

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA**

**MARGO SIMMONS, individually and on  
behalf of all others similarly situated,**

*Plaintiff,*

*v.*

**WP LIGHTHOUSE LLC**

*Defendant.*

**Case No. 24-cv-1602**

**Judge Sarah Evans Barker**

**Magistrate Judge M. Kendra Klump**

**PLAINTIFF'S MOTION TO COMPEL  
DEFENDANT TO PROVIDE DISCOVERY RESPONSES**

**INTRODUCTION**

WP Lighthouse LLC, despite requesting a protective order in this case (*see* ECF No. 19) has not provided any discovery documents in this case. WP Lighthouse's only basis for not providing the requested discovery is a bare assertion of the 5<sup>th</sup> Amendment that it does not support with any facts regarding the circumstances of the potential criminal activity at issue. WP Lighthouse should be compelled to provide the responsive information and documents. Indeed, if WP Lighthouse prevails in its argument, an impossible precedent is set: any defendant in any consumer lawsuit could simply claim that the activity might possibly relate to some unidentified crime and avoid participating in discovery. Such a result should not occur.

**LOCAL RULE 37-1(b) STATEMENT**

Counsel for the Plaintiff and the Defendant conferred on these discovery responses in February and March of 2025. Indeed, this Court has held two discovery conferences regarding the dispute before permitting the Plaintiff to file a motion to compel. *See* ECF No. 25 and 27. This dispute is ripe.

## BACKGROUND

The Plaintiff has brought this action to enforce the consumer-privacy provisions of the Telephone Consumer Protection Act of 1991. Pub. L. No. 102-243, 105 Stat. 2394 (1991) (codified at 47 U.S.C. § 227) alleging that WP Lighthouse violated the TCPA by making telemarketing calls to Plaintiff and other putative class members listed on the National Do Not Call Registry without their written consent as well as calling people who had previously asked to no longer receive calls. *See* ECF No. 1.

Plaintiff's telephone number, (407) XXX-XXXX, is a residential, non-commercial telephone number not associated with any business. Ms. Simmons registered the number on the National Do Not Call Registry herself on May 29, 2009, and it has remained on the Registry continuously since that time. Despite this, the Plaintiff received calls and text messages from WP Lighthouse in August of 2024, including after she sent a request to the Defendant indicating that they should stop calling her (which she had already done by registering her number on the Do Not Call list). *Id.*

The Plaintiff has filed this complaint to represent a class of similarly situated individuals.

## LAW AND ARGUMENT

The Plaintiff is seeking to compel fulsome responses to Interrogatories 2, 3, 7, 8 and Document Request Nos. 5, 8, 9 and 14. *See Exhibit 1*. The Plaintiff will demonstrate the relevance of each category of information sought below.

### **I. The Defendant's General Objections Should be Overruled.**

WP Lighthouse has lodged two pages of general objections, all of which should be overruled. *See LKQ Corp. v. Kia Motors Am., Inc.*, No. 21 C 3166, 2023 U.S. Dist. LEXIS

39613, at \*10-11 (N.D. Ill. Mar. 9, 2023) (“General objections that recite boilerplate language is another common discovery practice that is completely improper. Indeed, many courts have lamented General Objections and discussed their death after the 2015 amendments to the Federal Rules of Civil Procedure requiring objections that were specific to each document production request. Fed. R. Civ. P. 34(b)(2)(B) (objections to document production requests must ‘state with specificity the grounds for objecting to the request, including the reasons’”); *see also Vera Bradley Designs, Inc. v. Aixin Li*, 2021 U.S. Dist. LEXIS 37598, 2021 WL 780718, at \*3 (N.D. Ill. Mar. 1, 2021) (“court after court has rejected [] unadorned boilerplate ‘objections’ as tantamount to no objections at all.”) (collecting cases). This Court should do the same.

**II. Interrogatory No. 2 and 3 Seek Basic Information Relating to the Telemarketing Campaign at Issue.**

The Defendant does not lodge any objection to the Plaintiff’s Interrogatory No. 2 and 3, but does not provide a fulsome response either. These questions seek basic “who, what, when” to the individuals involved in the telemarketing campaign at issue. However, the Defendant doesn’t identify it’s “third-party BPO provider located in Asia” and does not identify the source of the leads that were called. *See Exhibit 1* at \*3. The Defendant has no objection to the request, it must provide a complete response.

**III. The Identity of the Third Party That Made the Calls and All Facts that Confirm the Call was Made by Them Should be Provided.**

Interrogatory No. 7 is in a similar posture as Interrogatory No. 2 and 3. There is no objection, but the Defendant simply doesn’t answer the question posed. The question is plain and requires factual support for any assertion made: “If you contend that a third party made the calls alleged in the complaint, identify that third party and state all facts in support of the same.” *See*

Exhibit 1. In response the Defendant evasively states, “Defendant states the call was made by a representative of Defendant’s third-party BPO provider based in Asia from a lead generated by a third-party.”. *Id.* Again, as there is no objection, the Defendant should be compelled to answer the question posed and identify all factual support for their assertion.

**IV. WP Lighthouse has Failed to Produce Relevant Documents and Identify Communications it has Made Regarding this Lawsuit, Including with Complying with a Court Order. Similarly, WP Lighthouse has Refused to Produce its Contract with the Calling Party.**

In a case where the Defendant has claimed that a third party is responsible for the calling conduct at issue, communications with and about that company are going to be relevant. The Plaintiff has sought this information in Interrogatory No. 8 and Document Request No. 8-9. These requests are initially plainly relevant in terms of the communications regarding compliance with the Court’s Orders. *See e.g.* ECF No. 25. Notably, WP Lighthouse has not produced any documents or given any specifics about their efforts to comply with the Court’s Orders.

As it relates to the underlying merits, the requested evidence is critical to the fact intensive inquiry necessary to resolve the question of vicarious liability, as other courts have held in the TCPA vicarious liability context. *See e.g. Braver v. Northstar Alarm Sercls., LLC*, 2019 U.S. Dist. LEXIS 118080, \*18-25 (W.D. Okla. 2019) (detailing email and other communications as basis for finding vicarious liability in a TCPA telemarketing case); *see also In re Monitronics Int’l, Inc.*, 2014 U.S. Dist. LEXIS 10028, \*20-23 (N.D. W.V. 2014) (granting motion to compel discovery relevant to vicarious liability in a TCPA telemarketing case). Recognizing the needs for these documents to engage in a vicarious liability analysis, the same requests were compelled by another federal court in a TCPA vicarious liability putative class action in *Frey v. Frontier*

*Utilities Northeast, LLC, et. al.*, Civil Action No. 19-2372, Dkt. No. 77 (E.D. PA, April 13, 2020):

Frey also seeks records of communications between Frontier and EAG about telemarketing and consumer acquisition. (Doc. No. 52 at p. 4.) Frey argues that the communications are “highly relevant to the issue of vicarious liability because the communications will show the extent to which EAG is an agent of Frontier and the extent to which Frontier authorized the telemarketing calls at issue, controlled EAG’s activities in the telemarketing campaign, and benefitted from the telemarketing campaign.” (Doc. No. 52 at p. 4.) EAG has produced communications related to Frey’s call, as well as copies of the contracts between EAG and Frontier, and EAG and Team Odd Jobs. (See Doc. No. 57 at p. 3.) ... Frey has also shown that the communications between EAG and Frontier are relevant to Frey’s claim for vicarious liability. EAG argues that it has produced communications related to Frey’s call and the contracts between itself and Frontier and itself and Team Odd Jobs. But vicarious liability turns not only on the language used in a contract between the parties but also on “the actual practice between the parties.” See *Klein v. Commerce Energy, Inc.*, 256 F.Supp.3d 563, 584–85 (W.D. Pa. 2017) (explaining that “[v]icarious liability under the TCPA may be established under a broad range of agency theories, including formal agency, apparent authority and ratification” and under each theory, the “relationship between the parties is paramount in determining whether there can be vicarious liability”); see also *Ruby v. DISH Network, LLC*, No. 18-0400, 2019 WL 1466746 at \*1 n.1 (E.D. Pa. March 26, 2019) (slip opn.) (relying on *Klein* for the proposition that “vicarious liability due to the existence of an agency relationship depends on the facts and circumstances of each case”).

Here, unlike *Frey*, WP Lighthouse has not produced any correspondence with or about its telemarketing. Furthermore, the “existence of an agency relationship is a fact-intensive inquiry that is generally best evaluated after discovery.” *Am. Kitchen Delights, Inc. v. Signature Foods, LLC*, No. 16-CV-08701, 2018 U.S. Dist. LEXIS 45184, at \*12 (N.D. Ill. Mar. 20, 2018).

Like the other requests, there is no objection other than a bare 5<sup>th</sup> Amendment assertion, which the Plaintiff addresses below.

**V. Evidence of Prior Complaints and Do Not Call Requests is Relevant to Vicarious Liability and Damages.**

. The TCPA also allows for a damages award to be increased, up to treble damages, if the violation is found to be “knowing or willful.” 47 U.S.C. § 227(c)(5). Here, the Plaintiff seeks similar information which has previously been compelled in other TCPA lawsuits because it also identifies other class members, like the Plaintiff, who had made requests to no longer receive calls but were still contacted.

There is also no meaningful dispute that this information may possibly be introduced at trial. In fact, the Fourth Circuit Court of Appeals affirmed a jury verdict holding a defendant vicariously liable and subject to willful damages under the TCPA following a 5-day trial. *Krakauer v. Dish Network, L.L.C.*, 925 F.3d 643 (4th Cir. 2019), *cert. denied*, 2019 U.S. LEXIS 7573 (Dec. 16, 2019). In that lawsuit, the defendant’s history of receiving prior complaints, their responses to those complaints and settlements of such lawsuits were all issues considered by the jury. *Id.* at 662 (4th Cir. 2019) (“The court documented the many occasions on which Dish noted SSN’s noncompliance and failed to act. The trial court catalogued the lawsuits and enforcement actions brought against Dish for telemarketing activities, none of which prompted the company to seriously improve its business practices...When it learned of SSN’s noncompliance, Dish repeatedly looked the other way...The district court also noted the half-hearted way in which Dish responded to consumer complaints, finding that the evidence shows that Dish cared about stopping complaints, not about achieving TCPA compliance.”)

As there is no meaningful dispute that it is possible that the exact evidence that the Plaintiff seeks could be put into evidence at trial and as a result, the information sought is discoverable. Indeed, granting a similar motion to compel in a TCPA case, another Court held:

Defendant's argument that the information need not be produced because it is not admissible under Federal Rule of Evidence 404(b) is without merit. *See* Fed. R. Civ. P. 26(b)(1) ("Information within this scope of discovery need not be admissible in evidence to be discoverable."). Thus, the Motion will be granted.

*Bratcher v. Navient Sols., Inc.*, No. 3:16-cv-519-J-20JBT, 2017 U.S. Dist. LEXIS 35015, at \*6-7 (M.D. Fla. Mar. 2, 2017).

Like the other requests, there is no objection other than a bare 5<sup>th</sup> Amendment assertion, which the Plaintiff addresses below.

#### **VI. Documents in the hands of WP Lighthouse's Vendor Should be Compelled.**

The Plaintiff has also requested documents regarding the outbound calls that the Defendant made in Request No. 14. For some of those documents, the parties are attempting to obtain them from RingCentral, but that does not represent all of the documents responsive to the request. As such, the Plaintiff is also seeking an Order from the Court compelling WP Lighthouse to obtain relevant information from its vendor.

Where a defendant contests elements of Rule 23 in proposed class actions under the TCPA, courts routinely require the production of information necessary to support those requirements. That is because "[o]utbound dial lists are relevant to establish the issues of numerosity and commonality under Federal Rule of Civil Procedure 23(a) and are therefore discoverable." *Thomas v. Fin. Corp. of Am.*, No. 3:19-CV-152-E, 2019 WL 5157022, at \*1 (N.D. Tex. Oct. 10, 2019) (compelling the production of similar data sought here); *Doherty v. Comenity Capital Bank & Comenity Bank*, No. 16CV1321-H-BGS, 2017 WL 1885677, at \*4 (S.D. Cal. May 9, 2017) ("The Court finds that outbound dial lists are relevant to establish the issues of numerosity and commonality under Federal Rule of Civil Procedure 23(a) and are

therefore discoverable.”). As one court summarized when granting a motion to compel for the calling records in a TCPA case:

This information will assist Plaintiff’s experts in determining which phone numbers were tied to cellular phones, which calls were for telemarketing purposes, which numbers were on the National Do Not Call Registry (“NDNCR”) and which calls were made using an automatic telephone dialing system (“ATDS”). The information is therefore relevant to the numerosity, commonality, and typicality inquiries the Court will undertake to decide Plaintiff’s motion for class certification under Rule 23.

*See Mey v. Frontier Commc’ns Corp.*, No. 13-cv-01191-MPS, ECF No. 102 (D. Conn. Dec. 5, 2014). Here, like *Mey*, the Plaintiff, or her expert, will determine which calls qualify for membership in the class in order to prepare this case for class certification. Because the sought-after Call Records are plainly relevant to contested elements of Rule 23, including numerosity, this Court should compel their production.

Relatedly, if the documents are in the hands of the Defendant or their vendor, it of no consequence. Using third party, or even foreign, call centers is typical in TCPA cases, and it is also typical for federal courts to require TCPA defendants to obtain records from the call centers they engage. *See, e.g., Johansen v. Ameriquote, Inc., et. al.*, No. 15-cv-4108-RWS, Doc. 43 (N.D. Ga.) (requiring the defendant in a TCPA action to retrieve calling records from three different dialing vendors in the Philippines); *Barrett et al v. Intellectual Jewels of Tera Communications, LLC*, No. 20-cv-1529-SDG, Doc No. 15 (N.D. Ga.) (same, although there was only one vendor); *Frey v. Frontier Utilities Northeast LLC, et al.*, No. 2:19-cv-02372, Doc. 57, p. 1, Doc. 77 (E.D. Pa.) (same); *Morris v. Platform Advertising, Inc.*, No. 13-cv-703, Doc. 35 (E.D. Tex.) (Same); *Charvat v. DelivercareRX, Inc.*, No. 14-cv-06832, Doc. 25 (N.D. Ill.) (granting motion to compel requiring a defendant to produce the vendor’s call records); *Mey v. Interstate Nat’l Dealer Servs., Inc., et. al.*, No 14-cv-01846, Doc. 82 (N.D. Ga.) (same);

*Fitzhenry v. Career Educ. Corp., et al.*, No. 14-cv-10172, Doc. 101 (N.D. Ill.) (“The stay on discovery is modified for the limited purpose of requiring Defendant to obtain and retain records of all outbound calls that were made for purposes of generation of leads for education services.”).

## **VII. WP Lighthouse’s Bare 5<sup>th</sup> Amendment Privilege Should be Overruled**

For all the requests that the Plaintiff moves to compel where there is a potential objection, WP Lighthouse makes a single assertion, “WP Lighthouse respectfully exercises its Fifth Amendment rights to not provide any information sought by this request.” None of the objections provide any more factual explanation or identification of the potential criminal prosecution that could be implicated.

The Fifth Amendment of the United States Constitution provides that “[n]o person . . . shall be compelled in any criminal case to be a witness against himself . . .”. While the Supreme Court has recognized that it may be used in a civil case, “[t]he central standard for the privilege’s application has been whether the claimant is confronted by substantial and ‘real,’ and not merely trifling or imaginary, hazards of incrimination.” *Marchetti v. United States*, 390 U.S. 39, 53, 88 S.Ct. 697, 705, 19 L.Ed.2d 889, 1968-1 C.B. 500 (1968).

First, WP Lighthouse has made no showing that there is any “substantial and real” threat of incrimination. Indeed, it simply mentions the Fifth Amendment. For that reason alone, the objection should be overruled.

Second, this is not the first time that a telemarketing company has attempted to invoke the Fifth Amendment to avoid participating in discovery in a TCPA case. In fact, *Gould v. Farmers Ins. Exch.*, No. 4:17 CV 2305 RWS, 2018 U.S. Dist. LEXIS 147690 (E.D. Mo. Aug. 30, 2018) also involved the use of automated dialing to generate new customers for an insurance

defendant. In *Gould*, the plaintiff was seeking the same information that Ms. Simmons is here.

When overruling the objection, the Court held:

The non-party Agents argue that their answers to Gould's production requests would tend to incriminate them because the call logs in question could show a violation of [The TCPA].

In this circumstance, the Agents' mere possession, production, or authentication of call logs and other documents is not the act that would tend to incriminate them. The Fifth Amendment protection against self-incrimination accordingly does not protect against disclosure of the requested documents because of the "settled proposition that a person may be required to produce specific documents even though they contain incriminating assertions of fact or belief because the creation [\*6] of those documents was not 'compelled' within the meaning of the privilege." United States v. Hubbell, 530 U.S. 27, 35-36, 120 S. Ct. 2037, 147 L. Ed. 2d 24.

*Gould v. Farmers Ins. Exch.*, No. 4:17 CV 2305 RWS, 2018 U.S. Dist. LEXIS 147690, at \*4-5 (E.D. Mo. Aug. 30, 2018). The analysis is identical here, and the Plaintiff's motion should be granted.

The stakes in this dispute are high. As the Fourth Circuit Court of Appeals stated regarding TCPA class actions:

Telemarketing calls are also intrusive. A great many people object to these calls, which interfere with their lives, tie up their phone lines, and cause confusion and disruption on phone records... The TCPA was enacted to solve a problem. Simply put, people felt almost helpless in the face of repeated and unwanted telemarketing calls. S. Rep. No. 102-178, at 1-2 (1991). Congress responded with an Act that featured a combination of public and private enforcement, allowing suits both to enjoin intrusive practices and deter future violations through money damages...It would be dispiriting beyond belief if courts defeated Congress' obvious attempt to vindicate the public interest with interpretations that ignored the purpose, text, and structure of this Act at the behest of those whose abusive practices the legislative branch had meant to curb. This will not happen.

*Krakauer v. Dish Network, L.L.C.*, 925 F.3d 643, 649 (4th Cir. 2019). If WP Lighthouse' objection were sustained, any telemarketing company in any TCPA case could simply make a

bare Fifth Amendment assertion and forego discovery and frustrate Congress's purpose. This should not happen.

**VIII. Costs Pursuant to Fed. R. Civ. P. 37(a) are Appropriate.**

Under Rule 37(a)(4), a party is entitled to recover expenses incurred in seeking an order compelling discovery unless the opposition was substantially justified or other circumstances make an award of expenses unjust. *United States v. Kemper Money Market Fund, Inc.*, 781 F.2d 1268, 1279 (7th Cir. 1986). Such an award is appropriate here, as WP Lighthouse has repeatedly refused to produce documents despite its request for entry of a protective order to do so and has not taken a substantially justified position as to why it has not produced any documents or related information. There has been no justification provided.

**CONCLUSION**

For the reasons stated herein, the motion to compel should be granted.

PLAINTIFF

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**CERTIFICATE OF SERVICE**

I hereby certify that this document will be sent electronically to the registered participants

/s/ Anthony I. Paronich  
Anthony I. Paronich

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA**

**MARGO SIMMONS**, individually and on  
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Case No. 24-cv-1602

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Magistrate Judge M. Kendra Klump

**DEFENDANT’S SUPPLEMENTAL ANSWERS TO  
PLAINTIFF’S FIRST SET OF DISCOVERY**

Defendant, WP Lighthouse LLC (“Defendant”), by counsel, serves these supplemental responses (the “Responses”) to the First Set of Discovery (the “Requests”) served by Plaintiff, Margo Simmons, individually and on behalf of all others similarly situated (“Plaintiff”).

**GENERAL OBJECTIONS APPLICABLE TO ALL REQUESTS**

A. Defendant objects to each of the Requests to the extent they purport to impose any obligation different from, or in addition to, those provided Rules 26, 33 and 34 of the Federal Rules of Civil Procedure.

B. Defendant objects to each of the Requests to the extent that, in accordance with the provisions of any case management plan or other similar order to be entered in this case, it is not yet required to provide the information requested.

C. Defendant objects to each Request to the extent it is vague, ambiguous, overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence.

D. To the extent that the Requests seek information which would presumably be within the care, custody, and control of Plaintiff or otherwise publicly available, Defendant objects to

such Requests on the grounds that they are unreasonably cumulative and duplicative, and the information sought is obtainable from another source that is more convenient, less burdensome, and less expensive.

E. Defendant objects to each Request to the extent that it seeks to discover information that is protected by the attorney-client privilege, including all documents and other tangible things which constitute or relate to confidential communications between or among Defendant and its attorneys.

F. Defendant objects to each Request to the extent that it seeks to discover information protected from disclosure as work product, including the mental impressions, conclusions, opinions or legal theories of an attorney or other representative of Defendant concerning this or any related matter.

G. Defendant objects to each Request to the extent that it seeks to discover information that was acquired or developed in anticipation of litigation, including those materials protected from discovery pursuant to Rule 26 of the Federal Rules of Civil Procedure or any other rule of evidence.

H. Defendant objects to each Request to the extent that it seeks to impose an obligation to deduce or gather information not presently known to Defendant or included in documents currently in Plaintiff's possession, custody, or control.

I. Defendant objects to each Request to the extent the information sought is sought for purposes of causing Defendant annoyance, embarrassment, oppression, undue burden, or expense.

J. Defendant objects to each Request on the grounds and to the extent that it is based on Plaintiff's incorrect factual assertions and/or legal assertions, statement(s) of law and/or legal conclusions.

K. In providing these Objections and/or any subsequent objections and/or responses, Defendant does not waive or intend to waive:

1. Objections as to competency, relevancy, materiality, or admissibility;
2. Rights to object on any ground to the use of any responses herein or documents produced hereby in any subsequent proceedings, including the trial of this or any other action;
3. Objections as to vagueness and ambiguity; and
4. Rights to object further to this or any further discovery request in this proceeding.

L. Defendant reserves the right to supplement, modify, or amend its responses and/or objections in accordance with the provisions of Rule 26 of the Federal Rules of Civil Procedure.

### **INTERROGATORIES**

1. Identify each person who provided the information to answer interrogatories in this case and specify the interrogatories about which each such person provided information.

**ANSWER:** In response to Interrogatory No. 1, Defendant states that Christopher Jaguines, Member of WP Lighthouse, his counsel and his counsel's staff each provided responses to all Interrogatories.

2. Identify all employees or vendors involved in making outbound calls as part of the campaign that contacted the Plaintiff. This includes, but is not limited to, (a) third parties that you

contract with who make telemarketing calls to generate leads (b) the dialing system platform or provider used to make calls (c) where the phone numbers to make the calls is obtained.

**ANSWER:** In response to Interrogatory No. 2, Defendant states that the following people and/or companies are responsive to this Request:

a. Chase Evans, an outsourced agent working at Defendant's third-party BPO provider located in Asia, (463) 426-5190; and

b. RingCentral, Third-Party Dialer, 20 Davis Drive Belmont, CA 94002, (844) 670-2328.

3. Identify and describe the work of each employee or vendor identified in response to Interrogatory No. 2.

**ANSWER:** In response to Interrogatory No. 3, Defendant states that Chase Evans is an Acquisitions and Development Associate for Defendant's third-party BPO provider located in Asia, and RingCentral is a dialing platform.

4. Identify all third parties or sub-vendors used by your vendors to for you as part of your relationship with any vendor identified in response to Interrogatory No. 2.

**ANSWER:** In response to Interrogatory No. 4, Defendant incorporates its responses to Interrogatory Nos. 2 and 3.

5. Identify each of the individuals that spoke with Plaintiff from your company or any of its vendors.

**ANSWER:** Chase Evans an outsourced agent working at Defendant's third-party BPO provider located in Asia.

6. If you contend that Plaintiff provided consent to receive solicitation telephone calls, state all facts in support of that contention and identify the date(s) on which and the means by which you contend consent was obtained.

**ANSWER:** In response to Interrogatory No. 6, Defendant states it does not have information available to respond to this Interrogatory. Discovery is ongoing.

7. If you contend that a third party made the calls alleged in the complaint, identify that third party and state all facts in support of the same.

**ANSWER:** In response to Interrogatory No. 7, Defendant states the call was made by a representative of Defendant's third-party BPO provider based in Asia from a lead generated by a third-party.

8. Identify all communications you've had with any third party, other than your counsel, regarding this lawsuit.

**ANSWER:** In response to Interrogatory No. 8, WP Lighthouse respectfully exercises its Fifth Amendment rights to not provide any information responsive to this request.

9. Identify by make, model, structure and location the system(s), platform(s), and/or equipment used by you, or any vendor, used to contact the Plaintiff.

**ANSWER:** In response to Interrogatory No. 9, Defendant states that the communication was initiated through the cloud phone system provided to Defendant by its third-party BPO provider based in Asia.

10. State all facts in support of any affirmative defenses you have raised.

**ANSWER:** Defendant reasonably relied upon representations from Defendant's third-party BPO provider located in Asia (who would have made all of the calls at issue in this matter) that it had established and implemented written procedures to comply with the national do-not-call rules;

trained its personnel, and any entity assisting in its compliance, in procedures established pursuant to the national do-not-call rules; maintained and recorded a list of telephone numbers that it may not contact; and used a process to prevent telephone solicitations to any telephone number on any list established pursuant to the do-not-call rules, employing a version of the national do-not-call registry obtained from the administrator of the registry no more than 31 days prior to the date any call is made, and maintains records documenting this process.

11. Identify any person (whether employed by you or not) whom you have disciplined, reprimanded, or taken similar action against for allowing or making allegedly unlawful or unauthorized outbound calls. In your answer, please identify all persons involved in any investigation, describe the reasons for your disciplinary action or reprimand, and describe the action taken against the person.

**ANSWER:** None.

### **VERIFICATION**

I affirm under the penalties for perjury that the above and foregoing answers are true.

/s/ Christopher Jaguines

Christopher Jaguines

### **DOCUMENT REQUESTS**

1. Please produce all non-attorney-client-privileged documents identified in or used to research or draft responses to interrogatories in this case.

**RESPONSE:** None.

2. Please produce all documents supporting or contradicting any affirmative defense made in any answer by you to any complaint in this case.

**RESPONSE:** Defendant has not been able to locate documents responsive to this Request. Discovery is ongoing.

3. Please produce all documents related to Plaintiff, including, but not limited to, all documents evidencing your relationship with Plaintiff or your investigation into outbound calls made to Plaintiff.

**RESPONSE:** In response to Request No. 3, WP Lighthouse respectfully exercises its Fifth Amendment rights to not provide any information sought by this request.

4. Please produce all documents relating to any failure by a vendor of yours to abide by your policies or any agreement you had relating to the sending of outbound calls.

**RESPONSE:** In response to Request No. 4, WP Lighthouse respectfully exercises its Fifth Amendment rights to not provide any information sought by this request.

5. Please produce all complaints or do-not-call requests concerning outbound calls made by you or by any vendor of yours for allowing or making allegedly unlawful or unauthorized outbound calls. This request, but is not limited to, any written complaints (litigation or pre-litigation) received by you, any response sent, and any internal correspondence about the same.

**RESPONSE:** In response to Request No. 5, WP Lighthouse respectfully exercises its Fifth Amendment rights to not provide any information sought by this request.

6. All contracts or documents representing agreements with any vendor that provided you with the Plaintiff's telephone number or information.

**RESPONSE:** In response to Request No. 6, WP Lighthouse respectfully exercises its Fifth Amendment rights to not provide any information sought by this request.

7. All internal communications at your company regarding any vendor that provided you with the Plaintiff's telephone number or information.

**RESPONSE:** In response to Request No. 7, WP Lighthouse respectfully exercises its Fifth Amendment rights to not provide any information sought by this request.

8. All contracts or documents representing agreements with any third party that dialed the calls to the Plaintiff.

**RESPONSE:** In response to Request No. 8, WP Lighthouse respectfully exercises its Fifth Amendment rights to not provide any information sought by this request.

9. All communications with any third party that dialed the calls to the Plaintiff.

**RESPONSE:** In response to Request No. 9, WP Lighthouse respectfully exercises its Fifth Amendment rights to not provide any information sought by this request.

10. All internal communications at your company regarding any third party that dialed the calls to the Plaintiff.

**RESPONSE:** None.

11. Please produce all documents relating to insurance coverage of the acts alleged by Plaintiff, including, but not limited to, all potentially applicable policies issued by any insurer and all communications with any such insurers, including, but not limited to, reservation-of-rights letters, regardless of whether or not such coverage purports to exclude the acts alleged in this matter and regardless of whether or not such insurers have declined coverage in this matter.

**RESPONSE:** None.

12. Please produce all indemnification agreements under which a third party may be responsible for satisfying all or part of a judgment that may be entered against you in this action, and all communications with those third parties.

**RESPONSE:** In response to Request No. 12, WP Lighthouse respectfully exercises its Fifth Amendment rights to not provide any information sought by this request.

13. Please produce all documents related to policies for compliance with the TCPA or the FCC's regulations thereunder and all documents necessary to construct a timeline of when each policy was in force. This request specifically includes, but is not limited to, policies related to the following:

- a) compliance with the TCPA, including, but not limited to the rules, regulations, opinions, advisories, comments or filings of the Federal Communications Commission that relate to the TCPA or 47 C.F.R. § 64.1200;
- b) obtaining or verifying prior express consent;
- c) complying with E-SIGN Act, 15 U.S.C. §§ 7001 *et seq.*

**RESPONSE:** Defendant has not been able to locate documents responsive to this Request. Discovery is ongoing.

14. Please produce all documents containing any of the following information for each outbound telemarketing call sent by you or the entity that provided you with the Plaintiff's information:

- a) the date and time;
- b) the caller ID;
- c) any recorded message used;
- d) the result;
- e) identifying information for the recipient; and
- f) any other information stored by the call detail records.

**RESPONSE:** In responses to Request No. 14, WP Lighthouse states it did not make any outbound telemarketing calls and that any and all outbound telemarketing calls were made by WP

Lighthouse's third-party BPO provider. WP Lighthouse respectfully exercises its Fifth Amendment rights to not provide any further information sought by this request.

15. All communications with any third party concerning this litigation other than your counsel.

**RESPONSE:** In response to Request No. 15, WP Lighthouse respectfully exercises its Fifth Amendment rights to not provide any information sought by this request.

Respectfully submitted,

MORSE & BICKEL, P.C.

/s/ John J. Morse

John J. Morse, Atty. No. 16146-49

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*Counsel for Defendant, WP Lighthouse LLC*

### **CERTIFICATE OF SERVICE**

I do hereby certify that on this 26<sup>th</sup> day of February, 2025, a copy of the above and foregoing document was served to all parties of record via electronic means.

/s/ John J. Morse

John J. Morse