

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

Alonzo Walker, <i>on behalf of</i>)	
<i>himself and others similarly situated,</i>)	Civil Action No.:
)	
Plaintiff,)	Jury Trial Demanded
)	
v.)	
)	
Financial Corporation of America,)	
)	
Defendant.)	
_____)	

Nature of this Action

1. Alonzo Walker (“Plaintiff”) brings this class action against Financial Corporation of America (“Defendant”) under the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227, and the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692 *et seq.*

2. Upon information and good faith belief, Defendant routinely violates 47 U.S.C. § 227(b)(1)(A)(iii) by using an automatic telephone dialing system to place non-emergency calls to numbers assigned to a cellular telephone service, without prior express consent.

3. Upon information and good faith belief, Defendant routinely violates 15 U.S.C. § 1692d by engaging in conduct the natural consequence of which is to harass, oppress, or abuse consumers in connection with the collection of debts.

Jurisdiction and Venue

4. This Court has subject matter jurisdiction under 47 U.S.C. § 227(b)(3), 15 U.S.C. § 1692k(d), and 28 U.S.C. § 1331.

5. Venue is proper before this Court under 28 U.S.C. § 1391(b) as the acts and transactions giving rise to Plaintiff's action occurred, in part, in this district, and as Defendant transacts business in this district.

Parties

6. Plaintiff is natural person who at all relevant times resided in College Park, Georgia.

7. Plaintiff is a "consumer" as defined by 15 U.S.C. § 1692a(3).

8. Defendant is a corporation located in Austin, Texas.

9. Defendant "provides debt collection and receivables management services."

<https://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapid=6575882>.

10. Defendant "deploy[s] leading edge technological solutions[.]" http://www.fcoa.com/CompanyProfile_Technology.htm, and its "customized debt recovery solutions" utilize "state-of-the-art automation[.]" <http://www.fcoa.com/CompanyProfile.htm>

11. Defendant holds a permit from the Public Utilities Commission of Texas to use an automatic dial announcing device, which is the mechanism that sends an unsolicited recorded message to a home or workplace and that could leave such a message on an answering machine.
https://www.puc.texas.gov/industry/communications/directories/adad/report_adad.aspx?ID=ADSQL01DB1245455900002

12. Defendant is an entity that at all relevant times was engaged, by use of the telephone, in the business of attempting to collect a “debt”—in default—as defined by 15 U.S.C. § 1692a(5).

13. Defendant is a “debt collector” as defined by 15 U.S.C. § 1692a(6).

Factual Allegations

14. Sometime in 2017, Defendant began placing calls to Plaintiff’s cellular telephone number—(678) 791-XXXX—for the purpose of attempting to collect a debt owed by a third-party unknown to Plaintiff.

15. For example, Defendant placed at least one call to Plaintiff’s cellular telephone number on September 21, 2017, and at least one call to Plaintiff’s cellular telephone number on September 26, 2017.

16. Upon information and good faith belief, Defendant placed additional calls to Plaintiff’s cellular telephone number.

17. Defendant placed some, if not all of its calls to Plaintiff's cellular telephone number, from (800) 880-8282.

18. On at least one occasion, Plaintiff answered one of Defendant's calls and was greeted with an artificial or prerecorded voice message.

19. On at least one occasion Plaintiff answered one of Defendant's calls, spoke to Defendant, informed Defendant that it reached the wrong person, and asked Defendant to put his cellular telephone number on a do-not-call list.

20. Plaintiff did not know the person Defendant was attempting to reach.

21. Defendant, nonetheless, placed additional calls to Plaintiff's cellular telephone number.

22. Upon information and good faith belief, and in light of the frequency, number, nature, and character of the calls, as well as Defendant's use of an artificial or prerecorded voice, Defendant placed its calls to Plaintiff's cellular telephone number by using an automatic telephone dialing system.

23. Upon information and good faith belief, and in light of the frequency, number, nature, and character of the calls, as well as Defendant's use of an artificial or prerecorded voice, Defendant placed its calls to Plaintiff's cellular telephone number by using equipment which has the capacity (i) to store or produce telephone numbers to be called, using a random or sequential number generator, and (ii) to dial such numbers.

24. Upon information and good faith belief, and in light of the frequency, number, nature, and character of the calls, as well as Defendant's use of an artificial or prerecorded voice, Defendant placed its calls to Plaintiff's cellular telephone number by using (i) an automated dialing system that uses a complex set of algorithms to automatically dial consumers' telephone numbers in a manner that "predicts" the time when a consumer will answer the phone and a person will be available to take the call, or (ii) equipment that dials numbers and, when certain computer software is attached, also assists persons in predicting when a sales agent will be available to take calls, or (iii) hardware, that when paired with certain software, has the capacity to store or produce numbers and dial those numbers at random, in sequential order, or from a database of numbers, or (iv) hardware, software, or equipment that the FCC characterizes as a predictive dialer through the following, and any related, reports and orders, and declaratory rulings: *In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 17 FCC Rcd 17459, 17474 (September 18, 2002); *In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 18 FCC Rcd 14014, 14092-93 (July 3, 2003); *In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 23 FCC Rcd 559, 566 (Jan. 4, 2008); *In the Matter of Rules and Regulations Implementing the*

Telephone Consumer Protection Act of 1991, FCC 15-72 (adopted June 18, 2015 and released July 10, 2015).

25. Plaintiff does not have, nor had, a business relationship with Defendant.

26. Plaintiff did not provide Defendant with his cellular telephone number.

27. Plaintiff did not give Defendant prior express consent to place calls to his cellular telephone number by using an automatic telephone dialing system or an artificial or prerecorded voice.

28. Plaintiff does not owe any debt that Defendant is attempting to collect.

29. Upon information and good faith belief, Defendant placed its calls to Plaintiff's cellular telephone number for non-emergency purposes.

30. Upon information and good faith belief, Defendant placed its calls to Plaintiff's cellular telephone number in connection with its attempt to collect a consumer debt in default.

31. Upon information and good faith belief, Defendant placed its calls to Plaintiff's cellular telephone number voluntarily.

32. Upon information and good faith belief, Defendant placed its calls to Plaintiff's cellular telephone number under its own free will.

33. Upon information and good faith belief, Defendant had knowledge that it was using an automatic telephone dialing system or an artificial or prerecorded voice to place its calls to Plaintiff's cellular telephone number.

34. Upon information and good faith belief, Defendant intended to use an automatic telephone dialing system or an artificial or prerecorded voice to place the calls to Plaintiff's cellular telephone number.

35. Upon information and good faith belief, Defendant maintains business records that show all calls it placed to Plaintiff's cellular telephone number.

36. Plaintiff suffered actual harm as a result Defendant's calls in that he suffered an invasion of privacy, an intrusion into his life, and a private nuisance.

37. Moreover, Defendant's calls at issue unnecessarily tied up Plaintiff's cellular telephone line.

38. Upon information and good faith belief, Defendant, as a matter of pattern and practice, uses an automatic telephone dialing system or an artificial or prerecorded voice to place calls to telephone numbers assigned to a cellular telephone service, absent prior express consent.

Class Allegations

39. Plaintiff brings this action under Federal Rule of Civil Procedure 23, and as a representative of the following two classes:

TCPA class: All persons and entities throughout the United States (1) to whom Financial Corporation of America placed, or caused to be placed, more than one call, (2) directed to a number assigned to a cellular telephone service, but not assigned to the intended recipient of Financial Corporation of America's calls—in that the intended recipient of the calls was not a subscriber to, or customary user of, the telephone number, (3) by using an automatic telephone dialing system or an artificial or prerecorded

voice, (4) within the four years preceding the date of this complaint through the date of class certification.

FDCPA class: All persons throughout the United States (1) to whom Financial Corporation of America placed, or caused to be placed, calls, (2) within the one year preceding the date of this complaint through the date of class certification, (3) and in connection with the collection of a consumer debt, (4) where the person called by Financial Corporation of America was not the person alleged to owe the debt.

40. The proposed classes specifically exclude the United States of America, the State of Georgia, counsel for the parties, the presiding United States District Court Judge, the Judges of the United States Court of Appeals for the Eleventh Circuit, the Justices of the United States Supreme Court, any entity in which Defendant has or had a controlling interest, all officers and agents of Defendant, and all persons related to within the third degree of consanguinity or affection to any of the foregoing individuals.

41. Upon information and belief, the members of the classes are so numerous that joinder of all of them is impracticable.

42. The exact number of the members of the classes is unknown to Plaintiff at this time, and can be determined only through appropriate discovery.

43. The members of the classes are ascertainable because the classes are defined by reference to objective criteria.

44. In addition, the classes are ascertainable because, upon information and belief, cellular telephone numbers, names, and addresses of the members of the

classes can be identified in business records maintained by Defendant and by third parties.

45. There exists a well-defined community of interest in the questions of law and fact that affect the members of the classes.

46. Plaintiff's claims are typical of the claims of the members of the classes.

47. As it did for all members of the classes, Defendant used an automatic telephone dialing system and an artificial or prerecorded voice to place calls to Plaintiff's cellular telephone number, without prior express consent, and in violation of 47 U.S.C. § 227.

48. Plaintiff's claims, and the claims of the members of the classes, originate from the same conduct, practice and procedure on the part of Defendant.

49. Plaintiff's claims are based on the same theory as are the claims of the members of the classes.

50. Plaintiff suffered the same injuries as each of the members of the classes.

51. Plaintiff will fairly and adequately protect the interests of the members of the classes.

52. Plaintiff's interests in this matter are not directly or irrevocably antagonistic to the interests of the members of the classes.

53. Plaintiff will vigorously pursue the claims of the members of the

classes.

54. Plaintiff has retained counsel experienced and competent in class action litigation.

55. Plaintiff's counsel will vigorously pursue this matter.

56. Plaintiff's counsel will assert, protect, and otherwise represent the members of the classes.

57. Questions of law and fact common to the members of the classes predominate over questions that may affect individual class members.

58. Issues of law and fact common to all members of the classes are:

- a. Defendant's violations of the TCPA;
- b. Defendant's violations of the FDCPA;
- c. Defendant's use of an automatic telephone dialing system as defined by the TCPA;
- d. Defendant's use of an artificial or prerecorded voice;
- e. Defendant's practice of calling wrong or reassigned phone numbers;
- f. The availability of statutory penalties; and
- g. The availability of attorneys' fees and costs.

59. A class action is superior to all other available methods for the fair and efficient adjudication of this matter.

60. If brought and prosecuted individually, the claims of the members of the classes would require proof of the same material and substantive facts.

61. The pursuit of separate actions by individual members of the classes would, as a practical matter, be dispositive of the interests of other members of the classes, and could substantially impair or impede their ability to protect their interests.

62. The pursuit of separate actions by individual members of the classes could create a risk of inconsistent or varying adjudications, which might establish incompatible standards of conduct for Defendant.

63. These varying adjudications and incompatible standards of conduct, in connection with presentation of the same essential facts, proof, and legal theories, could also create and allow the existence of inconsistent and incompatible rights within the classes.

64. The damages suffered by each individual member of the classes may be relatively small; thus, the expense and burden to litigate each of their claims individually make it difficult for the members of the classes to redress the wrongs done to them.

65. The pursuit of Plaintiff's claims, and the claims of the members of the classes, in one forum will achieve efficiency and promote judicial economy.

66. There will be little difficulty in the management of this action as a class action.

67. Defendant has acted or refused to act on grounds generally applicable to the members of the classes, making final declaratory or injunctive relief appropriate.

Count I
Violation of 47 U.S.C. § 227(b)(1)(A)(iii)

68. Plaintiff repeats and re-alleges each and every factual allegation included in paragraphs 1-67.

69. Defendant violated 47 U.S.C. § 227(b)(1)(A)(iii) by using an automatic telephone dialing system or an artificial or prerecorded voice to place non-emergency calls to Plaintiff's cellular telephone number, absent prior express consent.

Count II
Violation of 15 U.S.C. § 1692d

70. Plaintiff repeats and re-alleges each and every factual allegation included in paragraph 1-67.

71. Defendant violated 15 U.S.C. § 1692d by engaging in conduct the natural consequence of which is to harass, oppress, or abuse Plaintiff in connection with the collection of a debt.

72. Defendant did so by repeatedly calling Plaintiff's cellular telephone number in an attempt to collect a debt that Plaintiff did not owe.

Trial by Jury

73. Plaintiff is entitled to, and hereby demands, a trial by jury.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a) Determining that this action is a proper class action;
- b) Designating Plaintiff as a class representative under Federal Rule of Civil Procedure 23;
- c) Designating Plaintiff's counsel as class counsel under Federal Rule of Civil Procedure 23;
- d) Adjudging and declaring that Defendant violated 47 U.S.C. § 227(b)(1)(A)(iii) and 15 U.S.C. § 1692d;
- e) Enjoining Defendant from continuing its violative behavior, including continuing to place calls to Plaintiff's cellular telephone number, and to the cellular telephone numbers of members of the proposed TCPA class.
- f) Awarding Plaintiff and the classes damages under 47 U.S.C. § 227(b)(3)(B) and 15 U.S.C. § 1692k(a)(1);
- g) Awarding Plaintiff and the classes treble damages under 47 U.S.C. § 227(b)(3);

- h) Awarding Plaintiff and the classes reasonable attorneys' fees, costs, and expenses under Rule 23 of the Federal Rules of Civil Procedure and 15 U.S.C. § 1692k(a)(3);
- i) Awarding Plaintiff and the members of the classes any pre-judgment and post-judgment interest as may be allowed under the law; and
- j) Awarding such other and further relief as the Court may deem just and proper.

Date: November 21, 2017

/s/ Shireen Hormozdi
Shireen Hormozdi
1770 Indian Trail Lilburn Road
Suite 175
Norcross, GA 30093
Tel: 678-395-7795
Fax: 866-929-2434
shireen@norcrosslawfirm.com

Aaron D. Radbil (*to seek admission pro hac vice*)
Greenwald Davidson Radbil PLLC
106 East Sixth Street, Suite 913
Austin, Texas 78701
Phone: (512) 322-3912
Fax: (561) 961-5684
aradbil@gdrilawfirm.com

Counsel for Plaintiff and the proposed
classes

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
Alonzo Walker, on behalf of himself and others similarly situated,
(b) County of Residence of First Listed Plaintiff
(c) Attorneys (Firm Name, Address, and Telephone Number)
Shireen Hormozdi, 1770 Indian Trail Lilburn Road, Suite 175, Norcross, GA 30093, Tel: 678-395-7795; shireen@norcrosslawfirm.com

DEFENDANTS
Financial Corporation of America
County of Residence of First Listed Defendant
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
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
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
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
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) Click here for: Nature of Suit Code Descriptions.

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

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 USC 227; 15 USC 1692
Brief description of cause:
Telephone Consumer Protection Act; Fair Debt Collection Practices Act

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 11/21/2017 SIGNATURE OF ATTORNEY OF RECORD /s/ Shireen Hormozdi

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 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.
 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 – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- 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: [TCPA Lawsuit: Financial Corporation of America Repeatedly Called Wrong Person](#)
