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9 Attorneys for Plaintiff

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

12 **John McCurley, Individually and**  
13 **on Behalf of All Others Similarly**  
14 **Situated,**

15 **Plaintiff,**

16 **v.**

17 **Royal Seas Cruises, Inc.,**

18 **Defendant.**

19 **Case No.: '17CV0986 BAS AGS**

20 **CLASS ACTION**

21 **CLASS ACTION COMPLAINT**  
22 **FOR DAMAGES AND**  
23 **INJUNCTIVE RELIEF**  
24 **PURSUANT TO THE**  
25 **TELEPHONE CONSUMER**  
26 **PROTECTION ACT, 47 U.S.C. §**  
27 **227 ET SEQ.**

28 **Jury Trial Demanded**

**INTRODUCTION**

1. John McCurley (referred to as “ Plaintiff”), brings this class action for damages, injunctive relief, and any other available legal or equitable remedies, resulting from the illegal actions of Royal Seas Cruises, Inc. (referred to as “Defendant”), in negligently, knowingly, and/or willfully



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

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

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

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

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

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

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

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

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

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

### 12 **JURISDICTION AND VENUE**

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

### 23 **PARTIES**

- 24 8. Plaintiff is, and at all times mentioned herein was, an individual citizen and  
25 resident of the County of San Diego, in the State of California, who received  
26 the telephone calls which are subject of this complaint, while he was  
27 physically in the County of San Diego.  
28

1 9. Plaintiff is informed and believes, and thereon alleges, that Defendant is, and  
2 at all times mentioned herein was, an individual and a “person,” as defined by  
3 47 U.S.C. § 153 (39).

4 10. Plaintiff is informed and believes, and thereon alleges, that Defendant is a  
5 Florida corporation, with offices in Ft. Lauderdale, Florida. Plaintiff is  
6 informed and believes, and thereon alleges, that at all relevant times,  
7 Defendant conducted business in the State of California and in the County of  
8 San Diego, and within this judicial district.

9  
10 **FACTUAL ALLEGATIONS**

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

14 12. Defendant is, and at all times mentioned herein was, a “person” as defined by  
15 47 U.S.C. §153 (39).

16 13. Sometime prior to January 1, 2013, Mr. McCurley was assigned, and became  
17 the owner of, a cellular telephone number from his wireless provider.

18 14. On or about May 3, 2017, at 1:37 PM, Mr. McCurley received a call on his  
19 cellular telephone from Defendant, in which Defendant utilized an automatic  
20 telephone dialing system (“ATDS”) as defined by 47 U.S.C. § 227(a)(1),  
21 using an “artificial or prerecorded voice” as prohibited by 47 U.S.C. § 227(b)  
22 (1)(A).

23 15. The call to Mr. McCurley’s cellular telephone number, (925) XXX-1321,  
24 from Defendant, came from phone number: (925) 318-5700.

25 16. Plaintiff let this call go to his voicemail as he was not able to answer at the  
26 time.

27 17. A few minutes later, Mr. McCurley called the number back to see who had  
28 called him. Someone answered indicating that this was an opportunity to go



1 on a free cruise on Grand Celebration Cruise lines. The person indicated that  
2 the cruise was free and the reason they were giving away the cruise was for  
3 marketing purposes. The person said if plaintiff enjoyed the cruise he would  
4 tell all of his friends about their company. To verify the company, Mr.  
5 McCurley asked what company the caller worked for. The caller did not  
6 respond appropriately, and plaintiff realized it was actually a recorded voice  
7 and not a live person. He terminated the call.

8 18. Plaintiff then immediately received another call from Defendant, who utilized  
9 an ATDS in calling his cellular telephone. This call also came from phone  
10 number (925) 318-5700, and it came at 1:42 PM on May 3, 2017.

11 19. This time McCurley answered the phone. The caller's voice was different  
12 than the last call, but was saying the exact same script at the exact same pace.  
13 At the end of the recording, the voice asked three questions. 1) are you at  
14 least 21 years old? 2) Can you travel within the next 18 months? and 3) do  
15 you have a major credit card. Plaintiff answered "yes" to all three questions  
16 and was connected to a live person. The live person identified himself as  
17 David from Royal Seas Cruises.

18 20. David told Plaintiff that he was from Royal Seas Cruises which is located in  
19 Ft. Lauderdale, Florida. He explained that the free cruise was for two  
20 travelers on the Grand Celebration cruise ship. Plaintiff asked David what  
21 company had called him with the recorded voice and David responded that  
22 Royal Seas Cruises did. David told Plaintiff that Royal Seas did not contract  
23 with telemarketers and the call came from a different department at Royal  
24 Seas.

25 21. Plaintiff told David that he was not interested in the cruise and asked to be  
26 placed on a do not call list. David asked why he was not interested and  
27 Plaintiff terminated the call.  
28



1 22. The calls to Plaintiff were for marketing purposes as Defendant was trying to  
2 sell Plaintiff a cruise vacation. Plaintiff has no business relationship with  
3 Defendant.

4 23. The ATDS used by Defendant has the capacity to store or produce telephone  
5 numbers to be called, using a random or sequential number generator.

6 24. The ATDS used by Defendant also has the capacity to, and does, call  
7 telephone numbers from a list of databases of telephone numbers  
8 automatically and without human intervention.

9 25. The telephone number Defendant called was assigned to a cellular telephone  
10 service for which Plaintiff incurred a charge for incoming calls pursuant to 47  
11 U.S.C. § 227 (b)(1).

12 26. Plaintiff at no time provided “prior express consent,” written or otherwise, for  
13 Defendant to place telephone calls to Plaintiff’s cellular telephone with an  
14 artificial or prerecorded voice utilizing an ATDS as proscribed under 47  
15 U.S.C. § 227(b)(1)(A).

16 27. Plaintiff had not provided his cellular telephone number to Defendant.  
17 Plaintiff was not a customer of Defendant. Plaintiff had no “established  
18 business relationship” with Defendant, as defined by 47 U.S.C. § 227 (a)(2).

19 28. These telephone calls made by Defendant were in violation of 47 U.S.C. §  
20 227(b)(1).

21  
22 **STANDING**

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

- 25 a. a valid injury in fact;
  - 26 b. which is traceable to the conduct of Defendant ;
  - 27 c. and is likely to be redressed by a favorable judicial decision.
- 28

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

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

5  
6 **A. *The “Injury in Fact” Prong***

7 31. Plaintiff’s injury in fact must be both “concrete” and “particularized” in order  
8 to satisfy the requirements of Article III of the Constitution, as laid out in  
9 *Spokeo (Id.)*.

10 32. For an injury to be “concrete” it must be a *de facto* injury, meaning that it  
11 actually exists. *Soppet v. Enhanced Recovery Co., LLC*, 679 F.3d 637, 638  
12 (7<sup>th</sup> Cir. 2012). In the present case, Plaintiff was called on his cellular phone  
13 by Defendant, who utilized an ATDS and a pre-recorded voice or artificial  
14 voice paired with a voice recognition system. Such calls are a nuisance, an  
15 invasion of privacy, and an expense to Plaintiff. All three of these injuries are  
16 concrete and *de facto*.

17 33. For an injury to be “particularized” means that the injury must “affect the  
18 Plaintiff in a personal and individual way.” *Spokeo, Inc. v. Robins*, 578 U.S.  
19 \_\_\_\_ (2016) at 7. In the instant case, it was Plaintiff’s phone that was called  
20 and it was Plaintiff himself who answered the calls. It was Plaintiff’s  
21 personal privacy and peace that was invaded by Defendant’s call and  
22 prerecorded message, that was delivered using an ATDS. Finally, Plaintiff  
23 alone is responsible to pay the bill on his cellular phone. All of these injuries  
24 are particularized and specific to Plaintiff, and will be the same injuries  
25 suffered by each member of the putative class.

26  
27 **B. *The “Traceable to the Conduct of Defendant” Prong***



1 34. The second prong required to establish standing at the pleadings phase is that  
2 Plaintiff must allege facts to show that his injuries are traceable to the conduct  
3 of Defendant(s).

4 35. In the instant case, this prong is met simply by the fact that the message was  
5 delivered to Plaintiff's cellular phone directly by Defendant, or by  
6 Defendant's agent at the direction of Defendant.

7  
8 **C. The "Injury is Likely to be Redressed by a Favorable Judicial Opinion"**  
9 **Prong**

10 36. The third prong to establish standing at the pleadings phase requires Plaintiff  
11 to allege facts to show that the injury is likely to be redressed by a favorable  
12 judicial opinion.

13 37. In the present case, Plaintiff's Prayers for Relief include a request for  
14 damages for each call made by Defendant, as authorized by statute in 47  
15 U.S.C. § 227. The statutory damages were set by Congress and specifically  
16 redress the financial damages suffered by Plaintiff and the members of the  
17 putative class.

18 38. Furthermore, Plaintiff's Prayers for Relief request injunctive relief to restrain  
19 Defendant from the alleged abusive practices in the future. The award of  
20 monetary damages and the order for injunctive relief redress the injuries of  
21 the past, and prevent further injury in the future.

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

25  
26 **CLASS ACTION ALLEGATIONS**

27 40. Plaintiff brings this action on behalf of himself and on behalf of all others  
28 similarly situated ("the Class").



1 41. Plaintiff represents, and is a member of, the Class, consisting of:

2  
3 a. All persons within the United States who had or have a number  
4 assigned to a cellular telephone service, who received at least one  
5 telephone call using an ATDS and/or an artificial or prerecorded voice  
6 from Royal Seas Cruises, Inc., or their agents calling on behalf of Royal  
7 Seas Cruises, Inc., between the date of filing this action and the four  
8 years preceding, where such calls were placed for the purpose of  
9 marketing, to non-customers of Royal Seas Cruises, Inc., at the time of  
10 the calls.

11 42. Defendant and their employees or agents are excluded from the Class.  
12 Plaintiff does not know the number of members in the Class, but believes the  
13 Class members number in the thousands, if not more. Thus, this matter  
14 should be certified as a Class action to assist in the expeditious litigation of  
15 this matter.

16 43. Plaintiff and members of the Class were harmed by the acts of Defendant in  
17 at least the following ways: Defendant illegally contacted Plaintiff and the  
18 Class members via their cellular telephones thereby causing Plaintiff and the  
19 Class members to incur certain cellular telephone charges or reduce cellular  
20 telephone time for which Plaintiff and the Class members previously paid, by  
21 having to retrieve or administer messages left by Defendant or his agents,  
22 during those illegal calls, and invading the privacy of said Plaintiff and the  
23 Class members. Plaintiff and the Class members were damaged thereby.

24 44. This suit seeks only damages and injunctive relief for recovery of economic  
25 injury on behalf of the Class and it expressly is not intended to request any  
26 recovery for personal injury and claims related thereto. Plaintiff reserves the  
27 right to expand the Class definition to seek recovery on behalf of additional  
28

1 persons as warranted as facts are learned in further investigation and  
2 discovery.

3 45. The joinder of the Class members is impractical and the disposition of their  
4 claims in the Class action will provide substantial benefits both to the parties  
5 and to the Court. The Class can be identified through Defendant's records  
6 and/or Defendant's agent's records.

7 46. There is a well-defined community of interest in the questions of law and fact  
8 involved affecting the parties to be represented. The questions of law and fact  
9 to the Class predominate over questions which may affect individual Class  
10 members, including the following:

- 11 i. Whether, within the four years prior to the filing of the  
12 Complaint, Defendant made any call(s) (other than a call made  
13 for emergency purposes or made with the prior express consent  
14 of the called party) to the Class members using any ATDS or an  
15 artificial or prerecorded voice to any telephone number assigned  
16 to a cellular telephone service;
- 17 ii. Whether Defendant called non-customers of Defendant for  
18 marketing purposes;
- 19 iii. Whether Plaintiff and the Class members were damaged thereby,  
20 and the extent of damages for such violation(s); and
- 21 iv. Whether Defendant should be enjoined from engaging in such  
22 conduct in the future.

23 47. As a person who received calls from Defendant in which Defendant used an  
24 ATDS or an artificial or prerecorded voice, without Plaintiff's prior express  
25 consent, Plaintiff is asserting claims that are typical of the Class. Plaintiff  
26 will fairly and adequately represent and protect the interests of the Class in  
27 that Plaintiff has no interests antagonistic to any member of the Class.  
28



1 48. Plaintiff and the members of the Class have all suffered irreparable harm as a  
2 result of the Defendant's unlawful and wrongful conduct. Absent a class  
3 action, the Class will continue to face the potential for irreparable harm. In  
4 addition, these violations of law will be allowed to proceed without remedy  
5 and Defendant will likely continue such illegal conduct. The size of Class  
6 member's individual claims causes, few, if any, Class members to be able to  
7 afford to seek legal redress for the wrongs complained of herein.

8 49. Plaintiff has retained counsel experienced in handling class action claims and  
9 claims involving violations of the Telephone Consumer Protection Act.

10 50. A class action is a superior method for the fair and efficient adjudication of  
11 this controversy. Class-wide damages are essential to induce Defendant to  
12 comply with federal and California law. The interest of Class members in  
13 individually controlling the prosecution of separate claims against Defendant  
14 is small because the maximum statutory damages in an individual action for  
15 violation of privacy are minimal. Management of these claims is likely to  
16 present significantly fewer difficulties than those that would be presented in  
17 numerous individual claims.

18 51. Defendant has acted on grounds generally applicable to the Class, thereby  
19 making appropriate final injunctive relief and corresponding declaratory relief  
20 with respect to the Class as a whole.

21 **FIRST CAUSE OF ACTION:**  
22 **NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER**  
23 **PROTECTION ACT 47 U.S.C. § 227 ET SEQ.**

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

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

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

4 55. Plaintiff and the Class are also entitled to and seek injunctive relief  
5 prohibiting such conduct in the future.

6  
7 **SECOND CAUSE OF ACTION:**  
8 **KNOWING AND/OR WILLFUL VIOLATIONS OF THE TELEPHONE**  
9 **CONSUMER PROTECTION ACT 47 U.S.C. § 227 ET SEQ.**

10 56. Plaintiff incorporates by reference all of the above paragraphs of this  
11 Complaint as though fully stated herein.

12 57. The foregoing acts and omissions of Defendant constitute multiple knowing  
13 and/or willful violations of the TCPA, including but not limited to each and  
14 every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

15 58. As a result of Defendant’s knowing and/or willful violations of 47 U.S.C. §  
16 227 et seq., Plaintiff and each of the Class are entitled to treble damages, as  
17 provided by statute, up to \$1,500.00, for each and every violation, pursuant to  
18 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

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

21 **PRAYER FOR RELIEF**

22  
23 60. Wherefore, Plaintiff respectfully requests the Court grant Plaintiff and the  
24 Class members the following relief against Defendant :

25  
26 **FIRST CAUSE OF ACTION FOR NEGLIGENT VIOLATION OF**  
27 **THE TCPA, 47 U.S.C. § 227 ET SEQ.**  
28



1 61. As a result of Defendant’s negligent violations of 47 U.S.C. § 227(b)(1),  
2 Plaintiff seeks for himself and each Class member \$500.00 in statutory  
3 damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

4 62. Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such  
5 conduct in the future.

6 63. Any other relief the Court may deem just and proper.

7  
8 **SECOND CAUSE OF ACTION FOR KNOWING AND/OR WILLFUL**  
9 **VIOLATION**  
10 **OF THE TCPA, 47 U.S.C. § 227 ET SEQ.**

11 64. As a result of Defendant’s willful and/or knowing violations of 47 U.S.C. §  
12 227(b)(1), Plaintiff seeks for himself and each Class member treble damages,  
13 as provided by statute, up to \$1,500.00 for each and every violation, pursuant  
14 to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

15 65. Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such  
16 conduct in the future.

17 66. Any other relief the Court may deem just and proper.

18 **TRIAL BY JURY**

19 67. Pursuant to the seventh amendment to the Constitution of the United States of  
20 America, Plaintiff is entitled to, and demands, a trial by jury.

21  
22 Respectfully submitted,

23 Date: May 9, 2017

**HYDE & SWIGART**

24  
25 By: s/Kevin Lemieux.  
26 Kevin Lemieux  
27 Attorneys for Plaintiff  
28



1 **Other Attorneys of Record, besides caption page:**

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

John McCurley, Individually and on behalf of all others similarly situated

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

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

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

DEFENDANTS

Royal Seas Cruises, Inc.

'17CV0986 BAS AGS

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)

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

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

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

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

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

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

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

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

VII. REQUESTED IN COMPLAINT:

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

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 05/12/2017 SIGNATURE OF ATTORNEY OF RECORD s/ Kevin Lemieux

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE



**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
  - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

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This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Royal Seas Hit with Lawsuit for Alleged TCPA Violations](#)

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