



5. Furthermore, even when the Plaintiff engaged in extensive written discovery with the defendants involving multiple rounds of written discovery, motions to compel, court hearings on discovery, to finally obtain written interrogatories sworn under oath by Luther Mckinstry CEO and CFO of MJ Ministries Spreading the Gospel and board member Wayne Taylor of MJ Ministries spreading the Gospel, the Plaintiff was presented with perjured testimony and outright lies in multiple sworn declarations by the senior managers to include the CEO and CFO of the entity MJ Ministries Spreading the Gosepl that Yakim Jordan had no involvement in MJ ministries spreading the gospel and that MJ Ministries spreading the gospel paid no money to Ytel a notorious dirty telecom provider that knowingly facilitatied millions of illegal robocalls to consumers across the country<sup>1</sup>.
6. Plaintiff notes that Ytel was later sued in a class action lawsuit specifically for the some 5 Million calls that were placed to consumers around the country at which point Ytel dropped Yakim Jordan as a client apparently deeming their business not worth the risk of lawsuits according to an email to Plaintiff from Ytel owner.<sup>2</sup>
7. After getting sued in the class action, Ytel promptly dropped Yakim Jordan before these calls at issue in the Georgia case were placed on or about **April 1, 2020**<sup>3</sup>, the Plaintiff was able to figure out the likely new telecom used by the Defendants, which is Thing Technologies and Aaron Leon CEO.
8. Plaintiff notes that Thing Technologies and CEO AAron Leon were hit with an 48 hour warning letter from the FCC in March 2022 for originating and transmitting so many illegal robo-calls across the country that the firm was threatened with having all their downstream voice

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<sup>1</sup> See interrogatory responses generally from Luther Mckinstry and affidavit from Wayne Taylor Cunningham v Manasseh Jordan Ministries 4:19-cv-494, document 90 Ex F, I, and K to doc 90

<sup>2</sup> See Laura C. De la Cabada Et al v Ytel, Inc., 19-cv-07178-JSC Northern District of California Ex B

<sup>3</sup> See Ex C email from Ken richard of Ytel dated March 2, 2023

service being blocked across the country if they didn't take steps to prevent their customers from using their network to make illegal calls. The North Carolina department of Justice also identified Thing as a prolific source of illegal robocall traffic.

**Defendants have a track record of lying under oath and committing perjury in sworn statements and discovery**

9. As an example, in the defendant's supplemental discovery responses to the Plaintiff's second set of discovery responses, defendants denied they had and contracts with any 3<sup>rd</sup> party telemarketers or dialing platforms in requests for production #2 as they similarly do in this Georgia case and produced zero documents<sup>4</sup>. Defendants objected and produced no documents relating to calls to Texas area codes in Request for production #3 Defendants refused to produce bank records in discovery claiming it was commercially sensitive information in response to request #9<sup>5</sup>.
10. Notably with Interrogatory #2 asking about funds sent to Ytel, Inc from MJ ministries, defendant MJ Ministries denied under oath via **known criminal for felony fraud** Luther Mckinstry and CEO/CFO of MJ Ministries did not pay any money to Ytel in 2018 or 2019<sup>6</sup>. Luther further lied in sworn declarations in interrogatory #8 that "MJ ministries did not retain Ytel in 2018 or 2019" under oath providing more perjured testimony in the regular course of discovery<sup>7</sup>. Plaintiff notes this is in the original Texas case<sup>8</sup>.
11. Despite this perjured testimony, **the bank records of MJ Ministries obtained via subpoena**

<sup>4</sup> See FCC warning letter dated March 2022 Ex A

<sup>5</sup> See Interrogatory Responses to Plaintiff in Texas case., document 90, Ex F, I, and K to doc 90

<sup>6</sup> Plaintiff notes the long criminal history of Luther Mckinstry to include arrests for domestic violence, drug trafficking, theft, convictions for multiple counts of felony check fraud, see Prison information on Steven Sledge and Luther Mckinstry

<sup>7</sup> See Plaintiff's Interrogatories to MJ Ministries in Texas case, Document 90 Ex F, I, and K to doc 90

<sup>8</sup> See Cunningham v Manasseh Jordan Ministries 4:19-cv-494, document 90 Ex F, I, and K to doc 90

showed over \$50,000 in wire transfers paid directly from MJ Ministries Chase bank account to Ytel in 2018 and 2019. Plaintiff notes this is in the original Texas case and is direct evidence of payments for illegal robocalling and evidence of the calls being placed to the Plaintiff<sup>9</sup>

12. Plaintiff notes that the Paypal financial records showed **Yakim Jordan was a signer** on the account proving the affidavits sent in contained perjured testimony from Wayne Taylor and not surprisingly known convicted felon and fraudster Luther McKinstry who is the CEO/CFO of MJ Ministries spreading the gospel that contradicts the sworn testimony that Yakim Jordan was not involved in MJ ministries spreading the gospel.
13. Furthermore in an affidavit from **Ytel in response to a subpoena** showed that MJ Ministries dialed the Plaintiff and many other Texas residents and the Ytel account was in the name of Yakim Jordan and there was an email account for the Ytel account apparently making reference to Frank Juliano directly [FJ@prophetmanasseh.com](mailto:FJ@prophetmanasseh.com)<sup>10</sup>.
14. Among other perjured testimony is question #2 in the Plaintiff's second set of interrogatories about payments to Yakim Jordan, which Wayne Taylor denied **under oath** in his interrogatory statements<sup>11</sup>. Wayne also testified that "Yakim doesn't work for or at the direction of MJ Ministries spreading the gospel in any capacity" which naturally begs the question of why Yakim is a signer on the paypal account and has received direct funds transferred to him from MJ Ministries Spreading the gospel<sup>12</sup>. The Paypal records showed that Yakim Jordan was a signer on the MJ Ministries Spreading Gospel account indicating that he was directly involved and controlling the finances of MJ Ministries Spreading the Gospel<sup>13</sup>.

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<sup>9</sup> See Cunningham v Manasseh Jordan Ministries 4:19-cv-494 document 90 Ex E pg 20, pg 32

<sup>10</sup> See Ex A to doc 90 Ytel Subpoena response

<sup>11</sup> See Plaintiff's Interrogatories to MJ Ministries in Texas case, Document 90 Ex F, I, and K

<sup>12</sup> See Cunningham v Manasseh Jordan Ministries 4:19-cv-494 document 90 Ex J

<sup>13</sup> Cunningham v Manasseh Jordan Ministries 4:19-cv-494 document 90 See Ex J

**Death Threats and harassing calls directed at the Plaintiff as a result of this litigation**

15. In keeping with the defendants long criminal history, violence, and making harassing calls to consumers all across the country, Plaintiff was targeted with death threats and harassing calls on March 3, 2022 likely as a result of this litigation.
16. Plaintiff recieved calls with a pre-recorded message from prankdial.com and around the same time several live calls where the caller claimed “your days are numbered” and “your time will come” among other threatening statements. Plaintiff thought it prudent to document this and send a preservation letter to Verizon to aid law enforcement and his own investigation in- to these death threats<sup>14</sup>.
17. Plaintiff notes that these calls were after the filing of this lawsuits and represent new claims, hence the filing of another lawsuit in Texas and also notes that subpoenas are the only way to uncover the call data and identify the account holders who paid for the minutes used to make these harassing and threatening phone calls.

**Plaintiff Did respond to the Defendant’s Motion for Summary Judgment**

18. Moving to the Georgia case, Plaintiff did file a response seeking to extend discovery and a 56(d) motion based on his lack of ability to issue subpoenas during the 6 month discovery timeframe. Plaintiff sought subpoenas 3 times in this case at the onset with the filing of the complaint, again in a formal motion to the court.<sup>15</sup> This 56(d) motion was never ruled on by the court in reference to the summary judgment motion that was filed.
19. The Plaintiff filed a 56(d) motion in response to the Defendant’s summary judgment motion, which is a response to summary judgment. Summary Judgment was premature as the Plaintiff had not had a full and fair opportunity to conduct discovery, in particular 3<sup>rd</sup> party subpoenas

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<sup>14</sup> See Plaintiff’s Preservation letter to Verizon Ex D

<sup>15</sup> See document Plaintiff’s 56d motion doc 45

to other parties which likely have relevant and discoverable information. It is unfair to the Plaintiff to deny the Plaintiff the ability to seek phone records from 3<sup>rd</sup> parties multiple times and tell the Plaintiff to simply conduct written discovery only with the defendants, particularly when the defendants have a lengthy criminal history for fraud and previously provided perjured testimony in the written discovery process. Granted, the court would not have known about the previous perjured testimony or criminal history of the CEO/CFO Luther Mckinstry at the time of ruling on summary judgment, but Plaintiff believes these track record of lying under oath, fraud, and perjury is relevant to how discovery should be conducted in this case. Defendants simply can't be believed at this point and the best source of evidence would be from neutral 3<sup>rd</sup> parties.

20. There is another lawsuit in Texas citing in part the new harassing and threatening calls placed to the Plaintiff, which represent new claims and for which the Plaintiff has not completely identified the parties that initiated the calls beyond the phone companies involved. Plaintiff is in the process of gathering evidence to prove the identity of the parties that initiated these new calls and claims. Although the Plaintiff believes these calls are likely from some of the Defendants in this case, he needs time and discovery to prove that.

**Plaintiff did serve discovery to the defendants**

21. Plaintiff did serve discovery to the defendants in this case and the false representations by counsel for the defendants only seek to mislead the court. One set of defendants ignored it completely and the other provided objections, didn't answer a single question or produce a single document.<sup>16</sup>

**Plaintiff Did properly allege the defendants placed the calls at issue**

22. Plaintiff has alleged that the Defendants are the parties that placed the calls at issue and is di-

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<sup>16</sup> See Email to defendants with discovery and Objections to discovery Ex E.

recting his claims against parties that were not served in the Georgia case and represent new claims against them as these latest harassing and threat laden calls came after the filing of the Georgia case. Plaintiff is not party and couldn't possibly have access to the telecom's or prankdial's customer list in advance of litigation or discovery, but given the timing of the calls and nature of them, Plaintiff can make a reasonable inference as to who is likely involved given the timing and nature of the calls.

23. The court in their summary judgment says in one sentence the Plaintiff failed to allege that the defendants placed the calls at issue, but in the next sentence confirms that the Plaintiff did allege that the defendants before the court placed the calls at issue, citing the Plaintiff's complaint (doc 1 at 7).
24. This seems to be a contradiction of sorts and the Plaintiff's allegations are plainly supported by the complaint which is cited in the Court's Order, but is then this conclusion is disregarded in the very next sentence, which is confusing.
25. The court's order states that the Plaintiff has failed to continue to litigate this case through the discovery period, but this conclusion ignores the multiple attempts by the Plaintiff through the discovery period to be issued subpoenas or to even have a discovery conference with the court on the outstanding discovery issues. Plaintiff has been trying to obtain the calling records and other evidence to prove his claims, but was repeatedly ignored and denied at every attempt only to be told at summary judgment that he failed to prove his case due to insufficient evidence. This is unfair and prejudicial to the Plaintiff.
26. Furthermore, the court's conclusion that the Plaintiff failed to litigate his claims through the discovery period relies on the false assertions by Counsel for the defendants that the Plaintiff failed to send discovery, which is plainly false and evidence of the Plaintiff's discovery at-

tempts are attached.<sup>17</sup>

27. Given the extensive criminal history for fraud and history of violence of Luther McKinstry as well as the perjured testimony by multiple senior corporate executives to include the Secretary Wayne Taylor and convicted felon and CEO/CFO Luther McKinstry in the first lawsuit by the Plaintiff it was apparent that simply conducting regular written discovery would not likely result in truthful answers or meaningful production of company records, calling records, or financial records showing payments to phone companies. Plaintiff did attempt written discovery just the same, but seeking records from neutral 3<sup>rd</sup> parties via subpoena and a proper 6 month discovery timeframe as opposed to a very short 90 day timeframe through the holidays is more reasonable. Plaintiff should have sufficient time to obtain records to prove his case and as stated in his 56d motion 90 days is not nearly enough, particularly given resistant telecom providers with a track record of FCC sanctions and processing large amounts of illegal telemarketing traffic.
28. On the contrary, basic written discovery only would likely result in more lies, perjury, and no meaningful production in this case, hence the urgent need for subpoenas to be issued early in this case and the need to obtain banking and financial records, which did previously show **A** the defendants willingness to lie and present perjured testimony in the normal discovery process that the Plaintiff was limited to initially in the Georgia case and **B** the direct financial connection with payments to phone companies involving through the bank records, which naturally proves the connection to specific phone companies further subpoenas and discovery should be directed to.
29. Plaintiff also notes that the original case shows a bit of a blueprint for how to investigate these cases and where likely discoverable information was previously found and may likely

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<sup>17</sup> See Defendant's discovery objections and responses and email from the Plaintiff Ex E

be found again, which is with the phone companies and banks that showed direct payments to robocall providers for the entities that called the plaintiff the last time. Its quite reasonably to go seek the bank records which previously showed records of payments to phone companies that the defendants boldly lied about in sworn declarations and comitted multiple acts of perjury in the first Texas lawsuit in order to obstruct justice.

30. Plaintiff notes that he DID serve regular written discovery to the defendants in this case. One set of discovery was never answered at all by the defendants and was just ignored, which means all admission are admitted and weighs in favor of summary judgment for the Plaintiff. Defendants lied by omission and never notified the court that his discovery requests were outstanding, unanswered, and that despite formally requesting documents in this case none were provided by the defendnats. Plaintiff includes discovery response from defendants and the unaswered discovery requests to the other set of defendants<sup>18</sup>.

31. Furthermore, much of this evidence of phone records are in the hands of 3<sup>rd</sup> parties such as banks and financial institutions and phone companies, which can only be accessed via the subpoena process, which this court has delayed in granting to the Plaintiff apparently because there is a seperate and unequal process for obtainging subpoenas because he is a pro-se litigant and never attended law school. Plaintiff objects to this unfair treatment and should have been given a full 6 month process to conduct discovery with the benefit of subpoenas being issued immediately as the regular discovery process commenced. Anything short of this unfairly prejudices the Plaintiff and burdens him with an unreasonably short timeframe to obtain, serve, and get subpoena responses back, analyze them, and prepare motions and present said subpoena evidence to the court.

32. For the vast majority of this case, the Plaintiff has been unfairly burdened and prejudiced by

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<sup>18</sup> See discovery responses and objections from MJ Ministries in Georgia case. Ex E

the inability to conduct even basic discovery in this case involving the use of subpoenas upon 3<sup>rd</sup> parties that likely have discoverable and relevant evidence relating to proving the calls that took place in this case.

33. Plaintiff initially requested subpoenas be issues by the clerk on 4/11/2022 with the original complaint.
  34. The clerk's office refused to do so and returned the subpoenas unsigned in violation of the local rules and standing court order indicating requests for subpoenas be sent to the presiding judge for a ruling.
  35. By refusing to issue a subpoena and returning it, the clerk is in direct violation of the Federal Rules of Civil procedure rule 45(a)(3) which states: <sup>19</sup> *A subpoena must issue from the court where the action is pending.*
- (3) *Issued by Whom. The clerk must issue a subpoena, signed but otherwise in blank, to a party who requests it. That party must complete it before service. An attorney also may issue and sign a subpoena if the attorney is authorized to practice in the issuing court.*
36. Furthermore, the clerk's action violates the court's own local rules and standing order 09-01, dates Sept 16, 2009, which states : *"the long standing policy of this court requiring judicial approval before issuance of a subpoena by the clerk to a pro se litigant is hereby rescinded. Instead, the clerk shall refer a pro se litigant to the deputy clerk of the judge to whom the case is assigned for issuance of the subpoena."*<sup>20</sup>
  37. Instead, the Plaintiff's request for a subpoena as ignored by the clerk, was not submitted to the deputy clerk of the judge for issuance per the standing order of the court, and was simply mailed back to the Plaintiff and docket #1 incorrectly refers to the requested subpoenas as an "exhibit blank subpoena"
  38. This wasn't an exhibit, and it was sent to the court with the express intention of being issued.
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### **Plaintiff's Second Request for a subpoena**

39. Plaintiff filed a second request and motion for subpoenas on 6/3/2022, in which, the Plaintiff specifically mentioned that he needed subpoena's to "*obtain and preserve calling records in this case as this is perishable evidence and may be lost via standard data retention policies via currently unknown 3<sup>rd</sup> parties.*"
40. This motion was denied in July 2022 without prejudice as the court believed the need for subpoenas was related to obtaining service on the defendants. The court stated that the Plaintiff could use the ordinary discovery process to obtain calling records.
41. Suggesting the Plaintiff can use the ordinary discovery process to seek 3<sup>rd</sup> party records incorrect. It is quite simply impossible to obtain phone records from a phone company without a subpoena and generally speaking obtaining 3<sup>rd</sup> party calling records or any records from 3<sup>rd</sup> parties can't be obtained using the normal discovery process. There are a multitude of privacy laws that exist to prevent phone carriers from disclosing any calling records to anyone other than the individual telephone subscriber absent a subpoena.
42. Even with a subpoena, the Plaintiff has found it difficult at times to obtain even his own calling records from his own phone provider and as an example, Plaintiff has filed motions to compel in Federal court to get a phone company to cooperate with a subpoena. As an example, consider *Cunningham v Cellco Partners*, 2:20-cv-06192-BRM-JAD in the District of New Jersey filed 5/26/2020. This case dealt with obtaining calling records and IP address information in a case involving the Plaintiff.
43. It took 3 months total just to get a ruling on this issue from May to August 2020 by the court, which blows through half of the discovery period and doesn't include the time it takes to serve the subpoenas, deal with any objections or potential motions to compel from uncooper-

ative parties and finally get the requested documents. This is after at least an additional month that the Plaintiff had to wait from the court promptly issuing the subpoena and the Plaintiff serving the subpoena on Verizon and giving Verizon time to respond.

44. By not providing the Plaintiff with a subpoena despite seeking them multiple times, particularly early on in the case or even within the 6 month discovery timeframe, the Plaintiff was essentially blocked from doing discovery to the relevant parties who have discoverable information and evidence by these decisions. By not issuing the Plaintiff with subpoenas the Plaintiff has been prevented from engaging in even basic discovery, which would allow the Plaintiff to obtain phone records and records of payments for phone records and financial documents which would show a record of payments from MJ Ministries to phone companies as they did in the prior Texas case.
45. Furthermore, as a threshold issue, discovery to a non-party for records is done via subpoena and only by subpoena per the Federal Rules of Civil Procedure. In fact, per the Pro-se informational handbook for self-represented litigants that is posted on the Northern District of Georgia's website<sup>21</sup>, it states that subpoenas are the proscribed method for obtaining 3<sup>rd</sup> party records.
46. It would be improper and objectionable to send requests for production or admissions or interrogatories to a 3<sup>rd</sup> party and a subpoena is the standard and only way to obtain calling records from a non-party holding records. Plaintiff has obtained calling records relating to the defendants successfully from the phone carrier that provided phone services in a previous lawsuit against the defendants without a problem in his previous telemarketing lawsuit against MJ Ministries Spreading the Gospel and other defendants. Additionally, there are currently unknown 3<sup>rd</sup> parties that the Plaintiff couldn't even serve standard discovery upon, as-

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<sup>21</sup> <https://www.gand.uscourts.gov/prisoner-and-pro-se-guidance>

suming that sending a request for production to a 3<sup>rd</sup> party non-defendant was proper.

**Plaintiff asks the court reconsider their previous grant of Summary Judgment in light of Plaintiff's 56d motion and recent granting of subpoenas and hereby requests discovery be reopened for 45 days and the defendants be ordered to respond to the Plaintiff's discovery requests**

47. Plaintiff has been denied a full and fair opportunity to conduct discovery in this case. Plaintiff has sought relief under 56(d) and an extension of discovery in this case. Summary Judgment should be reconsidered until after Plaintiff has had a full and fair opportunity to conduct discovery in this case and obtain documents which show the calls were placed. Plaintiff is in the process of attempting to obtain these calling records.
48. Plaintiff hereby requests the court order the defendants to actually respond to the Plaintiff's written discovery requests, which were served on them previously and they falsely claimed the Plaintiff never sent them any discovery.
49. For the discovery requests to Kingdom Ministries Church, Bullion Fitness, inc., and Manasseh Jordan Ministries, Inc., the defendants never answered or objected to these and the admissions should be deemed as admitted.

  
Craig Cunningham  
Plaintiff,

3/4/2024

Craig Cunningham, Plaintiff, Pro-se 3000 Custer Road, ste 270-206, Plano, Tx 75075



exA



Federal Communications Commission  
Enforcement Bureau  
45 L Street, NE  
Washington, DC 20554

March 22, 2022

**VIA ELECTRONIC DELIVERY AND CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**To:** Mr. Aaron Leon  
Co-Founder & CEO  
thinQ Technologies, Inc.  
5420 Wade Park Blvd.  
Suite 100  
Raleigh, NC 27607  
[aaron@thinQ.com](mailto:aaron@thinQ.com)

**Re: Official Correspondence from the Federal Communications Commission**

Dear Mr. Leon:

We have determined that thinQ Technologies, Inc. ("thinQ") is apparently originating and transmitting illegal robocall traffic on behalf of one or more of its clients. You should investigate and, if necessary, cease transmitting such traffic immediately and take steps to prevent your network from continuing to be a source of apparently illegal robocalls. As noted below, downstream voice service providers will be authorized to **block all** of thinQ's traffic if you do not take steps to "effectively mitigate illegal traffic" within 48 hours, or if you fail to inform the Commission and the Traceback Consortium within fourteen (14) days of this letter (Tuesday, April 5, 2022) of the steps you have taken to "implement effective measures" to prevent customers from using your network to make illegal calls.<sup>1</sup>

**Why You Are Receiving This Notification.** You are receiving this letter because one or more investigations conducted by the Commission, in conjunction with the Traceback Consortium, revealed that thinQ apparently transmitted multiple illegal robocall campaigns from the sources listed in Attachment A. Additionally, the North Carolina Department of Justice identified you as a source of illegal robocall traffic.

**Actions You Should Take Now.** thinQ should take the following steps to resolve this matter:

1. Promptly investigate the transmissions identified in Attachment A.
2. If necessary, "effectively mitigate" the identified unlawful traffic by determining the source of the traffic and preventing that source from continuing to originate such traffic.
3. Implement effective safeguards to prevent customers from using your network as a platform to originate illegal calls.
4. Within 48 hours, inform the Commission and the Traceback Consortium of steps taken to mitigate the identified apparent illegal traffic.
5. Within fourteen (14) days of the date of this letter (Tuesday, April 5, 2022) inform the Commission and the Traceback Consortium of the steps thinQ is taking to prevent

<sup>1</sup> See 47 CFR § 64.1200(k)(4).

customers from using its network to transmit illegal robocalls.<sup>2</sup> You must also include a declaration attesting to the truthfulness and accuracy of your response under section 1.17 of the Commission's rules.<sup>3</sup> Failure to provide this information within 14 days shall be equivalent to having failed to put effective measures in place.<sup>4</sup>

**Consequences for Failure to Comply.** If after 48 hours of issuance of this letter thinQ continues to route or transmit harmful robocall traffic from the entities involved in these campaigns, downstream U.S.-based voice service providers may begin blocking all calls from thinQ after notifying the Commission of their decision and providing a brief summary of their basis for making such a determination.<sup>5</sup> Furthermore, if thinQ fails to take sufficient mitigating actions to prevent its network from continuing to be used to transmit illegal robocalls, then downstream U.S.-based providers may block calls following notice to the Commission. **Failure to act within the deadlines authorizes U.S.-based voice service providers to block all call traffic transmitting from your network, permanently.**

Please direct any inquiries or responses regarding this letter to Lisa Zaina, Supervisor Attorney Advisor, Telecommunications Consumers Division, Enforcement Bureau, FCC, at [lisa.zaina@fcc.gov](mailto:lisa.zaina@fcc.gov) or (202) 418-2803; and cc: to Kristi Thompson, Division Chief, Telecommunications Consumers Division, Enforcement Bureau, FCC, at [kristi.thompson@fcc.gov](mailto:kristi.thompson@fcc.gov) and Monica Echevarria, Attorney Advisor,

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<sup>2</sup> See *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CGDocket No. 17-59, Third Report and Order, Order on Reconsideration, and Fourth Further Notice of Proposed Rulemaking, 35 FCC Rcd 7614, 7630, para. 43 (2020) (*Call Blocking Safe Harbor Report and Order*).

<sup>3</sup> 47 CFR § 1.17. See also 47 CFR § 1.16 (describing the format of such declarations).

<sup>4</sup> You are encouraged to reach out to the Commission before the deadline if you anticipate needing more time to execute this step.

<sup>5</sup> In July 2020, the Commission adopted the *Call Blocking Safe Harbor Report and Order*, which authorized voice service providers to block illegal robocalls. *Call Blocking Safe Harbor Report and Order*, 35 FCC Rcd 7614; see also 47 CFR § 64.1200(k)(3)-(4). If the Commission identifies illegal traffic, based on information obtained through traceback such as that provided by the Traceback Consortium, the Commission may notify the voice service provider that it is transmitting identified probable illegal calls (or "bad traffic") and, upon receipt of notification, the voice service provider should investigate promptly and take any steps that may be necessary to prevent the illegal caller from continuing to use the network to make such calls. Furthermore, if the notified voice service provider fails to take effective mitigation measures within 48 hours, any downstream voice service provider may block the calls from the notified provider. *Call Blocking Safe Harbor Report and Order*, 35 FCC Rcd at 7628-29, para. 39. Any voice service provider that decides to block traffic from the bad actor provider must notify the Commission of its decision and provide a brief summary of its basis for making such a determination prior to initiating blocking. *Id.* at 7630, para. 42; 47 CFR § 64.1200(k)(4). If the notified voice service provider fails to implement effective measures to prevent new and renewing customers from using its network to originate illegal calls, other downstream voice service providers may block the calls from the notified provider. *Call Blocking Safe Harbor Report and Order*, 35 FCC Rcd at 7630 para. 43; 47 CFR § 64.1200(k)(3)-(4). A voice service provider that decides to block traffic from the bad actor provider must notify the Commission of its decision and provide a brief summary of its basis for making such a determination prior to initiating blocking. *Id.* at 7630, para. 43; 47 CFR § 64.1200(k)(4).

Enforcement Bureau FCC, at [monica.echevarria@fcc.gov](mailto:monica.echevarria@fcc.gov). A copy of this letter has been sent to the Traceback Consortium.

Sincerely,

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Loyaan A. Egal  
Acting Bureau Chief  
Enforcement Bureau  
Federal Communications Commission

## ATTACHMENT A

Customer	Date of Call	Date of ITG Notification	Caller ID	Called Number	Description	Violation
Peerless Network	Sep 30, 2021 20:05 UTC	Oct 01, 2021 18:24 UTC			Amazon- AuthorizeOrder	47 USC 227(b); 47 CFR 64.1200(a)
Brightlink	Sep 30, 2021 20:00 UTC	Oct 01, 2021 14:06 UTC			Amazon- AuthorizeOrder	47 USC 227(b); 47 CFR 64.1200(a)
Peerless Network	Sep 30, 2021 19:57 UTC	Oct 01, 2021 18:27 UTC			Amazon- SuspiciousCharge	47 USC 227(b); 47 CFR 64.1200(a)
VC SOLUTIONS	Oct 04, 2021 21:18 UTC	Oct 05, 2021 19:42 UTC			Legal-Enforcement- Notice	47 USC 227(b); 47 CFR 64.1200(a)
VC SOLUTIONS	Oct 04, 2021 19:54 UTC	Oct 05, 2021 18:36 UTC			Legal-Enforcement- Notice	47 USC 227(b); 47 CFR 64.1200(a)
VC SOLUTIONS	Oct 04, 2021 14:22 UTC	Oct 05, 2021 19:41 UTC			Legal-Enforcement- Notice	47 USC 227(b); 47 CFR 64.1200(a)
RSCom / NGP Telecom	Oct 07, 2021 18:46 UTC	Oct 11, 2021 15:27 UTC			Utility- 30MinDisconnect	47 USC 227(b); 47 CFR 64.1200(a)
Windstream / Earthlink / One Cmctns / Deltacom	Oct 12, 2021 23:34 UTC	Oct 14, 2021 16:24 UTC			Legal-Consequences	47 USC 227(b); 47

						CFR 64.1200(a)
Comcast	Oct 12, 2021 20:58 UTC	Oct 13, 2021 16:51 UTC			Legal-Consequences	47 USC 227(b); 47 CFR 64.1200(a)
Windstream / Earthlink / One Cmctns / Deltacom	Oct 12, 2021 23:41 UTC	Oct 13, 2021 19:42 UTC			Legal-Consequences	47 USC 227(b); 47 CFR 64.1200(a)
Windstream / Earthlink / One Cmctns / Deltacom	Oct 12, 2021 21:36 UTC	Oct 14, 2021 16:26 UTC			Legal-Consequences	47 USC 227(b); 47 CFR 64.1200(a)
Comcast	Oct 12, 2021 19:31 UTC	Oct 13, 2021 18:37 UTC			Legal-Consequences	47 USC 227(b); 47 CFR 64.1200(a)
Inbound Inc Communications	Nov 02, 2021 18:09 UTC	Nov 03, 2021 14:08 UTC			Discount-DirecTV50	47 USC 227(b); 47 CFR 64.1200(a)
Inbound Inc Communications	Nov 02, 2021 18:40 UTC	Nov 03, 2021 16:18 UTC			Discount-DirecTV50	47 USC 227(b); 47 CFR 64.1200(a)
Inbound Inc Communications	Nov 02, 2021 20:34 UTC	Nov 03, 2021 14:07 UTC			Discount-DirecTV50	47 USC 227(b); 47 CFR 64.1200(a)
Inbound Inc Communications	Nov 02, 2021 19:02 UTC	Nov 03, 2021 20:05 UTC			Discount-DirecTV50	47 USC 227(b); 47 CFR 64.1200(a)
Inbound Inc Communications	Nov 02, 2021 18:24 UTC	Nov 03, 2021 13:13 UTC			Discount-DirecTV50	47 USC 227(b); 47

						CFR 64.1200(a)
Telereco/FaxBB	Feb 08, 2022 17:22 UTC	Feb 17, 2022 16:43 UTC			Automated- MoneyScheme	47 USC 227(b); 47 CFR 64.1200(a)

EXB

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

LAURA C. DE LA CABADA, et al.,

Plaintiffs,

v.

YTEL, INC.,

Defendant.

Case No. [19-cv-07178-JSC](#)

**ORDER RE: DEFENDANT’S MOTION  
TO DISMISS FIRST AMENDED  
COMPLAINT**

Re: Dkt. No. 21

Laura C. De la Cabada and Debra Williams (together, “Plaintiffs”) bring this action on behalf of themselves and as a putative class action against Ytel, Inc. (“Ytel” or “Defendant”), alleging violations of the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227. (Dkt. No. 20.)<sup>1</sup> Now before the Court is Defendant’s motion to dismiss the first amended complaint for failure to state a claim, pursuant to Federal Rule of Civil Procedure 12(b)(6).<sup>2</sup> After careful consideration of the parties’ briefing and having had the benefit of oral argument on March 5, 2020, the Court DENIES Defendant’s motion because the complaint’s allegations give rise to a plausible inference that Ytel is liable under the TCPA.

**BACKGROUND**

**I. Complaint Allegations**

The gravamen of the complaint is that Ytel, “a cloud-based text messaging and calling system,” knowingly facilitated millions of illegal robocalls and robotexts by Manasseh Jordan Ministries and Yakim Manasseh Jordan (together, “MJM”) that Plaintiffs received without their

<sup>1</sup> Record citations are to material in the Electronic Case File (“ECF”); pinpoint citations are to the ECF-generated page numbers at the top of the documents.

<sup>2</sup> All parties have consented to the jurisdiction of a magistrate judge pursuant to 28 U.S.C. § 636(c). (See Dkt. Nos. 6 & 11.)

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1 consent. (See Dkt. No. 20 at ¶¶ 1-5.) MJM is “a ‘ministry’ and evangelizer of the so-called  
 2 ‘prosperity gospel’” that “partnered with Ytel” to make the calls and send the texts at issue. (*Id.* at  
 3 ¶ 5.) MJM has been “subject to an FCC citation and no fewer than sixteen separate lawsuits since  
 4 2013,” yet continues its calling and text messaging campaigns “in exclusive partnership with, and  
 5 with the knowing consent and assistance of, . . . Ytel.” (*Id.*) Plaintiffs allege that Ytel thus  
 6 violated the TCPA by “knowingly permitting and facilitating this conduct to persist, allowing [its]  
 7 call platform to be used to effectuate this conduct, and by being substantially involved in placing  
 8 the spam calls and texts Plaintiffs continue to receive to this day.” (*Id.* at ¶ 6.)

9 **A. The Ytel Systems**

10 Ytel provides its customers with calling and text messaging systems that constitute  
 11 “automatic telephone dialing system[s]” and are capable of delivering prerecorded voice messages  
 12 and text messages to consumers’ telephones. (*Id.* at ¶ 22.) The systems have “the capacity to  
 13 produce the numbers to be called, using a random or sequential number generator, and to dial such  
 14 numbers.” (*Id.* at ¶¶ 19, 21.) Ytel’s website asserts that its “‘in-house carrier compliance team  
 15 works directly with [its] customers to ensure that they’re sending messages and running  
 16 campaigns that are compliant within the standards set by the FTC and TCPA.’” (*Id.* at ¶ 26  
 17 (quoting <https://ask.ytel.com/ytel-api-sms>)). Despite such oversight, however, “Ytel allowed pre-  
 18 recorded calls and text messages to be sent without first obtaining prior express consent from  
 19 customers.” (*Id.* at ¶ 28.)

20 Ytel also “directly participates in executing and calling texting campaigns by bypassing  
 21 carrier filtering and using deceptive calling tactics.” (*Id.* at ¶ 29.) Specifically, Ytel’s text  
 22 messaging system provides “short codes,” which are “5 to 6-digit phone number[s],” because they  
 23 are best used for high volume text messaging campaigns and “are not subject to blocking or  
 24 filtering by cell phone carriers for heavy volume calling.” (*Id.* at ¶ 30 (citing  
 25 [https://ask.ytel.com/hubfs/Product/Sales%20Tools/Infographic/2018\\_03\\_ShortCodeInfographic.p](https://ask.ytel.com/hubfs/Product/Sales%20Tools/Infographic/2018_03_ShortCodeInfographic.pdf)  
 26 [df](https://ask.ytel.com/hubfs/Product/Sales%20Tools/Infographic/2018_03_ShortCodeInfographic.pdf))).<sup>3</sup> The Ytel system “also allows for the ‘spoofing’ of outgoing phone numbers to match the  
 27

28 <sup>3</sup> When considering a Rule 12(b)(6) motion to dismiss, a court ordinarily does not look beyond the four corners of the complaint. *Lee v. City of Los Angeles*, 250 F.3d 668, 688 (9th Cir. 2001). “A

1 recipient's local phone number," which "enables its partners to [e]stablish a local presence by  
2 using a phone number that matches your recipients [sic] area code." (*Id.* at ¶ 32 (alterations in  
3 original) (internal quotation marks omitted).)

#### 4 **B. The Communications**

5 "Ytel and its tools played an integral role in spamming of millions of phones with recorded  
6 messages and texts featuring automated messages from the so-called 'prophet' Yakim Manasseh  
7 Jordan." (*Id.* at ¶ 36.) Ytel provided MJM "with custom short codes to avoid being blocked by  
8 recipients' cell phone carriers," and "provided MJM with hundreds of local phone numbers in  
9 order to place pre-recorded calls to consumers, en masse, and avoid built-in call blocking  
10 features." (*Id.*) MJM "has told millions of call recipients, in his own prerecorded voice[:]

11 the Lord spoke to me personally about you. I must speak to you. I'm  
12 going to pass the phone to my blessed assistant and he's [going to]  
13 give you my blessed number so that you can call me back so that you  
14 can hear this blessed word.

15 (*Id.* at ¶ 38 (alterations in original).) "In a Ytel-partnered text messaging campaign, MJM told call  
16 recipients that 'GOD is Exposing those that are for you and against you, ALL for YOUR GOOD  
17 Listen Click Prophetmanasseh4u.com.'" (*Id.* at ¶ 39.) The recipients of these calls and text

18 court may, however, consider certain materials—documents attached to the complaint, documents  
19 incorporated by reference in the complaint, or matters of judicial notice—without converting the  
20 motion to dismiss into a motion for summary judgment." *United States v. Ritchie*, 342 F.3d 903,  
21 908 (9th Cir. 2003). Here, the FAC cites among other things, Ytel's website. Defendant asserts  
22 that because the FAC "includes selective screenshots from Ytel's website, it is appropriate for Ytel  
23 to refer to, and for this Court to consider, other parts of Ytel's website for a more robust  
24 understanding of Ytel's business." (Dkt. No. 21 at 8 n.2.) Not so. At this stage the Court can  
25 only consider the web pages "directly quoted" in the FAC. *See Daniels-Hall v. Nat'l Educ. Ass'n*,  
26 629 F.3d 992, 998 (9th Cir. 2010) (taking "into consideration information posted on certain . . .  
27 webpages that [p]laintiffs referenced in the [c]omplaint," because "[p]laintiffs directly quoted the  
28 material posted on th[ose] web pages, thereby incorporating them into the [c]omplaint"); *see also*  
*Golden v. Home Depot, U.S.A., Inc.*, No. 1:18-cv-00033-LJO-JLT, 2018 WL 2441580, at \*3 (E.D.  
Cal. May 31, 2018) (noting that a complaint's citation to a portion of a website "does not open the  
door to [d]efendant's use of unrelated portions of the same website in presenting a motion to  
dismiss"); *Greg Young Publ'g, Inc. v. CafePress, Inc.*, 2016 WL 6106752, at \*2 (C.D. Cal. Jan.  
25, 2016) (noting that although complaint quoted portions of defendant's website, "such  
allegations are not a blanket permission to incorporate unrelated information found elsewhere on  
[d]efendant's domain"). Indeed, incorporation by reference is improper for material that "merely  
creates a defense to the well-pled allegations in the complaint," because such material "does not  
necessarily form the basis of the complaint." *See Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d  
988, 1002 (9th Cir. 2018). Accordingly, for purposes of the instant motion the Court considers as  
incorporated by reference only those portions of Ytel's website cited in the complaint.

1 messages “did not consent to be called by Manasseh, MJM, or Ytel.” (*Id.* at ¶ 41.)

2 Plaintiffs received prerecorded calls and text messages attributed to MJM as recently as  
3 2019. Plaintiffs “do[ ] not have a relationship with MJM or Ytel,” and neither Plaintiff has  
4 provided MJM or Ytel with her phone number or given them consent to call her phone. (*Id.* at ¶¶  
5 53, 56.)

6 **C. The *Molitor* Action**

7 Plaintiff De la Cabada was part of a 2016 class action complaint against MJM for violating  
8 the TCPA and in March 2019 she “obtained an individual default judgment against Manasseh and  
9 MJM” for those violations. (*See id.* at ¶ 45; *see also Molitor, et al. v. Yakim Manasseh Jordan, et*  
10 *al.*, No. 1:16-cv-02106, Order of Default Judgment, Dkt. No. 30 (N.D. Ill. Apr. 29, 2019).)<sup>4</sup> Ytel  
11 was not a party to that action. *See generally Molitor*, No. 1:16-cv-02016, Class Action Complaint,  
12 Dkt. No. 11-1 (N.D. Ill. June 20, 2016). Plaintiff De la Cabada does not bring the instant case  
13 “based on any calls that were at issue in the prior case.” (Dkt. No. 20 at ¶ 45.) This case concerns  
14 only “texts and calls she received after 2017.” (*Id.*)

15 In early 2017, “counsel for Plaintiff De la Cabada provided Ytel with repeat notice of the  
16 [*Molitor*] lawsuit, the substance of the allegations, and extensive evidence of the overall conduct  
17 of MJM.” (*Id.* at ¶ 47.) Thus, Ytel was aware of MJM’s conduct, “[a]t the very least,” in early  
18 2017. (*Id.*) Further, “the FCC issued a citation letter to MJM in 2016” for making calls in  
19 violation of the TCPA, (*see id.* at ¶ 43 (citing [https://www.fcc.gov/document/fcc-issues-citation-](https://www.fcc.gov/document/fcc-issues-citation-manasseh-jordan-robocalls-cell-phones)  
20 [manasseh-jordan-robocalls-cell-phones](https://www.fcc.gov/document/fcc-issues-citation-manasseh-jordan-robocalls-cell-phones)), and “MJM and Manasseh have also been sued for  
21 violating the TCPA no fewer than *sixteen times* since 2013 alone,” (*id.* at ¶ 44). “[D]espite the  
22 perpetual legal action against it for making hundreds of millions of illegal calls and texts, MJM,  
23 along with Ytel continues to make harassing pre-recorded calls and sends text messages to  
24 consumers without first obtaining their prior express consent.” (*Id.* at ¶ 48.)

25 //

26 \_\_\_\_\_  
27 <sup>4</sup> Courts may take judicial notice of “undisputed matters of public record, including documents on  
28 file in federal or state courts.” *Harris v. Cty. of Orange*, 682 F.3d 1126, 1132 (9th Cir. 2012).  
Accordingly, the Court takes judicial notice of the proceedings in *Molitor, et al. v. Yakim*  
*Manasseh Jordan, et al.*, No. 1:16-cv-02106 (N.D. Ill.).



1 prerecorded voice . . . to any telephone number assigned to a . . . cellular telephone service.” 47  
 2 U.S.C. § 227(b)(1)(A)(iii). “The three elements of a TCPA claim are: (1) the defendant called a  
 3 cellular telephone number; (2) using an automatic telephone dialing system; (3) without the  
 4 recipient’s prior express consent.” *Meyer v. Portfolio Recovery Assocs., LLC*, 707 F.3d 1036,  
 5 1043 (9th Cir. 2012). A text message falls within the meaning of “to make any call” under the  
 6 TCPA. *See Campbell-Ewald Co. v. Gomez*, 136 S. Ct. 663, 667, 193 L. Ed. 2d 571 (2016), *as*  
 7 *revised* (Feb. 9, 2016).

8 “For a person to ‘make’ a call under the TCPA, the person must either (1) directly make  
 9 the call, or (2) have an agency relationship with the person who made the call.” *Abante Rooter &*  
 10 *Plumbing v. Farmers Grp., Inc.*, No. 17-cv-03315-PJH, 2018 WL 288055, at \*4 (N.D. Cal. Jan. 4,  
 11 2018) (citing *Gomez v. Campbell-Ewald Co.*, 768 F.3d 871, 877-79 (9th Cir. 2014)). Thus,  
 12 liability under the TCPA can be either direct or vicarious. Here, Plaintiffs allege only direct  
 13 liability; that is, they allege that Ytel “made” the challenged communications.

14 Defendant moves to dismiss the complaint on the grounds that Plaintiffs have not plausibly  
 15 alleged that Ytel made the communications. The TCPA does not define the term “make” as used  
 16 in 47 U.S.C. § 227(b)(1)(A); however, in July 2015, the FCC issued a declaratory ruling setting  
 17 forth interpretative guidance for determining whether an entity “made” a call for purposes of  
 18 TCPA liability. *See In the Matter of Rules & Regulations Implementing the Tel. Consumer Prot.*  
 19 *Act of 1991*, 30 FCC Rcd. 7961 (2015) (“2015 FCC Declaratory Ruling”), *rev’d in part on other*  
 20 *grounds by ACA Int’l v. FCC*, 885 F.3d 687 (D.C. Cir. 2018). The FCC “look[s] to the totality of  
 21 the facts and circumstances surrounding the placing of a particular call to determine: 1) who took  
 22 the steps necessary to physically place the call; and 2) whether another person or entity was so  
 23 involved in placing the call as to be deemed to have initiated it<sup>5</sup>, considering the goals and  
 24 purposes of the TCPA.” *Id.* at 7980.

25  
 26 <sup>5</sup> Plaintiffs allege that Ytel violated 47 U.S.C. § 227(b)(1)(A), which prohibits “making” certain  
 27 calls to cellular telephone numbers. Section (B), 47 U.S.C. § 227(b)(1)(B), prohibits “initiating”  
 28 certain calls to landlines. The FCC, however, uses “to make a call” and “to initiate a call”  
 interchangeably; that is, the terms have the same meaning and legal effect. *See In the Matter of*  
*Dialing Servs., LLC*, 29 F.C.C. Rcd. 5537, 5542 n.30 (2014); *Shamblin v. Obama for Am.*, No.  
 8:13-CV-2428-T-33 TBM, 2015 WL 1754628, at \*4 n.2 (M.D. Fla. Apr. 17, 2015).

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1 The Court concludes that while Plaintiffs have not plausibly alleged that Defendant  
2 *physically* made the communications, they have plausibly alleged that Defendant knowingly  
3 allowed MJM to use Ytel’s “platform for unlawful purposes” and therefore Ytel “made” the calls.  
4 *See* 2015 FCC Declaratory Ruling, 30 FCC Rcd. at 7980-81.

5 **II. Whether Ytel “Made” the Communications**

6 **A. Ytel did not Physically Make the Communications**

7 The complaint contains only conclusory allegations suggesting that Ytel physically made  
8 the calls and sent the text messages; specifically:

9  
10 Between 2015 and 2017 alone, Ytel and MJM placed over 160 million  
11 illegal robocalls to consumers around the country.

12 ...

13 MJM, along with Ytel, continues to make harassing pre-recorded calls  
14 and sends text messages to consumers without first obtaining their  
15 prior express consent.

16 ...

17 Ytel, together with MJM, placed pre-recorded voice calls to  
18 Plaintiffs’ and the Class members’ cellular telephones without their  
19 prior express consent.

20 ...

21 Ytel made pre-recorded voice calls to Plaintiffs’ and members of the  
22 Class’s cellular telephones without obtaining prior express consent.

23 ...

24 Ytel, together with MJM, sent unwanted and unsolicited text  
25 messages to Plaintiffs’ and the Class members’ cellular telephone  
26 without their prior express consent.

27 ...

28 Ytel made text message calls to Plaintiffs’ and members of the Class’s  
cellular telephones without obtaining express consent.

(Dkt. No. 20 at ¶¶ 5, 48, 65, 74, 78.) These conclusory allegations do not give rise to a plausible  
inference that Ytel physically made the calls and sent the texts; indeed, the complaint contains  
multiple allegations that MJM actually made those communications. (*See id.* at ¶¶ 5, 38, 39, 54,  
79.) Plaintiffs’ opposition does not argue otherwise, and instead asserts that Ytel was so involved

1 in the calling and text messaging campaigns as to have initiated them.

2 **B. Whether Ytel was Otherwise Involved in the Communications**

3 In considering whether an entity was otherwise so involved with a communication as to be  
4 deemed to have made it for TCPA liability purposes, the FCC has identified several relevant  
5 factors, including: (1) who creates the content of the messages; (2) who decides “whether, when or  
6 to whom” a message is sent; (3) “the extent to which a person willfully enables fraudulent  
7 spoofing of telephone numbers or assists telemarketers in blocking Caller ID, by offering either  
8 functionality to clients”; and (4) “whether a person who offers a calling platform service for the  
9 use of others has knowingly allowed its client(s) to use that platform for unlawful purposes.” *See*  
10 2015 FCC Declaratory Ruling, 30 FCC Rcd. at 7980-81.

11 There are no factual allegations that plausibly support an inference that Ytel created the  
12 content of the communications, or determined when, how, and to whom the communications were  
13 sent. Drawing all inferences in Plaintiffs’ favor, however, and based on the totality of the  
14 circumstances, Plaintiffs still plausibly allege that Ytel was so involved with the communications  
15 as to be deemed to have made them.

16 First, Plaintiffs allege that Ytel assists MJM with spoofing of telephone numbers and  
17 blocking of Caller ID. (Dkt. No. 20 at ¶¶ 34 (“Ytel provides random selections of numbers for  
18 bulk purchase.”), 35 (alleging that with such phone numbers “telemarketers can place multiple  
19 phone calls, each from a different number, to avoid built-in phone number blocking systems,” and  
20 “[e]ven if a consumer blocks one phone number, calls can continue unabated from hundreds of  
21 other numbers”), 36 (“Ytel provided MJM hundreds of local phone numbers in order to *place* pre-  
22 recorded calls to consumers, *en masse*, and avoid built-in call blocking features.”) (emphasis  
23 added).)

24 Second, Plaintiff De la Cabada obtained a default judgment against MJM in the *Molitor*  
25 lawsuit, six months prior to the filing of this action. (*Id.* at ¶ 45.) Plaintiffs allege that “counsel  
26 for Plaintiff De la Cabada provided Ytel with repeat notice of the [*Molitor*] lawsuit, the substance  
27 of the allegations, and extensive evidence of the overall conduct of MJM.” (Dkt. No. 20 at ¶ 47.)  
28 Plaintiffs also allege that MJM has been sued for TCPA violations 16 times since 2013 and was

1 cited by the FCC in 2016 “for making calls using an automatic telephone dialing system or an  
2 artificial or prerecorded voice without first obtaining prior express consent of the caller.” (Dkt.  
3 No. 20 at ¶¶ 43, 44.) While Plaintiffs do not allege that they gave Ytel notice of these 16 other  
4 lawsuits and the 2016 FCC action, or of the default judgment itself, the complaint plausibly  
5 supports an inference that Ytel would have been aware of them given that Ytel advertises that its  
6 “in-house carrier compliance team works directly with our customers to ensure they’re sending  
7 messages and running campaigns that are compliant and within the standards set by the FTC and  
8 TCPA.” (*Id.* at ¶ 26 (quoting <https://ask.ytel.com/ytel-api-sms>)). In other words, given Ytel’s  
9 advertised interest in ensuring its customers’ TCPA compliance, the allegations support a  
10 reasonable inference that once Ytel was put on notice that its customer had been accused of  
11 violating the TCPA, it would have investigated whether there have been other lawsuits or actions  
12 taken against the customer, at a minimum by asking the customer itself so that Ytel could ensure  
13 that past mistakes are not repeated.

14 In sum, drawing all reasonable inferences in Plaintiffs’ favor, the totality of the allegations  
15 support a plausible inference that Ytel was aware of MJM’s repeated TCPA violations and  
16 nonetheless continued to facilitate them by offering MJM Ytel’s platform, including with spoofing  
17 and call blocking functionality.

18 Defendant’s citation to *Kauffman v. CallFire, Inc.*, 141 F. Supp. 3d 1044 (S.D. Cal. 2015),  
19 does not counsel a different result. There, the court on summary judgment rejected the plaintiff’s  
20 argument that the defendant “had actual notice of an illegal use of its service and failed to take  
21 steps to prevent that use” based on the defendant’s receipt of the complaint in that action and  
22 related cases. 141 F. Supp. 3d at 1049. The court stated that “[a] complaint is an allegation of an  
23 illegal act, not notice of an illegal act,” and noted that one of the complaints had been voluntarily  
24 dismissed. *Id.* at 1049-50. The court found that “[a]n allegation of illegal activity that is  
25 subsequently withdrawn serves more to disprove than to prove the illegal nature of the activity,  
26 and such an allegation is certainly insufficient to qualify as notice that would give rise to TCPA  
27 liability.” *Id.* at 1050. The court further found that the plaintiff did not show that the defendant  
28 “received a notice from the FCC regarding illegal activity or other comparable notice.” *Id.* Thus,

1 the court determined that the plaintiff failed to demonstrate that the defendant “had sufficient  
2 notice of any illegal activity to render it an active participant in that activity.” *Id.*

3 *Kauffman* is distinguishable. First, it was decided on summary judgment where the issue  
4 was whether the evidence supported a reasonable inference of actual notice. Here, in contrast, the  
5 question is whether the allegations support a reasonable inference of actual notice. For the reasons  
6 stated above, they do. Moreover, the subsequent default judgment against MJM in the *Molitor*  
7 action constitutes MJM’s admission of facts alleged in the complaint in that action and established  
8 MJM’s liability. *See Geddes v. United Fin. Grp.*, 559 F.2d 557, 560 (9th Cir. 1977). Thus, unlike  
9 the defendant in *Kauffman*, Ytel did not merely have notice of *allegations* of MJM’s illegal  
10 activity; MJM’s default in that action established its liability and Plaintiffs’ allegations support a  
11 plausible inference that Ytel would have been aware of that liability.

12 Defendant’s insistence that it is a common carrier and thus exempt from TCPA liability is  
13 of no moment. Defendant has not identified any authority holding that a common carrier cannot  
14 be held liable under the TCPA even if it has been found to have been so involved in the unlawful  
15 communications that it can be deemed to have made them. Indeed, the authority is to the contrary.  
16 *See, e.g., Linlor v. Five9, Inc.*, No. 17CV218-MMA (BLM), 2017 WL 2972447, at \*4 (S.D. Cal.  
17 July 12, 2017) (noting that “[c]ommon carriers are not liable under the TCPA *absent* a high degree  
18 of involvement or actual notice of an illegal use and failure to take steps to prevent such  
19 transmissions”) (emphasis added) (internal quotation marks and citation omitted).

## 20 CONCLUSION

21 For the reasons set forth above, the Court DENIES Defendant’s motion to dismiss.

22 This Order disposes of Docket No. 21.

23 **IT IS SO ORDERED.**

24 Dated: March 10, 2020

25   
26 JACQUELINE SCOTT CORLEY  
27 United States Magistrate Judge  
28

EXC

# Re: Yakim Jordan termination

From **Ken Richard** <ken@ytel.com>  
 To **Craig** <projectpalehorse@hushmail.com>  
 Sent Thursday, March 2, 2023 at 4:02 PM  
 Replied **Yes**  
 Encrypted **No**  
 Signed **No**

As I recall, about April 1, 2020

On Mar 1, 2023, at 3:22 PM, Craig <projectpalehorse@hushmail.com> wrote:

Hey,  
 Just checking to see the date when you terminated Yakim Jordan/MJ Ministries

ex D

**Verizon Preservation Request**

- 888-667-0028
- Carrier information that transmitted
- Date/Time, items preserved, call records,

Greetings,

Verizon, I am a subscriber of 615-348-1977, and I recieved several threatening and harassings calls on May 3, 2022 where the caller who was trying to hide their identity via spoofing claimed that my "time would come" and so forth. The Caller ID I'm particularly interested in is the 954 number. Please preserve and hold all data, especially relating to logs of carriers who transmitted the call to Verizon. I am in the process of obtaining a subpoena from a currently filed Federal lawsuit and will be reporting this to law enforcement as well who may be interested in such information. w

Caller ID :

954-226-3817 5:10 CST  
615-231-5894, 5:09 CST  
385-446-0208, 4:53 CST

Thanks,

Craig Cunningham, 615-348-1977

# Discovery to defendants

EXE

From **Craig** <projectpalehorse@hushmail.com>  
Cc **'Ryan D. Watstein'** <rwatstein@kcozlaw.com>, **Matthew Keilson** <mkeilson@kcozlaw.com>, **parks.stone** <parks.stone@wilsonelser.com>  
Sent Tuesday, March 14, 2023 at 11:58 PM  
Encrypted **No**  
Signed **No**  
Attachments image001.png, image002.png, Discovery to Aaron Jordan.pdf, Discovery to Bullion Fitness, Inc.pdf, Discovery to Kingdom Ministries Church, Inc.pdf, Discovery to Manasseh Jordan Ministries, Inc.pdf, Discovery to MJ Ministries Spreading the Gospel, Inc.pdf, Discovery to Naomi Cook.pdf, Discovery to Steven Sledge.pdf

Sent using Hushmail

On 3/1/2023 at 4:37 PM, "Carl H. Jr. Anderson" <CAnderson@hpylaw.com> wrote:

Dear Craig,

Further to your telephone call to me this afternoon, neither Christine nor I are involved in this litigation anymore.

I have attached a copy of the docket showing the termination of our representation as counsel for certain defendants.

As I explained, you would need to contact Ryan Watstein and Matt Keilson who took over the matter from us.

As I also explained, I understand that Parks Stone and Devin Arnold remain counsel for those defendants that they had previously represented.

Regards,

EXE

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

CRAIG CUNNINGHAM,

Plaintiff,

v.

YAKIM JORDAN, MJ MINISTRIES  
SPREADING THE GOSPEL, INC.,  
MJ MINISTRIES, LLC, STEVEN  
SLEDGE, AARON JORDAN, NAOMI  
COOK, LUTHER MCKINSTRY,  
FRANK JULIANO, JONATHAN  
FOREMAN, JESSE SPENCER,  
WARREN TAYLOR, SERVING  
HANDS COMMUNITY  
DEVELOPMENT CORPORATION  
and JOHN/JANE DOES 1-5,

Defendants.

Case No. 1:22-cv-1419-WMR

**DEFENDANTS AARON JORDAN, NAOMI COOK, AND STEVEN  
SLEDGE'S RESPONSES TO PLAINTIFF'S FIRST REQUESTS FOR  
ADMISSION**

Defendants Aaron Jordan, Naomi Cook, and Steven Sledge (collectively "Defendants"), pursuant to Rule 36 of the Federal Rules of Civil Procedure, hereby submit their objections and responses to Plaintiff's First Requests for Admission, stating as follows:

**REQUEST FOR ADMISSION NO. 1:**

Admit that you placed calls initiated using an automatic telephone dialing system to the Plaintiff's cell phone number specified in the complaint.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 2:**

Admit that you are a board member of MJ Ministries Spreading the Gospel.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months

of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 3:**

Admit that you placed calls initiated using an automatic telephone dialing system with a prerecorded message in an attempt to reach the Plaintiff.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No.

24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 4:**

Admit that you placed calls using a pre-recorded message to the Plaintiff's cell phone number as specified in the complaint.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they

were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 5:**

Admit that you did not have prior express written consent from the Plaintiff to receive calls initiated using an automated telephone dialing system or calls with a pre-recorded message at the time of each and every call placed.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants further object to this Request to the extent it assumes facts not in evidence, including that Defendants placed or authorized calls using an automated

telephone dialing system (“ATDS”) or with prerecorded messages (“PRV”) to Plaintiff.

Subject to the foregoing objections, and without waiving the same, Defendants have made a reasonable inquiry and the information they know or can readily obtain is insufficient to enable them to admit or deny that they did not have Plaintiff’s prior express written consent. Defendants, however, deny placing or authorizing any calls, whether using an ATDS, PRV, or otherwise, to Plaintiff.

**REQUEST FOR ADMISSION NO. 6:**

Admit that you called the Plaintiff’s [sic.] after the Plaintiff sued you in a previous lawsuit in Federal court.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff’s certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court’s Standing Order, which requires parties to serve all discovery requests “early enough so that the responses thereto are due on or before the last day of the discovery period.” *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they

were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants further object to this Request as vague and ambiguous because it is missing a word after “Plaintiff’s.” It is thus unclear what, exactly, the Request is asking.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 7:**

Admit that you maintain an account with Ring Central.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff’s certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court’s Standing Order, which requires parties to serve all discovery requests “early enough so that the responses thereto are due on or before the last day of the discovery period.” *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 8:**

Admit that in the time from the prior settlement to the filing of this lawsuit that you had an account with Ring Central.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants further object to this Request as vague and ambiguous to the extent it refers to a "prior settlement" without further specification.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 9:**

Admit that you personally directed the calls to be placed to the Plaintiff's cell phone.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 10:**

Admit that none of the calls were related to any emergency purpose.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months

of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Subject to the foregoing objections, and without waiving the same, Defendants have made a reasonable inquiry and the information they know or can readily obtain is insufficient to enable them to admit or deny this Request because they did not make or authorize the subject calls. Therefore, denied.

**REQUEST FOR ADMISSION NO. 11:**

Admit that none of the prerecorded messages identified the legal or DBA names of the Defendant.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery*

*closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants further object to this Request to the extent it assumes facts not in evidence, including that Defendants placed or authorized the calls to Plaintiff.

Subject to the foregoing objections, and without waiving the same, Defendants have made a reasonable inquiry and the information they know or can readily obtain is insufficient to enable them to admit or deny this Request because they did not make or authorize the subject calls. Therefore, denied.

**REQUEST FOR ADMISSION NO. 12:**

Admit that you did not have an internal do not call policy in place at the time of each and every call.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months

of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants further object to this Request to the extent it assumes facts not in evidence, including that Defendants placed or authorized the calls to Plaintiff.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 13:**

Admit that you did not train your employees on the use of an internal do not call policy at the time of each and every call.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for

these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court’s Standing Order, which requires parties to serve all discovery requests “early enough so that the responses thereto are due on or before the last day of the discovery period.” *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants further object to this Request to the extent it assumes facts not in evidence, including that Defendants have employees and placed or authorized the calls to Plaintiff.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 14:**

Admit that each and every call violated 47 USC 227(b).

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff’s certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No.

24. This violates the Court’s Standing Order, which requires parties to serve all discovery requests “early enough so that the responses thereto are due on or before the last day of the discovery period.” *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 15:**

Admit that each and every call violated 47 CFR 64.1200(d).

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff’s certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court’s Standing Order, which requires parties to serve all discovery requests “early enough so that the responses thereto are due on or before the last day of the discovery period.” *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended

and (2) they were served after discovery closed.

Subject to the foregoing objections, and without waiving the same, denied

**REQUEST FOR ADMISSION NO. 16:**

Admit that your Ytel account in your name was paid for in part from money that originated with MJ Ministries Spreading the Gospel, Inc in 2018 and 2019.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants further object to this Request to the extent it assumes facts not in evidence, including that Defendants have Ytel accounts.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 17:**

Admit that Aaron Jordan is an officer of MJ Ministries Spreading the Gospel, Inc.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Subject to the foregoing objections, and without waiving the same, admitted.

**REQUEST FOR ADMISSION NO. 18:**

Admit that you control MJ Ministries Spreading the Gospel, Inc.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months

of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 19:**

Admit that each and every call was willfully and knowingly placed by the defendants.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No.

24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Subject to the foregoing objections, and without waiving the same, denied.

Dated: April 14, 2023

*Respectfully submitted,*

***WATSTEIN TEREPKA LLP***

By: */s/ Matthew A. Keilson*

Matthew A. Keilson

Georgia Bar No. 216676

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678-372-0408

*Attorney for Defendants MJ Ministries  
Spreading the Gospel, Inc., Steven Sledge,  
Aaron Jordan, Naomi Cook, Luther  
McKinstry, and Wayne Taylor*

**CERTIFICATE OF SERVICE**

I hereby certify that on April 14, 2023, I served the foregoing document on Plaintiff via electronic and regular U.S. mail.

Craig Cunningham  
3000 Custer Road  
Suite 270-206  
Plano, TX 75075  
[projectpalehorse@hushmail.com](mailto:projectpalehorse@hushmail.com)

By: /s/ Matthew A. Keilson  
Matthew A. Keilson

EXE

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

CRAIG CUNNINGHAM,

Plaintiff,

v.

YAKIM JORDAN, MJ MINISTRIES  
SPREADING THE GOSPEL, INC.,  
MJ MINISTRIES, LLC, STEVEN  
SLEDGE, AARON JORDAN, NAOMI  
COOK, LUTHER MCKINSTRY,  
FRANK JULIANO, JONATHAN  
FOREMAN, JESSE SPENCER,  
WARREN TAYLOR, SERVING  
HANDS COMMUNITY  
DEVELOPMENT CORPORATION  
and JOHN/JANE DOES 1-5,

Defendants.

Case No. 1:22-cv-1419-WMR

**DEFENDANTS MJ MINISTRIES SPREADING THE GOSPEL, INC.,  
AARON JORDAN, NAOMI COOK, AND STEVEN SLEDGE'S  
RESPONSES TO PLAINTIFF'S FIRST INTERROGATORIES AND  
REQUESTS FOR PRODUCTION**

Defendants MJ Ministries Spreading the Gospel, Inc. ("MJ Spread"), Aaron Jordan ("A. Jordan"), Naomi Cook ("Cook"), and Steven Sledge ("Sledge") (collectively "Defendants"), pursuant to Rules 26 and 33 of the Federal Rules of

Civil Procedure, hereby submit their objections and responses to Plaintiff's First Interrogatories and Requests for Production, stating as follows:

**PRELIMINARY STATEMENT**

In responding, Defendants do not concede that any Interrogatory or Request to which they respond is relevant to the subject matter of this litigation or proportional to the needs of the case. Defendants expressly reserves both the right to object to further discovery into the subject matter of these Interrogatories and Requests and the right to object to the introduction into evidence of its responses to these Interrogatories and Requests. Defendants also reserve the right to question the authenticity, relevancy, materiality, privilege, and admissibility as evidence for any purpose of the information provided and the documents identified and/or produced in response to these Interrogatories and Requests, which may arise in any subsequent proceeding in, or the trial of, this or any other action.

Defendants reserve the right to amend, supplement, or revise their responses as necessary up to and including the time of trial.

**RESPONSES TO INTERROGATORIES**

Subject to the foregoing Preliminary Statement, Defendants respond to the Interrogatories as follows:

**INTERROGATORY NO. 1.**

State the following information related to any of the telephone campaigns that

resulted in calls to the Plaintiff's phone numbers as alleged in the complaint:

- a. Identifying information for the person you were trying to reach (e.g., name, business name, address, email, fax number, all phone numbers);
- b. Identification of the equipment, third party utilized, if applicable and software used to make the call (e.g., Avatar, ytel, Five9, Guaranteed Contacts, Aspect, Avaya), and the location of the call origination/dialer;
- c. The source(s) where you obtained the telephone number called, including the nature of such relationship and the facts and circumstances surrounding such; and
- d. State the name, address, and phone number for any agent, employee or 3rd party telemarketer that spoke to the Plaintiff in any calls by or on behalf of the defendants
- e. State the name, address, and phone number of every telecommunications company that provided phone service to the defendants in the 4 years prior to the filing of this complaint.

**RESPONSE:**

Defendants object to this Interrogatory as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Interrogatories misstates the service date as March 14, 2023, Plaintiff did not serve the Interrogatories until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Interrogatories are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery

closed.

Defendants object to this Interrogatory to the extent it is overly broad and seeks information that is irrelevant, immaterial to the subject matter of the pending litigation, and not reasonably calculated to the discovery of admissible evidence. Specifically, the Interrogatory seeks information preceding the parties' September 2020 settlement agreement in *Cunningham v. Mannaseh Jordan Ministries, Inc.*, No. 4:19-cv-00494 (E.D. Tex.), in which Plaintiff released all then existing claims against Defendants. The Interrogatory also improperly assumes that Defendants placed, authorized, or initiated calls to Plaintiff—they did not—and therefore have responsive information.

Defendants object to this Interrogatory as vague and ambiguous to the extent it uses the phrases/terms "telephone campaigns," "agent," and "3rd party telemarketer," which are without adequate definition or explanation.

Defendants object to this Interrogatory as it infringes on privacy rights.

Defendant2 objects to this Interrogatory as compound and thus improper.

Defendants object to this Interrogatory to the extent it purports to impose an obligation on Defendants to provide a response for or on behalf of any other person or entity.

Subject to and without waiving the foregoing objections, Defendants will not

impressions, conclusions, opinions, or legal theories of any attorney for Defendants or any other information protected by the Federal Rules of Civil Procedure. Similarly, Defendants object to this Request to the extent it seeks information protected from discovery under the attorney–client privilege.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Request.

**REQUEST FOR PRODUCTION NO. 2:**

All contracts with any third parties that were engaged by Defendant that made telemarketing or lead generation calls or text messages in the 4 years prior to the filing of this complaint.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff’s certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court’s Standing Order, which requires parties to serve all discovery requests “early enough so that the responses thereto are due on or before the last day of the discovery period.” *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended

and (2) they were served after discovery closed.

Defendants object to this Request to the extent it is overly broad and seeks information that is irrelevant, immaterial to the subject matter of the pending litigation, and not reasonably calculated to the discovery of admissible evidence. Specifically, the Request seeks information preceding the parties' September 2020 settlement agreement in *Cunningham v. Mannaseh Jordan Ministries, Inc.*, No. 4:19-cv-00494 (E.D. Tex.), in which Plaintiff released all then existing claims against Defendants. This Request is also unlimited as to scope (including not being limited to Plaintiff or any purported calls to the subject number in the operative Complaint) and is not tailored to the claims or defenses at issue in this case. The Request also improperly assumes that Defendants placed, authorized, or initiated calls to Plaintiff—they did not—and therefore have responsive information.

Defendants object to this Request as vague and ambiguous to the extent it uses the phrases/terms "third parties," "engaged," "telemarketing," and "lead generation," which are without adequate definition or explanation.

Defendants object to this Request to the extent it seeks information that includes trade secrets or other confidential or proprietary research, development, or commercial information.

Subject to and without waiving the foregoing objections, Defendants will not

respond to this untimely Request.

**REQUEST FOR PRODUCTION NO. 3:**

All documents concerning internal investigations conducted by Defendant concerning complaints regarding alleged violations of the TCPA involving the Plaintiff.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants object to this Request to the extent it is overly broad and seeks information that is irrelevant, immaterial to the subject matter of the pending litigation, and not reasonably calculated to the discovery of admissible evidence. Specifically, the Request seeks information preceding the parties' September 2020

settlement agreement in *Cunningham v. Mannaseh Jordan Ministries, Inc.*, No. 4:19-cv-00494 (E.D. Tex.), in which Plaintiff released all then existing claims against Defendants. This Request is also unlimited as to scope (including not being limited to any purported calls to the subject number in the operative Complaint) and is not tailored to the claims or defenses at issue in this case.

Defendants object to this Request to the extent it seeks materials prepared in anticipation of litigation or to the extent it calls for the disclosure of the mental impressions, conclusions, opinions, or legal theories of any attorney for Defendants or any other information protected by the Federal Rules of Civil Procedure. Similarly, Defendants object to this Request to the extent it seeks information protected from discovery under the attorney–client privilege.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Request.

**REQUEST FOR PRODUCTION NO. 4:**

All documents referred to in, identified in, or that provide part or all of the basis for your responses to any Interrogatory propounded by the Plaintiff.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for

these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court’s Standing Order, which requires parties to serve all discovery requests “early enough so that the responses thereto are due on or before the last day of the discovery period.” *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants object to this Request to the extent it seeks materials prepared in anticipation of litigation or to the extent it calls for the disclosure of the mental impressions, conclusions, opinions, or legal theories of any attorney for Defendants or any other information protected by the Federal Rules of Civil Procedure. Similarly, Defendants object to this Request to the extent it seeks information protected from discovery under the attorney–client privilege.

Defendants object to this Request to the extent it purports to impose an obligation on Defendants to provide a response for or on behalf of any other person or entity.

Defendants further incorporate their specific objections to the Interrogatories herein.

Subject to and without waiving the foregoing objections, Defendants will not

respond to this untimely Request.

**REQUEST FOR PRODUCTION NO. 5:**

All documents, records, data, call recordings and other materials relating to Plaintiff or relating to calls or text messages placed to the Plaintiff 615-212-9191 and 615-348-1977 from the date of the prior settlement to present.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants object to this Request to the extent it seeks materials prepared in anticipation of litigation or to the extent it calls for the disclosure of the mental impressions, conclusions, opinions, or legal theories of any attorney for Defendants or any other information protected by the Federal Rules of Civil Procedure.

Similarly, Defendants object to this Request to the extent it seeks information protected from discovery under the attorney–client privilege.

Defendants further object to this Request as vague and ambiguous to the extent it refers to a “prior settlement” without further specification.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Request.

**REQUEST FOR PRODUCTION NO. 6:**

All insurance policies that could possibly afford any coverage with respect to the matters complained of in this case together with all correspondence discussing, accepting or declining coverage or reserving rights with respect thereto.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff’s certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court’s Standing Order, which requires parties to serve all discovery requests “early enough so that the responses thereto are due on or before the last day of the discovery period.” *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended

and (2) they were served after discovery closed.

Defendants object to this Request to the extent it seeks materials prepared in anticipation of litigation or to the extent it calls for the disclosure of the mental impressions, conclusions, opinions, or legal theories of any attorney for Defendants or any other information protected by the Federal Rules of Civil Procedure. Similarly, Defendants object to this Request to the extent it seeks information protected from discovery under the attorney–client privilege.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Request.

**REQUEST FOR PRODUCTION NO. 7:**

Produce all correspondence with any 3rd parties that placed calls or text messages by or on behalf of the defendants including any documents reflecting payments to these 3rd parties.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff’s certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court’s Standing Order, which requires parties to serve all discovery requests “early enough so that the responses thereto are due on or before

the last day of the discovery period.” See Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants object to this Request to the extent it is overly broad and seeks information that is irrelevant, immaterial to the subject matter of the pending litigation, and not reasonably calculated to the discovery of admissible evidence. Specifically, the Request seeks information preceding the parties’ September 2020 settlement agreement in *Cunningham v. Mannaseh Jordan Ministries, Inc.*, No. 4:19-cv-00494 (E.D. Tex.), in which Plaintiff released all then existing claims against Defendants. This Request is also unlimited as to scope (including not being limited to Plaintiff or any purported calls to the subject number in the operative Complaint) and is not tailored to the claims or defenses at issue in this case. The Request also improperly assumes that Defendants placed, authorized, or initiated calls to Plaintiff—they did not—and therefore have responsive information.

Defendants object to this Request as vague and ambiguous to the extent it uses the phrase/term “3rd parties,” which is without adequate definition or explanation.

Defendants object to this Request to the extent it seeks information protected from discovery under the attorney–client privilege, joint defense privilege, the work product doctrine, or any other privilege recognized by law.

Defendants object to this Request to the extent it seeks information that includes trade secrets or other confidential or proprietary research, development, or commercial information.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Request.

**REQUEST FOR PRODUCTION NO. 8:**

Produce all documents relating to any training relating to telemarketing with Defendant or any 3rd parties placing calls on the defendant’s behalf, including training employees on the use of an internal do not call list and a copy of your internal do not call list if you had one at the time of the calls.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff’s certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court’s Standing Order, which requires parties to serve all discovery requests “early enough so that the responses thereto are due on or before

the last day of the discovery period.” See Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants object to this Request to the extent it is overly broad and seeks information that is irrelevant, immaterial to the subject matter of the pending litigation, and not reasonably calculated to the discovery of admissible evidence. Specifically, the Request seeks information preceding the parties’ September 2020 settlement agreement in *Cunningham v. Mannaseh Jordan Ministries, Inc.*, No. 4:19-cv-00494 (E.D. Tex.), in which Plaintiff released all then existing claims against Defendants. This Request is also unlimited as to scope (including not being limited to Plaintiff or any purported calls to the subject number in the operative Complaint) and is not tailored to the claims or defenses at issue in this case.

Defendants object to this Request as vague and ambiguous to the extent it uses the phrases/terms “telemarketing” and “3rd parties,” which are without adequate definition or explanation.

Defendants object to this Request to the extent it seeks information protected from discovery under the attorney–client privilege, the work product doctrine, or any other privilege recognized by law.

Defendants object to this Request to the extent it seeks information that

includes trade secrets or other confidential or proprietary research, development, or commercial information.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Request.

**REQUEST FOR PRODUCTION NO. 9:**

Produce all scripts used for any outbound telemarketing calls or text messages made by or on behalf of the defendant or by any third parties retained by the Defendants on telemarketing campaigns. This request includes all drafts of those scripts.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants object to this Request to the extent it is overly broad and seeks information that is irrelevant, immaterial to the subject matter of the pending litigation, and not reasonably calculated to the discovery of admissible evidence. Specifically, the Request seeks information preceding the parties' September 2020 settlement agreement in *Cunningham v. Mannaseh Jordan Ministries, Inc.*, No. 4:19-cv-00494 (E.D. Tex.), in which Plaintiff released all then existing claims against Defendants. This Request is also unlimited as to scope (including not being limited to Plaintiff or any purported calls to the subject number in the operative Complaint) and is not tailored to the claims or defenses at issue in this case. The Request also improperly assumes that Defendants placed, authorized, or initiated calls to Plaintiff—they did not—and therefore have responsive information.

Defendants object to this Request as vague and ambiguous to the extent it uses the phrases/terms “telemarketing calls or text messages ” and “third parties retained by the Defendants on telemarketing campaigns,” which are without adequate definition or explanation.

Defendants object to this Request to the extent it purports to impose an obligation on Defendants to provide a response for or on behalf of any other person or entity.

Defendants object to this Request to the extent it seeks information protected from discovery under the attorney–client privilege, the work product doctrine, or any other privilege recognized by law.

Defendants object to this Request to the extent it seeks information that includes trade secrets or other confidential or proprietary research, development, or commercial information.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Request.

**REQUEST FOR PRODUCTION NO. 10:**

All documents that identify the source of the Plaintiff’s telephone numbers your company obtained for the purposes of telemarketing, and all communications with that company.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff’s certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court’s Standing Order, which requires parties to serve all discovery requests “early enough so that the responses thereto are due on or before the last day of the discovery period.” *See* Standing Order Regarding Civil Litigation

at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants object to this Request to the extent it is overly broad and seeks information that is irrelevant, immaterial to the subject matter of the pending litigation, and not reasonably calculated to the discovery of admissible evidence. Specifically, the Request seeks information preceding the parties' September 2020 settlement agreement in *Cunningham v. Mannaseh Jordan Ministries, Inc.*, No. 4:19-cv-00494 (E.D. Tex.), in which Plaintiff released all then existing claims against Defendants. This Request is also unlimited as to scope (including not being limited to any purported calls to the subject number in the operative Complaint) and is not tailored to the claims or defenses at issue in this case. The Request also improperly assumes that Defendants placed, authorized, or initiated calls to Plaintiff—they did not—and therefore have responsive information.

Defendants object to this Request as vague and ambiguous to the extent it uses the phrase/term "telemarketing," which is without adequate definition or explanation.

Defendants object to this Request to the extent it seeks materials prepared in anticipation of litigation or to the extent it calls for the disclosure of the mental

impressions, conclusions, opinions, or legal theories of any attorney for Defendants or any other information protected by the Federal Rules of Civil Procedure. Similarly, Defendants object to this Request to the extent it seeks information protected from discovery under the attorney–client privilege.

Defendants object to this Request to the extent it seeks information that includes trade secrets or other confidential or proprietary research, development, or commercial information.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Request.

**REQUEST FOR PRODUCTION NO. 11:**

Produce copies of all marketing materials, business plans, memoranda, minutes, and/or other documents that reference using telemarketing or automatic dialing systems to contact persons and/or entities to promote your goods or services.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff’s certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court’s Standing Order, which requires parties to serve all discovery requests “early enough so that the responses thereto are due on or before

the last day of the discovery period.” See Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants object to this Request to the extent it is overly broad and seeks information that is irrelevant, immaterial to the subject matter of the pending litigation, and not reasonably calculated to the discovery of admissible evidence. Specifically, the Request seeks information preceding the parties’ September 2020 settlement agreement in *Cunningham v. Mannaseh Jordan Ministries, Inc.*, No. 4:19-cv-00494 (E.D. Tex.), in which Plaintiff released all then existing claims against Defendants. This Request is also unlimited as to scope (including not being limited to Plaintiff or any purported calls to the subject number in the operative Complaint) and is not tailored to the claims or defenses at issue in this case.

Defendants object to this Request as vague and ambiguous to the extent it uses the phrases/terms “telemarketing,” “automatic dialing system(s),” and “entities,” which are without adequate definition or explanation.

Defendants object to this Request to the extent it purports to impose an obligation on Defendants to provide a response for or on behalf of any other person or entity.

Defendants object to this Request to the extent it seeks materials prepared in anticipation of litigation or to the extent it calls for the disclosure of the mental impressions, conclusions, opinions, or legal theories of any attorney for Defendants or any other information protected by the Federal Rules of Civil Procedure. Similarly, Defendants object to this Request to the extent it seeks information protected from discovery under the attorney–client privilege.

Defendants object to this Request to the extent it seeks information that includes trade secrets or other confidential or proprietary research, development, or commercial information.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Request.

**REQUEST FOR PRODUCTION NO. 12:**

Produce any documents which demonstrate the software or equipment used to place calls by or on behalf of the defendant’s in this case in the 4 years prior to this lawsuit.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff’s certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No.

24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants object to this Request to the extent it is overly broad and seeks information that is irrelevant, immaterial to the subject matter of the pending litigation, and not reasonably calculated to the discovery of admissible evidence. Specifically, the Request seeks information preceding the parties' September 2020 settlement agreement in *Cunningham v. Mannaseh Jordan Ministries, Inc.*, No. 4:19-cv-00494 (E.D. Tex.), in which Plaintiff released all then existing claims against Defendants. This Request is also unlimited as to scope (including not being limited to Plaintiff or any purported calls to the subject number in the operative Complaint) and is not tailored to the claims or defenses at issue in this case. The Request also improperly assumes that Defendants placed, authorized, or initiated calls to Plaintiff—they did not—and therefore have responsive information.

Defendants object to this Request as vague and ambiguous to the extent it uses the phrases/terms "software" and "equipment," which are without adequate

definition or explanation.

Defendants object to this Request to the extent it purports to impose an obligation on Defendants to provide a response for or on behalf of any other person or entity.

Defendants object to this Request to the extent it seeks materials prepared in anticipation of litigation or to the extent it calls for the disclosure of the mental impressions, conclusions, opinions, or legal theories of any attorney for Defendants or any other information protected by the Federal Rules of Civil Procedure. Similarly, Defendants object to this Request to the extent it seeks information protected from discovery under the attorney–client privilege.

Defendants object to this Request to the extent it seeks information that includes trade secrets or other confidential or proprietary research, development, or commercial information.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Request.

**REQUEST FOR PRODUCTION NO. 13:**

Please produce any and all manuals, DOCUMENTS and ESI related to the system(s), platform(s), and/or equipment used by YOU, or any VENDOR, to make CALLS to PLAINTIFF or to store data about such calls.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months

of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants object to this Request to the extent it is overly broad and seeks information that is irrelevant, immaterial to the subject matter of the pending litigation, and not reasonably calculated to the discovery of admissible evidence. Specifically, the Request seeks information preceding the parties' September 2020 settlement agreement in *Cunningham v. Mannaseh Jordan Ministries, Inc.*, No. 4:19-cv-00494 (E.D. Tex.), in which Plaintiff released all then existing claims against Defendants. The Request also improperly assumes that Defendants placed, authorized, or initiated calls to Plaintiff—they did not—and therefore have responsive information.

Defendants object to this Request as vague and ambiguous to the extent it uses the phrases/terms “system(s),” “platform(s),” “equipment,” and “store data,” which are without adequate definition or explanation.

Defendants object to this Request to the extent it purports to impose an obligation on Defendants to provide a response for or on behalf of any other person or entity.

Defendants object to this Request to the extent it seeks materials prepared in anticipation of litigation or to the extent it calls for the disclosure of the mental impressions, conclusions, opinions, or legal theories of any attorney for Defendants or any other information protected by the Federal Rules of Civil Procedure. Similarly, Defendants object to this Request to the extent it seeks information protected from discovery under the attorney–client privilege.

Defendants object to this Request to the extent it seeks information that includes trade secrets or other confidential or proprietary research, development, or commercial information.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Request.

**REQUEST FOR PRODUCTION NO. 14:**

Please produce any and all DOCUMENTS or ESI evidencing Plaintiff’s consent to be called by YOU.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants object to this Request to the extent it seeks materials prepared in anticipation of litigation or to the extent it calls for the disclosure of the mental impressions, conclusions, opinions, or legal theories of any attorney for Defendants or any other information protected by the Federal Rules of Civil Procedure. Similarly, Defendants object to this Request to the extent it seeks information protected from discovery under the attorney–client privilege.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Request.

**REQUEST FOR PRODUCTION NO. 15:**

Please produce all call detail records, invoices, and billing records of every CALL made by YOU, or on YOUR behalf, to PLAINTIFF, including, but not limited to, records of the following information:

- a. Its date;
- b. Its time;
- c. Its duration;
- d. The person who placed it;
- e. The entity that placed it;
- f. The caller ID;
- g. The called number;
- h. The result (e.g., live answer, answering machine, voicemail, hang up, etc.);
- i. The dialing equipment or software (e.g., Avatar, ytel, Five9, Guaranteed Contacts, Aspect, Avaya); and
- j. The dialing mode (e.g., predictive, prerecorded voice, preview, etc.).

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended

and (2) they were served after discovery closed.

Defendants object to this Request to the extent it is overly broad and seeks information that is irrelevant, immaterial to the subject matter of the pending litigation, and not reasonably calculated to the discovery of admissible evidence. Specifically, the Request seeks information preceding the parties' September 2020 settlement agreement in *Cunningham v. Mannaseh Jordan Ministries, Inc.*, No. 4:19-cv-00494 (E.D. Tex.), in which Plaintiff released all then existing claims against Defendants. This Request is also unlimited as to scope (including not being limited to any purported calls to the subject number in the operative Complaint) and is not tailored to the claims or defenses at issue in this case. The Request also improperly assumes that Defendants placed, authorized, or initiated calls to Plaintiff—they did not—and therefore have responsive information.

Defendants object to this Request as vague and ambiguous to the extent it uses the phrases/terms “dialing equipment or software,” “dialing mode,” “predictive,” “prerecorded voice,” and “preview,” which are without adequate definition or explanation.

Defendants object to this Request to the extent it purports to impose an obligation on Defendants to provide a response for or on behalf of any other person or entity.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Request.

**REQUEST FOR PRODUCTION NO. 16:**

Please produce all invoices from any THIRD PARTY or VENDOR from whom you bought a information containing the Plaintiff's phone number.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants object to this Request to the extent it is overly broad and seeks information that is irrelevant, immaterial to the subject matter of the pending litigation, and not reasonably calculated to the discovery of admissible evidence.

Specifically, the Request seeks information preceding the parties' September 2020 settlement agreement in *Cunningham v. Mannaseh Jordan Ministries, Inc.*, No. 4:19-cv-00494 (E.D. Tex.), in which Plaintiff released all then existing claims against Defendants. This Request is also unlimited as to scope (including not being limited to any purported calls to the subject number in the operative Complaint) and is not tailored to the claims or defenses at issue in this case. The Request also improperly assumes that Defendants placed, authorized, or initiated calls to Plaintiff—they did not—and therefore have responsive information.

Defendants object to this Request as vague and ambiguous to the extent it uses the phrases/terms “a information,” “third party,” and “vendor,” which are without adequate definition or explanation.

Defendants object to this Request to the extent it purports to impose an obligation on Defendants to provide a response for or on behalf of any other person or entity.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Request.

**REQUEST FOR PRODUCTION NO. 17:**

Please produce all DOCUMENTS or ESI substantiating the affirmative defenses in your answer to the complaint.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants object to this Request to the extent it is overly broad and seeks information that is irrelevant, immaterial to the subject matter of the pending litigation, and not reasonably calculated to the discovery of admissible evidence. Specifically, the Request is unlimited in time and seeks information preceding the parties' September 2020 settlement agreement in *Cunningham v. Mannaseh Jordan Ministries, Inc.*, No. 4:19-cv-00494 (E.D. Tex.), in which Plaintiff released all then existing claims against Defendants.

Defendants object to this Request to the extent it seeks materials prepared in anticipation of litigation or to the extent it calls for the disclosure of the mental

impressions, conclusions, opinions, or legal theories of any attorney for Defendants or any other information protected by the Federal Rules of Civil Procedure. Similarly, Defendants object to this Request to the extent it seeks information protected from discovery under the attorney–client privilege.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Request.

**REQUEST FOR PRODUCTION NO. 18:**

Produce all business and personal bank statements from the date of the prior settlement to present.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff’s certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court’s Standing Order, which requires parties to serve all discovery requests “early enough so that the responses thereto are due on or before the last day of the discovery period.” *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended

and (2) they were served after discovery closed.

Defendants object to this Request to the extent it is overly broad and seeks information that is irrelevant, immaterial to the subject matter of the pending litigation, and not reasonably calculated to the discovery of admissible evidence. Specifically, the Request seeks information preceding the parties' September 2020 settlement agreement in *Cunningham v. Mannaseh Jordan Ministries, Inc.*, No. 4:19-cv-00494 (E.D. Tex.), in which Plaintiff released all then existing claims against Defendants. This Request is also unlimited as to scope (including not being limited to Plaintiff or any purported calls to the subject number in the operative Complaint) and is not tailored to the claims or defenses at issue in this case.

Defendants further object to this Request as vague and ambiguous to the extent it refers to a "prior settlement" without further specification.

Defendants object to this Request as it infringes on privacy rights.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Request.

**REQUEST FOR PRODUCTION NO. 19:**

Produce all call detail records showing call from any entity you own or control to 615-348-1977 or 615-212-9191 from the date of the prior settlement to present.

**RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants object to this Request as vague and ambiguous to the extent it uses the phrase/term "entity," which is without adequate definition or explanation. The Request also improperly assumes that Defendants placed, authorized, or initiated calls to Plaintiff—they did not—and therefore have responsive information.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Request.

Dated: April 14, 2023

*Respectfully submitted,*

***WATSTEIN TEREPKA LLP***

By: /s/ Matthew A. Keilson

Matthew A. Keilson

Georgia Bar No. 216676

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1055 Howell Mill Road, 8th Floor

Atlanta, Georgia 30318

678-372-0408

*Attorney for Defendants MJ Ministries  
Spreading the Gospel, Inc., Steven Sledge,  
Aaron Jordan, Naomi Cook, Luther  
McKinstry, and Wayne Taylor*

**CERTIFICATE OF SERVICE**

I hereby certify that on April 14, 2023, I served the foregoing document on Plaintiff via electronic and regular U.S. mail.

Craig Cunningham  
3000 Custer Road  
Suite 270-206  
Plano, TX 75075  
[projectpalehorse@hushmail.com](mailto:projectpalehorse@hushmail.com)

By: /s/ Matthew A. Keilson  
Matthew A. Keilson

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

CRAIG CUNNINGHAM,

Plaintiff,

v.

YAKIM JORDAN, MJ MINISTRIES  
SPREADING THE GOSPEL, INC.,  
MJ MINISTRIES, LLC, STEVEN  
SLEDGE, AARON JORDAN, NAOMI  
COOK, LUTHER MCKINSTRY,  
FRANK JULIANO, JONATHAN  
FOREMAN, JESSE SPENCER,  
WARREN TAYLOR, SERVING  
HANDS COMMUNITY  
DEVELOPMENT CORPORATION  
and JOHN/JANE DOES 1-5,

Defendants.

Case No. 1:22-cv-1419-WMR

**DEFENDANTS MJ MINISTRIES SPREADING THE GOSPEL, INC.,  
AARON JORDAN, NAOMI COOK, AND STEVEN SLEDGE'S  
RESPONSES TO PLAINTIFF'S FIRST INTERROGATORIES AND  
REQUESTS FOR PRODUCTION**

Defendants MJ Ministries Spreading the Gospel, Inc. ("MJ Spread"), Aaron Jordan ("A. Jordan"), Naomi Cook ("Cook"), and Steven Sledge ("Sledge") (collectively "Defendants"), pursuant to Rules 26 and 33 of the Federal Rules of

Civil Procedure, hereby submit their objections and responses to Plaintiff's First Interrogatories and Requests for Production, stating as follows:

**PRELIMINARY STATEMENT**

In responding, Defendants do not concede that any Interrogatory or Request to which they respond is relevant to the subject matter of this litigation or proportional to the needs of the case. Defendants expressly reserves both the right to object to further discovery into the subject matter of these Interrogatories and Requests and the right to object to the introduction into evidence of its responses to these Interrogatories and Requests. Defendants also reserve the right to question the authenticity, relevancy, materiality, privilege, and admissibility as evidence for any purpose of the information provided and the documents identified and/or produced in response to these Interrogatories and Requests, which may arise in any subsequent proceeding in, or the trial of, this or any other action.

Defendants reserve the right to amend, supplement, or revise their responses as necessary up to and including the time of trial.

**RESPONSES TO INTERROGATORIES**

Subject to the foregoing Preliminary Statement, Defendants respond to the Interrogatories as follows:

**INTERROGATORY NO. 1.**

State the following information related to any of the telephone campaigns that

resulted in calls to the Plaintiff's phone numbers as alleged in the complaint:

- a. Identifying information for the person you were trying to reach (e.g., name, business name, address, email, fax number, all phone numbers);
- b. Identification of the equipment, third party utilized, if applicable and software used to make the call (e.g., Avatar, ytel, Five9, Guaranteed Contacts, Aspect, Avaya), and the location of the call origination/dialer;
- c. The source(s) where you obtained the telephone number called, including the nature of such relationship and the facts and circumstances surrounding such; and
- d. State the name, address, and phone number for any agent, employee or 3rd party telemarketer that spoke to the Plaintiff in any calls by or on behalf of the defendants
- e. State the name, address, and phone number of every telecommunications company that provided phone service to the defendants in the 4 years prior to the filing of this complaint.

**RESPONSE:**

Defendants object to this Interrogatory as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Interrogatories misstates the service date as March 14, 2023, Plaintiff did not serve the Interrogatories until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Interrogatories are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery

closed.

Defendants object to this Interrogatory to the extent it is overly broad and seeks information that is irrelevant, immaterial to the subject matter of the pending litigation, and not reasonably calculated to the discovery of admissible evidence. Specifically, the Interrogatory seeks information preceding the parties' September 2020 settlement agreement in *Cunningham v. Mannaseh Jordan Ministries, Inc.*, No. 4:19-cv-00494 (E.D. Tex.), in which Plaintiff released all then existing claims against Defendants. The Interrogatory also improperly assumes that Defendants placed, authorized, or initiated calls to Plaintiff—they did not—and therefore have responsive information.

Defendants object to this Interrogatory as vague and ambiguous to the extent it uses the phrases/terms "telephone campaigns," "agent," and "3rd party telemarketer," which are without adequate definition or explanation.

Defendants object to this Interrogatory as it infringes on privacy rights.

Defendant2 objects to this Interrogatory as compound and thus improper.

Defendants object to this Interrogatory to the extent it purports to impose an obligation on Defendants to provide a response for or on behalf of any other person or entity.

Subject to and without waiving the foregoing objections, Defendants will not

respond to this untimely Interrogatory.

**INTERROGATORY NO. 2.**

Identify all facts in support of affirmative defenses you have raised. Including, but not limited to, the sources of any consent you assert you've obtained from the Plaintiff or 3rd parties you were trying to reach when calling the Plaintiff to make telemarketing calls to them.

**RESPONSE:**

Defendants object to this Interrogatory as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Interrogatories misstates the service date as March 14, 2023, Plaintiff did not serve the Interrogatories until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Interrogatories are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants object to this Interrogatory to the extent it is overly broad and seeks information that is irrelevant, immaterial to the subject matter of the pending

litigation, and not reasonably calculated to the discovery of admissible evidence. Specifically, the Interrogatory is unlimited in time and seeks information preceding the parties' September 2020 settlement agreement in *Cunningham v. Mannaseh Jordan Ministries, Inc.*, No. 4:19-cv-00494 (E.D. Tex.), in which Plaintiff released all then existing claims against Defendants. This Interrogatory is also unlimited as to scope (including not being limited to Plaintiff or any purported calls to the subject number in the operative Complaint) and is not tailored to the claims or defenses at issue in this case. The Interrogatory also improperly assumes that Defendants placed, authorized, or initiated calls to Plaintiff—they did not—and therefore have responsive information.

Defendants object to this Interrogatory as vague and ambiguous to the extent it uses the phrases/terms “consent” and “3rd parties,” which are without adequate definition or explanation.

Defendants object to this Interrogatory as it infringes on privacy rights.

Defendants object to this Interrogatory to the extent it seeks materials prepared in anticipation of litigation or to the extent it calls for the disclosure of the mental impressions, conclusions, opinions, or legal theories of any attorney for Defendants or any other information protected by the Federal Rules of Civil

Procedure. Similarly, Defendants object to this Interrogatory to the extent it seeks information protected from discovery under the attorney–client privilege.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Interrogatory.

**INTERROGATORY NO. 3.**

Identify by name, address, company name, telephone number and all other contact information in your possession, custody or control, the individual or entity that physically dialed the calls to the Plaintiff alleged in his Complaint and identify their job responsibilities.

**RESPONSE:**

Defendants object to this Interrogatory as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff’s certificate of service for these Interrogatories misstates the service date as March 14, 2023, Plaintiff did not serve the Interrogatories until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court’s Standing Order, which requires parties to serve all discovery requests “early enough so that the responses thereto are due on or before the last day of the discovery period.” *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Interrogatories are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery

closed.

Defendants object to this Interrogatory as it infringes on privacy rights.

Defendants object to this Interrogatory to the extent it purports to impose an obligation on Defendants to provide a response for or on behalf of any other person or entity. The Interrogatory also improperly assumes that Defendants placed, authorized, or initiated calls to Plaintiff—they did not—and therefore have responsive information.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Interrogatory.

#### **INTERROGATORY NO. 4.**

Please identify the person or persons responsible for receiving, maintaining, investigating, and responding to complaints submitted to Defendant relating to any investigations related to TCPA violations and identify the individual responsible for initiating disciplinary measures against the responsible party.

#### **RESPONSE:**

Defendants object to this Interrogatory as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Interrogatories misstates the service date as March 14, 2023, Plaintiff did not serve the Interrogatories until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which

requires parties to serve all discovery requests “early enough so that the responses thereto are due on or before the last day of the discovery period.” See Standing Order Regarding Civil Litigation at 13. Accordingly, these Interrogatories are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants object to this Interrogatory to the extent it is overly broad and seeks information that is irrelevant, immaterial to the subject matter of the pending litigation, and not reasonably calculated to the discovery of admissible evidence. Specifically, the Interrogatory is unlimited in time and seeks information preceding the parties’ September 2020 settlement agreement in *Cunningham v. Mannaseh Jordan Ministries, Inc.*, No. 4:19-cv-00494 (E.D. Tex.), in which Plaintiff released all then existing claims against Defendants. This Interrogatory is also unlimited as to scope (including not being limited to Plaintiff or any purported calls to the subject number in the operative Complaint) and is not tailored to the claims or defenses at issue in this case.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Interrogatory.

**INTERROGATORY NO. 5.**

Please identify the person or persons responsible for training Defendant employees, and any individual or entity they retain for using a dialer to send telephone calls as well as in regard to compliance with telemarketing laws.

**RESPONSE:**

Defendants object to this Interrogatory as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Interrogatories misstates the service date as March 14, 2023, Plaintiff did not serve the Interrogatories until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Interrogatories are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants object to this Interrogatory to the extent it is overly broad and seeks information that is irrelevant, immaterial to the subject matter of the pending litigation, and not reasonably calculated to the discovery of admissible evidence. Specifically, the Interrogatory is unlimited in time and seeks information preceding

the parties' September 2020 settlement agreement in *Cunningham v. Mannaseh Jordan Ministries, Inc.*, No. 4:19-cv-00494 (E.D. Tex.), in which Plaintiff released all then existing claims against Defendants. This Interrogatory is also unlimited as to scope (including not being limited to Plaintiff or any purported calls to the subject number in the operative Complaint) and is not tailored to the claims or defenses at issue in this case.

Defendants object to this Interrogatory as vague and ambiguous to the extent it uses the phrases/terms "dialer" and "telemarketing laws," which are without adequate definition or explanation.

Defendants object to this Interrogatory as compound and thus improper.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Interrogatory.

**INTERROGATORY NO. 6.**

Identify each and every person who provided the information to answer these interrogatories, and specify each interrogatory or interrogatories about which each such person had information to include their name, home address, and phone number.

**RESPONSE:**

Defendants object to this Interrogatory as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of

service for these Interrogatories misstates the service date as March 14, 2023, Plaintiff did not serve the Interrogatories until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court’s Standing Order, which requires parties to serve all discovery requests “early enough so that the responses thereto are due on or before the last day of the discovery period.” *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Interrogatories are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants object to this Interrogatory as vague and ambiguous to the extent it uses the phrase/term “provided the information,” which is without adequate definition or explanation.

Defendants object to this Interrogatory as it infringes on privacy rights.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Interrogatory.

**INTERROGATORY NO. 7.**

Identify in detail all interactions that any employee of Defendant, or any third party it retained, has had with the Plaintiff in the last four years.

**RESPONSE:**

Defendants object to this Interrogatory as untimely. Despite having eight

months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Interrogatories misstates the service date as March 14, 2023, Plaintiff did not serve the Interrogatories until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Interrogatories are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants object to this Interrogatory to the extent it is overly broad and seeks information that is irrelevant, immaterial to the subject matter of the pending litigation, and not reasonably calculated to the discovery of admissible evidence. Specifically, the Interrogatory is unlimited in time and seeks information preceding the parties' September 2020 settlement agreement in *Cunningham v. Mannaseh Jordan Ministries, Inc.*, No. 4:19-cv-00494 (E.D. Tex.), in which Plaintiff released all then existing claims against Defendants. This Interrogatory is also unlimited as to scope (including not being limited to any purported calls to the subject number in the operative Complaint) and is not tailored to the claims or defenses at issue in this

case. The Interrogatory also improperly assumes that Defendants placed, authorized, or initiated calls to Plaintiff—they did not—and therefore have responsive information.

Defendants object to this Interrogatory as vague and ambiguous to the extent it uses the phrase/term “any third party it retained,” which is without adequate definition or explanation.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Interrogatory.

**INTERROGATORY NO. 8.**

For any phone number belonging to PLAINTIFF as alleged in the complaint that you called or texted, how and when and how did you first get it to include the name, address, and phone number of the person or entity that provided the number?

**RESPONSE:**

Defendants object to this Interrogatory as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff’s certificate of service for these Interrogatories misstates the service date as March 14, 2023, Plaintiff did not serve the Interrogatories until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court’s Standing Order, which requires parties to serve all discovery requests “early enough so that the responses

thereto are due on or before the last day of the discovery period.” See Standing Order Regarding Civil Litigation at 13. Accordingly, these Interrogatories are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants object to this Interrogatory to the extent it is overly broad and seeks information that is irrelevant, immaterial to the subject matter of the pending litigation, and not reasonably calculated to the discovery of admissible evidence. Specifically, the Interrogatory seeks information preceding the parties’ September 2020 settlement agreement in *Cunningham v. Mannaseh Jordan Ministries, Inc.*, No. 4:19-cv-00494 (E.D. Tex.), in which Plaintiff released all then existing claims against Defendants. This Interrogatory is also unlimited as to scope (including not being limited to any purported calls to the subject number in the operative Complaint) and is not tailored to the claims or defenses at issue in this case. The Interrogatory also improperly assumes that Defendants placed, authorized, or initiated calls to Plaintiff—they did not—and therefore have responsive information.

Defendants object to this Interrogatory as confusing and unintelligible because it asks Defendants to identify how they obtained Plaintiff’s numbers “to include” the contact information of the person or entity from whom they obtained

the numbers.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Interrogatory.

**INTERROGATORY NO. 9.**

IDENTIFY all THIRD PARTIES or VENDORS whose work relates to telemarketing or the tracking or aggregation of data related to telemarketing and DESCRIBE the services each such THIRD PARTY or VENDOR performs for YOU.

**RESPONSE:**

Defendants object to this Interrogatory as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Interrogatories misstates the service date as March 14, 2023, Plaintiff did not serve the Interrogatories until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Interrogatories are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants object to this Interrogatory to the extent it is overly broad and seeks information that is irrelevant, immaterial to the subject matter of the pending litigation, and not reasonably calculated to the discovery of admissible evidence. Specifically, the Interrogatory seeks information preceding the parties' September 2020 settlement agreement in *Cunningham v. Mannaseh Jordan Ministries, Inc.*, No. 4:19-cv-00494 (E.D. Tex.), in which Plaintiff released all then existing claims against Defendants. This Interrogatory is also unlimited as to scope (including not being limited to any purported calls to the subject number in the operative Complaint) and is not tailored to the claims or defenses at issue in this case. The Interrogatory also improperly assumes that Defendants placed, authorized, or initiated calls to Plaintiff—they did not—and therefore have responsive information.

Defendants object to this Interrogatory as vague and ambiguous to the extent it uses the phrases/terms "third parties," "vendors," "telemarketing," "tracking," "aggregation of data," which are without adequate definition or explanation.

Defendants object to this Interrogatory to the extent it seeks information that includes trade secrets or other confidential or proprietary research, development, or commercial information.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Interrogatory.

**INTERROGATORY NO. 10.**

IDENTIFY and provide all contact information YOU have for the individuals or entities that physically dialed the calls to PLAINTIFF alleged in the complaint and IDENTIFY their job responsibilities, regardless of whether or not they are still employed by YOU.

**RESPONSE:**

Defendants object to this Interrogatory as unreasonably duplicative of Interrogatory No. 3, and Defendants incorporate their response here.

Defendants object to this Interrogatory as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Interrogatories misstates the service date as March 14, 2023, Plaintiff did not serve the Interrogatories until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Interrogatories are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants object to this Interrogatory as it infringes on privacy rights.

Defendants object to this Interrogatory to the extent it purports to impose an obligation on Defendants to provide a response for or on behalf of any other person or entity.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Interrogatory.

**INTERROGATORY NO. 11.**

Other than your attorneys or their employees or agents, IDENTIFY every PERSON with whom you have discussed or otherwise communicated with about this case and summarize the communication.

**RESPONSE:**

Defendants object to this Interrogatory as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Interrogatories misstates the service date as March 14, 2023, Plaintiff did not serve the Interrogatories until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Interrogatories are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery

closed.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Interrogatory.

**INTERROGATORY NO. 12.**

Do you subscribe to the National Do Not Call Registry? If so state your SANS number.

**RESPONSE:**

Defendants object to this Interrogatory as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Interrogatories misstates the service date as March 14, 2023, Plaintiff did not serve the Interrogatories until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Interrogatories are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Subject to and without waiving the foregoing objections, Defendants will not

respond to this untimely Interrogatory.

**INTERROGATORY NO. 13.**

State the name, address, and phone number of the all phone companies that you have paid money to from the date of the prior settlement through the present.

**RESPONSE:**

Defendants object to this Interrogatory as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Interrogatories misstates the service date as March 14, 2023, Plaintiff did not serve the Interrogatories until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Interrogatories are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants object to this Interrogatory to the extent it is overly broad and seeks information that is irrelevant, immaterial to the subject matter of the pending litigation, and not reasonably calculated to the discovery of admissible evidence.

Specifically, the Interrogatory is unlimited as to scope (including not being limited to Plaintiff or any purported calls to the subject number in the operative Complaint) and is not tailored to the claims or defenses at issue in this case.

Defendants further object to this Request as vague and ambiguous to the extent it refers to a “prior settlement” without further specification.

Subject to and without waiving the foregoing objections, Defendants will not respond to this untimely Interrogatory.

### **RESPONSES TO REQUESTS FOR PRODUCTION**

Subject to the foregoing Preliminary Statement, Defendants respond to the Requests for Production as follows:

#### **REQUEST FOR PRODUCTION NO. 1:** (Misnumbered as No. 2.)

All documents that identify the dialing capacities of the system(s) used to make the text messages described in the complaint. This includes, but is not limited to, manuals, evaluations and internal correspondence regarding the equipment and the entity that manufactures that equipment.

#### **RESPONSE:**

Defendants object to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff’s certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No.

24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendants object to this Request as vague and ambiguous to the extent it uses the phrases/terms "dialing capacities," "agent," and "3rd party telemarketer," which are without adequate definition or explanation.

Defendants object to this Request to the extent it purports to impose an obligation on Defendants to provide a response for or on behalf of any other person or entity. The Request also improperly assumes that Defendants placed, authorized, or initiated calls to Plaintiff—they did not—and therefore have responsive information.

Defendants object to this Request to the extent it seeks information that includes trade secrets or other confidential or proprietary research, development, or commercial information.

Defendants object to this Request to the extent it seeks materials prepared in anticipation of litigation or to the extent it calls for the disclosure of the mental

EX E

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

CRAIG CUNNINGHAM,

Plaintiff,

v.

YAKIM JORDAN, MJ MINISTRIES  
SPREADING THE GOSPEL, INC.,  
MJ MINISTRIES, LLC, STEVEN  
SLEDGE, AARON JORDAN, NAOMI  
COOK, LUTHER MCKINSTRY,  
FRANK JULIANO, JONATHAN  
FOREMAN, JESSE SPENCER,  
WARREN TAYLOR, SERVING  
HANDS COMMUNITY  
DEVELOPMENT CORPORATION  
and JOHN/JANE DOES 1-5,

Defendants.

Case No. 1:22-cv-1419-WMR

**DEFENDANT MJ MINISTRIES SPREADING THE GOSPEL, INC.'S  
RESPONSES TO PLAINTIFF'S FIRST REQUESTS FOR ADMISSION**

Defendant MJ Ministries Spreading the Gospel, Inc. ("Defendant"), pursuant to Rule 36 of the Federal Rules of Civil Procedure, hereby submits its objections and responses to Plaintiff's First Requests for Admission, stating as follows:

**REQUEST FOR ADMISSION NO. 1:**

Admit that you placed calls initiated using an automatic telephone dialing system to the Plaintiff's cell phone number specified in the complaint.

**RESPONSE:**

Defendant objects to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 2:**

Admit that you placed calls initiated using an automatic telephone dialing system with a prerecorded message in an attempt to reach the Plaintiff.

**RESPONSE:**

Defendant objects to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery*

*closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 3:**

Admit that you placed calls using a pre-recorded message to the Plaintiff's cell phone number as specified in the complaint.

**RESPONSE:**

Defendant objects to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all

discovery requests “early enough so that the responses thereto are due on or before the last day of the discovery period.” *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 4:**

Admit that you did not have prior express written consent from the Plaintiff to receive calls initiated using an automated telephone dialing system or calls with a pre-recorded message at the time of each and every call placed.

**RESPONSE:**

Defendant objects to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff’s certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court’s Standing Order, which requires parties to serve all discovery requests “early enough so that the responses thereto are due on or before the last day of the discovery period.” *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended

and (2) they were served after discovery closed.

Defendant further objects to this Request to the extent it assumes facts not in evidence, including that Defendant placed or authorized calls using an automated telephone dialing system (“ATDS”) or with prerecorded messages (“PRV”) to Plaintiff.

Subject to the foregoing objections, and without waiving the same, Defendant has made a reasonable inquiry and the information it knows or can readily obtain is insufficient to enable it to admit or deny that it did not have Plaintiff’s prior express written consent. Defendant, however, denies placing or authorizing any calls, whether using an ATDS, PRV, or otherwise, to Plaintiff.

**REQUEST FOR ADMISSION NO. 5:**

Admit that you called the Plaintiff’s after the Plaintiff sued you in a previous lawsuit in Federal court.

**RESPONSE:**

Defendant objects to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff’s certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court’s Standing Order, which requires parties to serve all

discovery requests “early enough so that the responses thereto are due on or before the last day of the discovery period.” *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendant further objects to this Request as vague and ambiguous because it is missing a word after “Plaintiff’s.” It is thus unclear what, exactly, the Request is asking.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 6:**

Admit that you maintain an account with Ring Central.

**RESPONSE:**

Defendant objects to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff’s certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court’s Standing Order, which requires parties to serve all discovery requests “early enough so that the responses thereto are due on or before the last day of the discovery period.” *See* Standing Order Regarding Civil Litigation

at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 7:**

Admit that in the time from the prior settlement to the filing of this lawsuit that you had an account with Ring Central.

**RESPONSE:**

Defendant objects to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendant further objects to this Request as vague and ambiguous to the

extent it refers to a “prior settlement” without further specification.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 8:**

Admit that you personally directed the calls to be placed to the Plaintiff’s cell phone.

**RESPONSE:**

Defendant objects to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff’s certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court’s Standing Order, which requires parties to serve all discovery requests “early enough so that the responses thereto are due on or before the last day of the discovery period.” *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 9:**

Admit that none of the calls were related to any emergency purpose.

**RESPONSE:**

Defendant objects to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Subject to the foregoing objections, and without waiving the same, Defendant has made a reasonable inquiry and the information it knows or can readily obtain is insufficient to enable it to admit or deny this Request because it did not make or authorize the subject calls. Therefore, denied.

**REQUEST FOR ADMISSION NO. 10:**

Admit that none of the prerecorded messages identified the legal or DBA names of the Defendant.

**RESPONSE:**

Defendant objects to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendant further objects to this Request to the extent it assumes facts not in evidence, including that Defendant or someone on its behalf placed the calls to Plaintiff.

Subject to the foregoing objections, and without waiving the same, Defendant has made a reasonable inquiry and the information it knows or can readily obtain is insufficient to enable it to admit or deny this Request because it did not make or authorize the subject calls. Therefore, denied.

**REQUEST FOR ADMISSION NO. 11:**

Admit that you did not have an internal do not call policy in place at the time of each and every call.

**RESPONSE:**

Defendant objects to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendant further objects to this Request to the extent it assumes facts not in evidence, including that Defendant placed or authorized the calls to Plaintiff.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 12:**

Admit that you did not train your employees on the use of an internal do not call policy at the time of each and every call.

**RESPONSE:**

Defendant objects to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendant further objects to this Request to the extent it assumes facts not in evidence, including that Defendant has employees and placed or authorized the calls to Plaintiff.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 13:**

Admit that each and every call violated 47 USC 227(b).

**RESPONSE:**

Defendant objects to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 14:**

Admit that each and every call violated 47 CFR 64.1200(d).

**RESPONSE:**

Defendant objects to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery*

*closed* to serve any written discovery. Though Plaintiff’s certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court’s Standing Order, which requires parties to serve all discovery requests “early enough so that the responses thereto are due on or before the last day of the discovery period.” *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 15:**

Admit that your Ytel account in your name was paid for in part from money that originated with MJ Ministries Spreading the Gospel, Inc in 2018 and 2019.

**RESPONSE:**

Defendant objects to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff’s certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court’s Standing Order, which requires parties to serve all

discovery requests “early enough so that the responses thereto are due on or before the last day of the discovery period.” *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendant further objects to this Request to the extent it assumes facts not in evidence, including that Defendant has a Ytel account.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 16:**

Admit that Aaron Jordan is an officer of MJ Ministries Spreading the Gospel, Inc.

**RESPONSE:**

Defendant objects to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff’s certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court’s Standing Order, which requires parties to serve all discovery requests “early enough so that the responses thereto are due on or before the last day of the discovery period.” *See* Standing Order Regarding Civil Litigation

at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Subject to the foregoing objections, and without waiving the same, admitted.

**REQUEST FOR ADMISSION NO. 17:**

Admit that you control MJ Ministries Spreading the Gospel, Inc.

**RESPONSE:**

Defendant objects to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Defendant further objects to this Request as unintelligible because it asks Defendant, an entity, whether Defendant controls itself.

Subject to the foregoing objections, and without waiving the same, denied.

**REQUEST FOR ADMISSION NO. 18:**

Admit that each and every call was willfully and knowingly placed by the defendants.

**RESPONSE:**

Defendant objects to this Request as untimely. Despite having eight months of discovery (including four additional months), Plaintiff waited until *after discovery closed* to serve any written discovery. Though Plaintiff's certificate of service for these Requests misstates the service date as March 14, 2023, Plaintiff did not serve the Requests until March 15, 2023—the day after discovery closed. *See* ECF No. 24. This violates the Court's Standing Order, which requires parties to serve all discovery requests "early enough so that the responses thereto are due on or before the last day of the discovery period." *See* Standing Order Regarding Civil Litigation at 13. Accordingly, these Requests are untimely for two separate reasons: (1) they were not served in time for responses to be made before the discovery period ended and (2) they were served after discovery closed.

Subject to the foregoing objections, and without waiving the same, denied.

Dated: April 14, 2023

*Respectfully submitted,*

***WATSTEIN TEREPKA LLP***

By: /s/ Matthew A. Keilson

Matthew A. Keilson

Georgia Bar No. 216676

*mkeilson@wtlaw.com*

1055 Howell Mill Road, 8th Floor

Atlanta, GA 30318

678-372-0408

*Attorney for Defendants MJ Ministries  
Spreading the Gospel, Inc., Steven Sledge,  
Aaron Jordan, Naomi Cook, Luther  
McKinstry, and Wayne Taylor*

**CERTIFICATE OF SERVICE**

I hereby certify that on April 14, 2023, I served the foregoing document on Plaintiff via electronic and regular U.S. mail.

Craig Cunningham  
3000 Custer Road  
Suite 270-206  
Plano, TX 75075  
[projectpalehorse@hushmail.com](mailto:projectpalehorse@hushmail.com)

By: /s/ Matthew A. Keilson  
Matthew A. Keilson



4. All requests are also directed to all parent, related, affiliate and subsidiary companies of defendant, to the greatest extent permissible under the discovery rules. Moreover, defendant is to make transparent, best efforts to obtain materials from third parties such as vendors, which are within their "possession, custody or control" as those terms appear in Fed. R. Civ. P. 34.

5. "Communication" includes every manner or means of disclosure, transfer, or exchange of information, and every disclosure, transfer or exchange of information, whether orally or by document or whether face-to-face, by telephone, mail, personal delivery, or otherwise.

6. "TCPA" means the Telephone Consumer Protection Act, 47 U.S.C. § 227, implementing regulations 47 C.F.R. 64.1200, and all valid FCC rulings and opinions interpreting such.

7. To the extent any paragraph is objected to, please set forth all reasons for your objection.

8. If you prefer, you may provide legible copies of document that reflect all markings, notations, and highlighting on the originals.

9. The singular includes the plural number, and vice versa. The masculine includes the feminine and neuter genders. The past tense includes the present tense where the clear meaning is not distorted by change of tense.

10. To the extent that any document cannot be furnished, such documents as are available shall be supplied, together with a description of the documents not furnished and the reason for not furnishing them.

11. "And" and "or" shall be interpreted to mean "and/or," so that said terms are given their broadest possible meaning.

**Request for Production of Documents**

2. All documents that identify the dialing capacities of the system(s) used to make the text messages described in the complaint. This includes, but is not limited to, manuals, evaluations and internal correspondence regarding the equipment and the entity that manufactures that equipment.

**RESPONSE:**

2. All contracts with any third parties that were engaged by Defendant that made telemarketing or lead generation calls or text messages in the 4 years prior to the filing of this complaint.

**RESPONSE:**

3. All documents concerning internal investigations conducted by Defendant concerning complaints regarding alleged violations of the TCPA involving the Plaintiff.

**RESPONSE:**

4. All documents referred to in, identified in, or that provide part or all of the basis for your responses to any Interrogatory propounded by the Plaintiff.

**RESPONSE:**

5. All documents, records, data, call recordings and other materials relating to Plaintiff or relating to calls or text messages placed to the Plaintiff 615-212-9191 and 615-348-1977 from the date of the prior settlement to present.

**RESPONSE:**

6. All insurance policies that could possibly afford any coverage with respect to the matters complained of in this case together with all correspondence discussing, accepting or declin-

ing coverage or reserving rights with respect thereto.

**RESPONSE:**

7. Produce all correspondence with any 3<sup>rd</sup> parties that placed calls or text messages by or on behalf of the defendants including any documents reflecting payments to these 3<sup>rd</sup> parties.

**RESPONSE:**

8. Produce all documents relating to any training relating to telemarketing with Defendant or any 3<sup>rd</sup> parties placing calls on the defendant's behalf, including training employees on the use of an internal do not call list and a copy of your internal do not call list if you had one at the time of the calls.

**RESPONSE:**

9. Produce all scripts used for any outbound telemarketing calls or text messages made by or on behalf of the defendant or by any third parties retained by the Defendants on telemarketing campaigns. This request includes all drafts of those scripts.

**RESPONSE:**

10. All documents that identify the source of the Plaintiff's telephone numbers your company obtained for the purposes of telemarketing, and all communications with that company.

**RESPONSE:**

11. Produce copies of all marketing materials, business plans, memoranda, minutes, and/or other documents that reference using telemarketing or automatic dialing systems to contact persons and/or entities to promote your goods or services.

**RESPONSE:**

12. Produce any documents which demonstrate the software or equipment used to place calls by or on behalf of the defendant's in this case in the 4 years prior to this lawsuit.

**RESPONSE:**

13. Please produce any and all manuals, DOCUMENTS and ESI related to the system(s), platform(s), and/or equipment used by YOU, or any VENDOR, to make CALLS

to PLAINTIFF or to store data about such calls.

**RE-**

**SPONSE:**

14. Please produce any and all DOCUMENTS or ESI evidencing Plaintiff's consent to be called by YOU.

**RESPONSE:**

15. Please produce all call detail records, invoices, and billing records of every CALL made by YOU, or on YOUR behalf, to PLAINTIFF, including, but not limited to, records of the following information:

- a. Its date;
- b. Its time;
- c. Its duration;
- d. The person who placed it;
- e. The entity that placed it;
- f. The caller ID;
- g. The called number;
- h. The result (e.g., live answer, answering machine, voicemail, hang up,

etc.);

- i. The dialing equipment or software (e.g., Avatar, ytel, Five9, Guaranteed

Contacts, Aspect, Avaya); and

- j. The dialing mode (e.g., predictive, prerecorded voice, preview, etc.).

**RESPONSE:**

16. Please produce all invoices from any THIRD PARTY or VENDOR from whom you bought a information containing the Plaintiff's phone number

**RESPONSE:**

17. Please produce all DOCUMENTS or ESI substantiating the affirmative defenses in your answer to the complaint.

**RESPONSE:**

18. Produce all business and personal bank statements from the date of the prior settlement to present

**RESPONSE:**

19. Produce all call detail records showing call from any entity you own or control to 615-348-1977 or 615-212-9191 from the date of the prior settlement to present.

**RESPONSE:**

### Interrogatories

1. State the following information related to any of the telephone campaigns that resulted in calls to the Plaintiff's phone numbers as alleged in the complaint:
  - a. Identifying information for the person you were trying to reach (e.g., name, business name, address, email, fax number, all phone numbers);
  - b. Identification of the equipment, third party utilized, if applicable and software used to make the call (e.g., Avatar, ytel, Five9, Guaranteed Contacts, Aspect, Avaya), and the location of the call origination/dialer;
  - c. The source(s) where you obtained the telephone number called, including the nature of such relationship and the facts and circumstances surrounding such; and
  - d. State the name, address, and phone number for any agent, employee or 3<sup>rd</sup> party telemarketer that spoke to the Plaintiff in any calls by or on behalf of the defendants
  - e. State the name, address, and phone number of every telecommunications company that provided phone service to the defendants in the 4 years prior to the filing of this complaint

### Response:

2. Identify all facts in support of affirmative defenses you have raised. Including, but not limited to, the sources of any consent you assert you've obtained from the Plaintiff or 3<sup>rd</sup> parties you were trying to reach when calling the Plaintiff to make telemarketing calls to them.

Response:

3. Identify by name, address, company name, telephone number and all other contact information in your possession, custody or control, the individual or entity that physically dialed the calls to the Plaintiff alleged in his Complaint and identify their job responsibilities.

Response:

4. Please identify the person or persons responsible for receiving, maintaining, investigating, and responding to complaints submitted to Defendant relating to any investigations related to TCPA violations and identify the individual responsible for initiating disciplinary measures against the responsible party.

Response:

5. Please identify the person or persons responsible for training Defendant employees, and any individual or entity they retain for using a dialer to send telephone calls as well as in regard to compliance with telemarketing laws.

Response:

6. Identify each and every person who provided the information to answer these interrogatories, and specify each interrogatory or interrogatories about which each such person had information to include their name, home address, and phone number.

Response:

7. Identify in detail all interactions that any employee of Defendant, or any third party it retained, has had with the Plaintiff in the last four years.

Response:

8. For any phone number belonging to PLAINTIFF as alleged in the complaint that you called or texted, how and when and how did you first get it to include the name, address, and phone number of the person or entity that provided the number?

Response:

9. IDENTIFY all THIRD PARTIES or VENDORS whose work relates to telemarketing or the tracking or aggregation of data related to telemarketing and DESCRIBE the services each such THIRD PARTY or VENDOR performs for YOU.

Response:

10. IDENTIFY and provide all contact information YOU have for the individuals or entities that physically dialed the calls to PLAINTIFF alleged in the complaint and IDENTIFY their job responsibilities, regardless of whether or not they are still employed by YOU.

Response:

11. Other than your attorneys or their employees or agents, IDENTIFY every PERSON with whom you have discussed or otherwise communicated with about this case and summarize the communication.

Response:

12. Do you subscribe to the National Do Not Call Registry? If so state your SANS number.

Response:

13. State the name, address, and phone number of the all phone companies that you have paid money to from the date of the prior settlement through the present.

Response:

### ADMISSIONS

- 1 Admit that you placed calls initiated using an automatic telephone dialing system to the Plaintiff's cell phone number specified in the complaint.
- 2 Admit that you placed calls initiated using an automatic telephone dialing system with a pre-recorded message in an attempt to reach the Plaintiff.
- 3 Admit that you placed calls using a pre-recorded message to the Plaintiff's cell phone number as specified in the complaint
- 4 Admit that you did not have prior express written consent from the Plaintiff to receive calls initiated using an automated telephone dialing system or calls with a pre-recorded message at the time of each and every call placed
- 5 Admit that you called the Plaintiff's after the Plaintiff sued you in a previous lawsuit in Federal court
- 6 Admit that you maintain an account with Ring Central
- 7 Admit that in the time from the prior settlement to the filing of this lawsuit that you had an account with Ring Central
- 8 Admit that you personally directed the calls to be placed to the Plaintiff's cell phone
- 9 Admit that none of the calls were related to any emergency purpose.
- 10 Admit that none of the prerecorded messages identified the legal or DBA names of the Defendant.
- 11 Admit that you did not have an internal do not call policy in place at the time of each and every call
- 12 Admit that you did not train your employees on the use of an internal do not call policy at the time of each and every call.

- 13 Admit that each and every call violated 47 USC 227(b)
- 14 Admit that each and every call violated 47 CFR 64.1200(d)
- 15 Admit that your Ytel account in your name was paid for in part from money that originated with MJ Ministries Spreading the Gospel, Inc in 2018 and 2019.
- 16 Admit that Aaron Jordan is an officer of MJ Ministries Spreading the Gospel, Inc.
- 17 Admit that you control MJ Ministries Spreading the Gospel, Inc.
- 18 Admit that each and every call was willfully and knowingly placed by the defendants

  
Craig Cunningham  
Plaintiff,

3/14/2023

Craig Cunningham, Plaintiff, Pro-se 3000 Custer Road, ste 270-206, Plano, Tx 75075



*EX E*  
*Never answered*

**UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF GEORGIA**

<p><b>CRAIG CUNNINGHAM,</b> <b>Plaintiff,</b></p> <p>v.</p> <p>Manasseh Jordan Ministries, Inc., Bullion Fitness Inc., Kingdom Ministries Church, Inc., Yakim Manasseh Jordan, aka Manasseh Jordan, MJ Ministries Spread- ing the Gospel, Inc., Steven Sledge, Aaron Jordan, Naomi Cook, John/Jane Does 1-5</p> <p><b>Defendant</b></p>	<p>§ § § § § § § § § §</p> <p>1:22-cv-1419</p>
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**Plaintiff’s Discovery to Defendant Bullion Fitness, Inc**

1. Plaintiff Craig Cunningham (“Mr. Cunningham” or “Plaintiff”) requests that defend-  
ant **Bullion Fitness, Inc** respond to the following requests.

Throughout this request:

1. Unless otherwise stated, or identified in the local rules, all definitions should be responded to according to their ordinary meaning.
2. Unless otherwise specified in a particular paragraph, the time period covered by this request is four years prior to the filing of the Complaint in this action through the date of trial.
3. If any document requested was, but no longer is, in your possession or subject to your control, please state: (a) the date of its disposition; (b) the manner of its disposition (e.g., lost, destroyed, transferred to a third party); and (c) an explanation of the circumstances surrounding the disposition of the document.

4. All requests are also directed to all parent, related, affiliate and subsidiary companies of defendant, to the greatest extent permissible under the discovery rules. Moreover, defendant is to make transparent, best efforts to obtain materials from third parties such as vendors, which are within their "possession, custody or control" as those terms appear in Fed. R. Civ. P. 34.

5. "Communication" includes every manner or means of disclosure, transfer, or exchange of information, and every disclosure, transfer or exchange of information, whether orally or by document or whether face-to-face, by telephone, mail, personal delivery, or otherwise.

6. "TCPA" means the Telephone Consumer Protection Act, 47 U.S.C. § 227, implementing regulations 47 C.F.R. 64.1200, and all valid FCC rulings and opinions interpreting such.

7. To the extent any paragraph is objected to, please set forth all reasons for your objection.

8. If you prefer, you may provide legible copies of document that reflect all markings, notations, and highlighting on the originals.

9. The singular includes the plural number, and vice versa. The masculine includes the feminine and neuter genders. The past tense includes the present tense where the clear meaning is not distorted by change of tense.

10. To the extent that any document cannot be furnished, such documents as are available shall be supplied, together with a description of the documents not furnished and the reason for not furnishing them.

11. "And" and "or" shall be interpreted to mean "and/or," so that said terms are given their broadest possible meaning.

**Request for Production of Documents**

2. All documents that identify the dialing capacities of the system(s) used to make the text messages described in the complaint. This includes, but is not limited to, manuals, evaluations and internal correspondence regarding the equipment and the entity that manufactures that equipment.

**RESPONSE:**

2. All contracts with any third parties that were engaged by Defendant that made telemarketing or lead generation calls or text messages in the 4 years prior to the filing of this complaint.

**RESPONSE:**

3. All documents concerning internal investigations conducted by Defendant concerning complaints regarding alleged violations of the TCPA involving the Plaintiff.

**RESPONSE:**

4. All documents referred to in, identified in, or that provide part or all of the basis for your responses to any Interrogatory propounded by the Plaintiff.

**RESPONSE:**

5. All documents, records, data, call recordings and other materials relating to Plaintiff or relating to calls or text messages placed to the Plaintiff 615-212-9191 and 615-348-1977 from the date of the prior settlement to present.

**RESPONSE:**

6. All insurance policies that could possibly afford any coverage with respect to the matters complained of in this case together with all correspondence discussing, accepting or declin-

ing coverage or reserving rights with respect thereto.

**RESPONSE:**

7. Produce all correspondence with any 3<sup>rd</sup> parties that placed calls or text messages by or on behalf of the defendants including any documents reflecting payments to these 3<sup>rd</sup> parties.

**RESPONSE:**

8. Produce all documents relating to any training relating to telemarketing with Defendant or any 3<sup>rd</sup> parties placing calls on the defendant's behalf, including training employees on the use of an internal do not call list and a copy of your internal do not call list if you had one at the time of the calls.

**RESPONSE:**

9. Produce all scripts used for any outbound telemarketing calls or text messages made by or on behalf of the defendant or by any third parties retained by the Defendants on telemarketing campaigns. This request includes all drafts of those scripts.

**RESPONSE:**

10. All documents that identify the source of the Plaintiff's telephone numbers your company obtained for the purposes of telemarketing, and all communications with that company.

**RESPONSE:**

11. Produce copies of all marketing materials, business plans, memoranda, minutes, and/or other documents that reference using telemarketing or automatic dialing systems to contact persons and/or entities to promote your goods or services.

**RESPONSE:**

12. Produce any documents which demonstrate the software or equipment used to place calls by or on behalf of the defendant's in this case in the 4 years prior to this lawsuit.

**RESPONSE:**

13. Please produce any and all manuals, DOCUMENTS and ESI related to the system(s), platform(s), and/or equipment used by YOU, or any VENDOR, to make CALLS

to PLAINTIFF or to store data about such calls.

**RE-**

**SPONSE:**

14. Please produce any and all DOCUMENTS or ESI evidencing Plaintiff's consent to be called by YOU.

**RESPONSE:**

15. Please produce all call detail records, invoices, and billing records of every CALL made by YOU, or on YOUR behalf, to PLAINTIFF, including, but not limited to, records of the following information:

- a. Its date;
- b. Its time;
- c. Its duration;
- d. The person who placed it;
- e. The entity that placed it;
- f. The caller ID;
- g. The called number;
- h. The result (e.g., live answer, answering machine, voicemail, hang up,

etc.);

- i. The dialing equipment or software (e.g., Avatar, ytel, Five9, Guaranteed

Contacts, Aspect, Avaya); and

- j. The dialing mode (e.g., predictive, prerecorded voice, preview, etc.).

**RESPONSE:**

16. Please produce all invoices from any THIRD PARTY or VENDOR from whom you bought a information containing the Plaintiff's phone number

**RESPONSE:**

17. Please produce all DOCUMENTS or ESI substantiating the affirmative defenses in your answer to the complaint.

**RESPONSE:**

18. Produce all business and personal bank statements from the date of the prior settlement to present

**RESPONSE:**

19. Produce all call detail records showing call from any entity you own or control to 615-348-1977 or 615-212-9191 from the date of the prior settlement to present.

**RESPONSE:**

**Interrogatories**

1. State the following information related to any of the telephone campaigns that resulted in calls to the Plaintiff's phone numbers as alleged in the complaint:
  - a. Identifying information for the person you were trying to reach (e.g., name, business name, address, email, fax number, all phone numbers);
  - b. Identification of the equipment, third party utilized, if applicable and software used to make the call (e.g., Avatar, ytel, Five9, Guaranteed Contacts, Aspect, Avaya), and the location of the call origination/dialer;
  - c. The source(s) where you obtained the telephone number called, including the nature of such relationship and the facts and circumstances surrounding such; and
  - d. State the name, address, and phone number for any agent, employee or 3<sup>rd</sup> party telemarketer that spoke to the Plaintiff in any calls by or on behalf of the defendants
  - e. State the name, address, and phone number of every telecommunications company that provided phone service to the defendants in the 4 years prior to the filing of this complaint

**Response:**

2. Identify all facts in support of affirmative defenses you have raised. Including, but not limited to, the sources of any consent you assert you've obtained from the Plaintiff or 3<sup>rd</sup> parties you were trying to reach when calling the Plaintiff to make telemarketing calls to them.

Response:

3. Identify by name, address, company name, telephone number and all other contact information in your possession, custody or control, the individual or entity that physically dialed the calls to the Plaintiff alleged in his Complaint and identify their job responsibilities.

Response:

4. Please identify the person or persons responsible for receiving, maintaining, investigating, and responding to complaints submitted to Defendant relating to any investigations related to TCPA violations and identify the individual responsible for initiating disciplinary measures against the responsible party.

Response:

5. Please identify the person or persons responsible for training Defendant employees, and any individual or entity they retain for using a dialer to send telephone calls as well as in regard to compliance with telemarketing laws.

Response:

6. Identify each and every person who provided the information to answer these interrogatories, and specify each interrogatory or interrogatories about which each such person had information to include their name, home address, and phone number.

Response:

7. Identify in detail all interactions that any employee of Defendant, or any third party it retained, has had with the Plaintiff in the last four years.

Response:

8. For any phone number belonging to PLAINTIFF as alleged in the complaint that you called or texted, how and when and how did you first get it to include the name, address, and phone number of the person or entity that provided the number?

Response:

9. IDENTIFY all THIRD PARTIES or VENDORS whose work relates to telemarketing or the tracking or aggregation of data related to telemarketing and DESCRIBE the services each such THIRD PARTY or VENDOR performs for YOU.

Response:

10. IDENTIFY and provide all contact information YOU have for the individuals or entities that physically dialed the calls to PLAINTIFF alleged in the complaint and IDENTIFY their job responsibilities, regardless of whether or not they are still employed by YOU.

Response:

11. Other than your attorneys or their employees or agents, IDENTIFY every PERSON with whom you have discussed or otherwise communicated with about this case and summarize the communication.

Response:

12. Do you subscribe to the National Do Not Call Registry? If so state your SANS number.

Response:

13. State the name, address, and phone number of the all phone companies that you have paid money to from the date of the prior settlement through the present.

Response:

### ADMISSIONS

- 1 Admit that you placed calls initiated using an automatic telephone dialing system to the Plaintiff's cell phone number specified in the complaint.
- 2 Admit that you placed calls initiated using an automatic telephone dialing system with a pre-recorded message in an attempt to reach the Plaintiff.
- 3 Admit that you placed calls using a pre-recorded message to the Plaintiff's cell phone number as specified in the complaint
- 4 Admit that you did not have prior express written consent from the Plaintiff to receive calls initiated using an automated telephone dialing system or calls with a pre-recorded message at the time of each and every call placed
- 5 Admit that you called the Plaintiff's after the Plaintiff sued you in a previous lawsuit in Federal court
- 6 Admit that you maintain an account with Ring Central
- 7 Admit that in the time from the prior settlement to the filing of this lawsuit that you had an account with Ring Central
- 8 Admit that you personally directed the calls to be placed to the Plaintiff's cell phone
- 9 Admit that none of the calls were related to any emergency purpose.
- 10 Admit that none of the prerecorded messages identified the legal or DBA names of the Defendant.
- 11 Admit that you did not have an internal do not call policy in place at the time of each and every call
- 12 Admit that you did not train your employees on the use of an internal do not call policy at the time of each and every call.

- 13 Admit that each and every call violated 47 USC 227(b)
- 14 Admit that each and every call violated 47 CFR 64.1200(d)
- 15 Admit that your Ytel account in your name was paid for in part from money that originated with MJ Ministries Spreading the Gospel, Inc in 2018 and 2019.
- 16 Admit that Aaron Jordan is an officer of MJ Ministries Spreading the Gospel, Inc.
- 17 Admit that you control MJ Ministries Spreading the Gospel, Inc.
- 18 Admit that each and every call was willfully and knowingly placed by the defendants



Craig Cunningham  
Plaintiff,

3/14/2023

Craig Cunningham, Plaintiff, Pro-se 3000 Custer Road, ste 270-206, Plano, Tx 75075





4. All requests are also directed to all parent, related, affiliate and subsidiary companies of defendant, to the greatest extent permissible under the discovery rules. Moreover, defendant is to make transparent, best efforts to obtain materials from third parties such as vendors, which are within their "possession, custody or control" as those terms appear in Fed. R. Civ. P. 34.

5. "Communication" includes every manner or means of disclosure, transfer, or exchange of information, and every disclosure, transfer or exchange of information, whether orally or by document or whether face-to-face, by telephone, mail, personal delivery, or otherwise.

6. "TCPA" means the Telephone Consumer Protection Act, 47 U.S.C. § 227, implementing regulations 47 C.F.R. 64.1200, and all valid FCC rulings and opinions interpreting such.

7. To the extent any paragraph is objected to, please set forth all reasons for your objection.

8. If you prefer, you may provide legible copies of document that reflect all markings, notations, and highlighting on the originals.

9. The singular includes the plural number, and vice versa. The masculine includes the feminine and neuter genders. The past tense includes the present tense where the clear meaning is not distorted by change of tense.

10. To the extent that any document cannot be furnished, such documents as are available shall be supplied, together with a description of the documents not furnished and the reason for not furnishing them.

11. "And" and "or" shall be interpreted to mean "and/or," so that said terms are given their broadest possible meaning.

**Request for Production of Documents**

2. All documents that identify the dialing capacities of the system(s) used to make the text messages described in the complaint. This includes, but is not limited to, manuals, evaluations and internal correspondence regarding the equipment and the entity that manufactures that equipment.

**RESPONSE:**

2. All contracts with any third parties that were engaged by Defendant that made telemarketing or lead generation calls or text messages in the 4 years prior to the filing of this complaint.

**RESPONSE:**

3. All documents concerning internal investigations conducted by Defendant concerning complaints regarding alleged violations of the TCPA involving the Plaintiff.

**RESPONSE:**

4. All documents referred to in, identified in, or that provide part or all of the basis for your responses to any Interrogatory propounded by the Plaintiff.

**RESPONSE:**

5. All documents, records, data, call recordings and other materials relating to Plaintiff or relating to calls or text messages placed to the Plaintiff 615-212-9191 and 615-348-1977 from the date of the prior settlement to present.

**RESPONSE:**

6. All insurance policies that could possibly afford any coverage with respect to the matters complained of in this case together with all correspondence discussing, accepting or declin-

ing coverage or reserving rights with respect thereto.

**RESPONSE:**

7. Produce all correspondence with any 3<sup>rd</sup> parties that placed calls or text messages by or on behalf of the defendants including any documents reflecting payments to these 3<sup>rd</sup> parties.

**RESPONSE:**

8. Produce all documents relating to any training relating to telemarketing with Defendant or any 3<sup>rd</sup> parties placing calls on the defendant's behalf, including training employees on the use of an internal do not call list and a copy of your internal do not call list if you had one at the time of the calls.

**RESPONSE:**

9. Produce all scripts used for any outbound telemarketing calls or text messages made by or on behalf of the defendant or by any third parties retained by the Defendants on telemarketing campaigns. This request includes all drafts of those scripts.

**RESPONSE:**

10. All documents that identify the source of the Plaintiff's telephone numbers your company obtained for the purposes of telemarketing, and all communications with that company.

**RESPONSE:**

11. Produce copies of all marketing materials, business plans, memoranda, minutes, and/or other documents that reference using telemarketing or automatic dialing systems to contact persons and/or entities to promote your goods or services.

**RESPONSE:**

12. Produce any documents which demonstrate the software or equipment used to place calls by or on behalf of the defendant's in this case in the 4 years prior to this lawsuit.

**RESPONSE:**

13. Please produce any and all manuals, DOCUMENTS and ESI related to the system(s), platform(s), and/or equipment used by YOU, or any VENDOR, to make CALLS

to PLAINTIFF or to store data about such calls.

**RE-**

**SPONSE:**

14. Please produce any and all DOCUMENTS or ESI evidencing Plaintiff's consent to be called by YOU.

**RESPONSE:**

15. Please produce all call detail records, invoices, and billing records of every CALL made by YOU, or on YOUR behalf, to PLAINTIFF, including, but not limited to, records of the following information:

- a. Its date;
- b. Its time;
- c. Its duration;
- d. The person who placed it;
- e. The entity that placed it;
- f. The caller ID;
- g. The called number;
- h. The result (e.g., live answer, answering machine, voicemail, hang up, etc.);
- i. The dialing equipment or software (e.g., Avatar, ytel, Five9, Guaranteed Contacts, Aspect, Avaya); and
- j. The dialing mode (e.g., predictive, prerecorded voice, preview, etc.).

**RESPONSE:**

16. Please produce all invoices from any THIRD PARTY or VENDOR from whom you bought a information containing the Plaintiff's phone number

**RESPONSE:**

17. Please produce all DOCUMENTS or ESI substantiating the affirmative defenses in your answer to the complaint.

**RESPONSE:**

18. Produce all business and personal bank statements from the date of the prior settlement to present

**RESPONSE:**

19. Produce all call detail records showing call from any entity you own or control to 615-348-1977 or 615-212-9191 from the date of the prior settlement to present.

**RESPONSE:**

### Interrogatories

1. State the following information related to any of the telephone campaigns that resulted in calls to the Plaintiff's phone numbers as alleged in the complaint:
  - a. Identifying information for the person you were trying to reach (e.g., name, business name, address, email, fax number, all phone numbers);
  - b. Identification of the equipment, third party utilized, if applicable and software used to make the call (e.g., Avatar, ytel, Five9, Guaranteed Contacts, Aspect, Avaya), and the location of the call origination/dialer;
  - c. The source(s) where you obtained the telephone number called, including the nature of such relationship and the facts and circumstances surrounding such; and
  - d. State the name, address, and phone number for any agent, employee or 3<sup>rd</sup> party telemarketer that spoke to the Plaintiff in any calls by or on behalf of the defendants
  - e. State the name, address, and phone number of every telecommunications company that provided phone service to the defendants in the 4 years prior to the filing of this complaint

### Response:

2. Identify all facts in support of affirmative defenses you have raised. Including, but not limited to, the sources of any consent you assert you've obtained from the Plaintiff or 3<sup>rd</sup> parties you were trying to reach when calling the Plaintiff to make telemarketing calls to them.

Response:

3. Identify by name, address, company name, telephone number and all other contact information in your possession, custody or control, the individual or entity that physically dialed the calls to the Plaintiff alleged in his Complaint and identify their job responsibilities.

Response:

4. Please identify the person or persons responsible for receiving, maintaining, investigating, and responding to complaints submitted to Defendant relating to any investigations related to TCPA violations and identify the individual responsible for initiating disciplinary measures against the responsible party.

Response:

5. Please identify the person or persons responsible for training Defendant employees, and any individual or entity they retain for using a dialer to send telephone calls as well as in regard to compliance with telemarketing laws.

Response:

6. Identify each and every person who provided the information to answer these interrogatories, and specify each interrogatory or interrogatories about which each such person had information to include their name, home address, and phone number.

Response:

7. Identify in detail all interactions that any employee of Defendant, or any third party it retained, has had with the Plaintiff in the last four years.

Response:

8. For any phone number belonging to PLAINTIFF as alleged in the complaint that you called or texted, how and when and how did you first get it to include the name, address, and phone number of the person or entity that provided the number?

Response:

9. IDENTIFY all THIRD PARTIES or VENDORS whose work relates to telemarketing or the tracking or aggregation of data related to telemarketing and DESCRIBE the services each such THIRD PARTY or VENDOR performs for YOU.

Response:

10. IDENTIFY and provide all contact information YOU have for the individuals or entities that physically dialed the calls to PLAINTIFF alleged in the complaint and IDENTIFY their job responsibilities, regardless of whether or not they are still employed by YOU.

Response:

11. Other than your attorneys or their employees or agents, IDENTIFY every PERSON with whom you have discussed or otherwise communicated with about this case and summarize the communication.

Response:

12. Do you subscribe to the National Do Not Call Registry? If so state your SANS number.

Response:

13. State the name, address, and phone number of the all phone companies that you have paid money to from the date of the prior settlement through the present.

Response:

### ADMISSIONS

- 1 Admit that you placed calls initiated using an automatic telephone dialing system to the Plaintiff's cell phone number specified in the complaint.
- 2 Admit that you placed calls initiated using an automatic telephone dialing system with a pre-recorded message in an attempt to reach the Plaintiff.
- 3 Admit that you placed calls using a pre-recorded message to the Plaintiff's cell phone number as specified in the complaint
- 4 Admit that you did not have prior express written consent from the Plaintiff to receive calls initiated using an automated telephone dialing system or calls with a pre-recorded message at the time of each and every call placed
- 5 Admit that you called the Plaintiff's after the Plaintiff sued you in a previous lawsuit in Federal court
- 6 Admit that you maintain an account with Ring Central
- 7 Admit that in the time from the prior settlement to the filing of this lawsuit that you had an account with Ring Central
- 8 Admit that you personally directed the calls to be placed to the Plaintiff's cell phone
- 9 Admit that none of the calls were related to any emergency purpose.
- 10 Admit that none of the prerecorded messages identified the legal or DBA names of the Defendant.
- 11 Admit that you did not have an internal do not call policy in place at the time of each and every call
- 12 Admit that you did not train your employees on the use of an internal do not call policy at the time of each and every call.

- 13 Admit that each and every call violated 47 USC 227(b)
- 14 Admit that each and every call violated 47 CFR 64.1200(d)
- 15 Admit that your Ytel account in your name was paid for in part from money that originated with MJ Ministries Spreading the Gospel, Inc in 2018 and 2019.
- 16 Admit that Aaron Jordan is an officer of MJ Ministries Spreading the Gospel, Inc.
- 17 Admit that you control MJ Ministries Spreading the Gospel, Inc.
- 18 Admit that each and every call was willfully and knowingly placed by the defendants



Craig Cunningham  
Plaintiff,

3/14/2023

Craig Cunningham, Plaintiff, Pro-se 3000 Custer Road, ste 270-206, Plano, Tx 75075



EX ~~174~~ F

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS

<p><b>CRAIG CUNNINGHAM,</b> <b>Plaintiff,</b></p> <p><b>v.</b></p> <p><b>MANASSEH JORDAN MINISTRIES, INC., BULLION FITNESS INC., KINGDOM MINISTRIES CHURCH, INC., YAKIM MANASSEH JORDAN, AKA MANASSEH JORDAN, MJ MINISTRIES SPREADING THE GOSPEL, INC., AND JOHN/JANE DOES 1-5</b></p> <p><b>Defendants</b></p>	<p>Civil Action No. 4:19-cv-00494</p>
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**Plaintiff's Request for Judicial Notice and Supplemental Response in Opposition to the Defendant's Motion to Dismiss for Lack of Personal Jurisdiction**

The Plaintiff is submitting this supplemental response based on newly acquired information that is highly relevant to the Defendants' pending motion.

First, the Plaintiff has obtained evidence in discovery that MJ Ministries Spreading the Gospel, Inc. is directly involved with Yakim Jordan and is directly involved in the telemarketing calls placed to the Plaintiff, contrary to the position taken by the Defendant MJ Ministries Spreading the Gospel, Inc.

Second, Plaintiff has obtained evidence that Yakim Jordan is affiliated with MJ Ministries Spreading the Gospel, Inc., despite claims to the contrary.

Third, Plaintiff has obtained evidence that the affidavits by Luther McKinstry in

support of the Defendant's Motion to Dismiss were inaccurate and potentially resulted in perjury.

### **ARGUMENT**

**A. Yakim Jordan maintained an account at Ytel, Inc., an automated telephone dialing company, in the name of Manasseh Jordan Ministries, which Defendant MJ Ministries Spreading the Gospel, Inc. used.**

According to an affidavit from Ytel, Inc.'s custodian of records, Yakim Jordan ("Yakim") was a customer of Ytel and maintained a dialing account for making automated telephone calls under the name of "Manasseh Jordan Ministries". (Ex. A.) Yakim Jordan formed the Ytel account, numbered 18307, in February 2013 and maintained it through 2020. Yakim Jordan is named as the account owner. Yakim Jordan placed some 195 calls to the Plaintiff from December 2018 through December 2019 through Ytel, for which Ytel provided phone records. (Ex. B.) Yakim had 8,523 caller ID numbers assigned to his Ytel account for placing outgoing calls. Of these 8000+ caller ID's, 539 were Texas based phone numbers for which Yakim utilized to place outgoing telephone calls to Texas residents in order to trick them into thinking they were receiving calls from someone in Texas. (Exs. C, C-1.) In total, Yakim placed at least 95 calls from December 2018 through December 2019 from Texas caller ID's to the Plaintiff's Texas number through Ytel. (Ex. D.)

By placing almost 100 calls over the course of a year using Texas numbers to a Texas area code, Yakim, Manasseh, and MJ Ministries Spreading the Gospel have purposely availed themselves of the benefits and protections of Texas, and are therefore subject to specific personal jurisdiction in Texas for these calls.

**B. MJ Ministries Spreading the Gospel, Inc. paid Ytel directly for the dialing minutes used by the aforementioned account purportedly in Yakim Jordan's name**

Bank records for MJ Ministries Spreading the Gospel, Inc. ("MJ Spreading") reflect that MJ Spreading paid Ytel \$56,500 over the span of three months in 2019 for dialing minutes. MJ Spreading deposited these funds into the Ytel account for Yakim Jordan and Manasseh Jordan Ministries, Inc ("MJ Ministries"). (Exs. E, E-1.) There are 8 wire transfers are summarized below in a table:

<b>July 2019</b>	<b>\$12,500.00</b>	<b>6 month total</b>	<b>8 transactions</b>
\$5,000.00	07/15	<b>\$56,500.00</b>	
\$5,000.00	07/22		
\$2,500.00	07/30		
<b>June 2019</b>	<b>\$35,000.00</b>		
\$15,000.00	06/03		
\$15,000.00	06/10		
\$2,500.00	06/19		
\$2,500.00	06/25		
<b>May 2019</b>	0		
<b>April 2019</b>	<b>\$9,000.00</b>		
\$9,000.00	04/04		

Defendant MJ Spreading denied under oath paying any money to Ytel in 2019 (Def. MJ Spreading's Resp. to Interrogs. #2, 17.) and denied retaining Ytel in any capacity in 2019 (Def. MJ Spreading's Resp. to Interrog. #2.) In their sworn interrogatory responses, MJ Spreading also denied having the ability to engage in automated telephone solicitations (Def. MJ Spreading's Resp. to Interrogs. #1, 9.) However, these assertions are incongruous with the fact that MJ Spreading paid over \$56,500 to Ytel into account number 18307, which placed 195 calls to the Plaintiff, not to mention thousands of other Texans. MJ Spreading further denied under oath knowing the identity of or having the contact information for the entity that called the Plaintiff, despite directly having deposited funds into the Ytel account owned by Yakim Jordan and MJ Ministries. (Def.

MJ Spreading's Resp. to Interrog. #3., Ex. F.)

By directly paying for the dialing minutes used to call into Texas, MJ Spreading has taken affirmative steps that it knew would result in calls into Texas, and, in so doing, purposefully availed themselves of monetary benefit from Texas residents, and the benefits of the Texas economy. Additionally, by maintaining 500+ Texas phone numbers associated with the Ytel account, MJ Spreading has demonstrated that connect with Texas, including its courts, is reasonably foreseeable. It has demonstrated a willingness to be hailed by and contacted by Texas residents at its local telephone numbers, and therefore it is likewise foreseeable that it may be hailed into court in Texas.

**C. MJ Ministries Spreading the Gospel paid Manasseh Jordan's account at Ytel for dialing minutes during months in which the Plaintiff received telemarketing calls from Yakim Jordan**

MJ Spreading paid Ytel directly for dialing minutes used by Yakim Jordan's Ytel account in multiple months during which the Plaintiff received calls. (Ex. D Highlighted Cells .)

This evidence establishes a monetary trail between MJ Spreading, Yakim Jordan, MJ Ministries, and the illegal telemarketing calls received by the Plaintiff in Texas.

By paying directly for the dialing minutes that resulted in calls into Texas, using Texas-based phone numbers, MJ Spreading have purposefully availed themselves of the benefits of Texas, anticipated collecting money from Texas residents, and certainly could have anticipated being hailed into court in Texas as the result of their "charitable" solicitations to Texas residents, not only arising out of telemarketing violations, but also for violations of, *inter alia*, Texas' Business and Commerce and Business Organization codes.

**D. Yakim Jordan is a signer on the PayPal account for MJ Ministries Spreading the Gospel, Inc., which indicates a clear financial relationship and**

**control between Yakim Jordan and MJ Ministries Spreading the Gospel, Inc.**

Despite the repeated and false sworn representations and affidavits to the court by two purported MJ Spreading officers, Steven Sledge and Luther McKinstry, that MJ Spreading has no relationship with MJ Ministries or Yakim Jordan individually, nothing could be further from the truth (Exs. H, I.) This is because Yakim Jordan listed as a signer on MJ Spreading's financial accounts. (Ex. J.) Yakim was a signer on this account as early as November 7, 2019. Furthermore, the wire transfers to Yakim's Ytel account occurred in the middle of 2019, before purported MJ Spreading officer Steven Sledge signed his affidavit, indicating that Sledge knew he was falsely signing a document when MJ Spreading's bank records demonstrate payments, and therefore an affiliation, between MJ Spreading and Yakim Jordan and MJ Ministries.

This monetary trail is no mere coincidence nor a one-time occurrence, either. PayPal records list Yakim Jordan twice as a signer on MJ Ministries' financial account at PayPal, with entry listing dates of November 7, 2019 and April 16, 2020, at the same address. This indicates involvement and control over the financial affairs of MJ Spreading by Yakim Jordan personally. For this reason, purported MJ Spreading officer Luther McKinstry knew he was falsely signing an affidavit by claiming that there was no affiliation between MJ Spreading and Yakim Jordan, when Yakim Jordan was listed twice as an authorized signer on MJ Spreading's PayPal Account.

Although the Plaintiff contends that MJ Spreading's use of and payment for Yakim Jordan's personal Ytel account to place calls to Texas residents is sufficient to confer personal jurisdiction over both Yakim and MJ Spreading, adding Yakim Jordan as an authorized signer on the financial accounts for MJ Spreading demonstrates that there is

a sufficient personal connection between Yakim and MJ Spreading so as to establish both personal jurisdiction over the two, as well as individual liability.

**E. Defendants have provided perjured affidavits in support of their Motion to Dismiss**

MJ Spreading's purported Chief Executive and Financial Officer, Luther McKinstry, signed his affidavit on January 14, 2020. (Ex. I ¶ 2.) In this affidavit, McKinstry claimed that there was no affiliation between Yakim and MJ Spreading. (Ex. I ¶ 6.) McKinstry made these claims and executed this affidavit well after MJ Spreading had added Yakim to its PayPal Account. Indeed, when MJ Spreading's PayPal account was updated on April 16, 2020 and again added Yakim, McKinstry doubled down on his lie and did not take any steps to amend or clarify his affidavit.

In addition, McKinstry stated that MJ Spreading did not engage in automated telephone solicitations, despite having deposited over \$56,500 into Yakim and MJ Ministries' Ytel account months prior to the execution of his affidavit. (Ex. I ¶¶ 7-9.) It stretches credulity to believe that McKinstry, as MJ Spreading's CEO and CFO, had no clue that MJ Spreading was making these payments.

McKinstry therefore made two materially false and misleading statements to this Court under oath. Firstly, McKinstry lied in stating that there was no affiliation between Yakim and MJ Spreading, when there very clearly was, going as far as MJ Spreading adding Yakim as an authorized signer on its PayPal account. Secondly, McKinstry lied in stating that MJ Spreading did not engage in any automated telephone solicitations, despite having deposited over \$56,500 into Yakim and MJ Ministries' Ytel account.

Wayne Taylor a board member of MJ Ministries also executed a false affidavit and false verification to materially false interrogatory answers and gave perjured

testimony in response to the Plaintiff's second set of interrogatories where he stated MJ Ministries did not pay Yakim Jordan to make calls in 2018 or 2019 and that Yakim Jordan doesn't work for or at the direction of MJ Ministries and that Yakim was not instructed or paid to make phone calls. Ex K Interrogatory #2 and 3 Responses to Plaintiff's Second set of discovery to defendants.

### **Conclusion**

Throughout this case, MJ Spreading's primary argument has been that Yakim Jordan and MJ Ministries are not affiliated with MJ Spreading, that they are completely separate entities, and that the Plaintiff is unable to hold MJ Spreading accountable for actions committed by allegedly unrelated third parties.

This contention, that the Defendants are unrelated, however, is a lie. Not only did MJ Spreading pay, via bank wire transfer, over \$56,500 into Yakim Jordan and MJ Ministries' Ytel telemarketing account, which provided the funding to use over five hundred Texas telephone numbers to blast-call Texas residents, but MJ Spreading added Yakim Jordan as an authorized signer on its PayPal account. This conduct is not wholly unrelated to the calls Plaintiff received, either. During the identified months in which MJ Spreading deposited funds into Yakim and MJ Ministries' Ytel account, Plaintiff received at least twenty-five calls. Plaintiff anticipates that more extensive discovery will identify more payments, bank accounts, and calling records linking the Defendants to each other through a complex network of shell companies and individual patsies ultimately controlled by Yakim Jordan and MJ Ministries. MJ Spreading is merely one such entity.

To add insult to injury and make Plaintiff's work in proving his case all the more difficult, MJ Spreading has provided false affidavits claiming Yakim Jordan had no

affiliation with it, when in fact Yakim Jordan was a signer on MJ Spreading's financial accounts and MJ Spreading made payments into Yakim's Ytel account. MJ Spreading has falsely stated under oath in its interrogatories that it did not pay any money to Ytel, never retained Ytel, and never placed any automated calls, through Ytel or otherwise, despite its banking records showing over \$56,500 in payments to Ytel over the course of three months and later adding Yakim Jordan as an authorized signer on its PayPal accounts.

For the foregoing reasons, this honorable Court should deny MJ Ministries Spreading the Gospel Inc's Motion to Dismiss and find that this Court has personal jurisdiction over the Defendants.



Craig Cunningham  
Plaintiff,

7/21/2020

Craig Cunningham, Plaintiff, Pro-se 3000 Custer Road, ste 270-206, Plano, Tx 75075

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS

<p><b>CRAIG CUNNINGHAM,</b> <b>Plaintiff,</b></p> <p><b>v.</b></p> <p>Manasseh Jordan Ministries, Inc., Bullion Fitness Inc., Kingdom Ministries Church, Inc., Yakim Manasseh Jordan, aka Manasseh Jordan, MJ Ministries Spreading the Gospel, Inc., John/Jane Does 1-5</p> <p><b>Defendant</b></p>	<p>§ § § § § § § § § §</p> <p>4:19-cv-00494</p>

Plaintiff's Certificate of Service

1. I hereby certify a true copy of the foregoing was sent to the Defendants in this case.

  
 Craig Cunningham  
 Plaintiff,

7/21/2020

Craig Cunningham, Plaintiff, Pro-se 3000 Custer Road, ste 270-206, Plano, Tx 75075

EXG

# Steven Sledge #01678970

us Pen-pal Profile

Pen-pal

Education

Counseling

Photos

Next Pen-pal



Picture 1 of 1

To whom it concerns,

Here you have a 50 year old man. Soft spoken, God fearing, honest and kind in search of a serious friendship/relationship with a special lady who's looking to enjoy the qualities of life with me.

About me; first and foremost I'm incarcerated. I will not lead you to think I'm innocent, but I will say the crim jailed for is not the sin I made or committed to be here. If you find that my introduction is interesting enough write me, I will fully explain my incarceration.

My name is Steve, I'm an educated individual, financially secure, very considerate. I own a business in AC refrigeration. Since incarcerated, I have acquired an Associates in Theology, a Masters in Criminal Justice, Paralegal's degree.

I'm currently studying for the bar. Criminal Law has become my new passion. Only second to God. After s and becoming part of this bias justice system, I was compelled to do something about it.

ps://appgateway.drc.ohio.gov/OffenderSearch/Search/Details/A412689

EX 6



Department of Rehabilitation & Correction

### Offender Details

- MAIN
- ORGANIZATION
- REENTRY
- VICTIMS
- OPPORTUNITIES
- NEWS

< Search

Your search only returned one record.

Print Friendly

#### LUTHER MCKINSTRY

**Number** A412689  
**DOB** 06/18/1970  
**Gender** Male  
**Race** Black  
**Admission Date** 06/07/2001  
**Institution**  
**Status** RELEASED - Judicial Release



Victim Definition

Ohio Revised Code

Pre-S B. 2 Felony Sentencing Chart

S B. 2 Felony Sentencing Chart

#### Offense Information

FORGERY

Counts: 4

ORC: 2913.31 4

Victim Info

Committing County: Lucas

Admission Date: 06/07/2001

Degree of Felony: Fifth

#### Sentence Information

**Stated Prison Term** 2 years and 8 months  
**Expiration Stated Term** 01/28/2004  
**Actual Release Date** 09/26/2001



EXG

# Offender Details



Ohio Department of Rehabilitation and Correction

## LUTHER MCKINSTRY

**Number**

A412689

**DOB**

06/18/1970

**Gender**

Male

**Race**

Black

**Admission Date**

06/07/2001

**Institution** (<http://www.drc.ohio.gov/institutions>)

**Status**

RELEASED - Judicial Release



### Offense Information

FORGERY

**Counts:** 4

Lucas County

**ORC:** 2913.31 4

**Degree:** Fifth

### Sentence Information

**Stated Prison Term**

2 years and 8 months

**Expiration Stated Term**

01/28/2004

**Actual Release Date**

09/26/2001

### Notes

The above information may not contain a complete list of sentencing information for each offender.

The supervision period may not coincide with the current offense, but may reflect the offender's remaining supervision obligation from a previous offense.

Any person, agency or entity, public or private, who reuses, publishes or communicates the information available from this server shall be solely liable and responsible for any claim or cause of action based upon or alleging an improper or inaccurate disclosure arising from such reuse, re-publication or communication, including but not limited to, actions for defamation and invasion of privacy.

Questions concerning the information contained in these documents should be sent via the U.S. Mail to Ohio Department of Rehabilitation and Correction, Attn: Central Records, 4545 Fisher Road, Suite D, Columbus, OH 43228.

EXH

Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of	)	
	)	
Yakim Jordan a/k/a Manasseh Jordan, Prophet	)	File No.: EB-TCD-14-00016252
Manasseh Jordan, Prophet M Jordan, Yakim	)	
Manasseh Robert Jordan, Yakim Manasseh Jordan,	)	
Wakim Jordan	)	
	)	
Manasseh Jordan Ministries	)	

CITATION AND ORDER

PRERECORDED MESSAGE VIOLATIONS

Adopted: September 13, 2016

Released: September 13, 2016

By the Chief, Telecommunications Consumers Division, Enforcement Bureau:

I. NOTICE OF CITATION

1. This **CITATION AND ORDER** (Citation) notifies Yakim Jordan (a/k/a Manasseh Jordan, Prophet Manasseh Jordan, Prophet M Jordan, Yakim Manasseh Robert Jordan, Yakim Manasseh Jordan, Wakim Jordan) and Manasseh Jordan Ministries (collectively, the Manasseh Jordan Parties) that they violated the law by infringing consumers’ rights to be free from unauthorized prerecorded calls to their wireless phones. Specifically, the Manasseh Jordan Parties violated provisions of the Communications Act of 1934, as amended (Communications Act or Act) and the Commission’s rules (collectively, Rules) that regulate calls made to wireless phones using automatic telephone dialing systems (autodialers) or an artificial or prerecorded voice. We therefore direct the Manasseh Jordan Parties to take immediate steps to comply with Section 227 of the Act, the Telephone Consumer Protection Act (TCPA), Section 64.1200 of the Rules, and FCC orders, which prohibit making autodialed or prerecorded message calls to any wireless phone unless the calls are made for emergency purposes, to collect a debt to the federal government, or with the prior express consent of the called party. If the Manasseh Jordan Parties fail to comply with these laws, they may be liable for significant penalties.

2. **Notice of Duty to Comply with the Law:** We issue this Citation pursuant to Section 503(b)(5) of the Act, which states that the Commission may not impose monetary forfeitures against non-regulatees who violate the Rules or the Act unless and until: (a) the Commission issues a citation to the violator; (b) the Commission provides the violator a reasonable opportunity to respond; and (c) the violator subsequently engages in conduct of the type described in the citation.<sup>1</sup> Accordingly, the Manasseh Jordan Parties are hereby on notice that they must comply with Section 227 of the Act and Section 64.1200 of the Rules.<sup>2</sup> Any of the Manasseh Jordan Parties who subsequently engage in any conduct of the type this Citation describes—and specifically any violation of the TCPA and the

<sup>1</sup> See 47 U.S.C § 503(b)(5).

<sup>2</sup> 47 U.S.C. § 227; 47 CFR § 64.1200. Section 227 was added to the Communications Act by the Telephone Consumer Protection Act of 1991, Pub. L. No. 102-243, 105 Stat. 2394 (codified at 47 U.S.C. § 227). The Telephone Consumer Protection Act and the Commission’s parallel rules restrict use of the telephone network to deliver unsolicited advertisements, prerecorded and artificial voice messages, and autodialed telephone calls.

Commission's accompanying rules—may be subject to civil penalties, including but not limited to, substantial monetary forfeitures. In assessing such forfeitures, the Commission may consider both the conduct that led to this Citation and the conduct following it.<sup>3</sup>

## II. BACKGROUND

3. For more than two decades, Congress and the Commission have sought to protect consumers from the nuisance, invasion of privacy, cost, and inconvenience of autodialed calls and prerecorded or artificial voice message calls (robocalls).<sup>4</sup> Congress found: that consumers consider these kinds of calls, “regardless of the content or the initiator of the message, to be a nuisance and an invasion of privacy”; that businesses further complain that these kinds of calls “interfere with interstate commerce”; and that banning such calls, with limited exception, “is the only effective means of protecting telephone consumers from this nuisance and privacy invasion.”<sup>5</sup> In 1991, Congress passed the TCPA, which amended the Communications Act to place strict limitations on the use of autodialed calls and robocalls, particularly those made to wireless phones and other specified destinations such as emergency telephone lines and patient rooms in health care facilities.<sup>6</sup> The TCPA forbids making any call using an automatic telephone dialing system or an artificial or prerecorded voice message to such telephone numbers unless the call is made for an emergency purpose or with the prior express consent of the called party.<sup>7</sup> The Commission adopted regulations implementing the TCPA in Section 64.1200 of the Rules<sup>8</sup>, including the prohibition on autodialed calls and robocalls to wireless phones in Section 64.1200(a)(1)(iii).<sup>9</sup> In 2015, Congress added a limited exception to this prohibition for calls to wireless phones that are made “solely to collect a debt owed to or guaranteed by the United States.”<sup>10</sup>

4. Yakim Jordan, who most commonly goes by “Prophet Manasseh,” “Prophet Manasseh Jordan,” or “Manasseh Jordan,” operates Manasseh Jordan Ministries, a nonprofit charitable organization registered under Section 501(c)(3) of the Internal Revenue Code.<sup>11</sup> According to the Manasseh Jordan Ministries’ website, Mr. Jordan “move[s] in the realm of accurate prophetic ministry.”<sup>12</sup> The website provides opportunities for interested parties to seek prayer from Mr. Jordan, purchase musical and

<sup>3</sup> See S. Rep. No. 95-580, 95th Cong., 1st Sess. at 9 (1977), *reprinted in* 1978 U.S.C.C.A.N. 109 (If a person or entity that has been issued a citation by the Commission thereafter engages in the conduct for which the citation of violation was sent, the subsequent notice of apparent liability “would attach not only for the conduct occurring subsequently *but also for the conduct for which the citation was originally sent.*”) (emphasis added).

<sup>4</sup> See S. Rep. No. 102-178, 1st Sess., 102nd Cong., at 2, 4–5 (1991), *reprinted in* 1991 U.S.C.C.A.N. 1968.

<sup>5</sup> Telephone Consumer Protection Act, Pub L. No. 102-243, § 2, 105 Stat. 2394 (1991).

<sup>6</sup> 47 U.S.C. § 227(b)(1)(A).

<sup>7</sup> 47 U.S.C. § 227(b)(1)(A)(iii).

<sup>8</sup> See 47 CFR § 64.1200; *see also Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CC Docket No. 92-90, Report and Order, 7 FCC Rcd 8752 (1992); *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order, 18 FCC Rcd 14014 (2003); *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order, 27 FCC Rcd 1830 (2012).

<sup>9</sup> 47 CFR § 64.1200(a)(1)(iii).

<sup>10</sup> See Bipartisan Budget Act of 2015, Pub. L. No. 114-74, 129 Stat. 584 § 301(a)(1)(A) (Budget Act) (amending 47 U.S.C. § 227(b)(1)(A)); *Rules and Regulations Implementing the Telephone Consumers Protection Act of 1991*, CG Docket No. 02-278, Report and Order, FCC 16-99 (Aug. 11, 2016), 2016 WL 4250379 (*2016 TCPA Order*) (adopting rules implementing the federal debt collection exemption).

<sup>11</sup> 26 U.S.C. § 501(c)(3).

<sup>12</sup> Manasseh Jordan Ministries Website, About the Prophet, <https://prophetmanasseh.com/aboutprophet#content> (last visited Aug. 24, 2016).

instructional recordings, and make donations to Manasseh Jordan Ministries.<sup>13</sup> Further, the website asks users to participate in Manasseh Jordan Ministries' "partner program" by committing a "generous monthly donation," ranging from \$30 per month to more than \$500 per month.<sup>14</sup> The website states that Jordan appears on television weekly and live at various national and international speaking engagements.<sup>15</sup>

5. The Manasseh Jordan Ministries makes robocalls that urge recipients to call Mr. Jordan to obtain information that he claims to have regarding the called parties' personal lives.<sup>16</sup> A recent press report described one robocall as follows:

"The Lord began to speak to me and he showed me major losses that you have experienced within the last two to five years,' the 25-year old Brooklyn native's breathy, warbly, slightly British-inflected message starts. But, [Jordan] goes on, there is 'a miracle favor cloud,' 'a prosperity blessing,' and a 'financial blessing,' coming your way, and to a loved one, as well.

"Which loved one? 'It's almost as if the second letter of the second syllable in the name is like a vowel making an 'ah' or an 'a' sound,' [Jordan] says. 'I must know how much money you are asking God to release.'"<sup>17</sup>

Mr. Jordan's robocall message then exhorts the recipient to contact him by e-mail immediately so that the recipient can receive "this prophecy."<sup>18</sup>

6. Numerous consumers filed complaints with the Commission after receiving robocalls placed by the Manasseh Jordan Parties.<sup>19</sup> In addition, the Manasseh Jordan Parties have been sued multiple times under the TCPA's private right of action for making robocalls to consumers without their prior express consent.<sup>20</sup> The Commission previously issued a citation against Mr. Jordan's father, Bishop

<sup>13</sup> Manasseh Jordan Ministries Website, Submit a Prayer Request, <https://www.prophetmanasseh.com/prayers>; Manasseh Jordan Ministries Website, Featured Products, <https://prophetmanasseh.com/products/#content>; Manasseh Jordan Ministries Website, Make a Donation and/or Contribution, <https://prophetmanasseh.com/donations#content> (last visited Aug. 24, 2016).

<sup>14</sup> Manasseh Jordan Ministries Website, Partner, <https://prophetmanasseh.com/partners#content> (last visited Aug 24, 2016).

<sup>15</sup> Manasseh Jordan Ministries Website, About the Prophet, <https://prophetmanasseh.com/aboutprophet#content> (last visited Aug. 24, 2016).

<sup>16</sup> See Jackie Callaway, *Man who claims to be a prophet hounding thousands on their cellphones*, WFTS ABC Action News (May 11, 2016, 7:24 PM ET), <http://www.actionnews.com/money/consumer/taking-action-for-you/man-who-claims-to-be-a-prophet-hounding-thousands-on-their-cell-phones>; David Lazarus, *Getting phone calls seeking divine assistance? You may be a victim of 'spoofing,'* Los Angeles Times (May 3, 2016, 3:00 AM PT), <http://www.latimes.com/business/la-fi-lazarus-20160503-column.html>.

<sup>17</sup> Brandy Zadrozny, *He'll Raise You From the Dead for \$1,000*, The Daily Beast, (Mar. 20, 2016, 8:00 AM ET), <http://www.thedailybeast.com/articles/2016/03/20/this-prophet-will-raise-you-from-the-dead-for-1-000-dollars.html>.

<sup>18</sup> *Id.*

<sup>19</sup> Attachment A documents consumers' complaints to the Commission about robocalls received from the Manasseh Jordan Parties.

<sup>20</sup> See Brandy Zadrozny, *He'll Raise You From the Dead for \$1,000*, The Daily Beast, (Mar. 20, 2016, 8:00 AM ET), <http://www.thedailybeast.com/articles/2016/03/20/this-prophet-will-raise-you-from-the-dead-for-1-000-dollars.html> (reporting that, "Jordan has been sued 16 times in federal court within the last three years for the incessant calling in violation of the Telephone Consumer Protection Act . . . [t]his year alone, Jordan has been sued four times for the harassing calls by plaintiffs in Texas, Florida, Illinois, and most recently [in May 2016], in New York."); Scott Holland, *Ministry hit with another class action over robocalls soliciting donations to boost profits of 'prophet'*, Cook County Record, (Jan. 12, 2016, 12:39 PM CT), <http://cookcountyrecord.com/stories/510657494-ministry-hit-with-another-class-action-over-robocalls-soliciting-donations-to-boost-profits-of-prophet> ("A Cook (continued....)

E. Bernard Jordan, for violations of Section 227 of the Act and Section 64.1200 of the Rules, for placing autodialed and prerecorded calls to wireless and residential phones on behalf of an organization located at an address that has also been used by the Manasseh Jordan Ministries.<sup>21</sup>

### III. APPLICABLE LAW AND VIOLATIONS

7. Section 227(b)(1)(A)(iii) of the Act states that it is unlawful “for any person . . . to make any call . . . using any automatic telephone dialing system or an artificial or prerecorded voice . . . to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call.”<sup>22</sup> Section 64.1200(a)(1)(iii) of the Rules states that it is unlawful “to initiate any call . . . using any automatic telephone dialing system or an artificial or prerecorded voice . . . to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call.”<sup>23</sup>

8. The prohibitions in the Act and the Rules are subject to only three exceptions: (1) calls made for emergency purposes; (2) calls made with the prior express consent of the called party, and (3) calls made “solely to collect a debt owed to or guaranteed by the United States.”<sup>24</sup> Calls made for emergency purposes include messages “necessary in any situation affecting the health and safety of consumers.”<sup>25</sup> These broad prohibitions cover all autodialed calls and all artificial or prerecorded voice calls including those made by nonprofit organizations. All other autodialed and artificial or prerecorded voice calls require the prior express consent of the called party. Robocallers contending that they have prior express consent to make prerecorded or artificial voice or autodialed calls to wireless phones or other mobile service numbers bear the burden of proof to show that they obtained such consent.<sup>26</sup>

9. Consumers across the United States have filed complaints with the Commission regarding prerecorded messages that they have received from the Manasseh Jordan Parties. Attachment A lists 110 such calls received by 82 individuals on their personal or business wireless phones. The complainants provided detailed information about individual calls, and almost every complainant reported receiving multiple calls daily or numerous calls received over extended periods of time. Complainants described the nature of these calls as “harass[ing],” “persistent,” and “relentless.”<sup>27</sup>

(Continued from previous page) \_\_\_\_\_

County resident fed up with receiving unwanted phone calls from a profitable prophet hopes a class action lawsuit will stop the ringing. . . . [the plaintiff’s] action is the seventh complaint filed this year under the Telephone Consumer Protection Act, and the 14th since 2012, regarding robocalls involving Manasseh’s voice.”)

<sup>21</sup> Citation Letter from Joshua P. Zeldis, Assistant Bureau Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to Zoe Ministries (July 16, 2010) (on file in EB-10-TC-435).

<sup>22</sup> 47 U.S.C. § 227(b)(1)(A)(iii).

<sup>23</sup> 47 CFR § 64.1200(a)(1)(iii).

<sup>24</sup> See 47 U.S.C. § 227(b)(1)(A)(iii); see also 47 CFR § 64.1200(a)(1) (providing exemptions for calls made for emergency purposes or with the prior express consent of the called party); Budget Act (amending 47 U.S.C. § 227(b)(1)(A) to exempt federal debt collection calls); *2016 TCPA Order* (adopting rules implementing the federal debt collection exemption).

<sup>25</sup> 47 CFR 64.1200(f)(4).

<sup>26</sup> See, e.g., *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Declaratory Ruling and Order, 30 FCC Rcd 7961, 7990, para. 47 (2015) (“Moreover, we emphasize that regardless of the means by which a caller obtains consent, under longstanding Commission precedent, if any question arises as to whether prior express consent was provided by a call recipient, the burden is on the caller to prove that it obtained the necessary prior express consent.”).

<sup>27</sup> See Attachment A.

10. Each individual who filed a complaint listed in Attachment A has stated that he or she did not give permission to be robo-called and each has attested to the accuracy of all information contained in his or her complaint.<sup>28</sup> Based on the foregoing evidence, we find that the Manasseh Jordan Parties made prerecorded message calls to the complainants' wireless phones without the prior express consent of the called parties.<sup>29</sup> Moreover, none of the calls received by complainants on their wireless phones were made for emergency purposes or to collect a debt owed to or guaranteed by the federal government. Based on the foregoing evidence, we find that the prerecorded messages listed in Attachment A violate Section 227(b)(1)(A)(iii) of the Act and Section 64.1200(a)(1)(iii) of the Rules.

#### IV. OPPORTUNITY TO RESPOND TO THIS CITATION

11. The Manasseh Jordan Parties may respond to this Citation within thirty (30) calendar days from the release date of this Citation by any of the following methods: (1) a written statement, (2) a teleconference interview, or (3) a personal interview at the Commission Field Office nearest to the Manasseh Jordan Parties' place of business. The Commission Field Offices nearest to Yakim Jordan and Manasseh Jordan Ministries are located in Miami, Florida and New York, New York.

12. If the Manasseh Jordan Parties request a teleconference or personal interview, contact Mary Romano at (202) 418-0975. We note that such teleconference or interview must take place within thirty (30) calendar days of the release date of this Citation. If the Manasseh Jordan Parties prefer to submit a written response with supporting documentation, they must send the response within thirty (30) calendar days of the release date of this Citation to the contact and address provided in paragraph below.

13. All written communications should be sent to the address below.

Richard A. Hindman, Chief  
Telecommunications Consumers Division  
Enforcement Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Rm. 4-C224  
Washington, DC 20554  
**Re: EB-TCD-14-00016252**

14. Upon request, the Commission will make reasonable accommodations for persons with disabilities. If applicable, the Manasseh Jordan Parties should provide a description of the accommodation required, and include as much detail as possible, and also provide a telephone number and other contact information. The Manasseh Jordan Parties should allow at least five business days advance notice; last minute requests will be accepted, but may be impossible to fill. The Manasseh Jordan Parties should send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the FCC's Consumer & Governmental Affairs Bureau:

For sign language interpreters, CART, and other reasonable accommodations:  
202-418-0530 (voice), 202-418-0432 (tty);

For accessible format materials (braille, large print, electronic files, and audio format):  
202-418-0531 (voice), 202-418-7365 (tty).

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<sup>28</sup> Complainants may make such attestations as a part of filing a complaint with the FCC. See FCC Consumer Help Center, Phone Complaint Form, [https://consumercomplaints.fcc.gov/hc/en-us/requests/new?ticket\\_form\\_id=39744](https://consumercomplaints.fcc.gov/hc/en-us/requests/new?ticket_form_id=39744) ("I declare under penalty of perjury that (1) I am over 18 years old, (2) I am authorized to make decisions regarding the telephone number listed below, and (3) the information I have provided today on this Federal Communications Commission electronic form is, to the best of my knowledge, true and correct.").

<sup>29</sup> See *supra* para. 8, note 26.

15. We advise the Manasseh Jordan Parties that it is a violation of Section 1.17 of the Rules<sup>30</sup> for any person to make any false or misleading written or oral statement of fact to the Commission. Specifically, no person shall:

(1) In any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading; and

(2) In any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.

16. Further, the knowing and willful making of any false statement, or the concealment of any material fact, in reply to this Citation is punishable by fine or imprisonment.<sup>31</sup>

17. Violations of Section 1.17 of the Rules or the criminal statute referenced above may result in further legal action, including monetary forfeitures pursuant to Section 503 of the Act.

18. Finally, we warn Yakim Jordan that, under the Privacy Act of 1974,<sup>32</sup> Commission staff will use all relevant material information before it, including information disclosed in interviews or written statements, to determine what, if any, enforcement action is required to ensure the Manasseh Jordan Parties' compliance with the Act and Rules.

## V. FUTURE VIOLATIONS

19. If, after receipt of this Citation, the Manasseh Jordan Parties again violate Section 227 of the Communications Act and Section 64.1200 of the Rules by engaging in conduct of the type described herein, the Commission may impose sanctions for each such violation. For example, the Commission may impose monetary forfeitures. The Commission may impose forfeitures not to exceed \$18,936 for each such violation or each day of a continuing violation, and up to \$142,021 for any single act or failure to act.<sup>33</sup> The Commission may further adjust the forfeiture reflecting enumerated statutory factors, which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.<sup>34</sup> Further, as discussed above, the Commission may assess forfeitures on both the conduct that led to this Citation and the conduct following it.<sup>35</sup>

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<sup>30</sup> 47 CFR § 1.17.

<sup>31</sup> 18 U.S.C. § 1001.

<sup>32</sup> 5 U.S.C. § 552a(e)(3).

<sup>33</sup> See 47 U.S.C. § 503; 47 CFR § 1.80(b). The amounts specified above reflect adjustments for inflation pursuant to The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. No. 114-74, 129 Stat. 599 (codified as amended at 28 U.S.C. § 2461 note). See *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, DA 16-644 (EB June 9, 2016), 2016 WL 3218781; Federal Communications Commission, *Adjustment of Civil Monetary Penalties to Reflect Inflation*, 81 Fed. Reg. 42554-01 (June 30, 2016) (adjusted forfeiture penalties effective Aug. 1, 2016).

<sup>34</sup> See 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(8).

<sup>35</sup> See *supra* para. 2.

**VI. ORDERING CLAUSES**

20. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i) and 4(j) of the Act,<sup>36</sup> Yakim Jordan (a/k/a Manasseh Jordan, Prophet Manasseh Jordan, Prophet M Jordan, Yakim Manasseh Robert Jordan, Yakim Manasseh Jordan, Wakim Jordan) and Manasseh Jordan Ministries must cease and desist from using an automatic telephone dialing system or an artificial or prerecorded voice message in connection with any telephone call made without the prior express consent of the called party to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call, in violation of Section 227(b)(1)(A)(iii) of the Communications Act and Section 64.1200(a)(1)(iii) of the Rules.<sup>37</sup>

21. **IT IS FURTHER ORDERED** that a copy of this Citation and Order shall be sent by first class mail and certified mail, return receipt requested, to Manasseh Jordan Ministries, 708 3rd Ave., 6th floor, New York, New York 10017; 310 Riverside Dr., New York, New York 10025-4143; and P.O. Box 3320, New York, New York 10163; and to Yakim Jordan at 3401 165th St. NE, Miami, Florida 33160; 515 121st St. NW, North Miami, Florida 33168; and 17001 Collins Ave., Suite 3202, Sunny Isles Beach, Florida 33160.

FEDERAL COMMUNICATIONS COMMISSION

Richard A. Hindman  
Chief, Telecommunications Consumers Division  
Enforcement Bureau

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<sup>36</sup> 47 U.S.C. §§ 154(i), 154(j).

<sup>37</sup> 47 U.S.C. § 227(b)(1)(A)(iii); 47 CFR § 64.1200(a)(1)(iii).

Attachment A

## Yakim Jordan, Manasseh Jordan Ministries

## Prerecorded message calls made by Manasseh Jordan Parties to wireless telephones without subscriber consent

Complaint Number	Date Call Received	Details Regarding Call Volume
14-T01486281	9/2/14 9/5/14 9/10/14 9/12/14	No call volume details provided.
14-T01487483	9/12/14 9/15/14	No call volume details provided.
14-T01505495	9/12/14 10/3/14 10/4/14 10/11/14	Complainant reports an uptick in calls after following prerecorded instructions to make a do-not-call request.
14-T01502880	9/17/14 9/29/14 10/4/14 10/8/14	Complainant reports receiving calls for over three months from at least three caller ID numbers
14-T01508236	9/17/14 10/7/14 10/11/14 10/15/14	No call volume details provided.
14-T01507091	10/14/14	Complainant reports receiving calls from "many" caller ID numbers.
14-T01519037	10/24/14 (2 calls) 10/29/14 10/31/14	Complainant reports pre-teen child receiving calls "10 times a day."
195583	10/28/14	Complainant reports receiving calls "for months" from at least seven caller ID numbers.
4744	11/6/14	Complainant reports receiving calls from at least 15 caller ID numbers. "This is HARASSMENT. These calls to my cell phone come from a new number every other day."
16289	11/25/14	Complainant reports receiving daily calls for over 10 months from at least eight caller ID numbers.
16713	11/26/14	Complainant reports receiving daily calls from multiple caller ID numbers.
14-T01530370	12/1/14 12/2/14 12/3/14 12/4/14	Complainant reports receiving calls for over three months from at least 13 caller ID numbers
606409	1/2/15	Complainant reports that "this man calls my cell phone and house phone constantly [and] every time I block one number he and his organization uses other numbers, at least four of them."

## Federal Communications Commission

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Complaint Number	Date Call Received	Details Regarding Call Volume
72413	1/7/15	Complainant reports receiving "continuous harassing calls to my cell phone. . . . He calls me every day and this has gone on for a few months."
89165	1/18/15	In addition to the call documented, complainant reports that pre-teen child is receiving calls over a period of at least four months. "I consider this harassment . . . ."
101550	1/26/15	Complainant reports receiving calls "every one to two days" for a month.
108832	1/30/15	Complainant reports calls receiving "several times each day . . . at all hours of the day all the way up to 10 and 11 at night."
115548	2/3/15	Complainant reports receiving calls "frequent[ly], sometimes three or four times a day."
136511	2/17/15	Complainant reports receiving "regular robocalls . . . [f]or at least a year" from at least 15 caller ID numbers.
147935	2/23/15	Complainant reports receiving calls daily from at least seven caller ID numbers.
162026	3/4/15	Complainant reports receiving calls "multiple times per day from different [caller ID] numbers. . . ."
200363	3/24/15	Complainant reports receiving calls "at least three times a day from several numbers"
215418	4/2/15	Complainant reports receiving multiple calls daily.
221121	4/6/15	Complainant reports receiving calls for over a month "from many different numbers.)
279004	5/7/15	Complainant reports calls to child's cell phone "multiple times daily from multiple numbers."
293324	5/16/15	Complainant reports receiving "numerous" daily from at least 5 caller ID numbers.
479384	6/14/15	Complainant reports receiving daily calls from at least 11 caller ID numbers.
352800	6/19/15	Complainant reports receiving calls from at least three caller ID numbers.
352800	6/19/15	Complainant reports receiving "calls from three different numbers with the exact same recorded message . . . and those are just from today."
390453	7/8/15	Complainant reports receiving daily calls, "sometimes more than once a day," over "the past 2 years or so" from multiple caller ID numbers.
410850	7/7/15	Complainant reports elderly mother "being harassed by robocalls . . . with alarming regularity."
423973	7/22/15	Complainant reports receiving three calls within a week.
448595	8/3/15	Complainant reports receiving "3 to 4 robocalls daily," from multiple caller ID numbers.
516715	9/8/15	Complainant reports receiving "so many" calls.
615106	10/27/15	Complainant reports "constant calling," up to three times a day.
659312	11/16/15	Complainant reports receiving "multiple calls per day."
870376	12/1/15	Complainant reports receiving calls daily for at least three months from multiple caller ID numbers.

## Federal Communications Commission

DA 16-1017

Complaint Number	Date Call Received	Details Regarding Call Volume
741278	12/23/15	Complainant reports an uptick in calls after following prerecorded instructions to make a do-not-call request.
758262	12/23/15	No call volume details provided.
892120	2/24/16	Complainant reports receiving "persistent nuisance calls from many numbers."
868982	3/20/16	Complainant reports receiving "calls from [caller ID] phone numbers all over the nation."
876261	3/24/16	Complainant reports receiving "constant unwanted phone calls."
881196	3/26/16	Complainant reports receiving three or four calls daily from multiple caller ID numbers.
881409	3/28/16	Complainant reports receiving calls "at any hour, any time at any day" from multiple caller ID numbers.
890879	4/1/16	Complainant reports receiving calls "for weeks now" from at least five caller ID numbers. "This IS harassment."
951959	4/1/16	Complainant reports receiving calls "continually."
899294	4/6/16	Complainant reports receiving "multiple robocalls on my home and cell phone" from at least 20 caller ID numbers.
900139	4/7/16	Complainant reports receiving calls for over six months, "almost every day," from multiple caller ID numbers.
948838	4/15/16	Complainant reports receiving calls from more than four caller ID numbers. "I have asked them repeatedly to stop calling and yet they won't stop. . . . Every time I call to ask to be removed it gets worse for a while after."
971360	5/10/16	Complainant reports that "harassing phone calls won't stop!"
979526	5/15/16	Complainant reports receiving "constant phone calls" from multiple caller ID numbers.
1007952	5/29/16	Complainant reports receiving "relentless and persistent" calls from at least 17 caller ID numbers.
1016793	6/3/16	Complainant reports receiving "multiple calls" from at least two caller ID numbers.
1041115	6/16/16	No call volume details provided.
1043354	6/17/16	No call volume details provided.
1053743	6/21/16	Complainant reports receiving calls "off and on for several years."
1050850	6/22/16	Complainant reports receiving "multiple automated calls."
1050494	6/22/16	Complainant reports receiving "multiple phone calls."
1063304	6/30/16	Complainant reports receiving "frequent spam phone calls."
1067326	7/3/16	Complainant reports receiving calls for over a year.
1067309	7/3/16	Complainant reports receiving six calls during a two week period.
1070980	7/6/16	Complainant reports receiving calls from "about 7 different [number] weekly. "It's been nonstop up to 8 pm every day for a year and a half."
1072465	7/7/16	No call volume details provided.
1073225	7/7/16	Complainant reports receiving at least four calls.
1074064	7/7/16	Complainant reports receiving calls "for about two years on a routine basis" up to twice daily.

## Federal Communications Commission

DA 16-1017

Complaint Number	Date Call Received	Details Regarding Call Volume
1078954	7/11/16	Complainant reports "constantly" receiving calls from different numbers.
1078842	7/11/16	Complainant reports receiving calls daily from at least six caller ID numbers.
1093176	7/19/16	Complainant reports receiving "calls from a different number every day."
1092921	7/19/16	Complainant reports, "I keep getting cell phone calls."
1109236	7/28/16	Complainant reports receiving calls "at least every other day."
1107594	7/27/16	"I keep receiving telephone calls from multiple numbers . . ."
1109235	7/28/16	Complainant reports receiving seven calls within 24 days.
1117546	8/2/16	Complainant reports receiving calls "2-3 times a day, all from different numbers . . ."
1123439	8/5/16 8/3/16 8/2/16 8/1/16 7/30/16 7/29/16 7/27/16 7/26/16 7/25/16	Complainant reports receiving calls "almost on a daily basis" from at least five different numbers.
1128477	8/9/16	Complainant reports receiving daily calls.
1143968	8/17/16	Complainant reports "repeated calls from different numbers."
1157614	8/23/16 8/24/16	Complainant reports "multiple unwanted automated calls."
1159336	8/24/16	Complainant reports "multiple calls for different numbers all over the country" during a three month period.
1170151	8/31/16	Complainant reports "continued calls" despite do-not-call requests.
1170377	8/31/16	Complainant reports receiving calls "several times a week."
1170404	8/31/16	Complainant reports receiving calls "for some now [and] the number is always different."
1174628	9/2/16	Complainant reports "daily recorded calls, sometimes twice daily" from at least four caller ID numbers.

US DISTRICT COURT

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