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 12 *Attorneys for Plaintiffs,*

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

12 **STEVE GALLION**, individually and) Case No.
 13 on behalf of all others similarly)
 14 situated,) **CLASS ACTION**
 15 Plaintiff,) **COMPLAINT FOR VIOLATIONS**
 16) **OF:**
 17 vs.)
 18) 1. NEGLIGENT
 19) VIOLATIONS OF THE
 20 **CHARTER COMMUNICATIONS,**) TELEPHONE CONSUMER
 21 **INC., and SPECTRUM**) PROTECTION ACT [47 U.S.C.
 22 **MANAGEMENT HOLDING**) §227 ET SEQ.]
 23 **COMPANY, LLC; DOES 1 through**) 2. WILLFUL VIOLATIONS
 24 **10, inclusive,**) OF THE TELEPHONE
 25) CONSUMER PROTECTION ACT
 26) [47 U.S.C. §227 ET SEQ.]
 27 **Defendants.**) **DEMAND FOR JURY TRIAL**

24 Plaintiff, STEVE GALLION (“Plaintiff”), individually and all others
 25 similarly situated, alleges the following upon information and belief based upon
 26 personal knowledge:

27 **NATURE OF THE CASE**

28 1. Plaintiff brings this action individually and on behalf of all others

1 similarly situated seeking damages and any other available legal or equitable
2 remedies resulting from the illegal actions of CHARTER COMMUNICATIONS,
3 INC. (“CHARTER”) and SPECTRUM MANAGEMENT HOLDING
4 COMPANY, LLC (“SPECTRUM”), collectively referred to as “Defendants”, in
5 negligently, knowingly, and/or willfully contacting Plaintiff on Plaintiff’s cellular
6 telephone in violation of the Telephone Consumer Protection Act, 47. U.S.C. §
7 227 *et seq.* (“TCPA”), thereby invading Plaintiff’s privacy.

8 **JURISDICTION & VENUE**

9 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,
10 a resident of California, seeks relief on behalf of a Class, which will result in at
11 least one class member belonging to a different state than that of Defendants.
12 Defendant CHARTER is headquartered in Connecticut, and Defendant
13 SPECTRUM is headquartered in New York. Plaintiff also seeks up to \$1,500.00
14 in damages for each call in violation of the TCPA, which, when aggregated
15 among a proposed class in the thousands, exceeds the \$5,000,000.00 threshold for
16 federal court jurisdiction. Therefore, both diversity jurisdiction and the damages
17 threshold under the Class Action Fairness Act of 2005 (“CAFA”) are present, and
18 this Court has jurisdiction.

19 3. Venue is proper in the United States District Court for the Central
20 District of California pursuant to 18 U.S.C. 1391(b) and 18 U.S.C. § 1441(a)
21 because Defendant does business within the state of California and Plaintiff
22 resides within this District.

23 **PARTIES**

24 4. Plaintiff, STEVE GALLION (“Plaintiff”), is a natural person
25 residing in San Bernardino County of the state of California and is a “person” as
26 defined by 47 U.S.C. § 153 (10).

27 5. Defendant CHARTER is a telecommunications company and is a
28 “person” as defined by 47 U.S.C. § 153 (10).

1 then transferred to a live representative of Defendants.

2 13. Defendants' calls constituted calls that were not for emergency
3 purposes as defined by *47 U.S.C. § 227(b)(1)(A)*.

4 14. Plaintiff is not a customer of Defendants' services and has never
5 provided any personal information, including his cellular telephone number, to
6 Defendants for any purpose whatsoever. Accordingly, Defendants never received
7 Plaintiff's "prior express consent" to receive calls using an automatic telephone
8 dialing system or an artificial or prerecorded voice on his cellular telephone
9 pursuant to *47 U.S.C. § 227(b)(1)(A)*.

10 **CLASS ALLEGATIONS**

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

14
15 All persons within the United States who received any
16 telephone calls from Defendants to said person's
17 cellular telephone made through the use of any
18 automatic telephone dialing system or an artificial or
19 prerecorded voice and such person had not previously
20 consented to receiving such calls within the four years
21 prior to the filing of this Complaint

22 16. Plaintiff represents, and is a member of, The Class, consisting of All
23 persons within the United States who received any telephone calls from
24 Defendants to said person's cellular telephone made through the use of any
25 automatic telephone dialing system or an artificial or prerecorded voice and such
26 person had not previously not provided their cellular telephone number to
27 Defendants within the four years prior to the filing of this Complaint.

28 17. Defendants, their employees and agents are excluded from The
Class. Plaintiff does not know the number of members in The Class, but believes

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

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

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

17 20. Common questions of fact and law exist as to all members of The
18 Class which predominate over any questions affecting only individual members
19 of The Class. These common legal and factual questions, which do not vary
20 between Class members, and which may be determined without reference to the
21 individual circumstances of any Class members, include, but are not limited to,
22 the following:

- 23 a. Whether, within the four years prior to the filing of this Complaint,
24 Defendants made any call (other than a call made for emergency
25 purposes or made with the prior express consent of the called party) to a
26 Class member using any automatic telephone dialing system or any
27 artificial or prerecorded voice to any telephone number assigned to a
28 cellular telephone service;
- b. Whether Plaintiff and the Class members were damages thereby, and
the extent of damages for such violation; and

1 c. Whether Defendants should be enjoined from engaging in such conduct
2 in the future.

3 21. As a person that received numerous calls from Defendants using an
4 automatic telephone dialing system or an artificial or prerecorded voice, without
5 Plaintiff's prior express consent, Plaintiff is asserting claims that are typical of
6 The Class.

7 22. Plaintiff will fairly and adequately protect the interests of the
8 members of The Class. Plaintiff has retained attorneys experienced in the
9 prosecution of class actions.

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

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

26 25. Defendants have acted or refused to act in respects generally
27 applicable to The Class, thereby making appropriate final and injunctive relief
28 with regard to the members of the California Class as a whole.

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FIRST CAUSE OF ACTION

**Negligent Violations of the Telephone Consumer Protection Act
47 U.S.C. §227 et seq.**

26. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-23.

27. The foregoing acts and omissions of Defendants constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

28. As a result of Defendants’ negligent violations of *47 U.S.C. § 227 et seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

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

SECOND CAUSE OF ACTION

**Knowing and/or Willful Violations of the Telephone Consumer Protection Act
47 U.S.C. §227 et seq.**

30. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-23.

31. The foregoing acts and omissions of Defendants constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

32. As a result of Defendants’ knowing and/or willful violations of *47 U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to *47*

1 *U.S.C. § 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

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

4
5 **PRAYER FOR RELIEF**

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

7
8 **FIRST CAUSE OF ACTION**

9 **Negligent Violations of the Telephone Consumer Protection Act**
10 **47 U.S.C. §227 et seq.**

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

16 **SECOND CAUSE OF ACTION**

17 **Knowing and/or Willful Violations of the Telephone Consumer Protection**
18 **Act**
19 **47 U.S.C. §227 et seq.**

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

26 Respectfully Submitted this 6th day of July, 2017.

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

28 By: /s Todd M. Friedman

Todd M. Friedman
Law Offices of Todd M. Friedman
Attorney for Plaintiff

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