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20 **UNITED STATES DISTRICT COURT**  
21 **SOUTHERN DISTRICT OF CALIFORNIA**

22 **KEISHA NEWSOM, Individually**  
23 **and On Behalf of All Others**  
24 **Similarly Situated,**

25 **Plaintiff,**

26 **v.**

27 **ALLIED INTERSTATE, LLC,**

28 **Defendant.**

**Case No.: '17CV130 JM NLS**

**CLASS ACTION**

**COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF PURSUANT  
TO THE TELEPHONE CONSUMER  
PROTECTION ACT, 47 U.S.C. § 227,  
ET SEQ.**

**JURY TRIAL DEMANDED**

**INTRODUCTION**

- 1
- 2 1. Plaintiff KEISHA NEWSOM (“Plaintiff”) brings this Class Action
- 3 Complaint for damages, injunctive relief, and any other available legal or
- 4 equitable remedies, resulting from the illegal actions of Defendant Allied
- 5 Interstate, LLC. (hereinafter, referred to as “Defendant”) in negligently
- 6 and/or intentionally contacting Plaintiff on Plaintiff’s cellular telephone, in
- 7 violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et*
- 8 *seq.*, (“TCPA”), thereby invading Plaintiff’s privacy. Plaintiff alleges as
- 9 follows upon personal knowledge as to herself and her own acts and
- 10 experiences, and, as to all other matters, upon information and belief,
- 11 including investigation conducted by her attorneys.
- 12 2. The TCPA was designed to prevent calls like the ones described within this
- 13 complaint, and to protect the privacy of citizens like Plaintiff. “Voluminous
- 14 consumer complaints about abuses of telephone technology – for example,
- 15 computerized calls dispatched to private homes – prompted Congress to pass
- 16 the TCPA.” *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 744 (2012).
- 17 3. In enacting the TCPA, Congress intended to give consumers a choice as to
- 18 how creditors and telemarketers may call them, and made specific findings
- 19 that “[t]echnologies that might allow consumers to avoid receiving such
- 20 calls are not universally available, are costly, are unlikely to be enforced, or
- 21 place an inordinate burden on the consumer. TCPA, Pub.L. No. 102–243,
- 22 § 11. Toward this end, Congress found that:
- 23 [b]anning such automated or prerecorded telephone calls
- 24 to the home, except when the receiving party consents to
- 25 receiving the call or when such calls are necessary in an
- 26 emergency situation affecting the health and safety of the
- 27 consumer, is the only effective means of protecting
- 28 telephone consumers from this nuisance and privacy
- invasion.
- Id.* at § 12; *see also Martin v. Leading Edge Recovery Solutions, LLC*, 2012
- WL 3292838, at\* 4 (N.D. Ill. Aug. 10, 2012) (citing Congressional findings

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1 on TCPA’s purpose).

2 4. Congress also specifically found that “the evidence presented to the  
3 Congress indicates that automated or prerecorded calls are a nuisance and an  
4 invasion of privacy, regardless of the type of call....” *Id.* at §§ 12-13. *See*  
5 *also, Mims*, 132 S. Ct. at 744.

6 **JURISDICTION AND VENUE**

7 5. This Court has federal question jurisdiction because this case arises out of  
8 violation of federal law. 47 U.S.C. §227(b).

9 6. Venue is proper in the United States District Court for the Southern District  
10 of California pursuant to 28 U.S.C. § 1391 for the following reasons: (i) at  
11 all material times hereto, Plaintiff resided in the County of San Diego, State  
12 of California which is within this judicial district; (ii) the conduct  
13 complained of herein occurred within this judicial district; and, (iii) many of  
14 the acts and transactions giving rise to this action occurred in this district  
15 because Defendant:

- 16 (a) is authorized to conduct business in this district and have
- 17 intentionally availed itself of the laws and markets within this
- 18 district;
- 19 (b) do substantial business within this district;
- 20 (c) is subject to personal jurisdiction in this district because it has
- 21 availed itself of the laws and markets within this district; and,
- 22 (d) the harm to Plaintiff occurred within this district.

23 **PARTIES**

24 7. Plaintiff, at all times mentioned herein was, a resident of the County of San  
25 Diego, State of California. Plaintiff is, and at all times mentioned herein  
26 was, a “person” as defined by 47 U.S.C. § 153 (39).

27 8. Plaintiff is informed and believes, and thereon alleges, that Defendant Allied  
28 Interstate, LLC is, and at all times mentioned herein was, a Minnesota

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1 limited liability company, and is a “person” as defined by 47 U.S.C. § 153  
2 (39).

3 9. Upon information and belief, the website for Defendant is [http://www.allied-](http://www.allied-interstate.com)  
4 [interstate.com](http://www.allied-interstate.com).

5 10. Defendant is a debt collection services company collecting debt, primarily  
6 making calls and sending debt collection letters to individuals.

7 11. Plaintiff alleges that at all times relevant herein Defendant conducted  
8 business in the State of California and in the County of San Diego, and  
9 within this judicial district.

10 **FACTUAL ALLEGATIONS**

11 12. At no time did Plaintiff ever enter into a business relationship with  
12 Defendant or provided Defendant with her personal cellular phone number.

13 13. On or about August 1, 2011, Plaintiff allegedly incurred a debt to the U.S.  
14 Department of Education. As it is irrelevant to this action, Plaintiff takes no  
15 position whether the debt was actually owed.

16 14. The alleged debt was later sold, transferred, or assigned to Defendant for  
17 collection.

18 15. On about January 27, 2015, Plaintiff obtained a new cellular telephone  
19 number ending with “2981,” which she did not provide to Defendant.

20 16. In June 2015, Defendant began making telephone calls to Plaintiff’s new  
21 cellular telephone number.

22 17. Upon information and belief, Defendant placed its calls using an “automatic  
23 telephone dialing system” (“ATDS”), as defined by 47 U.S.C. § 227(a)(1),  
24 and prohibited by 47 U.S.C. § 227(b)(1)(A).

25 18. Upon information and belief, the telephone equipment used by Defendant  
26 has the capacity to dial telephone number automatically from a stored list or  
27 database without human intervention, using a random or sequential number  
28 generator.

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1 19. All of the Defendant's calls received by Plaintiff were either abandoned calls  
2 or with long pauses, and with no human voice on the other line.

3 20. The telephonic communication was initiated from telephone number  
4 displayed as 877-482-5477.

5 21. Defendant's calls constituted calls that were not made for emergency  
6 purposes, as defined by 47 U.S.C. § 227(b)(1)(A)(i).

7 22. On June 13, 2015 at 1:20 pm, June 16, 2015, at 9:09 am, June 17, 2015, at  
8 8:30 am, and June 18, 2015, at 12:16 pm, Plaintiff received missed calls  
9 from Defendant.

10 23. On or about June 23, 2015, at 12:57 pm, Defendant called Plaintiff's cellular  
11 number. When Plaintiff answered the call, no one was on the other line, and  
12 shortly thereafter the call was terminated/abandoned.

13 24. On or about June 26, 2015, at 11:22 am, Defendant called Plaintiff's cellular  
14 number. When Plaintiff answered the call, no one was on the other line, and  
15 then the call was terminated/abandoned.

16 25. Upon information and belief, the ATDS used by Defendant has the capacity  
17 to store or produce telephone numbers to be called, using a random or  
18 sequential number generator.

19 26. Upon information and belief, the ATDS used by Defendant also has the  
20 capacity to, and does, dial telephone numbers stored as a list or in a database  
21 without human intervention.

22 27. Defendant's call was placed to a telephone number assigned to a cellular  
23 telephone service for which Plaintiff incurs a charge for incoming calls  
24 pursuant to 47 U.S.C. § 227(b)(1).

25 28. Defendant did not have prior express consent to place the unwanted calls to  
26 Plaintiff.

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1 29. Through Defendant’s aforementioned conduct, Plaintiff suffered an invasion  
2 of a legally protected interest in privacy, which is specifically addressed and  
3 protected by the TCPA.

4 30. Plaintiff was personally affected by Defendant’s aforementioned conduct  
5 because Plaintiff was frustrated and distressed that, Defendant interrupted  
6 Plaintiff with an unwanted call using an ATDS.

7 31. Defendant’s call forced Plaintiff and other similarly situated class members  
8 to live without the utility of their cellular phones by occupying their cellular  
9 telephone with one or more unwanted calls, causing a nuisance and lost  
10 time.

11 32. Plaintiff is informed and believes and here upon alleges, that the call was  
12 made by Defendant and/or Defendant’s agent(s), with Defendant’s  
13 permission, knowledge, control and for Defendant’s benefit.

14 33. Through the aforementioned conduct, Defendant or its agent(s) has violated  
15 47 U.S.C. § 227(b)(1).

16 **CLASS ACTION ALLEGATIONS**

17 34. Plaintiff brings this action on behalf of herself and on behalf of all others  
18 similarly situated (the “Class”).

19 35. Plaintiff represents, and is a member of the Class, consisting of:

20  
21 All persons within the United States who received any  
22 telephone call from Defendant or its agent/s and/or  
23 employee/s, not sent for emergency purposes, to said  
24 person’s cellular telephone made through the use of any  
25 automatic telephone dialing system and/or with an  
artificial or prerecorded message within the four years  
prior to the filing of this Complaint.

26 36. Defendant and its employees or agents are excluded from the Class.  
27 Plaintiff does not know the number of members in the Class, but believes the  
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1 Class members number in the several thousands, if not more. Thus, this  
2 matter should be certified as a Class action to assist in the expeditious  
3 litigation of this matter.

4 37. Plaintiff and members of the Class were harmed by the acts of Defendant in  
5 at least the following ways: Defendant, either directly or through their  
6 agents, illegally contacted Plaintiff and the Class members via their cellular  
7 telephones by using an ATDS, thereby causing Plaintiff and the Class  
8 members to incur certain cellular telephone charges or reduce cellular  
9 telephone time for which Plaintiff and the Class members previously paid,  
10 and invading the privacy of said Plaintiff and the Class members. Plaintiff  
11 and the Class members were damaged thereby.

12 38. This suit seeks only damages and injunctive relief for recovery of economic  
13 injury on behalf of the Class, and it expressly is not intended to request any  
14 recovery for personal injury and claims related thereto. Plaintiff reserves the  
15 right to expand the Class definition to seek recovery on behalf of additional  
16 persons as warranted as facts are learned in further investigation and  
17 discovery.

18 39. The joinder of the Class members is impractical and the disposition of their  
19 claims in the Class action will provide substantial benefits both to the parties  
20 and to the court. The Class can be identified through Defendant's records or  
21 Defendant's agents' records.

22 40. There is a well-defined community of interest in the questions of law and  
23 fact involved affecting the parties to be represented. The questions of law  
24 and fact to the Class predominate over questions which may affect  
25 individual Class members, including the following:

- 26 a) Whether, within the four years prior to the filing of this Complaint,  
27 Defendant or their agents initiated any telephonic communications to  
28 the Class (other than a message made for emergency purposes or



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1 made with the prior express consent of the called party) using any  
2 automatic dialing system to any telephone number assigned to a  
3 cellular phone service;

4 b) Whether Defendant can meet their burden of showing Defendant  
5 obtained prior express written consent;

6 c) Whether Defendant’s conduct was knowing and/or willful;

7 d) Whether Plaintiff and the Class members were damaged thereby, and  
8 the extent of damages for such violation; and

9 e) Whether Defendant and their agents should be enjoined from  
10 engaging in such conduct in the future.

11 41.As a person that received at least one telephonic communication from  
12 Defendant’s ATDS without Plaintiff’s prior express consent, Plaintiff is  
13 asserting claims that are typical of the Class. Plaintiff will fairly and  
14 adequately represent and protect the interests of the Class in that Plaintiff  
15 has no interests antagonistic to any member of the Class.

16 42.Plaintiff and the members of the Class have all suffered irreparable harm as  
17 a result of Defendant’s unlawful and wrongful conduct. Absent a class  
18 action, the Class will continue to face the potential for irreparable harm. In  
19 addition, these violations of law will be allowed to proceed without remedy  
20 and Defendant will likely continue such illegal conduct. Because of the size  
21 of the individual Class member’s claims, few, if any, Class members could  
22 afford to seek legal redress for the wrongs complained of herein.

23 43.Plaintiff has retained counsel experienced in handling class action claims  
24 and claims involving violations of the Telephone Consumer Protection Act.

25 44.A class action is a superior method for the fair and efficient adjudication of  
26 this controversy. Class-wide damages are essential to induce Defendant to  
27 comply with federal and California law. The interest of Class members in  
28 individually controlling the prosecution of separate claims against Defendant



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1 is small because the maximum statutory damages in an individual action for  
2 violation of privacy are minimal. Management of these claims is likely to  
3 present significantly fewer difficulties than those presented in many class  
4 claims.

5 45. Defendant has acted on grounds generally applicable to the Class, thereby  
6 making appropriate final injunctive relief and corresponding declaratory  
7 relief with respect to the Class as a whole.

8 **FIRST CAUSE OF ACTION**

9 **NEGLIGENT VIOLATIONS OF THE TCPA**

10 **47 U.S.C. § 227 ET SEQ.**

11 46. Plaintiff incorporates by reference all of the above paragraphs of this  
12 Complaint as though fully stated herein.

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

16 48. As a result of Defendant's negligent violations of 47 U.S.C. § 227, *et seq.*,  
17 Plaintiff and the Class are entitled to an award of \$500.00 in statutory  
18 damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

19 49. Plaintiff and the Class are also entitled to and seek injunctive relief  
20 prohibiting such conduct in the future.

21 **SECOND CAUSE OF ACTION**

22 **KNOWING AND/OR WILLFUL VIOLATIONS OF THE TCPA**

23 **47 U.S.C. § 227 ET SEQ.**

24 50. Plaintiff incorporates by reference all of the above paragraphs of this  
25 Complaint as though fully stated herein.

26 51. The foregoing acts and omissions of Defendant constitute numerous and  
27 multiple knowing and/or willful violations of the TCPA, including but not  
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1 limited to each and every one of the above-cited provisions of 47 U.S.C.  
2 § 227, *et seq.*

3 52.As a result of Defendant’s knowing and/or willful violations of 47 U.S.C.  
4 § 227, *et seq.*, Plaintiff and the Class are entitled to an award of \$1,500.00 in  
5 statutory damages, for each and every violation, pursuant to 47 U.S.C.  
6 § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

7 53.Plaintiff and the Class are also entitled to and seek injunctive relief  
8 prohibiting such conduct in the future.

9 **PRAYER FOR RELIEF**

10 **WHEREFORE**, Plaintiff and the Class members pray for judgment as  
11 follows against Defendant:

- 12 • Certify the Class as requested herein;
- 13 • Appoint Plaintiff to serve as the Class Representative in this matter;
- 14 • Appoint Plaintiff’s Counsel as Class Counsel in this matter;
- 15 • Providing such further relief as may be just and proper.

16 In addition, Plaintiff and the Class members pray for further judgment as follows  
17 against Defendant:

18 **FIRST CAUSE OF ACTION FOR NEGLIGENT VIOLATION OF**  
19 **THE TCPA, 47 U.S.C. § 227 ET SEQ.**

- 20 • As a result of Defendant’s negligent violations of 47 U.S.C. § 227(b)(1),  
21 Plaintiff seeks for herself and each Class member \$500.00 in statutory  
22 damages, for each and every violation, pursuant to 47 U.S.C.  
23 § 227(b)(3)(B).
- 24 • Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such  
25 conduct in the future.
- 26 • Any other relief the Court may deem just and proper.

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**SECOND CAUSE OF ACTION FOR KNOWING/WILLFUL VIOLATION OF  
THE TCPA, 47 U.S.C. § 227 ET SEQ.**

- As a result of Defendant’s knowing and/or willful violations of 47 U.S.C. § 227(b)(1), Plaintiff seeks for herself and each Class member \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).
- Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.
- Any other relief the Court may deem just and proper.

**TRIAL BY JURY**

54. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Dated: January 23, 2017

Respectfully submitted,  
**KAZEROUNI LAW GROUP, APC**

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