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11 **UNITED STATES DISTRICT COURT**
 12 **EASTERN DISTRICT OF CALIFORNIA**

13 KRISTYNA SOUDERS, individually)	Case No.
14 and on behalf of all others similarly)	
15 situated,)	<u>CLASS ACTION</u>
16 Plaintiff,)	COMPLAINT FOR VIOLATIONS
17 vs.)	OF:
18)	1. NEGLIGENT VIOLATIONS
19 RESEARCH TRIANGLE INSTITUTE,)	OF THE TELEPHONE
20 d.b.a. RTI INTERNATIONAL; and)	CONSUMER PROTECTION
21 DOES 1 through 10, inclusive,)	ACT [47 U.S.C. §227(b)]
22 Defendant.)	<u>DEMAND FOR JURY TRIAL</u>
23)	
24)	

25 _____
 26 Plaintiff KRISTYNA SOUDERS (“Plaintiff”), individually and on behalf of
 27 all others similarly situated, alleges the following upon information and belief
 28 based upon personal knowledge:

1 13. Defendant's calls were placed to telephone number assigned to a
2 cellular telephone service for which Plaintiff incurs a charge for incoming calls
3 pursuant to *47 U.S.C. § 227(b)(1)*.

4 14. Plaintiff is not a customer of Defendant's services and has never
5 provided any personal information, including her telephone number, to Defendant
6 for any purpose whatsoever.

7 15. During all relevant times, Defendant did not possess Plaintiff's "prior
8 express consent" to receive calls using an automatic telephone dialing system or an
9 artificial or prerecorded voice on its cellular telephones pursuant to *47 U.S.C. §*
10 *227(b)(1)(A)*.

11 16. Defendant placed multiple calls attempting to gather survey research
12 from Plaintiff on his cellular telephone ending in -8176 beginning in or around
13 February or Marcy of 2018.

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

16 18. Upon information and belief, and based on Plaintiff's experiences of
17 being called by Defendant, and at all relevant times, Defendant failed to establish
18 and implement reasonable practices and procedures to effectively prevent survey
19 calls made by an automatic dialer and/or an artificial or prerecorded voice in
20 violation of the regulations prescribed under *47 U.S.C. § 227(b)(3)*.

21 **CLASS ALLEGATIONS**

22 19. Plaintiff brings this action individually and on behalf of all others
23 similarly situated, as a member the proposed class (hereafter "The Class"). The
24 Class is defined as follows:

25 All persons within the United States who received any
26 survey telephone calls from Defendant to said person's
27 cellular telephone made through the use of any automatic
28 telephone dialing system or an artificial or prerecorded
voice and such person had not previously consented to

1 receiving such calls within the four years prior to the
2 filing of this Complaint

3 20. Plaintiff represents, and is a member of, The Class, consisting of all
4 persons within the United States who received any survey telephone calls from
5 Defendant to said person's cellular telephone made through the use of any
6 automatic telephone dialing system or an artificial or prerecorded voice and such
7 person had not previously not provided their cellular telephone number to
8 Defendant within the four years prior to the filing of this Complaint.

9 21. Defendant, their employees and agents are excluded from The Class.
10 Plaintiff does not know the number of members in The Class, but believes the Class
11 members number in the thousands, if not more. Thus, this matter should be
12 certified as a Class Action to assist in the expeditious litigation of the matter.

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

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

26 24. Common questions of fact and law exist as to all members of The
27 Class which predominate over any questions affecting only individual members of
28 The Class. These common legal and factual questions, which do not vary between

1 Class members, and which may be determined without reference to the individual
2 circumstances of any Class members, include, but are not limited to, the following:

- 3 a. Whether, within the four years prior to the filing of this
4 Complaint, Defendant made any survey call (other than a call
5 made for emergency purposes or made with the prior express
6 consent of the called party) to a Class member using any
7 automatic telephone dialing system or any artificial or
8 prerecorded voice to any telephone number assigned to a
9 cellular telephone service;
- 10 b. Whether Plaintiff and The Class members were damaged
11 thereby, and the extent of damages for such violation; and
- 12 c. Whether Defendant and their agents should be enjoined from
13 engaging in such conduct in the future.

14 25. As a person that received numerous survey calls from Defendant using
15 an automatic telephone dialing system or an artificial or prerecorded voice, without
16 Plaintiff's prior express consent, Plaintiff is asserting claims that are typical of The
17 Class.

18 26. Plaintiff will fairly and adequately protect the interests of the members
19 of The Class. Plaintiff has retained attorneys experienced in the prosecution of
20 class actions.

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

1 issues. By contrast, the conduct of this action as a class action presents fewer
2 management difficulties, conserves the resources of the parties and of the court
3 system, and protects the rights of each Class member.

4 28. The prosecution of separate actions by individual Class members
5 would create a risk of adjudications with respect to them that would, as a practical
6 matter, be dispositive of the interests of the other Class members not parties to such
7 adjudications or that would substantially impair or impede the ability of such non-
8 party Class members to protect their interests.

9 29. Defendant have acted or refused to act in respects generally applicable
10 to The Class, thereby making appropriate final and injunctive relief with regard to
11 the members of the Class as a whole.

12 **FIRST CAUSE OF ACTION**

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

14 **47 U.S.C. §227(b).**

15 **On Behalf of The Class**

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

18 31. The foregoing acts and omissions of Defendant constitute numerous
19 and multiple negligent violations of the TCPA, including but not limited to each
20 and every one of the above cited provisions of *47 U.S.C. § 227(b)*, and in particular
21 *47 U.S.C. § 227 (b)(1)(A)*.

22 32. As a result of Defendant' negligent violations of *47 U.S.C. § 227(b)*,
23 Plaintiff and The Class Members are entitled an award of \$500.00 in statutory
24 damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

25 33. Plaintiff and The Class members are also entitled to and seek
26 injunctive relief prohibiting such conduct in the future.

27 **PRAYER FOR RELIEF**

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

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

KRISTYNA SOUDERS, individually and on behalf of all others similarly situated

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

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

DEFENDANTS

RESEARCH TRIANGLE INSTITUTE, d.b.a. RTI INTERNATIONAL; and DOES 1 through 10, inclusive

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

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

Attorneys (If Known)

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

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

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

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

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

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - 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, et seq.

Brief description of cause: Violation of the telephone consumer protections act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000.01 CHECK YES only if demanded in complaint: JURY DEMAND: X Yes [] No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 08/02/2018 SIGNATURE OF ATTORNEY OF RECORD s/Todd M. Friedman

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Case 1:18-cv-01043-DAD-JLT Document 1-1 Filed 08/02/18 Page 2 of 2
INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

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

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. 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.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [RTI International Facing Lawsuit Over Allegedly Unlawful Survey Phone Calls](#)
