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8 UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 NICHOLAS KALAIR, individually and on
11 behalf of all others similarly situated,

12 *Plaintiff,*

13 *v.*

14 HIPPO ENTERPRISES, INC., a Delaware
15 corporation,

16 *Defendant.*

Case No.

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

17 **CLASS ACTION COMPLAINT**

18 Plaintiff Nicholas Kalair (“Plaintiff Kalair” or “Kalair”) brings this Class Action
19 Complaint and Demand for Jury Trial against Defendant Hippo Enterprises, Inc. (“Defendant” or
20 “Hippo Insurance”) to stop the Defendant from violating the Telephone Consumer Protection
21 Act by making pre-recorded telemarketing calls to cellular telephone numbers without consent.
22 Plaintiff also seeks injunctive and monetary relief for all persons injured by Defendant’s conduct.
23 Plaintiff Kalair, for this Complaint, alleges as follows upon personal knowledge as to himself
24 and his own acts and experiences, and, as to all other matters, upon information and belief,
25 including investigation conducted by his attorneys.

26 **PARTIES**

27 1. Plaintiff Nicholas Kalair is a resident of Las Vegas, Nevada.
28

1 2. Defendant Hippo Insurance is a Delaware registered corporation headquartered in
2 Palo Alto, California. Defendant Hippo Insurance conducts business throughout this District and
3 the U.S.

4 **JURISDICTION AND VENUE**

5 3. This Court has federal question subject matter jurisdiction over this action under
6 28 U.S.C. § 1331, as the action arises under the Telephone Consumer Protection Act, 47 U.S.C.
7 §227 (“TCPA”).

8 4. This Court has personal jurisdiction over the Defendant and venue is appropriate
9 because the Defendant has its headquarters in this District and because the wrongful conduct
10 giving rise to this case was directed from this District by the Defendant to the Plaintiff.

11 **INTRODUCTION**

12 5. As the Supreme Court explained at the end of its last term, “Americans
13 passionately disagree about many things. But they are largely united in their disdain for
14 robocalls. The Federal Government receives a staggering number of complaints about
15 robocalls—3.7 million complaints in 2019 alone. The States likewise field a constant barrage of
16 complaints. For nearly 30 years, the people’s representatives in Congress have been fighting
17 back.” *Barr v. Am. Ass'n of Political Consultants*, No. 19-631, 2020 U.S. LEXIS 3544, at *5
18 (U.S. July 6, 2020).

19 6. When Congress enacted the TCPA in 1991, it found that telemarketers called
20 more than 18 million Americans every day. 105 Stat. 2394 at § 2(3).

21 7. By 2003, due to more powerful robocalling technology, telemarketers were
22 calling 104 million Americans every day. *In re Rules and Regulations Implementing the TCPA of*
23 *1991*, 18 FCC Rcd. 14014, ¶¶ 2, 8 (2003).

24 8. The problems Congress identified when it enacted the TCPA have only grown
25 exponentially in recent years.

1 9. Industry data shows that the number of robocalls made each month increased
2 from 831 million in September 2015 to 4.7 billion in December 2018—a 466% increase in three
3 years.

4 10. According to online robocall tracking service “YouMail,” 4.4 billion robocalls
5 were placed in April 2021 alone, at a rate of 147.6 million per day. www.robocallindex.com (last
6 visited May 31, 2021).

7 11. The FCC also has received an increasing number of complaints about unwanted
8 calls. FCC, Consumer Complaint Data Center, www.fcc.gov/consumer-help-center-data.

9 12. “Robocalls and telemarketing calls are currently the number one source of
10 consumer complaints at the FCC.” Tom Wheeler, *Cutting off Robocalls* (July 22, 2016),
11 statement of FCC chairman.¹

12 13. “The FTC receives more complains about unwanted calls than all other
13 complaints combined.” Staff of the Federal Trade Commission’s Bureau of Consumer
14 Protection, *In re Rules and Regulations Implementing the Telephone Consumer Protection Act of*
15 *1991*, Notice of Proposed Rulemaking, CG Docket No. 02-278, at 2 (2016).²

16 **COMMON ALLEGATIONS**

17 14. Hippo Enterprises, Inc. operates using the d/b/a Hippo Insurance.³

18 15. Defendant Hippo Insurance sells home insurance products throughout the U.S.⁴

19 16. Defendant Hippo Insurance uses telemarketing to solicit potential customers for
20 its home insurance products.

21 17. Defendant Hippo Insurance calls consumers with a pre-recorded voice message
22 without first obtaining the consumer’s prior express written consent.

23 _____
24 ¹ <https://www.fcc.gov/news-events/blog/2016/07/22/cutting-robocalls>

25 ² [https://www.ftc.gov/system/files/documents/advocacy_documents/comment-staff-ftc-bureau-
26 consumer-protection-federal-communications-commission-rules-
27 regulations/160616robocallscomment.pdf](https://www.ftc.gov/system/files/documents/advocacy_documents/comment-staff-ftc-bureau-consumer-protection-federal-communications-commission-rules-regulations/160616robocallscomment.pdf)

28 ³ [https://s3-us-west-2.amazonaws.com/hippo-document-prod/legal+/HIPPO-
29 PrivacyStatement.pdf](https://s3-us-west-2.amazonaws.com/hippo-document-prod/legal+/HIPPO-PrivacyStatement.pdf)

⁴ <https://www.linkedin.com/company/hippo-insurance/about/>

1 18. In job postings for a sales manager, Hippo Insurance specifically lists cold calling
2 experience as a job requirement:

3 **Requirements**

- 4
- Bachelor's degree or equivalent work experience.
 - 2+ years' experience marketing P&C personal experience in designated state including
 - 5 marketing to Independent Agents.
 - Experience required in marketing to homeowners and/or personal auto and marketing in
 - 6 commercial lines is a plus.
 - Must demonstrate ability to problem solve and negotiate with special emphasis on
 - 7 closing the sale.
 - Experience with cold calling or cold emailing.
 - Experience selling and marketing to large territories P&C personal lines and
 - 8 Commercial products including homeowners, and personal auto is a plus ⁵

9

10 19. In response to these calls, Plaintiff Kalair files this lawsuit seeking injunctive
11 relief requiring the Defendant to cease from violating the Telephone Consumer Protection Act,
12 as well as an award of statutory damages to the members of the Class and costs.

13 **PLAINTIFF KALAIR'S ALLEGATIONS**

14 20. On July 27, 2020, Plaintiff Kalair received an unsolicited phone call to his cell
15 phone from phone number 702-208-9081 by the Defendant.

16 21. Plaintiff did not answer this call but a pre-recorded voice message was left on his
17 answering machine which describes that the caller is Hippo Insurance.

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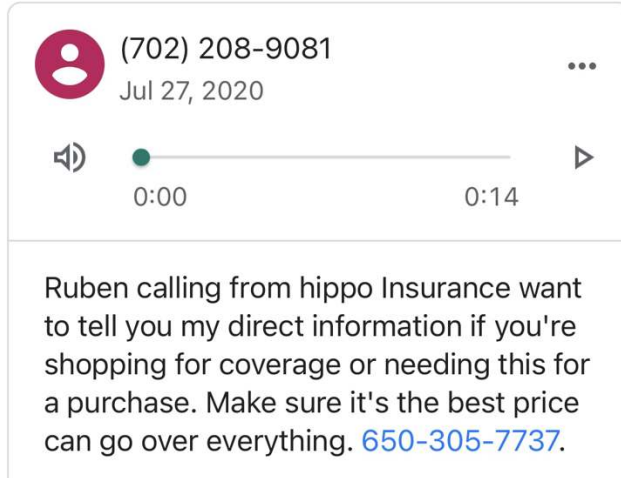
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⁵ <https://www.startwire.com/jobs/remote/sales-manager-agency-recruitment-2865171203?source=seo>

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22. Plaintiff believes the voicemail was pre-recorded because of its generic message and because the recording only begins to play after 4-seconds of silence.

23. When 702-208-9081 is dialed, an automated system thanks the caller for calling Hippo and provides the phone number 877-838-8866 to reach an employee immediately.

24. If the phone number 650-305-7737 is called, the number mentioned in the prerecorded voicemail that the Plaintiff received, this phone number leads to the same automated system that can be reached when calling 702-208-9081.

25. The 877-838-8866 phone number is listed as the sales phone number on the Hippo Insurance website:

hippo About Learning Center Contact Us Claims My Account

What's your home address? **Quote in 60 sec**

Sales

sales@hippo.com

Talk to one of our licensed agents about the right coverage for you.

(877) 838-8866

We are here 7 days a week, 7 a.m. to 11 p.m. CT. 6

26. 650-305-7737 is also listed as the business phone number for Ruben Deluna, a Hippo Insurance employee:

Name:
DELUNA, RUBEN

Address:
101 W 6TH ST FL 5 AUSTIN, TX 78701-2942

Business Phone:
(650) 305-7737

Internet:

Email:
Rdeluna@Myhippo.Com

27. Plaintiff did not provide his consent to Hippo Insurance to place pre-recorded calls to his cell phone number.

28. The unauthorized solicitation telephone call that Plaintiff received from Defendant, as alleged herein, has harmed Plaintiff Kalair in the form of annoyance, nuisance, and invasion of privacy, and disturbed the use and enjoyment of his phone, in addition to the wear

⁶ <https://www.hippo.com/contact-us>

⁷ <https://secure.utah.gov/agent-search/agentDetails.html?agent=veBrWw5epo>

1 and tear on the phone's hardware (including the phone's battery) and the consumption of
2 memory on the phone.

3 29. Seeking redress for these injuries, Plaintiff Kalair, on behalf of himself and a
4 Class of similarly situated individuals, brings suit under the TCPA.

5 **CLASS ALLEGATIONS**

6 30. Plaintiff Kalair brings this action pursuant to Federal Rules of Civil Procedure
7 23(b)(2) and 23(b)(3) and seeks certification of the following Class:

8 **Pre-recorded No Consent Class:** All persons in the United States who from four years
9 prior to the filing of this action through trial (1) Defendant (or an agent on Defendant's
10 behalf) called on their cellular telephone number (2) using a pre-recorded voice message,
11 and (3) for whom the Defendant claims it obtained consent to call the person or the
person's number in the same manner as Defendant claims it supposedly obtained consent
to call Plaintiff or Plaintiff's number.

12 31. The following individuals are excluded from the Class: (1) any Judge or
13 Magistrate presiding over this action and members of their families; (2) Defendant, its
14 subsidiaries, parents, successors, predecessors, and any entity in which either Defendant or its
15 parents have a controlling interest and their current or former employees, officers and directors;
16 (3) Plaintiff's attorneys; (4) persons who properly execute and file a timely request for exclusion
17 from the Class; (5) the legal representatives, successors or assigns of any such excluded persons;
18 and (6) persons whose claims against the Defendant have been fully and finally adjudicated
19 and/or released. Plaintiff Kalair anticipates the need to amend the Class definitions following
20 appropriate discovery.

21 32. **Numerosity and Typicality:** On information and belief, there are hundreds, if not
22 thousands of members of the Class such that joinder of all members is impracticable, and
23 Plaintiff is a member of the Class because he received calls as part of the same telemarketing
24 campaign resulting in calls to other Class members.

25 33. **Commonality and Predominance:** There are many questions of law and fact
26 common to the claims of the Plaintiff and the Class, and those questions predominate over any
27

1 questions that may affect individual members of the Class. Common questions for the Class
2 include, but are not necessarily limited to the following:

- 3 (a) whether the Defendant placed pre-recorded voice message calls to Plaintiff Kalair
4 and members of the Pre-recorded No Consent Class;
- 5 (b) whether the calls were made without first obtaining prior express written consent
6 of Plaintiff Kalair and members of the Pre-recorded No Consent Class;
- 7 (c) whether Defendant's conduct constitutes a violation of the TCPA; and
- 8 (d) whether members of the Class are entitled to treble damages based on the
9 willfulness of Defendant's conduct.

10 34. **Adequate Representation:** Plaintiff Kalair will fairly and adequately represent
11 and protect the interests of the Class and has retained counsel competent and experienced in class
12 actions. Plaintiff Kalair has no interests antagonistic to those of the Class, and Defendant has no
13 defenses unique to Plaintiff. Plaintiff Kalair and his counsel are committed to vigorously
14 prosecuting this action on behalf of the members of the Class, and have the financial resources to
15 do so. Neither Plaintiff Kalair nor his counsel have any interest adverse to the Class.

16 35. **Appropriateness:** This class action is also appropriate for certification because
17 Defendant acted or refused to act on grounds generally applicable to the Class and as a whole,
18 thereby requiring the Court's imposition of uniform relief to ensure compatible standards of
19 conduct toward the members of the Class and making final class-wide injunctive relief
20 appropriate. Defendant's business practices apply to and affect the members of the Class
21 uniformly, and Plaintiff's challenge of those practices hinges on Defendant's conduct with
22 respect to the Class as wholes, not on facts or law applicable only to Plaintiff Kalair.
23 Additionally, the damages suffered by individual members of the Class will likely be small
24 relative to the burden and expense of individual prosecution of the complex litigation
25 necessitated by Defendant's actions. Thus, it would be virtually impossible for the members of
26 the Class to obtain effective relief from Defendant's misconduct on an individual basis. A class

1 action provides the benefits of single adjudication, economies of scale, and comprehensive
2 supervision by a single court.

3 **FIRST CLAIM FOR RELIEF**
4 **Telephone Consumer Protection Act**
5 **(Violation of 47 U.S.C. § 227)**

6 **(On Behalf of Plaintiff Kalair and the Pre-recorded No Consent Class)**

7 36. Plaintiff repeats and realleges the prior paragraphs of this Complaint and
8 incorporates them by reference herein.

9 37. Defendant Hippo Insurance transmitted unwanted solicitation telephone calls to
10 Plaintiff Kalair and the other members of the Pre-recorded No Consent Class using a pre-
11 recorded voice message.

12 38. These pre-recorded voice calls were made *en masse* without the prior express
13 written consent of the Plaintiff Kalair and the other members of the Pre-recorded No Consent
14 Class.

15 39. Defendant has, therefore, violated 47 U.S.C. § 227(b)(1)(A)(iii). As a result of
16 Defendant's conduct, Plaintiff Kalair and the other members of the Pre-recorded No Consent
17 Class are each entitled to a minimum of \$500 in damages, and up to \$1,500 in damages, for each
18 violation, as well as injunctive relief.

19 **PRAYER FOR RELIEF**

20 **WHEREFORE**, Plaintiff Kalair individually and on behalf of the Class, prays for the
21 following relief:

- 22 a. An order certifying this case as a class action on behalf of the Class as defined
23 above; appointing Plaintiff Kalair as the representative of the Class; and appointing
24 his attorneys as Class Counsel;
- 25 b. An award of actual and/or statutory damages and costs;
- 26 c. An order declaring that Defendant's actions, as set out above, violate the TCPA;
- 27 d. An injunction requiring the Defendant to cease all unsolicited calling activity, and
28 to otherwise protect the interests of the Class; and

1 e. Such further and other relief as the Court deems just and proper.

2 **JURY DEMAND**

3 Plaintiff Kalair requests a jury trial.

4 **NICHOLAS KALAIR**, individually and on behalf
5 of all others similarly situated,

6 DATED this 4th day of June, 2021.

7 By: /s/ Rachel E. Kaufman

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