

Kazerouni Law Group, APC
Costa Mesa, California

1 **KAZEROUNI LAW GROUP, APC**
Abbas Kazerounian, Esq. (SBN: 249203)
2 ak@kazlg.com
3 Jason A. Ibey, Esq. (SBN: 284607)
jason@kazlg.com
4 245 Fischer Avenue, Suite D1
5 Costa Mesa, California 92626
Telephone: (800) 400-6808
6 Facsimile: (800) 520-5523

7
8 [Additional Attorneys on Signature Page]

9 *Attorneys for Plaintiffs*

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

12 **MICHELLE MEZA and STEVE**
13 **MEZA, Individually and on Behalf**
of All Others Similarly Situated,

14 **Plaintiffs,**

15 **v.**

16 **SIRIUS XM RADIO INC.,**

17
18 **Defendant.**

Case No.: '17CV2252 AJB JMA

COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF
PURSUANT TO THE TELEPHONE
CONSUMER PROTECTION ACT,
47 U.S.C. § 227, ET SEQ.

JURY TRIAL DEMANDED

19
20 **INTRODUCTION**

21 1. Michelle Meza (“Ms. Meza”) and Steve Meza (“Mr. Meza,” together the
22 “Plaintiffs”) bring this Class Action Complaint for damages, injunctive
23 relief, and any other available legal or equitable remedies, resulting from
24 the illegal actions of Sirius XM Radio Inc. (“Sirius” or “Defendant”), in
25 negligently, and/or willfully contacting Plaintiffs for marketing purposes
26 on their cellular telephones, in violation of the Telephone Consumer
27 Protection Act, 47 U.S.C. § 227, *et seq.*, (“TCPA”), thereby invading
28

Kazerouni Law Group, APC
Costa Mesa, California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Plaintiffs’ privacy. Plaintiffs allege as follows upon personal knowledge as to their own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by their attorneys.

JURISDICTION AND VENUE

- 2. This Court has federal question jurisdiction because this case arises out of violation of federal law. 47 U.S.C. §227(b).
- 3. Venue is proper in the United States District Court for the Southern District of California pursuant to 18 U.S.C. § 1391(b) because the events giving rise to Plaintiffs’ causes of action against Sirius occurred within the State of California and the County of San Diego, within this judicial district.

PARTIES

- 4. Plaintiffs are, and at all times mentioned herein were, citizens and residents of the State of California. Plaintiffs are, and at all times mentioned herein were, “persons” as defined by 47 U.S.C. § 153 (39).
- 5. Plaintiffs are informed and believe, and thereon allege, that Sirius is, and at all times mentioned herein was, a corporation whose primary corporate address is in New York, New York.
- 6. Plaintiffs are informed and believe, and thereon allege, that Sirius is, and at all times mentioned herein was, a corporation and a “person,” as defined by 47 U.S.C. § 153 (39).
- 7. Sirius provides various consumer credit products and advertises those products through the use of telephone calls.

FACTUAL ALLEGATIONS

- 8. At all times relevant Sirius conducted business in the State of California and in the County of San Diego, within this judicial district.

- 1 9. Plaintiffs, on or before July of 2016, purchased a Hyundai Sonata from
- 2 Frank Hyundai in National City, which included a “free” three-month trial
- 3 subscription to Sirius XM Radio.
- 4 10. At no time did Plaintiffs provide their current cellular telephone numbers
- 5 to Defendant through any medium.
- 6 11. At no time did Plaintiffs enter into a business relationship with Defendant.
- 7 12. On or about October of 2016, Defendant contacted Plaintiffs on their
- 8 respective cellular telephones ending in “4402” (belonging to Mr. Meza)
- 9 and “4478” (belonging to Ms. Meza).
- 10 13. Upon information and belief, the calls were placed via an “automatic
- 11 telephone dialing system,” (“ATDS”) as defined by 47 U.S.C. § 227
- 12 (a)(1), using an “artificial or prerecorded voice” as prohibited by 47 47
- 13 U.S.C. § 227(b)(1)(A).
- 14 14. Sirius called Mr. Meza’s cellular telephone using an artificial or
- 15 prerecorded voice message in an effort to convince Mr. Meza to pay to
- 16 extend Defendant’s radio service following expiration of the free trial.
- 17 After waiting approximately twenty minutes on the phone, Mr. Meza was
- 18 finally able to inform Defendant that he was not interested.
- 19 15. Despite Mr. Meza’s explicit rejection of Sirius’ offer to continue satellite
- 20 radio service following expiration of the free trial, Sirius continued to call
- 21 Mr. Meza several times on his cell phone number.
- 22 16. In the month of October of 2016, Sirius, without Mr. Meza’s consent,
- 23 called Mr. Meza on or about October 5th, October 7th, twice on October
- 24 8th, and October 9th.
- 25 17. Throughout this time, Plaintiffs repeatedly told Sirius’ representatives to
- 26 stop calling their cellular telephones, thereby revoking any consent that
- 27 Sirius may have had to call Plaintiffs.
- 28 18. Sirius continued to call Plaintiffs into November of 2016.

- 1 19. At the beginning of some of the calls there was a long pause before a live
2 agent of Sirius would come on the line.
- 3 20. Upon information and belief, this telephone dialing equipment used by
4 Sirius has the capacity to store or produce telephone numbers to be called,
5 using a random or sequential number generator.
- 6 21. Upon information and belief, this telephone dialing equipment also has
7 the capacity to dial telephone numbers stored in a database or as a list
8 without human intervention.
- 9 22. The several months of unwanted calls from Sirius' caused Plaintiffs to
10 become annoyed and frustrated.
- 11 23. Through Defendant's aforementioned conduct, Plaintiffs suffered an
12 invasion of a legally protected interest in privacy, which is specifically
13 addressed and protected by the TCPA.
- 14 24. Defendant's calls forced Plaintiffs and other similarly situated class
15 members to live without the utility of their cellular phones by occupying
16 their cellular telephone with one or more unwanted calls, causing a
17 nuisance and lost time.
- 18 25. The telephone numbers Sirius called were assigned to a cellular telephone
19 service for which Plaintiffs incur a charge for cellular telephone service
20 pursuant to 47 U.S.C. § 227(b)(1).
- 21 26. The calls to Plaintiffs were not for emergency purposes as defined by 47
22 U.S.C. § 227(b)(1)(A)(i).
- 23 27. Defendant's calls to Plaintiffs' cellular telephone numbers were
24 unsolicited by Plaintiffs and were placed without Plaintiffs' prior express
25 written consent or permission.

26 **CLASS ACTION ALLEGATIONS**

- 27 28. Plaintiffs bring this action on behalf of themselves and on behalf of and
28 Class Members of the proposed Class pursuant to Federal Rules of Civil
Procedure 23(a) and (b)(3) and/or (b)(2).

1 29. Plaintiffs' propose to represent the following Class consisting of and
2 defined as follows:

3 All persons within the United States who received any
4 telephone call(s) from Defendant or its agent(s) and/or
5 employee(s), not for an emergency purpose, on said person's
6 cellular telephone, made through the use of any automatic
7 telephone dialing system or artificial or prerecorded voice
8 Complaint.

9 30. Sirius and its employees or agents are excluded from the Class. Plaintiffs
10 do not know the number of members in the Class, but believes the Class
11 members number in the several thousands, if not more. Thus, this matter
12 should be certified as a Class action to assist in the expeditious litigation
13 of this matter.

14 31. Plaintiffs and members of the Class were harmed by the acts of Sirius in
15 at least the following ways: Sirius, either directly or through its agents,
16 illegally contacted Plaintiffs and the Class members via their cellular
17 telephones by using marketing and artificial or prerecorded voice
18 messages, thereby causing Plaintiffs and the Class members to incur
19 certain cellular telephone charges or reduce cellular telephone time for
20 which Plaintiffs and the Class members previously paid, and invading the
21 privacy of said Plaintiffs and the Class members. Plaintiffs and the Class
22 members were damaged thereby.

23 32. This suit seeks only damages and injunctive relief for recovery of
24 economic injury on behalf of the Class and it expressly is not intended to
25 request any recovery for personal injury and claims related thereto.
26 Plaintiffs reserve the right to expand the Class definition to seek recovery
27 on behalf of additional persons as warranted as facts are learned in further
28 investigation and discovery.

1 33. The joinder of the Class members is impractical and the disposition of
2 their claims in the Class action will provide substantial benefits both to
3 the parties and to the court. The Class can be identified through Sirius’
4 records or Sirius’ agents’ records.

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

- 9 i. Whether, between July 6, 2016, and the present, Sirius or its
10 agent(s) placed any marketing and artificial or prerecorded voice
11 messages to the Class (other than a message made for emergency
12 purposes or made with the prior express consent of the called
13 party) using any automatic telephone dialing system to any
14 telephone number assigned to a cellular telephone service;
- 15 ii. Whether Plaintiffs and the Class members were damaged
16 thereby, and the extent of damages for such violation; and
- 17 iii. Whether Sirius and its agents should be enjoined from engaging
18 in such conduct in the future.

19 35. As a person that received at least one marketing call via an ATDS or an
20 artificial or prerecorded voice message to their cell phones without
21 Plaintiffs’ prior express written consent, Plaintiffs are asserting claims
22 that are typical of the Class. Plaintiffs will fairly and adequately represent
23 and protect the interests of the Class in that Plaintiffs have no interests
24 antagonistic to any member of the Class.

25 36. Plaintiffs and the members of the Class have all suffered irreparable harm
26 as a result of the Sirius’ unlawful and wrongful conduct. Absent a class
27 action, the Class will continue to face the potential for irreparable harm.
28 In addition, these violations of law will be allowed to proceed without
remedy and Sirius will likely continue such illegal conduct. Because of

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

the size of the individual Class member’s claims, few, if any, Class members could afford to seek legal redress for the wrongs complained of herein.

37. Plaintiffs have retained counsel experienced in handling class action claims and claims involving violations of the Telephone Consumer Protection Act.

38. A class action is a superior method for the fair and efficient adjudication of this controversy. Class-wide damages are essential to induce Sirius to comply with federal and California law. The interest of Class members in individually controlling the prosecution of separate claims against Sirius is small because the maximum statutory damages in an individual action for violation of privacy are minimal. Management of these claims is likely to present significantly fewer difficulties than those presented in many class claims.

39. Sirius has acted on grounds generally applicable to the Class, thereby making appropriate final injunctive relief and corresponding declaratory relief with respect to the Class as a whole.

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

40. Plaintiffs incorporate by reference all of the above paragraphs of this Complaint as though fully stated herein.

41. Sirius’ repeated calls in a span of several months to Plaintiffs’ cellular phones without any prior express consent—and even after Plaintiffs revoked any consent that may have existed—constitute numerous and multiple negligent 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.*

Kazerouni Law Group, APC
Costa Mesa, California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

42. As a result of Sirius', and Sirius' agents', negligent violations of 47 U.S.C. § 227 *et seq.*, Plaintiffs and the Class 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).

43. Plaintiffs and the Class are also entitled to and seek injunctive relief prohibiting such conduct in the future.

SECOND CAUSE OF ACTION

**KNOWING AND/OR WILLFUL VIOLATIONS OF THE
TELEPHONE CONSUMER PROTECTION ACT
47 U.S.C. § 227 *ET SEQ.***

44. Plaintiffs incorporate by reference all of the above paragraphs of this Complaint as though fully stated herein.

45. Sirius' made repeated telephone calls to Plaintiffs' cellular telephones without being in any business relationship or contract. Furthermore, after Sirius was explicitly told to not call Plaintiffs, Sirius agents continued to call Plaintiffs' cellular telephones.

46. Sirius' actions constitute numerous and multiple knowing and/or willful 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.*

47. As a result of Sirius' knowing and/or willful violations of 47 U.S.C. § 227 *et seq.*, Plaintiffs and each of the Class members are entitled to treble damages, as provided by statute, up to \$1,500.00, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

48. Plaintiffs and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

PRAYER FOR RELIEF

49. Wherefore, Plaintiffs respectfully request the Court to grant Plaintiffs and the Class members the following relief against Sirius:

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

- As a result of Sirius’ and Sirius’ agents’ negligent violations of 47 U.S.C. § 227(b)(1), Plaintiffs seek for themselves and each Class member \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).
- Pursuant to 47 U.S.C. § 227(b)(3)(A), Plaintiffs seek injunctive relief prohibiting such conduct in the future.
- Any other relief the Court may deem just and proper.

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

- As a result of Sirius’ willful and/or knowing violations of 47 U.S.C. § 227(b)(1), Plaintiffs seek for themselves and each Class member treble damages, as provided by statute, up to \$1,500.00 for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).
- Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.

TRIAL BY JURY

50. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiffs are entitled to, and demand, a trial by jury.

Date: November 3, 2017

Kazerouni Law Group, APC

By: /s Abbas Kazerounian
ak@kazlg.com
Abbas Kazerounian
Attorneys for Plaintiffs

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **Additional Plaintiffs' Counsel:**

2 **HYDE & SWIGART**

3 Joshua B. Swigart, Esq. (SBN: 225557)

4 josh@westcoastlitigation.com

5 2221 Camino Del Rio South, Suite 101

6 San Diego, CA 92108-3551

7 Telephone: (619) 233-7770

8 Facsimile: (619) 297-1022

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

JS 44 (Rev. 06/17)

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.)

<p>I. (a) PLAINTIFFS</p> <p>MICHELLE MEZA and STEVE MEZA, Individually and on Behalf of All Others Similarly Situated,</p> <p>(b) County of Residence of First Listed Plaintiff <u>San Diego, California</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys <i>(Firm Name, Address, and Telephone Number)</i> KAZEROUNI LAW GROUP, APC, 245 Fischer Avenue, Suite D1 Costa Mesa, California 92626 (800) 400-6808</p>	<p>DEFENDANTS</p> <p>SIRIUS XM RADIO INC.</p> <p>County of Residence of First Listed Defendant <u>New York, New York</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys <i>(If Known)</i></p>
---	---

'17CV2252 AJB JMA

<p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		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
	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																				

[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	<p>PERSONAL INJURY</p> <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	<p>PERSONAL INJURY</p> <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	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157
<p>REAL PROPERTY</p> <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	<p>CIVIL RIGHTS</p> <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	<p>LABOR</p> <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	<p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<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
	<p>PRISONER PETITIONS</p> <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 <p>Other:</p> <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	<p>IMMIGRATION</p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<p>SOCIAL SECURITY</p> <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))	<p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

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):*
TELEPHONE CONSUMER PROTECTION ACT, 47 U.S.C. § 227, ET SEQ.

Brief description of cause:
 Automated telephone calls to cell phones without consent.

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: 11/03/2017 SIGNATURE OF ATTORNEY OF RECORD: /s/ Abbas Kazerounian

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: [Sirius XM Facing Robocall Class Action in California](#)
