

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE**

**WILLIAM STEVEN GILLIAM,**  
individually and on behalf of all others  
similarly situated,

*Plaintiff,*

v.

**PRINCE HEALTH GROUP LLC**

**AND**

**JOHN DOE LEAD GENERATOR  
IDENTIFIED AS “P1 SOLUTIONS”**

*Defendants.*

Case No.

**CLASS ACTION**

**JURY TRIAL DEMANDED**

**CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff William Steven Gilliam (“Plaintiff” or “Mr. Gilliam”) brings this Class Action Complaint and Demand for Jury Trial against Defendants Prince Health Group LLC and John Doe Lead Generator Identified as “P1 Solutions” (“Defendant(s),” “Prince,” or “P1”) and alleges as follows:

1. Telemarketing calls are 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. Faced with growing public criticism of abusive telephone marketing practices, Congress enacted the Telephone Consumer Protection Act of 1991. Pub. L. No. 102-243, 105 Stat. 2394 (1991) (codified at 47 U.S.C. § 227). As Congress explained, the law was a response to Americans ‘outraged over the proliferation of intrusive, nuisance calls to their homes from telemarketers’ *id.* § 2(6), and sought to strike a balance between ‘[i]ndividuals’ privacy rights, public safety interests, and commercial freedoms’ *id.* § 2(9).

2. “The law opted for a consumer-driven process that would allow objecting individuals to prevent unwanted calls to their homes. The result of the telemarketing regulations was the national Do-Not-Call registry. *See* 47 C.F.R. § 64.1200(c)(2). Within the federal government’s web of indecipherable acronyms and byzantine programs, the Do-Not-Call registry stands out as a model of clarity. It means what it says. If a person wishes to no longer receive telephone solicitations, he can add his number to the list. The TCPA then restricts the telephone solicitations that can be made to that number. *See id.*; 16 C.F.R. § 310.4(b)(iii)(B) (‘It is an abusive telemarketing act or practice and a violation of this Rule for a telemarketer to . . . initiat[e] any outbound telephone call to a person when . . . [t]hat person’s telephone number is on the “do-not-call” registry, maintained by the Commission.’)..Private suits can seek either monetary or injunctive relief. *Id.*...This private cause of action is a straightforward provision designed to achieve a straightforward result. Congress enacted the law to protect against invasions of privacy that were harming people. The law empowers each person to protect his own personal rights. Violations of the law are clear, as is the remedy. Put simply, the TCPA affords relief to those persons who, despite efforts to avoid it, have suffered an intrusion upon their domestic peace.” *Krakauer v. Dish Network, L.L.C.*, 925 F.3d 643, 649-50 (4th Cir. 2019).

3. The Plaintiff brings this action to enforce the consumer-privacy provisions of the TCPA alleging that Prince and P1 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.

### **PARTIES**

4. Plaintiff William Steven Gilliam is an individual residing in the Middle District of Tennessee.

5. Defendant Prince Health Group LLC is a corporation incorporated and having its principal place of business in Deerfield, FL.

6. Defendant John Doe Lead Generator Identified as “P1 Solutions” is a telemarketer and lead generator that Prince hired to generate leads for it. At this time, it is unknown where P1 is located or headquartered.

### **JURISDICTION AND VENUE**

7. This Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331 and 47 U.S.C. § 227 *et seq.*

8. This Court has specific personal jurisdiction over Prince because the company purposefully availed itself of conducting business in this District, including by sending illegal telemarketing calls to the 931-area code numbers in this District. This Court will have specific personal jurisdiction over P1 once identified because P1 contracted with Prince to send calls on its behalf, including calling individuals in the 931 and other Tennessee area codes.

9. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) because the telephone calls at issue were sent into this District, and therefore a substantial part of the events giving rise to the claim occurred in this District.

### **BACKGROUND**

#### **A. The TCPA Prohibits Calls to Numbers on the National Do Not Call Registry.**

10. In 1991, Congress enacted the TCPA to regulate the explosive growth of the telemarketing industry. In so doing, Congress recognized that “[u]nrestricted telemarketing . . . can be an intrusive invasion of privacy[,]” and found that federal legislation was needed because “telemarketers [could] evade [state-law] prohibitions through interstate operations.” *Mims v. Arrow Fin. Servs., LLC*, 565 U.S. 368, 372 (2012) (citations omitted).

11. The TCPA prohibits making multiple telemarketing calls to a residential telephone number that has previously been registered on the National Do Not Call Registry. *See* 47 U.S.C. § 227(c)(5).

12. The National Do Not Call Registry allows consumers to register their telephone numbers and thereby indicate their desire not to receive telephone solicitations at those numbers. *See* 47 C.F.R. § 64.1200(c)(2).

13. A listing on the National Do Not Call Registry “must be honored indefinitely, or until the registration is cancelled by the consumer or the telephone number is removed by the database administrator.” *Id.*

14. The TCPA and implementing regulations prohibit the initiation of telephone solicitations to residential telephone subscribers on the Registry and provide a private right of action against any entity that makes those calls, or “on whose behalf” such calls are promoted. 47 U.S.C. § 227(c)(5); 47 C.F.R. § 64.1200(c)(2).

#### **FACTUAL ALLEGATIONS**

15. The Plaintiff is, and at all times mentioned herein was, a “person” as defined by 47 U.S.C. § 153(39).

16. At no point did the Plaintiff consent to receiving telemarketing calls from the Defendants prior to receiving the automated calls at issue.

17. Plaintiff’s telephone number, (931) XXX-XXXX, is a residential, non-commercial telephone number.

18. Plaintiff uses the telephone number for his own personal, residential, and household needs and reasons.

19. Plaintiff does not use the number for business reasons or business use.

20. The number is assigned to a residential telephone exchange service for consumers and is not assigned to a telephone exchange service for businesses.

21. Plaintiff's telephone number has been listed on the National Do Not Call Registry since he listed it there in October 2023.

22. Plaintiff has never been a customer of Prince and never consented to receive calls from Prince.

23. The calls were made to pitch the Plaintiff to buy insurance services which Prince was selling.

24. Despite this, the Plaintiff received at least two calls from Prince on at least December 1 and December 5, 2023 from caller IDs 863-535-6XXX numbers.

25. The Plaintiff rejected the first call because it was unwanted.

26. Unsurprisingly, the Defendants continued to call. Specifically, during the call on December 5, 2023, the Plaintiff was asked if he was interested in health insurance, was requested to provide his age and ZIP code, and what health insurance he currently had.

27. During the call, the Plaintiff was transferred to an agent of Prince, named Sadea Gonzales. The Plaintiff also received a text message from Ms. Gonzales.

28. Thereafter, the Plaintiff retained counsel to investigate the matter.

29. Despite that fact, Prince's owner, Christopher McGill, texted the Plaintiff from 585-738-5949, stating that the attorney Plaintiff hired was "wasting [his] time" and that Prince had purported consent to contact Mr. Gilliam.

30. This assertion is untrue. Indeed, further indicating the untruthfulness of any purported "consent" to contact the Plaintiff, Prince's owner, Christopher McGill, indicated that he

purchased the lead from an entity named “P1 Solutions,” who was the one to contact the Plaintiff and then did a live transfer to Prince.

31. For more than twenty years, the FCC has explained that its “rules generally establish that the party on whose behalf a solicitation is made bears ultimate responsibility for any violations.” *In re Rules and Regulations Implementing the Telephone Consumer Protection Act*, 10 FCC Rcd. 12391, 12397 ¶ 13 (1995).

32. In 2008, the FCC likewise held that a company on whose behalf a telephone call is made bears the responsibility for any violations.

33. The FCC has instructed that sellers such as Prince may not avoid liability by outsourcing telemarketing to third parties, such as P1:

[A]llowing the seller to avoid potential liability by outsourcing its telemarketing activities to unsupervised third parties would leave consumers in many cases without an effective remedy for telemarketing intrusions. This would particularly be so if the telemarketers were judgment proof, unidentifiable, or located outside the United States, as is often the case. Even where third-party telemarketers are identifiable, solvent, and amenable to judgment, limiting liability to the telemarketer that physically places the call would make enforcement in many cases substantially more expensive and less efficient, since consumers (or law enforcement agencies) would be required to sue each marketer separately in order to obtain effective relief. As the FTC noted, because “sellers may have thousands of ‘independent’ marketers, suing one or a few of them is unlikely to make a substantive difference for consumer privacy.”

*In re DISH Network, LLC*, 28 FCC Rcd. 6574, 6588 ¶ 37 (2013) (footnotes and alteration marks omitted).

34. In 2013, the FCC held that a corporation or other entity that contracts out its telephone marketing “may be held vicariously liable under federal common law principles of agency for violations of either section 227(b) or section 227(c) that are committed by third-party telemarketers.” *Id.* at 6574 ¶ 1.

35. Prince is liable for telemarketing calls placed by P1 and transferred to Prince and its agents to generate customers for Prince and its agents, including the Plaintiff.

36. Prince was interested in hiring a lead generator that could make phone calls to potential customers, vet potential clients, and only sell them the interested ones.

37. To do so, it hired P1 to orchestrate an *en masse* telemarketing campaign.

38. Indeed, by Mr. McGill's own admission, Prince did not have the resources to conduct telemarketing on a mass schedule, so it hired P1 to send out mass dialed calls, generate leads, and then forward only the purportedly interested consumers on to Prince.

39. Prince controlled the day-to-day activities of P1 by providing the specific criteria for the leads it would accept and required its vendors, including P1, to adhere to those criteria.

40. Prince also instructed P1 to attempt to salvage potentially interested customers by incessantly calling them again and again, until such point as they confirmed that the buyer was interested in insurance and P1 sent the consumers over as a live transfer to Prince.

41. Defendants did so despite numerous explicit indications that the Plaintiff was not interested and did not want any further calls.

42. As such, Prince controlled the content of P1's telemarketing.

43. It also could and should have communicated Plaintiff's multiple requests not to be called to P1.

44. P1, likewise, could and should have communicated Plaintiff's multiple requests not to be called to Prince.

45. Finally, Prince could have terminated P1.

46. It did not.

47. By virtue of identifying the leads that they would accept and directing the conduct and other indicia of the calls at issue described above, Prince directed the content of the communications that P1 would use in their calling.

48. A reasonable seller whose telemarketers are making calls would investigate into the reasons why they would be calling numbers on the National Do Not Call Registry and, moreover, individuals who already stated that they no longer wished to receive calls from Prince or P1.

49. Indeed, Prince could have investigated if the transfers it received were on the National Do Not Call Registry.

50. It did not.

51. Prince hired P1 without a proper investigation and did not terminate them when they were informed of P1's illegal calling conduct.

52. As such, they knowingly ratified P1's conduct.

53. Prince also ratified P1's conduct because, with knowledge of Plaintiff's complaints against Prince, they accepted the Plaintiff's lead and ultimately attempted to sell the Plaintiff an insurance policy.

54. Prince accepted the Plaintiff's lead and then utilized it for a benefit by continuing to promote its services to him after he made clear he did not want the calls.

55. The 2013 FCC ruling holds that called parties may obtain "evidence of these kinds of relationships . . . through discovery, if they are not independently privy to such information." *In re DISH Network*, 28 FCC Rcd. 6592-93 ¶ 46. Evidence of circumstances pointing to apparent authority on behalf of the telemarketer "should be sufficient to place upon the seller the burden of demonstrating that a reasonable consumer would not sensibly assume that the telemarketer was acting as the seller's authorized agent." *Id.* at 6593 ¶ 46.

56. Plaintiff's privacy has been violated by the above-described telemarketing calls.

57. Plaintiff never provided his consent or requested these calls.

58. The aforementioned calls to the Plaintiff were unwanted.

59. The calls were non-consensual encounters.

60. Plaintiff and all members of the Class, defined below, have been harmed by the acts of Defendants because their privacy has been violated and they were annoyed and harassed. In addition, the calls occupied their telephone lines, rendering them unavailable for legitimate communication, including while driving, working, and performing other critical tasks.

### **CLASS ACTION ALLEGATIONS**

61. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully stated herein.

62. Plaintiff brings this action on behalf of himself and the following class (the “Class”) pursuant to Federal Rule of Civil Procedure 23.

**National DNC Class:** All persons in the United States whose (1) telephone numbers were on the National Do Not Call Registry for at least 31 days, (2) but who received more than one telemarketing call from or on behalf of Defendants encouraging the purchase of Prince’s goods or services, (3) within a 12-month period (4) at any time in the period that begins four years before the date of filing this Complaint to trial.

63. **Numerosity:** The exact number of Class members is unknown but based on the *en masse* nature of telemarketing is believed to be at least hundreds of persons at this time, and individual joinder in this case is impracticable. Class members can be easily identified through Defendants’ records, or those of their agents.

64. **Typicality:** Plaintiff’s claims are typical of the claims of other Class members in that Plaintiff, and Class members, sustained damages arising out of Defendants’ telemarketing calls and Class members sustained similar injuries and damages as a result of Defendants’ uniform illegal conduct.

65. **Adequacy:** Plaintiff will fairly and adequately represent and protect the interests of the Class and has retained counsel competent and experienced in complex class actions to vigorously prosecute this action on behalf of the Class. Plaintiff has no interests that conflict with, or are antagonistic to those of, the Class, and Defendants have no defenses unique to Plaintiff.

66. **Commonality and Predominance:** There are many questions of law and fact common to the claims of Plaintiff and members of the Class, and those questions predominate over any questions that may affect individual members of the Class. Common questions for the Class include, but are not necessarily limited to, the following:

a. Whether Defendants obtained “prior express invitation or permission” under the TCPA, before the calls at issue;

b. Whether Defendants have established and implemented, with due care, reasonable practices and procedures to effectively prevent telephone solicitations in violation of the TCPA’s do-not-call regulations;

c. Whether Prince should be held liable for violations P1 may have made on its behalf; and

d. Damages, including whether any violations were performed willfully or knowingly, such that Plaintiff and the other Class members are entitled to treble damages under 47 U.S.C. § 227(c)(5).

67. **Superiority:** Class action treatment is superior to the alternatives for the fair and efficient adjudication of the controversy alleged herein. Such treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the duplication of effort and expense that numerous

individual actions would entail. There are hundreds of Class members, such that joinder of all members is impracticable.

68. In addition to satisfying the prerequisites of FED. R. CIV. P. 23(a), Plaintiff satisfies the requirements for maintaining a class action under FED. R. CIV. P. 23(b) because:

a. The prosecution of separate actions by the individual Class members would create a risk of inconsistent or varying adjudication which would establish incompatible standards of conduct for Defendants;

b. The prosecution of separate actions by individual Class members would create a risk of adjudications with respect to them which would, as a practical matter, be dispositive of the interests of other Class members not parties to the adjudications, or substantially impair or impede their ability to protect their interests;

c. Defendants have acted or refused to act on grounds that apply generally to the proposed Class, thereby making final injunctive relief or declaratory relief herein appropriate with respect to the proposed Class as a whole; and

d. Questions of law or fact common to the members of the Class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

**FIRST CAUSE OF ACTION**  
**Violations of the TCPA, 47 U.S.C. § 227**  
**(On Behalf of Plaintiff and the National DNC Class)**

69. Plaintiff realleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

70. It is a violation of the TCPA to initiate any telephone solicitation to a residential telephone subscriber who has registered his or her telephone number on the National Do Not Call Registry. 47 C.F.R. 64.1200(c)(2).

71. Defendants and/or their affiliates, agents, and/or other persons or entities acting on Defendants' behalf violated the TCPA by causing multiple telephone solicitation calls to be initiated to Plaintiff and members of the National DNC Class in a 12-month period, despite the person's registration of his or her telephone numbers on the National Do Not Call Registry.

72. These violations were willful or knowing.

73. As a result of Defendants and/or their affiliates, agents, and/or other persons or entities acting on Defendants' behalf's violations of the TCPA's national do-not-call rule, Plaintiff and members of the National DNC Class are each entitled to an injunction and up to \$500 in damages for each such violation. 47 U.S.C. § 227(c)(5).

74. Because such violations were willful or knowing, the Court should treble the amount of statutory damages, pursuant to 47 U.S.C. § 227(c)(5).

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, individually and on behalf of the National DNC Class, respectfully request that the Court enter judgment against Defendants for:

- A. Certification of the National DNC Class as alleged herein;
- B. Appointment of Plaintiff as representative of the Class;
- C. Appointment of the undersigned as counsel for the Class;
- D. Damages to Plaintiff and members of the National DNC Class pursuant to 47 U.S.C. § 227(c)(5);
- E. Injunctive relief for Plaintiff and members of the National DNC Class, pursuant to

47 U.S.C. § 227(c)(5), preventing the Defendants from making calls to numbers listed on the National Do Not Call Registry;

- F. Attorneys' fees and costs, as permitted by law; and
- G. Such other or further relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury.

RESPECTFULLY SUBMITTED AND DATED this 3/28/2024 day of 3/28/2024

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