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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

AARON WILLIAMS, on behalf of himself and
all others similarly situated,

Plaintiff,

vs.

PILLPACK LLC,

Defendant.

NO.

COMPLAINT—CLASS ACTION

DEMAND FOR JURY TRIAL

Aaron Williams, individually and on behalf of others similarly situated, alleges the following against Defendant PillPack LLC.

I. NATURE OF ACTION

1. On March 14, 2019 and April 10, 2019 Aaron Williams received a phone call on his cellular phone placed by or on behalf of PillPack LLC seeking to sell pharmacy refill services to him. PillPack LLC used an automatic telephone dialing system (“ATDS”) and an artificial or prerecorded voice to make these calls.

2. Aaron Williams has not been a PillPack LLC customer at any time, and Aaron Williams did not consent to receive calls from PillPack LLC or its agents. Aaron Williams’s telephone number is listed on the Do Not Call registry maintained by the Federal Trade Commission, and has been continuously listed there since October 5, 2010.

1 3. Plaintiff brings this class action for damages and other equitable and legal
2 remedies resulting from Defendant’s violation of the Telephone Consumer Protection Act, 47
3 U.S.C. § 227, *et seq.* (“TCPA”).

4 **II. JURISDICTION AND VENUE**

5 4. This Court has original jurisdiction over Plaintiff’s TCPA claims pursuant to 28
6 U.S.C. § 1331, because they present a federal question.

7 5. This Court has personal jurisdiction over PillPack LLC because it directed the
8 calls that are the subject of this action to Plaintiff’s cellular phone. Plaintiff’s cellular phone
9 uses a Washington area code and was, at all relevant times, located in Washington. PillPack
10 LLC has its headquarters in and continuously and systematically conducts business in
11 Washington, including within this District.

12 6. Venue is proper in this District under 28 U.S.C. § 1391(b) because a substantial
13 part of the events and omissions giving rise to Plaintiff’s claims occurred in this District.

14 **III. PARTIES**

15 7. Plaintiff Aaron Williams resides in Tumwater, Washington.

16 8. Defendant PillPack LLC is a Delaware corporation with headquarters at 410
17 Terry Avenue North, Seattle, Washington, 98109-5210. Defendant’s center of operations for its
18 pharmacy services business is located in Manchester, New Hampshire. The allegations in this
19 Complaint as to acts and omissions by Defendant PillPack LLC shall be construed as
20 allegations against the Defendant, whether such conduct was committed by Defendant directly,
21 or through its agents or contractors.

22 **IV. FACTUAL ALLEGATIONS**

23 **A. Defendant Made Non-Emergency Calls to the Cellular Phones of Plaintiff and**
24 **Other Consumers Without Their Prior Express Written Consent.**

25 9. Plaintiff’s telephone number, (XXX) XXX-1757, is assigned to a cellular
26 telephone service. Plaintiff first acquired this cellular phone number prior to October 2010.
27

1 10. Plaintiff has not been a PillPack LLC customer or subscriber at any time and
2 never consented to receive calls from PillPack LLC.

3 11. On March 14, 2019, PillPack LLC called Plaintiff's cellular phone from the
4 telephone number (206) 237-4313.

5 12. On April 10, 2019, PillPack LLC again called Plaintiff's cellular phone, this
6 time from phone number (206) 237-4323.

7 13. Both calls Plaintiff received from PillPack LLC began with a pause, followed by
8 what appeared to be an artificial intelligence system using an interactive voice recording, which
9 asked Plaintiff whether he gets prescriptions or words to the same effect.

10 14. During the March 14, 2019 telephone call, after Plaintiff indicated he did get
11 prescriptions, he was transferred to a live pharmacy sales representative. When Plaintiff
12 requested the name and address of the caller, he was transferred to the customer service
13 department, where an individual confirmed the caller was PillPack Pharmacy in Manchester,
14 New Hampshire.

15 15. During the April 10, 2019 call, after Plaintiff indicated that he did get
16 prescriptions, the caller attempted to transfer him to a live pharmacy representative, but no one
17 was available to take his call and so the call was terminated.

18 16. PillPack LLC has been sued for calling behavior similar to the behavior
19 described in this complaint, specifically for sending text messages in violation of the TCPA.

20 17. PillPack LLC is aware of the TCPA's prohibitions against the use of automatic
21 dialing systems and artificial or prerecorded voices to make calls to cellular phones without the
22 prior express written consent of the called party. Defendant therefore knowingly or willfully
23 caused autodialed calls to be made to the cellular phones of Plaintiff and other consumers
24 without their prior express written consent.
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B. Defendant Used an ATDS or an Artificial or Pre-recorded Voice.

1
2 18. Each time PillPack LLC called his cellular phone, PillPack LLC called Plaintiff
3 using an ATDS. Plaintiff noted a pause before being connected to the call, which is
4 characteristic of a call placed by an ATDS. Once he was connected, he interacted with an
5 artificial or recorded telephone system, which is characteristic of a call placed by an ATDS.

6 19. PillPack LLC called Plaintiff using a prerecorded or artificial voice, as
7 evidenced by the tone and cadence of the voice on the calls.

8 20. PillPack LLC is a wholly owned subsidiary of Amazon.com, Inc., which was
9 acquired in 2018 for an estimated \$1 billion. With approximately 40,000 customers as of 2017,
10 the scale of PillPack LLC's business requires that it and its agents use a sophisticated dialing
11 system capable of storing phone numbers and dialing them automatically, as well as delivering
12 messages without requiring the involvement of human agents.

13 21. The equipment used to call Plaintiff and others not only had the capacity to store
14 or produce telephone numbers to be called using a random or sequential number generator, but
15 was programmed to sequentially or randomly access stored telephone numbers to automatically
16 call such numbers for the calls that are the subject of this case. The equipment generated, and
17 then stored, a sequence of telephone numbers for calling, and then automatically called those
18 numbers. The calls were part of a campaign that made numerous phone calls in a short period
19 of time without human intervention.

20 **C. Defendant's Violations of the TCPA Injured Plaintiff.**

21 22. During the relevant period, Plaintiff has carried his cellular phone with him at
22 most times so that he can be available to family, friends, and his employer.

23 23. Defendant's calls invaded Plaintiff's privacy and intruded upon his right to
24 seclusion. The calls frustrated and upset Plaintiff by interrupting his daily life and wasting his
25 time.

1 24. Defendant’s calls intruded upon and occupied the capacity of Plaintiff’s cellular
2 phone and depleted the battery of Plaintiff’s cellular phone. The calls temporarily seized and
3 trespassed upon Plaintiff’s use of his cellular phone, and caused him to divert attention away
4 from other activities to address the calls.

5 **V. CLASS ACTION ALLEGATIONS**

6 25. Plaintiff brings this lawsuit under Federal Rules of Civil Procedure Rules 23(a),
7 (b)(2), and (b)(3) as a representative of the following class:

8 All persons or entities within the United States who received, on
9 or after April 12, 2019, a non-emergency telephone call from or on
10 behalf of PillPack, LLC, promoting goods or services:

11 (i) to a cellular telephone number through the use of an automatic
12 telephone dialing system or an artificial or prerecorded voice; or

13 (ii) to a cellular or residential telephone number that has been
14 registered on the national Do Not Call Registry for at least 31 days
15 and who received more than one such call within any twelve-
16 month period.

17 Plaintiff reserves the right to amend the class definition following an appropriate period of
18 discovery.

19 26. Excluded from the Class are Defendant, its employees, agents and assigns, and
20 any members of the judiciary to whom this case is assigned, their respective court staff, and
21 Plaintiff’s counsel.

22 27. Because auto-dialing equipment maintains records of each contact, members of
23 the above-defined Class can be identified through Defendant’s or its agents’ records.

24 **Numerosity**

25 28. At the time of filing, Plaintiff does not know the exact number of Class
26 Members. But the number of PillPack LLC customers indicates that Class Members likely
27 number in the hundreds or thousands, and are geographically disbursed throughout the country.

1 29. The alleged size and geographic dispersal of the Class makes joinder of all Class
2 Members impracticable.

3 **Commonality and Predominance**

4 30. Common questions of law and fact exist with regard to each of the claims and
5 predominate over questions affecting only individual Class members. Questions common to the
6 Class include:

- 7 a. Whether Defendant’s dialing system(s) constitute an ATDS under the
- 8 TCPA;
- 9 b. Whether Defendant used an ATDS to place non-emergency calls to the
- 10 cellular telephones of Plaintiff and Class members without their prior express consent;
- 11 c. Whether Defendant used an artificial or prerecorded voice in connection
- 12 with the placement of non-emergency calls on the cellular telephones of Plaintiff and Class
- 13 members without their prior express consent;
- 14 d. Whether Defendant’s “Avatar” based system constitutes an artificial or
- 15 prerecorded voice;
- 16 e. Whether Defendant placed calls to numbers on the National Do Not Call
- 17 Registry;
- 18 f. Whether Defendant’s telephone calls were made knowingly or willfully;
- 19 g. Whether Plaintiff and Class members were injured by receiving such
- 20 calls; and
- 21 h. Whether Defendant should be enjoined from engaging in such conduct in
- 22 the future.

23 **Typicality**

24 31. Plaintiff’s claims are typical of the claims of the Class, in that Plaintiff, like all
25 Class Members, has been injured by Defendant’s uniform misconduct—the placement of calls
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1 to cellular telephones for non-emergency purposes without the prior written express consent of
2 the called parties.

3 **Adequacy of Representation**

4 32. Plaintiff will fairly and adequately protect the interests of the Class and is
5 committed to the vigorous prosecution of this action. Plaintiff has retained counsel experienced
6 in class action litigation and matters involving TCPA violations.

7 **Superiority**

8 33. A class action is superior to other available methods for the fair and efficient
9 adjudication of this controversy. Because the amount of each individual Class member's claim
10 is small relative to the complexity of the litigation, and because of Defendant's financial
11 resources, Class members are unlikely to pursue legal redress individually for the violations
12 detailed in this complaint. Class-wide damages are essential to induce Defendant to comply
13 with federal law. Individualized litigation would significantly increase the delay and expense to
14 all parties and to the Court and would create the potential for inconsistent and contradictory
15 rulings. By contrast, a class action presents fewer management difficulties, allows claims to be
16 heard which would otherwise go unheard because of the expense of bringing individual
17 lawsuits, and provides the benefits of adjudication, economies of scale, and comprehensive
18 supervision by a single court.

19 **VI. FIRST CLAIM FOR RELIEF**

20 **Violation of § 227(b)(1) for calls made using**
21 **an ATDS or artificial/prerecorded voice**

22 34. Defendant violated 47 U.S.C. § 227(b)(1) by placing non-emergency calls,
23 either directly or through the actions of others, using an automatic telephone dialing system or
24 an artificial or prerecorded voice to cellular telephone numbers without the prior express
25 written consent of the called party.

VII. SECOND CLAIM FOR RELIEF

Violation of § 227(c) for calls placed to numbers listed on the Do Not Call Registry

35. Defendant violated 47 U.S.C. § 227(c) by placing, either directly or through the actions of others, more than one telephone solicitation call within a 12-month period to telephone numbers that have been listed on the national Do Not Call Registry for at least 31 days.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the Class defined above, respectfully requests that this Court:

A. Determine that the claims alleged herein may be maintained as a class action under Federal Rule of Civil Procedure 23, and issue an order certifying the Class defined above and appointing Plaintiff as the Class representative;

B. Award \$500 in statutory damages for each and every call that PillPack LLC negligently placed in violation of 47 U.S.C. § 227(b)(1) of the TCPA;

C. Award \$1,500 in statutory damages for each and every call that PillPack LLC willfully or knowingly placed in violation of 47 U.S.C. § 227(b)(1) of the TCPA;

D. Grant appropriate injunctive and declaratory relief, including, without limitation, an order requiring Defendant to implement measures to stop future violations of the TCPA; and

E. Grant such further relief as the Court deems proper.

IX. DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury.

1 RESPECTFULLY SUBMITTED AND DATED this 12th day of April, 2019.

2 TERRELL MARSHALL LAW GROUP PLLC

3 By: /s/ Beth E. Terrell, WSBA #26759
4 Beth E. Terrell, WSBA #26759
5 Email: bterrell@terrellmarshall.com

6 By: /s/ Jennifer Rust Murray, WSBA #36983
7 Jennifer Rust Murray, WSBA #36983
8 Email: jmurray@terrellmarshall.com

9 By: /s/ Adrienne D. McEntee, WSBA #34061
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15 SMITH & DIETRICH LAW OFFICES PLLC

16 By: /s/ Walter M. Smith WSBA #46695
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18 Email: walter@smithdietrich.com

19 By: /s/ Steve E. Dietrich, WSBA #21897
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22 400 Union Avenue SE, Suite 200
23 Olympia, Washington 98501
24 Telephone: (360) 918-7230

25 *Counsel for Plaintiff and the Proposed Class*

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

AARON WILLIAMS

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Beth E. Terrell, WSBA #26759, Terrell Marshall Law Group PLLC, 936 North 34th Street, Suite 300, Seattle, Washington, 98103; telephone: (206) 816-6603

DEFENDANTS

PILLPACK LLC

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, CIVIL RIGHTS, TORTS, 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

Brief description of cause: Telephone Consumer Protection Act violations

VII. REQUESTED IN COMPLAINT:

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

CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE 04/12/2019 SIGNATURE OF ATTORNEY OF RECORD /s/ Beth E. Terrell, WSBA #26759

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 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.
 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.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Washington

AARON WILLIAMS, on behalf of himself and all others similarly situated,

Plaintiff(s)

v.

PILLPACK LLC,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) PILLPACK LLC
c/o Corporation Service Company, Registered Agent
300 Deschutes Way SW, Suite 304
Tumwater, Washington 98501

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Beth E. Terrell, WSBA #26759
Email: bterrell@terrellmarshall.com
TERRELL MARSHALL LAW GROUP PLLC
936 North 34th Street, Suite 300
Seattle, Washington 98103-8869
Telephone: (206) 816-6603

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [PillPack Sued Over Allegedly Unsolicited Promotional Phone Calls](#)
