

1 Complaint, allege as follows upon personal knowledge as to themselves and their own acts and
2 experiences, and, as to all other matters, upon information and belief, including investigation
3 conducted by their attorney.

4 INTRODUCTION

5 1. Defendant is a large insurance provider. In an effort to solicit potential customers,
6 Defendant recruited, or employed call centers who began making telephone calls, *en masse*, to
7 consumers across the country beginning as early as 2012. On information and belief, Defendant
8 and or its agents purchase “leads” containing consumers’ contact information and create electronic
9 databases from which Defendant and or its agents makes automated calls.

10 2. Defendant conducted wide scale telemarketing campaigns and repeatedly made
11 unsolicited calls to consumers’ telephones—whose numbers appear on the National Do Not Call
12 Registry—without consent, all in violation of the Telephone Consumer Protection Act, 47 U.S.C.
13 § 227 (the “TCPA”).

14 3. The TCPA was enacted to protect consumers from unsolicited telephone calls
15 exactly like those alleged in this case. In response to Defendant’ unlawful conduct, Plaintiffs file
16 the instant lawsuit and seek an injunction requiring Defendant to cease all unsolicited telephone
17 calling activities to consumers registered on the National Do Not Call Registry and an award of
18 statutory damages to the members of the Class under the TCPA up to \$500.00 per violation,
19 together with court costs, reasonable attorneys’ fees, and treble damages (for knowing and/or
20 willful violations).

21 4. By making the telephone calls at issue in this Complaint, Defendant caused
22 Plaintiffs and the members of a putative Class of consumers (defined below) actual harm, including
23 the aggravation, nuisance, and invasion of privacy that necessarily accompanies the receipt of
24 unsolicited and harassing telephone calls, as well as the monies paid to their carriers for the receipt
25 of such telephone calls.

26 5. Plaintiffs bring this class action against Defendant to secure redress because
27 Defendant willfully violated the TELEPHONE CONSUMER PROTECTION ACT (“TCPA”), 47 U.S.C §
28 227, *et seq.* by causing unsolicited calls to be made to Plaintiff’s and other class members’

1 telephones through the use of an auto-dialer and/or artificial or pre-recorded voice message.

2 **PARTIES**

3 6. Plaintiff MARY ANNE MASLO is a natural person and citizen of Lemon Grove,
4 California.

5 7. Plaintiff SHELLY FRAZIER is a natural person and citizen of Ash Grove, Missouri.

6 8. Plaintiff JAMES GUFFEY is a natural person and citizen of Rome, New York.

7 9. Plaintiff NIVIA LANDON is a natural person and citizen of Searcy, Arkansas.

8 10. Defendant AIG DIRECT INSURANCE SERVICES, INC. is a corporation organized and
9 existing under the laws of the State of California with its headquarters located at 9640 Granite
10 Ridge Drive, Ste. 200, San Diego, California 92123. Defendant may be served with process
11 through service upon its registered agent, Corporation Service Company d/b/a CSC-Lawyers
12 Incorporating Service, 2730 Gateway Oaks Drive, Sacramento, California 95833.

13 11. Plaintiff does not yet know the identity of Defendant's employees/agents that had
14 direct, personal participation in or personally authorized the conduct found to have violated the
15 statute, and were not merely tangentially involved. They are named tentatively, as numerous
16 District Courts have found that individual officers/principals of corporate entities may be personally
17 liable (jointly and severally) under the TCPA if they had direct, personal participation in or
18 personally authorized the conduct found to have violated the statute, and were not merely
19 tangentially involved. *Texas v. American Blastfax, Inc.*, 164 F.Supp.2d 892, 899 (W.D. Tex. 2001)
20 ("*American Blastfax*"); *Sandusky Wellness Center, LLC v. Wagner Wellness, Inc.*, 2014 WL
21 1333472, at * 3 (N.D. Ohio March 28, 2014); *Maryland v. Universal Elections*, 787 F.Supp.2d 408,
22 415-16 (D.Md. 2011) ("*Universal Elections*"); *Baltimore-Washington Tel Co. v. Hot Leads Co.*,
23 584 F.Supp.2d 736, 745 (D.Md. 2008); *Covington & Burling v. Int'l Mktg. & Research, Inc.*, 2003
24 WL 21384825, at *6 (D.C.Super Apr. 17, 2003); *Chapman v. Wagener Equities, Inc.* 2014 WL
25 540250, at *16-17 (N.D.Ill. Feb. 11, 2014); *Versteeg v. Bennett, Deloney & Noyes, P.C.*, 775
26 F.Supp.2d 1316, 1321 (D.Wy.2011) ("*Versteeg*"). Upon learning of the identities of said
27 individuals, Plaintiff will move to amend to name the individuals as DefendantS.

28 12. Whenever in this complaint it is alleged that Defendant committed any act or

omission, it is meant that the Defendant's officers, directors, vice-principals, agents, servants, or employees, subsidiaries, or affiliates committed such act or omission and that at the time such act or omission was committed, it was done with the full authorization, ratification or approval of Defendant, or was done in the routine normal course and scope of employment of the Defendant's officers, directors, vice-principals, agents, servants, or employees.

JURISDICTION & VENUE

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

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

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

LEGAL BASIS FOR THE CLAIMS

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

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

18. In its initial implementation of the TCPA rules, the FCC included an exemption to its consent requirement for prerecorded telemarketing calls. Where the caller could demonstrate an "established business relationship" with a customer, the TCPA permitted the caller to place pre-

1 recorded telemarketing calls to residential lines. The new amendments to the TCPA, effective
2 October 16, 2013, eliminate this established business relationship exemption. Therefore, all pre-
3 recorded telemarketing calls to residential lines and wireless numbers violate the TCPA if the
4 calling party does not first obtain express written consent from the called party.

5 19. As of October 16, 2013, unless the recipient has given prior express written consent,¹
6 the TCPA and Federal Communications Commission (FCC) rules under the TCPA generally:

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

25
26 ¹ Prior express written consent means “an agreement, in writing, bearing the signature of the person
27 called that clearly authorizes the seller to deliver or cause to be delivered to the person called advertisements
28 or telemarketing messages using an automatic 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).

20. Furthermore, in 2008, the FCC held that “a creditor on whose behalf an autodialed or prerecorded message call is made to a wireless number bears the responsibility for any violation of the Commission’s rules.” *In re Rules and Regulations Implementing the Telephone Consumer Protection Act, Declaratory Ruling on Motion by ACA International for Reconsideration*, 23 FCC Rcd. 559, 565, ¶ 10 (Jan. 4, 2008); *Birchmeier v. Caribbean Cruise Line, Inc.*, 2012 WL 7062748 (Dec. 31, 2012).

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

22. There are just a handful of elements need to be proven for violations of the Do Not Call provision of the TCPA.

A. DO NOT CALL VIOLATIONS OF THE TCPA

23. More Than One Call within Any 12 Month Period. 47 U.S.C. § 227(c) provides that any “person who has received more than one telephone call within any 12-month period by or on behalf of the same entity in violation of the regulations prescribed under this subsection may” bring a private action based on a violation of said regulations, which were promulgated to protect telephone subscribers’ privacy rights to avoid receiving telephone solicitations to which they object.

24. Calls to Residential Lines on the Do Not Call List. The TCPA’s implementing regulation—47 C.F.R. § 64.1200(c)—provides that “[n]o person or entity shall initiate any telephone solicitation” to “[a] residential telephone subscriber who has registered his or her telephone number on the national do-not-call registry of persons who do not wish to receive telephone solicitations that is maintained by the federal government.” *See* 47 C.F.R. § 64.1200(c).

25. Or, Wireless Lines on the Do Not Call List. Owners of wireless telephone numbers (aka mobile or cellular phones) receive the same protections from the Do Not Call provision as owners or subscribers of wireline (“landline”) phone numbers. 47 C.F.R. § 64.1200(e), provides that 47 C.F.R. §§ 64.1200(c) and (d) “are applicable to any person or entity making telephone solicitations or telemarketing calls to wireless telephone numbers to the extent described in the

Commission's Report and Order, CG Docket No. 02-278, FCC 03-153, 'Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991,'" which the Report and Order, in turn, provides as follows:

The Commission's rules provide that companies making telephone solicitations to residential telephone subscribers must comply with time of day restrictions and must institute procedures for maintaining do-not-call lists. For the reasons described above, we conclude that these rules apply to calls made to wireless telephone numbers. We believe that wireless subscribers should be afforded the same protections as wireline subscribers.

26. The Affirmative Defense of Prior Express Consent. The Ninth Circuit has defined "express consent" to mean "clearly and unmistakably stated." *Satterfield v. Simon & Schuster, Inc.*, 569 F.3d 946, 955 (9th Cir. 2009) ("*Satterfield*"). "Prior express consent is an affirmative defense for which the defendant bears the burden of proof." *See Grant v. Capital Management Services, L.P.*, 2011 WL 3874877, at *1, n.1. (9th Cir. Sept. 2, 2011) ("express consent is not an element of a TCPA plaintiff's prima facie case, but rather is an affirmative defense for which the defendant bears the burden of proof"); see also *Robbins v. Coca-Cola Company*, No. 13-cv-132, 2013 WL 2252646, at *2 (S.D. Cal. May 22, 2013).

COMMON FACTUAL ALLEGATIONS

27. Defendant is a large insurance company. In an effort to solicit potential customers, Defendant obtained lists of potential customers from various sources. It proceeded to contact people without having actual obtained consent to contact consumers on their cellular phones or notwithstanding consumers' registration with the Do Not Call registry. In Defendant's overzealous attempt to market its services, it placed phone calls to consumers who never provided consent to call and to consumers having no relationship with Defendant. Worse yet, Defendant placed repeated and unwanted calls to consumers whose phone numbers are listed on the National Do Not Call Registry. Consumers place their phone numbers on the Do Not Call Registry for the express purpose of avoiding unwanted telemarketing calls like those alleged here.

28. Defendant knowingly made these telemarketing calls without the prior express written consent of the call recipients, and knowingly continue to call them after requests to stop.

1 As such, Defendant not only invaded the personal privacy of Plaintiff and members of the putative
2 Class, but also intentionally and repeatedly violated the TCPA.

3 **FACTS SPECIFIC TO PLAINTIFF MARY ANNE MASLO**

4 29. On or about July 27, 2003, Plaintiff Maslo registered her cellular phone number with
5 the area code (619) and ending in 9079 with the National Do Not Call Registry.

6 30. Beginning in 2013 and continuing through the winter of 2015, Plaintiff Maslo
7 received calls on her cellular telephone from various numbers, including 858-309-3000 offering
8 insurance products. Plaintiff confirmed this number belonged to Defendant.

9 31. Plaintiff Maslo is the regular carrier and exclusive user of the telephone assigned
10 the number ending in 9079. The number is assigned to a cellular telephone service for which
11 Plaintiff is charged for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

12 32. Plaintiff Maslo never had a business relationship with Defendant.

13 33. Plaintiff Maslo never provided Defendant with prior express consent to contact her
14 on her phone via a text message or a telephone call.

15 34. Nonetheless, Defendant called Plaintiff Maslo at least thirty-three (33) times on her
16 phone. Defendant always tried to sell Plaintiff Maslo insurance products.

17 35. Defendant routinely called Plaintiff Maslo while she was at work. Plaintiff Maslo
18 would explain that she had asked Defendant repeatedly to stop calling her, and that she was at work
19 during most of the hours when Defendant would call.

20 36. On each occasion when she answered a call from Defendant, Plaintiff Maslo heard
21 call center noise in the background, and there was always a long pause before someone started
22 speaking to her. Plaintiff Maslo knew this meant Defendant was calling her with an autodialer, and
23 Defendant's call center had failed to remove her number from a system that dialed her number
24 automatically.

25 37. Defendant's unsolicited telemarketing calls caused Plaintiff Maslo extreme
26 aggravation, interrupted her work day, and occupied her telephone line.

27 38. Plaintiff Maslo has reason to believe Defendant called thousands of telephone
28 customers listed on the DNC to market their products and services.

1 39. Plaintiff Maslo's overriding interest is ensuring Defendant ceases all illegal
2 telemarketing practices and compensates all members of the Plaintiff Class for invading their
3 privacy in the manner the TCPA was contemplated to prevent.

4 40. In order to redress injuries caused by Defendant's violations of the TCPA, Plaintiff
5 Maslo, on behalf of herself and a class of similarly situated individuals, brings suit under the TCPA,
6 47 U.S.C. § 227, *et seq.*, which prohibits certain unsolicited voice and text calls to cell phones.

7 41. On behalf of the Plaintiff Class, Plaintiff seeks an injunction requiring Defendant to
8 cease all illegal telemarketing and spam activities and an award of statutory damages to the class
9 members, together with costs and reasonable attorneys' fees.

10 **FACTS SPECIFIC TO PLAINTIFF SHELLY FRAZIER**

11 42. On or about August 30, 2007, Plaintiff Frazier registered her cellular phone number
12 with the area code (417) and ending in 4172 with the National Do Not Call Registry.

13 43. Beginning in 2013 and continuing over the course of two years, Plaintiff Frazier
14 received calls on her cellular telephone from various numbers, including 800-850-2792. The caller
15 always said he or she was calling on behalf of Defendant and tried to sell Plaintiff Frazier insurance
16 products.

17 44. Plaintiff Frazier is the regular carrier and exclusive user of the telephone assigned
18 the number ending in 4172. The number is assigned to a cellular telephone service for which
19 Plaintiff is charged for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

20 45. Plaintiff Frazier never had a business relationship with Defendant.

21 46. Plaintiff Frazier never provided Defendant with prior express consent to contact her
22 on her phone via a text message or a telephone call.

23 47. Nonetheless, Defendant called Plaintiff Frazier at least 100 times on her phone.

24 48. Whenever Plaintiff Frazier would answer a call, she would explain that she had
25 repeatedly asked Defendant to stop calling. Nonetheless, Defendant continued to call Plaintiff
26 Frazier.

27 49. Defendant's unsolicited telemarketing calls were a major disruption to her daily
28 routine because Plaintiff Frazier owns and runs a business.

1 50. Plaintiff Frazier has reason to believe Defendant called thousands of telephone
2 customers listed on the DNC to market their products and services.

3 51. Plaintiff Frazier's overriding interest is ensuring Defendant ceases all illegal
4 telemarketing practices and compensates all members of the Plaintiff Class for invading their
5 privacy in the manner the TCPA was contemplated to prevent.

6 52. In order to redress injuries caused by Defendant's violations of the TCPA, Plaintiff
7 Frazier, on behalf of herself and a class of similarly situated individuals, brings suit under the
8 TCPA, 47 U.S.C. § 227, *et seq.*, which prohibits certain unsolicited voice and text calls to cell
9 phones.

10 53. On behalf of the Plaintiff Class, Plaintiff seeks an injunction requiring Defendant to
11 cease all illegal telemarketing and spam activities and an award of statutory damages to the class
12 members, together with costs and reasonable attorneys' fees.

13 **FACTS SPECIFIC TO PLAINTIFF JAMES GUFFEY**

14 54. On or about January 24, 2006, Plaintiff Guffey registered his cellular phone number
15 with the area code (315) and ending in 5321 with the National Do Not Call Registry.

16 55. Beginning in the late summer of 2015 and continuing through March 2016, Plaintiff
17 Guffey received calls on his cellular telephone from various numbers, including 800-850-2792. The
18 caller always said he or she was calling on behalf of Defendant and tried to sell Plaintiff Guffey
19 insurance products.

20 56. Plaintiff Guffey is the regular carrier and exclusive user of the telephone assigned
21 the number ending in 5321. The number is assigned to a cellular telephone service for which
22 Plaintiff is charged for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

23 57. Plaintiff Guffey never had a business relationship with Defendant.

24 58. Plaintiff Guffey never provided Defendant with prior express consent to contact his
25 on her phone via a text message or a telephone call.

26 59. Nonetheless, Defendant called Plaintiff Guffey at least thirty-five (35) times on his
27 phone.
28

1 60. Whenever Plaintiff Guffey would answer a call, he would ask to be placed on
2 Defendant's do-not-call list. Nonetheless, Defendant continued to call Plaintiff Guffey.

3 61. On many occasions, Plaintiff Guffey was unable to answer Defendant's calls.
4 Defendant, however, would leave a pre-recorded message on Plaintiff's voicemail requesting a
5 return call.

6 62. Also, on several occasions, Plaintiff answered calls from the number he recognized
7 belonged to Defendant, but nobody greeted him on the other end of the line. The calls would drop
8 after several seconds of silence. The total number of calls Defendant abandoned while Plaintiff
9 was on the line for more than two seconds.

10 63. Defendant's unsolicited telemarketing calls were a major disruption because
11 Plaintiff Guffey works the late shift, and Defendant often called in the morning when he was
12 sleeping.

13 64. Plaintiff Guffey has reason to believe Defendant called thousands of telephone
14 customers listed on the DNC to market their products and services.

15 65. Plaintiff Guffey's overriding interest is ensuring Defendant ceases all illegal
16 telemarketing practices and compensate all members of the Plaintiff Class for invading their
17 privacy in the manner the TCPA was contemplated to prevent.

18 66. In order to redress injuries caused by Defendant's violations of the TCPA, Plaintiff
19 Guffey, on behalf of himself and a class of similarly situated individuals, brings suit under the
20 TCPA, 47 U.S.C. § 227, *et seq.*, which prohibits certain unsolicited voice and text calls to cell
21 phones.

22 67. On behalf of the Plaintiff Class, Plaintiff seeks an injunction requiring Defendant to
23 cease all illegal telemarketing and spam activities and an award of statutory damages to the class
24 members, together with costs and reasonable attorneys' fees.

25 **FACTS SPECIFIC TO PLAINTIFF NIVIA LANDON**

26 68. On or about January 26, 2012, Plaintiff Landon registered her cellular phone number
27 with the area code (501) and ending in 5385 with the National Do Not Call Registry.
28

1 69. Beginning in the spring of 2015 and continuing over the course of several months,
2 Plaintiff Landon received calls on her cellular telephone from various numbers, including 858-309-
3 3000. The caller always said he or she was calling on behalf of Defendant and tried to sell Plaintiff
4 Landon insurance products.

5 70. Plaintiff Landon is the regular carrier and exclusive user of the telephone assigned
6 the number ending in 5385. The number is assigned to a cellular telephone service for which
7 Plaintiff is charged for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

8 71. Plaintiff Landon never had a business relationship with Defendant.

9 72. Plaintiff Landon never provided Defendant with prior express consent to contact her
10 on her phone via a text message or a telephone call.

11 73. Nonetheless, Defendant called Plaintiff Landon at least 200 times on her phone.

12 74. Whenever Plaintiff Landon would tell Defendant, “please take me off your list,” or
13 “please stop calling.” Nonetheless, Defendant continued to call Plaintiff Landon.

14 75. Defendant’s unsolicited telemarketing calls caused Plaintiff Landon annoyance and
15 disrupted her daily routine. She received at least three calls a day for the same purpose for several
16 months, which caused Plaintiff Landon to feel harassed and upset.

17 76. Plaintiff Landon has reason to believe Defendant called thousands of telephone
18 customers listed on the DNC to market their products and services.

19 77. Plaintiff Landon’s overriding interest is ensuring Defendant ceases all illegal
20 telemarketing practices and compensate all members of the Plaintiff Class for invading their
21 privacy in the manner the TCPA was contemplated to prevent.

22 78. In order to redress injuries caused by Defendant’s violations of the TCPA, Plaintiff
23 Landon, on behalf of herself and a class of similarly situated individuals, brings suit under the
24 TCPA, 47 U.S.C. § 227, *et seq.*, which prohibits certain unsolicited voice and text calls to cell
25 phones.

26 79. On behalf of the Plaintiff Class, Plaintiff seeks an injunction requiring Defendant to
27 cease all illegal telemarketing and spam activities and an award of statutory damages to the class
28 members, together with costs and reasonable attorneys’ fees.

STANDING

80. Plaintiffs have standing to bring this suit on behalf of themselves and the members of the class under Article III of the United States Constitution because Plaintiff's claims state: (a) a valid injury in fact; (b) an injury which is traceable to the conduct of Defendant; and (c) is likely to be redressed by a favorable judicial decision. *See Spokeo v. Robins*, 578 U.S. ___ (2016) at 6; *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992).

A. INJURY IN FACT

81. Plaintiffs have standing to bring this suit on behalf of themselves and the members of the class under Article III of the United States Constitution because Plaintiffs' claims state: (a) a valid injury in fact; (b) an injury which is traceable to the conduct of Defendant; and (c) is likely to be redressed by a favorable judicial decision. *See Spokeo v. Robins*, 578 U.S. ___ (2016) at 6; *Robins v. Spokeo*, 867 F.3d 1108 (9th Cir. 2017) (cert denied. 2018 WL 491554, U.S., Jan. 22 2018); *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992); and *Chen v. Allstate Inc. Co.*, 819 F.3d 1136 (9th Cir. 2016).

82. Plaintiffs' injury must be both "concrete" and "particularized" in order to satisfy the requirements of Article III of the Constitution. (*Id.*)

83. For an injury to be concrete it must be a de facto injury, meaning it actually exists. In the present case, Plaintiffs took the affirmative step of enrolling themselves on the National Do-Not-Call Registry for the purpose of preventing marketing calls to his telephone. Such telemarketing calls are a nuisance, an invasion of privacy, and an expense to Plaintiffs. *See Soppet v. enhanced Recovery Co., LLC*, 679 F.3d 637, 638 (7th Cir. 2012). All three of these injuries are present in this case. (See also *Chen v. Allstate Inc. Co.*, 819 F.3d 1136 (9th Cir. 2016).)

84. Furthermore, the Third Circuit recently stated, Congress found that "[u]nsolicited telemarketing phone calls or text messages, by their nature, invade the privacy and disturb the solitude of their recipients," *Van Patten*, 847 F.3d at 1043, and sought to protect the same interests implicated in the traditional common law cause of action. Put differently, Congress was not inventing a new theory of injury when it enacted the TCPA. Rather, it elevated a harm that, while "previously inadequate in law," was of the same character of previously existing "legally

1 cognizable injuries.” *Spokeo*, 136 S.Ct. at 1549. *Spokeo* addressed, and approved, such a choice by
 2 Congress. *Susinno v. Work Out World Inc.*, No. 16-3277, 2017 WL 2925432, at *4 (3d Cir. July
 3 10, 2017).

4 85. For an injury to be particularized means that the injury must affect the plaintiff in a
 5 personal and individual way. *See Spokeo* at 7. Furthermore, Plaintiffs are the individuals who pay
 6 for the phone, and are the regular carrier and user of the phone. All of these injuries are particular
 7 to Plaintiffs.

8 **B. TRACEABLE TO THE CONDUCT OF EACH SEPARATE DEFENDANT**

9 86. Plaintiffs must allege at the pleading stage of the case facts to show that their injury
 10 is traceable to the conduct of Defendant. In this case, Plaintiffs satisfy this requirement by alleging
 11 that Defendant, and/or agent of Defendant on behalf of Defendant, placed illegal calls to Plaintiffs’
 12 phone.

13 87. In the instant case, Defendant placed hundreds of calls to Plaintiffs’ wireless/cellular
 14 phone on between 2013 and 2016.

15 **C. INJURY LIKELY TO BE REDRESSED BY A FAVORABLE JUDICIAL OPINION**

16 88. The third prong to establish standing at the pleadings phase requires Plaintiffs to
 17 allege facts to show that the injury is likely to be redressed by a favorable judicial opinion. In the
 18 present case, Plaintiffs’ Prayers for Relief include a request for damages for each call made by
 19 Defendant, as authorized by statute in 47 U.S.C. § 227. The statutory damages were set by Congress
 20 and specifically redress the financial damages suffered by Plaintiffs and the members of the putative
 21 class. Furthermore, Plaintiffs’ Prayers for Relief request injunctive relief to restrain Defendant
 22 from the alleged abusive practices in the future. The award of monetary damages and the order for
 23 injunctive relief redress the injuries of the past, and prevent further injury in the future.

24 89. Because all standing requirements of Article III of the U.S. Constitution have been
 25 met, as laid out in *Spokeo, Inc. v. Robins*, 578 U.S. ____ (2016) and in the context of a TCPA claim,
 26 as explained by the Ninth Circuit in *Chen v. Allstate Inc. Co.*, 819 F.3d 1136 (9th Cir. 2016),
 27 Plaintiff has standing to sue Defendant on the stated claims.

CLASS ACTION ALLEGATIONS

A. CLASS ALLEGATIONS

90. Plaintiffs bring this action pursuant to Federal Rule of Civil Procedure 23(a), (b)(2), and (b)(3) on behalf of themselves and the following class defined as follows (the “Classes”):

“DNC² Class”: All individuals in the United States who: (1) received more than one telephone call made by or on behalf of Quicken Loans within a 12-month period; (2) to a telephone number that had been registered with the National Do Not Call Registry for at least 30 days; and (3) for whom Defendant has no record of consent to place such calls.

Artificial & Prerecorded Voice Class: All individuals in the United States who received a call made by or on behalf of Defendant to the individual’s cellular or residential telephone through the use of an artificial or prerecorded voice, during the four years prior to the initiation of this action, where Defendant’s records fail to indicate prior express written consent from the recipient to make such call.

91. The following individuals are excluded from the Classes: (1) any Judge or Magistrate presiding over this action and members of their families; (2) Defendant, Defendant’s subsidiaries, parents, successors, predecessors, and any entity in which Defendant or its parents have a controlling interest, and its current or former employees, officers, and directors; (3) Plaintiffs’ counsel and Defendant’s counsel; (4) persons who properly execute and file a timely request for exclusion from the 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.

92. This suit seeks only damages, statutory penalties, and injunctive relief for recovery of economic injury on behalf of the Classes, and it expressly is not intended to request any recovery for personal injury and claims related thereto.

93. Plaintiffs reserve the right to expand the Class definitions to seek recovery on behalf of additional persons as warranted as facts are learned in further investigation and discovery.

94. Plaintiffs and members of the Classes were harmed by Defendant’s acts in at least

² “DNC” referenced herein refers to the National Do Not Call Registry, established pursuant to 47 U.S.C. 227(c) and the regulations promulgated by the Federal Communications Commission (“FCC”).

the following ways: Defendant, either directly or through agents, illegally contacted Plaintiff and the Class members *via* their telephones, after Plaintiff and the Class members took the affirmative step of registering their numbers on the DNC, and/or contacted Plaintiffs and members of the Classes using a pre-recorded voice for telemarketing purposes without first obtaining prior express consent.

B. NUMEROSITY

95. The exact size of the Classes is unknown and not available to Plaintiffs at this time, but it is clear individual joinder is impracticable.

96. On information and belief, Defendant made telephone calls to thousands of consumers who fall into the definition of the Classes. Members of the Classes can be easily identified through Defendant's records.

C. COMMONALITY AND PREDOMINANCE

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

98. Common questions for the Classes include, but are not necessarily limited to the following:

- (a) Whether Defendant's conduct violated the TCPA;
- (b) Whether Defendant systematically made telephone calls to consumers who did not previously provide Defendant and/or their agents with prior express written consent to receive such phone calls after October 16, 2013;
- (c) Whether Defendant systematically made telephone calls to consumers whose telephone numbers were registered with the National Do Not Call Registry;
- (d) Whether Defendant and/or its agents systematically made telephone calls to consumers using a pre-recorded voice, not for emergency purposes, and without prior express consent of the consumers.
- (e) Whether members of the Classes are entitled to treble damages based on the

willfulness of Defendant's conduct;

(f) Whether Defendant and its agents should be enjoined from engaging in such conduct in the future.

D. TYPICALITY

99. Plaintiffs' claims are typical of the claims of the other members of the Classes.

100. Plaintiffs and the Classes sustained damages as a result of Defendant's uniform wrongful conduct during transactions with Plaintiffs and the Classes.

E. ADEQUATE REPRESENTATION

101. Plaintiffs will fairly and adequately represent and protect the interests of the Classes, and has retained counsel competent and experienced in complex class actions.

102. Plaintiffs have no interest antagonistic to those of the Classes, and Defendant has no defenses unique to Plaintiff.

F. POLICIES GENERALLY APPLICABLE TO THE CLASSES

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

104. Defendant's practices challenged herein apply to and affect the Classes' 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 Plaintiffs.

G. SUPERIORITY

105. 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.

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

107. Thus, it would be virtually impossible for the individual members of the Class to

1 obtain effective relief from Defendant's misconduct.

2 108. Even if members of the Classes could sustain such individual litigation, it would
3 still not be preferable to a class action, because individual litigation would increase the delay and
4 expense to all parties due to the complex legal and factual controversies presented in this
5 Complaint.

6 109. By contrast, a class action presents far fewer management difficulties and provides
7 the benefits of single adjudication, economy of scale, and comprehensive supervision by a single
8 court. Economies of time, effort and expense will be fostered, and uniformity of decisions ensured.

9 **FIRST CAUSE OF ACTION**

10 **VIOLATION OF TCPA, 47 U.S.C. § 227**

11 **("DNC Claim")**

12 110. Plaintiffs re-allege and incorporate by reference each preceding paragraph as though
13 set forth at length herein.

14 111. 47 U.S.C. § 227(c) provides that any "person who has received more than one
15 telephone call within any 12-month period by or on behalf of the same entity in violation of the
16 regulations prescribed under this subsection may" bring a private action based on a violation of
17 said regulations, which were promulgated to protect telephone subscribers' privacy rights to avoid
18 receiving telephone solicitations to which they object.

19 112. The TCPA's implementing regulation—47 C.F.R. § 64.1200(c)—provides that
20 "[n]o person or entity shall initiate any telephone solicitation" to "[a] residential telephone
21 subscriber who has registered his or her telephone number on the national do-not-call registry of
22 persons who do not wish to receive telephone solicitations that is maintained by the federal
23 government." *See* 47 C.F.R. § 64.1200(c).

24 113. 47 C.F.R. § 64.1200(e), provides that 47 C.F.R. §§ 64.1200(c) and (d) "are
25 applicable to any person or entity making telephone solicitations or telemarketing calls to wireless
26 telephone numbers to the extent described in the Commission's Report and Order, CG Docket No.
27 02-278, FCC 03-153, 'Rules and Regulations Implementing the Telephone Consumer Protection
28 Act of 1991,'" which the Report and Order, in turn, provides as follows:

1
2 The Commission's rules provide that companies making telephone solicitations to
3 residential telephone subscribers must comply with time of day restrictions and must
4 institute procedures for maintaining do-not-call lists. For the reasons described
5 above, we conclude that these rules apply to calls made to wireless telephone
6 numbers. We believe that wireless subscribers should be afforded the same
7 protections as wireline subscribers.

8 114. Defendant violated 47 C.F.R. § 64.1200(c) by initiating, or causing to be initiated,
9 telephone solicitations to wireless and residential telephone subscribers such as Plaintiffs and the
10 DNC Class members who registered their respective telephone numbers on the National Do Not
11 Call Registry, a listing of persons who do not wish to receive telephone solicitations that is
12 maintained by the federal government. These consumers requested to not receive calls from
13 Defendant, as set forth in 47 C.F.R. § 64.1200(d)(3).

14 115. Defendant made more than one unsolicited telephone call to Plaintiffs and members
15 of the Class within a 12-month period without their prior express consent to place such calls.
16 Plaintiffs and members of the DNC Class never provided any form of consent to receive telephone
17 calls from Defendant.

18 116. Defendant violated 47 C.F.R. § 64.1200(d) by initiating calls for telemarketing
19 purposes to residential and wireless telephone subscribers, such as Plaintiffs and the DNC Class,
20 without instituting procedures that comply with the regulatory minimum standards for maintaining
21 a list of persons who request not to receive telemarketing calls from them.

22 117. Defendant violated 47 U.S.C. § 227(c)(5) because Plaintiffs and the DNC Class
23 members received more than one telephone call in a 12-month period made by or on behalf of
24 Defendant in violation of 47 C.F.R. § 64.1200, as described above. As a result of Defendant's
25 conduct as alleged herein, Plaintiff and the DNC Class suffered actual damages and, under section
26 47 U.S.C. § 227(c), are each entitled, *inter alia*, to receive up to \$500 in damages for such violations
27 of 47 C.F.R. § 64.1200.

28 118. To the extent Defendant's misconduct is determined to be willful and knowing, the
Court should, pursuant to 47 U.S.C. § 227(c)(5), treble the amount of statutory damages recoverable
by the members of the Class.

SECOND CAUSE OF ACTION

VIOLATION OF TCPA, 47 U.S.C. § 227

(“Artificial & Pre-Recorded Voice Claim”)

119. Plaintiffs re-allege and incorporate by reference each preceding paragraph as though set forth at length herein.

120. The foregoing acts and omission of Defendant constitute numerous and multiple violations of the TCPA, including but not limited to each and every one of the above cited provisions of 47 U.S.C. § 227, *et seq.*

121. For its Pre-Recorded Voice Claim, Plaintiff Guffey avers that he received multiple calls from Defendant through a pre-recorded voice for telemarketing purposes.

122. Under 47 U.S.C. § 227(b)(1)(B), no person may initiate a call for non-emergency purposes using a pre-recorded voice without the prior express written consent of the called party.

123. Plaintiff Guffey nor similarly situated class members gave Defendant prior express written consent to receive such calls; therefore Defendant violated 47 U.S.C. § 227(b)(1)(B) when it placed calls using a pre-recorded voice to Plaintiff Guffey and members of the Pre-Recorded Voice Class.

124. As a result of Defendant’s violations of 47 U.S.C. § 227, Plaintiff Guffey and the Class Members are entitled to an award of \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

125. Plaintiff Guffey and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

126. To the extent Defendant’s misconduct is determined to be willful and knowing, the Court should, pursuant to 47 U.S.C. § 227(c)(5), treble the amount of statutory damages recoverable by the members of the Class.

ATTORNEY’S FEES

127. Each and every allegation contained in the foregoing paragraphs is re-alleged as if fully rewritten herein.

1 Dated: April 13, 2018

2
3 Respectfully Submitted,

4 MARY ANNE MASLO, SHELLY FRAZIER,
5 JAMES GUFFEY and NIVIA LANDON,
6 individually and on behalf of the Class
7 of similarly situated individuals,

8 /s/ Michael R. Dufour

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10 mdufour@swlegalgrp.com
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19 Jarrett L. Ellzey (*Pro Hac Vice admission will be*
20 *requested*)
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23 Galleria Tower I
24 2700 Post Oak Boulevard, Suite 1120
25 Houston, TX 77056
26 Tel: (713) 554-2377
27 Fax: (888) 995-3335

28 *Counsel for Plaintiffs and the Putative Class*

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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

MARY ANNE MASLO, SHELLY FRAZIER, JAMES GUFFEY, and NIVIA LANDON, individually and on behalf of all others similarly situated,

(b) County of Residence of First Listed Plaintiff San Diego, CA

(EXCEPT IN U.S. PLAINTIFF CASES)

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

W. Craft Hughes, Jarrett L. Ellzey, & Deola T. Ali, Hughes Ellzey, LLP,
2700 Post Oak Blvd., Suite 1120, Houston, TX 77056, 713-554-2377

DEFENDANTS

AIG DIRECT INSURANCE SERVICES, INC.

County of Residence of First Listed Defendant San Diego, CA

(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

'18CV0741 CAB AGS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

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

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

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<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"/> 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)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <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	CIVIL RIGHTS <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 PRISONER PETITIONS 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			

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):
42 U.S.C. § 227

Brief description of cause:
Violations of the Telephone Consumer Protection Act

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

04/17/2018

SIGNATURE OF ATTORNEY OF RECORD

/s/ Michael R. Dufour

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: [AIG Direct Insurance Services Hit with TCPA Suit Over 'Repeated and Unwanted' Calls](#)
