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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SANDRA MCMILLION, JESSICA
ADEKOYA, and IGNACIO PEREZ, on Behalf
of Themselves and all Others Similarly Situated,

Plaintiffs,

v.

RASH CURTIS & ASSOCIATES,

Defendant.

Case No.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

1 Plaintiffs Sandra McMillion, Jessica Adekoya, and Ignacio Perez (“Plaintiffs”), individually
 2 and on behalf of all others similarly situated, allege the following on information and belief, except
 3 that Plaintiffs’ allegations as to their own actions are based on personal knowledge.

4 NATURE OF THE ACTION

5 1. Defendant Rash Curtis & Associates (“Rash Curtis” or “Defendant”) is a large,
 6 nationwide debt collection agency. Defendant uses repeated robocalls, pre-recorded voice
 7 messages, and auto-dialed calls to threaten and harass consumers in an attempt to collect.

8 2. Between June 2015 and March 2016, Defendant repeatedly called Plaintiff Sandra
 9 McMillion on her cellular telephone using an autodialer and/or an artificial or prerecorded voice.
 10 Ms. McMillion did not give Defendant prior express written consent to make these calls.
 11 Defendant’s calls continued despite Ms. McMillion’s many requests for Defendant to stop calling.

12 3. The following chart details 33 of Defendant’s calls to Ms. McMillion:

<u>Date</u>	<u>Time</u>	<u>Number Calling</u>
12/23/2015	4:06 PM	(707) 454-2010
12/24/2015	10:55 AM	(866) 729-2722
12/24/2015	12:55 PM	(866) 729-2722
12/29/2015	9:52 AM	(866) 729-2722
12/30/2015	6:09 PM	(866) 729-2722
12/31/2015	11:56 AM	(866) 729-2722
1/04/2016	2:01 PM	(866) 729-2722
1/06/2016	10:45 AM	(707) 454-2010
1/07/2016	9:32 AM	(866) 729-2722
1/07/2016	12:54 PM	(866) 729-2722
1/08/2016	12:04 PM	(866) 729-2722
1/08/2016	4:23 PM	(707) 454-2010
1/12/2016	10:23 AM	(866) 729-2722
1/14/2016	11:09 AM	(707) 454-2010
1/14/2016	8:19 PM	(866) 729-2722
1/15/2016	11:08 AM	(866) 729-2722
1/16/2016	11:16 AM	(866) 729-2722

1/18/2016	9:58 AM	(707) 454-2010
1/19/2016	11:09 AM	(866) 729-2722
1/20/2016	9:27 AM	(707) 454-2010
1/21/2016	9:33 AM	(866) 729-2722
1/21/2016	11:59 AM	(707) 454-2010
1/22/2016	11:42 AM	(866) 729-2722
1/23/2016	10:08 AM	(707) 454-2010
1/25/2016	5:26 PM	(866) 729-2722
1/26/2016	4:06 PM	(707) 454-2010
1/27/2016	1:39 PM	(866) 729-2722
1/29/2016	3:06 PM	(866) 729-2722
2/01/2016	5:59 PM	(866) 729-2722
2/02/2016	9:49 AM	(707) 454-2010
2/02/2016	2:59 PM	(866) 729-2722
2/16/2016	9:25 AM	(866) 729-2722
2/17/2016	3:10 PM	(855) 849-7848

4. Defendant harassed Plaintiff Jessica Adekoya in a similar manner, calling her cellular telephone 45 times using an autodialer and/or an artificial or prerecorded voice. Ms. Adekoya did not give Defendant prior express written consent to make these calls. Defendant's calls continued despite Ms. Adekoya's many requests for Defendant to stop calling.

5. The following chart details 45 of Defendant's calls to Ms. Adekoya:

<u>Date</u>	<u>Time</u>	<u>Number Calling</u>
6/12/15	8:31 AM	(866) 729-2722
6/24/15	11:26 AM	(866)246-2953
6/26/15	1:35 PM	(615) 246-2953
6/26/15	3:24 PM	(615) 246-2953
7/1/15	5:17 PM	(866) 729-2722
7/2/15	11:41 AM	(866) 729-2722
7/15/15	2:33 PM	(866) 729-2722
7/22/15	5:10 PM	(866) 729-2722
7/23/15	1:43 PM	(866) 729-2722
7/23/15	4:56 PM	(866) 729-2722

1	7/24/15	11:59 AM	(866) 729-2722
2	7/28/15	11:26 AM	(866) 729-2722
3	7/29/15	11:42 AM	(866) 729-2722
4	8/11/15	2:57 PM	(866) 729-2722
5	8/11/15	4:59 PM	(866) 729-2722
6	8/19/15	2:59 PM	(866) 729-2722
7	8/25/15	10:48 AM	(866) 729-2722
8	8/27/15	12:57 PM	(866) 729-2722
9	8/31/15	2:06 PM	(707) 454-2010
10	8/31/15	3:17 PM	(707) 454-2010
11	9/3/15	3:50 PM	(866) 729-2722
12	9/11/15	3:07 PM	(707) 454-2010
13	9/14/15	4:16 PM	(866) 729-2722
14	9/16/15	9:12 AM	(866) 729-2722
15	9/18/15	3:04 PM	(866) 729-2722
16	9/21/15	2:06 PM	(707) 454-2010
17	9/23/15	4:12 PM	(866) 729-2722
18	9/24/15	2:21 PM	(866) 729-2722
19	9/25/15	2:40 PM	(866) 729-2722
20	9/26/15	10:29 AM	(866) 729-2722
21	9/28/15	2:26 PM	(866) 729-2722
22	9/29/15	2:09 PM	(866) 729-2722
23	9/30/15	3:00 PM	(866) 729-2722
24	10/5/15	2:38 PM	(866) 729-2722
25	10/6/15	5:01 PM	(866) 729-2722
26	10/7/15	4:01 PM	(707) 454-2010
27	10/9/15	1:56 PM	(707) 454-2010
28	10/13/15	3:09 PM	(866) 729-2722
	10/14/15	4:24 PM	(866) 729-2722
	10/23/15	2:52 PM	(866) 729-2722
	12/9/15	11:36 AM	(866) 729-2722
	2/8/16	10:18 AM	(707) 454-2010
	3/14/16	2:20 PM	(707) 454-2010
	3/15/16	12:08 PM	(707) 454-2010

3/16/16	9:07 AM	(707) 454-2010
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6. Defendant also repeatedly called Plaintiff Ignacio Perez on his cellular telephone using an autodialer and/or an artificial or prerecorded voice. Mr. Perez did not give Defendant prior express written consent to make these calls. Defendant's calls continued despite Mr. Perez's many requests for Defendant to stop calling.

7. The following chart details 4 of Defendant's calls to Mr. Perez:

<u>Date</u>	<u>Time</u>	<u>Number Calling</u>
5/26/16	4:17 PM	(866) 729-2722
6/1/16	3:51 PM	(866) 729-2722
6/3/16	4:53 PM	(866) 729-2722
6/7/16	3:26 PM	(707) 454-2010

8. Plaintiffs bring this action for injunctive relief and statutory damages arising out of and relating to the conduct of Defendant in negligently, knowingly, and willfully contacting Plaintiffs and class members on their telephones using an artificial or prerecorded voice without their prior express written consent within the meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* ("TCPA").

9. Plaintiffs also bring this action for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. 1692, *et seq.* (hereinafter "FDCPA") and California's Rosenthal Fair Debt Collection Practices Act, Civil Code 1788 *et seq.* (hereinafter, the "Rosenthal Act"), which prohibit debt collectors from engaging in abusive, deceptive and unfair practices in their collection of consumer debts. Plaintiffs allege that Defendant engaged in a campaign of harassment in an attempt to coerce payment of a consumer debt.

PARTIES

10. Plaintiff Sandra McMillion is, and at all times mentioned herein was, a resident of San Francisco, California and a citizen of the State of California.

11. Plaintiff Jessica Adekoya is, and at all times mentioned herein was, a resident of Richmond, California and a citizen of the State of California.

1 19. According to findings by the Federal Communications Commission (“FCC”), such
2 calls are prohibited because prerecorded telephone calls are a greater nuisance and invasion of
3 privacy than live solicitation calls, and such calls are costly and inconvenient.

4 20. The FCC has issued rulings clarifying that in order to obtain an individual’s consent,
5 a clear, unambiguous, and conspicuous written disclosure must be provided by the individual.
6 2012 FCC Order, 27 FCC Rcd. at 1839 (“[R]equiring prior written consent will better protect
7 consumer privacy because such consent requires conspicuous action by the consumer—providing
8 permission in writing—to authorize autodialed or prerecorded telemarketing calls. . . .”).

9 **B. The Federal Fair Debt Collection Practices Act**

10 21. The Federal Fair Debt Collection Practices Act was enacted to eliminate abusive
11 practices in the collection of consumer debt and to promote fair debt collection.

12 22. Among other things, the FDCPA prohibits debt collectors from “engag[ing] in any
13 conduct the natural consequence of which is to harass, oppress, or abuse any person in connection
14 with the collection of debt.” Violations of 15 U.S.C. §1692 include “[c]ausing a telephone to ring
15 or engaging any person in telephone conversation repeatedly or continuously with intent to annoy,
16 abuse, or harass any person at the called number,” calling before 8:00 a.m. or after 9:00 p.m.,
17 failing to cease communication upon request, threatening arrest or legal action, using abusive or
18 profane language, misrepresenting the debt, and using deceit to collect debt.

19 **C. Defendant’s Calls to Plaintiffs and Class Members**

20 **Ms. McMillion**

21 23. Defendant called Ms. McMillion at least 33 times on her cellular telephone using an
22 autodialer and/or an artificial or prerecorded voice. Ms. McMillion did not give Defendant prior
23 express written consent to make these calls, and repeatedly requested that Defendant stop calling.
24 Defendant’s calls continued despite Ms. McMillion’s requests.

25 24. Defendant’s calls were made from several different telephone numbers in an effort
26 to disguise the identity of the caller. These telephone numbers include (866) 729-2722, (707) 454-
27 2010, and (855) 849-7848.

1 25. Defendant's calls to Ms. McMillion were made with such frequency as to constitute
2 harassment, and were made with the intent to annoy and harass. For example, in September 2015
3 Defendant called nearly daily. Defendant called Ms. Million's cellular telephone on September 11,
4 September 14, September 16, September 18, September 21, September 23, September 24,
5 September 25, September 26, September 28, September 29, and September 30.

6 26. Prior to the calls at issue in this action, Ms. McMillion never had any contact with
7 Defendant. She has never consented in writing, or otherwise, to receive autodialed telephone calls
8 from Defendant. She has never provided Defendant with her telephone number.

9 **Ms. Adekoya**

10 27. Defendant called Ms. Adekoya at least 45 times on her cellular telephone using an
11 autodialer and/or an artificial or prerecorded voice. Ms. Adekoya did not give Defendant prior
12 express written consent to make these calls, and repeatedly requested that Defendant stop calling.
13 Defendant's calls continued despite Ms. Adekoya's requests.

14 28. Defendant's calls were made from several different telephone numbers in an effort
15 to disguise the identity of the caller. These telephone numbers include (866) 729-2722, (707) 454-
16 2010, and (615) 246-2953.

17 29. Defendant's calls to Ms. Adekoya were in an effort to collect a debt she purportedly
18 owes for an unpaid doctor's visit.

19 30. Defendant's calls to Ms. Adekoya were made with such frequency as to constitute
20 harassment, and were made with the intent to annoy and harass. For example, Defendant called
21 Ms. Adekoya on September 21, 2016, and again on September 23, 24, 25, and 26.

22 31. Defendant also contacted Ms. Adekoya's place of employment regarding her
23 alleged debt. Defendant made several harassing phone calls and sent a letter via fax to Ms.
24 Adekoya's supervisor regarding the purported owed debt.

25 32. Prior to the calls at issue in this action, Ms. Adekoya never had any contact with
26 Defendant. She has never consented in writing, or otherwise, to receive autodialed telephone calls
27 from Defendant. She has never provided Defendant with her telephone number.

Mr. Perez

33. Defendant called Mr. Perez at least 4 times on her cellular telephone using an autodialer and/or an artificial or prerecorded voice. Mr. Perez did not give Defendant prior express written consent to make these calls, and repeatedly requested that Defendant stop calling. Mr. Perez informed Defendant's agents that he was not the individual they were attempting to contact. Defendant's calls continued despite Mr. Perez's requests.

34. Defendant's calls were made from several different telephone numbers in an effort to disguise the identity of the caller. These telephone numbers include (866) 729-2722 and (707) 454-2010.

35. When Mr. Perez answered calls from Defendant, there was a pause before a live person began speaking, indicating the use of an automatic telephone dialing machine. Further, at times, a recording would play before Mr. Perez was connected to a live person.

36. Defendant's calls to Mr. Perez were made with such frequency as to constitute harassment, and were made with the intent to annoy and harass.

37. Prior to the calls at issue in this action, Mr. Perez never had any contact with Defendant. He has never consented in writing, or otherwise, to receive autodialed telephone calls from Defendant. He has never provided Defendant with her telephone number.

D. Consumer Complaints Regarding Defendant's Calls

38. Online consumer complaints regarding Defendant's unsolicited robocalls and autodialed calls are abundant. The following illustrate some of the many complaints regarding Defendant's calls originating from (866) 729-2722 and (707) 454-2010, the exact numbers Defendant used to call each of the Plaintiffs:

- "Someone from this number has done nothing but call me several times through-out the week, for the past couple of months. The message states that this is an important business call for so-in-so, that requires my immediate attention. Due to the [sensitive] nature of this case, no further information can be given at this time. To connect to an operator press the 9 key and refer to case number such-an-such. Finally after they called me yet again yesterday afternoon, I decided to connect with an operator to tell them to take me off of whatever call

1 list they may have. I pressed the 9 key to be connected, was put on hold for about two
 2 minutes, then I could hear someone pick up the phone and hang up on me...”¹

- 3 • “THIS COMPANY RASH CURTIS & ASSOCIATES KEEPS CALLING MY NUMBER
 4 FOR SOMEONE WHO DOES NOT LIVE HERE. IT IS AN AUTOMATED CALL TO
 5 PRESS A BUNCH OF NUMBERS IF YOU ARE THIS PERSON OR NOT. I PRESS
 6 THE ONE FOR I AM NOT THIS PERSON YET THEY KEEP CALLING ME
 7 EVERYDAY.”²
- 8 • “One of 4 or 5 telephone numbers used by collection agency, Rash, Curtis &
 9 Associates. You get no response when answering the call; however, if you don't answer the
 10 call immediately, they dial again...and again. Following the 3rd successive call, a live
 11 person leaves a message on your answering machine identifying themselves as agents of
 12 Rach, Curtis & Associates.”³
- 13 • “They call and call and call! 4 times in one day!! Never have they left a message. How do
 14 I stop the calls??”⁴
- 15 • “I received calls from this collector not only on my work phone after I had told them not to
 16 call my work, but also on co-workers numbers.”⁵
- 17 • “They keep calling me. Asking for somebody I don't know. I keep telling them that they
 18 dialed the wrong number.”⁶
- 19 • “When I picked up, the recording told me that all operators were busy and to please wait for
 20 the next available operator. Why would I do that if you're the one calling me? How
 21 ridiculous is this?”⁷
- 22 • “I am another person in this long list of complainants. I have no debt for these people to
 23 collect. I have never received a bill. I do not know how they [acquired] my telephone
 24 number but they call many times and harass! When you try to ask them to stop they are
 25 beyond difficult!!!”⁸
- 26 • “This company is calling my phone number to leave messages for another person.
 27 Harassing and annoying. No more calls, please.”⁹
- 28 • “They are still calling my house everyday three times a day. They are not calling out of the
 allotted call times but they are being rude telling me I am irresponsible for not paying my

¹ <http://whocallsme.com/Phone-Number.aspx/8667292722>

² *Id.*

³ <http://800notes.com/Phone.aspx/1-707-454-2010>

⁴ *Id.*

⁵ <http://800notes.com/Phone.aspx/1-707-454-2010/5>

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

1 bills and so on. I have requested over the phone for them to not call me anymore but they
2 keep calling.”¹⁰

3 **CLASS ACTION ALLEGATIONS**

4 39. Plaintiffs bring this action on behalf of themselves and on behalf of all other persons
5 similarly situated.

6 40. Plaintiffs proposes the following Robocall Class definition, subject to amendment as
7 appropriate:

8 All persons within the United States who (a) received a non-emergency telephone
9 call; (b) on his or her cellular telephone or residential telephone line; (c) made by
10 or on behalf of Defendant; (d) for whom Defendant had no record of prior express
11 written consent; (e) and such phone call was made with the use of an artificial or
12 prerecorded voice; (f) at any time in the period that begins four years before the
13 filing of the complaint in this action to the date class notice is disseminated.

14 41. Collectively, all these persons will be referred to as the “Robocall Class.” Plaintiffs
15 represent, and are members of, this proposed class. Excluded from the Robocall Class is
16 Defendant and any entities in which Defendant has a controlling interest, Defendant’s agents and
17 employees, any Judge and/or Magistrate Judge to whom this action is assigned and any member of
18 such Judges’ staffs and immediate families.

19 42. Plaintiffs also propose the following Autodialer Class definition, subject to
20 amendment as appropriate:

21 All persons within the United States who (a) received a non-emergency telephone
22 call; (b) on his or her cellular telephone; (c) made by or on behalf of Defendant;
23 (d) for whom Defendant has no record of prior express written consent; (e) and
24 such phone call was made with the use of an automatic telephone dialing system
25 as defined under the TCPA; (f) at any time in the period that begins four years
26 before the filing of the complaint in this action to the date class notice is
27 disseminated.

28 43. Collectively, all these persons will be referred to as the “Autodialer Class.”
Plaintiffs represent, and are members of, this proposed class. Excluded from the Autodialer Class
is Defendant and any entities in which Defendant has a controlling interest, Defendant’s agents and

¹⁰ <http://www.complaintsboard.com/complaints/collection-company-collections-c658530.html>

1 employees, any Judge and/or Magistrate Judge to whom this action is assigned and any member of
2 such Judges' staffs and immediate families.

3 44. Plaintiffs further propose the following Internal Do-Not-Call List ("IDNCL") Class
4 definition, subject to amendment as appropriate:

5 All persons within the United States who (a) after notifying Defendant that they
6 no longer wished to receive calls from or on behalf of Defendant; (b) received one
7 or more calls from or on behalf of Defendant; (c) using either an artificial or
8 prerecorded voice or an automatic telephone dialing system as defined under the
TCPA; (d) at any time in the period that begins four years before the filing of the
complaint in this action to the date class notice is disseminated.

9 45. Collectively, all these persons will be referred to as the "IDNCL Class." Plaintiffs
10 represent, and are members of, this proposed class. Excluded from the IDNCL Class is Defendant
11 and any entities in which Defendant has a controlling interest, Defendant's agents and employees,
12 any Judge and/or Magistrate Judge to whom this action is assigned and any member of such
13 Judges' staffs and immediate families.

14 46. Plaintiffs further propose the following FDCPA Class definition, subject to
15 amendment as appropriate:

16 All persons within the United States who received harassing, oppressive, or
17 abusive calls from Defendant including (a) repeated calls to annoy someone, or
18 (b) calling at times in violation of curfew, such as before 8:00 a.m. or after 9:00
19 p.m., (c) threats to take any action that cannot legally be taken, or (d)
representations or implications that nonpayment of any debt will result in the
arrest or imprisonment of any person.

20 47. Collectively, all these persons will be referred to as the "FDCPA Class." Plaintiffs
21 represent, and are members of, this proposed class. Excluded from the FDCPA Class is Defendant
22 and any entities in which Defendant has a controlling interest, Defendant's agents and employees,
23 any Judge and/or Magistrate Judge to whom this action is assigned and any member of such
24 Judges' staffs and immediate families.

25 48. Plaintiffs also propose the following Rosenthal Act Class definition, subject to
26 amendment as appropriate:

1 All persons within the State of California who received harassing, oppressive, or
2 abusive calls from Defendant including (a) repeated calls to annoy or harass, (b)
3 calls at times in violation of curfew, such as before 8:00 a.m. or after 9:00 p.m.,
4 (c) threats to take any action that cannot legally be taken, or (d) representations or
5 implications that nonpayment of any debt will result in the arrest or imprisonment
6 of any person; (e) at any time in the period that begins four years before the filing
7 of the complaint in this action to the date class notice is disseminated.

8 49. Collectively, all these persons will be referred to as the “Rosenthal Act Class.”
9 Plaintiffs represent, and are members of, this proposed class. Excluded from the Rosenthal Act
10 Class is Defendant and any entities in which Defendant has a controlling interest, Defendant’s
11 agents and employees, any Judge and/or Magistrate Judge to whom this action is assigned and any
12 member of such Judges’ staffs and immediate families.

13 50. Plaintiffs do not know the exact number of members in the proposed classes, but
14 reasonably believe based on the scale of Defendant’s business, and the number of online
15 complaints, that the classes are so numerous that individual joinder would be impracticable.

16 51. Plaintiffs and all members of the proposed classes have been harmed by the acts of
17 Defendant in the form of multiple involuntary telephone and electrical charges, the aggravation,
18 nuisance, and invasion of privacy that necessarily accompanies the receipt of unsolicited and
19 harassing telephone calls, and violations of their statutory rights.

20 52. The disposition of the claims in a class action will provide substantial benefit to the
21 parties and the Court in avoiding a multiplicity of identical suits. The proposed classes can be
22 identified easily through records maintained by Defendant.

23 53. There are well defined, nearly identical, questions of law and fact affecting all
24 parties. The questions of law and fact involving the class claims predominate over questions which
25 may affect individual members of the proposed classes. Those common question of law and fact
26 include, but are not limited to, the following:

- 27 a. Whether Defendant made telephone calls to class members using an artificial or
28 prerecorded voice without their prior express written consent;
- b. Whether Defendant’s conduct was knowing and/or willful;
- c. Whether Defendant made harassing, oppressive, or abusive telephone calls;

- d. Whether Defendant is liable for damages, and the amount of such damages, and
- e. Whether Defendant should be enjoined from engaging in such conduct in the future.

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3 54. As persons who received numerous and repeated calls on their telephones through
4 the use of an artificial or prerecorded voice, without their prior express written consent, Plaintiffs
5 assert claims that are typical of each member of the classes. Plaintiffs will fairly and adequately
6 represent and protect the interests of the proposed classes, and have no interests which are
7 antagonistic to any member of the proposed classes.

8 55. Plaintiffs have retained counsel experienced in handling class action claims
9 involving violations of federal and state consumer protection statutes.

10 56. A class action is the superior method for the fair and efficient adjudication of this
11 controversy. Class wide relief is essential to compel Defendant to comply with the TCPA,
12 FDCPA, and Rosenthal Act. The interest of the members of the proposed classes in individually
13 controlling the prosecution of separate claims against Defendant is small because the statutory
14 damages in an individual action for violation of the TCPA, FDCPA, and Rosenthal Act are
15 relatively small. Management of these claims is likely to present significantly fewer difficulties
16 than are presented in many class claims because the calls at issue are all automated and the
17 members of the classes, by definition, did not provide the prior express consent required under the
18 statute to authorize calls to their telephones.

19 57. Defendant has acted on grounds generally applicable to the proposed classes,
20 thereby making final injunctive relief and corresponding declaratory relief with respect to the
21 proposed classes as a whole appropriate. Moreover, on information and belief, Plaintiffs allege
22 that the TCPA, FDCPA, and Rosenthal Act violations complained of herein are substantially likely
23 to continue in the future if an injunction is not entered.

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CAUSES OF ACTION

FIRST COUNT

KNOWING AND/OR WILLFUL VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT, 47 U.S.C. § 227, et seq.

58. Plaintiffs incorporate by reference the foregoing paragraphs of this Complaint as if fully stated herein.

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

60. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 *et seq.*, Plaintiffs and members of the proposed classes are entitled to treble damages of up to \$1,500.00 for each and every call in violation of the statute, pursuant to 47 U.S.C. § 227(b)(3)(C).

61. Plaintiffs and members of the proposed classes are also entitled to and do seek injunctive relief prohibiting such conduct violating the TCPA by Defendant in the future.

62. Plaintiffs and members of the proposed classes are also entitled to an award of attorneys' fees and costs.

SECOND COUNT

VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT, 47 U.S.C. § 227, et seq.

63. Plaintiffs incorporate by reference the foregoing paragraphs of this Complaint as if fully stated herein.

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

65. As a result of Defendant's violations of 47 U.S.C. § 227 *et seq.*, Plaintiffs and members of the classes are entitled to an award of \$500.00 in statutory damages for each and every call in violation of the statute, pursuant to 47 U.S.C. § 227(b)(3)(B).

66. Plaintiffs and members of the proposed classes are also entitled to and do seek injunctive relief prohibiting such conduct violating the TCPA by Defendant in the future.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court grant Plaintiffs and all members of the proposed classes the following relief against Defendant:

- a. Injunctive relief prohibiting such violations of the TCPA by Defendant in the future;
- b. As a result of Defendant's willful and/or knowing violations of the TCPA, Plaintiffs seeks for themselves and each member of the proposed classes treble damages, as provided by statute, of up to \$1,500.00 for each and every call that violated the TCPA;
- c. As a result of Defendant's violations of the TCPA, Plaintiffs seek for themselves and each member of the proposed classes \$500.00 in statutory damages for each and every call that violated the TCPA;
- d. An award of damages as permitted by the FDCPA;
- e. An award of damages as permitted by the Rosenthal Act;
- f. An award of attorneys' fees and costs to counsel for Plaintiffs and the proposed classes;
- g. An order certifying this action to be a proper class action pursuant to Federal Rule of Civil Procedure 23, establishing appropriate classes, finding that Plaintiffs are proper representatives of the classes, and appointing the lawyers and law firm representing Plaintiffs as counsel for the classes;
- h. Such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs demand a trial by jury of any and all issues in this action so triable of right.

1 Dated: June 17, 2016

Respectfully submitted,

2 **BURSOR & FISHER, P.A.**

3 By: /s/ Yeremey Krivoshey
4 Yeremey Krivoshey

5 L. Timothy Fisher (State Bar No. 191626)
6 Annick M. Persinger (State Bar No. 272996)
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17 *Attorneys for Plaintiffs*

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
SANDRA MCMILLION, JESSICA ADEKOYA, and IGNACIO PEREZ, on
Behalf of Themselves and all Others Similarly Situated,

DEFENDANTS
RASH CURTIS & ASSOCIATES

(b) County of Residence of First Listed Plaintiff San Francisco, CA
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)
Yeremey Krivoshey, Bursor & Fisher, P.A.
1990 North California Blvd., Suite 940
Walnut Creek, CA 94596

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1 Incorporated or Principal Place of Business In This State
2 2 Incorporated and Principal Place of Business In Another State
3 3 Foreign Nation
4 4
5 5
6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District
6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq. ("TCPA")
Brief description of cause:
Defendant called Plaintiff and class members using an autodialer and prerecorded voice in violation of the TCPA.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 06/17/2016 SIGNATURE OF ATTORNEY OF RECORD /s/ Yeremey Krivoshey

IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)

(Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND SAN JOSE EUREKA