

Todd M. Friedman (SBN 216752)  
Adrian R. Bacon (SBN 280332)  
LAW OFFICES OF TODD M. FRIEDMAN, P.C.  
21550 Oxnard St., Suite 780  
Woodland Hills, CA 91367  
Phone: 323-306-4234  
Fax: 866-633-0228  
[tfriedman@toddfaw.com](mailto:tfriedman@toddfaw.com)  
[abacon@toddfaw.com](mailto:abacon@toddfaw.com)

Attorneys for Plaintiff

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

<p><b>LOUIS FLOYD</b>, individually and on behalf of all others similarly situated,  Plaintiff,  vs.  <b>BANKROLL CAPITAL, INC.</b>, and DOES 1 through 10, inclusive,  Defendant(s).</p>	<p>) Case No. ) ) <b><u>CLASS ACTION</u></b> ) ) <b>COMPLAINT FOR VIOLATIONS</b> ) <b>OF:</b> ) ) 1. NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT [47 U.S.C. §227 ET SEQ.] ) 2. WILLFUL VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT [47 U.S.C. §227 ET SEQ.] ) <b><u>DEMAND FOR JURY TRIAL</u></b> )</p>
---	---

Plaintiff, LOUIS FLOYD (“Plaintiff”), on behalf of himself and all others similarly situated, alleges the following upon information and belief based upon personal knowledge:

**NATURE OF THE CASE**

1. Plaintiff brings this action for himself and others similarly situated seeking damages and any other available legal or equitable remedies resulting from the illegal actions of BANKROLL CAPITAL, INC. (“Defendant”), in negligently,

1 knowingly, and/or willfully contacting Plaintiff via “telephone facsimile machine”  
2 in violation of the Telephone Consumer Protection Act, *47 U.S.C. § 227 et seq.*  
3 (“TCPA”), thereby causing Plaintiff and all others similarly situated to incur the  
4 costs of receiving unsolicited advertisement messages via “telephone facsimile  
5 machines” and invading their privacy.

6  
7 **JURISDICTION & VENUE**

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

17 3. Venue is proper in the United States District Court for the Northern  
18 District of California pursuant to *28 U.S.C. § 1391(b)(2)* because Defendant do  
19 business within the state of California and Plaintiff resides within this District.

20  
21 **PARTIES**

22 4. Plaintiff, LOUIS FLOYD (“Plaintiff”), is a natural person residing in,  
23 California and is a “person” as defined by *47 U.S.C. § 153 (39)*.

24 5. Defendant, BANKROLL CAPITAL, INC. is a company, and is a  
25 “person” as defined by *47 U.S.C. § 153 (39)*.

26 6. The above-named Defendant, and its subsidiaries and agents, are  
27 collectively referred to as “Defendant.” The true names and capacities of the  
28 Defendant sued herein as DOE DEFENDANT 1 through 10, inclusive, are

1 currently unknown to Plaintiff, who therefore sues such Defendant by fictitious  
2 names. Each of the Defendant designated herein as a DOE is legally responsible  
3 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the  
4 Complaint to reflect the true names and capacities of the DOE Defendant when  
5 such identities become known.

6 7. Plaintiff is informed and believes that at all relevant times, each and  
7 every Defendant was acting as an agent and/or employee of each of the other  
8 Defendant and were acting within the course and scope of said agency and/or  
9 employment with the full knowledge and consent of each of the other Defendant.  
10 Plaintiff is informed and believes that each of the acts and/or omissions complained  
11 of herein was made known to, and ratified by, each of the other Defendant.

### 12 **FACTUAL ALLEGATIONS**

13  
14 8. Beginning in or around March of 2019, Defendant contacted Plaintiff  
15 on his telephone facsimile numbers ending in -4206, in an effort to sell or solicit its  
16 services.

17 9. Defendant contacted Plaintiff via facsimile from telephone numbers  
18 confirmed to belong to Defendant.

19 10. Defendant's message constituted "telephone solicitation" as defined  
20 by the TCPA, 47 U.S.C. § 227(a)(4) and "unsolicited advertisement" as defined by  
21 the TCPA, 47 U.S.C. § 227(a)(5).

22 11. Defendant used a "telephone facsimile machine" as defined by 47  
23 U.S.C. § 227(a)(3) to place its message to Plaintiff seeking to sell or solicit its  
24 business services.

25 12. Defendant's message constituted message that were not for  
26 emergency purposes as defined by 47 U.S.C. § 227(b)(1)(A).

27 13. Defendant's communication message was placed to telephone  
28 facsimile numbers assigned to a telephone service for which Plaintiff incurs a

1 charge for incoming messages.

2 14. Plaintiff is not a customer of Defendant's services and has never  
3 provided any personal information, including his telephone facsimile number(s), to  
4 Defendant for any purpose whatsoever. Accordingly, Defendant never received  
5 Plaintiff's "prior express consent" to receive message using a telephone facsimile  
6 machine pursuant to *47 U.S.C. § 227(b)(1)C*.

7  
8 **CLASS ALLEGATIONS**

9 15. Plaintiff brings this action on behalf of himself and all others similarly  
10 situated, as a member of the proposed class (hereafter "The Class") defined as  
11 follows:

12 All persons within the United States who received any  
13 telephone facsimile messages from Defendant to said  
14 person's telephone facsimile number made through the  
15 use of any telephone facsimile machine and such person  
16 had not previously consented to receiving such messages

17 16. Plaintiff represents, and is a member of, The Class, consisting of All  
18 persons within the United States who received any telephone facsimile messages  
19 from Defendant to said person's telephone facsimile number made through the use  
20 of any telephone facsimile machine and such person had not previously provided  
21 their telephone facsimile number to Defendant within the four years prior to the  
22 filing of this Complaint.

23 17. Defendant, its employees and agents are excluded from The Class.  
24 Plaintiff does not know the number of members in The Class, but believes the Class  
25 members number in the thousands, if not more. Thus, this matter should be certified  
26 as a Class Action to assist in the expeditious litigation of the matter.

27 18. The Class is so numerous that the individual joinder of all of its  
28 members is impractical. While the exact number and identities of The Class

1 members are unknown to Plaintiff at this time and can only be ascertained through  
2 appropriate discovery, Plaintiff is informed and believes and thereon alleges that  
3 The Class includes thousands of members. Plaintiff alleges that The Class members  
4 may be ascertained by the records maintained by Defendant.

5 19. Plaintiff and members of The Class were harmed by the acts of  
6 Defendant in at least the following ways: Defendant illegally contacted Plaintiff  
7 and Class members via their telephone facsimile numbers thereby causing Plaintiff  
8 and Class members to incur certain charges or reduced telephone facsimile time for  
9 which Plaintiff and Class members had previously paid by having to retrieve or  
10 administer messages left by Defendant during those illegal calls, and invading the  
11 privacy of said Plaintiff and Class members.

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

- 17
- 18 a. Whether, within the four years prior to the filing of this Complaint,  
19 Defendant sent telephone facsimile messages (other than for  
20 emergency purposes or made with the prior express consent of the  
21 called party and with an opt-out notice contained in the messages) to  
22 a Class member using any telephone facsimile machine to any  
23 telephone number assigned to a telephone facsimile service;
  - 24 b. Whether Plaintiff and the Class members were damaged thereby, and  
25 the extent of damages for such violation; and
  - 26 c. Whether Defendant should be enjoined from engaging in such conduct  
27 in the future.

28 21. As a person who received a message from Defendant using a  
telephone facsimile machine, without Plaintiff's prior express consent, Plaintiff is  
asserting claims that are typical of The Class.

1           22. Plaintiff will fairly and adequately protect the interests of the members  
2 of The Class. Plaintiff has retained attorneys experienced in the prosecution of  
3 class actions.

4           23. A class action is superior to other available methods of fair and  
5 efficient adjudication of this controversy, since individual litigation of the claims  
6 of all Class members is impracticable. Even if every Class member could afford  
7 individual litigation, the court system could not. It would be unduly burdensome  
8 to the courts in which individual litigation of numerous issues would proceed.  
9 Individualized litigation would also present the potential for varying, inconsistent,  
10 or contradictory judgments and would magnify the delay and expense to all parties  
11 and to the court system resulting from multiple trials of the same complex factual  
12 issues. By contrast, the conduct of this action as a class action presents fewer  
13 management difficulties, conserves the resources of the parties and of the court  
14 system, and protects the rights of each Class member.

15           24. The prosecution of separate actions by individual Class members  
16 would create a risk of adjudications with respect to them that would, as a practical  
17 matter, be dispositive of the interests of the other Class members not parties to such  
18 adjudications or that would substantially impair or impede the ability of such non-  
19 party Class members to protect their interests.

20           25. Defendant has acted or refused to act in respects generally applicable  
21 to The Class, thereby making appropriate final and injunctive relief with regard to  
22 the members of the California Class as a whole.

23  
24           ///  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**FIRST CAUSE OF ACTION**

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

**47 U.S.C. §227 et seq.**

26. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above.

27. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent 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.*

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

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

**SECOND CAUSE OF ACTION**

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

**47 U.S.C. §227 et seq.**

30. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above.

31. 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 et seq.*

32. As a result of Defendant's knowing and/or willful violations of *47 U.S.C. § 227 et seq.*, Plaintiff and the 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(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

1 33. Plaintiff and the Class members are also entitled to and seek  
2 injunctive relief prohibiting such conduct in the future.

3  
4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff requests judgment against all Defendant for the  
6 following:

7  
8 **FIRST CAUSE OF ACTION**

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

10 **47 U.S.C. §227 et seq.**

- 11 • As a result of Defendant's negligent violations of *47 U.S.C.*  
12 *§227(b)(1)*, Plaintiff and the Class members are entitled to and  
13 request \$500 in statutory damages, for each and every violation,  
14 pursuant to *47 U.S.C. 227(b)(3)(B)*; and  
15 • Any and all other relief that the Court deems just and proper.

16  
17 **SECOND CAUSE OF ACTION**

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

19 **47 U.S.C. §227 et seq.**

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

26  
27 ///



**JURY DEMAND**

34. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff reserves their right to a jury on all issues so triable.

Respectfully submitted this 22<sup>nd</sup> of May, 2020.

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

By: /s Todd M. Friedman  
Todd M. Friedman  
Law Offices of Todd M. Friedman  
Attorney for Plaintiff