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6 Additional Attorneys for Plaintiff  
7 on Signature Page

8 *Attorneys for Plaintiff,*  
Keisha Newsom

9  
10 **UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

11  
12 KEISHA NEWSOM, individually and  
13 on behalf of others similarly situated

14 Plaintiff,

15 v.

16 GILA, LLC, d/b/a MUNICIPAL  
17 SERVICES BUREAU,

18 Defendant.

19 **Case No: '16CV3063 JLS JMA**

**COMPLAINT FOR DAMAGES  
AND INJUNCTIVE RELIEF  
FOR:**

- 20 **1. NEGLIGENT VIOLATIONS  
OF THE TELEPHONE  
CONSUMER PROTECTION  
ACT (TCPA), 47 U.S.C. § 227  
ET SEQ.**
- 21 **2. WILLFUL VIOLATIONS OF  
THE TELEPHONE  
CONSUMER PROTECTION  
ACT (TCPA), 47 U.S.C. § 227  
ET SEQ.**

22 **CLASS ACTION**

23 **JURY TRIAL DEMANDED**  
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**INTRODUCTION**

1  
2 1. Keisha Newsom, (“Plaintiff”), through Plaintiff’s attorneys, brings this  
3 Complaint for damages, injunctive relief, and any other available legal or  
4 equitable remedies, resulting from the illegal actions of Gila, LLC, D/B/A  
5 MUNICIPAL SERVICES BUREAU, (“Defendant”), in negligently or  
6 intentionally contacting Plaintiff on Plaintiff’s cellular telephones and leaving  
7 Plaintiff pre-recorded and artificial messages, in violation of the Telephone  
8 Consumer Protection Act, 47 U.S.C. § 227 et seq., (“TCPA”), thereby  
9 invading Plaintiff’s privacy. Plaintiff allege as follows upon personal  
10 knowledge as to herself and her own acts and experiences, and, as to all other  
11 matters, upon information and belief, including investigation conducted by  
12 her attorneys.

13 2. The TCPA was designed to prevent calls and messages like the ones described  
14 within this complaint, and to protect the privacy of citizens like Plaintiff.  
15 “Voluminous consumer complaints about abuses of telephone technology –  
16 for example, computerized calls dispatched to private homes – prompted  
17 Congress to pass the TCPA.” *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740,  
18 744 (2012).

19 3. In enacting the TCPA, Congress intended to give consumers a choice as to  
20 how creditors and telemarketers may call them, and made specific findings  
21 that “[t]echnologies that might allow consumers to avoid receiving such calls  
22 are not universally available, are costly, are unlikely to be enforced, or place  
23 an inordinate burden on the consumer. TCPA, Pub.L. No. 102–243, § 11.  
24 Toward this end, Congress found that

25 [b]anning such automated or prerecorded telephone calls to the  
26 home, except when the receiving party consents to receiving the  
27 call or when such calls are necessary in an emergency situation  
28 affecting the health and safety of the consumer, is the only  
effective means of protecting telephone consumers from this



1 nuisance and privacy invasion.

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

5 4. Congress also specifically found that “the evidence presented to the Congress  
6 indicates that automated or prerecorded calls are a nuisance and an invasion  
7 of privacy, regardless of the type of call....” *Id.* at §§ 12-13. *See also, Mims*,  
8 132 S. Ct. at 744.

9 5. As Judge Easterbrook of the Seventh Circuit recently explained in a TCPA  
10 case regarding calls similar to this one:

11 The Telephone Consumer Protection Act ... is well known for  
12 its provisions limiting junk-fax transmissions. A less-litigated  
13 part of the Act curtails the use of automated dialers and  
14 prerecorded messages to cell phones, whose subscribers often  
15 are billed by the minute as soon as the call is answered—and  
16 routing a call to 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.

17 *Soppet v. Enhanced Recovery Co., LLC*, 679 F.3d 637, 638 (7th Cir. 2012).

18 **JURISDICTION AND VENUE**

19 6. This Court has federal question jurisdiction because this case arises out of  
20 violation of federal law. 47 U.S.C. §227(b); *Mims v. Arrow Fin. Servs., LLC*,  
21 132 S. Ct. 740 (2012).

22 7. This action arises out of Defendant's violations of the Telephone Consumer  
23 Protection Act, 47 U.S.C. § 227 et seq., (“TCPA”).

24 8. Plaintiff is a natural person who resided in the City of San Diego, County of  
25 San Diego, State of California at the time of illegal acts.

26 9. Plaintiff resided in San Diego County, as defined by 28 U.S.C. § 1391c(1), the  
27 judicial district in which this lawsuit is brought.  
28



1 10. Defendant regularly attempts to collect alleged debts against consumers in  
2 city of Las Vegas, Nevada, by making phone calls to consumers, as Defendant  
3 did to Plaintiff as well.

4 11. Defendant made unwanted calls to Plaintiff where it had no permission to do  
5 so, and therefore failed to comply with federal laws.

6 12. Because a substantial part of the events or omissions giving rise to the claim  
7 occurred in this judicial district and Plaintiff resided in City and County of  
8 San Diego, venue is proper pursuant to 28 U.S.C. § 1391b(2).

9 13. At all times relevant, Defendant conducted business within the State of  
10 California by making unconsented pre-recorded telephone calls to Plaintiff.

11 14. Because Defendant's continuously and systematically conducts business in  
12 the State of California, personal jurisdiction is established.

13 15. By making unconsented pre-recorded telephone calls, Defendant has violated  
14 consumers' statutory rights and has caused consumers actual harm of paying  
15 for these unwanted calls and suffering from an invasion of privacy.

16 **PARTIES**

17 16. Plaintiff, Keisha Newsom ("Plaintiff") was a resident in the City of San  
18 Diego, State of California at the time of the illegal acts alleged herein.

19 17. Plaintiff is, and at all times mentioned herein was, a "person" as defined by 47  
20 U.S.C. § 153 (39).

21 18. Plaintiff is informed and believes, and thereon alleges, that Defendant is, and  
22 at all times mentioned herein was, a Texas limited liability company,  
23 registered to do business in California.

24 19. Defendant, is and at all times mentioned herein was, a limited liability  
25 company, and is a "person," as defined by 47 U.S.C. § 153 (39).

26 **FACTUAL ALLEGATIONS**

27 20. Sometime in around 2007-2008, Plaintiff was issued several traffic tickets in  
28 Nevada, resulting in accumulated debt for government fines.



1 21. Sometime in 2015, Plaintiff contacted Municipal Court of the City of Las  
2 Vegas to inquire regarding her traffic tickets.

3 22. At the time of the 2015 phone call, Plaintiff authorized the Las Vegas  
4 Municipal Court to contact Plaintiff via her cellular phone. Plaintiff did not,  
5 however, authorize any other entity, including the Defendant named herein, to  
6 call Plaintiff's cellular phone.

7 23. Sometime on or around May 12, 2015, Plaintiff began receiving telephone  
8 calls from Defendant on her cellular telephone ending with "2981" via an  
9 "automatic telephone dialing system" ("ATDS"), as defined by 47 U.S.C. §  
10 227(a)(1), using "an artificial or prerecorded voice" as prohibited by 47  
11 U.S.C. § 227(b)(1)(A).

12 24. During these phone Defendant's phone calls an automated and pre-recorded  
13 message played the following:

14 This is a message from Municipal Services Bureau Please  
15 be advised that this is neither a sales nor solicitation call.  
16 We are contacting you in a reference to an important  
17 matter. Please call us at 1(800) 295-0851 as soon as  
18 possible. We are open until 11 o'clock P.M. Central  
Standard Time, Monday through Friday, and 5 o'clock  
P.M. Central Standard Time on Saturday.

19 25. At all material times hereto, Plaintiff did not consent to Defendant's telephone  
20 calls on her cellular phone ending with "2981."

21 26. On June 5, 2015, the Law Office of Daniel Shay ("Shay") mailed a cease and  
22 desist letter from Shay and Plaintiff to Defendant informing Defendant of the  
23 following:

24 Client hereby revokes any prior express consent that  
25 may have been given to receive telephone calls,  
26 expressively to [Client's] cellular telephone, from an  
27 Automated Telephone Dialing System or an artificial or  
28 pre-recorded voice, as outlined in the Telephone  
Consumer Protection Act, 47 U.S.C. § 227 *et seq.*"



1 27. Despite Shay’s mailed cease and desist correspondence on June 5, 2015, on  
2 or around July 11, 2015, at 12:06 pm, Defendant called on Plaintiff’s cellular  
3 phone ending with “2981.”

4 28. On or about August 6, 2015, despite Shay’s cease and desist correspondence,  
5 Defendant again called on Plaintiff’s cellular phone ending with “2981,” at  
6 which time Plaintiff answered and listened to a prolonged pause. Plaintiff  
7 said “hello” at least four times, and after about five (5) seconds she was  
8 transferred to Defendant’s live representative. Defendant’s live representative  
9 asked for Plaintiff’s name, and then immediately disconnected the phone.

10 29. Defendant’s telephone calls on Plaintiff’s cellular telephone were made via an  
11 “automatic telephone dialing system” (“ATDS”), as defined by 47 U.S.C. §  
12 227(a)(1), using “an artificial or prerecorded voice” as prohibited by 47  
13 U.S.C. § 227(b)(1)(A).

14 30. The calls from Defendant came from phone numbers including, but not  
15 limited to, (512)-588-7714, (512)-623-6795, and 512-498-1028.

16 31. This ATDS has the capacity to store or produce telephone numbers to be  
17 called, using a random or sequential number generator.

18 32. Upon information and belief, Plaintiff had never given Defendant her consent  
19 to receive calls on her cellular phone, pursuant to 47 U.S.C. §§ 227 (b)(1)(A).

20 33. Subsequent to Shay’s cease and desist letter on June 5, 2015, Plaintiff did not  
21 provide Defendant with her “prior express consent” to receive calls on her  
22 cellular phone, pursuant to 47 U.S.C. § 227 (b)(1)(A).

23 34. Plaintiff did not provide “prior express consent” to Defendant to place  
24 telephone calls to Plaintiff’s cellular telephone with an artificial or  
25 prerecorded voice utilizing an ATDS as proscribed under 47 U.S.C. § 227(b)  
26 (1)(A).



1 35. Plaintiff revoked any consent, if it was ever given or Defendant mistakenly  
2 believed existed, through Shay's cease and desist correspondence on June 5,  
3 2015.

4 36. Through this action, Plaintiff suffered an invasion of her legally protected  
5 interest in privacy, which is specifically addressed and protected by the  
6 TCPA.

7 37. Plaintiff was personally affected because she was frustrated and distressed  
8 that despite her telling Defendant to stop calling her on her cell phone,  
9 Defendant continued to harass Plaintiff with calls using an ATDS.

10 38. Defendant's calls forced Plaintiff to live without the utility of Plaintiff's cell  
11 phone by forcing her to silence her cell phone and/or block incoming  
12 numbers.

13 39. Plaintiff is informed and believes and here upon alleges, that these calls were  
14 made by Defendant or Defendant's agent, with Defendant's permission,  
15 knowledge, control and for Defendant's benefit.

16 40. Plaintiff's telephone number Defendant called was assigned to a cellular  
17 telephone service for which Plaintiff incurs a charge for incoming calls  
18 pursuant to 47 U.S.C. § 227 (b)(1).

19 41. These telephone calls constitute calls that were not for emergency purposes as  
20 defined by 47 U.S.C. § 227(b)(1)(A)(i).

21 42. These telephone calls by Defendant or its agents violated 47 U.S.C. § 227(b)  
22 (1).

23 43. Through Defendant's aforementioned conduct, Plaintiff suffered an invasion  
24 of a legally protected interest in privacy, which is specifically addressed and  
25 protected by the TCPA.

26 44. Plaintiff was personally affected by Defendant's aforementioned conduct  
27 because Plaintiff was frustrated and distressed that, Defendant interrupted  
28 Plaintiff with unwanted calls using an ATDS.

1 45. Defendant's calls forced Plaintiff and other similarly situated class members  
2 to live without the utility of their cellular phones by occupying their cellular  
3 telephone with one or more unwanted calls, causing a nuisance and lost time.

4 **CLASS ACTION ALLEGATIONS**

5 46. Plaintiffs and the members of the Class and Revocation subclass have all  
6 suffered an injury in fact as a result of the Defendant's unlawful conduct.

7 47. The "Class Period" means four (4) years prior to the filing of the Complaint  
8 in this action.

9 48. Plaintiff brings this action on behalf of herself and on behalf of the following  
10 similarly situated Class consisting of:

11 All persons within the United States who received any  
12 telephone call from Defendant or its agent/s and/or  
13 employee/s, not sent for emergency purposes, to said  
14 persons' cellular telephone made through the use of any  
automatic telephone dialing system and/or with an  
artificial or prerecorded message within the four years  
prior to the filing of this Complaint.

15 49. Subject to additional information obtained through further investigation and/  
16 or discovery, the proposed subclass seeking certification of claims for  
17 declaration and injunctive relief, restitution and for damages pursuant to the  
18 TCPA, consisting of:

19 All persons within the United States who received any  
20 telephone call from Defendant or its agent/s and/or  
21 employee/s, made after the persons revoked consent, not  
22 sent for emergency purposes, to said persons' cellular  
23 telephone made through the use of any automatic  
24 telephone dialing system and/or with an artificial or  
prerecorded message within the four years prior to the  
filing of this Complaint. ("Revocation Subclass")

25 50. Defendant and its employees or agents are excluded from the Class. Plaintiff  
26 reserves the right to modify or amend the Class definition before the Court  
27 determines whether certification is appropriate.

28 51. **Ascertainability.** The members of the class and sub-class are readily  
ascertainable from Defendant's records and/or Defendant's agents' records by



1 searching and reviewing Defendant's debt collection call logs to debtors'  
2 cellular phones and cross-referencing the call logs with Defendant's database  
3 indicating which debtors provided Defendant with prior express consent to be  
4 contacted.

5 52. **Numerosity.** Plaintiff does not know the number of members in the Class and  
6 Revocation Subclass, but believes the Class members number in the several  
7 thousands, if not more. Thus, this matter should be certified as a Class action  
8 to assist in the expeditious litigation of this matter. The joinder of the Class  
9 members is impractical and the disposition of their claims in the Class action  
10 will provide substantial benefits both to the parties and to the court. The  
11 Class can be identified through Defendant's records.

12 53. **Typicality.** Plaintiff's claims are typical to the claims of the proposed Class  
13 and Revocation Subclass members because Plaintiff received calls using an  
14 automatic telephone dialing system or an artificial or prerecorded voice,  
15 without Plaintiff's express prior consent. Plaintiff is advancing the same legal  
16 claims and theories on behalf of herself and all absent members of the Class.  
17 This suit seeks only damages and injunctive relief for recovery of economic  
18 injury on behalf of the Class and it expressly is not intended to request any  
19 recovery for personal injury and claims related thereto. Plaintiff reserves the  
20 right to expand the Class definition to seek recovery on behalf of additional  
21 persons as warranted as facts are learned in further investigation and  
22 discovery. Furthermore, Plaintiff and members of the Class were harmed by  
23 the acts of Defendant in at least the following ways:

- 24 • Plaintiff and members of the Class and Revocation Subclass were  
25 harmed by the acts of Defendants in at least the following ways:  
26 Defendant, either directly or through its agents, illegally contacting  
27 Plaintiff and the Class members via their cellular telephones by using an  
28 ATDS, thereby causing Plaintiff and the Class and Revocation Subclass

1 members to incur certain cellular telephone charges or reduce cellular  
2 telephone time for which Plaintiff and the Class/Revocation Subclass  
3 members previously paid, and invading the privacy of said Plaintiff and  
4 the Class and Revocation Subclass members. Plaintiff and the Class  
5 and Revocation Subclass members were damaged thereby.

6 54. ***Existence and Predominance of Common Questions of Law and Fact.***

7 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 and Revocation Subclass predominate over questions which may  
10 affect individual Class and Revocation Subclass members, including, but not  
11 limited to, the following:

- 12 • Whether, within the four years prior to the filing of this Complaint,  
13 Defendant made any call (other than a call made for emergency  
14 purposes or made with the prior express consent of the called party) to a  
15 Class member using any automatic telephone dialing system or an  
16 artificial or prerecorded voice to any telephone number assigned to a  
17 cellular telephone service;
- 18 • Whether Plaintiff and the Class/Revocation Subclass members were  
19 damaged thereby, and the extent of damages for such violation; and
- 20 • Whether Defendant should be enjoined from engaging in such conduct  
21 in the future.

22 55. ***Adequacy of Representation.*** Plaintiff will fairly and adequately represent  
23 and protect the interests of the Class and Revocation Subclass in that Plaintiff  
24 has no interests antagonistic to any member of the Class and Revocation  
25 Subclass. Plaintiff has retained counsel experienced in consumer protection  
26 laws, including TCPA class actions.

27 56. ***Superiority.*** A class action is superior to all other available means for the fair  
28 and efficient adjudication of this controversy. Class-wide damages are

1 essential to induce Defendant to comply with federal and California law. The  
2 interest of Class and Revocation Subclass members in individually controlling  
3 the prosecution of separate claims against Defendant is small because the  
4 maximum statutory damages in an individual action for violation of privacy  
5 are minimal. Management of these claims is likely to present significantly  
6 fewer difficulties than those presented in many class claims. Individualized  
7 litigation would create the danger of inconsistent and/or contradictory  
8 judgments arising from the same set of facts. Individualized litigation would  
9 increase the delay and expense to all parties and the courts and the issues  
10 raised by this action. The damages or other financial detriment suffered by  
11 individual Class and Revocation Subclass members may be relatively small  
12 compared to the burden and expense that would be entailed by individual  
13 litigation of the claims against the Defendants. The injury suffered by each  
14 individual member of the proposed Class and Revocation Subclass is  
15 relatively small in comparison to the burden and expense of individual  
16 prosecution of the complex and extensive litigation necessitated by  
17 Defendant's unlawful and unconsented calls to Plaintiff's cellular phones. It  
18 would be virtually impossible for the members of the proposed Class and  
19 Revocation Subclass to individually redress effectively the wrongs to them.

20 57. Plaintiff and the members of the Class and Revocation Subclass have all  
21 suffered irreparable harm as a result of the Defendant's unlawful and  
22 wrongful conduct. Absent a class action, the Class will continue to face the  
23 potential for irreparable harm. In addition, these violations of law will be  
24 allowed to proceed without remedy and Defendant will likely continue such  
25 illegal conduct. Because of the size of the individual Class and Revocation  
26 Subclass member's claims, few, if any, Class and Revocation Subclass  
27 members could afford to seek legal redress for the wrongs complained of  
28 herein.

1 58. Defendant has acted on grounds generally applicable to the Class and  
2 Revocation Subclass, thereby making appropriate final injunctive relief and  
3 corresponding declaratory relief with respect to the Class as a whole.

4 **FIRST CAUSE OF ACTION**

5 **NEGLIGENT VIOLATIONS OF THE**  
6 **TELEPHONE CONSUMER PROTECTION ACT (TCPA)**

7 **47 U.S.C. § 227**

8 59. Plaintiff repeats, re-alleges, and incorporates by reference, all of the above  
9 paragraphs of this Complaint as though fully stated herein.

10 60. Plaintiff brings this claim on behalf of the Class and Revocation Subclass.

11 61. The foregoing acts and omissions constitute numerous and multiple violations  
12 of the TCPA, including but not limited to each and every one of the above-  
13 cited provisions of the TCPA, 47 U.S.C. 227 et. seq.

14 62. As a result of Defendant's negligent violations of 47 U.S.C. § 227 et seq.,  
15 Plaintiff is entitled to an award of \$500.00 in statutory damages, for each and  
16 every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

17 63. Plaintiff is also entitled to and seeks injunctive relief prohibiting such conduct  
18 in the future.

19 **SECOND CAUSE OF ACTION**

20 **KNOWING AND/OR WILLFUL VIOLATIONS OF THE**  
21 **TELEPHONE CONSUMER PROTECTION ACT (TCPA)**

22 **47 U.S.C. § 227**

23 64. Plaintiff repeats, re-alleges, and incorporates by reference, all of the above  
24 paragraphs of this Complaint as though fully stated herein.

25 65. Plaintiff brings this claim on behalf of the Class and Revocation Subclass.

26 66. The foregoing acts and omissions of Defendant constitute numerous and  
27 multiple knowing and/or willful violations of the TCPA, including but not  
28



1 limited to each and every one of the above-cited provisions of 47 U.S.C. §  
2 227 et seq.

3 67. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. §  
4 227 et seq., Plaintiff is entitled to treble damages, as provided by statute, up to  
5 \$1,500.00, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B)  
6 and 47 U.S.C. § 227(b)(3)(C).

7 **Prayer For Relief**

8 WHEREFORE, Plaintiff prays that judgment be entered against Defendant, and  
9 Plaintiff be awarded damages from Defendant, as follows:

- 10 • That the action regarding each violation of the TCPA be certified as a  
11 class action on behalf of the Class and requested herein;
- 12 • That Plaintiff be appointed as a representative of the Class;
- 13 • That Plaintiff's counsel be appointed as counsel for the Class;
- 14 • Statutory damages of \$500.00 for each negligent violation of the TCPA  
15 pursuant to 47 U.S.C. § 227(b)(3)(B) for each plaintiff and putative  
16 Class and Revocation Subclass member;
- 17 • Statutory damages of \$1,500.00 for each knowing and/or willful  
18 violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B) and 47  
19 U.S.C. § 227(b)(3)(C);
- 20 • Pursuant to 47 U.S.C § 227(b)(3)(A), injunctive relief prohibiting such  
21 conduct in the future;
- 22 • any and all other relief that this Court deems just and proper;

23 72. Pursuant to the seventh amendment to the Constitution of the United States  
24 of America, Plaintiff is entitled to, and demands, a trial by jury.

25  
26  
27 ///  
28 ///



Respectfully submitted,

**HYDE & SWIGART**

Date: December 19, 2016

By: s/Joshua Swigart

Joshua B. Swigart, Esq.

josh@westcoastlitigation.com

Attorney for Plaintiff

Additional Attorneys for Plaintiff:

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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

Keisha Newsom, individually and on behalf of others similarly situated

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Joshua B. Swigart, Esq. (225557); Yana A. Hart, Esq. (306499) Hyde & Swigart (619) 233-7770 2221 Camino Del Rio South, Suite 101, San Diego, CA 92108

DEFENDANTS

Gila, LLC dba Municipal Services Bureau

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)

'16CV3063 JLS JMA

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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, 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)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 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 12/19/2016 SIGNATURE OF ATTORNEY OF RECORD s/Joshua B. Swigart

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.



# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [TCPA Class Action Filed Against Municipal Services Bureau](#)

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