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*Attorneys for Plaintiff,*  
Jake Tiffany

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

**JAKE TIFFANY**, Individually and  
On Behalf of All Others Similarly  
Situating,

Plaintiff,

v.

**AVENUE 81 D/B/A  
LEADPAGES.**, a Delaware  
Corporation,

Defendant.

**Case No.: '18CV0732 MMAJMA**

**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. Plaintiff Jake Tiffany ("Plaintiff") brings this Complaint for damages, injunctive relief, and any other available legal or equitable remedies, resulting from the illegal actions of Avenue 81 d/b/a Leadpages (hereinafter "Defendant") in negligently contacting Plaintiff on Plaintiff's cellular telephone, in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq., ("TCPA"), thereby invading Plaintiff's privacy. Plaintiff

1 alleges as follows upon personal knowledge as to himself and his own acts  
2 and experiences, and, as to all other matters, upon information and belief,  
3 including investigation conducted by his attorneys.

- 4 2. The TCPA was designed to prevent calls and text messages like the ones  
5 described within this complaint, and to protect the privacy of citizens like  
6 Plaintiff. “Voluminous consumer complaints about abuses of telephone  
7 technology – for example, computerized calls dispatched to private homes –  
8 prompted Congress to pass the TCPA.”
- 9 3. In enacting the TCPA, Congress intended to give consumers a choice as to  
10 how creditors and telemarketers may call them, and made specific findings  
11 that “[t]echnologies that might allow consumers to avoid receiving such  
12 calls are not universally available, are costly, are unlikely to be enforced, or  
13 place an inordinate burden on the consumer.” TCPA, Pub.L. No. 102–243, §  
14 11. Toward this end, Congress found that:

15 [b]anning such automated or prerecorded telephone calls  
16 to the home, except when the receiving party consents to  
17 receiving the call or when such calls are necessary in an  
18 emergency situation affecting the health and safety of the  
19 consumer, is the only effective means of protecting  
20 telephone consumers from this nuisance and privacy  
21 invasion.

19 *Id.* at § 12;

- 20 4. Congress also specifically found that “the evidence presented to the  
21 Congress indicates that automated or prerecorded calls are a nuisance and an  
22 invasion of privacy, regardless of the type of call....” *Id.* at §§ 12-13.
- 23 5. Further, the FCC has issued rulings and clarified that consumers are entitled  
24 to the same consent-based protections for text messages as they are for calls  
25 to wireless numbers. *See Satterfield v. Simon & Schuster, Inc.*, 569 F.3d 946,  
26 952 (9th Cir. 2009) (The FCC has determined that a text message falls  
27 within the meaning of “to make any call” in 47 U.S.C. § 227(b)(1)(A));  
28 *Toney v. Quality Res., Inc.*, 75 F. Supp. 3d 727, 734 (N.D. Ill. 2014)

(Defendant bears the burden of showing that it obtained Plaintiff's prior express consent before sending her the text message).

### JURISDICTION AND VENUE

6. This Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331 because this case arises out of violation of federal law 47 U.S.C. § 227(b).

7. Venue is proper in the United States District Court for the Southern District of California pursuant to 28 U.S.C. § 1391 for the following reasons: (i) Plaintiff resides in the City of San Diego, County of San Diego, State of California which is within this judicial district; (ii) the conduct complained of herein occurred within this judicial district; and, (iii) many of the acts and transactions giving rise to this action occurred in this district because Defendant:

- (a) is authorized to conduct business in this district and has intentionally availed itself of the laws and markets within this district;
- (b) does substantial business within this district;
- (c) is subject to personal jurisdiction in this district because it has availed itself of the laws and markets within this district; and,
- (d) the harm to Plaintiff occurred within this district.

### PARTIES

8. Plaintiff is, and at all times mentioned herein was, a citizen and resident of the City of San Diego, County of San Diego, State of California. Plaintiff is, and at all times mentioned herein was, a "person" as defined by 47 U.S.C. § 153(39).

9. Defendant is, and at all times mentioned herein was, a Delaware corporation with a principal place of business in Minnesota, and is a "person," as defined by 47 U.S.C. § 153(39). Plaintiff alleges that at all times relevant herein

1 Defendant conducted business in the State of California and in the County of  
2 San Diego, and within this judicial district, placing unlawful calls to  
3 potential clients via an automatic dialing system.

4 **FACTUAL ALLEGATIONS**

5 10.Plaintiff incorporates by reference all of the above paragraphs of this  
6 Complaint as though fully stated herein.

7 11.Defendant is a marketing company that generates a marketing campaign and  
8 marketing leads for a variety of companies.

9 12.It provides a number of marketing tools for businesses to market their  
10 products and services.

11 13.At no point did Plaintiff solicit Defendant's services, nor did Plaintiff have  
12 any relationship with Defendant.

13 14.Defendant began placing autodialed marketing text messages to Plaintiff's  
14 cellular telephone number ending in 1296 via an automatic dialing system as  
15 defined in 47 U.S.C. § 227(a)(1).

16 15.The marketing messages, impersonal in nature, advertised for other  
17 companies and provided a link to Defendant's based website.

18 16. On March 27, 2017, Plaintiff received text message from Defendant at  
19 phone number (678) 208-9081. The message read, "27600- CALIFORNIA  
20 Real Estate Agent Asset Assignment Order Ref #1032765- New Listings  
21 Invitation SPRING 2017- FAST REGISTER:"

22 17.When Plaintiff followed the link attached in the message, and was directed  
23 to Defendant's based website containing a number of advertisements:  
24  
25  
26  
27  
28



18. Plaintiff had no relations with Defendant prior to receiving text message.

19. Sometime later, on or about September 20, 2017, Plaintiff received another unsolicited impersonal text message sent from Defendant's autodialer with a phone number (678) 208-9081. The message read, "27600- UBER crushed the Taxi Industry And EXPEDIA massacred Travel Agents.. Will ZILLOW do the same to US Real Estate Agents?:"

20. On or about December 17, 2017, at about 8:24 am, Plaintiff received another unsolicited impersonal text message sent from Defendant's autodialer with a phone number (678) 208-9081. The message read, "27600- Zillow + Trulia + Redfin To Become SAN DIEGO Real Estate Brokerages In 2018? AGENTS FIGHT BACK – CLICK HERE: [link follows]."

21. Defendant initiated multiple telephonic communications to Plaintiff's cellular telephone ending in "1296". Plaintiff found these communications excessive, inconvenient, harassing, placed in complete disregard of

1 Plaintiff's privacy and request to cease all of the autodialed communications  
2 with Plaintiff.

3 22. These telephonic text messages constituted telephone solicitations, as  
4 defined by 47 U.S.C. § 227(a)(4).

5 23. Defendant's calls and text messages constituted "calls" that was not for  
6 emergency purposes, as defined by 47 U.S.C. § 227(b)(1)(A)(i).

7 24. Defendant's text messages were placed to a telephone number assigned to a  
8 cellular telephone service for which Plaintiff incurs a charge for incoming  
9 calls pursuant to 47 U.S.C. § 227(b)(1).

10 25. Defendant did not have prior express consent nor written consent to send  
11 text messages to Plaintiff, as defined by 47 U.S.C. § 227(a)(4).

12 26. Plaintiff believes that Defendant used an "automatic telephone dialing  
13 system" (or "ATDS"), as defined by 47 U.S.C. § 227(a)(1) to repeatedly  
14 send automated text messages and phone calls to Plaintiff's cellular  
15 telephone number.

16 27. This ATDS has the capacity to store or produce telephone numbers to be  
17 called, using a random or sequential number generator.

18 28. These telephone communications by Defendant, or its agent, violated 47  
19 U.S.C. § 227(b)(1).

20 29. Through this action, Plaintiff suffered an invasion of a legally protected  
21 interest in privacy, which is specifically addressed and protected by the  
22 TCPA.

23 30. Plaintiff was personally affected because Plaintiff was frustrated and  
24 distressed that Defendant harassed Plaintiff with text messages using an  
25 ATDS.

26 31. Defendant's autodialed text messages forced Plaintiff and class members to  
27 live without the utility of their cellular phones by forcing Plaintiff and class  
28 members to silence their cellular phones and/or block incoming numbers.

1 32. Through the aforementioned conduct, Defendant has violated 47 U.S.C. §  
2 227 et seq.

3  
4 **CLASS ACTION ALLEGATIONS**

5 33. Plaintiff brings this action on behalf of himself and on behalf of all others  
6 similarly situated (“the Class”).

7 34. Plaintiff represents, and is a member of the Class, consisting of:

8 All persons within the United States who received any  
9 text messages from Defendant or their agent(s) and/or  
10 employee(s), not sent for emergency purposes, to said  
11 person’s cellular telephone made through the use of any  
12 automatic telephone dialing system and/or with an  
artificial or prerecorded message within the four years  
prior to the filing of this Complaint.

13 35. Defendant and its employees or agents are excluded from the Class.  
14 Plaintiff does not know the number of members in the Class, but believes the  
15 Class members number in the hundreds of thousands, if not more. Thus, this  
16 matter should be certified as a Class action to assist in the expeditious  
17 litigation of this matter.

18 36. Plaintiff and members of the Class were harmed by the acts of Defendant in  
19 at least the following ways: Defendant, either directly or through its agents,  
20 illegally contacted Plaintiff and the Class members via their cellular  
21 telephones by using an ATDS, thereby causing Plaintiff and the Class  
22 members to incur certain cellular telephone charges or reduce cellular  
23 telephone time for which Plaintiff and the Class members previously paid,  
24 and invading the privacy of said Plaintiff and the Class members. Plaintiff  
25 and the Class members were damaged thereby.

26 37. This suit seeks only damages and injunctive relief for recovery of economic  
27 injury on behalf of the Class, and it expressly is not intended to request any  
28 recovery for personal injury and claims related thereto. Plaintiff reserves the



1 right to expand the Class definition to seek recovery on behalf of additional  
2 persons as warranted as facts are learned in further investigation and  
3 discovery.

4 38. The joinder of the Class members is impractical and the disposition of their  
5 claims in the Class action will provide substantial benefits both to the parties  
6 and to the court. The Class can be identified through Defendant's records or  
7 Defendant's agents' records.

8 39. There is a well-defined community of interest in the questions of law and  
9 fact involved affecting the parties to be represented. The questions of law  
10 and fact to the Class predominate over questions which may affect  
11 individual Class members, including the following:

- 12 a) Whether, within the four years prior to the filing of this Complaint,  
13 Defendant or its agents initiated any telephonic text messages to the  
14 Class (other than a message made for emergency purposes or made  
15 with the prior written consent of the called party) to a Class member  
16 using any automatic dialing to any telephone number assigned to a  
17 cellular phone service;
- 18 b) Whether Defendant can meet its burden of showing it obtained prior  
19 express consent (i.e., consent that is clearly and unmistakably stated);
- 20 c) Whether Defendant's conduct was knowing and/or willful;
- 21 d) Whether Plaintiff and the Class members were damaged thereby, and  
22 the extent of damages for such violation; and
- 23 e) Whether Defendant and its agents should be enjoined from engaging  
24 in such conduct in the future.

25 40. As a person that received at least one telephonic communication from  
26 Defendant's ATDS without prior written express consent, Plaintiff is  
27 asserting claims that are typical of the Class. Plaintiff will fairly and  
28



adequately represent and protect the interests of the Class in that Plaintiff has no interests antagonistic to any member of the Class.

41. Plaintiff and the members of the Class have all suffered irreparable harm as a result of Defendant's unlawful and wrongful conduct. Absent a class action, the Class will continue to face the potential for irreparable harm. In addition, these violations of law will be allowed to proceed without remedy and Defendant will likely continue such illegal conduct. Because of the size of the individual Class member's claims, few, if any, Class members could afford to seek legal redress for the wrongs complained of herein.

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

43. A class action is a superior method for the fair and efficient adjudication of this controversy. Class-wide damages are essential to induce Defendant to comply with federal law. The interest of Class members in individually controlling the prosecution of separate claims against Defendant is small because the maximum statutory damages in an individual action for violation of privacy are minimal. Management of these claims is likely to present significantly fewer difficulties than those presented in many class claims.

44. Defendant has acted on grounds generally applicable to the Class, thereby making appropriate final injunctive relief and corresponding declaratory relief with respect to the Class as a whole.

### **FIRST CAUSE OF ACTION**

### **NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT**

### **47 U.S.C. § 227 ET SEQ.**

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

46. The foregoing acts and omissions of Defendant constitutes numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

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

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

## SECOND CAUSE OF ACTION

### KNOWING AND/OR WILLFUL VIOLATIONS OF THE

### TELEPHONE CONSUMER PROTECTION ACT

#### 47 U.S.C. § 227 ET SEQ.

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

50. The foregoing acts and omissions of Defendant constitutes numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

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

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

## PRAYER FOR RELIEF

**WHEREFORE**, Plaintiff and the Class Members pray for judgment as follows:

- Certifying The Class as requested herein;
- Appointing Plaintiff's Counsel as Class Counsel in this matter;
- Providing such further relief as may be just and proper.

In addition, Plaintiff and The Class Members pray for further judgment as follows:

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

- As a result of Defendant's negligent violations of 47 U.S.C. § 227(b)(1), Plaintiff seeks, for himself, and each Class member, \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).
- Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.
- Any other relief the Court may deem just and proper.

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

- As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227(b)(1), Plaintiff seeks, for himself, and each Class member \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).
- Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.
- Any other relief the Court may deem just and proper.

///

///

HYDE & SWIGART, APC  
2221 CAMINO DEL RIO SOUTH SUITE 101  
SAN DIEGO, CA 92108

**TRIAL BY JURY**

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

Dated: April 16, 2018

Respectfully submitted,

**HYDE & SWIGART, APC**

By: Yana Hart

YANA A. HART, ESQ.

ATTORNEYS FOR PLAINTIFF

ADDITIONAL COUNSEL FOR PLAINTIFF:

**KAZEROUNI LAW GROUP, APC**

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## 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**

Jake Tiffany, Individually and On Behalf of All Others Similarly Situated

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

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

Yana A. Hart, Esq. Hyde & Swigart 619-233-7770  
2221Camino Del Rio S., Ste. 101, San Diego, CA 92108

**DEFENDANTS**

Avenue 81 d/b/a Leadpages

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)

**'18CV0732 MMAJMA****II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question  
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 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)

- |   | 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)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**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

**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. ("TCPA")

Brief description of cause:

Defendant violated the Telephone Consumer Protection Act

**VII. REQUESTED IN COMPLAINT:**

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

**DEMAND \$**  
**75,000.00**

CHECK YES only if demanded in complaint:

**JURY DEMAND:** ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE

04/16/2018

SIGNATURE OF ATTORNEY OF RECORD

s/ Yana A. Hart

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 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 the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six 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. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- 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.

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This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Leadpages Sued Over Marketing Text Messages](#)

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