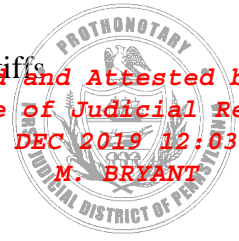


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<p>BRYAN MERCER, CANDACE McKINLEY, SHANEE GARNER-NELSON, ADAM BUTLER, Plaintiffs</p> <p>v.</p> <p>KEVIN JACKSON, THE BLACK SPHERE, LLC, and various JOHN DOES,</p> <p>Defendants</p>	<p>COURT OF COMMON PLEAS PHILADELPHIA COUNTY</p> <p>No.</p> <p>CLASS ACTION</p>
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COMPLAINT - CIVIL ACTION

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU MAY GET LEGAL HELP.

Lawyer Reference Service
One Reading Center
Philadelphia, PA 19107
Telephone: 238-1701

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defeensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademias, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades o otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.
Asociacion de Licenciados de Filadelfia
Servicio de Referencia E Informacion Legal
One Reading Center
Filadelfia, Pennsylvania, 19107
(215) 238-1701

2. The Defendants are: Kevin Jackson, a right-wing provocateur and former Fox News contributor, and his wholly owned limited liability company, The Black Sphere, LLC, a commercial operation through which he promotes his books and a radio show. Also named as defendants are the companies, presently unknown, that assisted Jackson and his LLC in invading Plaintiffs' privacy.

3. Plaintiffs bring this action, individually and on behalf of a class of similarly situated individuals, under the Telephone Consumer Protection Act, 47 U.S.C. § 227(b)(1)(C), and the regulations promulgated thereunder (hereinafter referred to collectively as "TCPA"). They are acting on behalf of all persons to whom Defendants and any third party acting on behalf of Defendants, transmitted the pre-recorded text message via an automated dialing system, without having obtained prior express invitation or permission to transmit these communications. Plaintiffs seek enhanced statutory damages for all members of the class, as well as injunctive relief, attorney's fees, and costs.

II. Jurisdiction and Venue

4. The TCPA grants jurisdiction to state courts to hear cases brought under the statute. 47 U.S.C. § 227(b)(3).

5. Venue in this Court is proper under Rule 1006(a)(1), PA Rules of Civ. Procedure, in that this is where the illegal text messages were targeted and received, and therefore, this county is where the action arose.

III. The Parties

6. Plaintiff Bryan Mercer is an adult individual who lives and votes in the City of Philadelphia.

7. Plaintiff Candace McKinley is an adult individual who lives and votes in the City of Philadelphia.

8. Plaintiff Shanee Garner-Nelson is an adult individual who lives and votes in the City of Philadelphia.

9. Plaintiff Adam Butler is an adult individual who lives and votes in the City of Philadelphia.

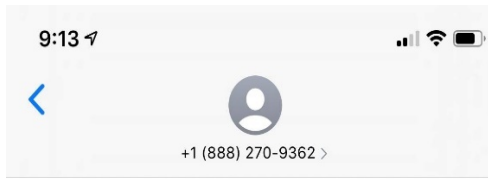
10. Defendant Kevin Jackson is an adult individual residing in Maricopa County, Arizona.

11. Defendant The Black Sphere, LLC is a Missouri limited liability company owned by Defendant Jackson and through which he conducts his business.

12. Defendants John Doe are individuals or business entities, whose identity is not yet known, that, with Defendant Jackson's authority and direction, caused the subject text messages to be transmitted to the Plaintiffs.

IV. The Facts

13. On September 11, 2019, at 9:05 p.m., Plaintiff Bryan Mercer received the following text message on his cell phone:



Text Message
Today 9:05 PM

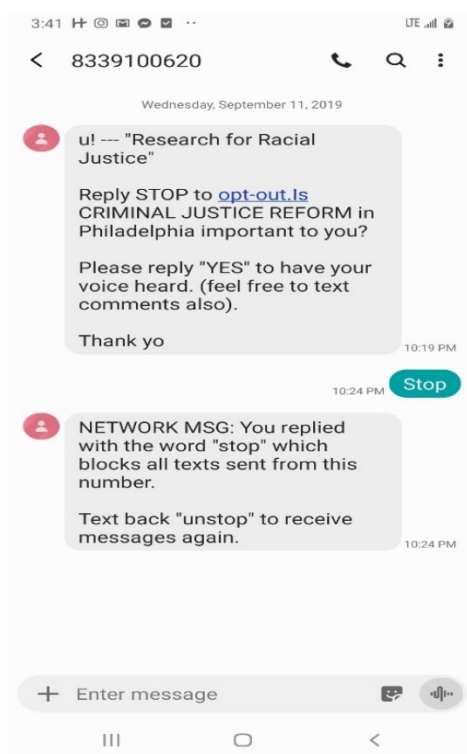
Philadelphia courts are soft on
Illegal Immigrants and hard on
African Americans. Let's push
back on City Hall.

To learn about our
DISCRIMINATION lawsuit tap
this link: <http://rtxt.co/6n6d>

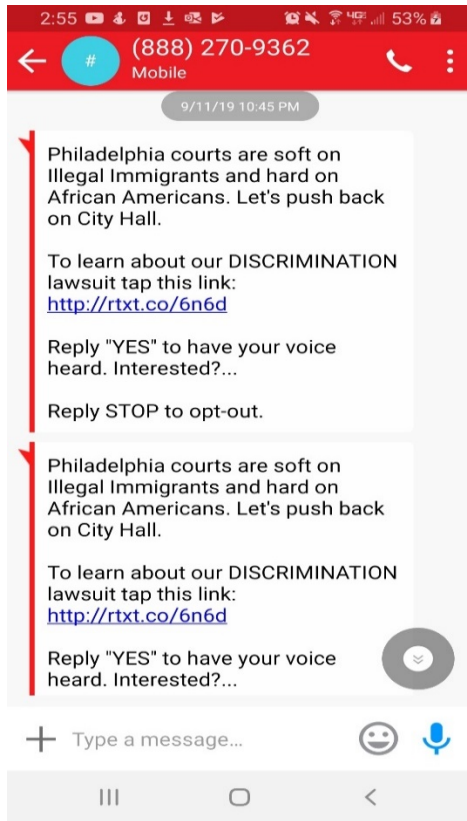
Reply "YES" to have your voice
heard. Interested?...

Reply STOP to opt-out.

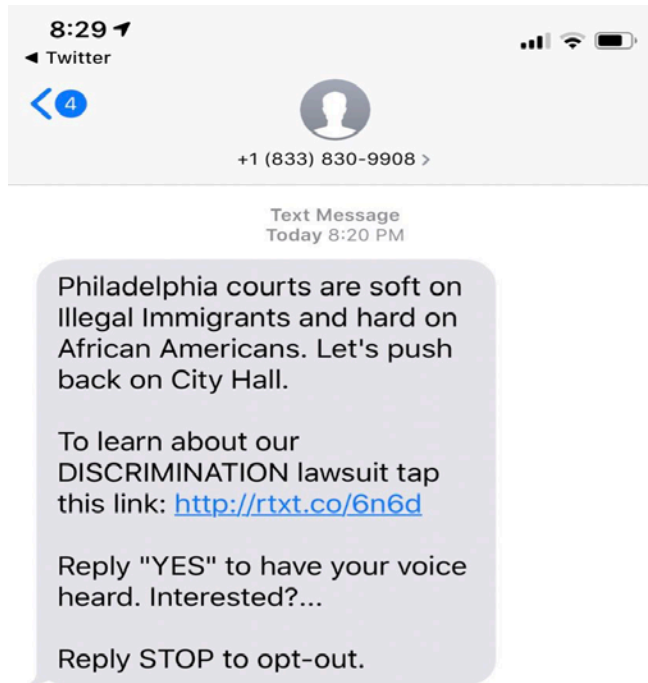
14. On September 11, 2019, at 10:19 p.m., Plaintiff Candace McKinley received the following text message on her cell phone:



15. On September 11, 2019, at 10:45 p.m., Plaintiff Shanee Garner-Nelson received the following text message on her cell phone:



16. On September 11, 2019, at 8:20 p.m., Plaintiff Adam Butler received the following text message on his cell phone:



17. The link contained in these text messages was to a “Philly” page of a website named USACriminalJusticeReform.org, that referred to the City of Philadelphia’s purported policy of providing preferential treatment to “illegals” over “black citizens” and asking the visitor to respond “[i]f this violation bothers you or if you are someone you know has been wronged by the city.”

18. A “donate” button on the webpage site invited users to donate to Black Sphere, LLC, which is also identified as the owner of the site.

19. Black Sphere is the website of Defendant Kevin Jackson, a right-wing author and provocateur and a former commentator on Fox News. He is the author of the book entitled, *Race Pimping: The Multi-Trillion Dollar Business of Liberalism*.

20. On or about September 14, 2019, in an interview with a reporter for the *Philadelphia Inquirer*, Defendant Jackson admitted sending these text messages to approximately 100,000 Philadelphia residents.

21. Currently, the homepage of the USACriminalJusticeReform website describes an alleged discriminatory policy in which “Illegal Aliens are treated better than citizens,” and references Philadelphia as the location in the United States where the “proof” of this alleged policy exists. Among the “proofs” referenced is a “poll” that “we” conducted of “over 120,000 black (sic) for their opinions on criminal justice reform.”

22. Plaintiffs believe and therefore aver that they are being misrepresented by Defendant as having willingly and knowingly been participants in a poll about the Philadelphia criminal justice system, when, in fact, they were just unconsenting recipients of Defendant’s unlawful and deceptive texting. Plaintiffs believe and therefore aver that Defendant Jackson obtained their phone numbers from a voter data base he acquired and used this file to select targets for his campaign in predominantly African American neighborhoods.

23. Plaintiffs believe and therefore aver that Defendant Jackson hired Defendant John Does to copy or upload the telephone data from a file provided by Jackson into an autodialing system that on September 11, 2019 sent the unauthorized text messages to the Plaintiffs and the other members of the Class referenced below.

V. Class Action Allegations

24. Plaintiff brings this action under the Pennsylvania Class Action Rules, Pa. Rule of Civ. Procedure 1701-1717, on behalf of all persons who were sent similar text messages by Defendants, without having obtained prior express consent or permission to transmit said messages (the “Class”), at any time during the period beginning four years prior to the commencement of this action and continuing until the present (the “Class Period”).

25. There are approximately 100,000 members of the Class (“Class Members”), which means they are so numerous that joinder of all Class Members is impracticable.

26. There are questions of law and fact common to the Class, including

(i) whether Defendants are subject to the TCPA;

(ii) whether Defendants used an “automatic telephone dialing system” or “an artificial or prerecorded voice,” as defined by the TCPA, 47 U.S.C. § 227(a)(1), to send the text messages at issue;

(iii) whether Defendants willfully or knowingly violated the TCPA;

(iv) whether the Members of the Class are entitled to damages, and, if so, how much; and

(v) whether the Members of the Class are entitled to injunctive relief.

27. The claims of the representative parties are typical of the claims of the Class.

28. Plaintiffs will fairly and adequately protect the interests of the Class, in that,

(i) Plaintiffs have retained competent litigation counsel that will provide adequate representation to the Class.

(ii) Plaintiffs have no interests that are antagonistic to, or in conflict with, the Members of the Class.

(iii) Plaintiffs have access to adequate financial resources to assure that the interests of the Class will not be harmed.

29. A class action provides a fair and efficient method for adjudication of the controversy in that,

(i) Common questions of law and fact will predominate over any question affecting only individual members.

(ii) While the Class is so numerous that joinder of all Members is impracticable, the size of the class is not so large as to create any management difficulties.

(iii) Inconsistent or varying adjudications with respect to individual Class Members would confront the Defendants with incompatible standards of conduct.

(iv) There is no litigation already commenced by or against Class Members involving any of the same issues.

(v) This forum is appropriate for the litigation of the claims of the entire Class.

(vi) The Defendants have acted on grounds generally applicable to the class making final equitable or declaratory relief appropriate with respect to the Class.

VI. Claim for Relief

30. The text messages at issue were sent by equipment which has the capacity to store cellphone numbers to be texted, using a random or sequential number generator, and to dial/transmit the texts to those numbers.

31. The text messages were transmitted without the prior express consent of Plaintiffs or the Class Members, in violation of 47 U.S.C. § 227(b)(1)(A)(iii).

32. The text messages were prerecorded in accordance with the instructions provided by Defendants.

33. In sending these unauthorized and illegal text messages, Defendants acted willfully or knowingly.

34. Plaintiffs and Class Members have each suffered an invasion of privacy from which Congress sought to protect them.

35. Pursuant to 47 U.S.C. § 227(b)(3), Plaintiffs seek for themselves and for each Class Member the following relief: \$1,500 per Class Member for this deliberate, mass invasion of privacy; the discretionary damage multiplier authorized when a defendant acts willfully or knowingly; and injunctive relief prohibiting Defendant from any further violations of the TCPA.

WHEREFORE, Plaintiffs seek the said relief and any other such relief deemed appropriate by the Court.

Dated: December 3, 2019

/s/ Irv Ackelsberg

Irv Ackelsberg

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Philadelphia, PA 19103

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Attorneys for the Plaintiffs

VERIFICATION

Bryan Mercer deposes and states, subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, that he is the Plaintiff in this matter and that the facts set forth herein are true and correct upon his personal knowledge.

Dated: _____



Bryan Mercer

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Former Fox News Contributor Facing Class Action Over Philadelphia 'Justice Reform' Texts](#)
