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13 [Additional Counsel on Signature Page]

14 *Attorneys for Plaintiff,*  
15 Kirill Levchenko

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

17 **KIRILL LEVCHENKO,**  
18 **Individually and On Behalf of All**  
19 **Others Similarly Situated,**

20 **Plaintiff,**

21 **v.**

22 **DCI RESORTS, INC.,**

23 **Defendant.**

24 **Case No.: '17CV0875 LAB BGS**

25 **CLASS ACTION**

26 **COMPLAINT FOR DAMAGES AND**  
27 **INJUNCTIVE RELIEF PURSUANT**  
28 **TO THE TELEPHONE CONSUMER**  
**PROTECTION ACT, 47 U.S.C. §§**  
**227, ET SEQ.**

**JURY TRIAL DEMANDED**

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INTRODUCTION

1. Plaintiff KIRILL LEVCHENKO (“Plaintiff”) brings this Class Action Complaint for damages, injunctive relief, and any other available legal or equitable remedies, resulting from the illegal actions of Defendant DCI RESORTS, INC. (“Defendant”) in negligently and/or intentionally contacting Plaintiff on Plaintiff’s cellular telephone, in violation of the Telephone Consumer Protection Act, 47 U.S.C. §§ 227, *et seq.*, (“TCPA”), thereby invading Plaintiff’s privacy. Plaintiff alleges as follows upon personal knowledge as to himself and his own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by his attorneys.
2. “Voluminous consumer complaints about abuses of telephone technology – for example, computerized calls dispatched to private homes – prompted Congress to pass the TCPA.” *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 744 (2012).
3. In enacting the TCPA, Congress intended to give consumers a choice as to how creditors and telemarketers may call them, and made specific findings that “[t]echnologies that might allow consumers to avoid receiving such calls are not universally available, are costly, are unlikely to be enforced, or place an inordinate burden on the consumer. TCPA, Pub.L. No. 102–243, § 11. Toward this end, Congress found that:
 

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

*Id.* at § 12; *see also Martin v. Leading Edge Recovery Solutions, LLC*, 2012 WL 3292838, at\* 4 (N.D. Ill. Aug. 10, 2012) (citing Congressional findings on TCPA’s purpose).

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1 4. 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*  
4 *also, Mims*, 132 S. Ct. at 744.

5 **JURISDICTION AND VENUE**

6 5. This Court has federal question jurisdiction because this case arises out of  
7 violation of federal law. *See* 47 U.S.C. §§ 227, *et seq.*

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

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

21 **PARTIES**

22 7. Plaintiff is, and at all times mentioned herein, was a citizen and resident of  
23 the County of San Diego, State of California.

24 8. Plaintiff is, and at all times mentioned herein, was a “person” as defined by  
25 47 U.S.C. § 153 (39).

26 9. Plaintiff is informed and believes, and thereon alleges, that DCI RESORTS,  
27 INC. is, and at all times mentioned herein, was a Delaware corporation, and  
28 is a “person” as defined by 47 U.S.C. § 153 (39).

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1 10.Plaintiff alleges that at all times relevant herein Defendant conducted  
2 business in the State of California and in the County of San Diego, and  
3 within this judicial district.

4 **FACTUAL ALLEGATIONS**

5 11.At no time did Plaintiff ever enter into a business relationship with  
6 Defendant.

7 12.On or about March 9, 2017, at approximately 7:20 p.m. PST, Defendant  
8 placed a telephone call to Plaintiff’s cellular telephone number ending in  
9 “0149.”

10 13.The telephonic communication was initiated from a telephone number  
11 displayed as (858) 360-7135.

12 14.Plaintiff is informed and believes and thereupon alleges that Defendant  
13 spoofed its Caller ID information, or otherwise used an internet-based  
14 number to conceal its true location and/or identity.

15 15.Upon answering the call, Plaintiff experienced a long pause before a  
16 prerecorded voice came on the line.

17 16.Eventually the voice stated, “Can I ask you a few questions before I transfer  
18 you to a travel coordinator who will give you all the details on your amazing  
19 vacation?”

20 17.When Plaintiff did not immediately respond, the voice said, “I’m so sorry I  
21 couldn’t hear you clearly,” then repeated the phrase, “Can I ask you a few  
22 questions before I transfer you to a travel coordinator who will give you all  
23 the details on your amazing vacation?”

24 18.Plaintiff asked, “Is this a real person?” After a long pause, the voice then  
25 replied, “This is Emily with DCI Resorts, can I ask you a few questions  
26 before I transfer you to a travel coordinator who will give you all the details  
27 on your amazing vacation?”  
28

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1 19. The call was disconnected when Plaintiff again asked, “Is this a person? Is  
2 this a real person?”

3 20. Plaintiff immediately attempted to redial the phone number but was unable  
4 to reach a live person.

5 21. Upon information and belief—due to the long pauses, delayed and  
6 repetitious nature of the responses, and the monotonous tone of voice—  
7 Plaintiff alleges an artificial or prerecorded voice was used in the above-  
8 described telephone call to Plaintiff, and was transmitted using an  
9 “automatic telephone dialing system” (“ATDS”), as defined by 47 U.S.C. §  
10 227(a)(1), and prohibited by 47 U.S.C. § 227(b)(1)(A).

11 22. Defendant’s call constituted a call that was not made for emergency  
12 purposes, as defined by 47 U.S.C. § 227(b)(1)(A)(i).

13 23. Upon information and belief, this telephone call was made to Plaintiff for the  
14 purpose of soliciting Plaintiff’s business in relation to the sale of a vacation  
15 package.

16 24. The telephone call was unwanted by Plaintiff.

17 25. Defendant did not have prior express written consent to place the solicitation  
18 call to Plaintiff, or any call to Plaintiff for any purpose.

19 26. Upon information and belief, the ATDS used by Defendant has the capacity  
20 to store or produce telephone numbers to be called, using a random or  
21 sequential number generator.

22 27. Upon information and belief, the ATDS used by Defendant also has the  
23 capacity to, and does, dial telephone numbers stored as a list or in a database  
24 without human intervention.

25 28. The telephonic communication by Defendant, or its agent(s), violated 47  
26 U.S.C. § 227(b)(1).

27 29. Defendant’s call was placed to a telephone number assigned to a paid  
28 cellular telephone service pursuant to 47 U.S.C. § 227(b)(1).

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30. Through Defendant’s aforementioned conduct, Plaintiff suffered an invasion of a legally protected interest in privacy, which is specifically addressed and protected by the TCPA.

31. Plaintiff was personally affected by Defendant’s aforementioned conduct because Plaintiff was frustrated and distressed that Defendant interrupted Plaintiff with an unwanted automated call to Plaintiff’s cellular telephone.

32. Defendant’s call forced Plaintiff and other similarly situated class members to live without the utility of their cellular phones by occupying their cellular telephone with one or more unwanted calls, causing a nuisance and lost time.

33. Defendant’s call to Plaintiff’s cellular telephone number was unsolicited by Plaintiff and was placed without Plaintiff’s permission or consent.

**CLASS ACTION ALLEGATIONS**

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

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

All persons within the United States who received any telephone call from DCI Resorts, Inc. or its agent/s and/or employee/s, not sent for emergency purposes, to said person’s cellular telephone made through the use of any automatic telephone dialing system and/or with an artificial or prerecorded message within four years prior to the filing of this Complaint.

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

37. Plaintiff and members of the Class were harmed by the acts of Defendant in at least the following ways: Defendant, either directly or through its agents,

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1 illegally contacted Plaintiff and the Class members via their cellular  
2 telephones by using an ATDS and/or with an artificial or prerecorded  
3 message, thereby causing Plaintiff and the Class members to incur certain  
4 cellular telephone charges or reduce cellular telephone time for which  
5 Plaintiff and the Class members previously paid, and by invading the  
6 privacy of said Plaintiff and the Class members. Plaintiff and the Class  
7 members were damaged thereby.

8 38. This suit seeks only damages and injunctive relief for recovery of economic  
9 injury on behalf of the Class, and it expressly is not intended to request any  
10 recovery for personal injury and claims related thereto. Plaintiff reserves the  
11 right to expand the Class definition to seek recovery on behalf of additional  
12 persons as warranted, as facts are learned during further investigation and  
13 discovery.

14 39. The joinder of the Class members is impractical and the disposition of their  
15 claims in the Class action will provide substantial benefits both to the parties  
16 and to the court. The Class can be identified through Defendant's records or  
17 Defendant's agents' records.

18 40. There is a well-defined community of interest in the questions of law and  
19 fact involved affecting the parties to be represented. The questions of law  
20 and fact to the Class predominate over questions which may affect  
21 individual Class members, including the following:

- 22 a) Whether, within the four years prior to the filing of this Complaint,  
23 Defendant or its agents initiated any telephonic communications to the  
24 Class (other than a message made for emergency purposes or made  
25 with the prior express consent of the called party) using any automatic  
26 dialing system and/or prerecorded or artificial voice to any telephone  
27 number assigned to a cellular phone service;



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- b) Whether Defendant can meet its burden of showing Defendant obtained prior express written consent;
- c) Whether Defendant’s conduct was knowing and/or willful;
- d) Whether Plaintiff and the Class members were damaged thereby, and the extent of damages for such violation; and
- e) Whether Defendant and its agents should be enjoined from engaging in such conduct in the future.

41. As a person that received at least one telephonic communication from Defendant using an ATDS and/or prerecorded or artificial voice, without Plaintiff’s prior express written consent, Plaintiff is asserting claims that are typical of the Class. Plaintiff will fairly and adequately represent and protect the interests of the Class in that Plaintiff has no interests antagonistic to any member of the Class.

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

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

44. A class action is a superior method for the fair and efficient adjudication of this controversy. Class-wide damages are essential to induce Defendants to comply with federal and California law. The interest of Class members in individually controlling the prosecution of separate claims against Defendants is small because the maximum statutory damages in an individual action for violation of privacy are minimal. Management of these



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1 claims is likely to present significantly fewer difficulties than those  
2 presented in many class claims.

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

6 **FIRST CAUSE OF ACTION**

7 **NEGLIGENT VIOLATIONS OF THE TCPA**

8 **47 U.S.C. §§ 227 ET SEQ.**

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

11 47. The foregoing acts and omissions of Defendants constitute numerous and  
12 multiple negligent violations of the TCPA, including but not limited to each  
13 and every one of the above-cited provisions of 47 U.S.C. §§ 227, *et seq.*

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

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

19 **SECOND CAUSE OF ACTION**

20 **KNOWING AND/OR WILLFUL VIOLATIONS OF THE TCPA**

21 **47 U.S.C. §§ 227 ET SEQ.**

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

24 51. The foregoing acts and omissions of Defendant constitute numerous and  
25 multiple knowing and/or willful violations of the TCPA, including but not  
26 limited to each and every one of the above-cited provisions of 47 U.S.C.  
27 §§ 227, *et seq.*  
28

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1 52.As a result of Defendant’s knowing and/or willful violations of 47 U.S.C.  
2 §§ 227, *et seq.*, Plaintiff and the Class are entitled to an award of \$1,500.00  
3 in statutory damages, for each and every violation, pursuant to 47 U.S.C.  
4 § 227(b)(3)(B)&(C).

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

7 **PRAYER FOR RELIEF**

8 **WHEREFORE**, Plaintiff and the Class members pray for judgment as  
9 follows against Defendant:

- 10 • Certify the Class as requested herein;
- 11 • Appoint Plaintiff to serve as the Class Representative in this matter;
- 12 • Appoint Plaintiff’s Counsel as Class Counsel in this matter; and
- 13 • Providing such further relief as may be just and proper.

14 In addition, Plaintiff and the Class members pray for further judgment as  
15 follows against Defendant:

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

- 18 • As a result of Defendant’s negligent violations of 47 U.S.C. § 227(b)(1),  
19 Plaintiff seeks for himself and each Class member \$500.00 in statutory  
20 damages, for each and every violation, pursuant to 47 U.S.C.  
21 § 227(b)(3)(B);
- 22 • Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such  
23 conduct in the future;
- 24 • Prejudgment interest;
- 25 • Attorney’s fees pursuant to the common fund doctrine;
- 26 • Costs; and
- 27 • Any other relief the Court may deem just and proper.

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

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

**TRIAL BY JURY**

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

Dated: May 1, 2017

Respectfully submitted,

**KAZEROUNI LAW GROUP, APC**

By: /s/ ABBAS KAZEROUNIAN  
Abbas Kazerounian, Esq.  
*Attorney for Plaintiff*

**HYDE & SWIGART**  
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*Counsel for Plaintiff*

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**  
 KIRILL LEVCHENKO, 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)  
 Abbas Kazerounian (SBN: 249203), Kazerouni Law Group, APC  
 245 Fischer Ave., Suite D1, Costa Mesa, CA 92626  
 (800) 400-6808

**DEFENDANTS**  
 DCI Resorts, Inc.

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) \_\_\_\_\_

**'17CV0875 LAB BGS**

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

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" 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 checked="" 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)

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

**V. ORIGIN** (Place an "X" in One Box Only)

1 Original Proceeding     2 Removed from State Court     3 Remanded from Appellate Court     4 Reinstated or Reopened     5 Transferred from Another District (specify) \_\_\_\_\_     6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
 Telephone Consumer Protection Act, 47 U.S.C. §§ 227, et seq.

Brief description of cause:  
 Negligently and/or intentionally contacting Plaintiff on Plaintiff's cellular telephone in violation of the TCPA.

**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: 05/01/2017    SIGNATURE OF ATTORNEY OF RECORD: s/ Abbas Kazerounian

**FOR OFFICE USE ONLY**

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

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [DCI Resorts Sued Over 'Nuisance' Telemarketing Calls](#)

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