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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

FARBOD HADIZADEH MOGHADAM,

Plaintiff,

v.

ALLEVIATE TAX LLC,

Defendant.

Civil Action No. 2:23-cv-22495
(DJ-CCC)(MJ-LDW)

**AMENDED COMPLAINT AND JURY
DEMAND**

INTRODUCTION

1. I, pro se Plaintiff Farbod Hadizadeh Moghadam, bring this action against Defendant, Alleviate Tax LLC (“Alleviate”), for violations of the Telephone Consumer Protection Act (“TCPA”).

2. Alleviate violated TCPA laws by making both telephone solicitation and unsolicited advertisement calls, voice messages, and texts to my personal cell phone, duly registered on the National Do-Not-Call Registry (“NDNCR”).

3. Alleviate also violated TCPA laws by using an Automatic Telephone Dialing System (“ATDS”) to call my personal number.

4. I seek statutory damages and injunctive relief for Alleviate’s violation of TCPA, and in doing so violating my consumer rights.

JURISDICTION AND VENUE

5. This Court has federal question subject matter jurisdiction pursuant to 28 U.S.C. §1331, where this action arises from the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227.

6. Venue is proper in the New Jersey District pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

7. I, pro se Plaintiff, am a student and a resident of Essex County, New Jersey.

8. Alleviate, is a limited-liability company organized and existing under the laws of California, and has a principal place of business at 2600 Michelson Drive, Suite 700, Irvine, California 92612.

APPLICABLE LAW

A. TCPA- Do-Not-Call Violations

9. Congress enacted the TCPA in part to "protect residential telephone subscribers' privacy rights to avoid receiving telephone solicitations to which they object." 47 U.S.C. § 227(c)(1).

10. Under this statute, Congress authorized the Federal Trade Commission ("FCC") to promulgate regulations to further this purpose. *Id.* § 227(c)(3).

11. And to add teeth to those regulations, Congress granted a private right of action to anyone who received more than one telephone call in a twelve-month period by the same entity in violation of a regulation. *Id.* § 227(c)(5).

12. In implementing regulation, 47 C.F.R. 64.1200(c), provides that "[no] person or entity shall initiate any telephone solicitation [to] a residential telephone subscriber who has registered her or her telephone number on the [NDNC list]."

13. The relevant regulations define a residential subscriber as "a subscriber to telephone exchange service that is not a business subscriber." 47 C.F.R. § 64.2305.

14. It is undisputed that text messages also constitute "calls" under the TCPA. *See Campbell-Ewald Co. v. Gomez*, 136 S. Ct. 663, 667 (2016).

B. TCPA- Use of Automatic Telephone Dialing System.

15. The TCPA states that it is unlawful . . . to initiate any telephone using an ATDS. 47 U.S.C. § 227(b)(1)(A).

16. The FCC is the agency that is authorized to issue regulations implementing the TCPA. See 47 U.S.C. § 227(b)(2).

17. The FCC requires that a telephone call to a residential line using an ATDS be preceded by “prior express written consent” if the telephone call “include[s] or introduce[s] an advertisement or constitute[s] telemarketing.” 47 C.F.R. § 64.1200(a)(3)(iii).

18. The TCPA and the FCC define “unsolicited advertisement” as “any material 2 advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person’s prior express invitation or permission, in writing or otherwise.” 47 U.S.C. § 227(a)(5), 47 C.F.R. § 64.1200(f)(16).

19. The FCC defines “telemarketing” as “the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person.” 47 C.F.R. § 64.1200(f)(13).

C. TCPA- Statutory Damages

20. Persons to whose telephone line was called and in violation of 47 U.S.C. § 227(b) and 227(c) may bring an action to enjoin such violations and to recover, for each violation, the greater of the monetary loss caused by the violation or \$500. See 47 U.S.C. § 227(b)(3) and 47 U.S.C. § 227(c)(5).

21. If the court finds that a defendant willfully or knowingly violated § 227(b)(1) and (c)(1), the court may increase the award by up to an additional \$1,000 per violation. *Id.*

STATEMENT OF CLAIM

A. TCPA- Do-Not-Call Violations

22. My personal phone number has been registered on the NDNCR, since February 20, 2020.

23. Alleviate is a for-profit corporation that renders, *inter alia*, debt consolidation services targeting individuals encumbered with debts owed to the Internal Revenue Service (“IRS”).

24. On July 15, 2023, Alleviate initiated contact by calling my personal phone number for the first time (“Alleviate’s First Call”), while I was interning in New Jersey for the summer.

25. The phone call disrupted my work environment, prompting me to step outside the designated work area to answer.

26. During Alleviate’s First Call, a representative named Josh introduced themselves and asked me several tax-related questions, which I answered.

27. Subsequently, Josh mentioned that Alleviate might assist with my debt. I conveyed my inability to continue the conversation and ended the call.

28. Alleviate’s First Call was a telemarketing call.

29. Before Alleviate's First Call, I had no prior knowledge of Alleviate, nor did I make any inquiries about tax services on any platform. No business relationship existed, either before or after Alleviate's First Call.

30. On August 17, 2023, John Tran ("Mr. Tran") from Alleviate contacted my personal phone number, again presenting their tax debt consolidation services and how they can "help" me resolve my debt.

31. Between August 17, 2023, and October 16, 2023, Alleviate made eight, or more¹, unanswered calls and left three voice messages.

32. During the period from August 17, 2023, to September 11, 2023, Mr. Tran also sent nine telephone solicitation text messages to my personal phone number, attempting to solicit me to use their debt services.

33. The texts included Mr. Tran's Alleviate Tax profile, attempts to initiate conversations, and requests to schedule a phone call. No opt-in or opt-out text messages were provided.

34. Mr. Tran's first text stated: "Hey Farbod, it's John from Alleviate Tax. Let me know if you got this message. Also, here's my digital business card: https://solo.to/johnt_alleviatetax."

35. In total, my personal phone number received eight or more telemarketing phone calls and nine text messages from Alleviate.

36. In all of Alleviate's calls, they never sought my preference to cease contact, nor did they request my consent.

¹ Discovery can potentially show more calls were made.

37. Alleviate's "Do Not Call Policy and Procedure" ("Company Policy") instructs their telemarketers to adhere to the NDNCR and update the list every three months.

38. Alleviate is familiar with TCPA laws and has a history of persistently calling despite legal action.

39. Alleviate willfully or knowingly violated the TCPA by making repeated calls and texts to my phone number registered on the NDNCR.

B. TCPA- ATDS Violations

40. On the two occasions when I answered calls from Alleviate, a distinct bubble-popping sound and prolonged silence indicated the use of an ATDS.

41. Alleviate, a California for-profit corporation, operates by calling residential phone numbers *en masse* and generates a large portion of their revenue through telemarketing.

42. The only way Alleviate is capable of facilitating its telemarketing operation is through the use of an ADTS.

43. When I sought clarification via email on how Alleviate dialed or called my number, Alleviate declined to provide an answer.

44. Alleviate's first call to my personal cell phone is randomly generated.

45. All of Alleviate's calls and texts violated my privacy rights.

46. Alleviate willfully or knowingly violated the TCPA by making repeated calls to my phone number, while using an ATDS. .

CAUSE OF ACTION

47. I repeat and reallege, and incorporate herein, each and every allegation contained in paragraphs “1” through “46” inclusive of this Complaint as if fully set forth herein.

48. The placement of the Alleviate calls violated 47 U.S.C. § 227(c) and 227(b) .

49. I am entitled to an Order, pursuant to 47 U.S.C. § 227(c)(5)(A), enjoining Alleviate from violating 47 U.S.C. § 227.

50. I am entitled to statutory damages of \$500 per violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 277 (c)(5)(B).

51. I am entitled to damages for Alleviate willfully or knowingly violating 47 U.S.C. § 227(c)(1) and 227(b)(1),

52. I am entitled up to an additional \$1,000 per violation pursuant to 47 U.S.C. § 227(b)(3)(C) and 277(c)(5)(C).

RELIEF

WHEREFORE, I, pro se Plaintiff, demand judgment against Defendant, Alleviate, for the following:

(a) Pursuant to 47 U.S.C. § 227(c)(5)(A), an order enjoining Defendant from violating 47 U.S.C. § 227(c)(1);

(b) Pursuant to 47 U.S.C. § 227(c)(5)(B), statutory damages of \$500 per violation of 47 U.S.C. § 227(c)(1) for Plaintiff;

(c) Pursuant to 47 U.S.C. § 227(c)(5)(C), up to \$1,000 of statutory damages for Plaintiff, in addition to the statutory damages prayed for in the preceding paragraph, if the Court finds that Defendant knowingly or willfully violated 47 U.S.C. § 227(c)(1);

(d) Pursuant to 47 U.S.C. § 227(b)(3)(A), an order enjoining Defendant from violating 47 U.S.C. § 227(b)(1);

(e) Pursuant to 47 U.S.C. § 227(b)(3)(B), statutory damages of \$500 per violation of 47 U.S.C. § 227(b)(1) for Plaintiff;

(f) Pursuant to 47 U.S.C. § 227(b)(3)(C), up to \$1,000 of statutory damages for Plaintiff, in addition to the statutory damages prayed for in the preceding paragraph, if the Court finds that Defendant knowingly or willfully violated 47 U.S.C. § 227(b)(1) and;

(e) An award, to Plaintiff, of the costs and disbursements of this action, and reasonable legal fees, and such other and further relief as this Court deems just and proper.

Respectfully submitted,



Farbod Hadizadeh Moghadam

Date: February 5, 2024

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CERTIFICATION

I certify that the matter in controversy is not the subject of any other Court or Arbitration proceeding, nor is any other Court or Arbitration proceeding contemplated. No other parties should be joined in this action.



Farbod Hadizadeh Moghadam

Plaintiff

Date: February 5, 2024