

**The Pride Law Firm**

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Attorney for Joshua Askin

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

Joshua Askin,	)	Civil Case No. <u>'17CV1530 JLS JLB</u>
Individually and on Behalf	)	
Of All Others Similarly Situated,	)	<b>CLASS ACTION COMPLAINT</b>
	)	<b>FOR DAMAGES AND</b>
Plaintiffs,	)	<b>INJUNCTIVE RELIEF FOR</b>
	)	<b>VIOLATION OF TELEPHONE</b>
vs.	)	<b>CONSUMER PROTECTION ACT,</b>
	)	<b>47 U.S.C. §227, ET SEQ.</b>
	)	
Global Exchange Vacation Club, Global	)	
Exchange Development Corp., Global	)	
Vacations Marketing Corp., Resort	)	
Vacations, Inc., Richard Sargent;	)	
DOES 1-10,	)	<u>DEMAND FOR JURY TRIAL</u>
ABC CORPORATIONS 1-10,	)	
ZYZ, LLC's 1-10	)	
Defendants	)	

**INTRODUCTION**

1. Joshua Askin (“Plaintiff”), by and through his attorneys, brings this Class Action Complaint for damages, injunctive relief, and any other available legal or equitable remedies, resulting from the illegal actions of Defendants

GLOBAL EXCHANGE VACATION CLUB.; GLOBAL EXCHANGE

1 DEVELOPMENT CORP.; GLOBAL VACATIONS MARKETING CORP.;

2 RESORT VACATIONS, INC.; and RICHARD SARGENT, hereinafter

3 “Defendants” in negligently or intentionally contacting Plaintiff on Plaintiff’s

4 cellular telephone, in violation of the Telephone Consumer Protection Act, 47 U.S.

5 C. §227 et seq., (“TCPA”), thereby seriously invading Plaintiff’s privacy. Plaintiff

6 alleges as follows, upon personal knowledge as to himself and his own acts and

7 experiences, and, as to all other matters, upon information and belief, including

8 investigation conducted by his attorneys.

9

10

11 2. In enacting the TCPA, Congress intended to give consumers a choice

12 as to how creditors and telemarketers may call them, and made specific findings

13 that “[t]echnologies that might allow consumers to avoid receiving such calls are

14 not universally available, are costly, are unlikely to be enforced, or place an

15 inordinate burden on the consumer. TCPA, Pub.L. No. 102-243, § 11.

16

17 Toward this end, Congress found that

18 [b]anning such automated or prerecorded telephone calls to the home, except

19 when the receiving party consents to receiving the call or when such calls

20 are necessary in an emergency situation affecting the health and safety of the

21 consumer, is the only effective means of protecting telephone consumers

from this nuisance and privacy invasion.

22 *Id.* at § 12; *see also* Martin v. Leading Edge Recovery Solutions, LLC, 2012 WL

23 3292838, a\*4 (N.D.Ill. Aug. 10, 2012) (citing Congressional findings on TCPA’s

24 purpose).

25

1           3.     Congress also specifically found that “the evidence presented to the  
2 Congress indicates that automated or prerecorded calls are a nuisance and an  
3 invasion of privacy, regardless of the type of call...” Id. At §§ 12-13. See also,  
4 *Mims*, 132 S. Ct. At 744. Plaintiff alleges that the call from Defendants began with  
5 a prerecorded message that was dialed by an automatic telephone dialing system  
6 (ATDS). Plaintiff never granted Defendants permission to solicit through  
7 telemarketing with an ATDS or otherwise.  
8

9           4.     As Judge Easterbrook of the Seventh Circuit recently explained in a  
10 TCPA case regarding calls to a non-debtor similar to this one:  
11

12                   The Telephone Consumer Protection Act...is well known for  
13 Its provisions limiting junk-fax transmissions. A less-litigated  
14 part of the Act curtails the use of automated dialers and  
15 prerecorded messages to cell phones, whose subscribers often  
16 Are billed by the minute as soon as the call is answered--and  
17 Routing a call to voicemail counts as answering the call. An  
18 Automated call to a landline phone can be an annoyance; an  
19 Automated call to a cell phone adds expense to annoyance.

20                   *Soppet v. Enhanced Recovery Co., LLC*, 679 F.3d 637, 638 (7<sup>th</sup> Cir. 2012).

### 21                   **JURISDICTION AND VENUE**

22           5.     This Court has federal question jurisdiction because this case arises  
23 out of violation of federal law. 47 U.S.C. §227, et seq; *Mims v. Arrow Fin. Servs.*,  
24 LLC, 132 S. Ct. 740 (2012).

25           6.     Venue is proper pursuant to 28 U.S.C. § 1391 for the following  
reasons: (i) Plaintiff resides in the County of San Diego, State of California which

1 is within this judicial district; (ii) the conduct complained of herein occurred within  
2 this judicial district; and, (iii) Defendants conducted business within this judicial  
3 district at all times relevant.

4 **PARTIES**

5  
6 7. Plaintiff is, and at all times mentioned herein was, a citizen and  
7 resident of the County of San Diego, State of California. Plaintiff is, and at all  
8 times mentioned herein was, a “person” as defined by 47 U.S.C. § 153 (39).

9  
10 8. Plaintiff is informed and believes, and thereon alleges, that Defendant  
11 Global Exchange Vacation Club is, and at all times mentioned herein was, a  
12 corporation whose state of incorporation is in the State of California and its  
13 principal place of business is in the State of California, with an operating address  
14 of 30448 Rancho Viejo Road, Suite 150, San Juan Capistrano, CA 92675.  
15

16 9. Plaintiff is informed and believes, and thereon alleges, that Defendant  
17 Global Exchange Development Corp. is, and at all times mentioned herein was, a  
18 corporation whose state of incorporation is in the State of Nevada and its principal  
19 place of business is in the State of California, with an operating address of 30448  
20 Rancho Viejo Road, Suite 150, San Juan Capistrano, CA 92675.  
21

22 10. Plaintiff is informed and believes, and thereon alleges, that Defendant  
23 Global Vacations Marketing Corp. is, and at all times mentioned herein was, a  
24 corporation whose state of incorporation is in the State of Nevada and its principal  
25

1 place of business is in the State of California, with an operating address of 30448  
2 Rancho Viejo Road, Suite 150, San Juan Capistrano, CA 92675.

3 11. Plaintiff is informed and believes, and thereon alleges, that Defendant  
4 Resort Vacations, Inc. is, and at all times mentioned herein was, a corporation  
5 whose state of incorporation is in the State of Nevada and its principal place of  
6 business is in the State of California, with an operating address of 30448 Rancho  
7 Viejo Road, Suite 150, San Juan Capistrano, CA 92675.  
8

9 12. Defendant Richard Sargent is the current Chief Executive Officer of  
10 Defendants Global Exchange Vacation Club, Global Exchange Development  
11 Corp., Global Vacations Marketing Corp., Resort Vacations, Inc., and was at all  
12 times mentioned herein.  
13

14 13. Plaintiff alleges that at all times relevant herein Defendants conducted  
15 business in the State of California and in the County of San Diego, and within this  
16 judicial district.  
17

18 **FACTUAL ALLEGATIONS**

19 14. At all times relevant, Plaintiff was domiciled in and a citizen of the  
20 State of California. Plaintiff is, and at all times mentioned herein was, a “person”  
21 as defined by 47 U.S.C. § 153 (39).  
22  
23  
24  
25

1           15. On November 27, 2016, Defendants called Plaintiff on Plaintiff's cell  
2 phone number 949-689-8098 from 323-209-2275 in an attempt to sell vacations to  
3 Plaintiff over the phone.

4           16. All Defendants named herein are vicariously liable for the acts and  
5 actions of its agents for violating the TCPA. See *Gomez vs. Campbell-Ewald Co.*,  
6 768 F.3d 871 (2014), upheld by US Supreme Court on January 20, 2016, 136 S.Ct.  
7 663 (2016).

8           17. The harm and injury in this matter is not divorced from the TCPA  
9 violations. Rather, it is because of the TCPA violations (illegal solicitation call to  
10 cellular phones with an ATDS) that Plaintiff has suffered an invasion of privacy,  
11 additional phone charges, lost minutes on phone plan and additional utility bills.  
12

13           18. Defendants failed to provide Plaintiff a written copy of its do not call  
14 policy, even after Plaintiff's express demand.  
15

16           19. At the end of the telephone call, Defendants admitted to Plaintiff that  
17 the telephone call had been recorded, without first notifying Plaintiff at the outset  
18 of the call that the conversation was to be recorded.  
19

20           20. Plaintiff lost time at work while having to answer the solicitation call  
21 of Defendants and thus Plaintiff has lost income that could have been earned  
22 working instead of wasted time on the sale call in order to ascertain the identity of  
23 the telemarketer. Each Class member also lost time answering Defendant's illegal  
24  
25

1 telemarketing calls and thus each Class member has the same or similar concrete  
2 injury.

3 21. Defendants failed to properly scrub their telemarketing lead lists  
4 against the national do not call registry in order to delete and redact protected  
5 numbers like Plaintiff's cell phone.  
6

7 22. Plaintiff suffered concrete injury as a result of the fact of the  
8 solicitation call and not necessarily based on the manner or method in which the  
9 call was actually dialed.  
10

11 23. At all times relevant Defendants purposefully availed themselves of  
12 the benefits and protections of California law as well as conducted business in the  
13 State of California and in the County of San Diego, within this judicial district.  
14

15 24. At no time has Plaintiff ever provided Defendants with his cellular  
16 telephone number.

17 25. The calls Defendants placed to Plaintiff's cellular telephone were  
18 placed via an "automatic telephone dialing system," ("ATDS") as defined by 47  
19 U.S.C. § 227(b)(1)(A). Plaintiff never granted permission to Defendants or their  
20 agents to call Plaintiff with an ATDS.  
21

22 26. This ATDS has the capacity to store or produce telephone numbers to  
23 be dialed, using a random or sequential number generator.  
24  
25

1           27. The telephone number that Defendants, or their agents, called were  
2 assigned to a cellular telephone service for which Plaintiff incurs a charge for  
3 incoming calls pursuant to 47 U.S.C. § 227(b)(1) as well as incurred a serious and  
4 significant depletion of his phone battery which forced Plaintiff to have to pay for  
5 the electricity to recharge his phone. Additionally, Plaintiff could not use his  
6 phone while it was being recharged due to the battery depletion suffered by  
7 Plaintiff as a legal and proximate cause of Defendants wrong actions.

8  
9           28. This telephone call constituted a calls that was not for emergency  
10 purposes as defined by 47 U.S.C. § 227(b)(1)(A)(i) and said call was a serious  
11 annoyance and invasion of Plaintiff's privacy rights.

12  
13           29. Plaintiff is neither a subscriber nor client of Defendants' services, has  
14 never contacted Defendants, nor provided Defendants with his personal  
15 information or cellular telephone number. Thus, at no time did Plaintiff provide  
16 Defendants or their agents with prior express consent to receive unsolicited  
17 telephone calls, pursuant to 47 U.S.C. § 227 (b)(1)(A).

18  
19           30. These telephone calls by Defendants, or its agents, violated 47 U.S.C.  
20 § 227(b)(1) and were for the purpose of telemarketing and solicitation of business.

21  
22                                 **STANDING**

23           31. Standing is proper under Article III of the Constitution of the United  
24 States of America because Plaintiff's claims state:  
25



- i. A valid injury in fact;
- ii. which is traceable to the conduct of Defendants;
- iii. and is likely to be redressed by a favorable judicial decision.

See, *Spokeo, Inc. v. Robins*, 578 U.S. \_\_\_\_ (2016) at 6, and *Lujan v. Defenders of Wildlife*, 504 U.S. 555 at 560. In order to meet the standard laid out in *Spokeo* and *Lujan*, Plaintiffs must clearly allege facts demonstrating all three prongs above.

A. The “Injury in Fact” Prong

Plaintiff’s injury in fact must be both “concrete” and “particularized” in order to satisfy the requirements of Article III of the Constitution, as laid out in *Spokeo* (Id.). For an injury to be “concrete” it must be a de facto injury, meaning that it actually exists. In the present case, Plaintiff was called on his cellular phone by Defendants. Such calls are a nuisance, an invasion of privacy, and an expense to Plaintiff in multiple ways. *Soppet v. Enhanced Recovery Co., LLC*, 679 F.3d 637, 638 (7th Cir. 2012). Defendant’s invasion of Plaintiff’s right to privacy is further exacerbated by the fact that Plaintiff’s phone number, at all times relevant to this litigation, was on the National Do-Not-Call Registry (hereinafter, “DNC Registry”). As well, Plaintiff had no prior business relationship with Defendants prior to receiving the seriously harassing and annoying calls. All of Plaintiff’s injuries are concrete and de facto. For an injury to be “particularized” means that the injury must “affect the plaintiff in a personal and individual way.” *Spokeo, Inc.*

1 *v. Robins*, 578 U.S. \_\_\_\_ (2016) at 7. In the instant case, it was Plaintiff's phone that  
2 was called and it was Plaintiff himself who answered the calls. It was Plaintiff's  
3 personal privacy and peace that was invaded by Defendant's phone call using an  
4 ATDS; despite Plaintiff having no prior business relationship with Defendants and  
5 Plaintiff's attempt to avoid the damage by registering his number on the DNC  
6 Registry. Finally, Plaintiff alone is responsible to pay the bill on his cellular phone  
7 and to pay the bill for his electric utility company kilowatt-hour power usage. All  
8 of these injuries are particularized and specific to Plaintiff, and will be the same  
9 injuries suffered by each plaintiff separately.  
10  
11

12 B. The "Traceable to the Conduct of Defendants" Prong

13 The second prong required to establish standing at the pleadings phase is that  
14 Plaintiff must allege facts to show that his injury is traceable to the conduct of  
15 Defendants. In the instant case, this prong is met by the fact that the call to  
16 Plaintiff's cellular phone was placed either by Defendants directly, or by  
17 Defendant's agent at the direction of Defendants.  
18  
19

20 C. The "Injury is Likely to be Redressed by a Favorable Judicial Opinion"  
21 Prong

22 The third prong to establish standing at the pleadings phase requires Plaintiff to  
23 allege facts to show that the injury is likely to be redressed by a favorable judicial  
24 opinion. In the present case, Plaintiff's Prayers for Relief include a request for  
25

1 damages for each call made by Defendants, as authorized by statute in 47 U.S.C. §  
2 227. The statutory damages were set by Congress and specifically redress the  
3 financial damages suffered by Plaintiff. Furthermore, Plaintiff's Prayers for Relief  
4 request injunctive relief to restrain Defendants from the alleged abusive practices  
5 in the future. The award of monetary damages and the order for injunctive relief  
6 redress the injuries of the past, and prevent further injury in the future. Because all  
7 standing requirements of Article III of the U.S. Constitution have been met, as laid  
8 out in *Spokeo, Inc. v. Robins*, 578 U.S. \_\_\_\_ (2016), Plaintiff has standing to sue  
9 Defendants on the stated claims.  
10  
11

12 “...[C]ourts in the Ninth Circuit have held that "allegations of  
13 nuisance and invasions of privacy in TCPA actions are  
14 concrete" injuries that establish standing. See *Mbazomo v.*  
15 *ETourandtravel, Inc.*, 16-CV-2229-SB, 2016 U.S. Dist.  
16 LEXIS 170186, 2016 WL 7165693, at \*2 (E.D. Cal. Dec. 8,  
17 2016); *Cabiness v. Educ. Fin. Sols., LLC*, 16-CV-1109-JST,  
18 2016 U.S. Dist. LEXIS 142005, 2016 WL 5791411, at \*5  
19 (N.D. Cal. Sept. 1, 2016); *Juarez v. Citibank, N.A.*, No. 16-  
20 CV-1984-WHO, 2016 U.S. Dist. LEXIS 118483, 2016 WL  
21 4547914, at \*3 (N.D. Cal. Sept. 1, 2016); *Hewlett v.*  
22 *Consolidated World Travel, Inc.*, 16-713 WBS AC, 2016 U.S.  
23 Dist. LEXIS 112553, 2016 WL 4466536, at \*2 (E.D. Cal.  
24 Aug. 23, 2016); *Cour v. Life360, Inc.*, 16-CV-00805-TEH,  
25 2016 U.S. Dist. LEXIS 98945, 2016 WL 4039279, at \*2 (N.D.  
Cal. July 28, 2016); *Booth v. Appstack, Inc.*, No. 13-1553JLR,  
2016 U.S. Dist. LEXIS 68886, 2016 WL 3030256, at \*7  
(W.D. Wash. May 25, 2016). In *Mbazamo*, the court held that  
a violation of the TCPA represents a concrete injury because  
"[t]he history of sustaining claims against both unwelcome

1 intrusion into a plaintiff's seclusion and unceasing debt-  
2 collector harassment are squarely 'harm[s] that [have]  
3 traditionally been regarded as providing a basis for a lawsuit.'  
4 Mbazomo, 2016 U.S. Dist. LEXIS 170186, 2016 WL  
5 7165693, at \*2 (quoting *Spokeo*, 136 S.Ct. at 1549-50). The  
6 court declined to follow *Romero*, explaining that *Romero*  
7 "improperly erodes the pleading standard set under Fed. R.  
8 Civ. P. 8(a) . . . . A plaintiff [need only] plausibly tie the  
9 alleged acts of the defendant to the alleged harms suffered."  
10 Id.

11 Similarly, in *Cabiness*, the court held that a violation of the  
12 TCPA represents a concrete injury because "[e]very  
13 unconsented call through the use of an ATDS to a consumer's  
14 cellular phone results in actual harm: the recipient wastes her  
15 time and incurs charges for the call if she answers the phone,  
16 and her cell phone's battery is depleted even if she does not  
17 answer the phone . . . . unsolicited calls also cause intangible  
18 harm by annoying the consumer." *Cabiness*, 2016 U.S. Dist.  
19 LEXIS 142005, 2016 WL 5791411, at \*5 (internal citations  
20 omitted). And in *Juarez*, the court held that the plaintiff's  
21 allegation "that he received repeated unwanted calls that  
22 caused him aggravation, nuisance, and an invasion of privacy,  
23 is sufficient to allege a 'concrete' and 'particularized' injury  
24 that establishes standing under *Spokeo*." *Juarez*, 2016 U.S.  
25 Dist. LEXIS 118483, 2016 WL 4547914, at \*3.

26 *Messerlian v. Rentokil N. Am., Inc.* (C.D.Cal. Dec. 15, 2016, No. CV  
27 16-6941-GW (GJSx)) 2016 U.S. Dist. LEXIS 175224, at \*7-8.

## 28 CLASS ACTION ALLEGATIONS

29 32. Plaintiff brings this action on behalf of himself and on behalf of all  
30 others similarly situated ("the Class").

1           33. Plaintiff represents, and is a member of the Class, consisting of:

2                   All persons within the United States who received any telephone call/s  
3                   From Defendants or their agent/s and/or employee/s to said person's  
4                   cellular telephone made through the use of any automatic telephone  
5                   dialing system within the four years prior to the filing of the  
6                   Complaint.

7           34. Defendants and their employees or agents are excluded from the  
8           Class. Plaintiff does not know the number of members in the Class, but believes  
9           the Class members number in the hundreds of thousands, if not more. Thus, this  
10           matter should be certified as a Class action to assist in the expeditious litigation of  
11           this matter.

12           35. Plaintiff and members of the Class were harmed by the acts of  
13           Defendants in at least the following ways: Defendants, either directly or through  
14           its agents, illegally contacted Plaintiff and the Class members via their cellular  
15           telephones by using an ATDS, thereby causing Plaintiff and the Class members to  
16           incur certain cellular telephone charges or reduce cellular telephone time for which  
17           Plaintiff and the Class members previously paid, and invading the privacy of said  
18           Plaintiff and the Class members. Plaintiff and the Class members were damaged  
19           thereby.  
20           thereby.

21           36. This suit seeks only damages and injunctive relief for recovery of  
22           economic injury on behalf of the Class, and it expressly is not intended to request  
23           any recovery for personal injury and claims related thereto. Plaintiff reserves the  
24             
25

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 discovery.

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

8 38. There is a well-defined community of interest in the questions of law  
9 and fact involved affecting the parties to be represented. The questions of law and  
10 fact to the Class predominate over questions which may affect individual Class  
11 members, including the following:  
12

- 13 a) Whether, within the four years prior to the filing of the Complaint,  
14 Defendants made any call/s (other than a call made for emergency purposes  
15 or made with the prior express consent of the called party) to the Class  
16 members using any automatic telephone dialing system or an artificial or  
17 prerecorded voice to any telephone number assigned to a cellular telephone  
18 service.  
19  
20 b) Whether Defendants can meet their burden of showing they obtained prior  
21 express consent (i.e., consent that is clearly and unmistakably stated);  
22  
23 c) Whether Defendants conduct was knowing and/or willful;  
24  
25

1 d) Whether Plaintiff and the Class members were damaged thereby, and the  
2 extent of damages for such violation; and

3 e) Whether Defendants and their agents should be enjoined from engaging in  
4 such conduct in the future.  
5

6 39. As a person that received at least one telephonic communication from  
7 Defendants' ATDS without Plaintiff's prior express consent, Plaintiff is asserting  
8 claims that are typical of the Class. Plaintiff will fairly and adequately represent  
9 and protect the interests of the Class as the Plaintiff has no interests antagonistic to  
10 any member off the Class.  
11

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

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

24 42. A class action is a superior method for the fair and efficient  
25 adjudication of this controversy. Class-wide damages are essential to induce

1 Defendants to comply with federal and California law. The interest of Class  
2 members in individually controlling the prosecution of separate claims against  
3 Defendants is small because the maximum statutory damages in an individual  
4 action for violation of privacy are minimal. Management of these claims is likely  
5 to present significantly fewer difficulties than those presented in many class  
6 claims.  
7

8 43. Defendants have acted on grounds generally applicable to the Class,  
9 thereby making appropriate final injunctive relief and corresponding declaratory  
10 relief with respect to the Class as a whole.  
11

12 **COUNT I**

13 **NEGLIGENT VIOLATIONS OF THE**

14 **TELEPHONE CONSUMER PROTECTION ACT (TCPA)**

15 **47 U.S.C. 227**

16  
17 44. Plaintiff incorporates by reference all of the above paragraphs of this  
18 Complaint as though fully stated herein.  
19

20 45. The foregoing acts and omissions of Defendants constitute numerous  
21 and multiple negligent violations of the TCPA, including but not limited to each  
22 and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.  
23  
24  
25



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

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

6  
7   **COUNT II**

8                                   **KNOWING AND/OR WILLFUL VIOLATIONS OF THE**  
9                                   **TELEPHONE CONSUMER PROTECTION ACT (TCPA)**

10   **47 U.S.C. 227**

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

14  
15           49. The foregoing acts and omissions of Defendants constitute numerous  
16 and multiple knowing and/or willful violations of the TCPA, including but not  
17 limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 et  
18 seq.

19  
20           50. As a result of Defendants knowing and/or willful violations of 47  
21 U.S.C. § 227 et seq., Plaintiff and The Class are entitled to an award of \$1,500.00  
22 in statutory damages, for each and every violation, pursuant to 47 U.S.C. §  
23 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

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

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff and The Class Members pray for judgment as follows:  
5

- 6 ● Certifying the Class as requested herein;
- 7 ● Providing such further relief as may be deemed just and proper.
- 8 ● For an injunction prohibiting Defendants from violating the TCPA in the  
9 future.

10  
11 In addition, Plaintiff and The Class Members pray for further judgment as  
12 follows:

13 **COUNT I FOR NEGLIGENT VIOLATIONS OF**  
14 **THE (TCPA), 47 U.S.C. 227 ET. SEQ.**

- 15 ● As a result of Defendants negligent violations of 47 U.S.C. § 227(b)(1),  
16 Plaintiff seeks for himself and each Class member \$500.00 in statutory  
17 damages, for each and every violation, pursuant to 47 U.S.C. §  
18 227(b)(3)(B).  
19
- 20 ● Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such  
21 conduct in the future.  
22
- 23 ● Any other relief the Court may deem just and proper.  
24

25 **COUNT II FOR KNOWING/WILLFUL VIOLATION OF**

**THE (TCPA), 47 U.S.C. 227 ET. SEQ.**

- As a result of Defendants 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.

**TRIAL BY JURY**

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

Respectfully submitted,

**The Pride Law Firm**

Dated this 28th day of July, 2017

/S/ Dante T. Pride  
Dante T. Pride, Esq.  
Attorney for Plaintiff

**CERTIFICATION OF WORD COUNT**

I, Dante Pride, hereby certify that, according to the computer program used to prepare this document, Complaint, contains 4658 words.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on this 30<sup>th</sup> day of January, 2017, in San Diego, California.

*/s/ Dante T. Pride*  
Dante T. Pride  
Attorney for Plaintiff  
JOSHUA ASKIN

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JS 44 (Rev. 12/12)

**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**

Joshua Askin,  
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)  
Dante T. Pride, The Pride Law Firm, 2831 Camino Del Rio S, Ste. 104,  
San Diego, CA 92108  
619-516-8166

**DEFENDANTS**

Global Exchange Vacation Club, Global Exchange Development  
Corp., Global Vacations Marketing Corp., Resort Vacations, Inc.,  
Richard Sargent; DOES 1-10,

County of Residence of First Listed Defendant California  
(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)

	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	<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))	<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
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	FEDERAL TAX SUITS		
<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	<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>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	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609		

**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 USC 227 et seq.

Brief description of cause:  
Violation of the Telephone Consumer Protection Act

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND:  Yes  No

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

(See instructions):

JUDGE \_\_\_\_\_

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

DATE 07/28/2017 SIGNATURE OF ATTORNEY OF RECORD /s/Dante Pride

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

JS 44 (Rev. 12/12)

**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.)

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Individually and on Behalf  
Of All Others Similarly Situated

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Attorneys (If Known)

**'17CV1530 JLS JLB**

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(See instructions): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE **07/28/2017** SIGNATURE OF ATTORNEY OF RECORD **/s/Dante Pride**

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Global Exchange Vacation Club, Four Others Pegged with TCPA Class Action](#)

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