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9 **UNITED STATES DISTRICT COURT**
10 **EASTERN DISTRICT OF PENNSYLVANIA**

11 MICHAEL SCAVO, individually and) Case No.
12 on behalf of all others similarly situated,))

13 Plaintiff,)

14 vs.)

15 ACCOUNT DISCOVERY SYSTEMS,)
16 LLC, and DOES 1 through 10,)
17 inclusive, and each of them,)

18 Defendant.)

19 **CLASS ACTION**

20 **COMPLAINT FOR VIOLATIONS**
21 **OF:**

- 22 1. NEGLIGENT VIOLATIONS
23 OF THE TELEPHONE
24 CONSUMER PROTECTION
25 ACT [47 U.S.C. §227(b)]
- 26 2. WILLFUL VIOLATIONS
27 OF THE TELEPHONE
28 CONSUMER PROTECTION
ACT [47 U.S.C. §227(b)]

DEMAND FOR JURY TRIAL

20 Plaintiff MICHAEL SCAVO (“Plaintiff”), individually and on behalf of all
21 others similarly situated, alleges the following upon information and belief based
22 upon personal knowledge:

23 **NATURE OF THE CASE**

24 1. Plaintiff brings this action individually and on behalf of all others
25 similarly situated seeking damages and any other available legal or equitable
26 remedies resulting from the illegal actions of ACCOUNT DISCOVERY
27 SYSTEMS, LLC (“Defendant”), in negligently, knowingly, and/or willfully
28 contacting Plaintiff on Plaintiff’s cellular telephone in violation of the Telephone

1 Consumer Protection Act, 47 U.S.C. § 227 et seq. (“TCPA”), thereby causing
2 Plaintiff to incur charges for incoming calls and invading Plaintiff’s privacy.

3 **JURISDICTION & VENUE**

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

12 3. Venue is proper in the United States District Court for the Eastern
13 District of Pennsylvania pursuant to 28 U.S.C. § 1391(b)(2) because Defendant
14 does business within the State of Pennsylvania and Plaintiff resides within
15 Delaware County in the State of Pennsylvania.

16 **PARTIES**

17 4. Plaintiff, MICHAEL SCAVO (“Plaintiff”), is a natural person
18 residing in Delaware County, Pennsylvania and is a “person” as defined by 47
19 U.S.C. § 153 (39).

20 5. Defendant, ACCOUNT DISCOVERY SYSTEMS, LLC
21 (“Defendant”) is a debt collection company, and is a “person” as defined by 47
22 U.S.C. § 153 (39).

23 6. The above named Defendant, and its subsidiaries and agents, are
24 collectively referred to as “Defendants.” The true names and capacities of the
25 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are
26 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious
27 names. Each of the Defendants designated herein as a DOE is legally responsible
28 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the

1 Complaint to reflect the true names and capacities of the DOE Defendants when
2 such identities become known.

3 7. Plaintiff is informed and believes that at all relevant times, each and
4 every Defendant was acting as an agent and/or employee of each of the other
5 Defendants and was acting within the course and scope of said agency and/or
6 employment with the full knowledge and consent of each of the other Defendants.
7 Plaintiff is informed and believes that each of the acts and/or omissions complained
8 of herein was made known to, and ratified by, each of the other Defendants.

9 **FACTUAL ALLEGATIONS**

10 8. Beginning within the last year, Defendant contacted Plaintiff on
11 Plaintiff's cellular telephone number ending in -8055, in an attempt to collect on
12 an alleged debt.

13 9. Defendant called Plaintiff multiple times in connection with collection
14 on an alleged debt.

15 10. Defendant left Plaintiff several voice messages with call back
16 numbers, including without limitation, (716) 562-3709.

17 11. Defendant called and left voice messages on the telephones of third
18 parties, including without limitation, Plaintiff's mother, in connection with
19 collection on the alleged debt from Plaintiff.

20 12. In many of these voice messages left on Plaintiff's and third party's
21 telephones, there were noticeable three (3) to six (6) second of recorded silence
22 before Defendant began to speak.

23 13. Defendant used an "automatic telephone dialing system" ("ATDS")
24 as defined by 47 U.S.C. § 227(a)(1) to place its frequent and incessant collection
25 calls to Plaintiff.

26 14. Defendant's calls constituted calls that were not for emergency
27 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

28 15. Defendant's calls were placed to telephone number assigned to a

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

3 16. 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 17. Defendant placed multiple collection calls to Plaintiff on his cellular
8 telephone ending in -8055 within the last year.

9 18. Plaintiff received numerous collection calls from Defendant within a
10 12-month period.

11 19. Upon information and belief, and based on Plaintiff's experiences
12 recounted herein, and at all relevant times, Defendant failed to establish and
13 implement reasonable practices and procedures to effectively prevent collection
14 calls in violation of the TCPA.

15 **CLASS ALLEGATIONS**

16 20. Plaintiff brings this action individually and on behalf of all others
17 similarly situated, as a member the proposed classes (hereafter, "The Class")
18 defined as follows:

19 All persons within the United States who received any
20 collection telephone calls from Defendant to said
21 person's cellular telephone made through the use of any
22 automatic telephone dialing system or an artificial or
23 prerecorded voice and such person had not previously
24 consented to receiving such calls within the four years
prior to the filing of this Complaint

25 21. Plaintiff represents, and is a member of, The Class, consisting of all
26 persons within the United States who received any collection telephone calls from
27 Defendant to said person's cellular telephone made through the use of any
28 automatic telephone dialing system or an artificial or prerecorded voice and such

1 person had not previously provided their cellular telephone number to Defendant
2 or express consent to be called with an automatic telephone dialing system or
3 artificial or prerecorded voice within the four years prior to the filing of this
4 Complaint.

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

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

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

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

- 27 a. Whether, within the four years prior to the filing of this
28 Complaint, Defendant made any collection call (other than a

1 call made for emergency purposes or made with the prior
2 express consent of the called party) to a Class member using
3 any automatic telephone dialing system or any artificial or
4 prerecorded voice to any telephone number assigned to a
5 cellular telephone service;

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

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

10 26. As a person who received numerous collection calls from Defendant
11 using an automatic telephone dialing system or an artificial or prerecorded voice,
12 without Plaintiff's prior express consent, Plaintiff is asserting claims that are
13 typical of The Class.

14 27. Plaintiff will fairly and adequately protect the interests of the members
15 of The Class. Plaintiff has retained attorneys experienced in the prosecution of
16 class actions.

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

28 29. The prosecution of separate actions by individual Class members

1 would create a risk of adjudications with respect to them that would, as a practical
2 matter, be dispositive of the interests of the other Class members not parties to such
3 adjudications or that would substantially impair or impede the ability of such non-
4 party Class members to protect their interests.

5 30. Defendant has acted or refused to act in respects generally applicable
6 to The Class, thereby making appropriate final and injunctive relief with regard to
7 the members of the Class as a whole.

8 **FIRST CAUSE OF ACTION**

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

10 **47 U.S.C. § 227 et seq..**

11 31. Plaintiff repeats and incorporates by reference into this cause of action
12 the allegations set forth above at Paragraphs 1-30.

13 32. The foregoing acts and omissions of Defendant constitute numerous
14 and multiple negligent violations of the TCPA, including but not limited to each
15 and every one of the above cited provisions of *47 U.S.C. § 227 et seq..*

16 33. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et*
17 *seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory
18 damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

19 34. Plaintiff and the Class members are also entitled to and seek injunctive
20 relief prohibiting such conduct in the future.

21 **SECOND CAUSE OF ACTION**

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

24 **47 U.S.C. § 227 et seq.**

25 35. Plaintiff repeats and incorporates by reference into this cause of action
26 the allegations set forth above at Paragraphs 1-30.

27 36. The foregoing acts and omissions of Defendant constitute numerous
28 and multiple knowing and/or willful violations of the TCPA, including but not

1 limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et*
2 *seq.*

3 37. As a result of Defendant's knowing and/or willful violations of *47*
4 *U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of
5 \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C.*
6 *§ 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

7 38. Plaintiff and the Class members are also entitled to and seek injunctive
8 relief prohibiting such conduct in the future.

9 **PRAYER FOR RELIEF**

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

11 **FIRST CAUSE OF ACTION**

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

13 **47 U.S.C. § 227 et seq.**

- 14 • As a result of Defendant's negligent violations of *47 U.S.C. §227 et*
15 *seq.*, Plaintiff and the Class members are entitled to and request \$500
16 in statutory damages, for each and every violation, pursuant to *47*
17 *U.S.C. 227(b)(3)(B)*.
18 • Any and all other relief that the Court deems just and proper.

19 **SECOND CAUSE OF ACTION**

20 **Knowing and/or Willful Violations of the Telephone Consumer Protection**
21 **Act**

22 **47 U.S.C. § 227 et seq.**

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

JURY DEMAND

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

Respectfully Submitted this 29th Day of August, 2017.

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

By: _____
Cynthia Z. Levin, Esq.
Law Offices of Todd M. Friedman, P.C.
Attorney for Plaintiff

1 Cynthia Z. Levin, Esq. (SBN 27050)
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9 **UNITED STATES DISTRICT COURT**
10 **EASTERN DISTRICT OF PENNSYLVANIA**

11 MICHAEL SCAVO, individually and) Case No.
12 on behalf of all others similarly situated,))

13 Plaintiff,)

14 vs.)

15 ACCOUNT DISCOVERY SYSTEMS,)
16 LLC, and DOES 1 through 10,)
17 inclusive, and each of them,)

18 Defendant.)

19 **CLASS ACTION**

20 **COMPLAINT FOR VIOLATIONS**
21 **OF:**

- 22 1. NEGLIGENT VIOLATIONS
23 OF THE TELEPHONE
24 CONSUMER PROTECTION
25 ACT [47 U.S.C. §227(b)]
- 26 2. WILLFUL VIOLATIONS
27 OF THE TELEPHONE
28 CONSUMER PROTECTION
ACT [47 U.S.C. §227(b)]

DEMAND FOR JURY TRIAL

Plaintiff MICHAEL SCAVO (“Plaintiff”), individually and on behalf of all others similarly situated, alleges the following upon information and belief based upon personal knowledge:

NATURE OF THE CASE

1. Plaintiff brings this action individually and on behalf of all others similarly situated seeking damages and any other available legal or equitable remedies resulting from the illegal actions of ACCOUNT DISCOVERY SYSTEMS, LLC (“Defendant”), in negligently, knowingly, and/or willfully contacting Plaintiff on Plaintiff’s cellular telephone in violation of the Telephone

1 Consumer Protection Act, 47. U.S.C. § 227 et seq. (“TCPA”), thereby causing
2 Plaintiff to incur charges for incoming calls and invading Plaintiff’s privacy.

3 **JURISDICTION & VENUE**

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

12 3. Venue is proper in the United States District Court for the Eastern
13 District of Pennsylvania pursuant to 28 U.S.C. § 1391(b)(2) because Defendant
14 does business within the State of Pennsylvania and Plaintiff resides within
15 Delaware County in the State of Pennsylvania.

16 **PARTIES**

17 4. Plaintiff, MICHAEL SCAVO (“Plaintiff”), is a natural person
18 residing in Delaware County, Pennsylvania and is a “person” as defined by 47
19 U.S.C. § 153 (39).

20 5. Defendant, ACCOUNT DISCOVERY SYSTEMS, LLC
21 (“Defendant”) is a debt collection company, and is a “person” as defined by 47
22 U.S.C. § 153 (39).

23 6. The above named Defendant, and its subsidiaries and agents, are
24 collectively referred to as “Defendants.” The true names and capacities of the
25 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are
26 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious
27 names. Each of the Defendants designated herein as a DOE is legally responsible
28 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the

1 Complaint to reflect the true names and capacities of the DOE Defendants when
2 such identities become known.

3 7. Plaintiff is informed and believes that at all relevant times, each and
4 every Defendant was acting as an agent and/or employee of each of the other
5 Defendants and was acting within the course and scope of said agency and/or
6 employment with the full knowledge and consent of each of the other Defendants.
7 Plaintiff is informed and believes that each of the acts and/or omissions complained
8 of herein was made known to, and ratified by, each of the other Defendants.

9 **FACTUAL ALLEGATIONS**

10 8. Beginning within the last year, Defendant contacted Plaintiff on
11 Plaintiff's cellular telephone number ending in -8055, in an attempt to collect on
12 an alleged debt.

13 9. Defendant called Plaintiff multiple times in connection with collection
14 on an alleged debt.

15 10. Defendant left Plaintiff several voice messages with call back
16 numbers, including without limitation, (716) 562-3709.

17 11. Defendant called and left voice messages on the telephones of third
18 parties, including without limitation, Plaintiff's mother, in connection with
19 collection on the alleged debt from Plaintiff.

20 12. In many of these voice messages left on Plaintiff's and third party's
21 telephones, there were noticeable three (3) to six (6) second of recorded silence
22 before Defendant began to speak.

23 13. Defendant used an "automatic telephone dialing system" ("ATDS")
24 as defined by 47 U.S.C. § 227(a)(1) to place its frequent and incessant collection
25 calls to Plaintiff.

26 14. Defendant's calls constituted calls that were not for emergency
27 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

28 15. Defendant's calls were placed to telephone number assigned to a

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

3 16. 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 17. Defendant placed multiple collection calls to Plaintiff on his cellular
8 telephone ending in -8055 within the last year.

9 18. Plaintiff received numerous collection calls from Defendant within a
10 12-month period.

11 19. Upon information and belief, and based on Plaintiff's experiences
12 recounted herein, and at all relevant times, Defendant failed to establish and
13 implement reasonable practices and procedures to effectively prevent collection
14 calls in violation of the TCPA.

15 **CLASS ALLEGATIONS**

16 20. Plaintiff brings this action individually and on behalf of all others
17 similarly situated, as a member the proposed classes (hereafter, "The Class")
18 defined as follows:

19 All persons within the United States who received any
20 collection telephone calls from Defendant to said
21 person's cellular telephone made through the use of any
22 automatic telephone dialing system or an artificial or
23 prerecorded voice and such person had not previously
24 consented to receiving such calls within the four years
prior to the filing of this Complaint

25 21. Plaintiff represents, and is a member of, The Class, consisting of all
26 persons within the United States who received any collection telephone calls from
27 Defendant to said person's cellular telephone made through the use of any
28 automatic telephone dialing system or an artificial or prerecorded voice and such

1 person had not previously provided their cellular telephone number to Defendant
2 or express consent to be called with an automatic telephone dialing system or
3 artificial or prerecorded voice within the four years prior to the filing of this
4 Complaint.

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

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

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

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

- 27 a. Whether, within the four years prior to the filing of this
28 Complaint, Defendant made any collection call (other than a

1 call made for emergency purposes or made with the prior
2 express consent of the called party) to a Class member using
3 any automatic telephone dialing system or any artificial or
4 prerecorded voice to any telephone number assigned to a
5 cellular telephone service;

- 6 b. Whether Plaintiff and the Class members were damaged
7 thereby, and the extent of damages for such violation; and
8 c. Whether Defendant should be enjoined from engaging in such
9 conduct in the future.

10 26. As a person who received numerous collection calls from Defendant
11 using an automatic telephone dialing system or an artificial or prerecorded voice,
12 without Plaintiff's prior express consent, Plaintiff is asserting claims that are
13 typical of The Class.

14 27. Plaintiff will fairly and adequately protect the interests of the members
15 of The Class. Plaintiff has retained attorneys experienced in the prosecution of
16 class actions.

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

28 29. The prosecution of separate actions by individual Class members

1 would create a risk of adjudications with respect to them that would, as a practical
2 matter, be dispositive of the interests of the other Class members not parties to such
3 adjudications or that would substantially impair or impede the ability of such non-
4 party Class members to protect their interests.

5 30. Defendant has acted or refused to act in respects generally applicable
6 to The Class, thereby making appropriate final and injunctive relief with regard to
7 the members of the Class as a whole.

8 **FIRST CAUSE OF ACTION**

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

10 **47 U.S.C. § 227 et seq..**

11 31. Plaintiff repeats and incorporates by reference into this cause of action
12 the allegations set forth above at Paragraphs 1-30.

13 32. The foregoing acts and omissions of Defendant constitute numerous
14 and multiple negligent violations of the TCPA, including but not limited to each
15 and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

16 33. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et*
17 *seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory
18 damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

19 34. Plaintiff and the Class members are also entitled to and seek injunctive
20 relief prohibiting such conduct in the future.

21 **SECOND CAUSE OF ACTION**

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

23 **Act**

24 **47 U.S.C. § 227 et seq.**

25 35. Plaintiff repeats and incorporates by reference into this cause of action
26 the allegations set forth above at Paragraphs 1-30.

27 36. The foregoing acts and omissions of Defendant constitute numerous
28 and multiple knowing and/or willful violations of the TCPA, including but not

1 limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et*
2 *seq.*

3 37. As a result of Defendant's knowing and/or willful violations of *47*
4 *U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of
5 \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C.*
6 *§ 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

7 38. Plaintiff and the Class members are also entitled to and seek injunctive
8 relief prohibiting such conduct in the future.

9 **PRAYER FOR RELIEF**

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

11 **FIRST CAUSE OF ACTION**

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

13 **47 U.S.C. § 227 et seq.**

- 14 • As a result of Defendant's negligent violations of *47 U.S.C. §227 et*
15 *seq.*, Plaintiff and the Class members are entitled to and request \$500
16 in statutory damages, for each and every violation, pursuant to *47*
17 *U.S.C. 227(b)(3)(B)*.
18 • Any and all other relief that the Court deems just and proper.

19 **SECOND CAUSE OF ACTION**

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

21 **Act**

22 **47 U.S.C. § 227 et seq.**

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

JURY DEMAND

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

Respectfully Submitted this 29th Day of August, 2017.

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

By: _____

Cynthia Z. Levin, Esq.
Law Offices of Todd M. Friedman, P.C.
Attorney for Plaintiff

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JS 44 (Rev. 06/17)

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 NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS MICHAEL SCAVO, individually and on behalf of all others similarly situated,</p> <p>(b) County of Residence of First Listed Plaintiff <u>Delaware</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) Cynthia Z. Levin, Esq., LAW OFFICES OF TODD M. FRIEDMAN, P.C., 1150 First Avenue, Suite 501, King of Prussia, PA 19406</p>	<p>DEFENDANTS ACCOUNT DISCOVERY SYSTEMS, LLC, and DOES 1 through 10, inclusive, and each of them,</p> <p>County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <p>(For Diversity Cases Only)</p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		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
	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.

<p>CONTRACT</p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p>	<p>TORTS</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Personal Injury - Medical Malpractice</p>	<p>PERSONAL INJURY</p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p>PERSONAL PROPERTY</p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p>FORFEITURE/PENALTY</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p>LABOR</p> <p><input type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Management Relations</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 751 Family and Medical Leave Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Employee Retirement Income Security Act</p> <p>IMMIGRATION</p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p>	<p>BANKRUPTCY</p> <p><input type="checkbox"/> 422 Appeal 23 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>PROPERTY RIGHTS</p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 835 Patent - Abbreviated New Drug Application</p> <p><input type="checkbox"/> 840 Trademark</p> <p>SOCIAL SECURITY</p> <p><input type="checkbox"/> 861 HIA (1355ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/D'WW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405 g)</p> <p>FEDERAL TAX SUITS</p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS—Third Party 26 USC '609</p>	<p>OTHER STATUTES</p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input checked="" type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>
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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. 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 08/28/2017 SIGNATURE OF ATTORNEY OF RECORD _____

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 jurisdiction s 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. 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 – 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.

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 17 W Chester Pike, Ridley Park, PA 19078

Address of Defendant: 495 Commerce Dr, Suite 2, Amherst, NY 14228

Place of Accident, Incident or Transaction: Ridley Park, PA (Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock? (Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes [] No [X]

Does this case involve multidistrict litigation possibilities? Yes [] No [X]

RELATED CASE, IF ANY:

Case Number: Judge Date Terminated:

Civil cases are deemed related when yes is answered to any of the following questions:

- 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes [] No [X]
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes [] No [X]
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes [] No [X]
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes [] No [X]

CIVIL: (Place [X] in ONE CATEGORY ONLY)

A. Federal Question Cases:

- 1. [] Indemnity Contract, Marine Contract, and All Other Contracts
2. [] FELA
3. [] Jones Act-Personal Injury
4. [] Antitrust
5. [] Patent
6. [] Labor-Management Relations
7. [] Civil Rights
8. [] Habeas Corpus
9. [] Securities Act(s) Cases
10. [] Social Security Review Cases
11. [X] All other Federal Question Cases (Please specify) 27 U.S.C. § 227, TCPA

B. Diversity Jurisdiction Cases:

- 1. [] Insurance Contract and Other Contracts
2. [] Airplane Personal Injury
3. [] Assault, Defamation
4. [] Marine Personal Injury
5. [] Motor Vehicle Personal Injury
6. [] Other Personal Injury (Please specify)
7. [] Products Liability
8. [] Products Liability — Asbestos
9. [] All other Diversity Cases (Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Cynthia Z. Levin, counsel of record do hereby certify:
[X] Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
[X] Relief other than monetary damages is sought.

DATE: 8/29/17 Attorney-at-Law 27050 Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 8/29/17 Attorney-at-Law 27050 Attorney I.D.#

GEKP

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

MICHAEL SCAVO, individually and on :
behalf of all others similarly situated, :
v. :
ACCOUNT DISCOVERY SYSTEMS, :
LLC, and DOES 1 through 10, :
inclusive, and each of them,

CIVIL ACTION

17 3899
NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

August 21, 2017	Cythia Z. Levin, Esq.	Plaintiff, MICHAEL SCAVO
Date	Attorney-at-law	Attorney for
(888) 595-9111	(866) 633-0228	clevin@attorneysforconsumers.com
Telephone	FAX Number	E-Mail Address

AUG 28 2017

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit: Account Discovery Systems Left Messages for Alleged Debtor's Family](#)
