the Court should,
19 pursuant to 47 U.S.C. § 227(b)(3)(C), treble the amount of statutory damages
20 recoverable by Plaintiff and the Classes.

21
22 60. Plaintiff and the Class are also entitled to and seek injunctive relief
23 prohibiting such conduct in the future.

24 **JURY DEMAND**

25 Plaintiff and the Class demand a jury trial on all issues so triable.
26
27
28

1 **RELIEF REQUESTED**

2 WHEREFORE, Plaintiff, individually and on behalf of the Class, respectfully
3 request the following relief:

4 a. An order certifying this matter as a class action with Plaintiffs as Class
5 Representatives, and designating Marcus & Zelman, LLC as Class Counsel.

6
7 b. An award of actual or statutory damages for each and every negligent
8 violation to each member of the Classes pursuant to 47 U.S.C. § 227(b)(3)(B);

9
10 c. An award of treble actual or statutory damages for each and every
11 knowing and/or willful violation to each member of the Classes pursuant to 47 U.S.C
12 § 227(b)(3)(B);

13
14 d. Injunctive relief prohibiting Defendant’s conduct complained of herein,
15 pursuant to 47 U.S.C. § 227(b)(3)(A);

16 e. Pre-judgment and post-judgment interest on monetary relief; and

17
18 f. All other and further relief as the Court deems necessary, just, and proper.

19 Dated: October 13, 2020

20 /s/ Joshua B. Swigart
21 Joshua B. Swigart
22 **SWIGART LAW GROUP, APC**
23 2221 Camino del Rio South, Suite 308
24 San Diego, California 92108
25 Telephone: (866) 219-3343
26 Facsimile: (866) 219-8344
27 Email: josh@swigartlawgroup.com

28 /s/ Yitzchak Zelman
Yitzchak Zelman

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**PRO HAC VICE MOTION TO BE
FILED**

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YZelman@MarcusZelman.com

Attorneys for Plaintiff

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

KAI JOHNSON, individually and on behalf of all others similarly situated

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

Swigart Law Group APC, 2221 Camino del Rio South, Suite 308,
San Diego, CA 92108, 866.219.3343, josh@swigartlawgroup.com

DEFENDANTS

ONE TECHNOLOGIES, 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)

'20CV2017 JM BLM

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)

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"/> 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 SOCIAL SECURITY <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))	<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 Constitutional of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	FEDERAL TAX SUITS	
<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"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
			IMMIGRATION	
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	

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):

47 U.S.C. § 227

Brief description of cause:
Violations of the TCPA

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 10/13/2020 SIGNATURE OF ATTORNEY OF RECORD

/s/ Joshua B. Swigart

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: [One Technologies Hit with Class Action Over Credit Score Text Message Ads](#)
