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15  
16 **UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**  
17 **EASTERN DIVISION**

18 **EVE THOMAS, Individually and**  
19 **On Behalf of All Others Similarly**  
**Situated,**

20 **Plaintiff,**

21 **v.**

22 **PNC BANK, N.A.,**

23  
24 **Defendant.**

**Case No.: 5:20-cv-00038**

**COMPLAINT FOR DAMAGES**  
**AND INJUNCTIVE RELIEF**  
**PURSUANT TO THE TELEPHONE**  
**CONSUMER PROTECTION ACT,**  
**47 U.S.C. § 227, ET SEQ.**

**JURY TRIAL DEMANDED**

**INTRODUCTION**

1  
2 1. EVE THOMAS (“Ms. Thomas” or “Plaintiff”) brings this Class Action  
3 Complaint for damages, injunctive relief, and any other available legal or  
4 equitable remedies, resulting from the illegal actions of PNC BANK, N.A.  
5 (“PNC” or “Defendant”), in negligently, and/or willfully contacting  
6 Plaintiff for marketing purposes on her cellular telephones, in violation of  
7 the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.*,  
8 (“TCPA”), thereby invading Plaintiffs’ privacy. Plaintiff alleges as  
9 follows upon personal knowledge as to her own acts and experiences, and,  
10 as to all other matters, upon information and belief, including  
11 investigation conducted by their attorneys.

**JURISDICTION AND VENUE**

12  
13 2. This Court has federal question jurisdiction because this case arises out of  
14 violation of federal law. 47 U.S.C. §227(b).  
15 3. Venue is proper in the United States District Court for the Central District  
16 of California pursuant to 18 U.S.C. § 1391(b) because the events giving  
17 rise to Plaintiff’s causes of action against PNC occurred within the State  
18 of California and the County of San Bernardino, within this judicial  
19 district.

**PARTIES**

20  
21 4. Plaintiff is, and at all times mentioned herein was, a citizen and resident  
22 of the State of California.  
23 5. Plaintiff is, and at all times mentioned herein was, a “person” as defined  
24 by 47 U.S.C. § 153 (39).  
25 6. Plaintiff is informed and believes, and thereon alleges, that PNC is, and at  
26 all times mentioned herein was, a national association whose primary  
27 business address is in Pittsburgh, Pennsylvania.  
28

1 7. Plaintiff is informed and believes, and thereon allege, that PNC is, and at  
2 all times mentioned herein was a “person,” as defined by 47 U.S.C. § 153  
3 (39).

4 8. PNC provides various consumer credit products and advertises those  
5 products through the use of telephone calls.

6 **FACTUAL ALLEGATIONS**

7 9. At all times relevant PNC conducted business in the State of California  
8 and in the County of San Bernardino, within this judicial district.

9 10. At no time did Plaintiff provide her current cellular telephone number to  
10 Defendant through any medium, and in fact, Plaintiff had never heard of  
11 PNC prior to PNC calling her.

12 11. On or about a year ago, Plaintiff began receiving telephone calls from  
13 PNC on her cellular telephone ending in “9587” (“9587 Number”).

14 12. PNC called Ms. Thomas’ cellular telephone using an artificial or  
15 prerecorded voice message in an effort to convince Plaintiff to pay for  
16 consumer credit products. Each time Defendant called there was a long  
17 pause on each of the calls after Plaintiff answered, followed by a live  
18 person saying they were with PNC.

19 13. Upon information and belief, the calls were placed via an “automatic  
20 telephone dialing system,” (“ATDS”) as defined by 47 U.S.C. § 227  
21 (a)(1), using an “artificial or prerecorded voice” as prohibited by 47  
22 U.S.C. § 227(b)(1)(A).

23 14. Upon information and belief, this telephone dialing equipment used by  
24 PNC has the capacity to store or produce telephone numbers to be called,  
25 using a random or sequential number generator.

26 15. Upon information and belief, this telephone dialing equipment also has  
27 the capacity to dial telephone numbers stored in a database or as a list  
28 without human intervention.

- 1 16. The frequency of the calls from PNC increased in or about the months of  
2 August 2019 and October 2019.
- 3 17. Plaintiff was especially frustrated with these calls because Plaintiff had  
4 registered the 9587 Number on the Federal Do-Not-Call list since  
5 September 27, 2008.
- 6 18. Through Defendant's aforementioned conduct, Plaintiff suffered an  
7 invasion of a legally protected interest in privacy, which is specifically  
8 addressed and protected by the TCPA.
- 9 19. Sometime between the months of August 2019 and October 2019 Plaintiff  
10 asked PNC to stop calling her, thereby revoking any consent that  
11 Defendant may have had to call Plaintiff. Despite this, Plaintiff continued  
12 to receive calls from PNC.
- 13 20. Defendant's calls forced Plaintiff and others similarly situated class  
14 members to live without the utility of their cellular phones by occupying  
15 their cellular telephone with one or more unwanted calls, causing a  
16 nuisance and lost time.
- 17 21. The telephone numbers PNC called were assigned to a cellular telephone  
18 service for which Plaintiff incurs a charge for cellular telephone service  
19 pursuant to 47 U.S.C. § 227(b)(1).
- 20 22. The calls to Plaintiff were not for emergency purposes as defined by 47  
21 U.S.C. § 227(b)(1)(A)(i).
- 22 23. Defendant's calls to Plaintiff's cellular telephone numbers were  
23 unsolicited by Plaintiff and were placed without Plaintiff's prior express  
24 written consent or permission.

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**CLASS ACTION ALLEGATIONS**

24. Plaintiff brings this action on behalf of herself and on behalf of and Class Members of the proposed Class pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3) and/or (b)(2).

25. Plaintiff’s propose to represent the following Class consisting of and defined as follows:

All persons within the United States who received any telephone call(s) from Defendant or its agent(s) and/or employee(s), not for an emergency purpose, on said person’s cellular telephone, made through the use of any automatic telephone dialing system or with an artificial or prerecorded voice within the four years prior to the date of the filing of this Complaint.

26. Plaintiff proposes to represent the following Sub-Class consisting of and defined as follows:

All persons within the United States who received any telephone call(s) from Defendant or its agent(s) and/or employee(s), not for an emergency purpose, on said person’s cellular telephone, made through the use of any automatic telephone dialing system or with an artificial or prerecorded voice, after having requested that the calls cease, within the four years prior to the date of the filing of this Complaint.

27. The Class and Sub-Class are referred to collectively as the “Classes.”

28. PNC and its employees or agents are excluded from the Classes. Plaintiff does not know the number of members in the Classes, but believes the Class members number in the several thousands, if not more. Thus, this matter should be certified as a Class action to assist in the expeditious litigation of this matter.

29. Plaintiff and members of the Classes were harmed by the acts of PNC in at least the following ways: PNC, either directly or through its agents,

1 illegally contacted Plaintiff and the Classes' members via their cellular  
2 telephones by using marketing and artificial or prerecorded voice  
3 messages, thereby causing Plaintiff and the Classes' members to incur  
4 certain cellular telephone charges or reduce cellular telephone time for  
5 which Plaintiffs and the Classes' members previously paid, and invading  
6 the privacy of said Plaintiffs and the Classes' members. Plaintiffs and the  
7 Classes' members were damaged thereby.

8 30. This suit seeks only damages and injunctive relief for recovery of  
9 economic injury on behalf of the Classes and it expressly is not intended  
10 to request any recovery for personal injury and claims related thereto.  
11 Plaintiff reserves the right to expand the Classes definitions to seek  
12 recovery on behalf of additional persons as warranted as facts are learned  
13 in further investigation and discovery.

14 31. The joinder of the Classes' members is impractical and the disposition of  
15 their claims in the Class action will provide substantial benefits both to  
16 the parties and to the court. The Classes can be identified through PNC's  
17 records or PNC's agents' records.

18 32. There is a well-defined community of interest in the questions of law and  
19 fact involved affecting the parties to be represented. The questions of law  
20 and fact to the Class predominate over questions which may affect  
21 individual Class members, including the following:

22 i. Whether PNC or its agent(s) placed any marketing and artificial  
23 or prerecorded voice messages to the Class (other than a message  
24 made for emergency purposes or made with the prior express  
25 consent of the called party) using any automatic telephone dialing  
26 system to any telephone number assigned to a cellular telephone  
27 service;

28 ii. Whether the calls required prior express written consent;

- 1           iii.       Whether PNC placed any calls after being asked to stop calling;
- 2           iv.       Whether Plaintiff and the Class members were damaged thereby,
- 3                     and the extent of damages for such violation; and
- 4           v.       Whether PNC and its agents should be enjoined from engaging in
- 5                     such conduct in the future.

6       33.   As a person that received at least one marketing call via an ATDS or an  
7           artificial or prerecorded voice message to her cell phone without  
8           Plaintiff’s prior express written consent, including after asking Defendant  
9           to stop calling, Plaintiff is asserting claims that are typical of each Class.  
10          Plaintiff will fairly and adequately represent and protect the interests of  
11          the Class in that Plaintiff has no interests antagonistic to any member of  
12          the Classes.

13       34.   Plaintiff and the members of the Classes have all suffered irreparable  
14          harm as a result of the PNC’s unlawful and wrongful conduct. Absent a  
15          class action, the Class will continue to face the potential for irreparable  
16          harm. In addition, these violations of law will be allowed to proceed  
17          without remedy and PNC will likely continue such illegal conduct.  
18          Because of the size of the individual Class member’s claims, few, if any,  
19          Class members could afford to seek legal redress for the wrongs  
20          complained of herein.

21       35.   Plaintiff has retained counsel experienced in handling class action claims  
22          and claims involving violations of the Telephone Consumer Protection  
23          Act.

24       36.   A class action is a superior method for the fair and efficient adjudication  
25          of this controversy. Class-wide damages are essential to induce PNC to  
26          comply with federal and California law. The interest of Class members in  
27          individually controlling the prosecution of separate claims against PNC is  
28          small because the maximum statutory damages in an individual action for

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1 violation of privacy are minimal. Management of these claims is likely to  
2 present significantly fewer difficulties than those presented in many class  
3 claims.

4 37. PNC has acted on grounds generally applicable to the Classes, thereby  
5 making appropriate final injunctive relief and corresponding declaratory  
6 relief with respect to the Classes as a whole.

7 **FIRST CAUSE OF ACTION**  
8 **NEGLIGENT VIOLATIONS OF THE**  
9 **TELEPHONE CONSUMER PROTECTION ACT**  
10 **47 U.S.C. § 227 ET SEQ.**

11 38. Plaintiff incorporates by reference all of the above paragraphs of this  
12 Complaint as though fully stated herein.

13 39. PNC’s repeated calls in a span to Plaintiff’s cellular phones without any  
14 prior express consent—and even after Plaintiff revoked any consent that  
15 may have existed—constitute numerous and multiple negligent violations  
16 of the TCPA, including but not limited to each and every one of the  
17 above-cited provisions of 47 U.S.C. § 227 *et seq.*

18 40. As a result of PNC’s, and PNC’s agents’, negligent violations of 47  
19 U.S.C. § 227 *et seq.*, Plaintiff and the Class are entitled to an award of  
20 \$500.00 in statutory damages, for each and every violation, pursuant to 47  
21 U.S.C. § 227(b)(3)(B).

22 41. Plaintiff and the Class are also entitled to and seek injunctive relief  
23 prohibiting such conduct in the future.

24 **SECOND CAUSE OF ACTION**  
25 **KNOWING AND/OR WILLFUL VIOLATIONS OF THE**  
26 **TELEPHONE CONSUMER PROTECTION ACT**  
27 **47 U.S.C. § 227 ET SEQ.**

28 42. Plaintiff incorporates by reference all of the above paragraphs of this  
Complaint as though fully stated herein.



1 43. PNC made repeated telephone calls to Plaintiff’s cellular telephone  
2 without being in any business relationship or contract. Furthermore, after  
3 PNC was explicitly told to not call Plaintiff, PNC agents continued to call  
4 Plaintiff’s cellular telephones.

5 44. PNC’s actions constitute numerous and multiple knowing and/or willful  
6 violations of the TCPA, including, but not limited to, each and every one  
7 of the above-cited provisions of 47 U.S.C. § 227 et seq.

8 45. As a result of PNC’s knowing and/or willful violations of 47 U.S.C. § 227  
9 et seq., Plaintiffs and each of the Class members are entitled to treble  
10 damages, as provided by statute, up to \$1,500.00, for each and every  
11 violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. §  
12 227(b)(3)(C).

13 46. Plaintiff and the Class members are also entitled to and seek injunctive  
14 relief prohibiting such conduct in the future.

15 **PRAYER FOR RELIEF**

16 47. Wherefore, Plaintiff respectfully requests the Court to grant Plaintiff and  
17 the Class members the following relief against PNC:

18 **FIRST CAUSE OF ACTION FOR NEGLIGENT VIOLATION OF**  
19 **THE TCPA, 47 U.S.C. § 227 ET SEQ.**

- 20 • As a result of PNC’s and PNC’s agents’ negligent violations of 47
- 21 U.S.C. § 227(b)(1), Plaintiff seeks for herself and each Class member
- 22 \$500.00 in statutory damages, for each and every violation, pursuant to
- 23 47 U.S.C. § 227(b)(3)(B).
- 24 • Pursuant to 47 U.S.C. § 227(b)(3)(A), Plaintiff seeks injunctive relief
- 25 prohibiting such conduct in the future.
- 26 • Costs of suit.
- 27 • Attorneys’ fees, pursuant to, *inter alia*, the common fund doctrine.
- 28 • Any other relief the Court may deem just and proper.

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**SECOND CAUSE OF ACTION FOR KNOWING AND/OR WILLFUL VIOLATION  
OF THE TCPA, 47 U.S.C. § 227 ET SEQ.**

- As a result of PNC’s willful and/or knowing violations of 47 U.S.C. § 227(b)(1), Plaintiff seeks for herself and each Class member treble damages, as provided by statute, up to \$1,500.00 for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).
- Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.
- Costs of suit.
- Attorneys’ fees, pursuant to, *inter alia*, the common fund doctrine.
- Any other relief the Court may deem just and proper.

**TRIAL BY JURY**

48. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Date: January 7, 2020

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By: /s Abbas Kazerounian  
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Abbas Kazerounian  
*Attorneys for Plaintiff*

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [PNC Bank Placed Illegal Marketing Calls Without Consent from Recipients, Lawsuit Claims](#)

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