

LAW OFFICES OF RONALD A. MARRON

RONALD A. MARRON (SBN 175650)

ron@consumersadvocates.com

ALEXIS WOOD (SBN 270200)

alexis@consumersadvocates.com

KAS GALLUCCI (SBN 288709)

kas@consumersadvocates.com

651 Arroyo Drive

San Diego, California 92103

Telephone:(619) 696-9006

Facsimile: (619) 564-6665

LAW OFFICE OF ALBERT R. LIMBERG

Albert R. Limberg (SBN 211110)

alimberg@limberglawoffice.com

3667 Voltaire Street

San Diego, CA 92106

Telephone: 619-344-8667

Facsimile: 619-344-8657

Attorneys for Plaintiff and the Proposed Class

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

NANCY BRIDGES, on behalf of herself,
and all others similarly situated,

Plaintiff,

v.

CREDENCE RESOURCE
MANAGEMENT, LLC,

Defendant.

Case No.:

CLASS ACTION

**COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF
PURSUANT TO THE
TELEPHONE CONSUMER
PROTECTION ACT, 47 U.S.C. §§
227 et seq.**

DEMAND FOR JURY TRIAL

INTRODUCTION

1
2 1. Nancy Bridges (“Plaintiff”) brings this Class Action Complaint for
3 damages, injunctive relief, and any other available legal or equitable remedies,
4 resulting from the illegal actions of Credence Resource Management, LLC.
5 (“Defendant” or “CRM”), in negligently, and/or willfully contacting Plaintiff
6 through telephone calls on Plaintiff’s cellular telephone, in violation of the
7 Telephone Consumer Protection Act, 47 U.S.C. §§ 227 *et seq.*, (“TCPA”), thereby
8 invading Plaintiff’s privacy. Plaintiff alleges as follows upon personal knowledge
9 as to her own acts and experiences, and, as to all other matters, upon information
10 and belief, including investigation conducted by her attorneys.

JURISDICTION AND VENUE

11
12 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff
13 seeks up to \$1,500 in damages for each call in violation of the TCPA, which, when
14 aggregated among a proposed class number in the tens of thousands, exceeds the
15 \$5,000,000 threshold for federal court jurisdiction. Further, Plaintiff alleges a
16 national class, which will result in at least one class member belonging to a different
17 state than that of the Defendant, providing jurisdiction under 28 U.S.C. §
18 1332(d)(2)(A). Therefore, both elements of diversity jurisdiction under the Class
19 Action Fairness Act of 2005 (“CAFA”) are present, and this Court has jurisdiction.

20 3. This Court has federal question subject matter jurisdiction under 28
21 U.S.C. § 1331, as the action arises under the TCPA, a federal statute.

22 4. Venue is proper in the United States District Court for the Northern
23 District of California pursuant to 28 U.S.C. §§ 1391(b) because Defendant, at all
24 times herein mentioned, was doing business in the County of Alameda, State of
25 California, and a substantial part of the events giving rise to the claim occurred in
26 this jurisdiction.

27 ///

28 ///

PARTIES

5. Plaintiff Nancy Bridges is, and at all times mentioned herein was, a resident of the State of California, County of Alameda. She is, and at all times mentioned herein was a “person” as defined by 47 U.S.C. § 153 (32).

6. Defendant CRM is a business entity that maintains a business office in Dallas, Texas. CRM is a “person” as defined by 47 U.S.C. § 153 (32).

7. Plaintiff alleges that at all times relevant herein CRM conducted business in the state of California and in the County of Alameda, and within this judicial district.

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

8. In 1991, Congress enacted the Telephone Consumer Protection Act, 47 U.S.C. § 227 (TCPA),¹ in response to a growing number of consumer complaints regarding certain telemarketing practices.

9. The TCPA regulates, among other things, the use of automated telephone equipment, or “autodialers.” Specifically, the plain language of section 227(b)(1)(A)(iii) prohibits the use of autodialers to make any call to a wireless number in the absence of an emergency or the prior express consent of the called party.²

10. According to findings by the Federal Communication Commission (“FCC”), the agency Congress vested with authority to issue regulations implementing the TCPA, such calls are prohibited because, as Congress found, automated or prerecorded telephone calls are a greater nuisance and invasion of privacy than live solicitation calls, and such calls can be costly and inconvenient.

¹ Telephone Consumer Protection Act of 1991, Pub. L. No. 102-243, 105 Stat. 2394 (1991), 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.

² 47 U.S.C. § 227(b)(1)(A)(iii).

1 The FCC also recognized that wireless customers are charged for incoming calls
2 whether they pay in advance or after the minutes are used.³

3 11. On January 4, 2008, the FCC released a Declaratory Ruling wherein it
4 confirmed that autodialed and prerecorded message calls to a wireless number by a
5 creditor (or on behalf of a creditor) are permitted only if the calls are made with the
6 “prior express consent” of the called party.⁴ The FCC “emphasize[d] that prior
7 express consent is deemed to be granted only if the wireless number was provided
8 by the consumer to the creditor, and that such number was provided during the
9 transaction that resulted in the debt owed.”⁵

10 **FACTUAL ALLEGATIONS**

11 12. Beginning around at least March 2015, Plaintiff received a number of
12 unsolicited phone calls from CRM to her wireless phone, for which Plaintiff
13 provided no consent to call.

14 13. Such calls were often made by prerecorded or artificial voice message.

15 14. The incoming calls from CRM received by Plaintiff came from the
16 following numbers: 855-703-2291, 855-876-5350, 855-876-5380, and 855-880-
17 4795.

18 15. Specifically, on three times on March 2, 2015, Plaintiff received
19 unsolicited phone calls from CRM. There were at least fourteen additional calls
20 from CRM.

21 16. Plaintiff has no accounts or any other relationship with CRM. Plaintiff
22 advised CRM to stop calling her, but the calls continued.

23
24 ³ *Rules and Regulations Implementing the Telephone Consumer Protection Act of*
25 *1991*, CG Docket No. 02-278, Report and Order, 18 FCC Rcd 14014 (2003).

26 ⁴ *In the Matter of Rules and Regulations Implementing the Telephone Consumer*
27 *Protection Act of 1991 (“FCC Declaratory Ruling”)*, 23 F.C.C.R. 559, 23 FCC Rcd.
28 559, 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 17. These unsolicited phone calls placed to Plaintiff’s wireless telephone
2 were placed via an “automatic telephone dialing system,” (“ATDS”) as defined by
3 47 U.S.C. § 227 (a)(1) and by using “an artificial or prerecorded voice” system as
4 prohibited by 47 U.S.C. § 227 (b)(1)(A), which had the capacity to produce or store
5 numbers randomly or sequentially, and to dial such numbers, to place telephone calls
6 to Plaintiff’s cellular telephone.

7 18. The telephone number that Defendant, or its agents, called was assigned
8 to a cellular telephone service for which Plaintiff incurred a charge for incoming
9 calls pursuant to 47 U.S.C. § 227 (b)(1).

10 19. These telephone calls constitute calls that were not for emergency
11 purposes as defined by 47 U.S.C. § 227(b)(1)(A)(i).

12 20. Plaintiff did not provide Defendant or its agents prior express consent
13 to receive unsolicited phone calls pursuant to 47 U.S.C. § 227 (b)(1)(A).

14 21. These telephone calls by Defendant or its agents therefore violated 47
15 U.S.C. § 227(b)(1).

16 22. Under the TCPA and pursuant to the FCC’s January 2008 Declaratory
17 Ruling, the burden is on Defendant to demonstrate that Plaintiff provided express
18 consent within the meaning of the statute.

19 **CLASS ACTION ALLEGATIONS**

20 23. Plaintiff brings this action on behalf of herself and on behalf of and all
21 others similarly situated (“the Class”).

22 24. Plaintiff represents, and is a member of the Class, consisting of all
23 persons within the United States who received any unsolicited telephone calls from
24 Defendant or its agents on their paging service, cellular phone service, mobile radio
25 service, radio common carrier service, or other service, through the use of any
26 automatic telephone dialing system or artificial or pre-recorded voice system as set
27 forth in 47 U.S.C. § 227(b)(1)(A)(3), which telephone calls by Defendant or its
28

1 agents were not made for emergency purposes or with the recipients' prior express
2 consent, within four years prior to the filing through the present.

3 25. Defendant and its employees or agents are excluded from the Class.
4 Plaintiff does not know the number of members in the Class, but believes the Class
5 members number in the hundreds of thousands, if not more. Thus, this matter should
6 be certified as a Class action to assist in the expeditious litigation of this matter.

7 26. Plaintiff and members of the Class were harmed by the acts of
8 Defendant in at least the following ways: Defendant, either directly or through its
9 agents, illegally contacted Plaintiff and the Class members via their cellular
10 telephones by using unsolicited telephone calls, thereby causing Plaintiff and the
11 Class members to incur certain cellular telephone charges or reduce cellular
12 telephone time for which Plaintiff and the Class members previously paid, and
13 invading the privacy of said Plaintiff and the Class members. Plaintiff and the Class
14 members were damaged thereby.

15 27. This suit seeks only damages and injunctive relief for recovery of
16 economic injury on behalf of the Class and it expressly is not intended to request
17 any recovery for personal injury and claims related thereto. Plaintiff reserves the
18 right to expand the Class definition to seek recovery on behalf of additional persons
19 as warranted as facts are learned in further investigation and discovery.

20 28. The joinder of the Class members is impractical and the disposition of
21 their claims in the Class action will provide substantial benefits both to the parties
22 and to the Court. The Class can be identified through Defendant's records or
23 Defendant's agents' records.

24 29. There is a well-defined community of interest in the questions of law
25 and fact involved affecting the parties to be represented. The questions of law and
26 fact to the Class predominate over questions which may affect individual Class
27 members, including the following:
28

- 1 a. Whether, within four years prior to the filing of this Complaint
2 through the present, Defendant or its agents placed telephone calls
3 without the recipients' prior express consent (other than a telephone
4 call made for emergency purposes or made with the prior express
5 consent of the called party) to a Class member using any automatic
6 telephone dialing system or an artificial or pre-recorded voice system,
7 to any telephone number assigned to a cellular telephone service;
- 8 b. Whether the equipment Defendant, or its agents, used to make the
9 telephone calls in question was an automatic telephone dialing system
10 as contemplated by the TCPA;
- 11 c. Whether Defendant, or its agents, systematically made telephone calls
12 to persons featuring an artificial or pre-recorded voice;
- 13 d. Whether Defendant, or its agents, systematically made telephone calls
14 to persons who did not previously provide Defendant with their prior
15 express consent to receive such telephone calls;
- 16 e. Whether Plaintiff and the Class members were damaged thereby, and
17 the extent of damages for such violation; and
- 18 f. Whether Defendant and its agents should be enjoined from engaging
19 in such conduct in the future.

20 30. As a person that received at least one unsolicited telephone call to her
21 cell phone without Plaintiff's prior express consent, Plaintiff is asserting claims that
22 are typical of the Class. Plaintiff will fairly and adequately represent and protect the
23 interests of the Class in that Plaintiff has no interest antagonistic to any member of
24 the Class.

25 31. Plaintiff and the members of the Class have all suffered irreparable
26 harm as a result of the Defendant's unlawful and wrongful conduct. Absent a class
27 action, the Class will continue to face the potential for irreparable harm. In addition,
28 these violations of law will be allowed to proceed without remedy and Defendant

1 will likely continue such illegal conduct. Because of the size of the individual Class
2 member's claims, few, if any, Class members could afford to individually seek legal
3 redress for the wrongs complained of herein.

4 32. Plaintiff has retained counsel experienced in handling class action
5 claims and claims involving violations of the Telephone Consumer Protection Act.

6 33. A class action is a superior method for the fair and efficient adjudication
7 of this controversy. Class-wide damages are essential to induce Defendant to
8 comply with federal law. The interest of Class members in individually controlling
9 the prosecution of separate claims against Defendant is small because the maximum
10 statutory damages in an individual action for violation of privacy are minimal.
11 Management of these claims is likely to present significantly fewer difficulties than
12 those presented in many class claims.

13 34. Defendant has acted on grounds generally applicable to the Class,
14 thereby making appropriate final injunctive relief and corresponding declaratory
15 relief with respect to the Class as a whole.

16 **FIRST CAUSE OF ACTION**

17 **NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT**

18 **47 U.S.C. §§ 227 *ET SEQ.***

19 35. Plaintiff incorporates by reference all of the above paragraphs of this
20 Complaint as though fully stated herein.

21 36. Each such telephone call was made using equipment that, upon
22 information and belief, had the capacity to store or produce telephone numbers to be
23 called, using a random or sequential number generator, and to dial such numbers.
24 By using such equipment, Defendant was able to effectively make thousands of
25 phone calls simultaneously to lists of thousands of wireless phone numbers of
26 consumers without human intervention. These telephone calls also featured a
27 prerecorded voice and were made without the prior express consent of the Plaintiff
28 and other members of the Class to receive such telephone calls.

1 37. Defendant also made telephone calls featuring a prerecorded or
2 artificial voice without the prior express consent of the Plaintiff and other members
3 of the Class to receive such telephone calls.

4 38. The foregoing acts and omissions of Defendant and its agents constitute
5 numerous and multiple negligent violations of the TCPA, including but not limited
6 to each and every one of the above-cited provisions of 47 U.S.C. § 227 *et seq.*

7 39. As a result of Defendant's, and Defendant's agents', negligent
8 violations of 47 U.S.C. § 227 *et seq.*, Plaintiff and the Class are entitled to an award
9 of \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C.
10 § 227(b)(3)(B).

11 40. Plaintiff and the Class are also entitled to and seek injunctive relief
12 prohibiting such conduct in the future.

13 **SECOND CAUSE OF ACTION**
14 **KNOWING AND/OR WILLFUL VIOLATIONS OF THE**
15 **TELEPHONE CONSUMER PROTECTION ACT**
16 **47 U.S.C. §§ 227 ET SEQ.**

17 41. Plaintiff incorporates by reference the above paragraphs 1 through 34
18 inclusive, of this Complaint as though fully stated herein.

19 42. Each such telephone call was made using equipment that, upon
20 information and belief, had the capacity to store or produce telephone numbers to be
21 called, using a random or sequential number generator, and to dial such numbers.
22 By using such equipment, Defendant was able to effectively make thousands of
23 phone calls simultaneously to lists of thousands of wireless phone numbers of
24 consumers without human intervention. These telephone calls also featured a
25 prerecorded voice and were made without the prior express consent of the Plaintiff
26 and other members of the Class to receive such telephone calls.

1 43. Defendant also made telephone calls featuring a prerecorded or
2 artificial voice without the prior express consent of the Plaintiff and other members
3 of the Class to receive such telephone calls.

4 44. The foregoing acts and omissions of Defendant constitutes numerous
5 and multiple knowing and/or willful violations of the TCPA, including but not
6 limited to each and every one of the above-cited provisions of 47 U.S.C. §§ 227 *et*
7 *seq.*

8 45. As a result of Defendant's knowing and/or willful violations of 47
9 U.S.C. § 227 *et seq.*, Plaintiff and the Class are entitled to treble damages, as
10 provided by statute, up to \$1,500.00, for each and every violation, pursuant to 47
11 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

12 46. Plaintiff and the Class are also entitled to and seek injunctive relief
13 prohibiting such conduct in the future.

14 **PRAYER FOR RELIEF**

15 **Wherefore**, Plaintiff respectfully requests the Court to grant Plaintiff and the Class
16 members the following relief against Defendant:

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

19 47. As a result of Defendant's, and Defendant's agents', negligent
20 violations of 47 U.S.C. § 227(b)(1), Plaintiff seeks for herself and each Class
21 member \$500.00 in statutory damages, for each and every violation, pursuant to 47
22 U.S.C. § 227(b)(3)(B).

23 48. Pursuant to 47 U.S.C. § 227(b)(3)(A), Plaintiff seeks injunctive relief
24 prohibiting such conduct in the future.

25 49. Any other relief the Court may deem just and proper.

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

50. As a result of Defendant’s, and Defendant’s agents’, willful and/or knowing violations of 47 U.S.C. § 227(b)(1), Plaintiff seeks for herself 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).

51. Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.

52. Any other relief the Court may deem just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: November 11, 2015

/s/ Ronald A. Marron

By: Ronald A. Marron

LAW OFFICES OF RONALD A. MARRON

RONALD A. MARRON

ALEXIS WOOD

KAS GALLUCCI

651 Arroyo Drive

San Diego, California 92103

Telephone: (619) 696-9006

Facsimile: (619) 564-6665

Dated: November 11, 2015

/s/ Albert R. Limberg

By: Albert R. Limberg

LAW OFFICE OF ALBERT R. LIMBERG

Albert R. Limberg

3667 Voltaire Street

San Diego, CA 92106

Telephone: 619-344-8667

Facsimile: 619-344-8657

*Attorneys for Plaintiff
and the Proposed Class*