

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
FORT LAUDERDALE DIVISION**

KRISTEN POWELL, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

RETAILMENOT, INC., a Texas corporation

Defendant.

CASE NO.: 2020-cv-\_\_\_\_\_

**DEFENDANT RETAILMENOT, INC.’S NOTICE OF REMOVAL**

**PLEASE TAKE NOTICE** that pursuant to 28 U.S.C. §§ 1331, 1332, 1441, 1446 and 1453, with full reservations of all defenses, Defendant RetailMeNot, Inc. (“RetailMeNot” or “Defendant”), submits this Notice of Removal and thereby removes the civil action styled *Kristen Powell et al. v. RetailMeNot, Inc.*, Case No. CACE20011777, which was filed in the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida (the “State Action”), to the United States District Court for the Southern District of Florida, Fort Lauderdale Division. In support of this Notice of Removal, Defendant states as follows:

**I. Background**

1. On July 20, 2020, Plaintiff Kristen Powell (“Plaintiff”), purportedly on behalf of herself and others similarly situated, commenced the State Action by filing a two-count, putative class action lawsuit against RetailMeNot, under the federal Telephone Consumer Protection Act, 47 U.S.C. § 227 et. seq. (“TCPA”) in the County of Broward, Florida, Seventeenth Judicial Circuit.

2. This suit arises from text messages to Plaintiff’s telephone allegedly placed by

Defendant that Plaintiff alleges violated the TCPA.

3. Plaintiff alleges that the text messages at issue constituted a “nuisance and invasion of privacy” and were “costly and inconvenient” to the extent “wireless customers are charged from incoming calls whether they pay in advance or after the minutes are used.” (Complaint ¶¶ 15-19). Plaintiff also alleges that “Plaintiff and the Do Not Call Registry Class suffered actual damages,” (Complaint ¶ 60) and “were harmed” (Complaint ¶ 54). Among other relief, Plaintiff seeks “actual, statutory damages, and/or trebled statutory damages.” (Complaint p. 24 ¶ h).

4. Defendant’s registered agent was served with copies of the Summons and Complaint on July 23, 2020.

5. True and correct copies of Plaintiff’s Summons and Complaint are annexed hereto as *Exhibit A*.

6. As all procedural and substantive requirements related to the removal of this action have been performed or otherwise satisfied, as reflected below, Defendant now timely removes this action to this Court.

## **II. Basis for Federal Question Jurisdiction**

7. This Court has original subject matter jurisdiction of this action pursuant to 28 U.S.C. §§ 1331, 1441(a) and 1446. This claim should have been originally filed in this Court pursuant to 28 U.S.C. § 1331, as this Court has original jurisdiction over all claims and actions arising under the “Constitution, laws or treaties of the United States”.

8. Plaintiff’s Complaint asserts violations of a federal law, namely the TCPA. *See generally* Ex. A. The Supreme Court of the United States in *Mims v. Arrow Financial Services LLC*, 132 S. Ct. 740, 747-53 (2012), addressed the issue of whether the federal district courts

have jurisdiction over TCPA claims, holding that such a claim is, in fact, one that “arises under” the laws of the United States. As such, this Court has federal question jurisdiction over this matter. *See Duran v. Wells Fargo Bank, N.A.*, 878 F. Supp. 2d 1312, 1315-16 (S.D. Fla. 2012) (“This action was removed to this Court based on federal question jurisdiction, 28 U.S.C. § 1331, because the Complaint alleges a violation of the TCPA. . . . It is established that federal courts have subject matter jurisdiction over TCPA claims.”) (internal citation omitted).

9. Moreover, pursuant to 28 U.S.C. § 1441(a), “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.” Thus, this Court has federal question jurisdiction.

### **III. Basis for Jurisdiction Under the Class Action Fairness Act of 2005 (“CAFA”)**

10. This Court also has original subject matter jurisdiction of this action pursuant to CAFA, 28 U.S.C. §§ 1332(d), which grants district courts original jurisdiction over class actions in which the amount in controversy exceeds \$5,000,000 and any member of the class of plaintiffs is a citizen of a State different from any defendant. As set forth below, this action satisfies each of the requirements of Section 1332(d)(2) for original jurisdiction under CAFA. *See Standard Fire Ins. Co. v. Knowles*, 568 U.S. 588, 592 (2013).

11. Covered Class Action. This action meets the CAFA definition of a class action which is “any civil action filed under [R]ule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure.” 28 U.S.C. §§ 1332(d)(1)(B), 1453(a) & (b). (Complaint ¶ 38). Plaintiff seeks to represent two classes comprised of and defined as:

**No Consent Class**: All persons who from four years prior to the filing of this action (1) received a text message from Defendant, (2) sent using the same type of

equipment utilized to text message Plaintiff, (3) for the purpose of promoting Defendant's goods and/or services, and (4) for whom Defendant claims (a) it did not obtain prior express written consent, or (b) it obtained prior express written consent in the same manner as Defendant claims it supposedly obtained prior express written consent to call the Plaintiff [excluding Defendant and its employees or agents].

**Do Not Call Registry Class:** All persons in the United States who from four years prior to the filing of this action (1) were sent a text message by Defendant; (2) more than one time within any 12-month period; (3) where the person's telephone number had been listed on the National Do Not Call Registry for at least thirty days; (4) for the purpose of advertising and/or promoting Defendant's products and/or services; and (5) for whom Defendant (a) did not obtain an express invitation or permission from the recipient, and (b) did not have an established business relationship with the recipient [excluding Defendant and its employees or agents].

(Complaint ¶¶ 38-39).

12. Diversity. The required diversity of citizenship under CAFA is satisfied because "any member of a class of plaintiffs is a citizen of a State different from any defendant." 28 U.S.C. § 1332(d)(2)(A). Plaintiff purports to be a resident of the State of Florida as of the time the suit was filed. 28 U.S.C. § 1332(d)(7), (Complaint ¶ 5). As alleged in the Complaint, RetailMeNot is a company incorporated in Delaware with its principal place of business in Texas. (Complaint ¶ 6). Thus, the diversity requirements of CAFA are satisfied. 28 U.S.C. § 1332(d)(2)(A).

13. Class Action Consisting of More than 100 Members. Plaintiff alleges she "believes the Class members number in the several thousands, if not more [sic]." (Complaint ¶ 39).

14. Amount in Controversy. Under CAFA, the claims of the individual class members are aggregated to determine if the amount in controversy exceeds the required "sum or value of \$5,000,000, exclusive of interest and costs." 28 U.S.C. §§ 1332(d)(2), (d)(6). Plaintiff, on her behalf as well as those of the putative class members, seeks damages and injunctive relief.

(Complaint ¶ 4 and Prayer for Relief c-d, g-h). Damages claimed are “a minimum of \$500.00” and/or “trebled statutory damages” of \$1,500.00 per TCPA violation. (Complaint ¶¶ 54, Prayer for Relief d., 60, 61, Prayer for Relief h.). Plaintiff also alleges that the “aggregate damages sustained by the Class are in the millions of dollars . . .” (Complaint ¶ 46). As applied to this case, 3,334 putative class members claiming similar damages would exceed the \$5,000,000 threshold under CAFA, and, as noted above, Plaintiff has alleged that the putative class members could “number in the *several* thousands, *if not more* [sic].” (Complaint ¶ 39) (emphasis added). This, coupled with Plaintiff’s estimated class size, without conceding any merit to the Complaint’s damages allegations or causes of action, and for purposes of removal only, makes it is plausible that the amount in controversy here satisfies CAFA’s jurisdictional threshold.

**IV. Defendant has Satisfied all the Procedural Requirements for Removal**

15. Pursuant to 28 U.S.C. § 1441(a), the present action may be removed to the United States District Court for the Southern District of Florida.

16. Defendant’s registered agent was served with copies of the Summons and Complaint on July 23, 2020.

17. Defendant’s Notice of Removal is therefore timely under 28 U.S.C. § 1446(b).

18. Defendant will promptly serve a copy of this Notice of Removal upon all counsel of record and will file a copy of this Notice with the Clerk of the Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida pursuant to 28 U.S.C. § 1446(d).

19. In accordance with 28 U.S.C. § 1446, copies of all process and papers received by Defendant in the State Action have been attached to this Notice of Removal as *Exhibit A*.

**V. Venue**

20. Venue is proper in this District Court pursuant to 28 U.S.C. §1441(a), because

this action was brought in the Seventeenth Judicial District, in and for Broward County, Florida which is in the same District as the United States District Court for the Southern District of Florida.

21. Defendant hereby reserves all rights to assert any defense or affirmative matter, including, without limitation, motions to dismiss pursuant to Fed. R. Civ. P. 12, as well as to amend or supplement this Notice of Removal.

**VI. Conclusion**

Defendant respectfully requests that this Court proceed with this lawsuit as if it had been originally filed in this Court, and that the Court grant Defendant such other relief to which it is justly entitled.<sup>1</sup>

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<sup>1</sup> By filing this notice and removing, Defendant does not waive any rights, defenses, arguments, or privileges with respect to the Complaint or otherwise, including but not limited to the right to assert any applicable contractual or extra-contractual provisions or obligations that may exist between the parties (e.g., arbitration clauses or class action waivers).

Dated: August 21, 2020

Respectfully submitted,

By: /s/ Yaniv Adar

Yaniv Adar (Florida Bar No. 63804)  
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*Attorneys for Defendant  
RetailMeNot, Inc.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 21<sup>st</sup> day of August 2020, a true and correct copy of the foregoing was served by electronic transmission through the Court's CM/ECF system upon all counsel of record.

Manuel S. Hiraldo, Esq.  
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Jibrael S. Hindi, Esq.  
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By: s/Yaniv Adar  
Yaniv Adar, Esq.



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.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS KRISTEN POWELL, individually and on behalf of all others similarly situated DEFENDANTS RETAILMENOT, INC.

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Manuel Hiraldo, Hiraldo P.A., 401 E. Las Olas Blvd., Ste. 1400, Fort Lauderdale, FL 33301 (954) 400-4713 | Jibreal S. Hindi, Esq. The Law Offices of Jibreal S. Hindi, 110 SE 6th Street, Suite 1744, Fort Lauderdale, FL 33301 (954) 400-4713 | Yaniv Adar, Mark Migdal & Hayden, Brickell City Tower 80 SW 8th Street, Suite 1999, Miami, FL 33130 (305) 374-6623

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only) III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Grid for Basis of Jurisdiction and Citizenship of Principal Parties with checkboxes for U.S. Government Plaintiff/Defendant, Federal Question, Diversity, Citizen of This/Another State, and Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions

Large grid for Nature of Suit with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, PERSONAL INJURY, TORTS, LABOR, IMMIGRATION, FORFEITURE/PENALTY, 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 Re-filed (See VI below) 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation Transfer 7 Appeal to District Judge from Magistrate Judgment 8 Multidistrict Litigation - Direct File 9 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S) (See instructions): a) Re-filed Case YES NO b) Related Cases YES NO JUDGE: DOCKET NUMBER:

VII. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. §§ 1331, 1332, 1441, 1446 and 1453

LENGTH OF TRIAL via 5 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE DATE 08/21/2020 SIGNATURE OF ATTORNEY OF RECORD /s/ Yaniv Adar

**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.C.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; 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.** 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.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

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.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

**VI. Related/Refiled Cases.** This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

**VII. 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

**VIII. 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 dollar amount (in thousands of dollars) 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.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

# EXHIBIT A



**Service of Process  
Transmittal**

07/23/2020  
CT Log Number 537982328

**TO:** SHELLEY POLLOK  
VERICAST CORP.  
15955 LA CANTERA PKWY  
SAN ANTONIO, TX 78256-2589

**RE: Process Served in Florida**

**FOR:** RetailMeNot, Inc. (Domestic State: DE)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

**TITLE OF ACTION:** KRISTEN POWELL, individually and on behalf of all others similarly situated,  
Pltf. vs. RETAILMENOT, INC., etc., Dft.

**DOCUMENT(S) SERVED:** -

**COURT/AGENCY:** None Specified  
Case # NONE

**ON WHOM PROCESS WAS SERVED:** C T Corporation System, Plantation, FL

**DATE AND HOUR OF SERVICE:** By Process Server on 07/23/2020 at 12:03

**JURISDICTION SERVED :** Florida

**APPEARANCE OR ANSWER DUE:** None Specified

**ATTORNEY(S) / SENDER(S):** None Specified

**ACTION ITEMS:** SOP Papers with Transmittal, via UPS Next Day Air , 1ZX212780128723189  
Image SOP  
Email Notification, LEE ANN STEVENSON lstevenson@mafgrp.com  
Email Notification, BRADLEY WILDER bradley.wilder@vericast.com  
Email Notification, SHELLEY POLLOK shelley.pollok@vericast.com  
Email Notification, SONYA SZOT sonya.szot@vericast.com  
Email Notification, EVELYN CALIX ecalix@mafgrp.com  
Email Notification, BRETT BROADWATER bb01895@rmn.com

**SIGNED:** C T Corporation System  
**ADDRESS:** 1999 Bryan Street  
Suite 900  
Dallas, TX 75201

**For Questions:** 866-665-5799  
SouthTeam2@wolterskluwer.com

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.



## PROCESS SERVER DELIVERY DETAILS

**Date:** Thu, Jul 23, 2020  
**Server Name:** Francisco Carreras  
**Location:** Florida, FL

**Entity Served:** RETAILMENOT, INC.  
**Agent Name:** C T CORPORATION SYSTEM  
**Case Number:** NONE  
**Jurisdiction:** FL



IN THE COUNTY COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA

KRISTEN POWELL,

**Plaintiff,**

**CIVIL ACTION SUMMONS**

v.

RETAILMENOT, INC.,

**Defendant.**

7/23/20  
C/S  
[Signature]

**SUMMONS**

THE STATE OF FLORIDA:

To Each Sheriff of the State:

YOU ARE COMMANDED to serve this summons and a copy of the complaint or petition in this action on Defendant:

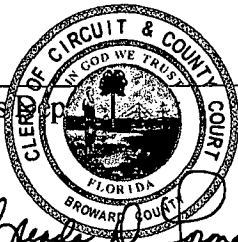
RETAILMENOT, INC.  
c/o C T CORPORATION SYSTEM  
1200 SOUTH PINE ISLAND ROAD  
PLANTATION, FL 33324

Each defendant is required to serve written defenses to the complaint or petition on Plaintiff's attorney, Jibrael. S. Hindi, Esq., The Law Offices of Jibrael S. Hindi, PLLC, 110 SE 6th Street, Suite 1744, Fort Lauderdale, Florida 33301, within 20 days after service of this summons on that defendant, exclusive of the day of service, and to file the original of the defenses with the clerk of this court either before service on Plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint or petition.

DATED on:           JUL 22 2020          

Brenda D. Forman, Clerk of the Court

By: \_\_\_\_\_

As [Signature]  
  
BRENDA D. FORMAN

**IMPORTANT**

A lawsuit has been filed against you. You have 20 calendar days after this summons is served on you to file a written response to the attached complaint with the clerk of this court. A phone call will not protect you. Your written response, including the case number given above and the names of the parties, must be filed if you want the court to hear your side of the case. If you do not file your response on time, you may lose the case, and your wages, money, and property may thereafter be taken without further warning from the court. There are other legal requirements. You may want to call an attorney right away.

If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book). If you choose to file a written response yourself, at the same time you file your written response to the court you must also mail or take a copy of your written response to the "Plaintiff/Plaintiff's Attorney" named below.

**IMPORTANTE**

Usted ha sido demandado legalmente. Tiene 20 dias, contados a partir del recibo de esta notificacion, para contestar la demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada telefonica no lo protegera. Si usted desea que el tribunal considere su defensa, debe presentar su respuesta por escrito, incluyendo el numero del caso y los nombres de las partes interesadas. Si usted no contesta la demanda a tiempo, podiese perder el caso y podria ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal. Existen otros requisitos legales. Si lo desea, puede usted consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen en la guia telefonica.

Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, debera usted enviar por correo o entregar una copia de su respuesta a la persona denominada abajo como "Plaintiff/Plaintiff's Attorney" (Demandante o Abogado del Demandante).

**FORM 1.997. CIVIL COVER SHEET**

The civil cover sheet and the information contained in it neither replace nor supplement the filing and service of pleadings or other documents as required by law. This form must be filed by the plaintiff or petitioner with the Clerk of Court for the purpose of reporting data pursuant to section 25.075, Florida Statutes. (See instructions for completion.)

**I. CASE STYLE**

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT,  
IN AND FOR BROWARD COUNTY, FLORIDA

Case No.: \_\_\_\_\_  
Judge: \_\_\_\_\_

Kristen Powell  
Plaintiff

vs.

Retailmenot, Inc.  
Defendant

**II. AMOUNT OF CLAIM**

Please indicate the estimated amount of the claim rounded to the nearest dollar \$30,000

**III. TYPE OF CASE** (If the case fits more than one type of case, select the most definitive category.) If the most descriptive label is a subcategory (is indented under a broader category), place an x on both the main category and subcategory lines.

- Condominium
- Contracts and indebtedness
- Eminent domain
- Auto negligence
- Negligence – other
  - Business governance
  - Business torts
  - Environmental/Toxic tort
  - Third party indemnification
  - Construction defect
  - Mass tort
  - Negligent security
  - Nursing home negligence
  - Premises liability – commercial
  - Premises liability – residential
- Products liability
- Real Property/Mortgage foreclosure
  - Commercial foreclosure
  - Homestead residential foreclosure
  - Non-homestead residential foreclosure
  - Other real property actions
- Professional malpractice
  - Malpractice – business
  - Malpractice – medical

- Malpractice – other professional
- Other
  - Antitrust/Trade Regulation
  - Business Transaction
  - Circuit Civil - Not Applicable
  - Constitutional challenge-statute or ordinance
  - Constitutional challenge-proposed amendment
  - Corporate Trusts
  - Discrimination-employment or other
  - Insurance claims
  - Intellectual property
  - Libel/Slander
  - Shareholder derivative action
  - Securities litigation
  - Trade secrets
  - Trust litigation
- County Civil
  - Small Claims up to \$8,000
  - Civil
  - Replevins
  - Evictions
  - Other civil (non-monetary)



**COMPLEX BUSINESS COURT**

This action is appropriate for assignment to Complex Business Court as delineated and mandated by the Administrative Order. Yes  No

**IV. REMEDIES SOUGHT** (check all that apply):

- Monetary;
- Non-monetary declaratory or injunctive relief;
- Punitive

**V. NUMBER OF CAUSES OF ACTION:**

(Specify)

2

**VI. IS THIS CASE A CLASS ACTION LAWSUIT?**

- Yes
- No

**VII. HAS NOTICE OF ANY KNOWN RELATED CASE BEEN FILED?**

- No
- Yes – If “yes” list all related cases by name, case number and court:

**VIII. IS JURY TRIAL DEMANDED IN COMPLAINT?**

- Yes
- No

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I CERTIFY that the information I have provided in this cover sheet is accurate to the best of my knowledge and belief, and that I have read and will comply with the requirements of Florida Rule of Judicial Administration 2.425.

Signature: s/ Thomas John Patti III

Attorney or party

FL Bar No.: 118377

(Bar number, if attorney)

Thomas John Patti III

(Type or print name)

Date: 07/20/2020

**IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA**

**KRISTEN POWELL,**  
individually and on behalf of all  
others similarly situated,

Plaintiff,

**CLASS ACTION**

**JURY TRIAL DEMANDED**

v.

**RETAILMENOT, INC.,**  
a Texas corporation,

Defendant.

**CLASS ACTION COMPLAINT**

Plaintiff Kristen Powell brings this class action against Defendant Retailmenot, Inc., and alleges as follows upon personal knowledge as to herself and her own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by her attorneys.

**NATURE OF THE ACTION**

1. This is a putative class action under the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.*, (“TCPA”).
2. Defendant owns and operates various websites that offer coupons and deals for various products.
3. To advertise its website and services, Defendant engages in unsolicited text messaging including to individuals who are on the National Do Not Call Registry.
4. Through this action, Plaintiff seeks injunctive relief to halt Defendant’s unlawful conduct. Plaintiff also seeks statutory damages on behalf of herself and Class Members, as defined below, and any other available legal or equitable remedies resulting from the illegal actions of Defendant.

**PARTIES**

5. Plaintiff is, and at all times relevant hereto was, a citizen and resident of Broward County, Florida.

6. Defendant is, and at all times relevant hereto was, a Delaware corporation with its principal place of business located at 15955 La Cantera Parkway, San Antonio, Texas 78256.

**JURISDICTION, VENUE, AND STANDING**

7. This Court has subject matter jurisdiction pursuant to Florida Rule of Civil Procedure 1.220 and Section 26.012(2), Florida Statutes. The matter in controversy exceeds the sum or value of \$30,000 exclusive of interest, costs, and attorney's fees.

8. Defendant is subject to personal jurisdiction in Florida because this suit arises out of and relates to Defendant's contacts with this state. Defendant initiated and directed, or caused to be initiated and directed by its agent(s), telemarketing and/or advertising text messages into Florida via an ATDS and without the requisite prior express written consent in violation of the TCPA. Specifically, Defendant initiated and directed, or caused to be initiated and directed by its agent(s), the transmission of unsolicited text messages to Plaintiff in Florida. Plaintiff received such messages while residing in and physically present in Florida.

9. Venue for this action is proper in this Court because all facts giving rise to this action occurred in this circuit.

10. Plaintiff has standing to maintain this action because she suffered a legal injury as a result of Defendant's violations of the TCPA, and because she is not requesting an advisory opinion from this Court. Thus, Plaintiff has a sufficient stake in a justiciable controversy and seeks to obtain judicial resolution of that controversy.

### **THE TCPA**

13. The TCPA prohibits: (1) any person from calling a cellular telephone number; (2) using an automatic telephone dialing system; (3) without the recipient's prior express consent. 47 U.S.C. § 227(b)(1)(A).

14. The TCPA defines an "automatic telephone dialing system" ("ATDS") as "equipment that has the capacity - (A) to store or produce telephone numbers to be called, using a random or sequential number generator; and (B) to dial such numbers." 47 U.S.C. § 227(a)(1).

15. The TCPA exists to prevent communications like the ones described within this Complaint. *See Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 744 (2012).

16. In an action under the TCPA, a plaintiff must show only that the defendant "called a number assigned to a cellular telephone service using an automatic dialing system or prerecorded voice." *Breslow v. Wells Fargo Bank, N.A.*, 857 F. Supp. 2d 1316, 1319 (S.D. Fla. 2012), *aff'd*, 755 F.3d 1265 (11th Cir. 2014).

17. The Federal Communications Commission ("FCC") is empowered to issue rules and regulations implementing the TCPA. According to the FCC's findings, calls in violation of the TCPA 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.

18. A defendant must demonstrate that it obtained the plaintiff's prior express consent. *See In the Matter of Rules and Regulations Implementing the Tel. Consumer Prot. Act of 1991*, 30 FCC Rcd. 7961, 7991-92 (2015) (requiring express consent "for non-telemarketing and non-advertising calls").

19. Further, the FCC has issued rulings and clarified that consumers are entitled to the

same consent-based protections for text messages as they are for calls to wireless numbers. See *Satterfield v. Simon & Schuster, Inc.*, 569 F.3d 946, 952 (9th Cir. 2009) (“The FCC has determined that a text message falls within the meaning of ‘to make any call’ in 47 U.S.C. § 227(b)(1)(A)”).

**FACTS**

20. On or about July 16, 2020, Defendant sent the following unsolicited text messages to Plaintiff’s cellular telephone number:



20. Plaintiff received the subject text messages within this judicial district and, therefore, Defendant’s violation of the TCPA occurred within this district.

21. Upon information and belief, Defendant caused similar text messages to be sent to individuals residing within this judicial district.

22. Plaintiff is the sole user and/or subscriber of the cellular telephone number that received the above text messages.

23. At no point in time did Plaintiff provide Defendant with her express written consent to be contacted using an ATDS.

24. At no point in time did Plaintiff provide Defendant with her express invitation or permission to be contacted on her cellular telephone.

25. At no point in time did Plaintiff provide Defendant with her express consent to be contacted using an ATDS.

26. At no point in time did Plaintiff provide Defendant with her telephone number for any reason.

27. Plaintiff has never had any type of relationship, business or otherwise, with Defendant.

28. Plaintiff registered the cellular telephone number that received the above text messages on the National Do Not Call Registry on February 16, 2018. Plaintiff's cellular telephone number has been consistently registered on the DNC since February 16, 2018.

29. The impersonal and generic nature of Defendant's text message demonstrates that Defendant utilized an ATDS in transmitting the message.

30. The number used by Defendant (42767) is known as a "short code," a standard 5-digit code that enables Defendant to send SMS text messages en masse.

31. Upon information and belief, to send the text message, Defendant used a messaging platform (the "Platform") that permitted Defendant to transmit thousands of text messages automatically and without any human involvement.

32. Upon information and belief, the Platform has the capacity to store telephone numbers.

33. Upon information and belief, the Platform has the capacity to generate sequential numbers.

34. Upon information and belief, the Platform has the capacity to dial numbers in sequential order.

35. Upon information and belief, the Platform has the capacity to dial numbers from a list of numbers.

36. Upon information and belief, the Platform has the capacity to dial numbers without human intervention.

37. Upon information and belief, the Platform has the capacity to schedule the time and date for future transmission of text messages.

### **CLASS ALLEGATIONS**

#### **PROPOSED CLASSES**

38. Plaintiff brings this lawsuit as a class action on behalf of herself individually and on behalf of all other similarly situated persons as a class action pursuant to Florida Rule of Civil Procedure 1.220(b)(2) and (b)(3). The Classes that Plaintiffs seeks to represent is comprised of and defined as:

**No Consent Class:** All persons who from four years prior to the filing of this action (1) received a text message from Defendant, (2) sent using the same type of equipment utilized to text message Plaintiff, (3) for the purpose of promoting Defendant's goods and/or services, and (4) for whom Defendant claims (a) it did not obtain prior express written consent, or (b) it obtained prior express written consent in the same manner as Defendant claims it supposedly obtained prior express written consent to call the Plaintiff.

**Do Not Call Registry Class:** All persons in the United States who from four years prior to the filing of this action (1) were sent a text message by Defendant; (2) more than one time within any 12-month period; (3) where the person's telephone number had been listed on the National Do Not Call Registry for at least thirty days; (4) for the purpose of advertising and/or promoting Defendant's products and/or services; and (5) for whom Defendant (a) did not obtain an express invitation or permission from the recipient, and (b) did not have an established business relationship with the recipient.

39. Defendant and its employees or agents are excluded from the Classes. Plaintiff does not know the number of members in the Class but believes the Class members number in the several thousands, if not more.

**NUMEROSITY**

40. Upon information and belief, Defendant has placed automated calls to cellular telephone numbers belonging to thousands of consumers throughout the United States without their prior express consent. The members of the Class, therefore, are believed to be so numerous that joinder of all members is impracticable.

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

**COMMON QUESTIONS OF LAW AND FACT**

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

- a Whether Defendant made non-emergency calls to Plaintiff and Class members' cellular telephones using an ATDS;



- b. Whether Defendant made solicitation calls to individuals on the National Do Not Call Registry;
- c. Whether Defendant can meet its burden of showing that it had express written consent to make such calls;
- d. Whether Defendant's conduct was knowing and willful;
- e. Whether Defendant is liable for damages, and the amount of such damages; and
- f. Whether Defendant should be enjoined from such conduct in the future.

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

#### **TYPICALITY**

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

#### **PROTECTING THE INTERESTS OF THE CLASS MEMBERS**

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

#### **SUPERIORITY**

46. A class action is superior to all other available methods for the fair and efficient adjudication of this lawsuit, because individual litigation of the claims of all members of the Class is economically unfeasible and procedurally impracticable. While the aggregate damages sustained by the Class are in the millions of dollars, the individual damages incurred by each member of the Class

resulting from Defendant's wrongful conduct are too small to warrant the expense of individual lawsuits. The likelihood of individual Class members prosecuting their own separate claims is remote, and, even if every member of the Class could afford individual litigation, the court system would be unduly burdened by individual litigation of such cases.

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

**COUNT I**  
**Violation of the TCPA, 47 U.S.C. § 227(b)**  
**(On Behalf of Plaintiff and the No Consent Class)**

48. Plaintiff re-alleges and incorporates paragraphs 1 through 47 of this Complaint as if fully set forth herein

49. It is a violation of the TCPA 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 ... to any telephone number assigned to a ... cellular telephone service ...." 47 U.S.C. § 227(b)(1)(A)(iii).

50. The TCPA defines an "automatic telephone dialing system" (hereinafter "ATDS") as "equipment which has the capacity – (A) to store or produce telephone numbers to be called, using a random or sequential number generator; and (B) to dial such numbers." *Id.* at §227(a)(1).

51. Defendant used equipment having the capacity to store telephone numbers, using a random or sequential generator, and to dial such numbers and/or to dial numbers from a list automatically, without human intervention, to make non-emergency telephone calls to the cellular telephones of Plaintiff and the other members of the Class.

52. These calls were made without regard to whether Defendant had express written consent from the called party to make such calls. In fact, Defendant did not have prior express written consent to call the cell phones of Plaintiff and the other members of the putative Class when its calls were made.

53. Defendant violated § 227(b)(1)(A)(iii) of the TCPA by using an automatic telephone dialing system to make non-emergency telephone calls to the cell phones of Plaintiff and the other members of the putative Class without their prior express consent.

54. As a result of Defendant's conduct and pursuant to § 227(b)(3) of the TCPA, Plaintiff and the other members of the putative Class were harmed and are each entitled to a minimum of \$500.00 in damages for each violation. Plaintiff and the class are also entitled to an injunction against future calls.

**WHEREFORE**, Plaintiff Kristen Powell, on behalf of herself and the other members of the Class, prays for the following relief:

a A declaration that Defendant's practices described herein violate the Telephone Consumer Protection Act, 47 U.S.C. § 227;

b A declaration that Defendant's violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, were willful and knowing;

c An injunction prohibiting Defendant from using an automatic telephone dialing system to call and text message telephone numbers assigned to cellular telephones without the prior express consent of the called party;

d An award of actual, statutory damages, and/or trebled statutory damages; and

Such further and other relief the Court deems reasonable and just.

**COUNT II**  
**Violation of the TCPA, 47 U.S.C. § 227(c)**  
**(On Behalf of Plaintiff and the Do Not Call Registry Class)**

55. Plaintiff re-alleges and incorporates paragraphs 1 through 47 of this Complaint as if fully set forth herein.

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

57. 47 C.F.R. § 64.1200(e), provides that § 64.1200(c) and (d) "are applicable to any person or entity making telephone solicitations or telemarketing calls to wireless telephone numbers."<sup>1</sup>

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

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

60. Defendant violated 47 U.S.C. § 227(c)(5) because Plaintiff and the Do Not Call Registry Class received more than one telephone call in a 12-month period made by or on behalf of Defendant in violation of 47 C.F.R. § 64.1200, as described above. As a result of Defendant's conduct

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<sup>1</sup> *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order, 18 FCC Rcd 14014 (2003) Available at [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-03-153A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-03-153A1.pdf)

as alleged herein, Plaintiff and the Do Not Call Registry Class suffered actual damages and, under section 47 U.S.C. § 227(c), are entitled, *inter alia*, to receive up to \$500 in damages for such violations of 47 C.F.R. § 64.1200.

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

**WHEREFORE**, Plaintiff Kristen Powell, on behalf of herself and the other members of the Class, prays for the following relief:

e. A declaration that Defendant's practices described herein violate the Telephone Consumer Protection Act, 47 U.S.C. § 227;

f. A declaration that Defendant's violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, were willful and knowing;

g. An injunction prohibiting Defendant from using an automatic telephone dialing system to call and text message telephone numbers assigned to cellular telephones without the prior express consent of the called party;

h. An award of actual, statutory damages, and/or trebled statutory damages; and

Such further and other relief the Court deems reasonable and just.

**JURY DEMAND**

Plaintiff and Class Members hereby demand a trial by jury.

**DOCUMENT PRESERVATION DEMAND**

Plaintiff demands that Defendant takes affirmative steps to preserve all records, lists, electronic databases or other itemization of telephone numbers associated with Defendant and the communication or transmittal of the text messages as alleged herein.

Date: July 18, 2020

Respectfully submitted,

**HIRALDO P.A.**

/s/ Manuel S. Hiraldo

Manuel S. Hiraldo, Esq.  
Florida Bar No. 030380  
401 E. Las Olas Boulevard  
Suite 1400  
Ft. Lauderdale, Florida 33301  
Email: mhiraldo@hirdolaw.com  
Telephone: 954.400.4713

**THE LAW OFFICES OF  
JIBRAEL S. HINDI**

/s/ Jibrael S. Hindi

Jibrael S. Hindi, Esq.  
Florida Bar No. 118259  
E-mail: jibrael@jibraellaw.com  
Thomas J. Patti, Esq.  
Florida Bar No.: 118377  
110 SE 6th Street  
Suite 1744  
Ft. Lauderdale, Florida 33301  
Email: tom@jibraellaw.com  
Telephone: 954-628-5793

*Counsel for Plaintiff and the Class*

In the Circuit Court of the Seventeenth Judicial Circuit  
In and for Broward County, Florida

Kristen Powell

Plaintiff

vs.

Defendant

Case No: CACE 20-11777

Judge:

Division:

Retainment, Inc.

CLERK'S CERTIFICATE OF COMPLIANCE

I hereby certify that pursuant to Administrative Order, No. 2020-4-Civ/UFC/CO:

"ADMINISTRATIVE ORDER DIRECTING CLERK OF COURTS WITH REGARD TO DISMISSED CIVIL OR FAMILY CASES",

The Clerk has conducted a search for all previous existing civil cases related to these two parties.

Listed below are all the aforementioned related cases: None

FILED  
JUL 22 2020  
By \_\_\_\_\_

Brenda D. Forman  
Circuit and County Courts

By: KETORRA BURCH  
Deputy Clerk

**RETURN OF SERVICE**

**State of Florida**

**County of Broward**

**17th Judicial Circuit Court**

Case Number: CACE-20-0011777 DIV 09

Plaintiff:

**Kristen Powell**

vs.

Defendant:

**Retailmenot, Inc.**

For:

Jibrael Hindi

The Law Offices Of Jibrael S. Hindi, PLLC

jibrael@tom@bryon@jibraellaw.com

110 SE 6th Street, 17th Floor

Ft. Lauderdale, FL 33301


Received by All Broward Process Corp on the 22nd day of July, 2020 at 9:40 am to be served on **Retailmenot, Inc. c/o CT Corporation System, 1200 S Pine Island Road, Plantation, FL 33324.**

I, Francisco X. Carreras, do hereby affirm that on the **23rd day of July, 2020 at 11:30 am, I:**

served a **REGISTERED AGENT** by delivering a true copy of the **Civil Action Summons, Class Action Complaint, Civil Cover Sheet** with the date and hour of service endorsed thereon by me, to: **Donna Moch as Registered Agent** at the address of: **1200 S Pine Island Road, Plantation, FL 33324** on behalf of **Retailmenot, Inc.**, and informed said person of the contents therein, in compliance with state statutes.

**Description** of Person Served: Age: 55+, Sex: F, Race/Skin Color: White, Height: 5'5", Weight: 140, Hair: Brown, Glasses: N

I certify that I am over the age of 18, have no interest in the above action, and am a Certified Process Server, in good standing, in the judicial circuit in which the process was served. Under penalty of perjury I declare I have read the foregoing Return of Service and that the facts stated are true. Notary not required pursuant to F.S. 92.525(2). Electronically signed in accordance with FSS 48.21(1).



---

**Francisco X. Carreras**  
#582

**All Broward Process Corp**  
701 N Fig Tree Lane  
Plantation, FL 33317  
(954) 214-5194

Our Job Serial Number: BPC-2020001816



**IN THE COUNTY COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA**

KRISTEN POWELL,

**Plaintiff,**

v.

RETAILMENOT, INC.,

**Defendant.**

**CIVIL ACTION SUMMONS**

7/23/20  
[Handwritten signature]

**SUMMONS**

THE STATE OF FLORIDA:

To Each Sheriff of the State:

YOU ARE COMMANDED to serve this summons and a copy of the complaint or petition in this action on Defendant:

RETAILMENOT, INC.  
c/o C T CORPORATION SYSTEM  
1200 SOUTH PINE ISLAND ROAD  
PLANTATION, FL 33324

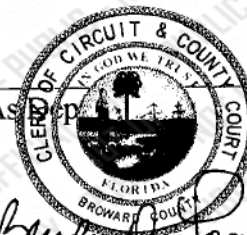
Each defendant is required to serve written defenses to the complaint or petition on Plaintiff's attorney, Jibrael S. Hindi, Esq., The Law Offices of Jibrael S. Hindi, PLLC, 110 SE 6th Street, Suite 1744, Fort Lauderdale, Florida 33301, within 20 days after service of this summons on that defendant, exclusive of the day of service, and to file the original of the defenses with the clerk of this court either before service on Plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint or petition.

DATED on: JUL 22 2020

Brenda D. Forman, Clerk of the Court

By: \_\_\_\_\_

As \_\_\_\_\_



*Brenda D. Forman*  
**BRENDA D. FORMAN**

**IMPORTANT**

A lawsuit has been filed against you. You have 20 calendar days after this summons is served on you to file a written response to the attached complaint with the clerk of this court. A phone call will not protect you. Your written response, including the case number given above and the names of the parties, must be filed if you want the court to hear your side of the case. If you do not file your response on time, you may lose the case, and your wages, money, and property may thereafter be taken without further warning from the court. There are other legal requirements. You may want to call an attorney right away.

If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book). If you choose to file a written response yourself, at the same time you file your written response to the court you must also mail or take a copy of your written response to the "Plaintiff/Plaintiff's Attorney" named below.

**IMPORTANTE**

Usted ha sido demandado legalmente. Tiene 20 días, contados a partir del recibo de esta notificación, para contestar la demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada telefónica no lo protegerá. Si usted desea que el tribunal considere su defensa, debe presentar su respuesta por escrito, incluyendo el número del caso y los nombres de las partes interesadas. Si usted no contesta la demanda a tiempo, pudiese perder el caso y podría ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal. Existen otros requisitos legales. Si lo desea, puede usted consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen en la guía telefónica.

Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, deberá usted enviar por correo o entregar una copia de su respuesta a la persona denominada abajo como "Plaintiff/Plaintiff's Attorney" (Demandante o Abogado del Demandante).

**RETURN OF SERVICE**

**State of Florida**

**County of Broward**

**17th Judicial Circuit Court**

Case Number: CACE-20-0011777 DIV 09

Plaintiff:

**Kristen Powell**

vs.

Defendant:

**Retailmenot, Inc.**

For:

Jibrael Hindi

The Law Offices Of Jibrael S. Hindi, PLLC

jibrael@tom@bryon@jibraellaw.com

110 SE 6th Street, 17th Floor

Ft. Lauderdale, FL 33301

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I, Francisco X. Carreras, do hereby affirm that on the **23rd day of July, 2020 at 11:30 am, I:**

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**Description** of Person Served: Age: 55+, Sex: F, Race/Skin Color: White, Height: 5'5", Weight: 140, Hair: Brown, Glasses: N

I certify that I am over the age of 18, have no interest in the above action, and am a Certified Process Server, in good standing, in the judicial circuit in which the process was served. Under penalty of perjury I declare I have read the foregoing Return of Service and that the facts stated are true. Notary not required pursuant to F.S. 92.525(2). Electronically signed in accordance with FSS 48.21(1).



**Francisco X. Carreras**  
#582

**All Broward Process Corp**  
701 N Fig Tree Lane  
Plantation, FL 33317  
(954) 214-5194

Our Job Serial Number: BPC-2020001816

**IN THE COUNTY COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA**

KRISTEN POWELL,

**Plaintiff,**

v.

RETAILMENOT, INC.,

**Defendant.**

**CIVIL ACTION SUMMONS**

*7/23/20 1:30  
[Signature]*

**SUMMONS**

THE STATE OF FLORIDA:

To Each Sheriff of the State:

YOU ARE COMMANDED to serve this summons and a copy of the complaint or petition in this action on Defendant:

RETAILMENOT, INC.  
c/o C T CORPORATION SYSTEM  
1200 SOUTH PINE ISLAND ROAD  
PLANTATION, FL 33324

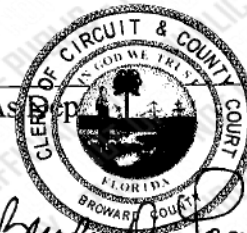
Each defendant is required to serve written defenses to the complaint or petition on Plaintiff's attorney, Jibrael S. Hindi, Esq., The Law Offices of Jibrael S. Hindi, PLLC, 110 SE 6th Street, Suite 1744, Fort Lauderdale, Florida 33301, within 20 days after service of this summons on that defendant, exclusive of the day of service, and to file the original of the defenses with the clerk of this court either before service on Plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint or petition.

DATED on: JUL 22 2020

Brenda D. Forman, Clerk of the Court

By: \_\_\_\_\_

As \_\_\_\_\_



*[Signature]*  
**BRENDA D. FORMAN**

**IMPORTANT**

A lawsuit has been filed against you. You have 20 calendar days after this summons is served on you to file a written response to the attached complaint with the clerk of this court. A phone call will not protect you. Your written response, including the case number given above and the names of the parties, must be filed if you want the court to hear your side of the case. If you do not file your response on time, you may lose the case, and your wages, money, and property may thereafter be taken without further warning from the court. There are other legal requirements. You may want to call an attorney right away.

If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book). If you choose to file a written response yourself, at the same time you file your written response to the court you must also mail or take a copy of your written response to the "Plaintiff/Plaintiff's Attorney" named below.

**IMPORTANTE**

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Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, deberá usted enviar por correo o entregar una copia de su respuesta a la persona denominada abajo como "Plaintiff/Plaintiff's Attorney" (Demandante o Abogado del Demandante).

IN THE CIRCUIT COURT OF THE 17<sup>TH</sup>  
JUDICIAL CIRCUIT IN AND FOR  
BROWARD COUNTY, FLORIDA

CASE NO.: CACE-2020-011777

KRISTEN POWELL,

Plaintiff,

v.

RETAILMENOT, INC.,

Defendant.

---

**DEFENDANT'S UNOPPOSED MOTION FOR  
ENLARGEMENT OF TIME TO RESPOND TO COMPLAINT**

Pursuant to Florida Rule of Civil Procedure 1.090(b), Defendant RetailMeNot, Inc. ("RMN"),<sup>1</sup> hereby moves the Court for entry of an Order extending the time for it to respond to the Complaint through to and including September 11, 2020, and states:

1. The Complaint was served on RMN on or about July 23, 2020. Accordingly, RMN's response to the Complaint is due on August 12, 2020.
2. Undersigned counsel was just retained in this matter and is in the process of reviewing the Complaint but, due to undersigned counsel's recent retention, workload, and commitments in various other ongoing matters, is in need of additional time within which to review and analyze the issues raised in the Complaint and determine how to proceed.

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<sup>1</sup> RMN reserves all rights including, but not limited to, the right to compel arbitration, remove this action to federal court, and to assert the defenses of lack of subject-matter jurisdiction, lack of personal jurisdiction, improper venue, insufficient process, insufficient service of process, lack of standing, failure to state a claim upon which relief can be granted, and any other defenses to the purported claims alleged in Plaintiff's Complaint.

3. This motion is made in good faith and not for the purpose of intentional or bad faith delay. No party to this action will be unduly prejudiced by granting the requested extension of time.

4. The undersigned has conferred with Plaintiff's counsel, Manuel Hiraldo, who indicated that Plaintiff consents to the relief sought herein.

WHEREFORE, Defendant RMN respectfully requests that the Court enter an Order extending the time for it to serve a response to the Complaint through to and including September 11, 2020.

DATED: August 7, 2020

Respectfully submitted,

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*Counsel for Defendant*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on August 7, 2020, a copy of the foregoing was electronically filed through the Florida Courts E-Filing Portal which will send electronic notification of the above

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s/ Yaniv Adar

Yaniv Adar, Esq.

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Florida Woman Sues RetailMeNot Over Alleged Spam Text Messages](#)

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