

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

RAYMOND NEWKIRK, individually and )  
on behalf of all others similarly situated, )

Plaintiff, )

v. )

JP MORGAN CHASE BANK, NA., )

Defendant. )

CASE NO.:

**JURY DEMANDED**

**COMPLAINT - CLASS ACTION**

Plaintiff, Raymond Newkirk, individually and on behalf of all others similarly situated, brings this action pursuant to the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (“TCPA”) for violation by the Defendant, JP Morgan Chase Bank, NA.

**JURISDICTION AND VENUE**

1. This Court has jurisdiction under 28 U.S.C. § 1331, 28 U.S.C. §1337, and 47 U.S.C. § 227 (TCPA).

2. Venue in this District is proper because the acts occurred here, Plaintiff resides here, and Defendant transacts business here.

**PARTIES & FACTS**

3. Plaintiff Raymond Newkirk is, and always mentioned herein was, an individual citizen of the State of Florida, who resides in St. Petersburg Florida, which is located in the Middle District of Florida.

4. JP Morgan Chase Bank, NA. is a national bank headquartered at 270 Park Avenue, New York, NY 10017.

5. Defendant Chase is authorized to conduct, and so regularly conducts, business in the State of Florida.

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

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

8. Plaintiff has a mortgage which is serviced by Chase.

9. In or around January 2014, Chase began placing calls to Plaintiff’s cellular telephone number using a prerecorded voice message and an automated telephone dialing system.

10. On or around March 12, 2014 Chase called Plaintiff’s cellular telephone number.

11. During this communication, Plaintiff advised Chase that they were calling his cellular telephone number and requested that Chase cease placing calls to his cellular telephone number.

12. Despite this notice, Chase called Plaintiff on his cellular telephone number on April 15, 2014.

13. During this communication, Plaintiff again requested that Chase cease placing calls to his cellular telephone number.

14. Despite this notice, Chase placed repeated calls to Plaintiff’s cellular telephone number using a prerecorded voice message and automated telephone dialing system, including calls on May 19, 2014, June 18, 2014, and July 19, 2014.

15. On November 14, 2014 Chase called Plaintiff’s cellular telephone number.

16. During this communication, Plaintiff again requested that Chase cease placing calls to Plaintiff's cellular telephone number.

17. Despite this notice, Chase placed additional calls to Plaintiff's cellular telephone number on at least November 21, 2014 and December 27, 2014.

18. On January 14, 2015, Chase again placed a call to Plaintiff using a prerecorded voice message and automatic telephone dialing system.

19. During this communication, Plaintiff again notified Chase to cease placing calls to his cellular telephone number.

20. Despite this notice, Chase placed additional calls to Plaintiff's cellular telephone number on at least February 19, 2015 and March 20, 2015.

21. On April 8, 2015, Chase again placed a call to Plaintiff using a prerecorded voice message and automatic telephone dialing system.

22. During this communication, Plaintiff again notified Chase to cease placing calls to his cellular telephone number.

23. On April 13, 2015, Chase again placed a call to Plaintiff using a prerecorded voice message and automatic telephone dialing system.

24. Despite this notice, Chase placed additional calls to Plaintiff's cellular telephone number on at least April 23, 2015 and April 27, 2015.

25. On May 13, 2015, Chase again placed a call to Plaintiff using a prerecorded voice message and automatic telephone dialing system.

26. During this communication, Plaintiff again notified Chase to cease placing calls to his cellular telephone number.

27. Despite this notice, Chase placed additional calls to Plaintiff's cellular telephone number on at least May 20, 2015, June 19, 2015, and June 22, 2015.

28. On July 13, 2015, Chase again placed a call to Plaintiff using a prerecorded voice message and automatic telephone dialing system.

29. During this communication, Plaintiff again notified Chase to cease placing calls to his cellular telephone number.

30. Despite this notice, Chase placed additional calls to Plaintiff's cellular telephone number on at least July 17, 2015, July 24, 2015, August 21, 2015, and September 22, 2015.

31. On October 16, 2015, Chase again placed a call to Plaintiff using a prerecorded voice message and automatic telephone dialing system.

32. During this communication, Plaintiff again notified Chase to cease placing calls to his cellular telephone number.

33. During this communication, Defendant notified Plaintiff that he would need to submit a written request on a specific form in order to stop Chase from calling. This was the first time Chase notified Plaintiff that Chase required him to fill out a form or that a form was even available, despite his frequent past requests for Chase's calls to cease.

34. On October 19, 2015 Chase mailed Plaintiff a letter instructing him to submit a Stop Calls Request form.

35. Plaintiff completed and returned the Request to Stop Calls form on or around October 27, 2016.

36. Despite Plaintiff's repeat verbal notice and completing the requested form, Chase continued to place calls to Plaintiff's cellular telephone number on at least December 17, 2015, December 21, 2015, and December 23, 2015.

37. At all times relevant herein, Plaintiff has been the user, and has exercised dominion and control of his cellular telephone number that received the subject calls which form the basis of this action.

38. Chase placed all of the above referenced calls to Plaintiff's cellular telephone number using an "automatic telephone dialing system" ("ATDS"), as that term is defined by 47 U.S.C. § 227 (a)(1), meaning it had the capacity to store or produce numbers randomly or sequentially, and to dial such numbers, and to place telephone calls to Plaintiff's cellular telephone. For example, on numerous occasions Plaintiff picked up the phone and there was a pause prior to anyone coming onto the line.

39. Several of the calls placed to Plaintiff's cellular telephone number were placed using an artificial and pre-recorded voice message. For example, on numerous occasions when Plaintiff picked up his cell phone a pre-recorded message asked him to wait for the next available representative prior to a live person coming on the phone.

40. Plaintiff repeatedly revoked any consent which Chase may have had to place calls to Plaintiff's cellular telephone number using an ATDS or an artificial or pre-recorded voice message.

### **THE TCPA**

41. In 1991, Congress enacted the TCPA in response to a growing number of consumer complaints regarding certain telemarketing practices - for example, computerized calls to private homes. Congress determined that federal legislation was needed because telemarketers, by operating interstate, were escaping state-law prohibitions on intrusive nuisance calls. *See Mims v. Arrow Financial Services, LLC*, 132 S. Ct. 740 (2012).

42. Accordingly, the TCPA regulates, *inter alia*, the use of prerecorded messages and use of automated telephone equipment, or “autodialers.” Specifically, the plain language of section 227(b)(1)(A)(iii) prohibits the use of prerecorded messages or autodialers to make any call to a wireless number in the absence of an emergency or the prior express consent of the called party.

43. According to findings by the Federal Communication Commission (“FCC”), the agency Congress vested with authority to issue regulations implementing the TCPA, such calls are prohibited because, as Congress found, automated or prerecorded telephone calls are a greater nuisance and invasion of privacy than live solicitation calls, and such calls can be costly and inconvenient. The FCC also recognized that wireless customers are charged for incoming calls whether they pay in advance or after the minutes are used.

44. In 2003, the FCC held that predictive dialers like the one used by defendant constitute an ATDS under the TCPA. *In re Rules and Regulation Implementing the Telephone Consumer Protection Act of 1991*, Report and Order, 18 F.C.C.R.14014, 14115, ¶ 131 (July 3, 2003).

45. The FCC also held “[c]onsumers may revoke consent in any manner that clearly expresses a desire not to receive further messages, and that callers may not infringe on that ability by designating an exclusive means to revoke.” *In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Declaratory Ruling and Order, FCC 15-72, 2015 FCC LEXIS 1586, ¶ 63, 30 FCC Rcd 7961, 2015 FCC LEXIS 1586, 62 Comm. Reg. (P & F) 1539 (F.C.C. July 10, 2015) (“FCC 2015 Order”).

46. Verbal instructions to cease collection calls apply to the TCPA and thus effectively revoke any prior consent the caller may have had. *Osorio v. State Farm Bank, F.S.B.*, 746 F.3d 1242 (11th Cir. 2014).

**COUNT I: VIOLATION OF THE TCPA**

47. Plaintiff restates each of the factual allegations in all other paragraphs as if full stated herein.

48. This claim is for violation of the TCPA by Chase.

49. The telephone calls from Chase to Plaintiff's cellular telephone number were made using an ATDS.

50. The subject calls were placed using a predictive dialer.

51. Many of the subject calls were placed using an artificial or pre-recorded voice message.

52. Chase placed calls to Plaintiff at a telephone number assigned to a cellular telephone service.

53. The telephone calls Chase placed to Plaintiff were not placed for emergency purposes, as defined by TCPA § 227 (b)(1)(A)(i).

54. Chase made unsolicited telephone calls to the wireless telephone number of plaintiff and the other members of the class using a pre-recorded voice and or using equipment that had the capacity to store or produce telephone numbers to be called, using a random or sequential number generator.

55. At the time, Chase placed the phone calls alleged herein, Chase did not have consent to do so because Plaintiff had revoked any consent which may have existed.

56. Chase has therefore violated the TCPA, 47 U.S.C. § 227(b)(1)(A)(iii), which makes it unlawful for any person within the United States "... to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice ...".

57. As a result of Chase's illegal conduct, the members of the class suffered actual damages and, under § 227(b)(3)(B), and are each entitled to, *inter alia*, a minimum of \$500.00 in damages for each such violation of the TCPA.

58. Plaintiff and class members are also entitled to, and do, seek injunctive relief prohibiting Chase's violations of the TCPA in the future.

#### **CLASS ALLEGATIONS**

59. Plaintiff restates each of the allegations in all other paragraphs as if full stated herein.

60. Plaintiff, individually and on behalf of all others similarly situated, bring the above claims on behalf of a Class.

61. The Class consists of:

(1) All persons in the United States (2) to whose cellular telephone number (3) Chase placed a non-emergency telephone call (4) using the same dialing system(s) used to call Plaintiff or an artificial or prerecorded voice (5) within 4 years of the complaint (6) where Chase did not have express consent to call said cellular telephone number.

And the following sub class:

##### *Revocation Sub-Class*

(1) All persons in the United States (2) to whose cellular telephone number (3) Chase placed a non-emergency telephone call (4) using the same dialing system(s) used to call Plaintiff or an artificial or prerecorded voice (5) within 4 years of the complaint (6) after that person had instructed Chase to cease calls to that number.



62. Chase has caused consumers actual harm, not only because consumers were subjected to the aggravation that necessarily accompanies these calls, but also because consumers frequently have to pay their cell phone service providers for the receipt of such calls; such calls are also an intrusion upon seclusion, diminish cellular battery life, and waste time.

63. Plaintiff represents and is a member of the Class and each subclass. Excluded from the Class are Defendant and any entities in which Chase has a controlling interest, Chase's agents and employees, the Judge to whom this action is assigned, and any member of the Judge's staff and immediate family, and claims for personal injury, wrongful death and/or emotional distress.

64. Plaintiff does not know the exact number of members in the Class, but based upon the size, national scope of Chase's business, and the use of automated software to make the debt collection calls, Plaintiff reasonably believes that the class members' number at a minimum in the thousands.

65. Plaintiff and all members of the Class have been harmed by Chase's actions.

66. This Class Action Complaint seeks money damages and injunctive relief.

67. The joinder of all class members is impracticable due to the size and relatively modest value of each individual claim. The disposition of the claims in a class action will provide substantial benefit to both the parties and the Court in avoiding multiplicity of identical suits. The class can be easily identified through records maintained by Chase.

68. There are questions of law and fact common to the members of the Class, which common questions predominate over any questions that affect only individual class members. Those common questions of law and fact include, but are not limited to:

- a. Whether Chase engaged in a pattern of using an ATDS to place calls to cellular telephones;
- b. Whether Chase's dialer delivers pre-recorded messages to cellular telephones;
- c. Whether Chase's conduct was knowing or willful;
- d. Whether Chase's actions violated the TCPA; and

69. As a person who received the telephone calls using an ATDS or an artificial or prerecorded voice, without their prior express consent, all within the meaning of the TCPA, Plaintiff asserts claims that are typical of the members of the Class. Plaintiff will fairly and adequately represent and protect the interests of the Class, and Plaintiff does not have an interest that is antagonistic to any member of the Class.

70. Plaintiff has retained counsel experienced in handling class action claims involving violations of federal and state consumer protection statutes such as the TCPA.

71. A class action is the superior method for the fair and efficient adjudication of this controversy. Class-wide relief is essential to compel Chase to comply with the TCPA. The interest of class members in individually controlling the prosecution of separate claims against Chase is small because the statutory damages in an individual action for violation of the TCPA is small. Management of these claims is likely to present significantly fewer difficulties than are presented in many class claims because the calls at issue are all automated and the class members, by definition, did not provide the prior express consent required under the statute to authorize calls to their cellular telephones.

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

appropriate. Moreover, Plaintiff alleges that the TCPA violations complained of herein are substantially likely to continue in the future if an injunction is not entered.

**WHEREFORE**, Plaintiff requests that the Court enter judgment in his favor and favor of the Class, and against Chase for:

1. A declaration that Chase's practices described herein violate the Telephone Consumer Protection Act, 47 U.S.C. § 227;
2. A declaration that Chase used an ATDS to call the Plaintiff;
3. An injunction requiring Defendant not to call any numbers after a request to cease communications to ensure that Plaintiff is not called in the future;
4. An injunction requiring Defendant to file quarterly reports of third party audits with the Court on its system and procedures not to call any numbers after a request to cease communications to ensure that Plaintiff is not called in the future;
5. An injunction requiring Defendant not to call any numbers after a request to cease communications to ensure that the class members are not called in the future;
6. An injunction requiring Defendant to file quarterly reports of third party audits with the Court on its system and procedures not to call any numbers after a request to cease communications to ensure that the class members are not called in the future;
7. An award of actual damages;
8. An award of statutory damages for Plaintiff and each Class member in the amount of \$500.00 for each and every call that violated the TCPA;
9. An award of treble damages, as provided by statute, of up to \$1,500.00 for Plaintiff and each Class member for each and every call that violated the TCPA;

10. An order certifying this action to be a proper class action pursuant to the Federal Rules of Civil Procedure 23, establishing the appropriate Classes and any Sub-classes the Court deems appropriate, finding that Plaintiff is a proper representative of the Classes, and appointing the lawyers and law firms representing Plaintiff as counsel for the Classes;
11. Attorney's fees, litigation expenses and costs of suit; and
12. Such further and other relief the Court deems reasonable and just.

### **JURY DEMAND**

Plaintiff, individually and on behalf of all others similarly situated, demands trial by jury.

Respectfully submitted,

/s/ William Peerce Howard

William Peerce Howard (FBN 0103330)  
Amanda J. Allen (FBN 098288)  
THE CONSUMER PROTECTION FIRM  
210-A South MacDill Avenue  
Tampa, FL 33609  
Telephone: 813-500-1500  
Facsimile: 813-435-2369  
Billy@TheConsumerProtectionFirm.com  
Amanda@TheConsumerProtectionFirm.com

Keith J. Keogh (FBN 126335)  
KEOGH LAW, LTD  
55 W. Monroe St, Suite 3390  
Chicago, IL 60603  
312-726-1092  
312-726-1093 (fax)  
Keith@KeoghLaw.com

*Attorneys for Plaintiff RAYMOND NEWKIRK*

JS 44 (Rev. 08/16)

**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**

RAYMOND NEWKIRK, individually and on behalf of all others similarly situated,

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

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

The Consumer Protection Firm, PLLC  
210-A South MacDill Avenue  
Tampa, FL 33609

**DEFENDANTS**

JP MORGAN CHASE BANK, N.A.

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
- ☒ 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	<b>PERSONAL INJURY</b> <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	<b>PERSONAL INJURY</b> <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 <b>PERSONAL PROPERTY</b> <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 <b>LABOR</b> <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 <b>IMMIGRATION</b> <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 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <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)) <b>FEDERAL TAX SUITS</b> <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
<b>REAL PROPERTY</b> <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	<b>CIVIL RIGHTS</b> <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	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <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 <b>Other:</b> <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

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
47 U.S.C. § 227 TCPA

**VI. CAUSE OF ACTION**

Brief description of cause:  
Violation 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  
 March 13, 2017

SIGNATURE OF ATTORNEY OF RECORD  
 s/William Peerce Howard

**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: [Class Action Against JP Morgan Chase Bank Cites TCPA Issues](#)

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