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Proposed Classes
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CLERK'S DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES

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19 UNITED STATES DISTRICT COURT
20 CENTRAL DISTRICT OF CALIFORNIA
21 WESTERN DIVISION

22 JENNY BROWN, on behalf of
herself and all others similarly
23 situated,

24 Plaintiff,

25 v.

26 DIRECTV, LLC, THE CMI
GROUP, INC., THE CMI GROUP
27 GP, LLC, and CREDIT
MANAGEMENT, LP,

28 Defendants.

Case No. 2:13-cv-01170-DMG-E

**FOURTH AMENDED COMPLAINT
FOR DAMAGES AND INJUNCTIVE
RELIEF PURSUANT TO 47 U.S.C.
§ 227, ET SEQ. (TELEPHONE
CONSUMER PROTECTION ACT)**

CLASS ACTION

JURY TRIAL DEMANDED

1
2
3 Plaintiff Jenny Brown, individually and on behalf of all others similarly
4 situated, makes the following allegations and claims against Defendants DIRECTV,
5 LLC, The CMI Group, Inc., The CMI Group GP, LLC, and Credit Management, LP
6 (collectively, “Defendants”), upon her personal knowledge, the investigation of her
7 counsel, and information and belief as follows:

8 **INTRODUCTION**

9 1. Plaintiff brings this action against Defendants for violations of the
10 Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (“TCPA”), the
11 Federal Communication Commission rules promulgated thereunder, 47 C.F.R.
12 §64.1200 (“Rules”), by Defendants and their present, former, and/or future direct
13 and indirect predecessors, parent companies, subsidiaries, affiliates, agents, and/or
14 related entities. Defendants have violated the TCPA and Rules by making
15 telephone calls to Plaintiff and others similarly situated on their cellular telephones
16 with the use of “an artificial or prerecorded voice” (collectively, “Voice”) as
17 described in 47 U.S.C. § 227(b)(1)(A) and/or an “automatic telephone dialing
18 system” (“ATDS”), as defined by 47 U.S.C. § 227(a)(1), without their prior express
19 consent within the meaning of the TCPA and the Rules.

20 2. On December 12, 2005, the United States Department of Justice,
21 acting on behalf of the Federal Trade Commission (“FTC” or “Commission”), filed
22 a complaint for civil penalties and injunctive relief against Defendant DIRECTV,
23 LLC (“DIRECTV”) and telemarketing companies it hired to promote DIRECTV
24 programming for violating the TCPA, the FTC Act, and the Do Not Call provisions
25 of the Commission’s Telemarketing Sales Rule. *See* Complaint, *United States v.*
26 *DirecTV, Inc., et al.*, No. 05-1211 (C.D. Cal. Dec. 12, 2005). According to the
27 Complaint, DIRECTV engaged several telemarketing firms and individuals that,
28 “acting on behalf of DIRECTV,” engaged in telemarketing conduct that violated

1 the TCPA. The Complaint states that DIRECTV either knew or consciously
2 avoided knowing the methods by which their telemarketers were promoting
3 DIRECTV's programming.

4 3. Two days later, on December 14, 2005, DIRECTV and its
5 telemarketers settled the FTC charges against them for \$5,335,000, which was, at
6 that time, the largest penalty announced by the FTC for violation of a consumer
7 protection law. DIRECTV also entered into a permanent injunction requiring it,
8 among other things, to monitor all telemarketing campaigns conducted by its
9 authorized telemarketers to confirm that "[n]ot more than three percent (3%) of
10 telemarketing calls answered by a person, measured per day per calling campaign,
11 are being connected to a pre-recorded message in lieu of a live sales call."

12 4. Notwithstanding these prior violations of the TCPA and the FTC
13 settlement, Defendants have violated the TCPA and the Rules by making calls to
14 Plaintiff and others similarly situated on their cellular telephones with the use of a
15 Voice and/or an ATDS without their prior express consent within the meaning of
16 the TCPA.

17 5. Plaintiff brings this action for damages, and other legal and equitable
18 remedies, resulting from Defendants' conduct in violation of the TCPA and the
19 Rules.

20 **JURISDICTION AND VENUE**

21 6. Pursuant to 28 U.S.C. § 1331, this Court has original subject matter
22 jurisdiction over the claims set forth herein arising under the TCPA and the Rules.

23 7. In addition, this matter in controversy exceeds \$5,000,000, as each
24 member of the proposed Class of at least tens of thousands is entitled to up to
25 \$1,500.00 in statutory damages for each call that violated the TCPA and the Rules.
26 Accordingly, this Court has jurisdiction pursuant to 28 U.S.C. § 1332(d)(2).
27 Further, Plaintiff alleges a national Class, which will result in at least one Class
28 member belonging to a different state. Therefore, both elements of diversity

1 jurisdiction under the Class Action Fairness Act of 2005 (“CAFA”) are present, and
2 this Court has jurisdiction.

3 8. Venue is proper in the United States District Court for the Central
4 District of California pursuant to 28 U.S.C. §§ 1391(b), (c) and (d), because
5 Defendants are deemed to reside in any judicial district in which they are subject to
6 personal jurisdiction at the time the action is commenced. DIRECTV resides in and
7 has its principal place of business in the Central District of California. In addition,
8 Defendants The CMI Group, Inc., The CMI Group GP, LLC, and Credit
9 Management, LP have sufficient contacts with the Central District of California to
10 subject them to personal jurisdiction. Furthermore, this case was transferred from
11 the Eastern District of Missouri with the consent of Plaintiff and Credit
12 Management, LP, pursuant to 28 U.S.C. §1404.

13 **PARTIES**

14 9. At all times pertinent hereto, Plaintiff Jenny Brown resided in the St.
15 Louis, Missouri area.

16 10. DIRECTV is a leading provider of digital television entertainment
17 throughout the United States, acquiring, promoting, selling, and distributing digital
18 entertainment programming primarily via satellite to millions of residential and
19 commercial subscribers.

20 11. At all times pertinent hereto prior to December 22, 2011, DIRECTV,
21 Inc. was a corporation organized and existing under the laws of the State of
22 California.

23 12. Since July 2002, DIRECTV has been, and remains, a limited liability
24 company organized and existing under the laws of the State of California and
25 having its principal place of business at 2230 E. Imperial Highway, El Segundo,
26 California 90245.

27 13. Effective December 22, 2011, DIRECTV, Inc. merged into DIRECTV,
28 with the latter becoming the surviving limited liability company; and by virtue of

1 this merger, DIRECTV assumed, and succeeded to, all of the liabilities of
2 DIRECTV, Inc., including liability for the TCPA claims alleged herein.

3 14. The CMI Group, Inc. is a leading debt collector, employing over 500
4 call center agents who seek to collect debts via telephone calls made throughout the
5 United States with the use of a Voice and an ATDS. The CMI Group, Inc. operates
6 under the trade name “The CMI Group” and uses the logo “CMI.”

7 15. Since January 1999, The CMI Group, Inc. has been, and remains, a
8 corporation organized and existing under the laws of the State of Nevada and
9 having its principal place of business at 4200 International Parkway, Carrollton,
10 Texas 75007.

11 16. Since December 2001, The CMI Group GP, LLC has been, and
12 remains, a limited liability company organized and existing under the laws of the
13 State of Nevada and having its principal place of business at 4200 International
14 Parkway, Carrollton, Texas 75007.

15 17. Since December 2001, Credit Management, LP, has been, and
16 remains, a limited liability partnership organized and existing under the laws of the
17 State of Nevada and having its principal place of business at 4200 International
18 Parkway, Carrollton, Texas 75007.

19 18. The general partner of Credit Management, LP is The CMI Group GP,
20 LLC, and the limited partner of Credit Management, LP is non-party The CMI
21 Group Limited Partner, LLC. The CMI Group, Inc. wholly owns The CMI Group
22 GP, LLC and The CMI Group Limited Partner, LLC.

23 19. As the general partner of Credit Management, LP, The CMI Group
24 GP, LLC is jointly and severally liable for all of the liabilities of Credit
25 Management, LP, including liability for the TCPA claims alleged herein.

26 20. At all times pertinent hereto, Credit Management, LP has acted within
27 the course and scope of an agency relationship with The CMI Group, Inc., seeking
28 to collect debts on behalf of The CMI Group, Inc.’s creditor clients (including

1 DIRECTV), as directed by The CMI Group, Inc., via telephone calls made
2 throughout the United States with the use of a Voice and an ATDS. Accordingly,
3 The CMI Group, Inc. is jointly and severally liable for all of the liabilities of Credit
4 Management, LP, including liability for the TCPA claims alleged herein.

5 21. The CMI Group, Inc. and Credit Management, LP hold themselves out
6 to the public as a single economic enterprise, and they function as a single
7 economic enterprise dominated by The CMI Group, Inc. Accordingly, The CMI
8 Group, Inc. is jointly and severally liable for all of the liabilities of Credit
9 Management, LP, including liability for the TCPA claims alleged herein.

10 22. An example of this single economic enterprise is that The CMI Group,
11 Inc.'s logo "CMI" appears on some letterhead used by Credit Management, LP to
12 write debtors seeking payment on alleged debts. And the debtors from whom
13 Credit Management, LP seeks to collect are assigned an individual "CMI Reference
14 #."

15 23. In addition, The CMI Group, Inc.'s public website
16 (<http://thecmigroup.com>) states, "If you have a dispute or concern about your
17 account that is placed with Credit Management, LP please contact our office."
18 Furthermore, that website also states, "Are you a current customer looking to pay
19 your bill online?" and then displays a "Customer Bill Pay Online" link to "Credit
20 Management, LP's pay online public website (<http://wwwcmipayonline.com>).

21 24. Aside from being identified as Credit Management's Pay Online
22 website copyrighted by "Credit Management, LP," Credit Management, LP's pay
23 online public website (<http://wwwcmipayonline.com>) also identifies the website as
24 "CMI's Pay Online"; displays The CMI Group, Inc.'s logo (*i.e.*, "CMI") and trade
25 name (*i.e.*, "the CMI Group"); and instructs debtors to mail or fax account disputes
26 and balance inquiries to "CMI, Attn: Resolutions Department, 4200 International
27 Parkway, Carrollton, TX 75007."

28

1 **THE TELEPHONE CONSUMER PROTECTION ACT OF 1991**
2 **(TCPA), 47 U.S.C. § 227**

3 25. In 1991, Congress enacted the TCPA¹ in response to a growing
4 number of consumer complaints regarding certain telemarketing practices.

5 26. The TCPA regulates, among other things, the use of Voice and ATDS.
6 Specifically, the plain language of section 227(b)(1)(A) prohibits the use of an
7 ATDS to make any call to a wireless number, or to use a Voice during such a call,
8 in the absence of an emergency or the prior express consent of the called party.²

9 27. According to findings by the FCC, the agency Congress vested with
10 authority to issue regulations implementing the TCPA, such calls are prohibited
11 because, as Congress found, telephone calls using a Voice or an ATDS are a greater
12 nuisance and invasion of privacy than live solicitation calls, and such calls can be
13 costly and inconvenient. The FCC also recognized that wireless customers are
14 charged for incoming calls whether they pay in advance or after the minutes are
15 used.³

16 28. On January 4, 2008, the FCC released a Declaratory Ruling wherein it
17 confirmed that Voice and ATDS debt collection calls to a wireless number by a
18 creditor or a debt collector are permitted only if the calls are made with the “prior
19 express consent” of the called party.⁴ The FCC “emphasize[d] that prior express
20 consent is deemed to be granted only if the wireless number was provided by the
21 consumer to the creditor, and that such number was provided during the transaction
22 that resulted in the debt owed.”⁵

23 _____
24 ¹ Telephone Consumer Protection Act of 1991, Pub. L. No. 102-243, 105 Stat. 2394 (1991),
25 codified at 47 U.S.C. § 227 (TCPA). The TCPA amended Title II of the Communications Act of
1934, 47 U.S.C. § 201 *et seq.*

26 ² 47 U.S.C. § 227(b)(1)(A).

27 ³ *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG
28 Docket No. 02-278, Report and Order, 18 FCC Rcd 14014 (2003).

⁴ *In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991* (“FCC Declaratory Ruling”), 23 F.C.C.R. 559, 23 FCC Rcd. 559, 43 Communications Reg. (P&F) 877, 2008 WL 65485 (F.C.C.) (2008).

⁵ *FCC Declaratory Ruling*, 23 F.C.C.R. at 564-65 (¶ 10).

1 consumers for purposes of collecting debts allegedly owed by them to DIRECTV
2 and other creditors.

3 **I. First Challenged Practice: DIRECTV Debt Collectors' Calls To Cellular**
4 **Telephones Using A Voice And/Or An ATDS**

5 33. At all times pertinent hereto, the DIRECTV Debt Collectors, including
6 Credit Management, LP, have utilized a Voice during debt collection calls made on
7 behalf of DIRECTV to the cellular telephones of consumers who had not, during
8 the transaction that resulted in the debt, previously given DIRECTV express
9 consent to receive such calls.

10 34. Calls utilizing a Voice allow DIRECTV to collect more debt.

11 35. At all times pertinent hereto, DIRECTV has been aware that its
12 DIRECTV Debt Collectors have utilized a Voice during debt collection calls made
13 on behalf of DIRECTV. For example, prior to March 26, 2012, The CMI Group,
14 Inc.'s public website (<http://thecmigroup.com>) stated that one of The CMI Group's
15 "industry innovations" was "'agentless' recorded messages as reminders."

16 36. At all times pertinent hereto, DIRECTV Debt Collectors, including
17 Credit Management, LP, have also utilized a Voice, including a predictive dialer, to
18 make debt collection calls on behalf of Defendant DIRECTV to the cellular
19 telephones of consumers who had not, during the transaction that resulted in the
20 debt, previously given DIRECTV express consent to receive such calls.

21 37. A predictive dialer is an ATDS within the meaning of the TCPA,
22 because it is equipment that, when paired with certain computer software, has the
23 capacity to store or produce telephone numbers to be called and without human
24 intervention to dial such numbers at random, in sequential order, and/or from a
25 database of numbers.

26 38. DIRECTV has entered into written contracts with its DIRECTV Debt
27 Collectors to use predictive dialers. For example, the terms of the Collection
28 Services Agreement utilized by Credit Management, LP require that consumers be

1 contacted “via mail and predictive dialer in an effort to collect on past due
2 balances.” *See Lee v. Credit Mgmt., LP*, 2012 WL 113793, at *11 & n. 17 (S.D.
3 Tex. 2012).

4 39. Calls utilizing an ATDS allow DIRECTV to collect more debt.

5 40. At all times pertinent hereto, DIRECTV has been aware that its
6 DIRECTV Debt Collectors have utilized an ATDS because, *inter alia*, the use of an
7 ATDS is standard industry practice among third-party debt collectors and because
8 The CMI Group, Inc. detailed The CMI Group’s debt collection techniques on its
9 public website. For example, prior to March 26, 2012, The CMI Group, Inc.’s
10 public website (<http://thecmigroup.com>) stated (A) that The CMI Group’s
11 “predictive dialer enables us to reach more of our client’s customers while
12 maintaining a cost-effective approach” and (B) that The CMI Group’s “dialer ***
13 completes call campaigns more quickly *** conducts the most effective calling
14 strategies *** .”

15 41. On information and belief, within the past four years, DIRECTV Debt
16 Collectors have made thousands of Voice and/or ATDS calls on behalf of
17 DIRECTV to the cellular telephones of consumers who had not, during the
18 transaction that resulted in the debt, previously given DIRECTV prior express
19 consent to receive such calls.

20 **II. Second Challenged Practice: Credit Management, LP Making Calls To**
21 **Cellular Telephones Using A Voice And/Or An ATDS**

22 42. At all times pertinent hereto, Credit Management, LP, has utilized a
23 Voice during debt collection calls made on behalf of DIRECTV to the cellular
24 telephones of consumers who had not, during the transaction that resulted in the
25 debt, previously given DIRECTV consent to receive such calls.

26 43. At all times pertinent hereto, Credit Management, LP, has also utilized
27 an ATDS, including a predictive dialer, to make debt collection calls on behalf of
28 DIRECTV to the cellular telephones of consumers who had not, during the

1 transaction that resulted in the debt, previously given DIRECTV express consent to
2 receive such calls.

3 44. On information and belief, within the past four years, Credit
4 Management, LP has made thousands of Voice and/or ATDS calls on behalf of
5 DIRECTV to the cellular telephones of consumers who had not, during the
6 transaction that resulted in the debt, previously given DIRECTV prior express
7 consent to receive such calls.

8 **III. Plaintiff Jenny Brown**

9 45. Plaintiff Jenny Brown is a “person” as defined by 47 U.S.C.
10 § 153(39).

11 46. In 2011, Plaintiff Brown began receiving automated telephone calls
12 from CMI on her cellular telephone.

13 47. For example, Plaintiff Brown’s records show that she received calls
14 from Credit Management, LP on at least the following dates:

- 15 a. July 13, 2011;
- 16 b. July 15, 2011;
- 17 c. July 19, 2011 (two calls);
- 18 d. July 21, 2011;
- 19 e. September 28, 2011.

20 48. Defendants made other calls, too, of which Plaintiff Brown was unable
21 to make a record.

22 49. Plaintiff Brown has no relationship with defendant Credit
23 Management, LP.

24 50. Plaintiff Brown has no relationship with defendant DIRECTV. There
25 exists no contract between Plaintiff Brown and DIRECTV, for arbitration or
26 otherwise.

27 51. Credit Management, LP, acting on behalf of DIRECTV, utilized a
28 predictive dialer to make all of the calls described above.

1 Plaintiff represents, and is a member of, the Subclass. Excluded from the Subclass
2 are Credit Management, LP, The CMI Group, Inc., The CMI Group GP, LLC, The
3 CMI Group Limited Partner, LLC, the agents and employees of the foregoing
4 entities, any Judge and Magistrate Judge to whom this action is assigned and any
5 member of such Judges' staffs and immediate families, claims related to
6 telemarketing calls, and claims for personal injury, wrongful death and/or
7 emotional distress.

8 57. Plaintiff does not know the exact number of members in the Class or
9 the Subclass, but based upon the representations of Defendants regarding their sales
10 and market share, number of employees, and/or territorial scope of operations,
11 Plaintiff reasonably believes that Class and Subclass members number at minimum
12 in the tens of thousands.

13 58. The identity of the Class and Subclass members can be readily
14 ascertained from the records of Defendants.

15 59. Plaintiff and all members of the Class and the Subclass have been
16 harmed by the acts of Defendants in that many of them were charged additional
17 money for the cell phone minutes taken up by Defendant's illegal calls, and all have
18 had their privacy invaded and been inconvenienced by such calls.

19 60. This Class Action Complaint seeks injunctive relief, declaratory relief,
20 and damages.

21 61. The joinder of all Class and Subclass members is impracticable due to
22 the size of each class and the relatively modest value of each individual claim. The
23 disposition of the claims in a class action will provide substantial benefit to the
24 parties and the Court in avoiding a multiplicity of identical suits.

25 62. There are well-defined, nearly identical, questions of law and fact
26 affecting all parties. The questions of law and fact involving the class claims
27 predominate over questions which may affect individual Class and Subclass
28

1 members. Those common questions of law and fact include, but are not limited to,
2 the following:

- 3 a. Whether the non-emergency calls made to Plaintiff's, Class
4 members', and Subclass members' cellular telephones used a Voice and/or an
5 ATDS;
- 6 b. Whether such calls were made by or on behalf of Defendants;
- 7 c. Whether the Defendants can meet their burden of showing they
8 obtained prior express consent (*i.e.*, consent that is clearly and unmistakably stated),
9 during the transaction that resulted in the debt owed, to make such calls;
- 10 d. Whether the Defendants' conduct was knowing and/or willful;
- 11 e. Whether the Defendants are liable for damages, and the amount
12 of such damages; and
- 13 f. Whether the Defendants should be enjoined from engaging in
14 such conduct in the future.

15 63. As a person who received numerous and repeated telephone calls using
16 an ATDS and/or a Voice, without his prior express consent within the meaning of
17 the TCPA, Plaintiff asserts claims that are typical of each Class and Subclass
18 member. Plaintiff will fairly and adequately represent and protect the interests of
19 the Class and Subclass, and has no interests which are antagonistic to any member
20 of the Class or the Subclass.

21 64. Plaintiff has retained counsel experienced in handling class action
22 claims involving violations of federal and state consumer protection statutes,
23 including class action claims under the TCPA.

24 65. A class action is the superior method for the fair and efficient
25 adjudication of this controversy. Classwide relief is essential to compel Defendants
26 to comply with the TCPA and the Rules. The interest of Class and Subclass
27 members in individually controlling the prosecution of separate claims against
28 Defendants is small because the statutory damages in an individual action for

1 violation of the TCPA and the Rules are relatively small. Management of these
2 claims is likely to present significantly fewer difficulties than are presented in many
3 class claims because the calls at issue are all automated and the Class and Subclass
4 members, by definition, did not provide the prior express consent required under
5 the statute to authorize calls to their cellular telephones.

6 66. Defendants have acted on grounds generally applicable to the Class
7 and Subclass, thereby making final injunctive relief and corresponding declaratory
8 relief with respect to the Class and Subclass as a whole appropriate. Moreover, on
9 information and belief, Plaintiff alleges that the TCPA and the Rules violations
10 complained of herein are substantially likely to continue in the future if an
11 injunction is not entered.

12 **CAUSES OF ACTION**

13 **FIRST COUNT**

14 **KNOWING AND/OR WILLFUL VIOLATIONS OF THE TELEPHONE**
15 **CONSUMER PROTECTION ACT, 47 U.S.C. § 227 ET SEQ., AND THE FCC**
16 **RULES PROMULGATED THEREUNDER, 47 C.F.R. §64.1200**

17 **(On Behalf of Plaintiff and All Class and Subclass Members Against All Defendants)**

18 67. Plaintiff incorporates by reference the foregoing paragraphs of this
19 Complaint as if fully stated herein.

20 68. The foregoing acts and omissions of Defendants constitute numerous
21 and multiple knowing and/or willful violations of the TCPA and Rules, including
22 but not limited to each of the above-cited provisions of 47 U.S.C. § 227 *et seq.*

23 69. As a result of Defendants’ knowing and/or willful violations of 47
24 U.S.C. § 227 *et seq.* and 47 C.F.R. §64.1200, Plaintiff and members of the Class
25 and Subclass are entitled to treble damages of up to \$1,500.00 for each and every
26 call made in violation of the statute and Rules, pursuant to 47 U.S.C. §
27 227(b)(3)(C).
28

1 70. Plaintiff and all Class and Subclass members are also entitled to and
2 do seek injunctive relief prohibiting such conduct violating the TCPA and Rules by
3 Defendants in the future.

4 71. Plaintiff and Class and Subclass members are also entitled to an award
5 of attorneys' fees and costs on an equitable basis to be paid through a "common
6 fund," or similar theory.

7 **SECOND COUNT**

8 **VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT,**
9 **47 U.S.C. § 227 ET SEQ., AND THE FCC RULES PROMULGATED**
10 **THEREUNDER, 47 C.F.R. §64.1200**

11 **(On Behalf of Plaintiff and All Class and Subclass Members Against All Defendants)**

12 72. Plaintiff incorporates by reference the foregoing paragraphs of this
13 Complaint as if fully set forth herein.

14 73. The foregoing acts and omissions of Defendants constitute numerous
15 and multiple violations of the TCPA and Rules, including but not limited to each of
16 the above cited provisions of 47 U.S.C. § 227 *et seq.*

17 74. As a result of Defendants violations of 47 U.S.C. § 227 *et seq.* and 47
18 C.F.R. §64.1200 Plaintiff and Class and Subclass members are entitled to an award
19 of \$500.00 in statutory damages for each and every call made in violation of the
20 statute and Rules, pursuant to 47 U.S.C. § 227(b)(3)(B).

21 75. Plaintiff and Class and Subclass members are also entitled to and do
22 seek injunctive relief prohibiting Defendants' violation of the TCPA and Rules in
23 the future.

24 76. Plaintiff and Class and Subclass members are also entitled to an award
25 of attorneys' fees and costs on an equitable basis to be paid out of a common fund,
26 or similar theory.

27 **PRAYER FOR RELIEF**

28 WHEREFORE, Plaintiff respectfully requests that the Court grant Plaintiff

1 and all Class and Subclass members the following relief against Defendants:

2 A. Injunctive relief prohibiting such violations of the TCPA and the Rules
3 by Defendants in the future;

4 B. As a result of Defendants' willful and/or knowing violations of 47
5 U.S.C. § 227(b)(1) and 47 C.F.R. §64.1200, Plaintiff seeks for herself and each
6 Class and Subclass member treble damages, as provided by statute, of up to
7 \$1,500.00 for each and every call that violated the TCPA and Rules;

8 C. As a result of Defendants' violations of 47 U.S.C. § 227(b)(1) and 47
9 C.F.R. §64.1200, Plaintiff seeks for herself and each Class and Subclass member
10 \$500.00 in statutory damages for each and every call that violated the TCPA and
11 Rules;

12 D. An award of reasonable attorneys' fees and costs to counsel for
13 Plaintiff and the Class and Subclass on an equitable basis, for example, paid out of
14 a "common fund";

15 E. An order certifying this action to be a proper class action pursuant to
16 Federal Rule of Civil Procedure 23, establishing the appropriate Class and
17 Subclass, as the Court deems appropriate, finding that Plaintiff is a proper
18 representative of the Class and Subclass, and appointing the lawyers and law firms
19 representing Plaintiff as counsel for the Class and Subclass; and

20 F. Such other relief as the Court deems just and proper.

21 Dated: September 30, 2013

Respectfully submitted,

22
23 By: /s/ Alexander H. Burke
Alexander H. Burke

24
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DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a trial by jury of any and all issues in this action so triable of right.

Dated: September 30, 2013

Respectfully submitted,

By: /s/ Alexander H. Burke
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