

**UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO**

CASE NO:

DAVID ULERY, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

AT&T MOBILITY SERVICES, LLC,

Defendants.

CLASS ACTION COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL

Plaintiff, DAVID ULERY (hereinafter “Plaintiff”), brings this class action pursuant to Rule 23 of the Federal Rules of Civil Procedure against Defendant, AT&T MOBILITY SERVICES, LLC (“AT&T”), for its violations of the Telephone Consumer Protection Act, 47 U.S.C. 227 (hereinafter “the TCPA”), and the regulations promulgated thereunder. In support, Plaintiff alleges as follows:

PRELIMINARY STATEMENT

1. 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 in negligently or willfully contacting Plaintiff on Plaintiff’s cellular telephone, in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 (“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. Between approximately July 23, 2020 and continuing through the filing of this Complaint, Plaintiff and each Class member revoked their consent to receive text messages from Defendant by texting “STOP”¹ to Defendant. Thereafter, Defendant sent or caused to be sent informational text messages to Plaintiff and Class Members despite the clear revocation of consent that Plaintiff and each Class Member had expressed. The instant action challenges all post-revocation text messages that were sent by Defendant to Plaintiff and Class Members from approximately July 23, 2020, through the date of filing this class action complaint.

3. “Month after month, unwanted robocalls and texts, both telemarketing and informational, top the list of consumer complaints received by the [FCC].”² The TCPA is designed to protect consumer privacy by, among other things, prohibiting the making of autodialed or prerecorded-voice calls to cell phone numbers and failing to institute appropriate do-not-call procedures. 47 U.S.C. § 227(b)(1)(A)(iii); 47 C.F.R. § 64.1200(d).

4. The TCPA was designed to prevent calls like the ones described within this complaint, and to protect the privacy of citizens like Plaintiff. “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).

5. Additionally, the FCC has explicitly stated that the TCPA’s prohibition on automatic telephone dialing systems “encompasses both voice calls and text calls to wireless numbers including, for example, short message service (SMS) calls.” U.S.C.A. Const. Amend. 5; Telephone Consumer Protection Act of 1991, § 3(a), 47 U.S.C. § 227(b)(1)(A)(iii). *Kramer v. Autobytel, Inc.*, 759 F. Supp. 2d 1165 (N.D. Cal. 2010).

1. Or other written words reasonably evidencing an express revocation of consent.
2. *In re Rules & Regs. Implementing the TCPA*, 30 FCC Rcd. 7961, ¶ 1 (2015).

6. In enacting the TCPA, Congress intended to give consumers a choice as to how companies 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).

7. In an action under the TCPA, a plaintiff must only show that the defendant “called a number assigned to a cellular telephone service using an automatic dialing system or prerecorded voice.” *Breslow v. Wells Fargo Bank, N.A.*, 857 F. Supp. 2d 1316, 1319 (S.D. Fla. 2012), *aff’d*, 755 F.3d 1265 (11th Cir. 2014).

JURISDICTION AND VENUE

8. This Court has federal question subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 47 U.S.C. § 227.

9. Venue in this judicial district is proper under 28 U.S.C. § 1391(b)(2), because a substantial part of the events or omissions giving rise to the claims in this case occurred in this District, including Defendant’s transmission of the unlawful and unwanted calls to Plaintiff in this District.

10. Plaintiff resides in Pueblo, Colorado, where the subject text messages were received, within the jurisdiction of this Honorable Court.

11. The Court has personal jurisdiction over Defendant because it conducts business in this state, maintain principle places of business in this state, markets its services within this state, employs individuals in this state, and has availed itself to the jurisdiction of this state by placing calls to Plaintiff and Class Members from this state.

PARTIES

12. Plaintiff's domicile is in Pueblo, Colorado.

13. Defendant, AT&T is a Delaware Limited Liability Company and citizen of the state of Georgia, listing its principal address at 1025 Lenox Park Blvd NE, Atlanta, Georgia 30319. AT&T's registered agent in the state of Colorado is listed as C T Corporation System, at 7700 East Arapahoe Road Suite 220, Centennial, Colorado, 80112-1268.

14. AT&T is a national wireless and telephone company that promotes and markets its services throughout the country, and during the relevant time period, sent unsolicited informational text messages to wireless telephone users in violation of the TPCA.

15. Defendant, directly, individually, jointly, and/or in concert with another, or through other persons, entities or agents acting on their behalf, conspired to, agreed to, contributed to, authorized, assisted with, ratified, and/or otherwise caused all of the wrongful acts and omissions, including the dissemination of the unsolicited text messages that are the subject matter of this Complaint.

FACTUAL ALLEGATIONS

16. At all times relevant, Plaintiff, and at all times mentioned herein was, a "person" as defined by 47 U.S.C. § 153 (39).

17. Defendant is authorized to engage in business in the State of Colorado, and at all times mentioned herein was a corporation and "person," as defined by 47 U.S.C. § 153(39).

18. At all times relevant Defendant conducted business in the State of Colorado, within this judicial district.

19. AT&T utilizes bulk text messaging, to send unsolicited text messages, including at least 16 unwanted post revocation text messages to Plaintiff alone beginning on July 23, 2020 and continuing through filing of this Complaint.

20. AT&T created and operated the unsolicited text messages that are the subject of this lawsuit.

21. From April 2020 through approximately June 5, 2020, Plaintiff was employed by Defendant as a customer service representative at one of its locations in Pueblo, Colorado. Plaintiff's employment with Defendant ceased on June 5, 2020.

22. Nearly seven (7) weeks after Plaintiff's employment with Defendant ended, on July 23, 2020, at approximately 6:00 a.m., Defendant sent or caused to be sent to Plaintiff a text message from the following short code number: 148507108.

23. The text message Defendant sent to Plaintiff contained the following message:

ATT Msg: Before you come into work today, ask yourself if you are experiencing any COVID-19 symptoms (such as a fever, chills, cough, shortness of breath, sore throat, etc.) or have been exposed to anyone with COVID-19 within the last 14 days.

If so, DO NOT report to your work location and contact your supervisor or the appropriate attendance number for your location. If you think you may have been exposed to COVID-19, reach out to your health provider immediately.

Text STOP to opt out

24. After receiving this text message, Plaintiff replied "**STOP**" at 7:42 a.m. on July 23, 2020, so that he would no longer receive unwanted text messages from AT&T.

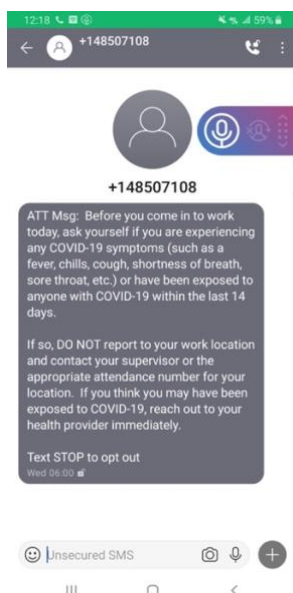
25. Plaintiff expressly revoked consent to receive “mobile alert” text messages by sending an “opt-out” message to Defendant. Plaintiff specifically followed the instructions that Defendant provided in its text messages to revoke consent by texting “**STOP**” to Defendant on July 23, 2020.

26. All text messages sent by Defendant or on behalf of Defendant to Plaintiff on or after July 23, 2020, were sent without his consent.

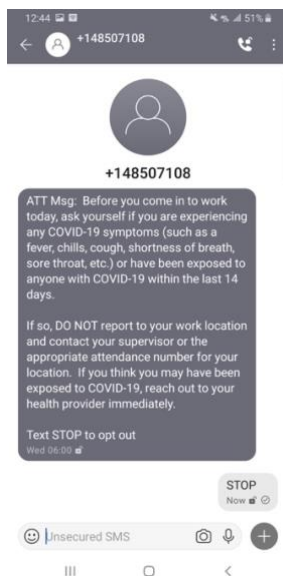
27. Notwithstanding Plaintiff’s opt-out reply on July 23, 2020, Defendant sent the exact same automated text message to Plaintiff at 6:00 a.m. every single day on July 24, July 25, July 26, July 27, July 28, July 29, July 30, July 31, and August 1, August 2, August 3, August 4, August 5, August 6, and August 7, 2020.

28. On July 29, 2020, at 12:43 p.m. Plaintiff again attempted to put an end to these unwanted and harassing messages sent in the early hours of the morning and again replied “**STOP.**”

29. Below is a copy of the text message that Defendant sent to Plaintiff on Wednesday, July 29, 2020:



30. Below is a copy of Plaintiff’s “**STOP**” message sent to AT&T on Wednesday, July 29, 2020, at 12:43 p.m. revoking (for the second time) consent:



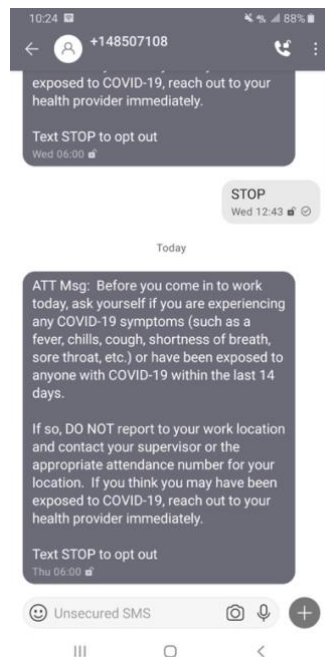
31. On at least two (2) occasions Plaintiff replied “**STOP**” to Defendant’s short code 148507108.

32. “STOP” is universally recognized by mobile message senders as an express revocation of consent to receive text messages.

33. Plaintiff did not want to receive these text messages and followed Defendant’s opt-out directions after receiving these unwanted text messages, but Defendant nevertheless continued to send the text messages to Plaintiff.

34. Less than 24 hours after Plaintiff revoked his consent (for the second time), Defendant sent *another* identical text message to Plaintiff at 6:00 a.m. on July 30, 2020.

35. Below is a copy of the text message Defendant sent to Plaintiff on Thursday, July 30, 2020:



36. As demonstrated by the sampling of these text messages provided above, AT&T continued to send Plaintiff text messages despite Plaintiff replying to several text from Defendant with “STOP.”

37. Defendant sent these unsolicited text messages to Plaintiff’s cellular telephone using the short code number “148507108.”

38. Through the unsolicited messages, Defendant contacted Plaintiff on Plaintiff’s cellular telephone regarding an unsolicited service via an “automatic telephone dialing system” (“ATDS”), as defined by 47 U.S.C. § 227(a)(1) and prohibited by 47 U.S.C. § 227(b)(1)(A).

39. Upon information and belief, this ATDS has the capacity to store or produce telephone numbers to be called, using a random or sequential number generator.

40. Upon information and belief, this ATDS has the capacity to store numbers and to dial numbers without human intervention.

41. Upon information and belief, Defendant used a combination of hardware and software systems which have the capacity to generate or store random or sequential numbers or to dial sequentially or randomly in an automated fashion without human intervention.

42. The impersonal and generic nature of the text messages, along with the fact that Defendant utilized a short code for the text messages that Defendant sent to Plaintiff further demonstrates that Defendant used an ATDS to send the subject messages.

43. The fact that “STOP” messages revoking consent were sent to Defendant’s system without any human seeing or responding to those messages, and that unconsented to blast texts were automatically and continually sent after being told to “STOP,” further demonstrates that Defendant used an ATDS to send the subject text message.

44. Defendant utilized short code number “148507108” to send the subject text messages *en masse* to Plaintiff and Class Members using an autodial function.

45. The content of the text messages made to Plaintiff and the Class Members show that they were for informational purposes and thus required Plaintiff’s prior express consent.

46. The telephone number Defendant called was assigned to a cellular telephone service for which Plaintiff incurs a charge for incoming calls pursuant to 47 U.S.C. 227(b)(1).

47. These text messages constituted calls that were not for emergency purposes as defined by 47 U.S.C. § 227(b)(1)(A)(i).

48. Plaintiff did not provide Defendants or their agents prior consent to receive these messages to his cellular telephone; therefore, the unsolicited messages violated 47 U.S.C. § 227(b)(1).

49. Defendant is and was aware that it was transmitting unsolicited text messages to Plaintiff and other consumers without their prior consent.

50. Defendant is and was aware that it was placing unsolicited robocalls to Plaintiff and other consumers without their prior consent.

51. Plaintiff was damaged by Defendants' messages. In addition to using Plaintiff's residential cellular data, phone storage, and battery life, his privacy was wrongfully invaded, his seclusion was intruded upon, and Plaintiff has become understandably aggravated with having to deal with the frustration of repeated, unwanted messages at 6:00 a.m. every single day (including weekends), forcing him to divert attention away sleep and causing disruption to his work and other activities. Not only did the receipt of the text messages distract Plaintiff away from his personal activity, Plaintiff was forced to spend time investigating the calls. *See Muransky v. Godiva Chocolatier, Inc.*, 905 F.3d 1200, 1211 (11th Cir. 2018). (“[T]ime wasting is an injury in fact”.... “[A] small injury... is enough for standing purposes”).

CLASS ACTION ALLEGATIONS

52. Plaintiff brings this class action under Rule 23(a),(b)(2), and(b)(3) of the Federal Rules of Civil Procedure on behalf of herself and of a similarly situated “Class” or “Class Members” defined as:

Revocation Class: All persons within the United States who, between July 23, 2020 and the date of class certification, sent a “STOP”³ message to AT&T unsubscribing from receiving text messages from AT&T and who were subsequently sent informational text messages from Defendant to their cellular telephone contrary to their instructions and did not re-subscribe to receive text messages.

53. Excluded from the Class are Defendant, and any subsidiary or affiliate of Defendant, and the directors, officers and employees of Defendant or their subsidiaries or affiliates, and members of the federal judiciary.

3. Or other words evidencing express revocation of consent, including but not limited to “cancel” or “unsubscribe.”

54. This action has been brought and may properly be maintained as a class action against Defendant pursuant to Rule 23 of the Federal Rules of Civil Procedure because there is a well-defined community of interest in the litigation and the proposed Class is easily ascertainable. Plaintiff reserves the right to amend the Class definition if discovery and further investigation reveal that any Class should be expanded or otherwise modified.

55. **Numerosity:** At this time, Plaintiff does not know the exact number of Class Members, but among other things, given the nature of the claims and that Defendant's conduct consisted of standardized SPAM campaign calls placed to cellular telephone numbers, Plaintiff believes, at a minimum, there are greater than forty (40) Class Members. Plaintiff believes that the Class is so numerous that joinder of all members of the Class is impracticable and the disposition of their claims in a class action rather than incremental individual actions will benefit the Parties and the Court by eliminating the possibility of inconsistent or varying adjudications of individual actions.

56. Upon information and belief, a more precise Class size and the identities of the individual members thereof are ascertainable through Defendant's records, including, but not limited to Defendant's calls and personnel records.

57. Members of the Class may additionally or alternatively be notified of the pendency of this action by techniques and forms commonly used in class actions, such as by published notice, e-mail notice, website notice, fax notice, first class mail, or combinations thereof, or by other methods suitable to this class and deemed necessary and/or appropriate by the Court.

58. **Existence and Predominance of Common Questions of Fact and Law:** There is a well-defined community of common questions of fact and law affecting the Plaintiff and members of the Class. Common questions of law and/or fact exist as to all members of the Class and

predominate over the questions affecting individual Class members. These common legal and/or factual questions include, but are not limited to, the following:

- a. Whether, between July 23, 2020, and the filing of this complaint, Defendant or its agents called (other than a message made for emergency purposes or made with the prior consent of the called party) to a Class member using any automatic dialing to any telephone number assigned to a cellular phone service;
- b. How Defendant obtained the numbers of Plaintiff and Class members;
- c. Whether the dialing system used to call is an Automatic Telephone Dialing System;
- d. Whether Defendant engaged in sending informational content when it sent the text messages which are the subject of this lawsuit;
- e. Whether the calls made to Plaintiff and Class Members violate the TCPA and its regulations;
- f. Whether Defendant willfully or knowingly violated the TCPA or the rules prescribed under it;
- g. Whether Plaintiff and the members of the Class are entitled to statutory damages, treble damages, and attorney fees and costs for Defendant's acts and conduct;
- h. Whether Plaintiff and members of the Class are entitled to a permanent injunction enjoining Defendant from continuing to engage in its unlawful conduct; and
- i. Whether Plaintiff and the Class are entitled to any other relief.

59. One or more questions or issues of law and/or fact regarding Defendant's liability are common to all Class Members and predominate over any individual issues that may exist and may serve as a basis for class certification under Rule 23(c)(4).

60. **Typicality:** Plaintiff's claims are typical of the claims of the members of the Class. The claims of the Plaintiff and members of the Class are based on the same legal theories and arise from the same course of conduct that violates the TCPA.

61. Plaintiff and members of the Class each received at least one SPAM text message, providing informational content, which Defendant placed or caused to be placed to Plaintiff and the members of the Class.

62. **Adequacy of Representation:** Plaintiff is an adequate representative of the Class because Plaintiff's interests do not conflict with the interests of the members of the Class. Plaintiff will fairly, adequately and vigorously represent and protect the interests of the members of the Class and has no interests antagonistic to the members of the Class. Plaintiff has retained counsel competent and experienced in litigation in the federal courts, TCPA litigation, and class action litigation.

63. **Superiority:** A class action is superior to other available means for the fair and efficient adjudication of the claims of the Class. While the aggregate damages which may be awarded to the members of the Class are likely to be substantial, the damages suffered by individual members of the Class are relatively small. As a result, the expense and burden of individual litigation makes it economically infeasible and procedurally impracticable for each member of the Class to individually seek redress for the wrongs done to them. Plaintiff does not know of any other litigation concerning this controversy already commenced against Defendant by any member of the Class. The likelihood of the individual members of the Class prosecuting separate claims is remote. Individualized litigation would also present the potential for varying, inconsistent or contradictory judgments, and would increase the delay and expense to all parties and the court system resulting from multiple trials of the same factual issues. In contrast, the conduct of this

matter as a class action presents fewer management difficulties, conserves the resources of the parties and the court system, and would protect the rights of each member of the Class. Plaintiff knows of no difficulty to be encountered in the management of this action that would preclude its maintenance as a class action.

64. **Class-Wide Injunctive Relief and Rule 23(b)(2):** Moreover, as an alternative to or in addition to certification of the Class under Rule 23(b)(3), class certification is warranted under Rule 23(b)(2) because Defendant has acted on grounds generally applicable to Plaintiff and members of Class, thereby making appropriate final injunctive relief with respect to Plaintiff and Class Members as a whole. Plaintiff seeks injunctive relief on behalf of Class Members on grounds generally applicable to the entire Class in order to enjoin and prevent Defendant's ongoing violations of the TCPA, and to order Defendant to provide notice to them of their rights under the TCPA to statutory damages and to be free from unwanted calls.

COUNT I
VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT
47 U.S.C. § 227(b)

65. Plaintiff incorporates by reference all of the allegations contained in all of the above paragraphs 1 through 64 of this Complaint as though fully stated herein.

66. It is a violation of the TCPA to make “any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system. . .to any telephone number assigned to a . . . cellular telephone service . . .” 47 U.S.C. § 227(b)(1)(A)(iii).

67. Automatic telephone dialing system refers to “equipment which has the capacity---(A) to store or produce telephone numbers to be called, using a random or sequential number generator; and (B) to dial such numbers.” 47 U.S.C. § 227(a)(1).

68. Defendant—or third parties directed by Defendant—used equipment having the capacity to randomly or sequentially generate telephone numbers and to dial such numbers without human intervention to make non-emergency telephone calls to the cellular telephones of Plaintiff and the other members of the Class defined above.

69. These calls were made without regard to whether or not Defendant had first obtained permission from the called party to make such calls. In fact, Defendant did not have prior consent to call the cellular phones of Plaintiff and the other members of the putative Class when its calls were made.

70. Defendant has, therefore, violated Section 227(b)(1)(A)(iii) of the TCPA by using an automatic telephone dialing system to make non-emergency telephone calls to the cellular phones of Plaintiff and the other members of the putative Class without their prior consent.

71. The foregoing acts and omissions of Defendant constitute numerous and multiple violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227.

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

73. At all relevant times, Defendant knew or should have known that its conduct as alleged herein violated the TCPA.

74. Defendant knew that it did not have prior consent to make these calls and knew or should have known that its conduct violated the TCPA.

75. Because Defendant knew or should have known that Plaintiff and Class Members did not give prior consent to receive autodialed calls, the Court should treble the amount of statutory damages available to Plaintiff and members of the Putative Class pursuant to Section 227(b)(3)(C).

76. As a result of Defendant knowing and/or willful violations of 47 U.S.C. § 227(b), Plaintiff and the Class are entitled to an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(C).

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

WHEREFORE, Plaintiff respectfully requests the Court grant Plaintiff and the Class members relief against Defendant, AT&T MOBILITY SERVICES, LLC, as set forth in the Prayer for Relief below.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that the Court enter judgment in her favor and in favor of the class, against Defendant for:

- a. An order certifying this case as a class action, certifying Plaintiff as representative of the Class, and designating Plaintiff's counsel as Class counsel;
- b. Statutory damages of \$500 per call in violation of the TCPA;
- c. Willful damages at \$1,500 per call in violation of the TCPA;
- d. A declaration that Defendants' practices described herein violate the Telephone Consumer Protection Act, 47 U.S.C. § 227(b)(1)(A)(iii);
- e. An injunction prohibiting Defendants from using an automatic telephone dialing system to call numbers assigned to cellular telephones without the prior express written consent of the called party;

- f. Reasonable attorney's fees and costs; and
- g. Such further and other relief as this Court deems reasonable and just.

DEMAND FOR JURY TRIAL

Plaintiff, DAVID ULERY, demands a trial by jury on all appropriate claims.

Dated this 7th day of August 2020. Respectfully Submitted,

EGGNATZ | PASCUCCI
7450 Griffin Road, Suite 230
Davie, Florida 33314
Tel: (954) 889-3359
Counsel for Plaintiff

By: /s/ Joshua H. Eggnatz
JOSHUA H. EGGNATZ, ESQUIRE
Florida Bar No.
MICHAEL PASCUCCI, ESQUIRE
Florida Bar No.
jeggnatz@justiceearned.com
mpascucci@justiceearned.com

JORDAN RICHARDS, PLLC
805 East Broward Blvd. Suite 301
Fort Lauderdale, Florida 33301
Tel: (954) 871-0050
Counsel for Plaintiff

By: /s/ Jordan Richards
JORDAN RICHARDS, ESQUIRE
Florida Bar No. 108372
Jordan@jordanrichardspllc.com
Melissa@jordanrichardspllc.com
Jake@jordanrichardspllc.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing document was filed via CM/ECF on August 7,
2020.

By: /s/ Jordan Richards
JORDAN RICHARDS, ESQUIRE
Florida Bar No. 108372

SERVICE LIST:

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
 DAVID ULERY, individually and on behalf of all others similarly situated,

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

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
 Jordan Richards PLLC, 805 E. Broward Blvd. Suite 301, Fort
 Lauderdale, Florida 33301 (954) 871-0050

DEFENDANTS
 AT&T MOBILITY SERVICES, LLC,

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)*

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 type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)* [Click here for: Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <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	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	
			IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

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

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from Another District *(specify)*
 6 Multidistrict Litigation - Transfer
 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity):*
47 U.S.C. 227 et. seq.

Brief description of cause:
Telephone Consumer Protection Act (TCPA)

AP Docket

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 08/07/2020
 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____
 AMOUNT _____
 APPLYING IFP _____
 JUDGE _____
 MAG. JUDGE _____

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Colorado

DAVID ULERY, individually and on behalf of all others similarly situated,

Plaintiff(s)

v.

AT&T MOBILITY SERVICES, LLC,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) AT&T MOBILITY SERVICES, LLC
Attn: Registered Agent - C T Corporation System
7700 East Arapahoe Road - Suite 220
Centennial, Colorado 80112-1268

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Jordan Richards PLLC, 805 E. Broward Blvd. Suite 301 Fort Lauderdale, Florida 33301 (954) 871-0050

Eggnatz | Pascucci, 7450 Griffin Road Suite 230 Davie, Florida 33314 (954) 889-3359

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

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 AT&T Sent Automated COVID-19 Info Texts Despite Opt-Outs](#)
