

Gordon Rees Scully Mansukhani, LLP
633 West Fifth Street, 52nd Floor
Los Angeles, CA 90071

1 Calvin E. Davis (SBN: 101640)
cdavis@grsm.com
2 AARON P. RUDIN (SBN: 223004)
arudin@grsm.com
3 CANDICE S. CHO (SBN: 293875)
ccho@grsm.com
4 GORDON REES SCULLY MANSUKHANI, LLP
633 West Fifth Street, 52nd Floor
5 Los Angeles, CA 90071
Telephone: (213) 576-5002
6 Facsimile: (213) 680-4470

7 Attorneys for Defendant
NRT LLC
8

9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA
11

12 SHANNON SMITH, individually and on)	CASE NO. <u>'17CV2523 CAB WVG</u>
13 behalf of all others similarly situated,)	
14 Plaintiff,)	NOTICE OF REMOVAL
15 vs.)	
16 NRT LLC, a Delaware limited liability)	
17 company; and DOES 1-50, inclusive)	
Defendant.)	

18
19 **TO THE CLERK OF THE ABOVE-ENTITLED COURT:**

20 **PLEASE TAKE NOTICE** that Defendant NRT LLC (“NRT”) hereby
21 removes to this Court the state court action described below.

22 **I. JURISDICTION**

23 1. On November 13, 2017, Plaintiff Shannon Smith (“Plaintiff”) filed a
24 Class Action Complaint for Violation of the Telephone Consumer Protection Act
25 (“TCPA”) [47 U.S.C. § 227] in the Superior Court of the State of California for the
26 County of San Diego, entitled *Shannon Smith v. NRT, LLC, et al.*, as Case No. 37-
27 2017-00043218-CU-MC-CTL (the “Complaint.”). The claim alleged against NRT
28 may be removed to this Court pursuant to the original jurisdiction provisions of 28

Gordon Rees Scully Mansukhani, LLP
633 West Fifth Street, 52nd Floor
Los Angeles, CA 90071

1 U.S.C. § 1441(a) in that it arises under the TCPA, and this Court has original
2 jurisdiction over the TCPA claim pursuant to 28 U.S.C. § 1331. *See Mims v.*
3 *Arrow Financial Services, LLC*, 565 U.S. 368, 385–86 (2012) (federal courts have
4 original jurisdiction over TCPA claims).

5 **II. ALL PROCESS, PLEADINGS AND ORDERS SERVED ON NRT**

6 2. NRT was served with a copy of the Summons and Complaint, and
7 related initial filing documents on November 17, 2017. A copy of the Complaint is
8 attached hereto as Exhibit 1. A copy of the Summons is attached hereto as Exhibit
9 2. A copy of all other pleadings, process, or orders that were filed and/or served on
10 NRT are attached hereto collectively as Exhibit 3.

11 3. At this time, NRT has not been served with, and is not aware of, any
12 other pleadings, process or orders, in this matter and NRT is unaware of any other
13 defendants who were served with the Complaint and whose consent would be
14 necessary for removal. The only other defendants designated in the complaint are
15 unknown fictitious defendants Does 1-50.

16 **III. REMOVAL**

17 4. This Notice of Removal is timely filed pursuant to 28 U.S.C. §
18 1446(b), which provides that such notice “shall be filed within thirty days after the
19 receipt by the defendant, through service or otherwise, of a copy of the initial
20 pleadings setting forth the claim for relief upon which such action or proceeding is
21 based, or within thirty days after the service of summons upon the defendant if
22 such initial pleading has been filed in court and is not required to be served on the
23 defendant, whichever period is shorter.” NRT timely filed this notice within 30
24 days after Plaintiff’s Complaint was served on it.

25 5. Defendants may remove to the appropriate district court "any civil
26 action brought in a State court of which the district courts of the United States have
27 original jurisdiction." 28 U.S.C. § 1441(a). This Court has original jurisdiction
28 pursuant to 28 U.S.C. § 1441(a) in that it arises under the TCPA.

1 6. Pursuant to 28 U.S.C. § 1446(d), Notice to Adverse Party of Removal
2 to Federal Court will be served “promptly” on Plaintiff. Additionally, the Notice
3 to Adverse Party of Removal to Federal Court will be filed with the Superior Court
4 of California, County of San Diego, also pursuant to 28 U.S.C. § 1446(d).

5 7. If any question arises as to the propriety of the removal of this action,
6 NRT requests the opportunity to present a brief and oral argument in support of its
7 position that this case should be removed to this District Court based upon original
8 jurisdiction for the TCPA claim.

9 WHEREFORE, NRT prays that this action be removed from the Superior
10 Court of the State of California, County of San Diego to the United States District
11 Court for the Southern District of California.

12 Dated: December 18, 2017

GORDON REES SCULLY
MANSUKHANI, LLP

14 By: /s/Aaron P. Rudin
15 Calvin E. Davis
16 Aaron P. Rudin
17 Candice S. Cho
18 Attorneys for Defendant
19 NRT LLC
20
21
22
23
24
25
26
27
28

Gordon Rees Scully Mansukhani, LLP
633 West Fifth Street, 52nd Floor
Los Angeles, CA 90071

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.)

I. (a) PLAINTIFFS

SHANNON SMITH

(b) County of Residence of First Listed Plaintiff Orange County

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

James T. Hannink (131747); Zach P. Dostart (255071)
Dostart, Hannink & Coveney, LLP, 4180 La Jolla Village Dr. Suite 530
La Jolla, California 92037-1474; Tel: 858-623-4200

DEFENDANTS

NRT, LLC

County of Residence of First Listed Defendant Morris County, NJ

(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

17CV2523 CAB WVG

Calvin E. Davis (101640); Aaron P. Rudin (223004)
Gordon, Rees, Scully, Manshukhani LLP, 633 West 5th St., 52nd Flr.
Los Angeles, California 90071; Tel: 213-576-5000

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)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation

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

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

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
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. Section 227

Brief description of cause:
Telephone Consumer Protection Act Class Action

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 0.00
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE December 18, 2017

SIGNATURE OF ATTORNEY OF RECORD /s Aaron P. Rudin

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

EXHIBIT “1”

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

11/13/2017 at 08:00:00 AM
Clerk of the Superior Court
By Erika Engel, Deputy Clerk

1 JAMES T. HANNINK (131747)
jhannink@sdlaw.com
2 ZACH P. DOSTART (255071)
zdostart@sdlaw.com
3 DOSTART HANNINK & COVENEY LLP
4180 La Jolla Village Drive, Suite 530
4 La Jolla, California 92037-1474
Tel: 858-623-4200
5 Fax: 858-623-4299

6 Attorneys for Plaintiff

7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN DIEGO

10

11 SHANNON SMITH, individually and on
behalf of all others similarly situated,

12 Plaintiff,

13

14 vs.

15

NRT LLC, a Delaware limited liability
company; and DOES 1-50, inclusive,

16

Defendants.

17

18

19

20

21

22

23

24

25

26

27

28

CASE NO. 37-2017-00043218-CU-MC-CTL

**CLASS ACTION COMPLAINT FOR
VIOLATION OF THE TELEPHONE
CONSUMER PROTECTION ACT
("TCPA") [47 U.S.C. § 227]**

DEMAND FOR JURY TRIAL

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
28

GENERAL ALLEGATIONS

1. Plaintiff Shannon Smith (“Plaintiff”) is an individual residing in Orange County, California.

2. Plaintiff is informed and believes and thereon alleges that defendant NRT LLC (“NRT”) is a Delaware limited liability company that does business in San Diego County. NRT is a subsidiary of Realogy Holdings Corporation and operates all company-owned real estate offices under Realogy’s brands, including Coldwell Banker, Coldwell Banker Commercial, and Sotheby’s International Realty.

3. Plaintiff does not know the names of the defendants sued as DOES 1 through 50 but will amend this complaint when that information becomes known. Plaintiff alleges on information and belief that each of the DOE defendants is affiliated with the named defendant in some respect and is in some manner responsible for the wrongdoing alleged herein, either as a direct participant, or as the principal, agent, successor, alter ego, or co-conspirator of another defendant. For ease of reference, Plaintiff will refer to the named defendant and the DOE defendants collectively as “defendants.”

4. Venue is proper in this judicial district because defendants do business in this judicial district and defendants have not designated a principal place of business in California.

5. This Court has subject matter jurisdiction for this action pursuant to 47 U.S.C. §227(b)(3).

NRT BACKGROUND

6. According to NRT’s website, NRT is the largest residential real estate brokerage firm in the United States and owns and operates companies throughout the country.

7. Plaintiff alleges that defendants utilize an automatic telephone dialer for telemarketing purposes and are placing telephone calls to customers without the consent required under the TCPA.

8. Coldwell Banker posted a job listing on the website Indeed.com for a “Telemarketer/Appointment Setter” in its Pasadena, California office. The following is a portion of that job posting:

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
28

Telemarketer/Appointment Setter. ... We're looking for a talented sales representative to play a big role in our growth. Our sales team is slammed with good leads. We have a targeted list of interested leads for you to follow up with who actually won't hang up on you.

....

TASKS:

Responsibilities include scheduling phone and in person appointments, **making about 50-100 calls** per day and communicating efficiently with the rest of the sales team.

Warm and Cold Calling Both Sellers and Buyer Leads.

Help reach out to potential clients that we have obtained from various sources utilizing a VOIP communication system.

....

Following script(s) and qualification checklist, identify prospects for appointments.

....

Prospecting requires following up again and again. You will perform this activity routinely and systematically.

....

You will track qualified leads and help with automated content delivery to increase engagement.

Input leads into database and tracking systems.

A true and correct copy of the Coldwell Banker job posting is attached hereto as Exhibit 1.

9. The job posting attached as Exhibit 1 evidences that defendants utilize automated dialing technology to market their business without first obtaining the consumers' consent before placing the calls.

10. The website of Coldwell Banker Commercial describes its Targeted Acquisition Services ("TAS") concept for locating properties that are not on the market for sale. The website indicates the following regarding its procedure:

TAS acts as a supplement to an organization's existing acquisitions team, sourcing properties which are not actively marketed for sale. They work collaboratively with clients to identify assets of greatest interest in their target markets. Once the list is established, TAS will strive to uncover every off-market opportunity which meets their client's acquisition criteria through a network of local market experts and **relentless cold-calling campaigns.**

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
28

....

- A network of local market experts and a team of dedicated cold callers will contact each specified property owner until they have determined whether they might be a potential seller.

A true and correct copy of the Coldwell Banker job posting is attached hereto as Exhibit 2.

11. A former employee posted her resume on the website Indeed.com, indicating that as a “Sales Executive” for Coldwell Banker in Long Beach, California, she had the following responsibilities: “Inside/Outside sales”; “Cold calling, lead follow-up, set appointments, pre-qualify.” A true and correct copy of that resume posted to Indeed.com is attached hereto as Exhibit 3.

TCPA -- GENERAL ALLEGATIONS

12. Within the relevant statute of limitations, Plaintiff received at least one telephone call from defendants on her cellular telephone, during which defendants’ representative attempted to sell defendants’ services to Plaintiff.

13. Plaintiff is unaware how defendants obtained her cell phone number. When plaintiff asked how defendants had obtained her cell phone number, the representative declined to provide a definitive answer.

14. Plaintiff is informed and believes and thereon alleges that the telephone call to Plaintiff’s cellular telephone was initiated by defendants for the purposes of informing Plaintiff about the commercial availability of defendants’ services and encouraging Plaintiff to purchase those services. As such, the call constituted an “advertisement” as defined in 47 C.F.R. § 64.1200(f)(1) and “telemarketing” as defined in 47 C.F.R. § 64.1200(f)(12).

15. Within the telemarketing industry, it is common for telemarketers to utilize equipment to automate the step of telephone dialing. *See In the Matter of Rules and Regulations Implementing the Tel. Consumer Prot. Act of 1991*, 18 FCC Rcd. 14014, 14022 (July 3, 2003) (“2003 FCC Order”). Use of such technology enables telemarketing employees to devote more time to selling rather than dialing phone numbers. Such technology can include equipment that has the capacity to store or produce telephone numbers to be called, using a random or sequential number generator, and to dial such numbers, and/or equipment that stores pre-programmed

1 numbers or receives numbers from a computer database and then, for the sake of efficiency, dials
2 those numbers in a manner that predicts the time when the called party will answer the phone and
3 a telemarketer will be available to take the call (a “predictive dialer”). *See id.* at 14022, n.31,
4 14090-91. In either case, the basic function of such equipment is to dial numbers without human
5 intervention, and a predictive dialer falls within the meaning and statutory definition of “automatic
6 telephone dialing system” as set forth in 47 U.S.C. § 227(a)(1). 2003 FCC Order at 14091-93.

7 16. Based on the foregoing, Plaintiff is informed and believes and thereon alleges that
8 the call Plaintiff received on her cellular telephone was initiated by defendants using equipment
9 that has the capacity to store or produce telephone numbers to be called, using a random or
10 sequential number generator, and to dial such numbers, and/or a predictive dialer, such that the
11 call was initiated using an automatic telephone dialing system within the meaning of 47 U.S.C.
12 § 227(a)(1).

13 17. Defendants did not obtain Plaintiff’s prior express written consent before placing
14 the call to Plaintiff’s cellular telephone. Accordingly, the call was placed by defendants in
15 violation of 47 U.S.C. § 227(b)(1) and 47 C.F.R. § 64.1200(a)(2).

16 CLASS ACTION ALLEGATIONS

17 18. Plaintiff brings this lawsuit as a class action under Code of Civil Procedure § 382.
18 Plaintiff seeks to represent a Class defined as follows: “All natural persons nationwide who,
19 during the applicable limitations period, received a telephone call from defendants that was
20 (1) made to their cellular telephone and (2) initiated by defendants using an artificial or
21 prerecorded voice and/or an automatic telephone dialing system. Excluded from the class are all
22 employees of defendants, all employees of defendants’ counsel, and all employees of Plaintiff’s
23 counsel.”

24 19. Ascertainability. The members of the Class may be ascertained by reviewing
25 records in the possession of defendants and/or third parties, including without limitation
26 defendants’ call records, customer records, call lists, and audio recordings.

27 20. Common Questions of Fact or Law. There are questions of fact or law that are
28 common to the Class which predominate over individual issues. Common questions regarding the

1 Class include, without limitation: (1) defendants’ policies and procedures for obtaining prior
2 express written consent from customers or potential customers to place telephone calls to their
3 cellular telephones; (2) what type of telephone dialing system defendants used to initiate calls to
4 cellular telephones; (3) whether defendants initiated calls to cellular telephones using an artificial
5 or prerecorded voice; (4) whether defendants’ telephone calls constitute “advertisement” as
6 defined in 47 C.F.R. § 64.1200(f)(1) and/or “telemarketing” as defined in 47 C.F.R.
7 § 64.1200(f)(12); (5) defendants’ record-keeping practices; and (6) the appropriate remedies for
8 defendants’ conduct.

9 21. Numerosity. The Class is so numerous that joinder of all Class members would be
10 impracticable. Plaintiff is informed and believes and thereon alleges that the Class consists of at
11 least 50 members.

12 22. Typicality and Adequacy. Plaintiff’s claims are typical of the claims of the
13 members of the Class. Plaintiff alleges on information and belief that other Class members also
14 received one or more telemarketing calls to their cellular telephones that were initiated by
15 defendants using an automatic telephone dialing system and/or an artificial or prerecorded voice,
16 without first providing prior express written consent to receive such calls. Plaintiff has no
17 interests that are adverse to those of the other Class members. Plaintiff will fairly and adequately
18 protect the interests of the Class members.

19 23. Superiority. A class action is superior to other methods for resolving this
20 controversy. Because the damages suffered by each Class member are low, the expense and
21 burden of individual litigation would make it impracticable for Class members to redress the
22 wrongs done to them. Class certification would also conserve judicial resources and avoid the
23 possibility of inconsistent judgments.

24 FIRST CAUSE OF ACTION

25 (Violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227)

26 24. Plaintiff incorporates the previous allegations as if set forth herein.

27 25. Plaintiff is informed and believes and thereon alleges that, within the limitations
28 period, and without first obtaining the prior express written consent of Plaintiff or the Class

1 members, defendants initiated telephone calls to Plaintiff's and Class members' cellular
2 telephones using an automatic telephone dialing system and/or an artificial or prerecorded voice,
3 in violation of 47 U.S.C. § 227(b) and 47 C.F.R. § 64.1200(a)(2).

4 26. Plaintiff is informed and believes and thereon alleges that the telephone calls were
5 initiated by defendants for the purposes of informing Plaintiff and Class members about the
6 commercial availability of defendants' services and encouraging Plaintiff and Class members to
7 purchase those services. As such, each call constituted an "advertisement" as defined in 47 C.F.R.
8 § 64.1200(f)(1) and "telemarketing" as defined in 47 C.F.R. § 64.1200(f)(12).

9 27. Plaintiff is informed and believes and thereon alleges that the telephone calls to
10 Plaintiff's and Class members' cellular telephones were made by defendants knowingly and
11 willfully.

12 28. As a result of defendants' conduct, Plaintiff and the Class members are entitled to
13 injunctive relief pursuant to 47 U.S.C. § 227(b)(3)(A) and statutory damages of at least \$500 per
14 violation and up to \$1,500 per violation pursuant to 47 U.S.C. § 227(b)(3).

15 PRAYER

16 WHEREFORE, Plaintiff prays for judgment against defendants as follows:

- 17 1. For statutory damages as alleged herein;
- 18 2. For injunctive relief as alleged herein;
- 19 3. For reasonable attorneys' fees;
- 20 4. For costs of suit;
- 21 5. For pre-judgment interest; and
- 22 6. For such other relief that the Court deems proper.

23 Dated: November ¹⁰, 2017

DOSTART HANNINK & COVENEY LLP

24 

25 ZACH P. DOSTART
26 Attorneys for Plaintiff


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
28

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury on all claims so triable.

Dated: November 10, 2017

DOSTART HANNINK & COVENEY LLP


ZACH P. DOSTART
Attorneys for Plaintiff

830227.1

Exhibit 1

Find Jobs Explore Companies Research Salaries Find Resumes Employers / Post Job Upload your resume Sign in

what where [Advanced Job Search](#)

job title, keywords or company city, state, or zip

Telemarketer/Appointment Setter

Coldwell Banker 1,535 reviews - Pasadena, CA
Full-time, Commission



Our local Real Estate team is looking for that special person!
At this time we are looking for an Office Inside Sales Associate.
You will love your job. Yes its possible!!!

Get job updates from Coldwell Banker

Hourly rate Plus Commission and Bonuses.

Coldwell Banker
1,535 reviews
NRT is the largest residential real estate brokerage company in the nation. NRT and its affiliated companies, marketing partners and joint...

We're looking for a talented sales representative to play a big role in our growth. Our sales team is slammed with good leads. We have a targeted list of interested leads for you to follow up with who actually won't hang up on you.

We have created a team to support growth of each team member and continue to expand our brand for a higher level of market dominance and customer care, to give all of our clients the home experience and to exceed all of our client's expectations! We have a culture of supporting each other to learn and grow and helping each other when needed. We encourage the sharing of ideas as we are not experts in all areas.

Culture goes a long way in building a successful company. Individual talents are important, but collaboration is the key to a winning culture.

TASKS:

Responsibilities include scheduling phone and in person appointments, making about 50-100 calls per day and communicating efficiently with the rest of the sales team.

Warm and Cold Calling Both Sellers and Buyer Leads

Help reach out to potential clients that we have obtained from various sources utilizing a VOIP communication system.

Lead Screening and Qualification

Following script(s) and qualification checklist, identify prospects for appointments.

Prospect and/or Client Follow Up

Prospecting requires following up again and again. You will perform this activity routinely and systematically.

Lead Nurturing

You will track qualified leads and help with automated content delivery to increase engagement.

Input leads into database and tracking systems.

Job Type: Full-time

Job Location:

- Pasadena, CA

Required education:

- High school or equivalent

Job Type: Full-time

Exhibit 1
Page 1

Job Location:

- Pasadena, CA

Required license or certification:

- Driver's License

30+ days ago - save job

» **Apply Now**

Please review all application instructions before applying to Coldwell Banker.

Apply Now

Other jobs you may like

Environmental Services Appointment Setter
Associated Environmental Management - South Pasadena, CA
23 days ago
Easily apply

Real Estate Sales Agent/Associate2
1st Priority One Realty - Los Angeles, CA
7 days ago
Easily apply

Appointment Setter
AZ Air Conditioning and Heating, Inc. - Simi Valley, CA
7 days ago
Easily apply

Appointment Setter
AZ Air Conditioning and Heating, Inc. - Northridge, CA
7 days ago
Easily apply

Licensed Buyer's Agent / Real Estate Sales
Grant Law Homes Team - Pasadena, CA
15 days ago
Easily apply

[About - Help Center](#)

[©2017 Indeed - Cookies, Privacy and Terms](#)

Exhibit 2

Contact

TARGETED ACQUISITIONS

Founded in 2012, Coldwell Banker Commercial Advisors Institutional Advisory Group (IAG) focus on targeted acquisitions. They source and uncover off-market opportunities of various property types for REITS, Pension Funds, Private Equity, and other institutional quality buyers across the country.

Regardless of the size of their acquisitions team, organizations found it difficult to dedicate personnel to directly contact every property owner with product that fit their investment criteria. Therefore the Targeted Acquisition Services (TAS) concept was born.

TAS acts as a supplement to an organization's existing acquisitions team, sourcing properties which are not actively marketed for sale. They work collaboratively with clients to identify assets of greatest interest in their target markets. Once the list is established, TAS will strive to uncover every off-market opportunity which meets their client's acquisition criteria through a network of local market experts and relentless cold-calling campaigns.

As TAS believes that client satisfaction is crucial to its success, all service agreements between TAS and its clients are able to be canceled with thirty days written notice.

Download Brochure

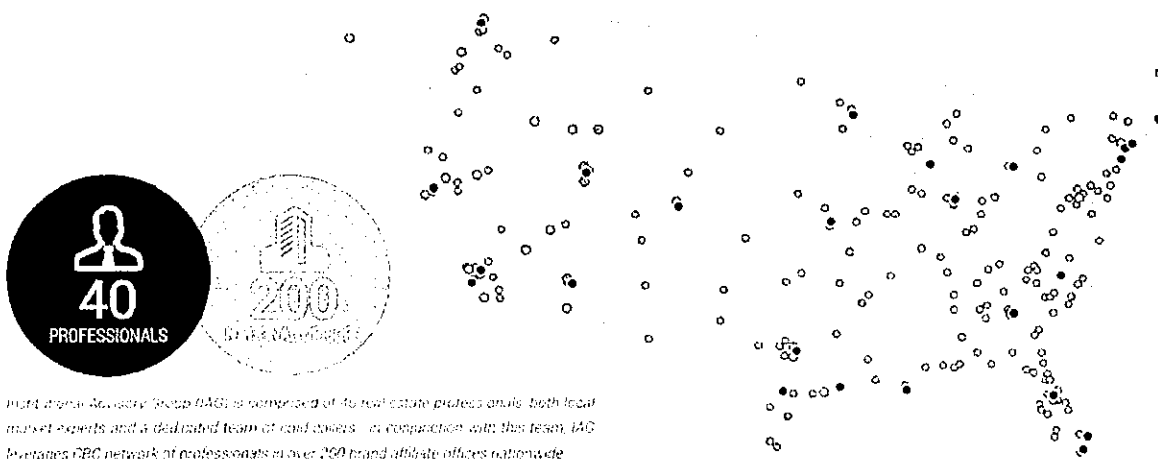
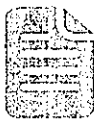


Exhibit 2
Page 3

ASSESS



Understanding Needs

- Generate and analyze property lists matching the client's specifications within each target market
- Assess each owner's true level of interest in selling

SOURCE



Delivering Value

- Collaborate with clients to identify properties of greatest interest.
- A network of local market experts and a team of dedicated cold callers will contact each specified property owner until they have determined whether they might be a potential seller

AQUIRE



Closing the Deal

- Obtain critical property data
- Assist in generating and submitting offers
- Negotiate the deal
- Support the due diligence process



Bruce Weissberg
Institutional Advisory Group

[View Profile](#)

Exhibit 2
Page 5



Stephanie Weber
Institutional Advisory Group

[View Profile](#)

Exhibit 2
Page 6

Exhibit 3

Ann Martinez

Orange, CA - Email me on Indeed: [indeed.com/r/Ann-Martinez/a8c82d6829aee377](https://www.indeed.com/r/Ann-Martinez/a8c82d6829aee377)

Energetic professional with over 10 years of Business Administration and Accounting experience. Focused and motivated with a meticulous work approach, patient, reliable, versatile, flexible and cooperative. Demonstrate integrity and sincere dedication to customer satisfaction.

WORK EXPERIENCE

MARKETING REPRESENTATIVE

CELTIC FINANCE/MB FINANCIAL BANK - Irvine, CA - June 2013 to January 2014

Develop and manage geographic territory while prospecting new customers through cold calling

- Communicate directly with client's Chief Executive Officer, Chief Financial Officer, Vice President of Finance, Financial Controller and Treasurers to determine prospects financial needs
- Request and review client financial statements for credit approval
- Prepare Proposals and Letters of Intent
- Attained over \$250,000 in company profits during first 3 months

ACCOUNTS ADMINISTRATOR

BRADCAL, INC - Cerritos, CA - March 2011 to July 2012

Assistant to Vice President

- Accounts payable, accounts receivable, perform postings of customer payments by recording checks, credit card transactions/ACH's, cash bank deposits and reconciliation, property management
- Process payroll, respond to payroll-related questions from employees and managers and distribute paychecks
- Demonstrate sensitivity and discretion in regards to confidential information
- Human Resource, prepare all H.R documents, direct and lead all new hire orientations, train new/existing staff, issue employee keys and warehouse door security codes, monitor employee schedules, submit vacation and over time requests for approval, personnel file and records maintenance
- Draft and distribute correspondence to staff on behalf of Vice President
- Generate purchase orders
- Customer Service, process orders, resolve customer issues
- Order and maintain office supply inventory

SALES EXECUTIVE

BAUS CONSTRUCTION, INC - Orange, CA - January 2009 to March 2011

Outbound sales calls, build and develop new client relationships

- Initiate and maintain relationships with key decision makers, Property Owners/Developers, Property Managers, and Sub-Contractors
- Lead follow, set appointments, sales presentations

ACCOUNT MANAGER

FINISHMASTER - Garden Grove, CA - October 2007 to November 2008

Develop and maintain current and new client relationships

- Generate leads through prospecting
- Generate written proposals, prepare and deliver sales presentations, plan client meetings, demonstrate product capabilities and obtain sales orders

- Responsible for attaining company monthly and annual sales goals
- Conduct monthly physical inventories for accounts such as BMW, Toyota, Chevrolet, and Ford
- Support Customer Service Representatives and Technicians to achieve customer satisfaction

SALES EXECUTIVE, COLDWELL BANKER

CENTURY 21 - Long Beach, CA - July 2003 to October 2007

Inside/Outside sales

- Business planning, develop and implement marketing campaigns/advertisements
- Cold calling, lead follow-up, set appointments, pre-qualify
- Evaluate property, perform appraisals and request BPO (Broker Price Opinions)
- Perform sales presentations, negotiate contracts, pricing and commissions
- Coordinate with escrow, attorneys and insurance companies
- Coordinate property physical inspections, bid solicitation, supervise renovations/repairs
- Loss Mitigation, conduct foreclosures, negotiate short sale settlements with various banks nationwide; Negotiate reduced client pay offs for past due Home Owner Association fees, property taxes, personal loans and other 3rd party beneficiaries

EDUCATION

Business Administration

Cerritos College

2006 to 2007

SKILLS

SKILLS: Exceptional written/oral communication & interpersonal skills, contract specialist, QuickBooks, Mosaic Payroll Software, SBT, MS Office proficient (excel, word, outlook, access, publisher), type 70 WPM, Internet Explorer

EXHIBIT “2”

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

NRT LLC, a Delaware limited liability company

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

SHANNON SMITH, individually and on behalf of all others similarly situated

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

11/13/2017 at 08:00:00 AM

Clerk of the Superior Court
By Erika Engel, Deputy Clerk

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): **San Diego Superior Court
330 West Broadway
San Diego, CA 92101**

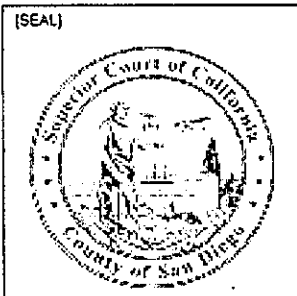
CASE NUMBER:
(Número del Caso) 37-2017-00043218-CU-MC-CTL

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

DATE: 11/14/2017
(Fecha)

Clerk, by E. Engel, Deputy
(Secretario) E. Engel (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
- by personal delivery on (date):

EXHIBIT “3”

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number and address) James T. Hannink (131747) Zach P. Dostart (255071) DOSTART HANNINK & COVENEY LLP 4180 La Jolla Village Drive, Suite 530, La Jolla, CA 92037 TELEPHONE NO (858) 623-4200 FAX NO (858) 623-4299 ATTORNEY FOR (Name) Plaintiff Shannon Smith	FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of San Diego 11/13/2017 at 08:00:00 Awt Clerk of the Superior Court By Erika Engel, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS 330 W. Broadway MAILING ADDRESS CITY AND ZIP CODE San Diego 92101 BRANCH NAME Hall of Justice	CASE NUMBER 37-2017-00043218-CU-MC-CTL JUDGE Judge Kenneth J Medel DEPT
CASE NAME: Smith v. NRT LLC	CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)
Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	JUDGE Judge Kenneth J Medel DEPT

Items 1-6 below must be completed (see instructions on page 2)

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input checked="" type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
--	--	---

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|---|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input checked="" type="checkbox"/> Large number of witnesses |
| b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify):
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015)

Date: November 10, 2017
 Zach P. Dostart
(TYPE OR PRINT NAME)

Zach P. Dostart
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Zachariah Dostart, 255071 Dostart Hannink & Coveney LLP 4180 La Jolla Village Drive, Suite 530 La Jolla, CA 92037 TELEPHONE NO.: (858)623-4285 ATTORNEY FOR (Name):	ELECTRONICALLY FILED Superior Court of California, County of San Diego 11/30/2017 at 12:41:00 PM Clerk of the Superior Court By E-Filing, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Superior Court of California, San Diego County 330 W. Broadway San Diego, CA 92101-3409	
PLAINTIFF/PETITIONER: Shannon Smith et al. DEFENDANT/RESPONDENT: NRT LLC, a Delaware limited liability company	CASE NUMBER: 37-2017-00043218-CU-MC-CTL
PROOF OF SERVICE OF SUMMONS	Ref. No. or File No.: 17215-1

1. At the time of service I was a citizen of the United States, at least 18 years of age and not a party to this action.
2. I served copies of: **BY FAX**
 Class Action Complaint for Violation of the Telephone Consumer Protection Act, Civil Case Cover Sheet, Original Summons, Notice of Case Assignment SD, Stipulation to Alternative Dispute Resolution Process SD, Notice to Litigants SD
3. a. Party served: NRT LLC, a Delaware limited liability company
 Corporate Creations Network, Alexa Siemensi - Person Authorized to Accept Service of
 b. Person Served: Process
4. Address where the party was served: 3411 Silverside Road, Ste. 104
 Wilmington, DE 19810
5. I served the party
 a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): 11/17/2017 (2) at (time): 1:39PM
6. The "Notice to the Person Served" (on the summons) was completed as follows:
 d. on behalf of:

NRT LLC, a Delaware limited liability company
 under: Other: Limited Liability Company

7. Person who served papers
 - a. Name: Sharlene Ryan
 - b. Address: One Legal - 194-Marin
 504 Redwood Blvd #223
 Novato, CA 94947
 - c. Telephone number: 415-491-0606
 - d. The fee for service was: \$ 169.95
 - e I am:
 (1) Not a registered California process server.

8. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.
 Date: 11/27/2017

Sharlene Ryan
 (NAME OF PERSON WHO SERVED PAPERS)



(SIGNATURE)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO	
STREET ADDRESS: 330 W Broadway	
MAILING ADDRESS: 330 W Broadway	
CITY AND ZIP CODE: San Diego, CA 92101-3827	
BRANCH NAME: Central	
TELEPHONE NUMBER: (619) 450-7066	
PLAINTIFF(S) / PETITIONER(S): Shannon Smith	
DEFENDANT(S) / RESPONDENT(S): NRT LLC	
SMITH VS NRT LLC [E-FILE]	
NOTICE OF CASE ASSIGNMENT AND CASE MANAGEMENT CONFERENCE on MANDATORY eFILE CASE	CASE NUMBER: 37-2017-00043218-CU-MC-CTL

CASE ASSIGNMENT

Judge: Kenneth J Medel

Department: C-66

COMPLAINT/PETITION FILED: 11/13/2017

TYPE OF HEARING SCHEDULED	DATE	TIME	DEPT	JUDGE
Civil Case Management Conference	05/18/2018	08:30 am	C-66	Kenneth J Medel

A case management statement must be completed by counsel for all parties or self-represented litigants and timely filed with the court at least 15 days prior to the initial case management conference. (San Diego Local Rules, Division II, CRC Rule 3.725).

All counsel of record or parties in pro per shall appear at the Case Management Conference, be familiar with the case, and be fully prepared to participate effectively in the hearing, including discussions of ADR* options.

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT), THE ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION FORM (SDSC FORM #CIV-730), A STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) (SDSC FORM #CIV-359), AND OTHER DOCUMENTS AS SET OUT IN SDSC LOCAL RULE 2.1.5.

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil cases consist of all civil cases except: small claims proceedings, civil petitions, unlawful detainer proceedings, probate, guardianship, conservatorship, juvenile, parking citation appeals, and family law proceedings.

COMPLAINTS: Complaints and all other documents listed in SDSC Local Rule 2.1.5 must be served on all named defendants.

DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than 15 day extension which must be in writing and filed with the Court.) (SDSC Local Rule 2.1.6)

JURY FEES: In order to preserve the right to a jury trial, one party for each side demanding a jury trial shall pay an advance jury fee in the amount of one hundred fifty dollars (\$150) on or before the date scheduled for the initial case management conference in the action.

MANDATORY eFILE: Case assigned to mandatory eFile program per CRC 3.400-3.403 and SDSC Rule 2.4.11. All documents must be eFiled at www.onelegal.com. Refer to General Order in re procedures regarding electronically imaged court records, electronic filing, and access to electronic court records in civil and probate cases or guidelines and procedures.

COURT REPORTERS: Court reporters are not provided by the Court in Civil cases. See policy regarding normal availability and unavailability of official court reporters at www.sdcourt.ca.gov.

*ALTERNATIVE DISPUTE RESOLUTION (ADR): THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO TRIAL, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. PARTIES MAY FILE THE ATTACHED STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (SDSC FORM #CIV-359).

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Real Estate Brokerage Group NRT Pegged with Class Action Over Robocalls](#)
