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13 **UNITED STATES DISTRICT COURT**
 14 **CENTRAL DISTRICT OF CALIFORNIA**

)	Case No.
BROCK MEINTEL, individually and)	
on behalf of all others similarly situated,	)	<u>CLASS ACTION</u>
Plaintiff,	)	COMPLAINT FOR VIOLATIONS
	)	OF:
vs.)	
	)	1. NEGLIGENT VIOLATIONS
NATIONS TITLE COMPANY OF	)	OF THE TELEPHONE
CALIFORNIA, and DOES 1 through	)	CONSUMER PROTECTION
10, inclusive, and each of them,	)	ACT [47 U.S.C. §227(b)]
	)	2. WILLFUL VIOLATIONS
Defendant.	)	OF THE TELEPHONE
	)	CONSUMER PROTECTION
	)	ACT [47 U.S.C. §227(b)]
	)	3. NEGLIGENT VIOLATIONS
	)	OF THE TELEPHONE
	)	CONSUMER PROTECTION
	)	ACT [47 U.S.C. §227(c)]
	)	4. WILLFUL VIOLATIONS
	)	OF THE TELEPHONE
	)	CONSUMER PROTECTION
	)	ACT [47 U.S.C. §227(c)]

25 **DEMAND FOR JURY TRIAL**

1 Plaintiff BROCK MEINTEL (“Plaintiff”), individually and on behalf of all
2 others similarly situated, alleges the following upon information and belief based
3 upon personal knowledge:

4 **NATURE OF THE CASE**

5 1. Plaintiff brings this action individually and on behalf of all others
6 similarly situated seeking damages and any other available legal or equitable
7 remedies resulting from the illegal actions of NATIONS TITLE COMPANY OF
8 CALIFORNIA (“Defendant”), in negligently, knowingly, and/or willfully
9 contacting Plaintiff on Plaintiff’s cellular telephone in violation of the Telephone
10 Consumer Protection Act, *47 U.S.C. § 227 et seq.* (“TCPA”) and related
11 regulations, specifically the National Do-Not-Call provisions, thereby invading
12 Plaintiff’s privacy.

13 **JURISDICTION & VENUE**

14 2. Jurisdiction is proper under *28 U.S.C. § 1332(d)(2)* because Plaintiff,
15 a resident of California, seeks relief on behalf of a Class, which will result in at
16 least one class member belonging to a different state than that of Defendant, a
17 California corporation. Plaintiff also seeks up to \$1,500.00 in damages for each call
18 in violation of the TCPA, which, when aggregated among a proposed class in the
19 thousands, exceeds the \$5,000,000.00 threshold for federal court jurisdiction.
20 Therefore, both diversity jurisdiction and the damages threshold under the Class
21 Action Fairness Act of 2005 (“CAFA”) are present, and this Court has jurisdiction.

22 3. Venue is proper in the United States District Court for the Central
23 District of California pursuant to *18 U.S.C. 1391(b)* and *18 U.S.C. § 1441(a)*
24 because Defendant does business within the State of California and Plaintiff resides
25 within Orange County.

26 **PARTIES**

27 4. Plaintiff, BROCK MEINTEL (“Plaintiff”), is a natural person residing
28 in Laguna Hills, California and is a “person” as defined by *47 U.S.C. § 153 (39)*.

1 cellular telephone service for which Plaintiff incurs a charge for incoming calls
2 pursuant to *47 U.S.C. § 227(b)(1)*.

3 13. During all relevant times, Defendant did not possess Plaintiff's "prior
4 express consent" to receive calls using an automatic telephone dialing system or an
5 artificial or prerecorded voice on his cellular telephone pursuant to *47 U.S.C. §*
6 *227(b)(1)(A)*.

7 14. Further, Plaintiff's cellular telephone number ending in -3730 was
8 added to the National Do-Not-Call Registry on or about March 15, 2006.

9 15. Such calls constitute solicitation calls pursuant to *47 C.F.R. §*
10 *64.1200(c)(2)* as they were attempts to promote or sell Defendant's services.

11 16. Despite this, Defendant continued to call Plaintiff in an attempt to
12 solicit its services and in violation of the National Do-Not-Call provisions of the
13 TCPA.

14 17. Upon information and belief, and based on Plaintiff's experiences of
15 being called by Defendant despite Plaintiff's cellular telephone number being
16 conspicuously added to the National Do-Not-Call Registry since 2006, and at all
17 relevant times, Defendant failed to establish and implement reasonable practices
18 and procedures to effectively prevent telephone solicitations in violation of the
19 regulations prescribed under *47 U.S.C. §§ 227(b)(1)(A)(iii) & (c)(5)*.

20 **CLASS ALLEGATIONS**

21 18. Plaintiff brings this action individually and on behalf of all others
22 similarly situated as a member the two proposed classes (hereafter, jointly, "The
23 Classes").

24 19. The class concerning the ATDS claim for no prior express consent
25 (hereafter "The ATDS Class") is defined as follows:

26 All persons within the United States who received any
27 solicitation/telemarketing telephone calls from
28 Defendant to said person's cellular telephone made

1 through the use of any automatic telephone dialing
2 system or an artificial or prerecorded voice, and such
3 person had not previously consented to receiving such
4 calls within the four years prior to the filing of this
Complaint

5 20. The class concerning the National Do-Not-Call violation (hereafter
6 “The DNC Class”) is defined as follows:

7
8 All persons within the United States registered on the National
9 Do-Not-Call Registry for at least 30 days, who had not granted
10 Defendant prior express consent nor had a prior established
11 business relationship, who received more than one call made by
12 or on behalf of Defendant that promoted Defendant’s products
or services, within any twelve-month period, within four years
prior to the filing of the complaint.

13
14 21. Plaintiff represents, and is a member of, The ATDS Class, consisting
15 of all persons within the United States who received any solicitation calls from
16 Defendant to said person’s cellular telephone made through the use of any
17 automatic telephone dialing system or an artificial or prerecorded voice and such
18 person had not previously not provided their cellular telephone number to
19 Defendant within the four years prior to the filing of this Complaint.

20 22. Plaintiff represents, and is a member of, The DNC Class, consisting
21 of all persons within the United States registered on the National Do-Not-Call
22 Registry for at least 30 days, who had not granted Defendant prior express consent
23 nor had a prior established business relationship, who received more than one call
24 made by or on behalf of Defendant that promoted Defendant’s products or services,
25 within any twelve-month period, within four years prior to the filing of the
26 complaint.

27 23. Defendant, its employees and agents are excluded from The Classes.
28 Plaintiff does not know the number of members in The Classes, but believes the

1 Classes members number in the thousands, if not more. Thus, this matter should
2 be certified as a Class Action to assist in the expeditious litigation of the matter.

3 24. The Classes are so numerous that the individual joinder of all of its
4 members is impractical. While the exact number and identities of The Classes
5 members are unknown to Plaintiff at this time and can only be ascertained through
6 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
7 The Classes includes thousands of members. Plaintiff alleges that The Classes
8 members may be ascertained by the records maintained by Defendant.

9 25. Plaintiff and members of The ATDS Class were harmed by the acts of
10 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
11 and ATDS Class members via their cellular telephones thereby causing Plaintiff
12 and ATDS Class members to incur certain charges or reduced telephone time for
13 which Plaintiff and ATDS Class members had previously paid by having to retrieve
14 or administer messages left by Defendant during those illegal calls, and invading
15 the privacy of said Plaintiff and ATDS Class members.

16 26. Common questions of fact and law exist as to all members of The
17 ATDS Class which predominate over any questions affecting only individual
18 members of The ATDS Class. These common legal and factual questions, which
19 do not vary between ATDS Class members, and which may be determined without
20 reference to the individual circumstances of any ATDS Class members, include,
21 but are not limited to, the following:

- 22 a. Whether, within the four years prior to the filing of this
23 Complaint, Defendant made any telemarketing/solicitation call
24 (other than a call made for emergency purposes or made with
25 the prior express consent of the called party) to a ATDS Class
26 member using any automatic telephone dialing system or any
27 artificial or prerecorded voice to any telephone number
28 assigned to a cellular telephone service;

- 1 b. Whether Plaintiff and the ATDS Class members were damaged
- 2 thereby, and the extent of damages for such violation; and
- 3 c. Whether Defendant should be enjoined from engaging in such
- 4 conduct in the future.

5 27. As a person who received numerous telemarketing/solicitation calls
6 from Defendant using an automatic telephone dialing system or an artificial or
7 prerecorded voice, without Plaintiff's prior express consent, Plaintiff is asserting
8 claims that are typical of The ATDS Class.

9 28. Plaintiff and members of The DNC Class were harmed by the acts of
10 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
11 and DNC Class members via their telephones for solicitation purposes, thereby
12 invading the privacy of said Plaintiff and the DNC Class members whose telephone
13 numbers were on the National Do-Not-Call Registry. Plaintiff and the DNC Class
14 members were damaged thereby.

15 29. Common questions of fact and law exist as to all members of The
16 DNC Class which predominate over any questions affecting only individual
17 members of The DNC Class. These common legal and factual questions, which do
18 not vary between DNC Class members, and which may be determined without
19 reference to the individual circumstances of any DNC Class members, include, but
20 are not limited to, the following:

- 21 a. Whether, within the four years prior to the filing of this
- 22 Complaint, Defendant or its agents placed more than one
- 23 solicitation call to the members of the DNC Class whose
- 24 telephone numbers were on the National Do-Not-Call Registry
- 25 and who had not granted prior express consent to Defendant and
- 26 did not have an established business relationship with
- 27 Defendant;
- 28 b. Whether Defendant obtained prior express written consent to

1 place solicitation calls to Plaintiff or the DNC Class members’
2 telephones;

3 c. Whether Plaintiff and the DNC Class member were damaged
4 thereby, and the extent of damages for such violation; and

5 d. Whether Defendant and its agents should be enjoined from
6 engaging in such conduct in the future.

7 30. As a person that received numerous solicitation calls from Defendant
8 within a 12-month period, who had not granted Defendant prior express consent
9 and did not have an established business relationship with Defendant, Plaintiff is
10 asserting claims that are typical of the DNC Class.

11 31. Plaintiff will fairly and adequately protect the interests of the members
12 of The Classes. Plaintiff has retained attorneys experienced in the prosecution of
13 class actions.

14 32. A class action is superior to other available methods of fair and
15 efficient adjudication of this controversy, since individual litigation of the claims
16 of all Classes members is impracticable. Even if every Classes member could
17 afford individual litigation, the court system could not. It would be unduly
18 burdensome to the courts in which individual litigation of numerous issues would
19 proceed. Individualized litigation would also present the potential for varying,
20 inconsistent, or contradictory judgments and would magnify the delay and expense
21 to all parties and to the court system resulting from multiple trials of the same
22 complex factual issues. By contrast, the conduct of this action as a class action
23 presents fewer management difficulties, conserves the resources of the parties and
24 of the court system, and protects the rights of each Classes member.

25 33. The prosecution of separate actions by individual Classes members
26 would create a risk of adjudications with respect to them that would, as a practical
27 matter, be dispositive of the interests of the other Classes members not parties to
28 such adjudications or that would substantially impair or impede the ability of such

1 non-party Class members to protect their interests.

2 34. Defendant has acted or refused to act in respects generally applicable
3 to The Classes, thereby making appropriate final and injunctive relief with regard
4 to the members of the Classes as a whole.

5 **FIRST CAUSE OF ACTION**

6 **Negligent Violations of the Telephone Consumer Protection Act**

7 **47 U.S.C. § 227(b)**

8 **On Behalf of the ATDS Class**

9 35. Plaintiff repeats and incorporates by reference into this cause of action
10 the allegations set forth above at Paragraphs 1-34.

11 36. The foregoing acts and omissions of Defendant constitute numerous
12 and multiple negligent violations of the TCPA, including but not limited to each
13 and every one of the above cited provisions of *47 U.S.C. § 227(b)*, and in particular
14 *47 U.S.C. § 227 (b)(1)(A)*.

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

18 38. Plaintiff and the ATDS Class members are also entitled to and seek
19 injunctive relief prohibiting such conduct in the future. *47 U.S.C. § 227(b)(3)(A)*.

20 **SECOND CAUSE OF ACTION**

21 **Knowing and/or Willful Violations of the Telephone Consumer Protection**
22 **Act**

23 **47 U.S.C. § 227(b)**

24 **On Behalf of the ATDS Class**

25 39. Plaintiff repeats and incorporates by reference into this cause of action
26 the allegations set forth above at Paragraphs 1-38.

27 40. The foregoing acts and omissions of Defendant constitute numerous
28 and multiple knowing and/or willful violations of the TCPA, including but not

1 limited to each and every one of the above cited provisions of 47 U.S.C. § 227(b),
2 and in particular 47 U.S.C. § 227 (b)(1)(A).

3 41. As a result of Defendant’s knowing and/or willful violations of 47
4 U.S.C. § 227(b), Plaintiff and the ATDS Class members are entitled an award of
5 \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C.
6 § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

7 42. Plaintiff and the Class members are also entitled to and seek injunctive
8 relief prohibiting such conduct in the future.

9 **THIRD CAUSE OF ACTION**

10 **Negligent Violations of the Telephone Consumer Protection Act**

11 **47 U.S.C. § 227(c)**

12 **On Behalf of the DNC Class**

13 43. Plaintiff repeats and incorporates by reference into this cause of action
14 the allegations set forth above at Paragraphs 1-42.

15 44. The foregoing acts and omissions of Defendant constitute numerous
16 and multiple negligent violations of the TCPA, including but not limited to each
17 and every one of the above cited provisions of 47 U.S.C. § 227(c), and in particular
18 47 U.S.C. § 227 (c)(5).

19 45. As a result of Defendant’s negligent violations of 47 U.S.C. § 227(c),
20 Plaintiff and the DNC Class members are entitled an award of \$500.00 in statutory
21 damages, for each and every violation, pursuant to 47 U.S.C. § 227(c)(5)(B).

22 46. Plaintiff and the DNC Class and DNC Revocation Class members are
23 also entitled to and seek injunctive relief prohibiting such conduct in the future. 47
24 U.S.C. § 227(c)(5)(A).

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FOURTH CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection

Act

47 U.S.C. § 227(c)

On Behalf of the DNC Class

47. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-46.

48. The foregoing acts and omissions of Defendant 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(c), in particular 47 U.S.C. § 227 (c)(5).

49. As a result of Defendant’s knowing and/or willful violations of 47 U.S.C. § 227(c), Plaintiff and the DNC Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(c)(5).

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendant for the following:

FIRST CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. § 227(b)

- As a result of Defendant’s negligent violations of 47 U.S.C. §227(b)(1), Plaintiff and the ATDS Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. 227(b)(3)(B).
- Any and all other relief that the Court deems just and proper.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. § 227(b)

- As a result of Defendant’s willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the ATDS Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).
- Any and all other relief that the Court deems just and proper.

THIRD CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227(c)

- As a result of Defendant’s negligent violations of 47 U.S.C. § 227(c)(5), Plaintiff and the DNC Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(c)(5).
- Any and all other relief that the Court deems just and proper.

FOURTH CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227(c)

- As a result of Defendant’s willful and/or knowing violations of 47 U.S.C. § 227(c)(5), Plaintiff and the DNC Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. § 227(c)(5).
- Any and all other relief that the Court deems just and proper.

51. Pursuant to the Seventh Amendment to the Constitution of the United

1 States of America, Plaintiff is entitled to, and demands, a trial by jury.
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4 Respectfully Submitted this 8th Day of September, 2016.

5 LAW OFFICES OF TODD M. FRIEDMAN, P.C.

6 By: /s/ Todd M. Friedman
7 Todd M. Friedman
8 Law Offices of Todd M. Friedman
9 Attorney for Plaintiff
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