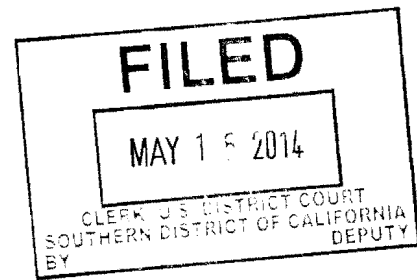


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12 Other Attorneys on Signature Page

13 Attorneys for Plaintiffs and the Proposed Class

14
15 **UNITED STATES DISTRICT COURT**
16 **SOUTHERN DISTRICT OF CALIFORNIA**

17 **Patricia Connor and Sheri L. Bywater,**
18 **Individually and on Behalf of All Others**
19 **Similarly Situated,**

20 **Plaintiffs,**

21 **v.**

22 **JPMorgan Chase Bank, N.A., Chase**
23 **Bank USA, N.A., and Federal National**
Mortgage Association a/k/a Fannie Mae,

24 **Defendants.**

Case Number: 10 CV 1284 DMS BGS

CLASS ACTION

Second Amended Complaint for
Damages and Injunctive Relief Pursuant
To The Telephone Consumer Protection
Act, 47 U.S.C § 227 et seq.

Jury Trial Demanded

1
2 **INTRODUCTION**

3 1. Patricia Connor and Sheri L. Bywater (“Plaintiffs”) bring this class action for damages,
4 injunctive relief, and any other available legal or equitable remedies, resulting from the
5 allegedly illegal actions of JPMorgan Chase Bank, N.A., and Chase Bank USA, N.A., and
6 their present, former, and/or future direct and indirect parent companies, subsidiaries,
7 affiliates, agents, and/or related entities, subsidiaries and agents (“Chase”) and Federal
8 National Mortgage Association a/k/a Fannie Mae (“Fannie Mae”) or collectively as
9 “Defendants”, in negligently and/or willfully contacting Plaintiffs on Plaintiffs’ cellular
10 telephone without their prior express consent, in violation of the Telephone Consumer
11 Protection Act, 47 U.S.C. § 227 *et seq.*, (“TCPA”). Plaintiffs allege as follows upon
12 personal knowledge as to themselves and their own acts and experiences, and, as to all
13 other matters, upon information and belief, including the investigation conducted by their
14 attorneys.

15 **JURISDICTION AND VENUE**

16 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiffs seek relief on behalf
17 of a national class, which will result in at least one class member belonging to a different
18 state than that of Defendants. Plaintiffs also seek up to \$1,500 in damages for each call in
19 violation of the TCPA, which, when aggregated among a proposed class number in the
20 tens of thousands, exceeds the \$5,000,000 threshold for federal court jurisdiction.
21 Therefore, both diversity jurisdiction and the damages threshold under the Class Action
22 Fairness Act of 2005 (“CAFA”) are present, and this Court has jurisdiction.

23 3. Venue is proper in the United States District Court for the Southern District of California
24 pursuant to 18 U.S.C. § 1391(b)-(c) and 1441(a) because Defendants do business within
25 the State of California and the County of San Diego.

26 **PARTIES**

27 4. Plaintiff Patricia Connor is, and at all times mentioned herein was, an individual citizen
28 and resident of the State of California.

1 5. Plaintiff Sheri L. Bywater is, and at all times mentioned herein was, an individual citizen
2 and resident of the State of California.

3 6. Plaintiffs are, and at all times mentioned herein were, “persons” as defined by 47 U.S.C. §
4 153 (10).

5 7. Plaintiffs are informed and believed, and thereon allege, that JP Morgan Chase & Co. is,
6 and at all times mentioned herein was, a Delaware corporation whose principal executive
7 offices are at 270 Park Avenue, New York, NY 10017. JP Morgan Chase & Co. is a
8 financial holding company and was incorporated under Delaware law in 1968. JP Morgan
9 Chase’s principal wholly-owned bank subsidiaries are Defendant JP Morgan Chase Bank,
10 N.A. and Defendant Chase Bank U.S.A., N.A.

11 8. On information and belief, Plaintiffs allege that Defendant JPMorgan Chase Bank, N.A.
12 is, and at all times mentioned herein was, a national banking association with its primary
13 business address in the State of Ohio, and does business throughout the country, including
14 this District.

15 9. On information and belief, Plaintiffs allege that Defendant Chase Bank USA, N.A. is, and
16 at all times mentioned herein was, a national banking association with its primary business
17 address in the State of Delaware, and does business throughout the country, including this
18 District.

19 10. On information and belief, Chase is one of the country’s largest home mortgage providers
20 and loan servicing agencies, including providing loan modifications to borrowers caught
21 in the recent home loan crisis and real estate valuation crisis. Chase’s home loans were
22 insured by government agencies, including Fannie Mae, in the amounts of \$1.4 billion for
23 2007, \$3.5 billion for 2008, and \$9.7 billion for 2009. Chase services loans for third-
24 parties as part of its core business, generating substantial revenues, and included over \$1
25 billion dollars in mortgage loans in 2009 that were serviced for third-parties, including
26 Fannie Mae, with Chase’s percentage of third-party loan servicing revenue increasing in
27 2009 over the prior two years.
28

- 1 11. Fannie Mae's primary corporate address is 3900 Wisconsin Avenue NW, Washington, DC
2 20016. Fannie Mae is a government-sponsored enterprise established by Congress in
3 1938 and chartered by Congress in 1968 as a private shareholder-owned corporation. Its
4 stock is traded on the Over the Counter market. Fannie Mae assists homebuyers by
5 providing capital for funding mortgage loans and operates in the U.S. secondary mortgage
6 market. Rather than making home loans directly to consumers, Fannie Mae works with
7 mortgage bankers, brokers and other primary mortgage market partners to help ensure
8 they have funds to lend to home buyers at affordable rates. Fannie Mae funds its mortgage
9 investments primarily by issuing debt securities in the domestic and international capital
10 markets.
- 11 12. On information and belief, Fannie Mae relies upon other lenders, such as Chase, to service
12 its mortgages and to engage in collection practices when the borrowers fall behind in their
13 payments.

14 **FACTUAL ALLEGATIONS**

15 **Plaintiff Connor's Allegations**

- 16 13. Plaintiff Connor obtained home mortgages in the late 2005 – early 2006 time-frame for
17 her real property through Chase's home financing entity Defendant Chase Bank USA,
18 N.A. Those included loan no. 1096734380.
- 19 14. On information and belief, once the loan had closed, Chase sold Plaintiff Connor's
20 mortgages to Fannie Mae. Plaintiff Connor's loan has been owned by Fannie Mae and
21 serviced by Chase for Fannie Mae for all of the relevant time period. The Fannie Mae
22 website responds to an inquiry as to whether Plaintiff Connor's loan is a Fannie Mae loan
23 in the affirmative. Plaintiff Connor was told directly by Chase employee "Lynn",
24 employee number 6745695, in approximately October, 2008, that her loan was in fact
25 owned by Fannie Mae during the relevant time period Plaintiff Connor received the calls
26 complained of herein.
- 27 15. Even though Plaintiff Connor's mortgage loans were owned by Defendant Fannie Mae,
28 Chase has serviced the loan throughout the relevant time period, engaged in collection

1 efforts and while doing so, and committed the TCPA violations while acting in such
2 capacity for Defendant Fannie Mae.

3 16. Here Chase had direct communication with Plaintiff Connor in the commission of the
4 TCPA violations alleged herein. However, in engaging in such violations, Chase was
5 acting on behalf of the creditor Fannie Mae, who communicated with Plaintiff Connor
6 only through Chase, without Fannie Mae's direct involvement with Plaintiff Connor.
7 Chase never specifically advised Plaintiff Connor about the sale of her loans to Fannie
8 Mae and the resulting Chase loan servicing agreement with Fannie Mae for several years,
9 until approximately October, 2008 when Chase employee "Lynn", employee number
10 6745695, informed Plaintiff Connor that her loan had been sold by Chase to Fannie Mae
11 and owned all along by Fannie Mae.

12 17. On multiple occasions beginning in approximately May, 2007 when Plaintiff Connor
13 experienced financial difficulties, and continuing on many occasions over the following
14 10 to 12 months, Chase contacted Plaintiff Connor on her cellular telephone via an
15 "automatic telephone dialing system," as defined by 47 U.S.C. § 227 (a)(1) and used "an
16 artificial or prerecorded voice" as prohibited by 47 U.S.C. § 227 (b)(1)(A). Such calls
17 requested that Plaintiff Connor make payments on her home mortgages and bring her
18 accounts current, and such calls were made repeatedly to her cell phone in that 10 to 12
19 month time period. Those calls by Chase were received by Plaintiff Connor on her cell
20 phone at least several times a week, in the May, 2007 time-frame, and much more
21 frequently in the next 10 to 12 months. At a minimum, Plaintiff Connor received dozens
22 of calls to her cell phone from May, 2007 through April, 2008 made by Chase or its
23 related entities, subsidiaries or agents.

24 18. On information and belief, Chase made such calls to Plaintiff Connor's cellular telephone
25 pursuant to its agreement with Fannie Mae to service and collect Plaintiff Connor's loan
26 payments and arrearages for Fannie Mae, and in carrying out its duties as the loan
27 servicing agency working on behalf of Defendant Fannie Mae, the entity that owned
28 Plaintiff Connor's home mortgages. On information and belief, such calls were made by

1 Chase on behalf of and for the benefit of Defendant Fannie Mae, as well as for Chase's
2 own financial benefit as the loan servicing agency for Fannie Mae.

3 19. Some of the numbers from which Chase and its agents called Plaintiff Connor are as
4 follows: 866-998-2500; 210-614-1167; 888-609-2379; 800-723-3004; 909-484-2356; and
5 877-881-2182.

6 20. Due to renewed and continuing financial difficulties, Plaintiff Connor fell behind in
7 making the payments for the original adjustable rate loans and in 2008 sought to modify
8 the original loans obtained through Chase. For over six months in 2008 Plaintiff Connor
9 sought to modify her loans with Chase and in or about January, 2009, new agreements
10 were put in place to modify Plaintiff Connor's original loan payments. However, Plaintiff
11 Connor had further problems in making timely payments on those modified mortgage
12 obligations serviced by Chase. As a result, again Chase, on behalf of creditor Defendant
13 Fannie Mae, made additional calls to Plaintiff Connor's cell phone beginning again in
14 March, 2009 via an "automatic telephone dialing system," as defined by 47 U.S.C. § 227
15 (a)(1) and/or by a prerecorded voice message during the relevant period, and continuing
16 thereafter. At a minimum, Plaintiff Connor received dozens of calls after March, 2009
17 made to her cell phone from Chase.

18 **Plaintiff Bywater's Allegations**

19 21. On or around March 17, 2004, Plaintiff Bywater took out a mortgage to cover the
20 purchase of a home.

21 22. In Plaintiff Bywater's Uniform Residential Loan Application, she did not list any cellular
22 telephone number.

23 23. Plaintiff Bywater did not list a cellular phone number in or on any other documents to
24 Chase, nor did she verbally provide Chase with a cellular phone number at any time.

25 24. Notwithstanding the fact Plaintiff Bywater did not provide Chase with her cellular number
26 at any time, Chase repeatedly contacted Plaintiff Bywater on Plaintiff Bywater's cellular
27 telephone. Plaintiff Bywater received repeated, harassing calls at all hours of the day.
28

1 Because these calls were prerecorded, Plaintiff Bywater had no ability to request that the
2 calls end or to voice her complaints to a real person.

3 25. All telephone contact by Chase to Plaintiff Bywater on her cellular telephone occurred via
4 an "automatic telephone dialing system," as defined by 47 U.S.C. § 227(a)(1), and all calls
5 that are the subject of this Complaint occurred within four years of the filing of this
6 Complaint.

7 **Plaintiffs' Joint Allegations against Chase**

8 26. Defendants are, and at all times mentioned herein were, corporations and "persons," as
9 defined by 47 U.S.C. § 153 (10). Plaintiffs are informed and believe, and on the basis of
10 that information and belief allege, that at all times mentioned in this Complaint,
11 Defendants were the agents and employees of their codefendants, and in doing the things
12 alleged in this Complaint, were acting within the course and scope of that agency and
13 employment.

14 27. At all times relevant, Plaintiffs were individuals residing within the State of California.

15 28. Plaintiffs are, and at all times mentioned herein were, "persons" as defined by 47 U.S.C. §
16 153 (10).

17 29. This lawsuit seeks statutory damages for the TCPA violations committed by Chase.

18 30. As alleged herein, Chase repeatedly violated the TCPA, 47 U.S.C. § 227 *et seq.*, by
19 negligently and/or willfully contacting Plaintiffs on Plaintiffs' cellular telephone.

20 31. During these telephone calls Chase used "an artificial or prerecorded voice" as prohibited
21 by 47 U.S.C. § 227 (b)(1)(A).

22 32. The telephone numbers on which Chase called Plaintiffs with a "prerecorded voice" made
23 by an "automatic telephone dialing system" was assigned to a cellular telephone service
24 for which Plaintiffs incur a charge for incoming calls pursuant to 47 U.S.C. § 227 (b)(1).

25 33. These telephone calls constituted calls that were not for emergency purposes as defined by
26 47 U.S.C. § 227 (b)(1)(A)(i).

1 34. Plaintiffs did not provide prior express consent at any time to Chase to receive calls made
2 to them cell phone with an autodialer and/or with prerecorded voice messages, pursuant to
3 47 U.S.C. § 227 (b)(1)(A).

4 35. These telephone calls by Chase to Plaintiffs' cellular phones utilizing an "artificial or
5 prerecorded voice" or placed by an "automatic telephone dialing system" for non-
6 emergency purposes and in the absence of Plaintiffs' prior express consent violated 47
7 U.S.C. § 227(b)(1).

8 36. Under the TCPA and pursuant to the FCC's January 2008 Declaratory Ruling, the burden
9 is on Chase to demonstrate that Plaintiffs provided express consent within the meaning of
10 the statute.¹

11 **Plaintiff Connor's Allegations Against Defendant Fannie Mae**

12 37. Plaintiff Connor seeks statutory damages for the TCPA violations committed by Chase,
13 both from Chase and from the creditor Defendant Fannie Mae, for violations made by
14 Chase while servicing Chase and Fannie Mae loans.

15 38. In addition to servicing Plaintiff Connor's loans, through agreements with Fannie Mae,
16 Chase services many thousands, or tens of thousands, of mortgages for and on behalf of
17 Fannie Mae, including loans not originally placed by Chase but placed by other lenders
18 but serviced by Chase for Fannie Mae. Chase also services mortgages originally placed
19 by Chase but sold by Chase to Fannie Mae, including Plaintiff Connor's mortgages. Thus,
20 Chase has or had loan servicing agreements for many thousands of borrowers whose loans
21 are or were owned by Fannie Mae loans during the relevant period whereby Fannie Mae is
22 the creditor or owner of the loan and Chase is the entity servicing the loans for Fannie
23 Mae. In that capacity, for all the Fannie Mae loans it services, Chase collects payments
24 and engages in collection efforts when the borrowers are behind in their payments.

25 39. Chase also made calls to other proposed Class members' cell phones while servicing their
26 loans on behalf of creditor Fannie Mae during the relevant time period, all while
27

28 ¹ See *FCC Declaratory Ruling*, 23 F.C.C.R. at 565 (¶ 10).

1 performing Fannie Mae's loan servicing on behalf of and for the benefit of the creditor
2 Defendant Fannie Mae.

3 40. Plaintiff Connor did not provide prior express consent at any time to Fannie Mae to
4 receive calls made to her cell phone with an autodialer and/or with prerecorded voice
5 messages, pursuant to 47 U.S.C. § 227 (b)(1)(A).

6 41. Pursuant to the Federal Communication Commission's Declaratory Ruling FCC 07-232
7 (December 28, 2007) ("FCC Ruling") promulgated pursuant to the instructions of
8 Congress to make such rules as necessary to implement the TCPA, the creditor – here
9 Fannie Mae – is also responsible for the TCPA violations committed by its agents – here
10 Chase – collecting on the account for the creditor. That FCC Ruling states: “. . . a creditor
11 on whose behalf an autodialed or prerecorded message call is made to a wireless number
12 bears the responsibility for any violation of the Commission's rules. Calls made by a third
13 party collector in behalf of that creditor are treated as if the creditor itself placed the call.”
14 *Id.* at ¶ 10. Thus, both under that FCC Ruling, and pursuant to agency theories of liability
15 and *respondeat superior*, Defendant Fannie Mae is also liable to Plaintiff Connor and the
16 Class for the TCPA violations alleged herein.

17 42. Fannie Mae is liable for TCPA violations, pursuant to both agency theories and the Federal
18 Communication Commission's Declaratory Ruling FCC 07-232 (December 28, 2007)
19 ("FCC Ruling") holding a creditor to be liable for the TCPA violations of its agent.

20 CLASS ACTION ALLEGATIONS

21 43. Plaintiffs bring this action on behalf of themselves and on behalf of all others similarly
22 situated ("The Class").

23 44. Plaintiffs represent, and are members of, The Class defined as follows and subject to
24 amendment as appropriate: "All persons within the United States who received any
25 telephone call from Chase, regarding a mortgage owned and/or serviced by Chase or
26 Fannie Mae, to that person's cellular telephone made through the use of any automatic
27 telephone dialing system or an artificial or prerecorded voice, and without the called party
28 giving prior express consent to be called in that manner."

1 45. Defendants, and entities in which Defendants hold a controlling interest, their employees
2 and agents, the Judge to whom this action is assigned and any member of the Judge's staff
3 and immediate family, and claims for personal injury, wrongful death, and/or emotional
4 distress are excluded from The Class.

5 46. Plaintiffs do not know the number of members in The Class, but believe the Class
6 Members number in the tens of thousands, if not more. This Class size includes
7 consumers holding mortgages owned and/or serviced by Chase and/or Fannie Mae and all
8 other persons who Chase (mis)dialled regarding a mortgage owned and/or serviced by
9 Chase or Fannie Mae. Thus, this matter should be certified as a Class action to assist in
10 the expeditious litigation of this matter.

11 47. Plaintiffs and members of The Class were harmed by the acts of Defendants in at least the
12 following ways: Chase illegally contacted Plaintiffs and The Class members via their
13 cellular telephones for a number of reasons, including in order to request and pressure
14 such Class members to bring current the mortgage payments on their mortgages. As a
15 result, Plaintiffs and The Class members incurred certain cellular telephone charges or
16 reduce cellular telephone time for which Plaintiffs and The Class members previously
17 paid, by having to retrieve or administer messages left by Chase during those illegal calls,
18 and invading the privacy of said Plaintiffs and The Class members. Plaintiffs and The
19 Class were damaged thereby.

20 48. This suit seeks monetary damages and injunctive relief on behalf of The Class and it
21 expressly is not intended to request any recovery for personal injury, wrongful death, and/
22 or emotional distress, and claims related thereto. Plaintiffs reserve the right to expand The
23 Class definition to seek recovery on behalf of additional persons as warranted as facts are
24 learned in further investigation and discovery.

25 49. The joinder of The Class members is impractical and the disposition of their claims in the
26 Class action will provide substantial benefits both to the parties and to the court. The
27 Class can be identified through Defendants' records.
28

1 50. There is a well-defined community of interest in the questions of law and fact involved
2 affecting the parties to be represented. The questions of law and fact to The Class
3 predominate over questions which may affect individual Class members, including the
4 following:

- 5 a. Whether, within the four years prior to the filing of the original Complaint in this
6 action, Defendants made any call (other than a call made for emergency purposes or
7 made with the prior express consent of the called party) to a Class member using any
8 automatic telephone dialing system or an artificial or prerecorded voice to any
9 telephone number assigned to a cellular telephone service.
- 10 b. Whether Defendants' conduct was knowing and/or willful;
- 11 c. Whether Defendants are liable for damages for violations of the TCPA, and the
12 amount of such damages;; and
- 13 d. Whether Defendants should be enjoined from engaging in such conduct in the future.

14 51. Plaintiffs are asserting claims that are typical of The Class because they are persons who
15 received numerous calls from Defendants using an automatic telephone dialing system or
16 an artificial or prerecorded voice, and without their prior express consent before receiving
17 such calls. Plaintiffs will fairly and adequately represent and protect the interests of The
18 Class in that Plaintiffs have no interests antagonistic to any member of The Class.

19 52. Plaintiffs have retained counsel experienced in handling class action claims and claims
20 involving violations of the Telephone Consumer Protection Act.

21 53. A class action is a superior method for the fair and efficient adjudication of this
22 controversy. Class-wide damages are essential to induce Defendants to comply with
23 federal and California law. The interest of Class members in individually controlling the
24 prosecution of separate claims against Defendants is small because the maximum statutory
25 damages in an individual action for violation of privacy are minimal. Management of
26 these claims is likely to present significantly fewer difficulties than those presented in
27 many class claims.

1 54. Defendants have acted on grounds generally applicable to The Class, thereby making
2 appropriate final injunctive relief and corresponding declaratory relief with respect to the
3 Class as a whole. On information and belief, Plaintiffs allege that the TCPA violations
4 complained of herein are substantially likely to continue in the future if an injunction is
5 not entered.

6
7 **FIRST CAUSE OF ACTION**
8 **NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT**
9 **47 U.S.C. § 227 ET SEQ.**

10 55. Plaintiffs incorporate by reference all of the above paragraphs of this Complaint as though
11 fully stated herein.

12 56. The foregoing acts and omissions of Chase in making the calls to the cell phones of
13 Plaintiffs and The Class, constitute numerous and multiple negligent violations of the
14 TCPA, including but not limited to each and every one of the above-cited provisions of 47
15 U.S.C. § 227 *et seq.*

16 57. Chase serviced and collected on some loans on behalf of Defendant Fannie Mae, the
17 creditor that owned some Class members' loans, and Fannie Mae as creditor hired Chase
18 to act as its agent in servicing and collecting on its loans, and Fannie Mae participated in,
19 consented to, and accepted funds from, the efforts of its agent Chase in collecting on such
20 Fannie Mae loans. As a result, Defendant Fannie Mae is also liable for the TCPA
21 violations alleged herein, by Chase in making the calls to the cell phones of Plaintiffs and
22 The Class, under the Federal Communication Commission's Declaratory Ruling, FCC
23 07-232 (December 28, 2007) and 47 U.S.C. § 227 *et seq.*

24 58. As a result of Defendants' negligent violations of 47 U.S.C. § 227 *et seq.*, Plaintiffs and
25 The Class are entitled to an award of \$500.00 in statutory damages, for each and every
26 violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

27 59. Plaintiffs and The Class are also entitled to and seek injunctive relief prohibiting such
28 conduct in the future.

60. Plaintiffs and Class members are also entitled to an award of attorneys' fees and costs.

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SECOND CAUSE OF ACTION
KNOWING AND/OR WILLFUL VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT
47 U.S.C. § 227 ET SEQ.

61. Plaintiffs incorporate by reference the above paragraphs 1 through 54, inclusive, of this Complaint as though fully stated herein.

62. The foregoing acts and omissions of Chase in making the calls to the cell phones of Plaintiffs and The Class, constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 *et seq.*

63. Chase serviced and collected on some loans on behalf of Defendant Fannie Mae, the creditor that owned some Class members' loans, and Fannie Mae as creditor hired Chase to act as its agent in servicing and collecting on its loans, and Fannie Mae participated in, consented to, and accepted funds from, the efforts of its agent Chase in collecting on such Fannie Mae loans. As a result, Defendant Fannie Mae is also liable for the TCPA violations alleged herein, by Chase in making the calls to the cell phones of Plaintiffs and The Class, under the Federal Communication Commission's Declaratory Ruling, FCC 07-232 (December 28, 2007) and 47 U.S.C. § 227 *et seq.*

64. As a result of Defendants' knowing and/or willful violations of 47 U.S.C. § 227 *et seq.*, Plaintiffs and The Class are entitled to treble damages, as provided by statute, up to \$1,500.00, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

65. Plaintiffs and The Class are also entitled to and seek injunctive relief prohibiting such conduct in the future.

66. 54. Plaintiffs and Class members are also entitled to an award of attorneys' fees and costs.

PRAYER FOR RELIEF

Wherefore, Plaintiffs respectfully request the Court grant Plaintiffs and The Class members the following relief against Defendants, and each of them:

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

- As a result of Defendants' negligent violations of 47 U.S.C. § 227(b)(1), Plaintiffs seek for themselves and for each Class member \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).
- Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.
- An order certifying this action to be a proper class action pursuant to Federal Rule of Civil Procedure 23, establishing an appropriate Class and any Subclasses the Court deems appropriate, finding that Plaintiffs are proper representatives of the Class, and appointing the lawyers and law firms representing Plaintiffs as counsel for the Class
- An award of attorneys' fees and costs to counsel for Plaintiffs and the Class.
- Any other relief the Court may deem just and proper.

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

- As a result of Defendants' willful and/or knowing violations of 47 U.S.C. § 227(b)(1), Plaintiffs seeks for themselves and each Class member treble damages, as provided by statute, up to \$1,500.00 for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).
- Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.
- An order certifying this action to be a proper class action pursuant to Federal Rule of Civil Procedure 23, establishing an appropriate Class and any Subclasses the Court deems appropriate, finding that Plaintiffs are proper representatives of the Class, and appointing the lawyers and law firms representing Plaintiffs as counsel for the Class
- An award of attorneys' fees and costs to counsel for Plaintiffs and the Class.
- Any other relief the Court may deem just and proper.

1 TRIAL BY JURY

2 Pursuant to the seventh amendment to the Constitution of the United States of America,
3 Plaintiffs are entitled to, and demand, a trial by jury.

4 Date: January 12, 2012

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