

- (iii) to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call, unless such call is made solely to collect a debt owed to or guaranteed by the United States[.]

3. The TCPA's "prohibition against auto dialed calls applies to text message calls as well as voice calls." *Murphy v. DCI Biologicals Orlando, LLC*, 797 F.3d 1302, 1305 (11th Cir. 2015).

4. Upon information and belief, Defendant violates the TCPA by sending unwanted text messages to consumers' cellular telephone numbers by using an automatic telephone dialing system, without the prior express consent of the consumers.

Jurisdiction

5. This Court has subject matter jurisdiction under 47 U.S.C. § 227(b)(3) and 28 U.S.C. § 1331.

6. Venue is proper before this Court under 28 U.S.C. § 1391(b), as Defendant transacts business in this district and as a substantial part of the events giving rise to this action occurred in this district.

Parties

7. Plaintiff is a natural person who at all relevant times resided in Lilburn, Georgia.

8. Defendant is an automotive marketing company with its principal office located in Detroit, Michigan.

9. Defendant “was founded by a group of executives from Car.com after it was sold to Autobytel in April of 2004.”¹

10. Defendant states that it is “amongst the world’s foremost aggregators of ‘in-market’ automotive shopper intelligence, providing data to original equipment manufacturers (“OEMs”) and dealers that is responsible for more than 30,000 vehicle sales or \$1 billion in monthly car sales.”²

11. Defendant’s team “includes leadership from advertising agencies, original equipment manufacturers, leading digital media agencies and respected data-analytics firms.”³

12. Defendant touts that its “technology and digital marketing solutions serve the world’s largest auto manufacturers, drives sales for the nation’s top dealer groups and powers the nation’s top online automotive shopping channels.”⁴

13. As part of its marketing efforts, Defendant sends text messages to consumers.⁵

¹ <http://www.detroittrading.com/> (last visited May 14, 2018).

² <http://www.detroittrading.com/> (last visited May 14, 2018).

³ <http://www.detroittrading.com/> (last visited May 14, 2018).

⁴ <http://www.detroittrading.com/> (last visited May 14, 2018).

Factual Allegations

14. On or about May 21, 2017 and May 31, 2017, Defendant sent, or caused to be sent, text messages to Plaintiff's cellular telephone number (404) 444-xxxx—a number for which Plaintiff is the subscriber and customary user.

15. Defendant's first text messages to Plaintiff's cellular telephone number stated: "Thank you for Subscribing to Our Auto Program. Get a Fast & Simple FREE New Car Quote <http://goo.gl/ekcnty>. Text Help for Help or Stop to Stop".

16. The link provided in Defendant's text messages leads to a website containing the following "Terms of Use" disclosures:

Thank you for your interest Car.Show and its related shopping tools and car shopping content channels (the "Site"), a leading online automotive information and communications platform powered by Detroit Trading Company ("Detroit Trading"). Detroit Trading is amongst the world's foremost aggregators of 'in-market' shopper intelligence, providing data to original equipment manufacturers and dealers that are responsible for more than 30,000 individual vehicle sales or \$1 billion in monthly car sales. We encourage you to read the following terms governing your use of and purchase of products from the Site. By using the Site or by providing personal information to us, you agree to be bound by these Terms of Service set forth below (the "Terms").

* * *

Your use of this Site establishes a business or other applicable relationship with us for purposes of CAN-SPAM, the Telephone

⁵ <http://www.detroittrading.com/campaigns/modern-bdc-solution/> (last visited May 14, 2018) ("Pricing is a function of how many calls and texts we make to your customers.").

Consumer Protection Act and all other applicable law that addresses unsolicited commercial communications. By visiting this Site and using its features, you agree that we, our agents or third parties to whom we provide your information may call, e-mail, or otherwise communicate with you regarding the sale or lease of motor vehicles.

17. Upon information and good faith belief, Defendant's records will show additional text messages it sent, or caused to be sent, to Plaintiff's cellular telephone number by using an automatic telephone dialing system.

18. Plaintiff never signed up for Defendant's services, and never provided her cellular telephone number to Defendant.

19. Plaintiff never subscribed to Defendant's "Auto Program."

20. Upon information and good faith belief, and in light of the number, character and nature of the text messages, including their form, non-personalized nature, Defendant sent its text messages to Plaintiff's cellular telephone number using an automatic telephone dialing system, as defined by 47 U.S.C. § 227(a)(1).

21. Upon information and good faith belief, and in light of the number, character and nature of the text messages, including their form, non-personalized nature, Defendant sent its text messages to Plaintiff's cellular telephone number by using (a) equipment which has the capacity (i) to store or produce telephone numbers to be called, using a random or sequential number generator, and (ii) to dial such numbers, or (b) technology with the capacity to dial random or sequential numbers, or (c) hardware, software, or equipment that the Federal Communications Commission ("FCC") characterizes as an automatic telephone dialing system.

22. Upon information and good faith belief, and in light of the number, character and nature of the text messages, including their form, non-personalized nature, Defendant sent it text messages to Plaintiff's cellular telephone number by using (a) hardware, that when paired with certain software, has the capacity to store or produce numbers and text those numbers at random, in sequential order, or from a database of numbers, or (b) hardware, software, or equipment that the FCC characterizes as a predictive dialer through the following reports and orders, and declaratory rulings: *In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 17 FCC Rcd 17459, 17474 (September 18, 2002); *In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 18 FCC Rcd 14014, 14092-93 (July 3, 2003); *In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 23 FCC Rcd 559, 566 (Jan. 4, 2008).

23. Defendant utilizes hardware and software with the capacity to store telephone numbers and to text such numbers sequentially, predictively, or randomly, and to text telephone numbers without human intervention.

24. Upon information and good faith belief, Defendant used such hardware and software to send the text messages at issue to Plaintiff's cellular telephone number.

25. Defendant did not have Plaintiff's prior express consent to send any text messages to her cellular telephone number.

26. Plaintiff never provided her cellular telephone number to Defendant.

27. Plaintiff never had any business relationship with Defendant.

28. Defendant did not send any text messages to Plaintiff's cellular telephone number for emergency purposes.

29. Defendant sent its text messages to Plaintiff's cellular telephone number under its own free will.

30. Upon information and good faith belief, Defendant sent the text messages at issue to Plaintiff willfully and knowingly in that it consciously and deliberately sent, or caused to be sent, the text messages referenced herein.

31. Upon information and good faith belief, Defendant had knowledge that it was using, and intended to use, an automatic telephone dialing system to send the text messages at issue to Plaintiff's cellular telephone number.

32. Plaintiff suffered harm as a result of Defendant's text messages to her cellular telephone number in that she suffered an invasion of her privacy, an intrusion into her life, and a private nuisance.

Class Action Allegations

33. Plaintiff brings this action as a class action under Federal Rule of Civil Procedure 23(a) and (b) on behalf of herself and the following class of similarly situated individuals:

All persons and entities throughout the United States (1) to whom Detroit Trading Services, LLC sent, or caused to be sent, at least one text message to a non-customer of Detroit Trading Services, LLC, (2) directed to a number assigned to a cellular telephone service, (3) by using an automatic telephone dialing system, (4) from four years prior to the date of this complaint through and including the date of class certification.

Excluded from the class are Defendant, its officers and directors, members of their immediate families and their legal representatives, heirs, successors, or assigns, and any entity in which Defendant has or had a controlling interest.

34. The proposed class is so numerous that, upon information and belief, joinder of all members is impracticable.

35. The exact number of members of the class is unknown to Plaintiff at this time and can only be determined through appropriate discovery.

36. The proposed class is ascertainable because it is defined by reference to objective criteria.

37. In addition, and upon information and belief, the cellular telephone numbers of all members of the class can be identified in business records maintained by Defendant and third parties.

38. Plaintiff's claims are typical of the claims of the members of the class because all of the class members' claims originate from the same conduct, practice and procedure on the part of Defendant, and Plaintiff possesses the same interests and has suffered the same injuries as each class member.

39. Like all members of the proposed class, Plaintiff received text messages from Defendant, without her consent, in violation of 47 U.S.C. § 227.

40. Plaintiff will fairly and adequately protect the interests of the members of the class and has retained counsel experienced and competent in class action litigation.

41. Plaintiff has no interests that are irrevocably contrary to or in conflict with the members of the class that she seeks to represent.

42. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy, since joinder of all members is impracticable.

43. Furthermore, as the damages suffered by individual members of the class may be relatively small, the expense and burden of individual litigation make it impracticable for the members of the class to individually redress the wrongs done to them.

44. There will be little difficulty in the management of this action as a class action.

45. Issues of law and fact common to the members of the class predominate over any questions that may affect only individual members, in that Defendant has acted on grounds generally applicable to the class.

46. Among the issues of law and fact common to the class are:

- a. Defendant's violations of the TCPA;
- b. Defendant's use of an automatic telephone dialing system, as defined by the TCPA, to send text messages to cellular telephone numbers;
- c. Defendant's text messaging campaigns; and
- d. the availability of statutory damages.

47. Absent a class action, Defendant's violations of the law will be allowed to proceed without a full, fair, judicially supervised remedy.

Count I: Violations of 47 U.S.C. § 227(b)(1)(A)(iii)

48. Plaintiff repeats and re-alleges each and every factual allegation contained in paragraphs 1 – 47.

49. Defendant violated 47 U.S.C. § 227(b)(1)(A)(iii) by utilizing an automatic telephone dialing system to send, or cause to be sent, text messages to Plaintiff's cellular telephone number, without her consent.

50. As a result of Defendant's violations of 47 U.S.C. § 227(b)(1)(A)(iii), Plaintiff and the class are entitled to damages in an amount to be proven at trial.

Jury Trial Demanded

Plaintiff hereby demands a trial by jury.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

(a) Determining that this action is a proper class action and designating Plaintiff as class representative under Rule 23 of the Federal Rules of Civil Procedure;

(b) Adjudging that Defendant violated 47 U.S.C. § 227(b)(1)(A)(iii), and enjoining Defendant from continuing to send text messages to Plaintiff's cellular telephone number, and from sending text messages to consumers' cellular telephone numbers by using an automatic telephone dialing system without the prior express consent of the consumers, and from committing further violations of 47 U.S.C. § 227(b)(1)(A)(iii);

(c) Awarding Plaintiff and members of the class actual damages, or statutory damages under 47 U.S.C. § 227(b)(3) in an amount up to \$1,500.00 per violation;

(d) Awarding Plaintiff and members of the class their reasonable costs, expenses, including expert fees, and attorneys' fees incurred in this action, under Rule 23 of the Federal Rules of Civil Procedure; and

(e) Awarding other and further relief as the Court may deem just and proper.

Date: May 21, 2018

/s/ Shireen Hormozdi
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Fax: 561.961.5684
mgreenwald@gdrlawfirm.com

Counsel for Plaintiff and the proposed class

**pro hac vice* application to be filed

CIVIL COVER SHEET

The JS44 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 is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

I. (a) PLAINTIFF(S)

Stephanie Roudaut, on behalf of herself and others similarly situated

DEFENDANT(S)

Detroit Trading Services, LLC

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Gwinnett (EXCEPT IN U.S. PLAINTIFF CASES)

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

(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)

Shireen Hormozdi
1770 Indian Trail Lilburn Road
Suite 175
Norcross, GA 30093

ATTORNEYS (IF KNOWN)

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) (FOR DIVERSITY CASES ONLY)

- PLF DEF
1 1 CITIZEN OF THIS STATE
2 2 CITIZEN OF ANOTHER STATE
3 3 CITIZEN OR SUBJECT OF A FOREIGN COUNTRY
4 4 INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE
5 5 INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE
6 6 FOREIGN NATION

IV. 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 District)
6 MULTIDISTRICT LITIGATION - TRANSFER
7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT
8 MULTIDISTRICT LITIGATION - DIRECT FILE

V. 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)

Violations of the Telephone Consumer Protection Act, 47 U.S.C. 227

(IF COMPLEX, CHECK REASON BELOW)

- 1. Unusually large number of parties.
2. Unusually large number of claims or defenses.
3. Factual issues are exceptionally complex.
4. Greater than normal volume of evidence.
5. Extended discovery period is needed.
6. Problems locating or preserving evidence.
7. Pending parallel investigations or actions by government.
8. Multiple use of experts.
9. Need for discovery outside United States boundaries.
10. Existence of highly technical issues and proof.

CONTINUED ON REVERSE

FOR OFFICE USE ONLY

RECEIPT # AMOUNT \$ APPLYING IFP MAG. JUDGE (IFP)
JUDGE MAG. JUDGE (Referral) NATURE OF SUIT CAUSE OF ACTION

VI. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT - "0" MONTHS DISCOVERY TRACK

- 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- 152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
- 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

- 110 INSURANCE
- 120 MARINE
- 130 MILLER ACT
- 140 NEGOTIABLE INSTRUMENT
- 151 MEDICARE ACT
- 160 STOCKHOLDERS' SUITS
- 190 OTHER CONTRACT
- 195 CONTRACT PRODUCT LIABILITY
- 196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 210 LAND CONDEMNATION
- 220 FORECLOSURE
- 230 RENT LEASE & EJECTMENT
- 240 TORTS TO LAND
- 245 TORT PRODUCT LIABILITY
- 290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

- 310 AIRPLANE
- 315 AIRPLANE PRODUCT LIABILITY
- 320 ASSAULT, LIBEL & SLANDER
- 330 FEDERAL EMPLOYERS' LIABILITY
- 340 MARINE
- 345 MARINE PRODUCT LIABILITY
- 350 MOTOR VEHICLE
- 355 MOTOR VEHICLE PRODUCT LIABILITY
- 360 OTHER PERSONAL INJURY
- 362 PERSONAL INJURY - MEDICAL MALPRACTICE
- 365 PERSONAL INJURY - PRODUCT LIABILITY
- 367 PERSONAL INJURY - HEALTH CARE/ PHARMACEUTICAL PRODUCT LIABILITY
- 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 370 OTHER FRAUD
- 371 TRUTH IN LENDING
- 380 OTHER PERSONAL PROPERTY DAMAGE
- 385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

- 422 APPEAL 28 USC 158
- 423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

- 440 OTHER CIVIL RIGHTS
- 441 VOTING
- 442 EMPLOYMENT
- 443 HOUSING/ ACCOMMODATIONS
- 445 AMERICANS with DISABILITIES - Employment
- 446 AMERICANS with DISABILITIES - Other
- 448 EDUCATION

IMMIGRATION - "0" MONTHS DISCOVERY TRACK

- 462 NATURALIZATION APPLICATION
- 465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

- 463 HABEAS CORPUS- Alien Detainee
- 510 MOTIONS TO VACATE SENTENCE
- 530 HABEAS CORPUS
- 535 HABEAS CORPUS DEATH PENALTY
- 540 MANDAMUS & OTHER
- 550 CIVIL RIGHTS - Filed Pro se
- 555 PRISON CONDITION(S) - Filed Pro se
- 560 CIVIL DETAINEE: CONDITIONS OF CONFINEMENT

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

- 550 CIVIL RIGHTS - Filed by Counsel
- 555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

- 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
- 690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

- 710 FAIR LABOR STANDARDS ACT
- 720 LABOR/MGMT. RELATIONS
- 740 RAILWAY LABOR ACT
- 751 FAMILY and MEDICAL LEAVE ACT
- 790 OTHER LABOR LITIGATION
- 791 EML. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

- 820 COPYRIGHTS
- 840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

- 830 PATENT
- 835 PATENT-ABBREVIATED NEW DRUG APPLICATIONS (ANDA) - a/k/a Hatch-Waxman cases

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

- 861 HIA (1395f)
- 862 BLACK LUNG (923)
- 863 DIWC (405(g))
- 863 DIWW (405(g))
- 864 SSID TITLE XVI
- 865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

- 870 TAXES (U.S. Plaintiff or Defendant)
- 871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

- 375 FALSE CLAIMS ACT
- 376 Qui Tam 31 USC 3729(a)
- 400 STATE REAPPORTIONMENT
- 430 BANKS AND BANKING
- 450 COMMERCE/ICC RATES/ETC.
- 460 DEPORTATION
- 470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
- 480 CONSUMER CREDIT
- 490 CABLE/SATELLITE TV
- 890 OTHER STATUTORY ACTIONS
- 891 AGRICULTURAL ACTS
- 893 ENVIRONMENTAL MATTERS
- 895 FREEDOM OF INFORMATION ACT
- 899 ADMINISTRATIVE PROCEDURES ACT / REVIEW OR APPEAL OF AGENCY DECISION
- 950 CONSTITUTIONALITY OF STATE STATUTES

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

- 410 ANTITRUST
- 850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

- 896 ARBITRATION (Confirm / Vacate / Order / Modify)

*** PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3**

VII. REQUESTED IN COMPLAINT:

CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND \$ _____

JURY DEMAND YES NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

VIII. RELATED/REFILED CASE(S) IF ANY

JUDGE _____ DOCKET NO. _____

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
- 5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
- 6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):

7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. _____, WHICH WAS DISMISSED. This case IS IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.


SIGNATURE OF ATTORNEY OF RECORD

5-21-2018

DATE

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Alleged Robo-Texts Come Back to Bite Detroit Trading Services in Class Action Suit](#)