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24 UNITED STATES DISTRICT COURT  
25 DISTRICT OF NEVADA

26 STEPHAN CAMPBELL, *on behalf of himself*  
27 *and all others similarly situated,*

28 Plaintiff,

v.

EVERYTHING BREAKS, INC.,

Defendant.

Case No.:

COMPLAINT - CLASS ACTION

JURY DEMAND

**INTRODUCTION**

1. This action arises out of the relentless marketing practices of Defendant, Everything Breaks, Inc. (“Everything Breaks” or “Defendant”) that violate the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (“TCPA”).



1 was, a citizen and resident of Las Vegas, Nevada.

2 12. Plaintiff is, and at all times mentioned herein was, a “person” as defined by 47  
3 U.S.C. § 153(39).

4 13. Everything Breaks is, and at all times mentioned herein was, a Delaware  
5 corporation headquartered at 3100 McKinnon Street, Suite 440, Dallas, Texas 75201.

6 14. Everything Breaks is, and at all times mentioned herein was, a “person” as defined  
7 by 47 U.S.C. § 153(39).

8  
9 **TCPA BACKGROUND**

10 15. In 1991, Congress enacted the TCPA to regulate the explosive growth of the  
11 telemarketing industry. In so doing, Congress recognized that “[u]nrestricted telemarketing . . .  
12 can be an intrusive invasion of privacy[,]” and found that federal legislation was needed because  
13 “telemarketers [could] evade [state-law] prohibitions through interstate operations.” *Mims v.*  
14 *Arrow Fin. Servs., LLC*, 565 U.S. 368, 372 (2012) (citations omitted).

15 16. Relevant here, the TCPA establishes a national “do not call” database of numbers  
17 not to be called. *In the Matter of Rules and Regulations Implementing the Telephone Consumer*  
18 *Protection Act of 1991*, 18 FCC Rcd. 14014 (“DNC Order”).

19 17. These regulations are codified at 47 C.F.R. §§ 64.1200(e)(1-2).

20 18. Specifically, a company may not initiate any “telephone solicitation” to a telephone  
21 subscriber “who has registered his or her telephone number on the national do-not-call registry of  
22 persons who do not wish to receive telephone solicitations that is maintained by the Federal  
23 Government.” 47 C.F.R. § 64.1200(c)(2).

24 19. A violation of 47 C.F.R. § 64.1200(c) carries statutory damages of \$500 to \$1,500  
25 per call through § 227(c) of the TCPA.  
26  
27  
28

1           20.     The TCPA also specifically required the FCC to “initiate a rulemaking proceeding  
2 concerning the need to protect residential telephone subscribers’ privacy rights to avoid receiving  
3 telephone solicitations to which they object.” 47 U.S.C. § 227(c)(1).  
4

5           21.     The FCC was instructed to “compare and evaluate alternative methods and  
6 procedures (including the use of ... company-specific do not call systems ...)” and “develop  
7 proposed regulations to implement the methods and procedures that the Commission determines  
8 are most effective and efficient to accomplish purposes of this section.” *Id.*  
9

10           22.     Pursuant to this statutory mandate, the FCC established company-specific “do not  
11 call” rules. *In the Matter of Rules and Regulations Implementing the Telephone Consumer  
12 Protection Act of 1991*, 7 FCC Rcd. 8752 (Oct. 16, 1992) (“TCPA Implementation Order”).

13           23.     The FCC found that “the company-specific do-not-call list alternative is the most  
14 effective and efficient means to permit telephone subscribers to avoid unwanted telephone  
15 solicitations.” *Id.* at 8765, ¶ 23.  
16

17           24.     However, recognizing that an honor system would probably be insufficient, the  
18 FCC found that it “must mandate procedures for establishing company-specific do-not-call lists to  
19 ensure effective compliance with and enforcement of the requirements for protecting consumer  
20 privacy.” *Id.* at ¶ 24.  
21

22           25.     These regulations are codified at 47 C.F.R. § 64.1200(d)(1)-(7).

23           26.     Specifically, these regulations require a company to keep a written policy, available  
24 upon demand, for maintaining a do-not-call list, train personnel engaged in telemarketing on the  
25 existence and use of its internal do-not-call list, and record and honor “do not call” requests for no  
26 less than five years from the time the request is made. 47 C.F.R. § 64.1200(d) (1, 2, 3, 6).  
27

28           27.     These policies and procedures prohibit a company from making calls for

1 telemarketing purposes<sup>1</sup> unless they have implemented these policies and procedures. 47 C.F.R. §  
2 64.1200(d).

3 28. Accordingly, all telemarketing calls violate the TCPA, unless Everything Breaks  
4 can demonstrate that it has implemented the required policies and procedures.

5 29. There is a private right of action to enforce 47 C.F.R. § 64.1200(d) through §  
6 227(c):  
7

8 Section 227(c)(5)... empowers ‘any person’ to sue for damages and  
9 injunctive relief for do-not-call violations ‘by or on behalf of’ a company.  
10 In accordance with this statutory provision, the Commission’s company-  
11 specific do-not-call rules provide that ‘[n]o person or entity shall initiate  
12 any call for telemarketing purposes to a residential telephone subscriber  
13 unless such person or entity has instituted procedures for maintaining a list  
14 of persons who request not to receive telemarketing calls made by or on  
15 behalf of that person or entity[.]’ 47 C.F.R. § 64.1200(d).

14 *In re Dish Network*, 28 FCC. Rcd. 6574, ¶ 29 (2013)

15 30. These requirements are separate but cumulative. In other words, a company must  
16 comply with both the procedures for the company specific do-not-call list *and* the procedures for  
17 complying with the national “do not call” database regulations. A failure to comply with either is  
18 distinct a violation of 47 U.S.C. § 227(c).  
19

20 31. Further, a person or entity can be liable for calls made on its behalf in violation of  
21

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22 <sup>1</sup> The distinction between the use of “telephone solicitation” in relation to the national do-  
23 not-call database and calls for “telemarketing purposes” in relation to the company-specific do-  
24 not-call list is significant. “Telephone solicitation” excludes calls made to a person with whom the  
25 company has as established business relationship, 47 CFR 64.1200(f)(14), which can be  
26 established by a “voluntary two-way communication”. 47 CFR 64.1200(f)(5). But this business  
27 relationship can be terminated by a “do not call” request. 47 CFR 64.1200(f)(5)(i). “Telemarketing  
28 purposes”, on the other hand, includes any calls made for the purpose of encouraging the purchase  
or rental of, or investment in, property, goods, or services, regardless of any consent or established  
business relationship. 47 CFR 64.1200(f)(12). In other words, prior to making any telemarketing  
calls to anyone, regardless of relationship, a company must implement the company-specific do-  
not-call regulations, but it only needs to comply with the national do-not-call registry provisions  
with respect to persons with whom it does not have an existing established business relationship.

1 the TCPA, even if that person or entity did not directly dial such calls. *See, e.g., In re Rules &*  
2 *Regs. Implementing the TCPA*, 10 FCC Rcd. 12391, 12397 ¶ 13 (1995) (explaining that the FCC’s  
3 “rules generally establish that the party on whose behalf a solicitation is made bears ultimate  
4 responsibility for any [TCPA] violations”). In fact, in May 2013, the FCC issued a binding  
5 declaratory ruling clarifying that sellers “may be held vicariously liable under federal common law  
6 principles of agency for TCPA violations committed by third-party telemarketers . . . under a broad  
7 range of agency principles, including not only formal agency, but also principles of apparent  
8 authority and ratification.” *In re Joint Petition Filed by DISH Network, LLC et al. for Declaratory*  
9 *Ruling Concerning the TCPA Rules*, 28 FCC Rcd. 6574, 6584 ¶28 (2013).  
10  
11

12 32. Accordingly, an entity can be liable under the TCPA for a prohibited call made on  
13 its behalf under a number of theories including vicarious liability. Under those circumstances, the  
14 seller is properly deemed to have initiated the call through the person or entity that actually placed  
15 the call.  
16

### 17 **FACTUAL ALLEGATIONS**

18 33. Mr. Campbell is the user of a cellular telephone number (XXX)-XXX-2363.

19 34. Mr. Campbell’s cellular telephone number (XXX)-XXX-2363 is used for  
20 residential purposes and is not associated with a business.  
21

22 35. Mr. Campbell’s Cellular telephone number (XXX)-XXX-2363 has been on the  
23 National Do-Not-Call Registry since July 30, 2013.

24 36. Mr. Campbell personally placed his cellular telephone number (XXX)-XXX-2363  
25 on the National Do-Not-Call Registry.  
26

27 37. On or about April 27, 2023, Mr. Campbell began receiving telephone calls from  
28 Everything Breaks or a third-party calling on Everything Breaks’ behalf soliciting him to purchase

1 a vehicle warranty.

2 38. These calls came from 702-483-0915.

3 39. For example, Mr. Campbell received calls from Everything Breaks or a third-party  
4 calling on its behalf on at least the following dates and times from the following phone numbers:  
5

- 6 • April 27, 2023 at 2:46pm;
- 7 • April 28, 2023 at 1:54pm;
- 8 • May 2, 2023 at 8:05am;
- 9 • May 3, 2023 at 12:20pm;
- 10 • May 9, 2023 at 8:12am;
- 11 • May 10, 2023 at 1:20pm;
- 12 • May 10, 2023 at 3:19pm;
- 13 • May 11, 2023 at 4:07pm; and
- 14 • May 12, 2023 at 1:25pm.

15  
16  
17 40. Everything Breaks' internal records will evidence the dates and times of all of the  
18 calls Everything Breaks placed to Mr. Campbell.

19 41. During the May 2, 2023 call, Mr. Campbell spoke with a representative named  
20 "Kyle" who stated that he was calling from Everything Breaks.  
21

22 42. Kyle transferred the call to "John Foster" who also stated he was calling from  
23 Everything Breaks.

24 43. John provided Mr. Campbell with Everything Breaks' website  
25 [www.everythingbreaks.com](http://www.everythingbreaks.com) in response to Mr. Campbell's request for that information.  
26

27 44. John also suggested that Mr. Campbell review Everything Breaks' better business  
28 bureau information.

1 45. John also stated that Everything Breaks was based out of Dallas, Texas.

2 46. Mr. Campbell advised the caller that he was not interested in a car warranty,  
3 however Everything Breaks continued calling.  
4

5 47. Mr. Campbell requested to be added to Everything Breaks' do-not-call list, however  
6 Everything Breaks continued calling.

7 48. Mr. Campbell did not provide prior express invitation or permission or consent for  
8 these telephone calls.

9 49. To the contrary, in response to the unwanted calls, Mr. Campbell requested that  
10 they stop.  
11

12 50. Everything Breaks, did not have written do-not-call policies or procedures at the  
13 time of the calls it made to Mr. Campbell and the classes defined below.

14 51. Alternatively, whatever written policies existed either failed to comply with the  
15 minimum requirements under the TCPA, 47 C.F.R. § 64.1200(d), or were never properly  
16 implemented—including as evidenced by the continued telephone calls to Mr. Campbell after he  
17 directly asked not to be contacted.  
18

19 52. Everything Breaks' violations were negligent.

20 53. Alternatively, Everything Breaks' violations were willful and knowing.

21 54. Mr. Campbell and the classes were damaged by the violations alleged herein. Their  
22 privacy was improperly invaded, Everything Breaks' calls temporarily seized and trespassed upon  
23 the use of their phones, and/or they were forced to divert attention away from other activities to  
24 address the unwanted telephone calls. Everything Breaks' telephone calls were annoying and a  
25 nuisance, and wasted the time of Mr. Campbell and the class members. *See, e.g., Mims*, 565 U.S.  
26 at 372.  
27  
28



**DEFENDANT’S LIABILITY**

1  
2 55. Everything Breaks used automated systems to make outbound telephonic sales calls  
3 to hundreds if not thousands of consumers across the U.S., including to consumers whose phone  
4 numbers are listed on the National Do-Not Call Registry.  
5

6 56. Everything Breaks made two or more telephone solicitations to Mr. Campbell,  
7 whose number was on the National Do-Not-Call Registry at the time of the telephone calls. This  
8 constitutes a violation of 47 U.S.C. § 227(c) through 47 C.F.R. § 64.1200(c).  
9

10 57. Accordingly, for violations of 47 C.F.R. § 64.1200(c), Mr. Campbell is entitled to  
11 \$500 per call through 47 U.S.C. § 227(c).

12 58. Mr. Campbell is entitled to \$1,500 per call if Everything Breaks’ actions are found  
13 to be knowing or willful.

14 59. Everything Breaks placed two or more telemarketing calls to Mr. Campbell, despite  
15 not having in place the required policies and procedures prior to making such calls. This  
16 constitutes a violation of 47 U.S.C. § 227(c) through 47 C.F.R. § 64.6200(d).  
17

18 60. Accordingly, for violations of 47 C.F.R. § 64.1200(d), Mr. Campbell is entitled to  
19 \$500 per call through 47 U.S.C. § 227(c).  
20

21 61. Mr. Campbell is entitled to \$1,500 per call if Everything Breaks’ actions are found  
22 to be knowing or willful.

**CLASS ACTION ALLEGATIONS**

23  
24 62. Plaintiff brings this action under Fed. R. Civ. P. 23 on behalf of two proposed  
25 “Classes,” as defined as follows:  
26

**THE TCPA CLASSES**

27  
28 Plaintiff and all persons within the United States to whose telephone number  
Defendant placed (or had placed on its behalf) two or more telemarketing calls in a

1 12-month period when the telephone number to which the telephone calls were  
2 made was on the National Do-Not-Call Registry for more than 30 days at the time  
3 of the calls from four (4) years prior to the filing of the Complaint to the date of  
class certification.

4 (“Registry Class”)

5 Plaintiff and all persons within the United States whose telephone number  
6 Defendant placed (or had placed on its behalf) two or more telemarketing calls in a  
7 12-month period, including at least one after the person requested that the calls or  
messages stop from four (4) years prior to the filing of the Complaint to the date of  
8 class certification.

9 (“Policy Class”).

10 (The Registry Class and the Policy Class are together referred to herein as the “Classes.”)

11 63. Excluded from the Classes are Everything Breaks and any entities in which  
12 Everything Breaks has a controlling interest; Everything Breaks’ agents and employees; any Judge  
13 and Magistrate Judge to whom this action is assigned and any member of their staffs and immediate  
14 families, and any claims for personal injury, wrongful death, and/or emotional distress.

15  
16 64. The Members of the Classes for whose benefit this action is brought are so  
17 numerous that joinder of all members is impracticable.

18 65. The exact number and identities of the persons who fit within the Classes are  
19 ascertainable in that Everything Breaks and third parties maintain written and electronically stored  
20 data showing:  
21

- 22 a. The time period(s) during which Everything Breaks or its agent made the telephone  
23 calls;
- 24 b. The telephone numbers to which Everything Breaks or its agent made telephone  
25 calls;
- 26 c. The telephone numbers for which Everything Breaks had prior express written  
27 consent;  
28

- d. The purposes of such telephone calls; and
- e. The names and addresses of Class members.

66. The Classes are comprised of hundreds, if not thousands, of individuals.

67. There are common questions of law and fact affecting the rights of the Members of the Classes, including, *inter alia*, the following:

- a. Whether Everything Breaks (or someone acting on its behalf) makes telemarketing calls;
- b. Whether Everything Breaks (or someone acting on its behalf) obtains prior express written consent;
- c. Whether Everything Breaks or the entities with which they contract make solicitation calls and to telephone numbers registered on the National Do-Not-Call Registry;
- d. Whether Everything Breaks had the required policies and procedures prior to making telemarketing calls;
- e. Whether Everything Breaks' statutory violations were willful and knowing; and
- f. Whether Everything Breaks should be enjoined from engaging in such conduct in the future.

68. Plaintiff is a member of the Classes in that Everything Breaks placed two or more calls for telemarketing purposes, in a one-year period to his telephone number, without his prior express written consent, after he asked Everything Breaks to stop, and while his telephone number was on the National Do-Not-Call Registry. In addition, certain of these calls utilized an artificial or prerecorded voice.



1 79. Mr. Campbell's and putative Registry Class Members' telephone numbers were  
2 all on the National Do-Not-Call Registry at the time of the calls.

3 80. Mr. Campbell and putative Registry Class Members each received two or more  
4 such calls in a 12-month period.

5 81. Mr. Campbell and putative Registry Class Members are entitled to an award of  
6 \$500 in statutory damages for each telephone solicitation call pursuant to 47 U.S.C. § 227(c)(5).

7 82. Mr. Campbell and putative Registry Class Members are entitled to an award of  
8 treble damages in an amount up to \$1,500 for each telephone solicitation call made knowingly  
9 and/or willfully, pursuant to 47 U.S.C. § 227(c)(5).  
10

11 **SECOND CAUSE OF ACTION**  
12 **Violations of the TCPA, 47 U.S.C. § 227(c)**  
13 **(On behalf of Plaintiff and the Policy Class)**

14 83. Mr. Campbell and the proposed Classes incorporate the foregoing allegations as if  
15 fully set forth herein.

16 84. Everything Breaks made numerous telephone calls for telemarketing purposes to  
17 Mr. Campbell's and putative Policy Class Members' telephone numbers.

18 85. Everything Breaks did so despite not having a written policy pertaining to "do not  
19 call" requests.  
20

21 86. Everything Breaks did so despite not having such a policy available "upon  
22 demand."  
23

24 87. Everything Breaks did so despite not training their personnel on the existence or  
25 use of any internal "do not call" list or policy.

26 88. Everything Breaks did so despite not recording or honoring "do not call" requests.

27 89. Everything Breaks made two or more telemarketing calls to Mr. Campbell's and  
28 putative Policy Class Members' telephone numbers in a 12-month period.



**JURY DEMAND**

92. Pursuant to the Seventh Amendment to the Constitution of the United States of America, and in accordance with Fed R. Civ. P. 38, and LR 38-1, Plaintiff demands a trial by jury.

Dated: June 1, 2023

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# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [\\$995K Everything Breaks Settlement Resolves Class Action Lawsuit Over Telemarketing Calls](#)

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