

1 Plaintiff RON RAMOS (“Plaintiff”), individually and on behalf of all others
2 similarly situated, alleges the following upon information and belief based upon
3 personal knowledge:

4 **NATURE OF THE CASE**

5 1. Plaintiff brings this action individually and on behalf of all others
6 similarly situated seeking damages and any other available legal or equitable
7 remedies resulting from the illegal actions of TAX DEFENSE PARTNERS, A
8 CALIFORNIA LIMITED LIABILITY COMPANY (“Defendant”), in negligently,
9 knowingly, and/or willfully contacting Plaintiff on Plaintiff’s cellular telephone in
10 violation of the Telephone Consumer Protection Act, *47 U.S.C. § 227 et seq.*
11 (“TCPA”) and related regulations, specifically the National Do-Not-Call
12 provisions, thereby invading Plaintiff’s privacy.

13 **JURISDICTION & VENUE**

14 2. Jurisdiction is proper under *28 U.S.C. § 1332(d)(2)* because Plaintiff,
15 a resident of California, seeks relief on behalf of a Class, which will result in at
16 least one class member belonging to a different state than that of Defendant, a
17 California company. Plaintiff also seeks up to \$1,500.00 in damages for each call
18 in violation of the TCPA, which, when aggregated among a proposed class in the
19 thousands, exceeds the \$5,000,000.00 threshold for federal court jurisdiction.
20 Therefore, both diversity jurisdiction and the damages threshold under the Class
21 Action Fairness Act of 2005 (“CAFA”) are present, and this Court has jurisdiction.

22 3. Venue is proper in the United States District Court for the Southern
23 District of California pursuant to *28 U.S.C. § 1391(b)* and because Defendant does
24 business within the State of California and Plaintiff resides within the County of
25 San Diego.

26 **PARTIES**

27 4. Plaintiff, RON RAMOS (“Plaintiff”), is a natural person residing in
28 San Marcos, California and is a “person” as defined by *47 U.S.C. § 153 (39)*.

1 cellular telephone service for which Plaintiff incurs a charge for incoming calls
2 pursuant to 47 U.S.C. § 227(b)(1).

3 13. During all relevant times, Defendant did not possess Plaintiff's "prior
4 express consent" to receive calls using an automatic telephone dialing system or an
5 artificial or prerecorded voice on his cellular telephone pursuant to 47 U.S.C. §
6 227(b)(1)(A).

7 14. Further, Plaintiff's cellular telephone number ending in -1554 was
8 added to the National Do-Not-Call Registry on or about December 16, 2004.

9 15. Defendant placed multiple calls soliciting its business to Plaintiff on
10 his cellular telephone ending in -1554 from in or around September of 2015 through
11 April of 2016.

12 16. Such calls constitute solicitation calls pursuant to 47 C.F.R. §
13 64.1200(c)(2) as they were attempts to promote or sell Defendant's services.

14 17. Plaintiff received numerous solicitation calls from Defendant within a
15 12-month period.

16 18. Defendant continued to call Plaintiff in an attempt to solicit its
17 services and in violation of the National Do-Not-Call provisions of the TCPA.

18 19. Upon information and belief, and based on Plaintiff's experiences of
19 being called by Defendant after being on the National Do-Not-Call list for several
20 years prior to Defendant's initial call, and at all relevant times, Defendant failed to
21 establish and implement reasonable practices and procedures to effectively prevent
22 telephone solicitations in violation of the regulations prescribed under 47 U.S.C. §
23 227(c)(5).

24 **CLASS ALLEGATIONS**

25 20. Plaintiff brings this action individually and on behalf of all others
26 similarly situated, as a member the two proposed classes (hereafter, jointly, "The
27 Classes").

28 21. The class concerning the ATDS claim for no prior express consent

1 (hereafter “The ATDS Class”) is defined as follows:

2 All persons within the United States who received any
3 solicitation/telemarketing telephone calls from
4 Defendant to said person’s cellular telephone made
5 through the use of any automatic telephone dialing
6 system or an artificial or prerecorded voice and such
7 person had not previously consented to receiving such
8 calls within the four years prior to the filing of this
9 Complaint

9 22. The class concerning the National Do-Not-Call violation (hereafter
10 “The DNC Class”) is defined as follows:

11 All persons within the United States registered on the
12 National Do-Not-Call Registry for at least 30 days, who
13 had not granted Defendant prior express consent nor had
14 a prior established business relationship, who received
15 more than one call made by or on behalf of Defendant
16 that promoted Defendant’s products or services, within
17 any twelve-month period, within four years prior to the
18 filing of the complaint.

18 23. Plaintiff represents, and is a member of, The ATDS Class, consisting
19 of all persons within the United States who received any collection telephone calls
20 from Defendant to said person’s cellular telephone made through the use of any
21 automatic telephone dialing system or an artificial or prerecorded voice and such
22 person had not previously not provided their cellular telephone number to
23 Defendant within the four years prior to the filing of this Complaint.

24 24. Plaintiff represents, and is a member of, The DNC Class, consisting
25 of all persons within the United States registered on the National Do-Not-Call
26 Registry for at least 30 days, who had not granted Defendant prior express consent
27 nor had a prior established business relationship, who received more than one call
28 made by or on behalf of Defendant that promoted Defendant’s products or services,

1 within any twelve-month period, within four years prior to the filing of the
2 complaint.

3 25. Defendant, its employees and agents are excluded from The Classes.
4 Plaintiff does not know the number of members in The Classes, but believes the
5 Classes members number in the thousands, if not more. Thus, this matter should
6 be certified as a Class Action to assist in the expeditious litigation of the matter.

7 26. The Classes are so numerous that the individual joinder of all of its
8 members is impractical. While the exact number and identities of The Classes
9 members are unknown to Plaintiff at this time and can only be ascertained through
10 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
11 The Classes includes thousands of members. Plaintiff alleges that The Classes
12 members may be ascertained by the records maintained by Defendant.

13 27. Plaintiff and members of The ATDS Class were harmed by the acts of
14 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
15 and ATDS Class members via their cellular telephones thereby causing Plaintiff
16 and ATDS Class members to incur certain charges or reduced telephone time for
17 which Plaintiff and ATDS Class members had previously paid by having to retrieve
18 or administer messages left by Defendant during those illegal calls, and invading
19 the privacy of said Plaintiff and ATDS Class members.

20 28. Common questions of fact and law exist as to all members of The
21 ATDS Class which predominate over any questions affecting only individual
22 members of The ATDS Class. These common legal and factual questions, which
23 do not vary between ATDS Class members, and which may be determined without
24 reference to the individual circumstances of any ATDS Class members, include,
25 but are not limited to, the following:

- 26 a. Whether, within the four years prior to the filing of this
27 Complaint, Defendant made any telemarketing/solicitation call
28 (other than a call made for emergency purposes or made with

1 the prior express consent of the called party) to a ATDS Class
2 member using any automatic telephone dialing system or any
3 artificial or prerecorded voice to any telephone number
4 assigned to a cellular telephone service;

5 b. Whether Plaintiff and the ATDS Class members were damaged
6 thereby, and the extent of damages for such violation; and

7 c. Whether Defendant should be enjoined from engaging in such
8 conduct in the future.

9 29. As a person that received numerous telemarketing/solicitation calls
10 from Defendant using an automatic telephone dialing system or an artificial or
11 prerecorded voice, without Plaintiff's prior express consent, Plaintiff is asserting
12 claims that are typical of The ATDS Class.

13 30. Plaintiff and members of The DNC Class were harmed by the acts of
14 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
15 and DNC Class members via their telephones for solicitation purposes, thereby
16 invading the privacy of said Plaintiff and the DNC Class members whose telephone
17 numbers were on the National Do-Not-Call Registry. Plaintiff and the DNC Class
18 members were damaged thereby.

19 31. Common questions of fact and law exist as to all members of The
20 DNC Class which predominate over any questions affecting only individual
21 members of The DNC Class. These common legal and factual questions, which do
22 not vary between DNC Class members, and which may be determined without
23 reference to the individual circumstances of any DNC Class members, include, but
24 are not limited to, the following:

25 a. Whether, within the four years prior to the filing of this
26 Complaint, Defendant or its agents placed more than one
27 solicitation call to the members of the DNC Class whose
28 telephone numbers were on the National Do-Not-Call Registry

1 and who had not granted prior express consent to Defendant and
2 did not have an established business relationship with
3 Defendant;

4 b. Whether Defendant obtained prior express written consent to
5 place solicitation calls to Plaintiff or the DNC Class members'
6 telephones;

7 c. Whether Plaintiff and the DNC Class member were damaged
8 thereby, and the extent of damages for such violation; and

9 d. Whether Defendant and its agents should be enjoined from
10 engaging in such conduct in the future.

11 32. As a person that received numerous solicitation calls from Defendant
12 within a 12-month period, who had not granted Defendant prior express consent
13 and did not have an established business relationship with Defendant, Plaintiff is
14 asserting claims that are typical of the DNC Class.

15 33. Plaintiff will fairly and adequately protect the interests of the members
16 of The Classes. Plaintiff has retained attorneys experienced in the prosecution of
17 class actions.

18 34. A class action is superior to other available methods of fair and
19 efficient adjudication of this controversy, since individual litigation of the claims
20 of all Classes members is impracticable. Even if every Classes member could
21 afford individual litigation, the court system could not. It would be unduly
22 burdensome to the courts in which individual litigation of numerous issues would
23 proceed. Individualized litigation would also present the potential for varying,
24 inconsistent, or contradictory judgments and would magnify the delay and expense
25 to all parties and to the court system resulting from multiple trials of the same
26 complex factual issues. By contrast, the conduct of this action as a class action
27 presents fewer management difficulties, conserves the resources of the parties and
28 of the court system, and protects the rights of each Classes member.

1 Plaintiff and the DNC Class Members are entitled an award of \$500.00 in statutory
2 damages, for each and every violation, pursuant to *47 U.S.C. § 227(c)(5)(B)*.

3 48. Plaintiff and the DNC Class members are also entitled to and seek
4 injunctive relief prohibiting such conduct in the future.

5 **FOURTH CAUSE OF ACTION**

6 **Knowing and/or Willful Violations of the Telephone Consumer Protection**

7 **Act**

8 **47 U.S.C. §227 et seq.**

9 **On Behalf of the DNC Class**

10 49. Plaintiff repeats and incorporates by reference into this cause of action
11 the allegations set forth above at Paragraphs 1-36.

12 50. The foregoing acts and omissions of Defendant constitute numerous
13 and multiple knowing and/or willful violations of the TCPA, including but not
14 limited to each and every one of the above cited provisions of *47 U.S.C. § 227(c)*,
15 in particular *47 U.S.C. § 227 (c)(5)*.

16 51. As a result of Defendant’s knowing and/or willful violations of *47*
17 *U.S.C. § 227(c)*, Plaintiff and the DNC Class members are entitled an award of
18 \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C.*
19 *§ 227(c)(5)*.

20 52. Plaintiff and the DNC Class members are also entitled to and seek
21 injunctive relief prohibiting such conduct in the future.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff requests judgment against Defendant for the following:

24 **FIRST CAUSE OF ACTION**

25 **Negligent Violations of the Telephone Consumer Protection Act**

26 **47 U.S.C. §227(b)**

- 27 • As a result of Defendant’s negligent violations of *47 U.S.C.*
28 *§227(b)(1)*, Plaintiff and the ATDS Class members are entitled to and

1 request \$500 in statutory damages, for each and every violation,
2 pursuant to *47 U.S.C. 227(b)(3)(B)*.

- 3 • Any and all other relief that the Court deems just and proper.

4 **SECOND CAUSE OF ACTION**

5 **Knowing and/or Willful Violations of the Telephone Consumer Protection**
6 **Act**

7 **47 U.S.C. §227(b)**

- 8 • As a result of Defendant's willful and/or knowing violations of *47*
9 *U.S.C. §227(b)(1)*, Plaintiff and the ATDS Class members are
10 entitled to and request treble damages, as provided by statute, up to
11 \$1,500, for each and every violation, pursuant to *47 U.S.C.*
12 *§227(b)(3)(B)* and *47 U.S.C. §227(b)(3)(C)*.
- 13 • Any and all other relief that the Court deems just and proper.

14 **THIRD CAUSE OF ACTION**

15 **Negligent Violations of the Telephone Consumer Protection Act**

16 **47 U.S.C. §227(c)**

- 17 • As a result of Defendant's negligent violations of *47 U.S.C.*
18 *§227(c)(5)*, Plaintiff and the DNC Class members are entitled to and
19 request \$500 in statutory damages, for each and every violation,
20 pursuant to *47 U.S.C. 227(c)(5)*.
- 21 • Any and all other relief that the Court deems just and proper.

22 **FOURTH CAUSE OF ACTION**

23 **Knowing and/or Willful Violations of the Telephone Consumer Protection**
24 **Act**

25 **47 U.S.C. §227(c)**

- 26 • As a result of Defendant's willful and/or knowing violations of *47*
27 *U.S.C. §227(c)(5)*, Plaintiff and the DNC Class members are entitled
28 to and request treble damages, as provided by statute, up to \$1,500,

1 for each and every violation, pursuant to 47 U.S.C. §227(c)(5).

- 2 • Any and all other relief that the Court deems just and proper.

3 53. Pursuant to the Seventh Amendment to the Constitution of the United
4 States of America, Plaintiff is entitled to, and demands, a trial by jury.

5
6
7 Respectfully Submitted this 10th Day of February, 2017.

8 LAW OFFICES OF TODD M. FRIEDMAN, P.C.

9 By: /s/ Todd M. Friedman
10 Todd M. Friedman
11 Law Offices of Todd M. Friedman
12 Attorney for Plaintiff
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

RON RAMOS, individually and on behalf of all others similarly situated,

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

(c) Attorney's (Firm Name, Address, and Telephone Number) Law Offices of Todd M. Friedman, P.C. 21550 Oxnard St., Suite 780, Woodland Hills, CA 91367; (877) 206-4741

DEFENDANTS

TAX DEFENSE PARTNERS, A CALIFORNIA LIMITED LIABILITY COMPANY, and DOES 1 through 10, inclusive,

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

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known) '17CV0275 JLS BGS

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 (specify), 6 Multidistrict Litigation, 7 Appeal to District Judge from Magistrate Judgment

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. § 226, et seq.

Brief description of cause: Telephone Consumer Protection Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23, DEMAND \$ 5,000,001.00, CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

02/10/2017 s/Todd M. Friedman

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.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. 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 clerks 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 seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (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.

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 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.

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: [Tax Defense Partners Hit with Class Action Over Robocalls](#)
