

would cease, but the calls continued.

4. Plaintiff does not know how Verizon obtained her cell phone number or why Verizon began calling it. Plaintiff brings this lawsuit on behalf of herself and like-situated consumers for Verizon's straightforward violations of the TCPA.

PARTIES, JURISDICTION AND VENUE

5. Plaintiff is and at all times mentioned herein was an individual person residing in Rowley, Massachusetts.

6. Verizon is a Delaware business entity headquartered in Basking Ridge, New Jersey.

7. This Court has subject matter jurisdiction under 28 U.S.C. § 1331.

8. Personal jurisdiction and venue in this district are proper pursuant to 28 U.S.C. § 1391(b) because Plaintiff resides here and a substantial part of the events giving rise to the claim occurred here.

FACTS RELATED TO PLAINTIFF

9. In the last year, Plaintiff began receiving calls from Verizon on her cell phone at number 978-xxx-7857.

10. At all times mentioned herein, Defendant called Plaintiff's cellular telephone using an "automatic telephone dialing system" ("autodialer") as defined by 47 U.S.C. § 227(a)(1).

11. Verizon called from telephone numbers 617-892-4037 and 617-830-4490.

12. On the calls from Verizon, Plaintiff heard a blended automated/prerecorded voice instructing Plaintiff to press a button to indicate that she was a consumer named "Megan

Charlton,” or an alternate button to indicate she was not, or a third to indicate that Verizon was calling the wrong number.

13. Plaintiff does not know “Megan Charlton.”

14. Plaintiff repeatedly pressed the button to indicate that Verizon was calling the wrong number.

15. Verizon nevertheless continued to call Plaintiff’s cell phone with the same automated calls.

16. Plaintiff is not a Verizon customer and does not know how Verizon got her number or began calling it.

17. Verizon has a system for recording the outcome of all outbound phone calls made by its telephone dialing system.

18. It thus keeps a record of all outbound phone calls made to wrong number recipients by coding the outcome of such as ‘Wrong Number’, ‘WN’ or some identical or substantially similar description.

19. Plaintiff was annoyed, frustrated, and inconvenienced by Verizon’s calls.

20. The telephone number called by Defendant was and is assigned to a cellular telephone service for which Plaintiff incurs charges for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

21. The calls from Defendant to Plaintiff were not placed for “emergency purposes” as defined by 47 U.S.C. § 227(b)(1)(A)(i).

CLASS ALLEGATIONS

22. Plaintiff brings this claim pursuant to Federal Rule of Civil Procedure 23(b)(2) and (b)(3) on behalf the following classes (the “Classes”):

TCPA Class: (1) All persons in the United States (2) to whose cellular telephone number (3) Verizon placed a non-emergency telephone call (4) using an autodialer or a prerecorded voice (5) within four years of the complaint (6) where Verizon did not have express consent to call said cellular telephone number.

Button Opt Out Class: (1) All persons in the United States (2) to whose cellular telephone number (3) Verizon placed a non-emergency telephone call (4) using an autodialer or a prerecorded voice (5) within four years of the complaint (6) after said person indicated through an automated prompt that Verizon was calling in error.

Oral Revoke Class: (1) All persons in the United States (2) to whose cellular telephone number (3) Verizon placed a non-emergency telephone call (4) using an autodialer or a prerecorded voice (5) within four years of the complaint (6) after said person had advised Verizon to cease calling.

23. Courts have certified similar classes of consumers in TCPA class actions in the past. *See, e.g., Abdeljalil v. Gen. Elec. Cap. Corp.* 306 F.R.D. 303, 312 (S.D. Cal. 2015) (certifying class “where Defendant’s customer account records” indicated wrong-number calls “as identified by one or more of the following terms . . . : ‘wrong number,’ ‘wrong telephone number,’” etc.).

24. Plaintiff represents and is a member of the Classes. Excluded from the Classes are Defendant and any entities in which Defendant has a controlling interest, Defendant’s agents and employees, the Judge to whom this action is assigned and any member of the Judge’s staff and immediate family.

25. Plaintiff does not know the exact number of members in the Classes, but based upon the size and national scope of United and the automated nature of the calls, Plaintiff reasonably believes that the Classes number in the thousands.

26. The joinder of all Class members is impracticable due to the size and relatively modest value of each individual claim. The disposition of the claims in a class action will

provide substantial benefit to the parties and the Court in avoiding a multiplicity of identical suits. The Class can be identified easily through records maintained by Defendant.

27. There are questions of law and fact common to the members of the Class which predominate over any questions that affect only individual Class members. Those common questions of law and fact include, but are not limited to, the following:

- i. Whether Verizon engaged in a pattern of using an autodialer to place calls to cellular phones;
- ii. Whether Verizon engaged in a pattern of using an automated/prerecorded voice on calls to cellular telephones;
- iii. Whether Verizon had prior express consent to place the calls; and
- iv. Whether Verizon willfully violated the TCPA.

28. As a person who received automated telephone calls from Verizon on her cellular phone without having given prior express consent, and who advised Verizon to cease calling, Plaintiff asserts claims that are typical of the members of the Classes. Plaintiff will fairly and adequately represent and protect the interests of the class, and has no interests which are antagonistic to any member of the Classes.

29. Plaintiff has retained counsel experienced in handling class action claims, including class claims involving violations of federal and state consumer protection statutes such as the TCPA.

30. A class action is the superior method for the fair and efficient adjudication of this controversy. Class-wide relief is essential to compel Defendant to comply with the TCPA. The interest of individual Class members in individually controlling the prosecution of separate claims against Defendant is small because the statutory damages for violation of the TCPA are

small in comparison to the costs and expenses of litigation of such claims. Management of these claims is likely to present few difficulties because the calls at issue are all automated and the Class members, by definition, did not provide the prior express consent required under the statute to authorize calls to their cellular telephones as Verizon did not attempt to obtain consent required by the TCPA prior to placing the calls.

31. Defendant has acted on grounds generally applicable to the Classes, thereby making final injunctive relief and corresponding declaratory relief with respect to the Class appropriate. Moreover, Plaintiff alleges that the TCPA violations complained of herein are substantially likely to continue in the future if an injunction is not entered.

COUNT I – VIOLATIONS OF THE TCPA

32. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

33. Plaintiff brings this claim on behalf of herself and the Classes.

34. Verizon made automated telephone calls to the wireless telephone number of Plaintiff and the other Class members. These phone calls were made without the prior express consent of Plaintiff or the other Class members and were not made for emergency purposes.

35. Verizon has therefore violated the TCPA, 47 U.S.C. § 227(b)(1)(A), which makes it “unlawful for any person within the United States . . . 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 or artificial or prerecorded voice.”

36. Each of the aforementioned calls by Verizon constitutes a violation of the TCPA.

37. Plaintiff and Class members are entitled to an award of \$500.00 in statutory damages for each call made in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

38. Plaintiff and Class members are also entitled to and do seek injunctive relief

prohibiting Defendant's violation of the TCPA in the future.

39. Plaintiff and Class members are also entitled to and do seek a declaration that:

- Defendant violated the TCPA;
- Defendant used an autodialer; and
- Defendant placed calls to the Plaintiff and the Class without prior express consent.

COUNT II – WILLFUL VIOLATIONS OF THE TCPA

40. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

41. Plaintiff brings this claim on behalf of herself and the Class.

42. Verizon made automated telephone calls to the wireless telephone number of Plaintiff and the other Class members. These phone calls were made without the prior express consent of Plaintiff or the other Class members and were not made for emergency purposes.

43. Verizon has therefore violated the TCPA, 47 U.S.C. § 227(b)(1)(A), which makes it “unlawful for any person within the United States . . . 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 or an artificial or prerecorded voice.”

44. Each of the aforementioned calls by Verizon constitutes a willful violation of the TCPA.

45. Plaintiff and Class members are entitled to an award of up to \$1,500.00 in statutory damages for each call made in willful violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3).

46. Plaintiff and Class members are also entitled to and do seek injunctive relief prohibiting Defendant's violation of the TCPA in the future.

47. Plaintiff and TCPA Class members are also entitled to and do seek a declaration that:

- Defendant knowingly and/or willfully violated the TCPA;
- Defendant knowingly and/or willfully used an autodialer on calls to Plaintiff and the Classes;
- Defendant willfully placed automated calls to non-customers such as Plaintiff and the Classes, knowing it did not have prior express consent to do so;
- Defendant willfully disregard when consumers indicated to Verizon's automated prompt that Verizon was calling in error; and
- Defendant willfully disregarded non-customer consumers' requests for Verizon to cease calling;
- It is Defendant's practice and history to place automated telephone calls to non-customers without their prior express consent.

PRAYER FOR RELIEF

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

- A. Statutory damages pursuant to 47 U.S.C. § 227(b)(3);
- B. Injunctive relief prohibiting such violations of the TCPA by Defendant in the future;
- C. Declaratory relief as prayed for herein;
- E. Such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on issues so triable.

Dated: July 21, 2016

Respectfully submitted,

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