

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

FRANZISKA ROESNER, on behalf of herself
and all others similarly situated,

Plaintiff,

vs.

CENTRAL METRO REALTY L.L.C. d/b/a
CENTRAL METRO REALTY,

Defendant.

NO.

COMPLAINT—CLASS ACTION

DEMAND FOR JURY TRIAL

Franziska Roesner, individually and on behalf of others similarly situated, alleges the following against Defendant Central Metro Realty L.L.C. d/b/a Central Metro Realty (“Central Metro Realty”).

I. NATURE OF ACTION

1. As the Supreme Court recently explained, “Americans passionately disagree about many things. But they are largely united in their disdain for robocalls. The Federal Government receives a staggering number of complaints about robocalls—3.7 million complaints in 2019 alone. The States likewise field a constant barrage of complaints. For nearly 30 years, the people’s representatives in Congress have been fighting back. As relevant

1 here, the Telephone Consumer Protection Act of 1991, known as the TCPA, generally
2 prohibits robocalls to cell phones and home phones.” *Barr v. Am. Ass'n of Political*
3 *Consultants*, No. 19-631, 2020 U.S. LEXIS 3544, at *5 (July 6, 2020).

4 2. Central Metro Realty provides real estate listing services and uses telemarketing
5 to promote those services.

6 3. Those telemarketing efforts include the use of prerecorded messages to
7 individuals, like Ms. Roesner, who have placed their residential telephone numbers on the
8 National Do Not Call Registry.

9 4. Plaintiff now files this lawsuit seeking injunctive relief, requiring Central Metro
10 Realty to stop placing unsolicited calls to cellular telephone numbers and residential telephone
11 numbers listed on the National Do Not Call Registry, as well as an award of statutory damages
12 and costs to class members.

13 II. JURISDICTION AND VENUE

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

17 6. This Court has personal jurisdiction over Central Metro Realty, and venue is
18 proper in this District under 28 U.S.C. § 1391(b)(2) because Defendant Central Metro Realty
19 made the calls to Plaintiff, who is a resident of this District, in this District.

20 III. PARTIES

21 7. Plaintiff resides in King County, Washington, as she did at all relevant times
22 during the conduct alleged in this Complaint.

23 8. Defendant is a Texas limited liability company with its principal place of
24 business located at 13497 N Hwy 183, Suite 700, Austin, Texas 78750. Central Metro Realty is
25 a real estate brokerage based in Austin, Texas, that has been in business since 2008. Central
26
27

1 Metro Realty has hundreds of real estate agents across Texas, including Austin, Houston, San
2 Antonio, and Dallas.

3 IV. TCPA BACKGROUND

4 A. The TCPA Prohibits Automated Telemarketing Calls

5 9. The TCPA makes it unlawful to make any call (other than a call made for
6 emergency purposes or made with the prior express consent of the called party) using an
7 automatic telephone dialing system or an artificial or prerecorded voice to any telephone
8 number assigned to a cellular telephone service or that is charged per the call. *See* 47 U.S.C.
9 § 227(b)(1)(A)(iii).

10 10. The TCPA provides a private cause of action to persons who receive calls in
11 violation of 47 U.S.C. § 227(b)(1)(A) or 47 U.S.C. § 227(b)(1)(B). *See* 47 U.S.C. § 227(b)(3).

12 11. According to findings by the Federal Communication Commission (“FCC”), the
13 agency Congress vested with authority to issue regulations implementing the TCPA, such calls
14 are prohibited because, as Congress found, automated or prerecorded telephone calls are a
15 greater nuisance and invasion of privacy than live solicitation calls, and such calls can be
16 costly and inconvenient.

17 12. The FCC also recognized that “wireless customers are charged for incoming
18 calls whether they pay in advance or after the minutes are used.” *In re Rules and Regulations*
19 *Implementing the Tel. Consumer Prot. Act of 1991*, CG Docket No. 02-278, Report and Order,
20 18 F.C.C. Rcd. 14014, 14115 ¶ 165 (2003).

21 13. In 2013, the FCC required prior express written consent for all autodialed or
22 prerecorded telemarketing calls (“robocalls”) to wireless numbers and residential lines.
23 Specifically, it ordered that:

24 [A] consumer’s written consent to receive telemarketing robocalls
25 must be signed and be sufficient to show that the consumer: (1)
26 received “clear and conspicuous disclosure” of the consequences
27 of providing the requested consent, i.e., that the consumer will
receive future calls that deliver prerecorded messages by or on

1 21. Plaintiff's telephone number, (512) XXX-3708, is not associated with a
2 business.

3 22. Plaintiff's telephone number, (512) XXX-3708, has been registered on the
4 National Do Not Call Registry since 2004.

5 23. On May 4, 2021, Plaintiff received a telemarketing call on her cellular
6 telephone number, (512) XXX-3708, from, or on behalf of, Central Market Realty.

7 24. The caller ID showed the calls was from telephone number (512) 862-0509.

8 25. Plaintiff was not interested in Central Metro Realty's services.

9 26. Plaintiff has never been a Central Metro Realty customer and never consented
10 to receive calls from Central Metro Realty.

11 27. Despite this, on June 14, 2021, Plaintiff received a second telemarketing call
12 from Central Market Realty on her cellular telephone number, (512) XXX-3708.

13 28. The caller ID showed the call was from telephone number (512) 826-0509.

14 29. Plaintiff did not answer the June 14, 2021, call but the caller left a voicemail.

15 30. The voicemail consisted of the following prerecorded message:

16 Some people think the best time to sell is when everyone else sells
17 their home. We know the best time is now. Please stay with me.
18 Hey, my name is Jeff Ellis. I don't believe we've actually ever met,
19 but I work with Central Metro Realty, and I was just giving you a
20 call today because we have a very unique situation today in our
21 real estate market. Buyers are bidding over asking price for a lot
22 of homes. There are almost no homes for sale or left for sale in the
23 area. I haven't seen a market like this since 2006. Buyers are
24 actually flying out to the area. So if by any chance you were
25 thinking of selling now or even in the next 6 months, it might be
26 the perfect time. Give me a call. I'm certain I can sell your home
27 for more money than you ever thought you could in 30 days or
less. I can be reached on my cell 512-296-6970. Have a good day.
Oh, and if by chance your home is already listed for sale with
another real estate agent, please disregard this message and best of
luck. Again, I can be reached at 512-296-6970. Have a good day.

28 31. Central Market Realty is responsible for making the above-described
29 prerecorded call.

1 32. Again, Plaintiff was not interested in Central Metro Realty’s services.

2 33. The calls received by Plaintiff were sent to encourage the purchase of and
3 investment in Central Metro Realty services.

4 34. These calls, therefore, qualified as telemarketing. 47 C.F.R. § 64.1200(f)(12).

5 35. Plaintiff and all members of the class, defined below, have been harmed by the
6 acts of Defendant because their privacy has been violated and they were subjected to annoying
7 and harassing calls that constitute a nuisance. The calls also occupied Plaintiff’s telephone line
8 from legitimate communication.

9 36. Central Metro Realty utilized automated technology to make calls because it
10 engaged in *en masse* calling.

11 37. Indeed, Central Metro Realty made a purchase of a list for marketing purposes
12 from Roy Castner.

13 38. Mr. Castner’s business, realtoringless.com, boasts that it can:

14 put your message into 10,000 homes and guaranteed to deliver
15 your voice message to each homeowner without ringing their
16 phone for just .01 cent each. That’s just \$100 for 10,000 prospects.
17 With our new technology, you can reach 18,000 prospects every
18 hour with your solar or realtor message.

19 See <https://www.linkedin.com/in/roy-castner-82619561/> (last visited July 23, 2021).

20 VI. CLASS ACTION ALLEGATIONS

21 39. Plaintiff incorporates by reference all other paragraphs of this Complaint as if
22 fully stated herein.

23 40. Plaintiff brings this action on behalf of herself and the following classes (the
24 “Classes”) pursuant to Federal Rule of Civil Procedure 23.

25 41. Plaintiff proposes the following Class definitions, subject to amendment as
26 appropriate:

27 **Robocall Class:** All persons within the United States: (1) to
whose cellular telephone number; (2) Defendant (or an agent
acting on behalf of Defendant) placed a telemarketing call; (3)

1 using an identical or substantially similar prerecorded message
2 used to place the telephone calls to Plaintiff; (4) within the four
years prior to the filing of the Complaint.

3 **National Do Not Call Registry Class:** All persons in the United
4 States whose, (1) telephone numbers were on the National Do Not
5 Call Registry for at least 31 days, (2) but received more than one
6 telephone solicitation from or on behalf of Defendant (3) within a
12-month period, (4) from four years prior the filing of the
Complaint.

7 42. Excluded from the Classes are counsel, Defendant, any entities in which
8 Defendant has a controlling interest, Defendant's agents and employees, any judge to whom
9 this action is assigned, and any member of such judge's staff and immediate family.

10 43. Plaintiff is a member of and will fairly and adequately represent and protect the
11 interests of the Classes as she has no interests that conflict with any of the class members.

12 44. Plaintiff and all members of the Classes have been harmed by the acts of
13 Defendant, including, but not limited to, the invasion of their privacy, annoyance, waste of
14 time, the use of their telephone power and network bandwidth, and the intrusion on their
15 telephone that occupied it from receiving legitimate communications.

16 45. This Class Action Complaint seeks injunctive relief and money damages.

17 46. The Class, as defined above, is identifiable through Defendant's dialer records,
18 other telephone records, and telephone number databases.

19 47. Plaintiff does not know the exact number of members in the Classes, but
20 Plaintiff reasonably believes each Class numbers, at minimum, in the hundreds of members.

21 48. The joinder of all Class members is impracticable due to the size and relatively
22 modest value of each individual claim.

23 49. Additionally, the disposition of the claims in a class action will provide
24 substantial benefit to the parties and the Court in avoiding a multiplicity of identical suits.

25 50. There are well defined, nearly identical questions of law and fact affecting all
26 parties. The questions of law and fact, referred to above, involving the Class claims
27 predominate over questions that may affect individual Class members.

1 51. There are numerous questions of law and fact common to Plaintiff and to the
2 proposed Classes, including but not limited to the following:

3 a. Whether the Defendant made multiple calls to numbers on the National
4 Do Not Call Registry;

5 b. Whether Defendant used prerecorded messages to send calls;

6 c. Whether Defendant made calls to Plaintiff and members of the Classes
7 without first obtaining prior express written consent to make the calls;

8 d. Whether Defendant's conduct constitutes a violation of the TCPA; and

9 e. Whether members of the Classes are entitled to treble damages based on
10 the willfulness of Defendant's conduct.

11 52. Further, Plaintiff will fairly and adequately represent and protect the interests of
12 the Classes. Plaintiff has no interests which are antagonistic to any member of the Classes.

13 53. Plaintiff has retained counsel with substantial experience in prosecuting
14 complex litigation and class actions, and especially TCPA class actions. Plaintiff and her
15 counsel are committed to vigorously prosecuting this action on behalf of the other members of
16 the Classes, and have the financial resources to do so.

17 54. Common questions of law and fact predominate over questions affecting only
18 individual Class members, and a class action is the superior method for fair and efficient
19 adjudication of the controversy. The only individual question concerns identification of Class
20 members, which will be ascertainable from records maintained by Defendant and/or its agents.

21 55. The likelihood that individual members of the Classes will prosecute separate
22 actions is remote due to the time and expense necessary to prosecute an individual case.

23 56. Plaintiff is not aware of any litigation concerning this controversy already
24 commenced by others who meet the criteria for class membership described above.

FIRST CAUSE OF ACTION

**Violation of the Telephone Consumer Protection Act
(47 U.S.C. 227(b) on behalf of the Robocall Class)**

1
2
3 57. Plaintiff incorporates the allegations from all previous paragraphs as if fully set
4 forth herein.

5 58. The foregoing acts and omissions of Defendant and/or its affiliates, agents,
6 and/or other persons or entities acting on Defendant's behalf constitute numerous and multiple
7 violations of the TCPA, 47 U.S.C. § 227, by making calls, except for emergency purposes, and
8 delivering prerecorded messages to the cellular telephone numbers of Plaintiff and members of
9 the Robocall Class.

10 59. As a result of Defendant's and/or its affiliates, agents, and/or other persons or
11 entities acting on Defendant's behalf's violations of the TCPA, 47 U.S.C. § 227, Plaintiff and
12 members of the Robocall Class presumptively are entitled to an award of \$500 in damages for
13 each and every call made to their cellular telephone numbers using an artificial or prerecorded
14 voice in violation of the statute, pursuant to 47 U.S.C. § 227(b)(3)(B).

15 60. If the Defendant's conduct is found to be knowing or willful, Plaintiff and
16 members of the Robocall Class are entitled to an award of up to treble damages.

17 61. Plaintiff and members of the Robocall Class are also entitled to and do seek
18 injunctive relief prohibiting Defendant and/or its affiliates, agents, and/or other persons or
19 entities acting on Defendant's behalf from violating the TCPA, 47 U.S.C. § 227, by making
20 calls, except for emergency purposes, to any cellular telephone numbers using an artificial or
21 prerecorded voice in the future.

SECOND CAUSE OF ACTION

**Violation of the Telephone Consumer Protection Act
(47 U.S.C. 227(c) on behalf of the National Do Not Call Registry Class)**

22
23 62. Plaintiff incorporates by reference the foregoing allegations as if fully set forth
24 herein.

25 63. Defendant violated the TCPA and the National Do Not Call Registry regulations
26 by making, or having their agent make, two or more telemarketing calls within a 12-month
27

1 period on Defendant's behalf to Plaintiff and members of the National Do Not Call Registry
2 Class while those persons' phone numbers were registered on the National Do Not Call
3 Registry.

4 64. As a result of Defendant's violations of 47 U.S.C. § 227, *et seq.*, Plaintiff and
5 National Do Not Call Registry Class members are entitled to an award of up to \$500 in
6 statutory damages for each and every violation of the statute, pursuant to 47 U.S.C.
7 § 227(c)(5).

8 65. Plaintiff and National Do Not Call Registry Class Members are entitled to an
9 award of treble damages if their actions are found to have been knowing or willful.

10 66. Plaintiff and National Do Not Call Registry Class members are also entitled to
11 and do seek injunctive relief prohibiting the Defendant from advertising their goods or
12 services, except for emergency purposes, to any number on the National Do Not Call Registry
13 in the future.

14 **VII. PRAYER FOR RELIEF**

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

17 A. Injunctive relief prohibiting Defendant from calling telephone numbers
18 advertising their goods or services, except for emergency purposes, to any number using a
19 prerecord message to cellular telephones in the future or from calling numbers on the National
20 Do Not Call Registry;

21 B. That the Court enter a judgment awarding Plaintiff and all Class members
22 statutory damages of \$500 for each violation of the TCPA and \$1,500 for each knowing or
23 willful violation;

24 C. An order certifying this action to be a proper class action pursuant to Federal
25 Rule of Civil Procedure 23, establishing appropriate Classes the Court deems appropriate,
26
27

1 finding that Plaintiff is a proper representative of the Classes, and appointing the lawyers and
2 law firms representing Plaintiff as counsel for the Classes;

3 D. Attorneys' fees and costs, as permitted by law; and

4 E. Such other relief as the Court deems just and proper.

5 **VIII. DEMAND FOR JURY TRIAL**

6 Plaintiff hereby demands a trial by jury for all issues so triable.

7 RESPECTFULLY SUBMITTED AND DATED this 25th day of August, 2021.

8 TURKE & STRAUSS LLP

9 By: /s/ Samuel J. Strauss, WSBA #46971

10 Samuel J. Strauss, WSBA #46971

11 Email: sam@turkestrauss.com

12 613 Williamson St., Suite 201

13 Madison, Wisconsin 53703

14 Telephone: (608) 237-1775

15 Facsimile: (608) 509-4423

16 *Attorneys for Plaintiff*

CIVIL COVER SHEET

JS 44 (Rev. 02/19)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

FRANZISKA ROESNER, on behalf of herself and all others similarly situated,

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
Samuel J. Strauss, Turke & Strauss, LLP, 613 Williamson St., Suite 201,
Madison, WI 53703, (608) 237-1775 (also maintains an office in Seattle,
Washington)

DEFENDANTS

CENTRAL METRO REALTY L.L.C. d/b/a CENTRAL METRO REALTY,

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

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

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

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

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input checked="" type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	FEDERAL TAX SUITS
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
IMMIGRATION				
<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions				

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

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

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

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE: 08/25/2021
SIGNATURE OF ATTORNEY OF RECORD: /s/ Samuel J. Strauss, WSBA #46971

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket. **PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

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

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Washington

FRANZISKA ROESNER, on behalf of herself and all others similarly situated,

Plaintiff(s)

v.

CENTRAL METRO REALTY L.L.C. d/b/a CENTRAL METRO REALTY,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Central Metro Realty L.L.C. d/b/a Central Metro Realty 13497 N Highway 183, Suite 700 Austin, TX 78750

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Samuel J. Strauss Turke & Strauss LLP 613 Williamson St., Suite 201 Madison, WI 53703 Email: sam@turkestrauss.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Central Metro Realty Hit with Class Action Over Alleged Robocalls](#)
