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7 **IN THE UNITED STATES DISTRICT COURT**  
8 **FOR THE DISTRICT OF ARIZONA**

9 **Stanley Jones**, individually and on  
10 behalf of all other similarly situated,

11 Plaintiff,

12 vs.

13 **Circle K Stores, Inc.**, a Texas  
14 Corporation,

15 Defendant.

Case No.:

**CLASS ACTION COMPLAINT**

**DEMAND FOR A JURY TRIAL**

16 **CLASS ACTION COMPLAINT**

17  
18 Plaintiff Stanley Jones (“Jones” or “Plaintiff”) brings this Class Action  
19 Complaint and Demand for Jury Trial against Defendant Circle K Stores, Inc.  
20 (“Circle K” or “Defendant”) to stop Circle K from violating the Telephone  
21 Consumer Protection Act by sending unsolicited, autodialed text messages to  
22 consumers, and to otherwise obtain injunctive and monetary relief for all persons  
23 injured by Circle K’s conduct. Plaintiff, for his Complaint, alleges as follows upon  
24 personal knowledge as to himself and his own acts and experiences, and, as to all  
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1 other matters, upon information and belief, including investigation conducted by  
2 his attorneys.  
3

## 4 INTRODUCTION

5 1. When Congress enacted the TCPA in 1991, it found that telemarketers  
6 called more than 18 million Americans every day. 105 Stat. 2394 at § 2(3). By  
7 2003, due to more powerful autodialing technology, telemarketers were calling 104  
8 million Americans every day. *In re Rules and Regulations Implementing the TCPA*  
9 *of 1991*, 18 FCC Rcd. 14014, ¶¶ 2, 8 (2003).  
10  
11

12 2. The problems Congress identified when it enacted the TCPA have  
13 only grown exponentially in recent years.  
14

15 3. Industry data shows that the number of robocalls made each month  
16 increased from 831 million in September 2015 to 4.7 billion in December 2018—a  
17 466% increase in three years.  
18

19 4. According to online robocall tracking service “YouMail,” 5.2 billion  
20 robocalls were placed in March 2019 alone, at a rate of 168.8 million per  
21 day. [www.robocallindex.com](http://www.robocallindex.com) (last visited April 9, 2019). YouMail estimates that  
22 in 2019 robocall totals will exceed 60 billion. *See id.*  
23  
24

25 5. The FCC also has received an increasing number of complaints about  
26 unwanted calls, with 150,000 complaints in 2016, 185,000 complaints in 2017, and  
27  
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1 232,000 complaints in 2018. FCC, Consumer Complaint Data  
2 Center, [www.fcc.gov/consumer-help-center-data](http://www.fcc.gov/consumer-help-center-data).  
3

#### 4 **CIRCLE K**

5 6. Circle K runs a chain of gas stations and convenience stores  
6 throughout the US, as well as other parts of the world.  
7

8 7. Part of Circle K's marketing plan includes sending text messages *en*  
9 *masse* to consumers regarding promotions and other incentives that are meant to  
10 bring consumers into Circle K's chain of stores.  
11

12 8. Such text messages are sent using an autodialer without the necessary  
13 express written consent.  
14

15 9. Plaintiff received an autodialed text message to his cellular phone  
16 from Defendant asking him to approve receiving automated marketing messages  
17 from Circle K.  
18

19 10. In response to this text message, Plaintiff files this class action lawsuit  
20 seeking injunctive relief, requiring Circle K to cease sending unsolicited,  
21 autodialed text messages to consumers' cellular telephone numbers, as well as an  
22 award of statutory damages to the members of the Class.  
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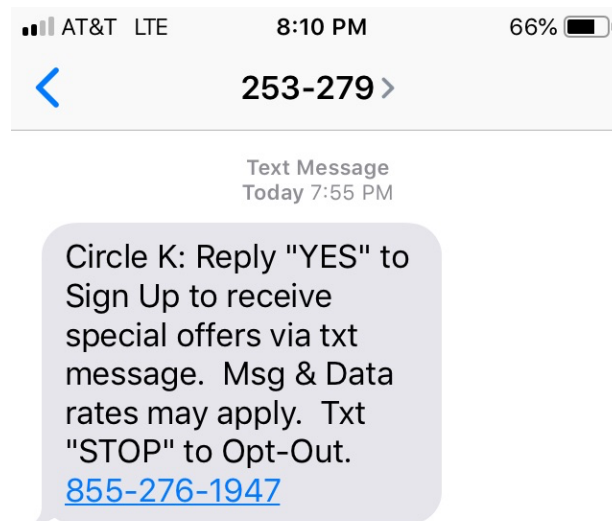
#### 25 **PARTIES**

26 11. Plaintiff Jones is a Campbellsburg, Kentucky resident.  
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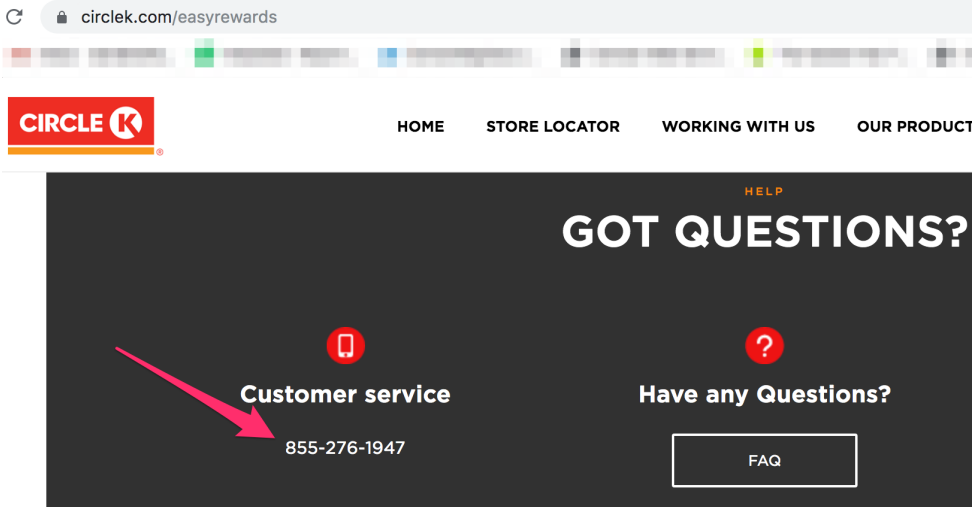
1 from pre-loaded lists. This is evident from the circumstances surrounding the text  
2 messages, including the ability to trigger an automated response by replying  
3 “YES,” and “STOP”, the text messages’ commercial and generic content, that they  
4 were sent without consent, and that they were sent from a short code, which is  
5 consistent with the use of an automatic telephone dialing system to send text  
6 messages.  
7  
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9  
10 17. On September 9, 2019 at 7:55 PM, Plaintiff Jones received an  
11 autodialed text message on his cell phone from Defendant using shortcode 253279:  
12



22 18. The text message that Plaintiff received provides the phone number  
23 855-276-1947.  
24

25 19. Circle K owns phone number 855-276-1947 and uses it in connection  
26 with the Circle K Easy Rewards program:  
27  
28



20. Plaintiff has never consented to Circle K sending him automated text messages to his cell phone.

21. The unauthorized text message that was sent by Circle K, as alleged herein, harmed Plaintiff in the form of annoyance, nuisance, and invasion of privacy, and disturbed Jones's use and enjoyment of his cellular phone, in addition to the wear and tear on the phone's hardware (including the phone's battery) and the consumption of memory on the phone.

22. Seeking redress for these injuries, Jones, on behalf of himself and a Class of similarly situated individuals, brings suit under the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.*, which prohibits unsolicited autodialed text messages to cellular telephones.

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<sup>1</sup> <https://www.circlek.com/easyrewards>

**CLASS ALLEGATIONS**

**Class Treatment Is Appropriate for Plaintiff’s TCPA Claim**

23. Plaintiff brings this action pursuant to Federal Rule of Civil Procedure 23(b)(2) and Rule 23(b)(3) on behalf of himself and all others similarly situated and seeks certification of the following Class:

All persons in the United States who from four years prior to the filing of this action through class certification (1) Defendant (or an agent acting on behalf of Defendant) text messaged, (2) on the person’s cellular telephone number, (3) using a text messaging platform substantially similar to the text messaging platform Defendant used to text message Plaintiff, (4) for whom Defendant claims (a) it obtained prior express consent in the same manner as Defendant claims it supposedly obtained prior express consent to text message Plaintiff, or (b) it did not obtain prior express consent.

24. The following individuals are excluded from the Class: (1) any Judge or Magistrate presiding over this action and members of their families; (2) Defendant, its subsidiaries, parents, successors, predecessors, and any entity in which Defendant or its parents have a controlling interest and their current or former employees, officers and directors; (3) Plaintiff’s attorneys; (4) persons who properly execute and file a timely request for exclusion from the Class; (5) the

1 legal representatives, successors or assigns of any such excluded persons; and (6)  
2 persons whose claims against Defendant have been fully and finally adjudicated  
3 and/or released. Plaintiff anticipates the need to amend the Class definition  
4 following appropriate discovery.  
5

6  
7 25. **Numerosity:** On information and belief, there are hundreds, if not  
8 thousands of members of the Class such that joinder of all members is  
9 impracticable.  
10

11 26. **Commonality and Predominance:** There are many questions of law  
12 and fact common to the claims of Plaintiff and the Class, and those questions  
13 predominate over any questions that may affect individual members of the Class.  
14 Common questions for the Class include, but are not necessarily limited to the  
15 following:  
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17  
18 (a) whether Defendant used an automatic telephone dialing system to  
19 send text messages to Plaintiff and the members of the Class;

20  
21 (b) whether Plaintiff and members of the Class consented to receiving  
22 text messages from Defendant sent using an automatic telephone  
23 dialing system;

24 (c) whether Defendant's conduct constitutes a violation of the TCPA;  
25 and  
26

27 (d) whether members of the Class are entitled to treble damages based  
28 on the willfulness of Defendant's conduct.



1  
2       **27. Adequate Representation:** Plaintiff will fairly and adequately  
3 represent and protect the interests of the Class, and has retained counsel competent  
4 and experienced in class actions. Plaintiff has no interests antagonistic to those of  
5 the Class, and Defendant has no defenses unique to Plaintiff. Plaintiff and his  
6 counsel are committed to vigorously prosecuting this action on behalf of the  
7 members of the Class, and have the financial resources to do so. Neither Plaintiff  
8 nor his counsel has any interest adverse to the Class.  
9  
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11       **28. Appropriateness:** This class action is also appropriate for  
12 certification because Defendant has acted or refused to act on grounds generally  
13 applicable to the Class and as a whole, thereby requiring the Court's imposition of  
14 uniform relief to ensure compatible standards of conduct toward the members of  
15 the Class and making final class-wide injunctive relief appropriate. Defendant's  
16 business practices apply to and affect the members of the Class uniformly, and  
17 Plaintiff's challenge of those practices hinges on Defendant's conduct with respect  
18 to the Class, not on facts or law applicable only to Plaintiff. Additionally, the  
19 damages suffered by individual members of the Class will likely be small relative  
20 to the burden and expense of individual prosecution of the complex litigation  
21 necessitated by Defendant's actions. Thus, it would be virtually impossible for the  
22 members of the Class to obtain effective relief from Defendant's misconduct on an  
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1 individual basis. A class action provides the benefits of single adjudication,  
2 economies of scale, and comprehensive supervision by a single court.  
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**FIRST CAUSE OF ACTION**

**Telephone Consumer Protection Act  
(Violations of 47 U.S.C. § 227)  
(On Behalf of Plaintiff and the Class)**

29. Plaintiff repeats and realleges paragraphs 1 through 28 of this Complaint and incorporates them by reference.

30. Defendant and/or its agents sent unwanted solicitation text messages to cellular telephone numbers belonging to Plaintiff and the other members of the Autodialed No Consent Class using an autodialer.

31. These solicitation text messages were sent *en masse* without the consent of the Plaintiff and the other members of the Class to receive such solicitation text messages.

32. Defendant's conduct was negligent, wilful, or knowing.

33. Defendant has, therefore, violated 47 U.S.C. § 227(b)(1)(A)(iii). As a result of Defendant's conduct, Plaintiff and the other members of the Class are each entitled to between \$500 and \$1,500 for each and every text message.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff Jones, individually and on behalf of the Class, prays for the following relief:

- 1 a) An order certifying the Class as defined above, and appointing Plaintiff as  
2 the representative of the Class and his attorneys as Class Counsel;  
3  
4 b) An award of actual and/or statutory damages and costs;  
5  
6 c) An order declaring that Defendant's actions, as set out above, violate the  
7 TCPA;  
8  
9 d) An injunction requiring Defendant to cease all unsolicited texting activity,  
10 and to otherwise protect the interests of the Class; and  
11  
12 e) Such further and other relief as the Court deems just and proper.

13 **JURY TRIAL DEMAND**

14 Plaintiff Jones requests a jury trial.

15  
16 Respectfully Submitted,

17  
18 **STANLEY JONES,**  
19 individually and on behalf of those similarly  
20 situated individuals

21  
22 Dated: October 23, 2019 By: /s/ Nathan Brown  
23 Nathan Brown  
24 Telephone: (602) 529-3474  
25 Nathan.Brown@BrownPatentLaw.com  
26 *Local Counsel for Plaintiff and the putative Class*  
27  
28

UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

**Civil Cover Sheet**

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

**The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.**

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**Plaintiff(s): Stanley Jones**

**Defendant(s): Circle K Stores, Inc., a Texas Corporation**

County of Residence: Outside the State of Arizona

County of Residence: Maricopa

County Where Claim For Relief Arose: Maricopa

Plaintiff's Atty(s):

Defendant's Atty(s):

**Nathan Brown (Stanley Jones )  
Brown Patent Law  
15100 N 78th Way Suite 203  
Scottsdale, Arizona 85260  
602-529-3474**

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II. Basis of Jurisdiction:

**3. Federal Question (U.S. not a party)**

III. Citizenship of Principal Parties  
(Diversity Cases Only)

Plaintiff:- N/A  
Defendant:- N/A

IV. Origin :

**1. Original Proceeding**

V. Nature of Suit:

**890 Other Statutory Actions**

VI. Cause of Action:

**47 USC 227 Violation of the Telephone consumer Protection Act**

VII. Requested in Complaint

Class Action: **Yes**  
Dollar Demand:  
Jury Demand: **Yes**

VIII. This case is not related to another case.

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**Signature: s/Nathan Brown**

**Date: 10/23/2019**

**If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, save this form as a PDF and include it as an attachment to your case opening documents.**

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action: Circle K Violated TCPA with Unwanted 'Easy Rewards' Program Text Messages](#)

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