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17 **UNITED STATES DISTRICT COURT**
18 **CENTRAL DISTRICT OF CALIFORNIA**

19 **DINA ST. GEORGE**, individually and
20 on behalf of all others similarly
21 situated,

22 *Plaintiff,*

23 vs.

24 **CMRE FINANCIAL SERVICES, INC.**,
25 a California corporation,

26 *Defendant.*

Case No. 8:21-cv-00748

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

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CLASS ACTION COMPLAINT

Plaintiff Dina St. George brings this class action against Defendant CMRE Financial Services, Inc., and states:

NATURE OF THE ACTION

1. This is a putative class action pursuant to the Telephone Consumer Protection Act, 47 U.S.C. § 227 (the “TCPA”), and the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692d.

2. Defendant is a medical debt servicing and collections company.

3. Defendant routinely violates the TCPA by using prerecorded message calls to collect debts, even after having been informed by recipients of those calls that it has reached the wrong person and telephone number.

4. Defendant also routinely violates the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress, or abuse consumers in connection with the collection of debts, in that it continues to place calls to consumers for the purpose of debt collection even after it is made aware, or should know, that it is placing calls to the wrong person and telephone number.

5. Indeed, consumer complaints regarding Defendant’s TCPA and FDCPA violations are rampant on the Internet, dating back as early as 2011. The following are just a few consumer complaints expressing desperation in their inability to make Defendant's calls stop:

- This number calls me at least once a week with a recorded message saying this call is only for Bradley Coleman. It tells me to press three if i am not Bradley Coleman. I push three and the phone hangs up. but they call back ALL THE TIME! How do I deal with these idiots and get them to quit calling. Calling back just gets me put on hold.

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- the stupid number keeps calling to my cell about some Esther girl, about 2 or 3 days ago I answered, and I told them "I AM NOT ESTHER, stop calling this number, ESTHER DOES NOT HAVE THIS NUMBER, so stop calling"

they just called again a few minutes ago, and left in my voicemail that they wanted to speak to the aforementioned ESTHER

GRRRRRRRRRRRRRRRRRRRRRRRR

- So tired of these guys, the call daily, sometimes twice a day for someone I've never heard of. Most times it is a recording that says if you are not this person to hang up. Once I got a live person and they said sorry, they will remove my number from their list, but I still get daily calls...Where should we report this to?

- Terrible people. I don't know Nora Gandolfo! Never heard of Nora. But they keep calling, must have been over 6 months of regular calls. I've filed complaints, I've asked them to remove me from the list. They are awful!!!! Is this an internet scam? I feel totally violated and intruded on. Why should I be victimized by someone else's bills? They just don't stop!!!

- THE CALLS I GET SAY THEY ARE LOOKING FOR FRANK GUSTERSON AND TO PRESS 5 IF NOT.
I THOUGHT IT WAS A WAY TO CHARGE MY PHONE ??¹

6. Through this action, Plaintiff seeks injunctive relief to halt Defendant's unlawful conduct, statutory damages on behalf of themself and members of the Class, and any other available legal or equitable remedies.

¹ <https://800notes.com/Phone.aspx/1-888-760-1382>; (last accessed on Apr. 13, 2021).

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JURISDICTION AND VENUE

7. Jurisdiction is proper under 28 U.S.C. § 1331 as Plaintiff alleges violations of federal statutes.

8. This Court has general personal jurisdiction over Defendant because Defendant is incorporated and headquartered in California.

9. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (c) because Defendant is deemed to reside in any judicial district in which it is subject to personal jurisdiction, and because a substantial part of the events or omissions giving rise to the claim occurred in this District.

PARTIES

10. Plaintiff is a natural person who, during all times relevant to this action, was a citizen of and domiciled in Orange County, California.

11. Defendant is a California corporation with its headquarters located at 3075 East Imperial Highway, Ste. 200, Brea, California 92821.

12. Defendant is an entity that at all relevant times was engaged, by use of the telephone, in the business of attempting to collect a “debt”—in default—as defined by 15 U.S.C. § 1692a(5).

13. Defendant uses instrumentalities of interstate commerce or the mails in a business the principal purpose of which is the collection of any debts, or to regularly collect or attempt to collect, directly or indirectly, debts owed or due, or asserted to be owed or due, another.

14. Defendant identifies itself as a debt collector in its communications with consumers, and is a “debt collector” as defined by 15 U.S.C. § 1692a(6).

15. Further, on its website, Defendant states: “This communication is from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.”²

² www.cmrefsi.com; (last accessed on Apr. 13, 2021).

1 16. Unless otherwise indicated, the use of Defendant’s name in this
2 Complaint includes all agents, employees, officers, members, directors, heirs,
3 successors, assigns, principals, trustees, sureties, subrogees, representatives,
4 vendors, and insurers of Defendant.

5 **FACTS**

6 17. Beginning on or about November 2020 through April 2021, Defendant
7 placed at least 15 prerecorded voice calls to Plaintiff’s cellular telephone number
8 ending in 9076 (the “9076 Number”).

9 18. All of the prerecorded messages similarly stated that Defendant was
10 looking for “Joaquin”.

11 19. Plaintiff is not “Joaquin” and does not know anyone by that name.

12 20. Upon information and belief, Defendant maintains business records
13 that show all calls it placed to Plaintiff’s cellular telephone number.

14 21. Plaintiff answered several of Defendant’s calls.

15 22. Plaintiff informed Defendant on multiple occasions that it was calling
16 the wrong number.

17 23. Accordingly, Defendant knew that it was calling the wrong number
18 because Plaintiff informed it directly.

19 24. One or more of Defendant’s employees assured Plaintiff that she would
20 be removed from their list, but the calls persisted.

21 25. Despite knowing it was calling the wrong person, Defendant continued
22 placing calls to Plaintiff’s cellular telephone number.

23 26. Plaintiff is not, nor was, Defendant’s customer.

24 27. Plaintiff does not, nor did, have any business relationship with
25 Defendant.

26 28. Plaintiff does not, nor did, have any account with Defendant.

27 29. Plaintiff does not owe any money to Defendant.

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TCPA Class: All persons and entities throughout the United States (1) to whom Defendant placed, or caused to be placed, at least one call (2) directed to a number assigned to a residential or cellular telephone service, by (3) using an artificial or prerecorded voice, (4) during the four years prior to the filing of this lawsuit through and including the date of class certification, (5) where the called party did not have an account or debt with and/or serviced by Defendant and/or after having notified Defendant that it was calling the wrong party.

FDCPA Class: All persons and entities throughout the United States (1) to whom Defendant placed, or caused to be placed, calls, (2) during the four years prior to the filing of this lawsuit through and including the date of class certification, (3) and in connection with the collection of a consumer debt, (4) after Defendant was informed that it was calling the wrong person.

42. Plaintiff reserves the right to modify the Class definitions as warranted as facts are learned in further investigation and discovery.

43. Defendant and its employees or agents are excluded from the Class. Plaintiff does not know the number of members in the Class but believes the Class members number in the several thousands, if not more.

NUMEROSITY

44. Upon information and belief, Defendant has placed prerecorded calls to telephone numbers belonging to thousands of consumers throughout the United States without consent. The members of the Class, therefore, are believed to be so numerous that joinder of all members is impracticable.

45. The exact number and identities of the members of the Class are unknown at this time and can only be ascertained through discovery. Identification of the Class members is a matter capable of ministerial determination from Defendant’s call records.

COMMON QUESTIONS OF LAW AND FACT

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2 46. There are numerous questions of law and fact common to members of
3 the Class which predominate over any questions affecting only individual members
4 of the Class. Among the questions of law and fact common to the members of the
5 Class are:

- 6 a) Whether Defendant made non-emergency calls to Plaintiff’s and
7 Class members’ telephones using prerecorded messages;
- 8 b) Whether Defendant violated the FDCPA through harassing and
9 oppressive debt collection tactics;
- 10 c) Whether Defendant made non-emergency calls to wrong or
11 reassigned telephone numbers;
- 12 d) Whether Defendant continued to call consumers after being
13 informed that it was calling the wrong party;
- 14 e) Whether Defendant can meet its burden of showing that it obtained
15 prior express consent to make such calls;
- 16 f) Whether Defendant’s conduct was knowing and willful;
- 17 g) Whether Defendant is liable for damages, and the amount of such
18 damages; and
- 19 h) Whether Defendant should be enjoined from such conduct in the
20 future.

21 47. The common questions in this case are capable of having common
22 answers.

TYPICALITY

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24 48. Plaintiff’s claims are typical of the claims of the Class members, as
25 they are all based on the same factual and legal theories.

PROTECTING THE INTERESTS OF THE CLASS MEMBERS

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27 49. Plaintiff is a representative who will fully and adequately assert and
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1 protect the interests of the Class, and has retained competent counsel. Accordingly,
2 Plaintiff is an adequate representative and will fairly and adequately protect the
3 interests of the Class.

4 **PROCEEDING VIA CLASS ACTION IS SUPERIOR AND ADVISABLE**

5 50. A class action is superior to all other available methods for the fair and
6 efficient adjudication of this lawsuit, because individual litigation of the claims of
7 all members of the Class is economically unfeasible and procedurally impracticable.
8 While the aggregate damages sustained by the Class are in the millions of dollars,
9 the individual damages incurred by each member of the Class resulting from
10 Defendant’s wrongful conduct are too small to warrant the expense of individual
11 lawsuits. The likelihood of individual Class members prosecuting their own separate
12 claims is remote, and, even if every member of the Class could afford individual
13 litigation, the court system would be unduly burdened by individual litigation of
14 such cases.

15 51. The prosecution of separate actions by members of the Class would
16 create a risk of establishing inconsistent rulings and/or incompatible standards of
17 conduct for Defendant. For example, one court might enjoin Defendant from
18 performing the challenged acts, whereas another may not. Additionally, individual
19 actions may be dispositive of the interests of the Class, although certain class
20 members are not parties to such actions.

21 **COUNT I**
22 **Violations of the TCPA, 47 U.S.C. § 227(b)**
23 **(On Behalf of Plaintiff and the TCPA Class)**

24 52. Plaintiff re-alleges and incorporates the foregoing allegations as if fully
25 set forth herein.

26 53. It is a violation of the TCPA to make “any call (other than a call made
27 for emergency purposes or made with the prior express consent of the called party)

1 using any ... using any automatic telephone dialing system or an artificial or
2 prerecorded voice ... to any telephone number assigned to a ... cellular telephone
3 service” 47 U.S.C. § 227(b)(1)(A)(iii).

4 54. It is also a violation of the TCPA to “initiate any telephone call to any
5 residential telephone line using an artificial or prerecorded voice to deliver a
6 message without the prior express consent of the called party....” 47 U.S.C. §
7 227(b)(1)(B).

8 55. Defendant – or third parties directed by Defendant – transmitted calls
9 using an artificial or prerecorded voice to the telephone numbers of Plaintiff and
10 members of the putative class.

11 56. Defendant did not have prior express consent to call the telephones of
12 Plaintiff and the other members of the putative Class when its calls were made.

13 57. Defendant was informed by Plaintiff and the Class members that it was
14 contacting the wrong party, but Defendant nevertheless persisted in its calls.

15 58. Defendant has, therefore, violated § 227(b)(1) of the TCPA by using an
16 artificial or prerecorded voice to make non-emergency telephone calls to the
17 telephones of Plaintiff and the other members of the putative Class without their
18 prior express consent.

19 59. The violations were willful or knowing because Defendant knew that it
20 did not have prior express consent to make these calls.

21 60. As a result of Defendant’s conduct and pursuant to § 227(b)(3) of the
22 TCPA, Plaintiff and the other members of the putative Class were harmed and are
23 each entitled to a minimum of \$500.00 in damages for each violation. Plaintiff and
24 the members of the Class are also entitled to an injunction against future calls. *Id.*

25 61. Because Defendant knew or should have known that Plaintiff and the
26 other members of the putative Class had revoked any express consent to receive its
27 messages to their telephones the Court should treble the amount of statutory damages

1 available to Plaintiff and the other members of the putative Class pursuant to §
2 227(b)(3) of the TCPA.

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4 **COUNT II**
5 **Violations of the TCPA, 47 U.S.C. § 227(b)**
6 **(On Behalf of Plaintiff and the FDCPA Class)**

7 62. Plaintiff repeats and re-alleges each and every factual allegation
8 contained in paragraphs 1-51.

9 63. Defendant violated 15 U.S.C. § 1692d by engaging in conduct the
10 natural consequence of which is to harass, oppress, or abuse Plaintiff in connection
11 with the collection of consumer debts.

12 64. Defendant violated 15 U.S.C. § 1692d(5) by causing Plaintiff's and the
13 Class members' telephones to ring repeatedly or continuously, with intent to annoy,
14 abuse, or harass them at the called numbers.

15 65. Defendant was informed by Plaintiff and the Class members that it was
16 contacting the wrong party. Defendant nevertheless persisted in its harassing and
17 abusing calls.

18 66. Defendant did so by repeatedly dialing Plaintiff's telephone number
19 after being made aware it was calling the wrong person.

20 **PRAYER FOR RELIEF**

21 **WHEREFORE**, Plaintiff, individually and on behalf of the Classes, prays
22 for the following relief:

- 23 a) An order certifying this case as a class action on behalf of the Class as
24 defined above, and appointing Plaintiff as the representative of the
25 Class and Plaintiff's counsel as Class Counsel;
- 26 b) An award of statutory damages for Plaintiff and each member of the
27 Classes;
- 28 c) As a result of Defendant's negligent violations of 47 U.S.C. §§ 227, *et*

