

**THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. _____

VANESSA ORSINO,

Plaintiff,

v.

1-800-FLOWERS.COM, INC.,

Defendant.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. sections 1331, 1367, 1441, and 1446, Defendant 1-800-Flowers.com, Inc. (“1-800-Flowers”) hereby removes this action from the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida to the United States District Court for the Southern District of Florida, Fort Lauderdale Division. In support of removal, 1-800-Flowers states as follows:

1. On April 7, 2022, Plaintiff Vanessa Orsino filed a complaint and commenced this action, individually and purportedly on behalf of all others similarly situated, in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida, captioned *Vanessa Orsino v. 1-800-Flowers.com, Inc.* (the “State Court Action”). Orsino’s complaint relates to her claim that 1-800-Flowers engages in sales calls without prior express written consent in violation of the Florida Telephone Solicitation Act (“FTSA”) and the Telephone Consumer Protection Act (“TCPA”). (Compl. ¶ 3.)

2. 1-800-Flowers was served on April 18, 2022.

3. True and correct copies of all process, pleadings, and orders in the State Court Action are attached hereto as **Exhibit A**. No other pleadings or motions have been filed in the State Court Action.

4. The basis for removal and this Court's original jurisdiction derives from 28 U.S.C. section 1331 as resolution of Orsino's TCPA claim will require adjudication of disputed questions of federal law.

5. 1-800-Flowers files this notice of removal within thirty days of service of the complaint on 1-800-Flowers. 28 U.S.C. § 1446(b)(3).

6. 1-800-Flowers denies liability and does not intend to waive any rights or defenses by filing this notice of removal.

Federal Question Jurisdiction

7. Removal is proper under 28 U.S.C. section 1441 because this Court would have original jurisdiction over this case pursuant to 28 U.S.C. section 1331 had Orsino initially brought this case in federal court. The resolution of Orsino's claims will require adjudication of disputed questions of federal law because this action arises under a law of the United States, specifically 47 U.S.C. § 227, *et seq.*, the TCPA. *See Mims v. Arrow Financial Services*, 132 S. Ct. 740, 744-45 (2012) (holding that federal and state courts have concurrent jurisdiction over private suits arising under the TCPA). Orsino alleges that 1-800-Flowers violated the TCPA by not maintaining the procedures for initiating telemarketing calls under 47 C.F.R. § 64.1200(d). (Compl. ¶¶ 43-50.) This Court has supplemental jurisdiction over Orsino's FTSA claim because it arises out of the same facts as the TCPA claim. 28 U.S.C. § 1367.

Other Requirements for Removal

8. The United States District Court for the Southern District of Florida embraces the locality in which the State Court Action is now pending, making this Court a proper forum pursuant to 28 U.S.C. § 1446(a). Broward County lies in the Ft. Lauderdale Division of the Court.

9. A copy of this notice is being served on counsel for Orsino and a copy is being filed with the Circuit Court for the Seventeenth Judicial Circuit in and for Broward County, Florida pursuant to 28 U.S.C. § 1446(d).

10. As 1-800-Flowers is the only defendant in this action, all defendants consent to this removal. 28 U.S.C. § 1446(b)(2)(A).

11. This notice is signed pursuant to Federal Rule of Civil Procedure 11.

12. A copy of the civil cover sheet is attached hereto.

This 16th day of May, 2022

Respectfully submitted,

/s/ J. Douglas Baldridge

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Theodore B. Randles
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Email: tbrandles@venable.com

*Attorneys for Defendants
1-800-FLOWERS.com, Inc.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Notice of Removal will be served this 16th day of May, 2022 on counsel for Plaintiff Vanessa Orsino by U.S. Mail and e-mail at the addresses listed below.

Andrew J. Shamis, Esq.
Florida Bar No. 101754
SHAMIS & GENTILE P.A.
14 NE 1st Ave., Suite 705
Miami, Florida 33132
Telephone: (305) 479-2299
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Garrett O. Berg, Esq.
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EDELBERG LAW, P.A.
20900 NE 30th Ave., Suite 417
Aventura, FL 33180
Telephone: (786) 289-9471
Email: chris@edelsberglaw.com

By: /s/ J. Douglas Baldrige
J. Douglas Baldrige

Exhibit A

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

VANESSA ORSINO, individually and on behalf
of all others similarly situated,

Plaintiff,

vs.

1-800-FLOWERS.COM, INC.,

Defendant.

CLASS ACTION

Case No.

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

Plaintiff Vanessa Orsino brings this class action against Defendant, 1-800-Flowers.com, Inc. and alleges as follows upon personal knowledge as to Plaintiff and Plaintiff's own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by Plaintiff's attorneys.

NATURE OF THE ACTION

1. This is a class action under the 47 U.S.C. § 227 et seq., the Telephone Consumer Protection Act ("TCPA") and under the Florida Telephone Solicitation Act ("FTSA"), Fla. Stat. § 501.059, as amended by Senate Bill No. 1120.¹

2. Defendant is a floral and foods gift retailer and distribution company.

3. To promote its goods and services, Defendant engages in aggressive telephonic sales calls to consumers without having secured prior express written consent as required under the FTSA, and with no regards for consumers' rights under the TCPA.

¹ The amendment to the FTSA became effective on July 1, 2021.

4. Defendant's telephonic sales calls have caused Plaintiff and the Class members harm, including violations of their statutory rights, statutory damages, annoyance, nuisance, and invasion of their privacy.

5. Through this action, Plaintiff seeks an injunction and statutory damages on behalf of herself and the Class members, as defined below, and any other available legal or equitable remedies resulting from the unlawful actions of Defendant.

PARTIES

6. Plaintiff is, and at all times relevant hereto was, an individual and a "called party" as defined by Fla. Stat. § 501.059(1)(a) in that she was the regular user of telephone number 561-***-8969 (the "8969 Number") that received Defendant's telephonic sales calls.

7. Defendant is, and at all times relevant hereto was, a Delaware corporation and a "telephone solicitor" as defined by Fla. Stat. § 501.059(f). Defendant maintains its primary place of business and headquarters in Carle Place, New York. Defendant directs, markets, and provides business activities throughout the State of Florida and the United States.

JURISDICTION AND VENUE

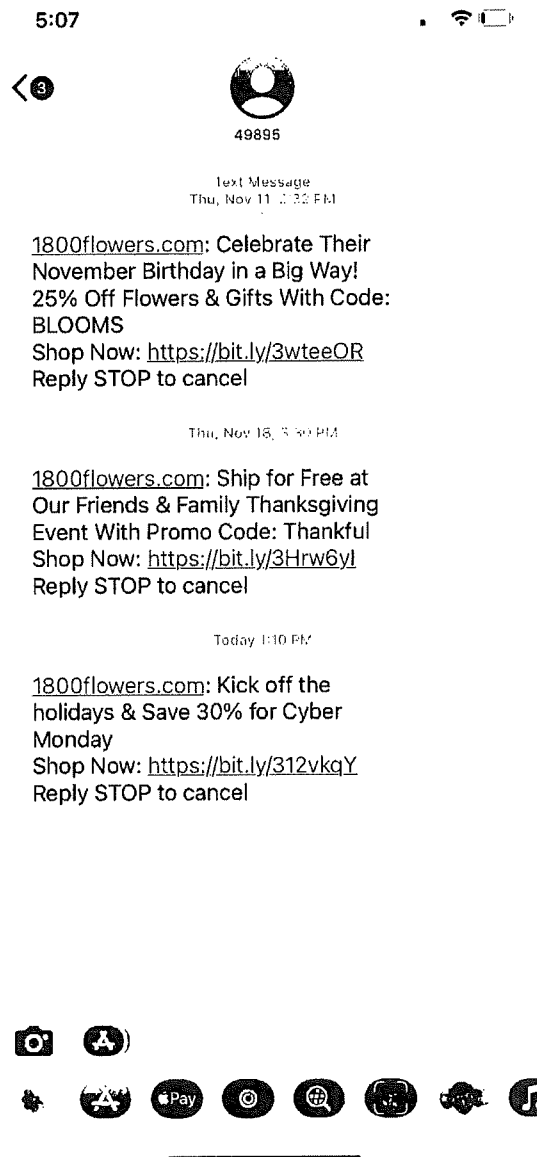
8. This Court has subject matter jurisdiction pursuant to Florida Rule of Civil Procedure 1.220 and Fla. Stat. § 26.012(2). The matter in controversy exceeds the sum or value of \$30,000 exclusive of interest, costs, and attorney's fees.

9. Defendant is subject to personal jurisdiction in Florida because this suit arises out of and relates to Defendant's contacts with this state. Defendant made or caused to be made telephonic sales calls into Florida without the requisite prior express written consent in violation of the FTSA. Plaintiff received such calls while residing in and physically present in Broward County, Florida.

10. Venue for this action is proper in this Court pursuant to Fla. Stat. § 47.051 because Defendant (1) is a foreign corporation doing business in this judicial circuit; and (2) all facts giving rise to this action occurred in this circuit.

FACTS

11. On or about November 11, 2021, November 18, 2021, and November 25, 2021, Defendant sent telephonic sales calls to Plaintiff's cellular telephone number:



12. As demonstrated by the above screenshot, the purpose of Defendant's telephonic sales calls was to solicit the sale of consumer goods and/or services. The messages contained language such as "Kick off the holidays & Save 30% for Cyber Monday..."

13. Defendant's calls were not made for an emergency purpose or to collect on a debt pursuant to 47 U.S.C. § 227(b)(1)(B).

14. Defendant's calls were transmitted to Plaintiff's cellular telephone, and within the time frame relevant to this action.

15. Defendant's calls constitute telemarketing because they encouraged the future purchase or investment in property, goods, or services, i.e., selling Plaintiff Defendant's floral and food products.

16. Defendant's calls did not disclose the name of the individual caller pursuant to 47 C.F.R. § 64.1200(d)(4).

17. Defendant's calls did not provide a telephone number or address at which they may be contacted pursuant to 47 C.F.R. § 64.1200(d)(4).

18. At no point in time did Plaintiff provide Defendant with her express written consent to be contacted.

19. Upon information and belief, Defendant caused similar telephonic sales calls to be sent to individuals residing in Florida and throughout the United States.

20. To transmit the above telephonic sales calls, Defendant utilized a computer software system that automatically selected and dialed Plaintiff's and the Class members' telephone numbers.

21. Plaintiff never provided Defendant with express written consent authorizing Defendant to transmit telephonic sales calls to Plaintiff's cellular telephone number utilizing an automated system for the selection or dialing of telephone numbers.

22. The text messages originated from telephone number 49895, a number which upon information and belief is owned and operated by Defendant or on behalf of Defendant.

23. The TCPA prohibits callers from telemarketing to a telephone subscriber without disclosing the name of the individual caller, the name of the person or entity on whose behalf the call is being made, and a telephone number or address at which the person or entity may be contacted. 47 C.F.R. § 64.1200(d)(4).

24. Defendant's telephonic sales calls caused Plaintiff and the Class members harm, including statutory damages, inconvenience, invasion of privacy, aggravation, annoyance.

CLASS ALLEGATIONS

PROPOSED CLASS

25. Plaintiff brings this lawsuit as a class action on behalf of herself individually and on behalf of all other similarly situated persons as a class action pursuant to Florida Rule of Civil Procedure 1.220(b)(2) and (b)(3). The "Class" that Plaintiff seeks to represent is defined as:

No Consent Class: All persons in Florida who, (1) were sent a telephonic sales call regarding Defendant's goods and/or services, (2) using the same equipment or type of equipment utilized to call Plaintiff.

Seller Identification Class: All persons within the United States who, within the four years prior to the filing of this Complaint, were sent a text message from Defendant or anyone on Defendant's behalf, that did not disclose: (1) the name of the individual caller; or (2) the name of the person or entity on whose behalf the call is being made; or (3) a telephone number or address at which the person or entity may be contacted.

26. Defendant and its employees or agents are excluded from the Class. Plaintiff does not know the exact number of members in the Class but believes the Class members number over seventy, if not more.

NUMEROSITY

27. Upon information and belief, Defendant has placed telephonic sales calls to telephone numbers belonging to seventy or more consumers listed throughout Florida without their prior express written consent and without properly disclosing the identification of the seller/sender. The members of the Class, therefore, are believed to be so numerous that joinder of all members is impracticable.

28. The exact number and identities of the Class members are unknown at this time and can be ascertained only through discovery. Identification of the Class members is a matter capable of ministerial determination from Defendant's call records.

COMMON QUESTIONS OF LAW AND FACT

29. There are numerous questions of law and fact common to the Class which predominate over any questions affecting only individual members of the Class. Among the questions of law and fact common to the Class are:

- [1] Whether Defendant initiated telephonic sales calls to Plaintiff and the Class members;
- [2] Whether Defendant can meet its burden of showing that it had prior express written consent to make such calls;
- [3] Whether Defendant violated 47 C.F.R. § 64.1200(d);
- [7] Whether Defendant's conduct was knowing and willful; and
- [8] Whether Defendant is liable for damages, and the amount of such damages.

30. The common questions in this case are capable of having common answers. If Plaintiff's claim that Defendant routinely transmits telephonic sales calls without prior express written consent is accurate, Plaintiff and the Class members will have identical claims capable of being efficiently adjudicated and administered in this case.

TYPICALITY

31. Plaintiff's claims are typical of the claims of the Class members, as they are all based on the same factual and legal theories.

PROTECTING THE INTERESTS OF THE CLASS MEMBERS

32. Plaintiff is a representative who will fully and adequately assert and protect the interests of the Class and has retained competent counsel. Accordingly, Plaintiff is an adequate representative and will fairly and adequately protect the interests of the Class.

SUPERIORITY

33. A class action is superior to all other available methods for the fair and efficient adjudication of this lawsuit because individual litigation of the claims of all members of the Class is economically unfeasible and procedurally impracticable. While the aggregate damages sustained by the Class are potentially in the millions of dollars, the individual damages incurred by each member of the Class resulting from Defendant's wrongful conduct are too small to warrant the expense of individual lawsuits. The likelihood of individual Class members prosecuting their own separate claims is remote, and, even if every member of the Class could afford individual litigation, the court system would be unduly burdened by individual litigation of such cases.

34. The prosecution of separate actions by members of the Class would create a risk of establishing inconsistent rulings and/or incompatible standards of conduct for Defendant. For example, one court might enjoin Defendant from performing the challenged acts, whereas another

may not. Additionally, individual actions may be dispositive of the interests of the Class, although certain class members are not parties to such actions.

COUNT I
VIOLATION OF FLA. STAT. § 501.059
(On Behalf of Plaintiff and the No Consent Class)

35. Plaintiff re-alleges and incorporates the foregoing allegations as if fully set forth herein.

36. It is a violation of the FTSA to “make or knowingly allow a telephonic sales call to be made if such call involves an automated system for the selection or dialing of telephone numbers or the playing of a recorded message when a connection is completed to a number called without the prior express written consent of the called party.” Fla. Stat. § 501.059(8)(a).

37. A “telephonic sales call” is defined as a “telephone call, text message, or voicemail transmission to a consumer for the purpose of soliciting a sale of any consumer goods or services, soliciting an extension of credit for consumer goods or services, or obtaining information that will or may be used for the direct solicitation of a sale of consumer goods or services or an extension of credit for such purposes.” Fla. Stat. § 501.059(1)(g).

38. “Prior express written consent” means an agreement in writing that:

1. Bears the signature of the called party;
2. Clearly authorizes the person making or allowing the placement of a telephonic sales call by telephone call, text message, or voicemail transmission to deliver or cause to be delivered to the called party a telephonic sales call using an automated system for the selection or dialing of telephone numbers, the playing of a recorded message when a connection is completed to a number called, or the transmission of a prerecorded voicemail;
3. Includes the telephone number to which the signatory authorizes a telephonic sales call to be delivered; and
4. Includes a clear and conspicuous disclosure informing the called party that:

- a. By executing the agreement, the called party authorizes the person making or allowing the placement of a telephonic sales call to deliver or cause to be delivered a telephonic sales call to the called party using an automated system for the selection or dialing of telephone numbers or the playing of a recorded message when a connection is completed to a number called; and
- b. He or she is not required to directly or indirectly sign the written agreement or to agree to enter into such an agreement as a condition of purchasing any property, goods, or services.

Fla. Stat. § 501.059(1)(g).

39. Defendant failed to secure prior express written consent from Plaintiff and the Class members.

40. In violation of the FTSA, Defendant made and/or knowingly allowed telephonic sales calls to be made to Plaintiff and the Class members without Plaintiff's and the Class members' prior express written consent.

41. Defendant made and/or knowingly allowed the telephonic sales calls to Plaintiff and the Class members to be made utilizing an automated system for the selection or dialing of telephone numbers.

42. As a result of Defendant's conduct, and pursuant to § 501.059(10)(a) of the FTSA, Plaintiff and Class members were harmed and are each entitled to a minimum of \$500.00 in damages for each violation. Plaintiff and the Class members are also entitled to an injunction against future calls. *Id.*

COUNT II
VIOLATION OF 47 U.S.C. § 227(b)
(Individually and on behalf of the Seller Identification Class)

43. Plaintiff re-alleges and incorporates paragraphs 1-34 as if fully set forth herein.

44. Under 47 C.F.R. § 64.1200(d), "[n]o person or entity shall initiate any call for telemarketing purposes to a residential telephone subscriber unless such person or entity has

instituted procedures for maintaining a list of persons who request not to receive telemarketing calls made by or on behalf of that person or entity. The procedures instituted must meet certain minimum standards, including:

(4) Identification of sellers and telemarketers. A person or entity making a call for telemarketing purposes must provide the called party with the name of the individual caller, the name of the person or entity on whose behalf the call is being made, and a telephone number or address at which the person or entity may be contacted.

47 C.F.R. § 64.1200(d)(4).

45. Under 47 C.F.R. § 64.1200(e) the rules set forth in 47 C.F.R. § 64.1200(d) are applicable to any person or entity making telephone solicitations or telemarketing calls to wireless telephone numbers:

(e) The rules set forth in paragraph (c) and (d) of this section are applicable to any person or entity making telephone solicitations or telemarketing calls to wireless telephone numbers to the extent described in the Commission's Report and Order, CG Docket No. 02-278, FCC 03-153, "Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991.

47 C.F.R. § 64.1200(e).

46. Pursuant to 47 C.F.R. § 64.1200(d)(4), Defendant's contact of Plaintiff's cellular phone without disclosing the name of the individual caller constitutes a violation of 47 U.S.C. § 227(c).

47. Pursuant to 47 C.F.R. § 64.1200(d)(4), Defendant's contact of Plaintiff's cellular phone without providing a telephone number or address at which they may be contacted constitutes a violation of 47 U.S.C. § 227(c).

48. As a result of Defendant's violations of 47 U.S.C. § 227(c) Plaintiff and the Seller Identification Class members are entitled to an award of \$500.00 in statutory damages, for each and every negligent violation, pursuant to 47 U.S.C. § 227(c)(5)(B).

49. As a result of Defendant's violations of 47 U.S.C. § 227(c), Plaintiff and the Seller Identification Class members are entitled to an award of \$1,500.00 in statutory damages, for each and every knowing and/or willful violation, pursuant to 47 U.S.C. § 227(c)(5)(B).

50. Plaintiff and the Seller Identification Class members are also entitled to and seek injunctive relief prohibiting Defendant's illegal conduct in the future, pursuant to 47 U.S.C. § 227(c)(5).

PRAYER FOR RELIEF

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

- a) An order certifying this case as a class action on behalf of the Class as defined above, and appointing Plaintiff as the representative of the Class and Plaintiff's counsel as Class Counsel;
- b) An award of statutory damages for Plaintiff and each member of the Class;
- c) An order declaring that Defendant's actions, as set out above, violate the FTSA;
- d) An order declaring that Defendant's actions, set out above, violate the TCPA;
- e) An injunction requiring Defendant to cease all telephonic sales calls made without express written consent, and to otherwise protect the interests of the Class;
- f) Such further and other relief as the Court deems necessary.

JURY DEMAND

Plaintiff, individually and on behalf of the Class, hereby demand a trial by jury.

DOCUMENT PRESERVATION DEMAND

Plaintiff demands that Defendant take affirmative steps to preserve all records, lists, electronic databases or other itemization of telephone numbers associated with the communications or transmittal of the calls as alleged herein.

Dated: April 7, 2022

Respectfully Submitted,

SHAMIS & GENTILE P.A.

/s/ Andrew Shamis

Andrew J. Shamis, Esq.
Florida Bar No. 101754
ashamis@shamisgentile.com

/s/ Garrett Berg

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Counsel for Plaintiff and the Class.

FORM 1.997. CIVIL COVER SHEET

The civil cover sheet and the information contained in it neither replace nor supplement the filing and service of pleadings or other documents as required by law. This form must be filed by the plaintiff or petitioner with the Clerk of Court for the purpose of reporting uniform data pursuant to section 25.075, Florida Statutes. (See instructions for completion.)

I. CASE STYLE

IN THE CIRCUIT/COUNTY COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT,
IN AND FOR BROWARD COUNTY, FLORIDA

Vanessa Orsino
Plaintiff

Case # _____
Judge _____

vs.

1-800-FLOWERS.COM, INC.
Defendant

II. AMOUNT OF CLAIM

Please indicate the estimated amount of the claim, rounded to the nearest dollar. The estimated amount of the claim is requested for data collection and clerical processing purposes only. The amount of the claim shall not be used for any other purpose.

- \$8,000 or less
- \$8,001 - \$30,000
- \$30,001- \$50,000
- \$50,001- \$75,000
- \$75,001 - \$100,000
- over \$100,000.00

III. TYPE OF CASE (If the case fits more than one type of case, select the most definitive category.) If the most descriptive label is a subcategory (is indented under a broader category), place an x on both the main category and subcategory lines.

CIRCUIT CIVIL

- Condominium
- Contracts and indebtedness
- Eminent domain
- Auto negligence
- Negligence—other
 - Business governance
 - Business torts
 - Environmental/Toxic tort
 - Third party indemnification
 - Construction defect
 - Mass tort
 - Negligent security
 - Nursing home negligence
 - Premises liability—commercial
 - Premises liability—residential
- Products liability
- Real Property/Mortgage foreclosure
 - Commercial foreclosure
 - Homestead residential foreclosure
 - Non-homestead residential foreclosure
 - Other real property actions
- Professional malpractice
 - Malpractice—business
 - Malpractice—medical
 - Malpractice—other professional
- Other
 - Antitrust/Trade regulation
 - Business transactions
 - Constitutional challenge—statute or ordinance
 - Constitutional challenge—proposed amendment
 - Corporate trusts
 - Discrimination—employment or other
 - Insurance claims
 - Intellectual property
 - Libel/Slander
 - Shareholder derivative action
 - Securities litigation
 - Trade secrets
 - Trust litigation

COUNTY CIVIL

- Small Claims up to \$8,000
- Civil
- Real property/Mortgage foreclosure

- Replevins
- Evictions
 - Residential Evictions
 - Non-residential Evictions
- Other civil (non-monetary)

COMPLEX BUSINESS COURT

This action is appropriate for assignment to Complex Business Court as delineated and mandated by the Administrative Order. Yes No

IV. REMEDIES SOUGHT (check all that apply):

- Monetary;
- Nonmonetary declaratory or injunctive relief;
- Punitive

V. NUMBER OF CAUSES OF ACTION: []

(Specify)

2

VI. IS THIS CASE A CLASS ACTION LAWSUIT?

- yes
- no

VII. HAS NOTICE OF ANY KNOWN RELATED CASE BEEN FILED?

- no
- yes If "yes," list all related cases by name, case number, and court.

VIII. IS JURY TRIAL DEMANDED IN COMPLAINT?

- yes
- no

IX. DOES THIS CASE INVOLVE ALLEGATIONS OF SEXUAL ABUSE?

- yes
- no

I CERTIFY that the information I have provided in this cover sheet is accurate to the best of my knowledge and belief, and that I have read and will comply with the requirements of Florida Rule of Judicial Administration 2.425.

Signature: s/ Angelica Gentile Gentile
Attorney or party

Fla. Bar # 102630
(Bar # if attorney)

Angelica Gentile Gentile
(type or print name)

04/07/2022
Date

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

CASE NO.

VANESSA ORSINO, individually and on behalf of
all others similarly situated,

CLASS ACTION

Plaintiff,

JURY TRIAL DEMANDED

vs.

1-800-FLOWERS.COM, INC.,

Defendant.

SUMMONS

THE STATE OF FLORIDA:

To Each Sheriff/Certified Process Server of the State

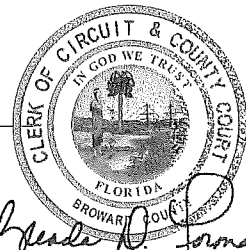
TO: 1-800-FLOWERS.COM, INC.
Two Jericho Plaza, Suite 200
Jericho, NY 11753

Each Defendant is required to serve written defenses to the Complaint or petition on: **Andrew Shamis, Esq, Shamis & Gentile, P.A., 14 NE 1st Ave STE 705, Miami, Florida 33132**, within **twenty (20) days** after service of this summons on that Defendant, exclusive of the date of service, and to file the original of the defenses with the Clerk of this Court either before service on Plaintiff's attorney or immediately thereafter. If a Defendant fails to do so, a default will be entered against that Defendant for the relief demanded in the complaint or petition.

Dated this _____ day of _____ APR 11 2022

As Clerk of the Court

By: _____
As Deputy Clerk



Brenda D. Forman
BRENDA D. FORMAN

mb

IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT IN
AND FOR BROWARD COUNTY, FLORIDA

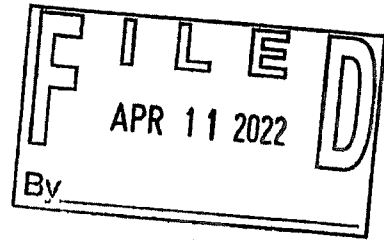
Case No: 22-5128

Vanessa Orsino
Plaintiff

Judge Division: 12

VS

1-800-flowers.com Inc
Defendant



CLERK'S CERTIFICATE OF COMPLIANCE

I hereby certify that pursuant to Administrative Order, No. 2020-73Civ/2020-74-UFC:
"ADMINISTRATIVE ORDER DIRECTING CLERK OF COURTS WITH REGARD TO
DISMISSED CIVIL OR FAMILY CASES",

The Clerk has conducted a search for all previous existing civil cases related to
these two parties.

Listed below are all the aforementioned related cases: None

Brenda D. Forman
Circuit and County Courts

By: *[Signature]*
Deputy Clerk

RETURN OF SERVICE

State of Florida

County of Broward

Circuit Court

Case Number: CACE-22-005128 DIV: 12

Plaintiff:

**VANESSA ORSINO, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY
SITUATED**

vs.

Defendant:

1-800 FLOWERS.COM, INC.

For:

Andrew J. Shamis, Esq.
Shamis & Gentile, P.A.
14 NE 1ST Avenue, Suite 400
Miami, FL 33132

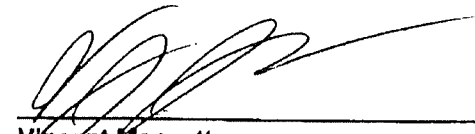
Received by Global Process Services Corp on the 11th day of April, 2022 at 11:02 am to be served on 1-800
FLOWERS.COM, INC., TWO JERICHO PLAZA, SUITE 200, JERICHO, NY 11753.

I, Vincent Manna, do hereby affirm that on the 18th day of April, 2022 at 2:50 pm, I:

served a **CORPORATION** by delivering a true copy of the **Summons and Class Action Complaint** with the date and hour of service endorsed thereon by me, to: **DOUG GREENBERG** as **EMPLOYEE/AUTHORIZED TO ACCEPT** for **1-800 FLOWERS.COM, INC.**, at the address of: **TWO JERICHO PLAZA, SUITE 200, JERICHO, NY 11753**, and informed said person of the contents therein, in compliance with state statutes.

Description of Person Served: Age: 35, Sex: M, Race/Skin Color: White, Height: 5'9", Weight: 175, Hair: Black, Glasses: N

I certify that I am over the age of eighteen, and that I have no interest in the above action. Per F.S.92.525(2) Under penalties of perjury, I declare that I have read the foregoing Return of Service and the facts stated in it are true.



Vincent Manna
Process Server

Global Process Services Corp
P.O. Box 961556
Miami, FL 33296
(786) 287-0608

Our Job Serial Number: GER-2022000842
Ref: S&G



IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

CASE NO.

VANESSA ORSINO, individually and on behalf of
all others similarly situated,

CLASS ACTION

Plaintiff,

JURY TRIAL DEMANDED

vs.

1-800-FLOWERS.COM, INC.,

Defendant.

SUMMONS

THE STATE OF FLORIDA:
To Each Sheriff/Certified Process Server of the State

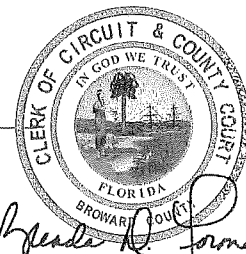
TO: 1-800-FLOWERS.COM, INC.
Two Jericho Plaza, Suite 200
Jericho, NY 11753

Each Defendant is required to serve written defenses to the Complaint or petition on:
Andrew Shamis, Esq, Shamis & Gentile, P.A., 14 NE 1st Ave STE 705, Miami, Florida 33132,
within **twenty (20) days** after service of this summons on that Defendant, exclusive of the date of
service, and to file the original of the defenses with the Clerk of this Court either before service on
Plaintiff's attorney or immediately thereafter. If a Defendant fails to do so, a default will be entered
against that Defendant for the relief demanded in the complaint or petition.

Dated this _____ day of _____ APR 11 2022

As Clerk of the Court

By: _____
As Deputy Clerk



Brenda D. Forman
BRENDA D. FORMAN

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

VANESSA ORSINO,

Plaintiff,

v.

1-800-FLOWERS.COM, INC.,

Defendant.

Case No. CACE-22-005128

**DEFENDANT'S UNOPPOSED MOTION FOR
EXTENSION OF TIME TO RESPOND TO COMPLAINT**

With plaintiff Vanessa Orsino's consent, defendant 1-800-Flowers.com, Inc. moves pursuant to Florida Rules of Civil Procedure Rule 1.090(b) for an order extending defendant's time to answer, move or otherwise respond to the complaint until and through June 8, 2022. Good cause exists to grant the extension for the reasons set forth below.

1. Plaintiff served defendant with the complaint in this action on April 18, 2022. *See* 4/20/22 Return of Service.

2. Defendant's current deadline to respond to the complaint is May 9, 2022. Fla. R. Civ. P. 1.140.

3. Good cause exists to extend defendant's time to respond to the complaint. Fla. R. Civ. P. 1.090(b)(1). Defendant recently retained undersigned counsel to represent it in this action, and undersigned counsel requires additional time to investigate the claims and prepare its response to the complaint.

4. Granting this motion will not cause any change in any other deadlines set by the Court in this action. The Court has not scheduled trial or issued any scheduling order.

5. No party will be prejudiced if the Court grants the requested relief.

6. Plaintiff's counsel, in an e-mail dated May 3, 2022, stated that plaintiff does not object to the requested extension.

WHEREFORE, defendant respectfully requests that the Court enter an order granting its motion and extending its time to answer, move or otherwise respond to the complaint until and through June 8, 2022.

Respectfully submitted this 3rd day of May, 2022.

/s/ Theodore B. Randles
J. Douglas Baldrige
Florida Bar No. 0708070
Theodore B. Randles
Florida Bar No. 115790
VENABLE LLP
600 Massachusetts Ave., N.W.
Washington, D.C. 20001
Telephone: (202) 344-4000
Facsimile: (202) 344-8300
Email: jbaldrige@venable.com
Email: tbrandles@venable.com

Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of May, 2022, a copy of the foregoing has been filed and served via the Florida E-Filing Portal to the parties identified as attorneys of record in the E-Filing Portal and the Service List below as of the date of this filing.

Andrew J. Shamis, Esq.
Florida Bar No. 101754
SHAMIS & GENTILE P.A.
14 NE 1st Ave., Suite 705
Miami, Florida 33132
Telephone: (305) 479-2299
Email: ashamis@shamisgentile.com

Garrett O. Berg, Esq.
Florida Bar No. 1000427
SHAMIS & GENTILE P.A.
14 NE 1st Ave., Suite 705
Miami, Florida 33132
Telephone: (305) 479-2299
Email: gberg@shamisgentile.com

Scott Edelsberg, Esq.
Florida Bar No. 0100537
EDELBERG LAW, P.A.
20900 NE 30th Ave., Suite 417
Aventura, FL 33180
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Christopher Gold, Esq.
Florida Bar No. 088733
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20900 NE 30th Ave., Suite 417
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By: /s/ Theodore B. Randles
Theodore B. Randles

**IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA**

CASE NO. CACE22005128 DIVISION: 12 JUDGE: Frink, Keathan B. (12)

Vanessa Orsino

Plaintiff(s) / Petitioner(s)

v.

1-800-Flowers.Com Inc

Defendant(s) / Respondent(s)

_____ /

Agreed Order

THIS CAUSE is before the Court upon Defendant's Unopposed Motion for Extension of Time to Respond to Complaint (the "Motion"), filed on May 3, 2022. Upon review, and for good cause shown, it is ORDERED AND ADJUDGED as follows:

1. The Motion is GRANTED.
2. Defendant's time to answer, move or otherwise respond to the Complaint is extended until and through June 8, 2022.

DONE AND ORDERED in Chambers at Broward County, Florida on 3rd day of May, 2022.


CACE22005128 05-03-2022 10:36 PM

CACE22005128 05-03-2022 10:36 PM
Hon. Keathan Frink
CIRCUIT JUDGE

Electronically Signed by Frink, Keathan B. (12)

Copies Furnished To:

Andrew Shamis , E-mail : ashamis@shamisgentile.com
Andrew Shamis , E-mail : aelsayed@shamisgentile.com
Angelica Gentile Gentile , E-mail : efilings@shamisgentile.com
Chris Gold , E-mail : chris@edelsberglaw.com
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Theodore Randles , E-mail : tbrandles@venable.com

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.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS

Vanessa Orsino

DEFENDANTS

1-800-Flowers.com, Inc.

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

County of Residence of First Listed Defendant Carle Place, New York (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

Andrew J. Shamis, 14 NE 1st Ave., Suite 705, Miami, Florida 33132, (J. Douglas Baldrige, 600 Massachusetts Ave., N.W., Washington, I

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

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)

- Citizen of This State Citizen of Another State Citizen or Subject of a Foreign Country PTF DEF 1 1 2 2 3 3 4 4 5 5 6 6 Incorporated or Principal Place of Business In This State Incorporated and Principal Place of Business In Another State Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT TORTS FORFEITURE/PENALTY LABOR IMMIGRATION BANKRUPTCY SOCIAL SECURITY OTHER STATUTES FEDERAL TAX SUITS
110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excl. Veterans) 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits 190 Other Contract 195 Contract Product Liability 196 Franchise
PERSONAL INJURY 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 355 Motor Vehicle Product Liability 360 Other Personal Injury 362 Personal Injury - Med. Malpractice
PERSONAL INJURY 365 Personal Injury - Product Liability 367 Health Care/ Pharmaceutical Personal Injury Product Liability 368 Asbestos Personal Injury Product Liability
PERSONAL PROPERTY 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage 385 Property Damage Product Liability
Habeas Corpus: 463 Alien Detainee 510 Motions to Vacate Sentence
Other: 530 General 535 Death Penalty 540 Mandamus & Other 550 Civil Rights 555 Prison Condition 560 Civil Detainee - Conditions of Confinement
625 Drug Related Seizure of Property 21 USC 881 690 Other
422 Appeal 28 USC 158 423 Withdrawal 28 USC 157
PROPERTY RIGHTS 820 Copyrights 830 Patent 835 Patent - Abbreviated New Drug Application 840 Trademark 880 Defend Trade Secrets Act of 2016
LABOR 710 Fair Labor Standards Act 720 Labor/Mgmt. Relations 740 Railway Labor Act 751 Family and Medical Leave Act 790 Other Labor Litigation 791 Empl. Ret. Inc. Security Act
462 Naturalization Application 465 Other Immigration Actions
861 HIA (1395ff) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(g))
870 Taxes (U.S. Plaintiff or Defendant) 871 IRS-Third Party 26 USC 7609
890 Other Statutory Actions 891 Agricultural Acts 893 Environmental Matters 895 Freedom of Information Act 896 Arbitration 899 Administrative Procedure Act/Review or Appeal of Agency Decision 950 Constitutionality of State Statutes

V. ORIGIN

- 1 Original Proceeding 2 Removed from State Court 3 Re-filed (See VI below) 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation Transfer 7 Appeal to District Judge from Magistrate Judgment 8 Multidistrict Litigation - Direct File 9 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S)

(See instructions): a) Re-filed Case YES NO b) Related Cases YES NO

JUDGE:

DOCKET NUMBER:

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity): Plaintiff alleges violation of Fla. Stat. Sec. 501.059 and 47 U.S.C. Sec. 227(b) relating to telemarketing practices LENGTH OF TRIAL via days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ >\$1,500/violation CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE SIGNATURE OF ATTORNEY OF RECORD

5/16/2022

/s/ Theodore B. Randles

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.C.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; 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. Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).

V. Origin. Place an “X” in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

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.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge’s decision.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

VI. Related/Refiled Cases. This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

VII. 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

VIII. 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 dollar amount (in thousands of dollars) 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.

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: [Class Action Claims 1-800-Flowers Sent Unlawful Telemarketing Texts](#)
