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11 **UNITED STATES DISTRICT COURT**  
 12 **CENTRAL DISTRICT OF CALIFORNIA**

13 DREW MOORE, individually and on 14 behalf of all others similarly situated, 15 Plaintiff, 16 vs. 17 STEEL SUPPLEMENTS, INC., and 18 DOES 1 through 10, inclusive, and each 19 of them, 20 Defendants.	) 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(b)] ) 2. WILLFUL VIOLATIONS ) OF THE TELEPHONE ) CONSUMER PROTECTION ) ACT [47 U.S.C. §227(b)] ) ) <b><u>DEMAND FOR JURY TRIAL</u></b> )
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 23 Plaintiff DREW MOORE (“Plaintiff”), individually and on behalf of all  
 24 others similarly situated, alleges the following upon information and belief based  
 25 upon personal knowledge:  
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1 **NATURE OF THE CASE**

2 1. Plaintiff brings this action individually and on behalf of all others  
3 similarly situated seeking damages and any other available legal or equitable  
4 remedies resulting from the illegal actions of Defendant, in negligently, knowingly,  
5 and/or willfully contacting Plaintiff on Plaintiff’s cellular telephone in violation of  
6 the Telephone Consumer Protection Act, *47 U.S.C. § 227, et seq.* (“TCPA”).

7 **JURISDICTION & VENUE**

8 2. Jurisdiction is proper under *28 U.S.C. § 1331* because Plaintiff’s  
9 claims arise under a law of the United States, the TCPA.

10 3. Venue is proper in the United States District Court for the Central  
11 District of California pursuant to *28 U.S.C. § 1391(b)* because Defendant resides  
12 within this District and a substantial part of the events or omissions giving rise to  
13 Plaintiff’s claims occurred within this District.

14 **PARTIES**

15 4. Plaintiff, DREW MOORE (“Plaintiff”), is a natural person residing in  
16 Los Angeles County, California, and is a “person” as defined by *47 U.S.C. § 153*  
17 *(39)*.

18 5. Defendant, STEEL SUPPLEMENTS, INC. (“Defendant”), is a  
19 nutritional supplement company, and is a “person” as defined by *47 U.S.C. § 153*  
20 *(39)*.

21 6. The above-named Defendant, and its subsidiaries and agents, are  
22 collectively referred to as “Defendants.” The true names and capacities of the  
23 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are  
24 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious  
25 names. Each of the Defendants designated herein as a DOE is legally responsible  
26 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the  
27 Complaint to reflect the true names and capacities of the DOE Defendants when  
28 such identities become known.

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

7 **FACTUAL ALLEGATIONS**

8 8. Beginning on or about February 9, 2020, Plaintiff received a text  
9 message from Defendant on Plaintiff's cellular telephone number ending in -3148,  
10 in an attempt to solicit Plaintiff to purchase Defendant's products.

11 9. During this time, Defendant began to use Plaintiff's cellular telephone  
12 for the purpose of sending Plaintiff spam advertisements and/or promotional offers,  
13 via text messages, including a text message sent to and received by Plaintiff on or  
14 about February 9, 2020 from Defendant.

15 10. On or about February 9, 2020, Plaintiff received a text from Defendant  
16 that read: "Steel Supplements: Welcome! Msg & data rates may apply. Msg  
17 frequency is recurring. Reply HELP for help, STOP to cancel."

18 11. This text message placed to Plaintiff's cellular telephone was placed  
19 via Defendant's *SMS Blasting Platform*, i.e., an "automatic telephone dialing  
20 system," ("ATDS") as defined by 47 U.S.C. § 227(a)(1) as prohibited by 47 U.S.C.  
21 § 227(b)(1)(A).

22 12. The telephone number that Defendant, or its agent, called was  
23 assigned to a cellular telephone service for which Plaintiff incurs a charge for  
24 incoming calls pursuant to 47 U.S.C. § 227(b)(1).

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

27 14. Plaintiff is not a customer of Defendant's services and has never  
28 provided any personal information, including his cellular telephone number, to

1 Defendant for any purpose whatsoever.

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

5 16. Plaintiff alleges upon information and belief, including without  
6 limitation his experiences as recounted herein, especially his experience of  
7 receiving Defendant's text message despite Defendant's lack of express consent to  
8 call him, that Defendant lacks reasonable policies and procedures to avoid the  
9 violations of the Telephone Consumer Protection act herein described.

10 **CLASS ALLEGATIONS**

11 17. Plaintiff brings this action individually and on behalf of all others  
12 similarly situated, as a member the classes (hereafter "The Class") defined as  
13 follows:

14 All persons within the United States who received any  
15 solicitation/telemarketing calls from Defendant to said  
16 person's cellular telephone made through the use of any  
17 automatic telephone dialing system or an artificial or  
18 prerecorded voice and such person had not previously  
19 consented to receiving such calls, or who had revoked  
20 such consent, within the four years prior to the filing of  
this Complaint through the date of class certification.

21 18. Plaintiff represents, and is a member of, The Class, consisting of all  
22 persons within the United States who received any solicitation/telemarketing calls  
23 from Defendant to said person's cellular telephone made through the use of any  
24 automatic telephone dialing system or an artificial or prerecorded voice and such  
25 person had not previously consented to receiving such calls, or who had revoked  
26 such consent, within the four years prior to the filing of this Complaint through the  
27 date of class certification.

28 19. Defendant, its employees and agents are excluded from The Class.

1 Plaintiff does not know the number of members in The Class, but believes the Class  
2 members number in the thousands, if not more. Thus, this matter should be  
3 certified as a Class Action to assist in the expeditious litigation of the matter.

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

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

17 22. Common questions of fact and law exist as to all members of The  
18 Class which predominate over any questions affecting only individual members of  
19 The Class. These common legal and factual questions, which do not vary between  
20 Class members, and which may be determined without reference to the individual  
21 circumstances of any Class members, include, 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 Class member  
26 using any automatic telephone dialing system or an artificial or  
27 prerecorded voice to any telephone number assigned to a  
28 cellular telephone service;

- 1           b. Whether Plaintiff and the 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           23. As a person that received telemarketing/solicitation calls from  
6 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 Class.

9           24. Plaintiff will fairly and adequately protect the interests of the members  
10 of The Class. Plaintiff has retained attorneys experienced in the prosecution of  
11 class actions.

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

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

28           27. Defendant has acted or refused to act in respects generally applicable

1 to The Class, thereby making appropriate final and injunctive relief with regard to  
2 the members of the Class as a whole.

3 **FIRST CAUSE OF ACTION**

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

5 **47 U.S.C. § 227(b)**

6 28. Plaintiff repeats and incorporates by reference into this cause of action  
7 the allegations set forth above at Paragraphs 1-27.

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

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

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

17 **SECOND CAUSE OF ACTION**

18 **Knowing and/or Willful Violations of the**

19 **Telephone Consumer Protection Act**

20 **47 U.S.C. § 227(b)**

21 32. Plaintiff repeats and incorporates by reference into this cause of action  
22 the allegations set forth above at Paragraphs 1-27.

23 33. The foregoing acts and omissions of Defendant constitute numerous  
24 and multiple knowing and/or willful violations of the TCPA, including but not  
25 limited to each and every one of the above cited provisions of *47 U.S.C. § 227(b)*,  
26 and in particular *47 U.S.C. § 227(b)(1)(A)*.

27 34. As a result of Defendant's knowing and/or willful violations of *47*  
28 *U.S.C. § 227(b)*, Plaintiff and the Class members are entitled an award of \$1,500.00

1 in statutory damages, for each and every violation, pursuant to 47 U.S.C. §  
2 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

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

5 **PRAYER FOR RELIEF**

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

7 **FIRST CAUSE OF ACTION**

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

9 **47 U.S.C. § 227(b)**

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

15 **SECOND CAUSE OF ACTION**

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

18 **47 U.S.C. § 227(b)**

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

25 36. Pursuant to the Seventh Amendment to the Constitution of the United  
26 States of America, Plaintiff is entitled to, and demands, a trial by jury.

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1 Respectfully Submitted this 28th Day of December, 2020.

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

3 By: /s/ Todd M. Friedman  
4 Todd M. Friedman  
5 Law Offices of Todd M. Friedman  
6 Attorney for Plaintiff  
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