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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

GABRIELA PETTIBONE,
individually and on behalf of all others
similarly situated,

Plaintiff,

vs.

CITY COMPASSIONATE
CAREGIVERS, INC.,

Defendant.

Case No.

CLASS ACTION

**COMPLAINT FOR VIOLATIONS OF
THE TELEPHONE CONSUMER
PROTECTION ACT, 47 U.S.C. §§ 227,
ET SEQ. (TCPA)**

JURY TRIAL DEMANDED

1 **CLASS ACTION COMPLAINT**

2 1. Plaintiff Gabriela Pettibone (“Plaintiff”), brings this action against Defendant City
3 Compassionate Caregivers, Inc. (“Defendant”), to secure redress for violations of the Telephone
4 Consumer Protection Act (“TCPA”), 47 U.S.C. § 227.

5 **NATURE OF THE ACTION**

6 2. This is a putative class action pursuant to the Telephone Consumer Protection Act,
7 47 U.S.C. §§ 227, *et seq.* (the “TCPA”).

8 3. Defendant is a recreational cannabis dispensary. To promote its services, Defendant
9 engages in aggressive unsolicited marketing, harming thousands of consumers in the process.

10 4. Through this action, Plaintiff seeks injunctive relief to halt Defendant’s illegal
11 conduct, which has resulted in the invasion of privacy, harassment, aggravation, and disruption of
12 the daily life of thousands of individuals. Plaintiff also seeks statutory damages on behalf of
13 herself and members of the Class, and any other available legal or equitable remedies.

14 **JURISDICTION AND VENUE**

15 5. This Court has federal question subject matter jurisdiction over this action pursuant
16 to 28 U.S.C. § 1331, as the action arises under the Telephone Consumer Protection Act, 47 U.S.C.
17 §§ 227, *et seq.* (“TCPA”).

18 6. The Court has personal jurisdiction over Defendant and venue is proper in this
19 District because Defendant directs, markets, and provides its business activities to this District,
20 and because Defendant’s unauthorized marketing scheme was directed by Defendant to consumers
21 in this District, including Plaintiff.

22 **PARTIES**

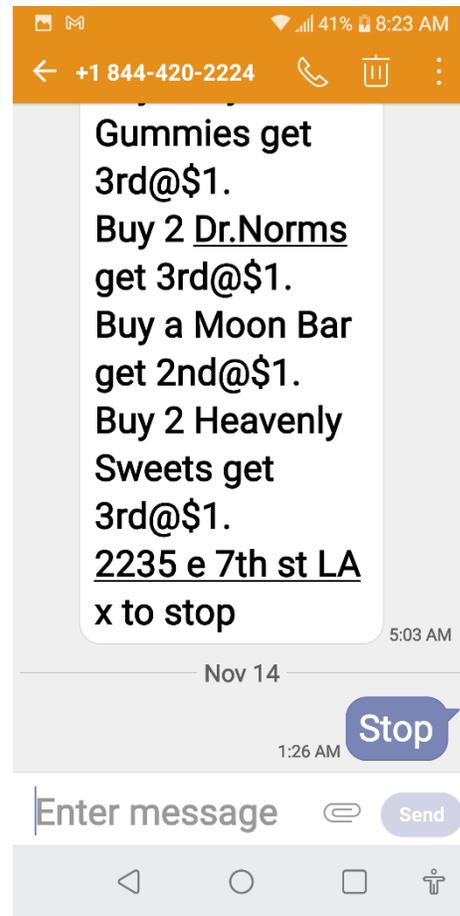
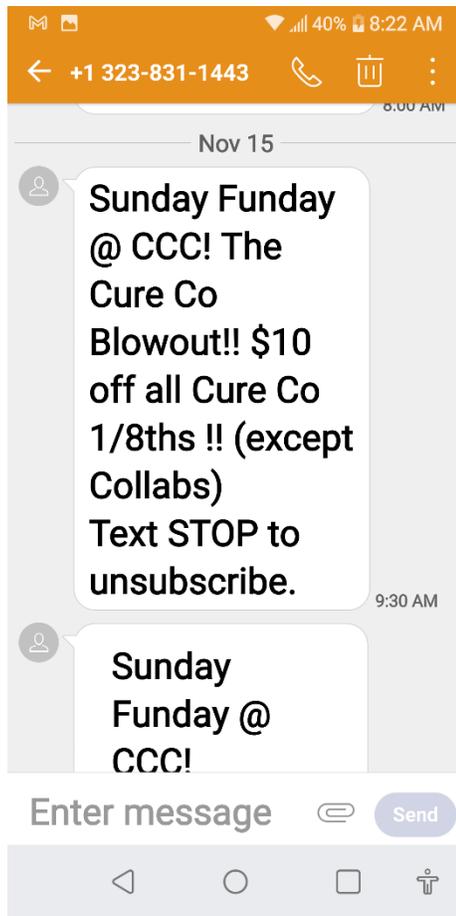
23 7. Plaintiff is a natural person who, at all times relevant to this action, was a resident
24 of Los Angeles County, California.

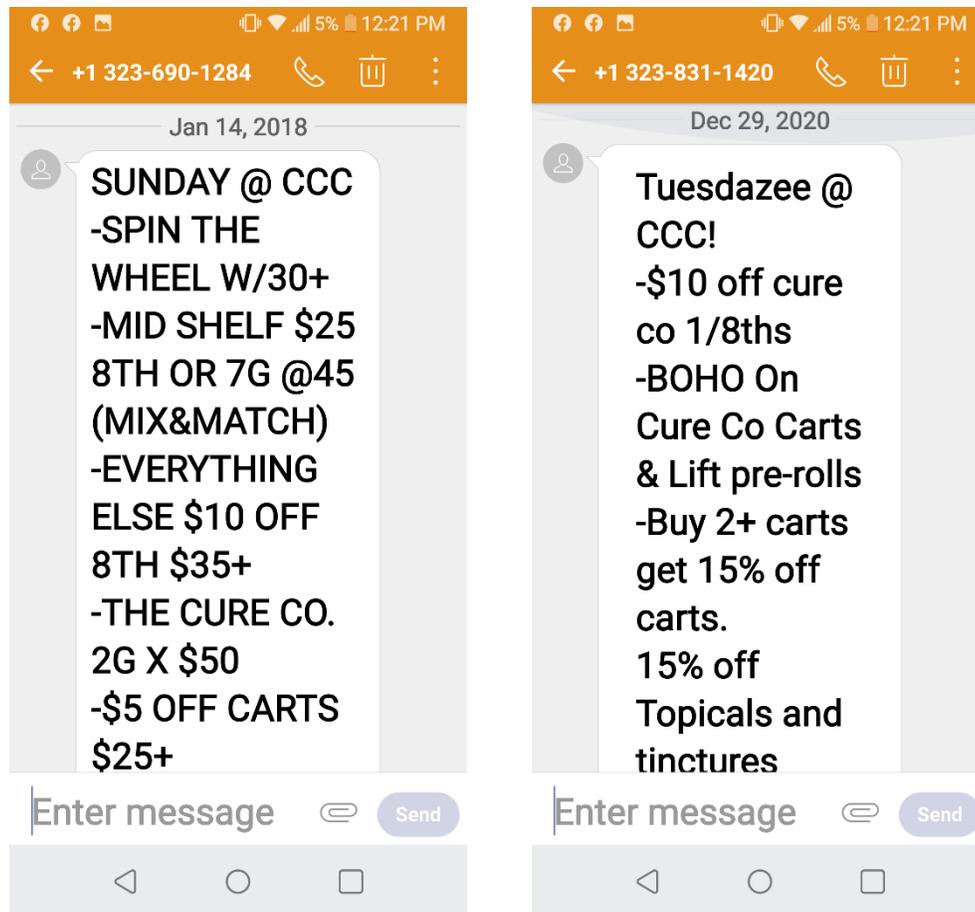
25 8. Defendant is a California corporation whose principal office is located at 2235 E
26 7th Street, Los Angeles, California 90023. Defendant directs, markets, and provides its business
27 activities throughout the United States, including throughout the state of California.

9. Unless otherwise indicated, the use of Defendant’s name in this Complaint includes all agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, vendors, and insurers of Defendant.

FACTUAL ALLEGATIONS

10. Over the past several years, Defendant sent numerous telemarketing text messages to Plaintiff’s cellular telephone number ending in 7319 (the “7319 Number”). The text messages conclude with opt-out instructions such as “Text STOP to unsubscribe.”





11. On November 14, 2020, Plaintiff responded with the word “Stop” in an attempt to opt-out of any further text message communications with Defendant.

12. Despite Plaintiff’s use of Defendant’s preferred opt-out language, Defendant ignored Plaintiff’s opt-out demand and continued to send Plaintiff further text messages from multiple numbers.

13. Defendant’s text messages were transmitted to Plaintiff’s cellular telephone, and within the time frame relevant to this action.

14. Defendant’s text messages constitute telemarketing because they encouraged the future purchase or investment in property, goods, or services, i.e., selling Plaintiff cannabis products.

15. The information contained in the text message advertises Defendant’s various discounts and promotions, which Defendant sends to promote its business.

1 16. Plaintiff received the subject texts within this judicial district and, therefore,
2 Defendant's violation of the TCPA occurred within this district. Upon information and belief,
3 Defendant caused other text messages to be sent to individuals residing within this judicial district.

4 17. Defendant's texts were not made for an emergency purpose or to collect on a debt
5 pursuant to 47 U.S.C. § 227(b)(1)(B).

6 18. Upon information and belief, Defendant does not have a written policy for
7 maintaining an internal do not call list pursuant to 47 U.S.C. § 64.1200(d)(1).

8 19. Upon information and belief, Defendant does not inform and train its personal
9 engaged in telemarketing in the existence and the use of any internal do not call list pursuant to 47
10 U.S.C. § 64.1200(d)(2).

11 20. At no point in time did Plaintiff provide Defendant with her express written consent
12 to be contacted.

13 21. To the extent that Defendant had express consent to contact Plaintiff, that consent
14 was expressly revoked when Plaintiff responded "Stop."

15 22. Plaintiff is the subscriber and sole user of the 7319 Number and is financially
16 responsible for phone service to the 7319 Number.

17 23. Plaintiff has been registered with the national do not call registry since January 13,
18 2009, and at all times relevant to this action.

19 24. The TCPA's implementing regulation, 47 C.F.R. § 64.1200(c), provides that "[n]o
20 person or entity shall initiate any telephone solicitation" to "[a] residential telephone subscriber
21 who has registered his or her telephone number on the national do-not-call registry of persons who
22 do not wish to receive telephone solicitations that is maintained by the federal government.

23 25. The text messages originated from telephone numbers 323-831-1443, 844-420-
24 2224, 323-690-1284, and 323-831-1420, all numbers which upon information and belief are owned
25 and operated by Defendant.

1 31. The exact number and identities of the members of the Class are unknown at this
2 time and can only be ascertained through discovery. Identification of the Class members is a
3 matter capable of ministerial determination from Defendant's call records.

4 **COMMON QUESTIONS OF LAW AND FACT**

5 32. There are numerous questions of law and fact common to members of the Class
6 which predominate over any questions affecting only individual members of the Class. Among
7 the questions of law and fact common to the members of the Class are:

- 8 a) Whether Defendant violated 47 C.F.R. § 64.1200(c);
- 9 b) Whether Defendant's conduct was knowing and willful;
- 10 c) Whether Defendant adhered to requests by class members to stop sending text
11 messages to their telephone numbers;
- 12 d) Whether Defendant keeps records of text recipients who revoked consent to
13 receive texts;
- 14 e) Whether Defendant has any written policies for maintaining an internal do not
15 call list;
- 16 f) Whether Defendant violated the privacy rights of Plaintiff and members of the
17 Class;
- 18 g) Whether Defendant is liable for damages, and the amount of such damages; and
- 19 h) Whether Defendant should be enjoined from such conduct in the future.

20 33. The common questions in this case are capable of having common answers. If
21 Plaintiff's claim that Defendant routinely transmits text messages to telephone numbers assigned
22 to cellular telephone services is accurate, Plaintiff and the Class members will have identical
23 claims capable of being efficiently adjudicated and administered in this case.

24 **TYPICALITY**

25 34. Plaintiff's claims are typical of the claims of the Class members, as they are all
26 based on the same factual and legal theories.

27 **PROTECTING THE INTERESTS OF THE CLASS MEMBERS**

1 35. Plaintiff is a representative who will fully and adequately assert and protect the
2 interests of the Class, and has retained competent counsel. Accordingly, Plaintiff is an adequate
3 representative and will fairly and adequately protect the interests of the Class.

4 **PROCEEDING VIA CLASS ACTION IS SUPERIOR AND ADVISABLE**

5 36. A class action is superior to all other available methods for the fair and efficient
6 adjudication of this lawsuit, because individual litigation of the claims of all members of the Class
7 is economically unfeasible and procedurally impracticable. While the aggregate damages sustained
8 by the Class are in the millions of dollars, the individual damages incurred by each member of the
9 Class resulting from Defendant's wrongful conduct are too small to warrant the expense of
10 individual lawsuits. The likelihood of individual Class members prosecuting their own separate
11 claims is remote, and, even if every member of the Class could afford individual litigation, the
12 court system would be unduly burdened by individual litigation of such cases.

13 37. The prosecution of separate actions by members of the Class would create a risk of
14 establishing inconsistent rulings and/or incompatible standards of conduct for Defendant. For
15 example, one court might enjoin Defendant from performing the challenged acts, whereas another
16 may not. Additionally, individual actions may be dispositive of the interests of the Class, although
17 certain class members are not parties to such actions.

18 **COUNT I**

19 **Violation of the TCPA, 47 U.S.C. § 227**

20 **(On Behalf of Plaintiff and the Do Not Call Registry Class)**

21 38. Plaintiff re-alleges and incorporates the foregoing allegations as if fully set forth
22 herein.

23 39. The TCPA's implementing regulation, 47 C.F.R. § 64.1200(c), provides that "[n]o
24 person or entity shall initiate any telephone solicitation" to "[a] residential telephone subscriber
25 who has registered his or her telephone number on the national do-not-call registry of persons who
26 do not wish to receive telephone solicitations that is maintained by the federal government."
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1 40. 47 C.F.R. § 64.1200(e), provides that § 64.1200(c) and (d) “are applicable to any
2 person or entity making telephone solicitations or telemarketing calls to wireless telephone
3 numbers.”¹

4 41. 47 C.F.R. § 64.1200(d) further provides that “[n]o person or entity shall initiate any
5 call for telemarketing purposes to a residential telephone subscriber unless such person or entity
6 has instituted procedures for maintaining a list of persons who request not to receive telemarketing
7 calls made by or on behalf of that person or entity.”

8 42. Any “person who has received more than one telephone call within any 12-month
9 period by or on behalf of the same entity in violation of the regulations prescribed under this
10 subsection may” may bring a private action based on a violation of said regulations, which were
11 promulgated to protect telephone subscribers’ privacy rights to avoid receiving telephone
12 solicitations to which they object. 47 U.S.C. § 227(c).

13 43. Defendant violated 47 C.F.R. § 64.1200(c) by initiating, or causing to be initiated,
14 telephone solicitations to telephone subscribers such as Plaintiff and the Do Not Call Registry
15 Class members who registered their respective telephone numbers on the National Do Not Call
16 Registry, a listing of persons who do not wish to receive telephone solicitations that is maintained
17 by the federal government.

18 44. Defendant violated 47 U.S.C. § 227(c)(5) because Plaintiff and the Do Not Call
19 Registry Class received more than one telephone call in a 12-month period made by or on behalf
20 of Defendant in violation of 47 C.F.R. § 64.1200, as described above. As a result of Defendant’s
21 conduct as alleged herein, Plaintiff and the Do Not Call Registry Class suffered actual damages
22 and, under section 47 U.S.C. § 227(c), are entitled, *inter alia*, to receive up to \$500 in damages for
23 such violations of 47 C.F.R. § 64.1200.

24
25
26 ¹ *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No.
27 02-278, Report and Order, 18 FCC Rcd 14014 (2003) Available at
28 https://apps.fcc.gov/edocs_public/attachmatch/FCC-03-153A1.pdf

1 45. To the extent Defendant’s misconduct is determined to be willful and knowing, the
2 Court should, pursuant to 47 U.S.C. § 227(c)(5), treble the amount of statutory damages
3 recoverable by the members of the Do Not Call Registry Class.

4
5 **COUNT II**
6 **Violation of the TCPA, 47 U.S.C. § 227**
7 **(On Behalf of Plaintiff and the Internal Do Not Call Class)**

8 46. Plaintiff re-alleges and incorporates the foregoing allegations set forth in
9 paragraphs 1 through 37 as is fully set forth herein.

10 47. The TCPA provides that any “person who has received more than one telephone
11 call within any 12-month period by or on behalf of the same entity in violation of the regulations
12 prescribed under this subsection may” bring a private action based on a violation of said
13 regulations, which were promulgated to protect telephone subscribers’ privacy rights to avoid
14 receiving telephone solicitations to which they object. 47 U.S.C. § 227(c)(5).

15 48. Under 47 C.F.R. § 64.1200(d), “[n]o person or entity shall initiate any call for
16 telemarketing purposes to a residential telephone subscriber unless such person or entity has
17 instituted procedures for maintaining a list of persons who request not to receive telemarketing
18 calls made by or on behalf of that person or entity. The procedures instituted must meet certain
19 minimum standards, including:

20
21 (3) Recording, disclosure of do-not-call requests. If a person or entity making a
22 call for telemarketing purposes (or on whose behalf such a call is made) receives a
23 request from a residential telephone subscriber not to receive calls from that
24 person or entity, the person or entity must record the request and place the
25 subscriber’s name, if provided, and telephone number on the do-not call list at the
26 time the request is made. Persons or entities making calls for telemarketing
27 purposes (or on whose behalf such calls are made) must honor a residential
28 subscriber’s do-not-call request within a reasonable time from the date such
request is made. This period may not exceed thirty days from the date of such
request

1 (6) Maintenance of do-not-call lists. A person or entity making calls for
2 telemarketing purposes must maintain a record of a consumer's request not to
3 receive further telemarketing calls. A do-not-call request must be honored for 5
4 years from the time the request is made.

47 C.F.R. § 64.1200(d)(3), (6).

5 49. Under 47 C.F.R § 64.1200(e) the rules set forth in 47 C.F.R. § 64.1200(d) are
6 applicable to any person or entity making telephone solicitations or telemarketing calls to wireless
7 telephone numbers:

8 (e) The rules set forth in paragraph (c) and (d) of this section are applicable to any
9 person or entity making telephone solicitations or telemarketing calls to wireless
10 telephone numbers to the extent described in the Commission's Report and Order,
11 CG Docket No. 02-278, FCC 03-153, "Rules and Regulations Implementing the
12 Telephone Consumer Protection Act of 1991.

47 C.F.R. § 64.1200(e).

13 50. Plaintiff and the Internal Do Not Call Class members made requests to Defendant
14 not to receive calls from Defendant.

15 51. Defendant failed to honor Plaintiff and the Internal Do Not Call Class members'
16 requests.

17 52. Upon information and belief, Defendant has not instituted procedures for
18 maintaining a list of persons who request not to receive telemarketing calls made by or on behalf
19 of their behalf, pursuant to 47 C.F.R. § 64.1200(d).

20 53. Because Plaintiff and the Internal Do Not Call Class members received more than
21 one text message in a 12-month period made by or on behalf of Defendant in violation of 47 C.F.R.
22 § 64.1200(d), as described above, Defendant violated 47 U.S.C. § 227(c)(5).

23 54. As a result of Defendant's violations of 47 U.S.C. § 227(c)(5), Plaintiff and the
24 Internal Do Not Call Class members are entitled to an award of \$500.00 in statutory damages, for
25 each and every negligent violation, pursuant to 47 U.S.C. § 227(c)(5).
26
27

1 55. As a result of Defendant's violations of 47 U.S.C. § 227(c)(5), Plaintiff and the
2 Internal Do Not Call Class members are entitled to an award of \$1,500.00 in statutory damages,
3 for each and every knowing and/or willful violation, pursuant to 47 U.S.C. § 227(c)(5).

4 56. Plaintiff and the Internal Do Not Call Class members also suffered damages in the
5 form of invasion of privacy.

6 57. Plaintiff and the Internal Do Not Call Class members are also entitled to and seek
7 injunctive relief prohibiting Defendant's illegal conduct in the future, pursuant to 47 U.S.C. §
8 227(c)(5).
9

10 **PRAYER FOR RELIEF**

11 **WHEREFORE**, Plaintiff, individually and on behalf of the Classes, prays for the
12 following relief:

- 13 a) An order certifying this case as a class action on behalf of the Class as defined
14 above, and appointing Plaintiff as the representative of the Class and Plaintiff's
15 counsel as Class Counsel;
- 16 b) An award of actual and statutory damages for Plaintiff and each member of the
17 Class;
- 18 c) An order declaring that Defendant's actions, as set out above, violate the TCPA;
- 19 d) An injunction requiring Defendant to cease all unsolicited text messaging activity,
20 and to otherwise protect the interests of the Class;
- 21 e) Such further and other relief as the Court deems necessary.

22 **JURY DEMAND**

23 Plaintiff hereby demands a trial by jury.

24 **DOCUMENT PRESERVATION DEMAND**

25 Plaintiff demands that Defendant take affirmative steps to preserve all records, lists,
26 electronic databases or other itemizations associated with the allegations herein, including all
27

1 records, lists, electronic databases or other itemizations in the possession of any vendors,
2 individuals, and/or companies contracted, hired, or directed by Defendant to assist in sending the
3 alleged communications.
4

5 Dated: July 19, 2021

6 Respectfully submitted,

7 By: /s/ Scott Edelsberg

8 **EDELSBERG LAW, P.A.**

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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Los Angeles Cannabis Dispensary Hit with Class Action Over Alleged Spam Texts](#)
