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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Brent Larson, *on behalf of himself and all*) Case No.
others similarly situated,)

Plaintiff,)

vs.)

Online Information Services, Inc.,)

Defendant.)

**CLASS ACTION COMPLAINT AND
TRIAL BY JURY DEMAND**

NATURE OF ACTION

1. Plaintiff Brent Larson (“Plaintiff”) brings this putative class action complaint against Defendant Online Information Services, Inc. (“Defendant”) under the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227 *et seq.*, on behalf of himself and all others similarly situated.

JURISDICTION AND VENUE

2. This Court has jurisdiction pursuant to 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331.

FACTUAL ALLEGATIONS

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2 9. Plaintiff is subscribed to a cellular telephone service and has been assigned
3 to a wireless number in connection with such subscription.

4
5 10. Plaintiff subscribed to the cellular telephone service for his daughter so that
6 he and Plaintiff's mother could reach her in an emergency.

7
8 11. On or before May 6, 2015, Defendant began placing calls to Plaintiff's
9 daughter's cell phone in connection with collection of an alleged debt in default.

10
11 12. On May 6, 2015 at 7:06 AM, Defendant called Plaintiff's wireless phone
12 number and left the following message:

13 Hello, this is a message from Online Information Services.
14 This communication is an attempt to collect a debt by a debt
15 collector. Any information obtained will be used for that
16 purpose. Please call 800-765-5794. Once again that number is
17 800-765-5794.

18 13. Defendant placed additional telephone calls to Plaintiff's wireless number
19 including, but not limited to, the following dates and approximate times:

- 20 1) June 12, 2015 at 7:13 A.M.; and,
21 2) June 26, 2015 at 7:09 A.M.

22 14. During the above referenced times, Defendant left identical voicemail
23 messages to the one on May 6, 2015 using an artificial or prerecorded voice.

24 15. Plaintiff's daughter's outgoing voicemail greeting was recorded when she
25 was 10 years old and would indicate to a reasonable person that the called party was a
26 young child and not a debtor.
27
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1 26. Plaintiff brings this action on behalf of himself and all others similarly
2 situated. Specifically, Plaintiff seeks to represent the following class of individuals:

3 Every individual in the United States to whom Defendant,
4 in the four years prior to the filing of this complaint, placed
5 a call to an individual's wireless number using an automatic
6 telephone dialing system and/or an artificial or prerecorded
7 voice in an attempt to reach a person other than the current
8 subscriber.

9 27. The proposed class specifically excludes the United States of America, the
10 State of Arizona, counsel for the parties, the presiding United States District Court Judge,
11 the Judges of the United States Court of Appeals for the Ninth Circuit, and the Justices of
12 the United States Supreme Court, all officers and agents of Defendant, and all persons
13 related to within the third degree of consanguinity or affection to any of the foregoing
14 persons.

15 28. The class is averred to be so numerous that joinder of members is
16 impracticable.

17 29. The exact number of class members is unknown to Plaintiff at this time and
18 can be ascertained only through appropriate discovery.

19 30. The class is ascertainable in that the names and addresses of all class
20 members can be identified in business records maintained by Defendant.

21 31. There exists a well-defined community of interest in the questions of law and
22 fact involved that affect the parties to be represented. These common questions of law and
23 fact predominate over questions that may affect individual class members. Such issues
24 include, but are not limited to: (a) the existence of Defendant's identical conduct particular
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1 to the matters at issue; (b) Defendant's violations of the TCPA; (c) the availability of
2 statutory penalties; and (d) attorney's fees and costs.

3 32. The claims of Plaintiff are typical of the claims of the class he seeks to
4 represent.

5
6 33. The claims of Plaintiff and of the class originate from the same conduct,
7 practice, and procedure on the part of Defendant. Thus, if brought and prosecuted
8 individually, the claims of each class member would require proof of the same material
9 and substantive facts.

10
11 34. Plaintiff possesses the same interests and has suffered the same injuries as
12 each class member. Plaintiff asserts identical claims and seeks identical relief on behalf of
13 the unnamed class members.

14
15 35. Plaintiff will fairly and adequately protect the interests of the class and has
16 no interest adverse to or which directly and irrevocably conflicts with the interests of other
17 class members.

18
19 36. Plaintiff is willing and prepared to serve this Court and the proposed class.

20 37. The interests of Plaintiff are co-extensive with and not antagonistic to those
21 of the absent class members.

22
23 38. Plaintiff has retained the services of counsel who are experienced in
24 consumer protection claims, as well as complex class action litigation, will adequately
25 prosecute this action, and will assert, protect and otherwise represent Plaintiff and all absent
26 class members.

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1 39. Class certification is appropriate under Fed. R. Civ. P. 23(b)(1)(A) and
2 23(b)(1)(B). The prosecution of separate actions by individual members of the class would,
3 as a practical matter, be dispositive of the interests of other members of the class who are
4 not parties to the action or could substantially impair or impede their ability to protect their
5 interests.
6

7 40. The prosecution of separate actions by individual members of the class would
8 create a risk of inconsistent or varying adjudications with respect to individual members of
9 the class, which would establish incompatible standards of conduct for the parties opposing
10 the class. Such incompatible standards of conduct and varying adjudications, on what
11 would necessarily be the same essential facts, proof and legal theories, would also create
12 and allow the existence of inconsistent and incompatible rights within the class.
13
14

15 41. Class certification is appropriate under Fed. R. Civ. P. 23(b)(2) in that
16 Defendant has acted or refused to act on grounds generally applicable to the class, making
17 final declaratory or injunctive relief appropriate.
18

19 42. Class certification is appropriate under Fed. R. Civ. P. 23(b)(3) in that the
20 questions of law and fact that are common to members of the class predominate over any
21 questions affecting only individual members.
22

23 43. Moreover, a class action is superior to other methods for the fair and efficient
24 adjudication of the controversies raised in this Complaint in that: (a) individual claims by
25 the class members will be impracticable as the costs of pursuit would far exceed what any
26 one plaintiff or class member has at stake; (b) as a result, very little litigation has been
27 commenced over the controversies alleged in this Complaint and individual members are
28

1 unlikely to have an interest in prosecuting and controlling separate individual actions; and
2 (c) the concentration of litigation of these claims in one forum will achieve efficiency and
3 promote judicial economy.

4
5 **COUNT I**
6 **VIOLATION OF 47 U.S.C. § 227(b)(1)(A)(iii)**

7 44. Plaintiff repeats and re-alleges each and every factual allegation above.

8 45. The TCPA prohibits all calls made to a cellular telephone number using an
9 automatic telephone dialing system or an artificial or prerecorded voice, except for calls
10 made for emergency purposes or made with the prior express consent of the called party.
11 47 U.S.C. § 227(b)(1)(A)(iii).

12 46. Defendant violated 47 U.S.C. § 227(b)(1)(A)(iii) placing telephone calls to
13 Plaintiff's cellular telephone number using an automatic telephone dialing system and/or
14 an artificial or pre-recorded voice.
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16
17 47. Furthermore, Defendant willfully or knowingly violated 47 U.S.C. §
18 227(b)(1)(A)(iii) because it intended to place such calls.
19

20 WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- 21 a) Determining that this action is a proper class action, certifying
22 Plaintiff as a class representative under Rule 23 of the Federal Rules
23 of Civil Procedure, and designating this Complaint the operable
24 complaint for class purposes;
25
26 b) Adjudging that Defendant violated 47 U.S.C. § 227(b)(1)(A)(iii) with
27 respect to Plaintiff and the class he seeks to represent;
28

- 1 c) Enjoining Defendant from placing any further telephone calls to
2 Plaintiff in violation of the TCPA, pursuant to 47 U.S.C. §
3 227(b)(3)(A);
4
5 d) Awarding Plaintiff and the class he seeks to represent statutory
6 damages in the amount of \$500.00 per violation, pursuant to 47 U.S.C.
7 § 227(b)(3)(B);
8
9 e) Awarding Plaintiff and the class he seeks to represent actual damages,
10 pursuant to 47 U.S.C. § 227(b)(3)(B);
11
12 f) Awarding Plaintiff and the class he seeks to represent treble damages,
13 pursuant to 47 U.S.C. § 227(b)(3);
14
15 g) Awarding Plaintiff and the class he seeks to represent reasonable
16 attorneys' fees and costs incurred in this action pursuant to Rule 23;
17
18 h) Awarding Plaintiff and the class he seeks to represent pre-judgment
19 and post-judgment interest as permissible by law; and
20
21 i) Awarding such other and further relief as the Court may deem proper.

22 **TRIAL BY JURY**

23 48. Plaintiff is entitled to and hereby demands a trial by jury.

24 Dated: November 15, 2016

25 Respectfully submitted,

26 s/ Russell S. Thompson IV
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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.

Plaintiff(s): Brent Larson

Defendant(s): Online Information Services, Inc.

County of Residence: Maricopa

County of Residence: Outside the State of Arizona

County Where Claim For Relief Arose: Maricopa

Plaintiff's Atty(s):

Defendant's Atty(s):

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II. Basis of Jurisdiction:

3. Federal Question (U.S. not a party)

III. Citizenship of Principal Parties (Diversity Cases Only)

Plaintiff:- N/A
Defendant:- N/A

IV. Origin :

1. Original Proceeding

V. Nature of Suit:

890 Other Statutory Actions

VI. Cause of Action:

Violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227

VII. Requested in Complaint

Class Action: **Yes**
Dollar Demand:
Jury Demand: **Yes**

VIII. This case is not related to another case.

Signature: s/Russell S. Thompson, IV

Date: 11/15/2016

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, save this form as a PDF and include it as an attachment to your case opening documents.

Revised: 01/2014

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Online Information Services Hit with TCPA Class Action](#)
