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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
EASTERN DIVISION

JOANNE BARTEL, individually and  
on behalf of all others similarly  
situated,

*Plaintiff,*

vs.

OG COLLECTIVE, LLC, an Oregon  
Limited Liability Company,

*Defendant.*

**CASE NO.**

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

Plaintiff, Joanne Bartel (hereinafter “Plaintiff”), brings this class action under Rule 23 of the Federal Rules of Civil Procedure against OG Collective, LLC (“OG Collective” or “Defendant”) for its violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227 (hereinafter “the TCPA”), and the regulations promulgated thereunder. In support, Plaintiff alleges as follows:

**NATURE OF THE ACTION**

1. This is a putative class action pursuant to the Telephone Consumer Protection Act, 47 U.S.C. §§ 227, *et seq.* (the “TCPA”).

2. Defendant is a recreational and medical marijuana dispensary. To promote its services, Defendant engages in aggressive unsolicited marketing, harming thousands of consumers in the process.

1           3. Through this action, Plaintiff seeks injunctive relief to halt Defendant's  
2 illegal conduct, which has resulted in the invasion of privacy, harassment,  
3 aggravation, and disruption of the daily life of thousands of individuals. Plaintiff  
4 also seeks statutory damages on behalf of herself and members of the Class, and any  
5 other available legal or equitable remedies.

6                                   **JURISDICTION AND VENUE**

7           4. This Court has federal question subject matter jurisdiction over this  
8 action pursuant to 28 U.S.C. § 1331, as the action arises under the Telephone  
9 Consumer Protection Act, 47 U.S.C. §§ 227, *et seq.* ("TCPA").

10          5. The Court has personal jurisdiction over Defendant and venue is proper  
11 in this District because Defendant directs, markets, and provides its business  
12 activities to this District, and because Defendant's unauthorized marketing scheme  
13 was directed by Defendant to consumers in this District, including Plaintiff.

14                                   **PARTIES**

15          6. Plaintiff is a natural person who, at all times relevant to this action, was  
16 a resident of San Bernardino County, California.

17          7. Defendant is an Oregon limited liability company whose principal  
18 office is located at 1255 Cross Street SE, Suite 150, Salem, Oregon 97302.  
19 Defendant directs, markets, and provides its business activities throughout the  
20 United States, including throughout the state of California.

21          8. Unless otherwise indicated, the use of Defendant's name in this  
22 Complaint includes all agents, employees, officers, members, directors, heirs,  
23 successors, assigns, principals, trustees, sureties, subrogees, representatives,  
24 vendors, and insurers of Defendant.

## THE TCPA

9. The TCPA prohibits: (1) any person from calling a cellular telephone number; (2) using an automatic telephone dialing system; (3) without the recipient's prior express consent. 47 U.S.C. § 227(b)(1)(A).

10. The TCPA defines an "automatic telephone dialing system" ("ATDS") as "equipment that has the capacity - (A) to store or produce telephone numbers to be called, using a random or sequential number generator; and (B) to dial such numbers." 47 U.S.C. § 227(a)(1).

11. In an action under the TCPA, a plaintiff must only show that the defendant "called a number assigned to a cellular telephone service using an automatic dialing system or prerecorded voice." *Breslow v. Wells Fargo Bank, N.A.*, 857 F. Supp. 2d 1316, 1319 (S.D. Fla. 2012), *aff'd*, 755 F.3d 1265 (11th Cir. 2014).

12. The Federal Communications Commission ("FCC") is empowered to issue rules and regulations implementing the TCPA. According to the FCC's findings, calls in violation of the TCPA are prohibited because, as Congress found, automated or prerecorded telephone calls are a greater nuisance and invasion of privacy than live solicitation calls, and such calls can be costly and inconvenient. The FCC also recognized that wireless customers are charged for incoming calls whether they pay in advance or after the minutes are used. *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order, 18 FCC Rcd 14014 (2003).

13. In 2012, the FCC issued an order tightening the restrictions for automated telemarketing calls, requiring "prior express *written* consent" for such calls to wireless numbers. *See In the Matter of Rules & Regulations Implementing the Tel. Consumer Prot. Act of 1991*, 27 F.C.C.R. 1830, 1838 ¶ 20 (Feb. 15, 2012) (emphasis supplied).

1           14. To obtain express written consent for telemarketing calls, a defendant  
 2 must establish that it secured the plaintiff's signature in a form that gives the plaintiff  
 3 a "clear and conspicuous disclosure" of the consequences of providing the requested  
 4 consent....and having received this information, agrees unambiguously to receive  
 5 such calls at a telephone number the [plaintiff] designates." *In re Rules &*  
 6 *Regulations Implementing the Tel. Consumer Prot. Act of 1991*, 27 F.C.C.R. 1830,  
 7 1837 ¶ 18, 1838 ¶ 20, 1844 ¶ 33, 1857 ¶ 66, 1858 ¶ 71 (F.C.C. Feb. 15, 2012).

8           15. The TCPA regulations promulgated by the FCC define "telemarketing"  
 9 as "the initiation of a telephone call or message for the purpose of encouraging the  
 10 purchase or rental of, or investment in, property, goods, or services." 47 C.F.R. §  
 11 64.1200(f)(12). In determining whether a communication constitutes telemarketing,  
 12 a court must evaluate the ultimate purpose of the communication. *See Golan v.*  
 13 *Veritas Entm't, LLC*, 788 F.3d 814, 820 (8th Cir. 2015).

14           16. "Neither the TCPA nor its implementing regulations 'require an  
 15 explicit mention of a good, product, or service' where the implication of an improper  
 16 purpose is 'clear from the context.'" *Id.* (citing *Chesbro v. Best Buy Stores, L.P.*,  
 17 705 F.3d 913, 918 (9th Cir. 2012)).

18           17. "'Telemarketing' occurs when the context of a call indicates that it was  
 19 initiated and transmitted to a person for the purpose of promoting property, goods,  
 20 or services." *Golan*, 788 F.3d at 820 (citing 47 C.F.R. § 64.1200(a)(2)(iii); 47 C.F.R.  
 21 § 64.1200(f)(12); *In re Rules and Regulations Implementing the Telephone*  
 22 *Consumer Protection Act of 1991*, 18 F.C.C. Rcd at 14098 ¶ 141, 2003 WL  
 23 21517853, at \*49).

24           18. The FCC has explained that calls motivated in part by the intent to sell  
 25 property, goods, or services are considered telemarketing under the TCPA. *See In*  
 26 *re Rules and Regulations Implementing the Telephone Consumer Protection Act of*  
 27 *1991*, 18 FCC Rcd. 14014, ¶¶ 139-142 (2003). This is true whether call recipients  
 28

1 are encouraged to purchase, rent, or invest in property, goods, or services during the  
2 call *or in the future*. *Id.*

3 19. In other words, offers “that are part of an overall marketing campaign  
4 to sell property, goods, or services constitute” telemarketing under the TCPA. *See*  
5 *In re Rules and Regulations Implementing the Telephone Consumer Protection Act*  
6 *of 1991*, 18 FCC Rcd. 14014, ¶ 136 (2003).

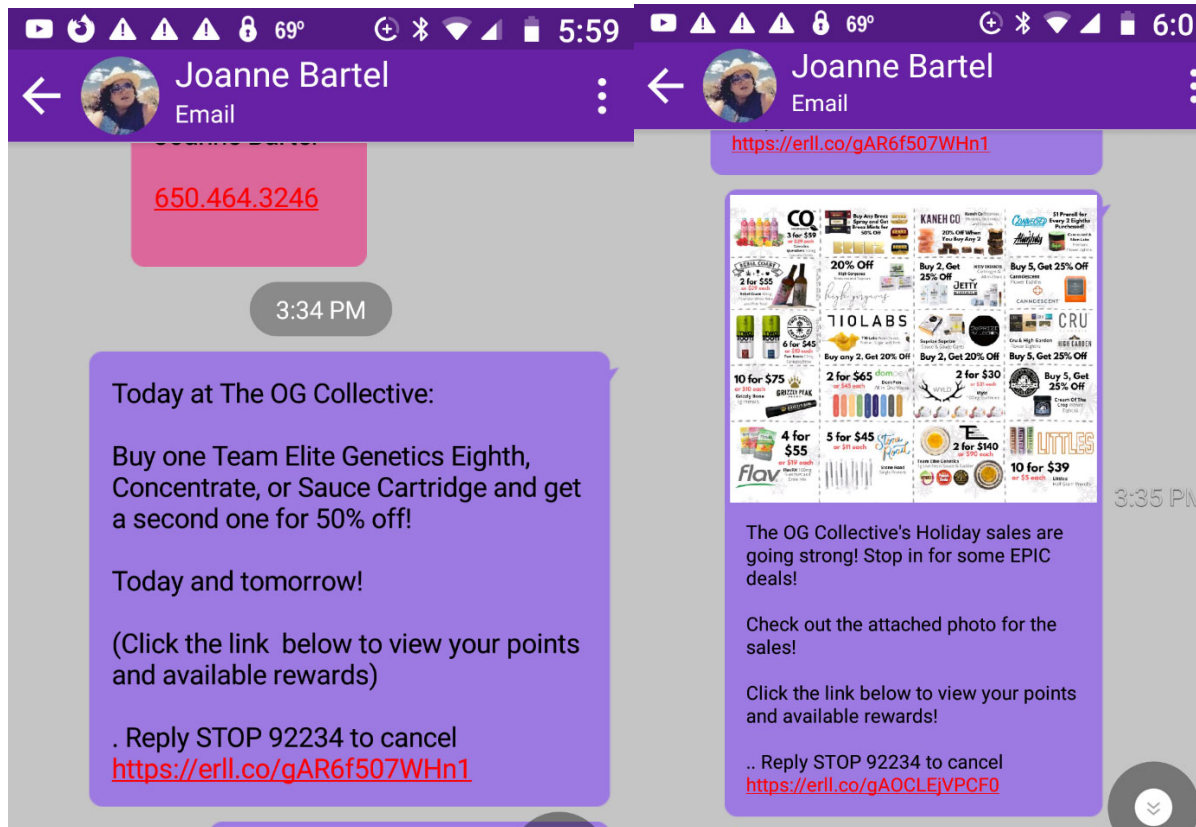
7 20. If a call is not deemed telemarketing, a defendant must nevertheless  
8 demonstrate that it obtained the plaintiff’s prior express consent. *See In the Matter*  
9 *of Rules and Regulations Implementing the Tel. Consumer Prot. Act of 1991*, 30 FCC  
10 Rcd. 7961, 7991-92 (2015) (requiring express consent “for non-telemarketing and  
11 non-advertising calls”).

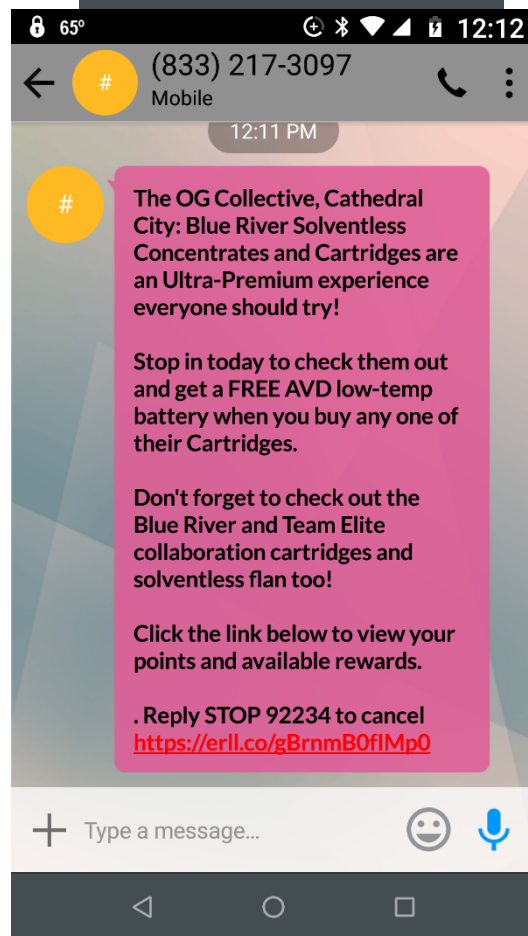
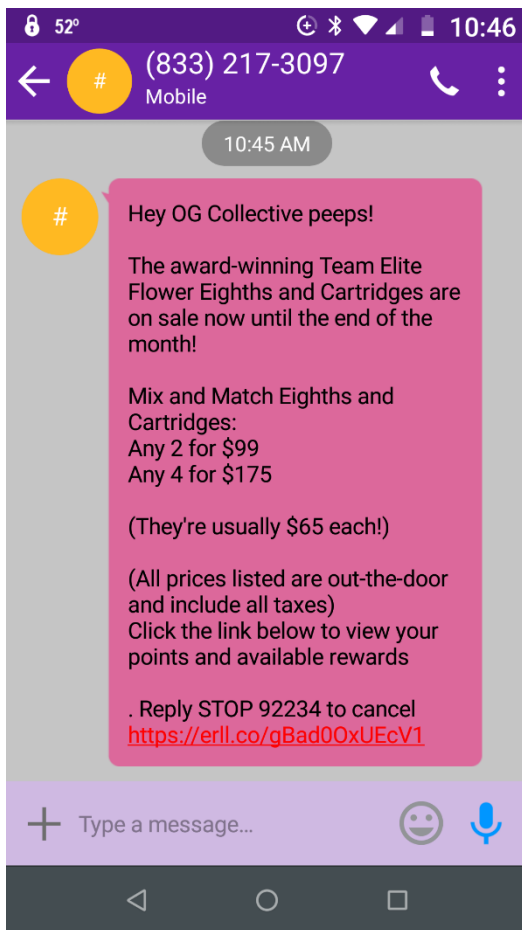
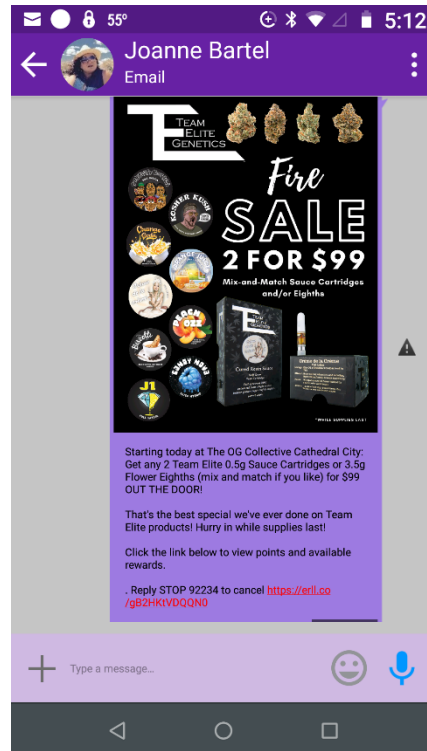
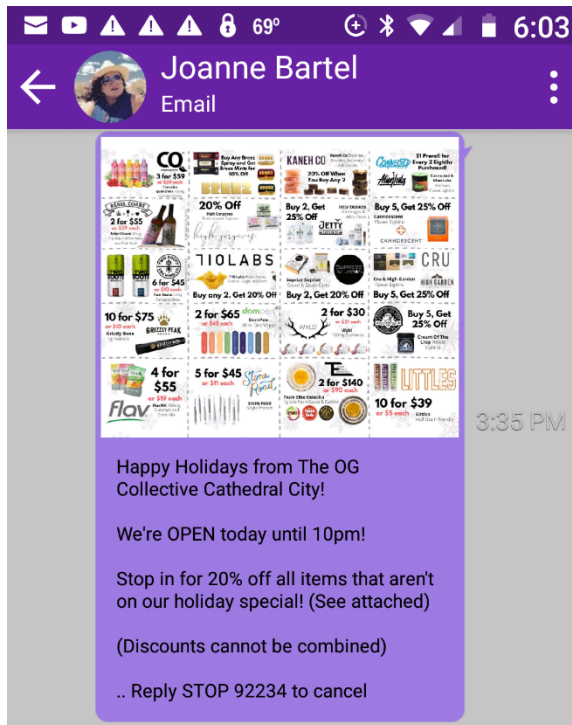
12 21. Further, the FCC has issued rulings and clarified that consumers are  
13 entitled to the same consent-based protections for text messages as they are for calls  
14 to wireless numbers. *See Satterfield v. Simon & Schuster, Inc.*, 569 F.3d 946, 952  
15 (9th Cir. 2009) (The FCC has determined that a text message falls within the  
16 meaning of “to make any call” in 47 U.S.C. § 227(b)(1)(A)); *Toney v. Quality Res.,*  
17 *Inc.*, 2014 WL 6757978, at \*3 (N.D. Ill. Dec. 1, 2014) (Defendant bears the burden  
18 of showing that it obtained Plaintiff’s prior express consent before sending him the  
19 ***text message***). (emphasis added).

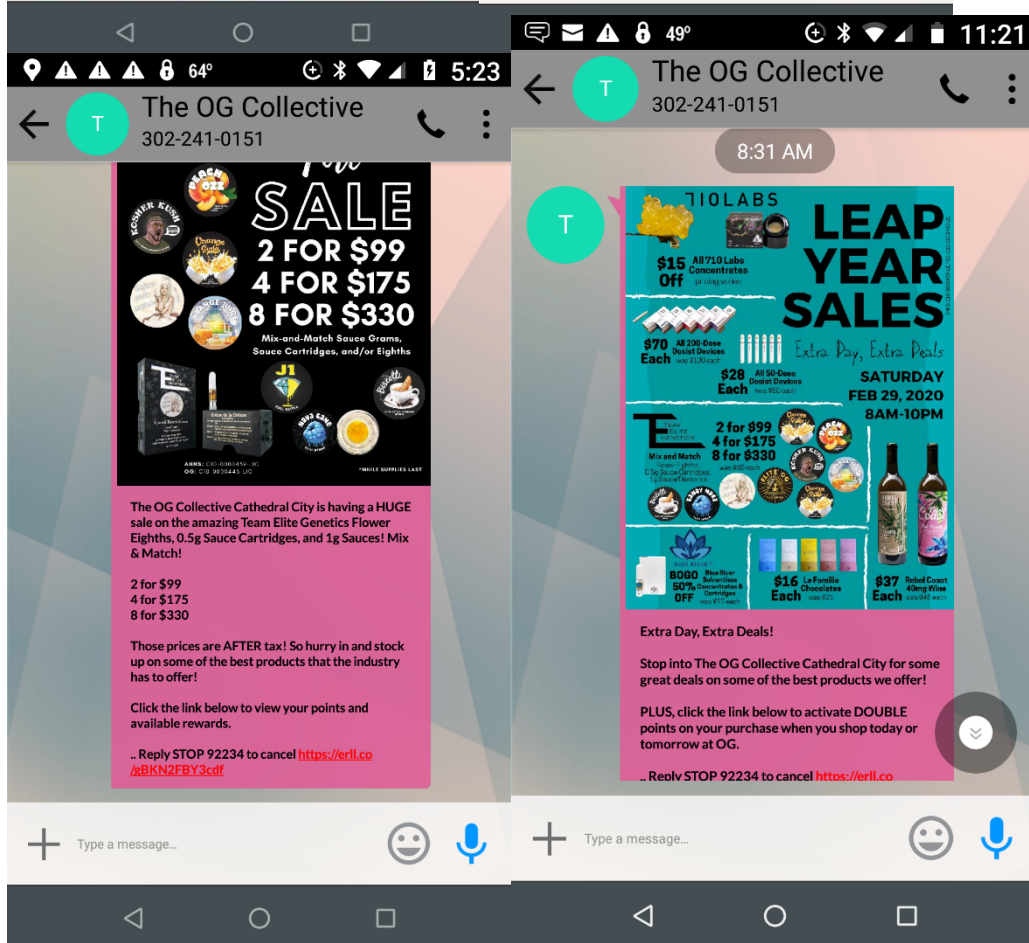
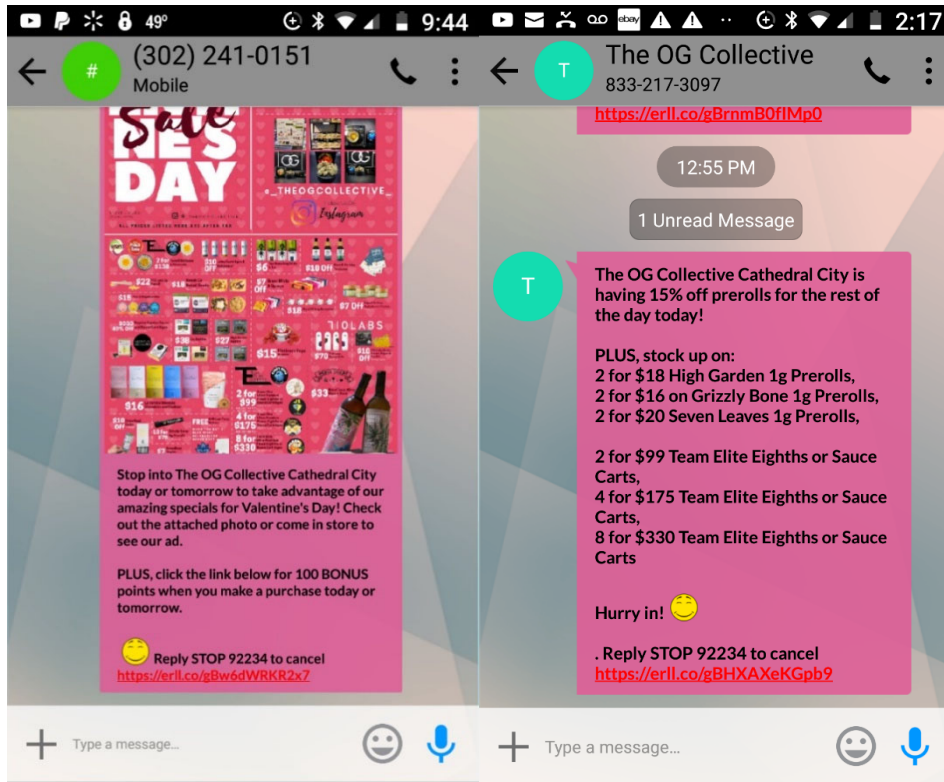
20 22. As recently held by the United States Court of Appeals for the Ninth  
21 Circuit: “Unsolicited telemarketing phone calls or text messages, by their nature,  
22 invade the privacy and disturb the solitude of their recipients. A plaintiff alleging a  
23 violation under the TCPA ‘need not allege any *additional* harm beyond the one  
24 Congress has identified.’” *Van Patten v. Vertical Fitness Grp.*, No. 14-55980, 2017  
25 U.S. App. LEXIS 1591, at \*12 (9th Cir. May 4, 2016) (quoting *Spokeo, Inc. v.*  
26 *Robins*, 136 S. Ct. 1540, 1549 (2016) (emphasis original)).

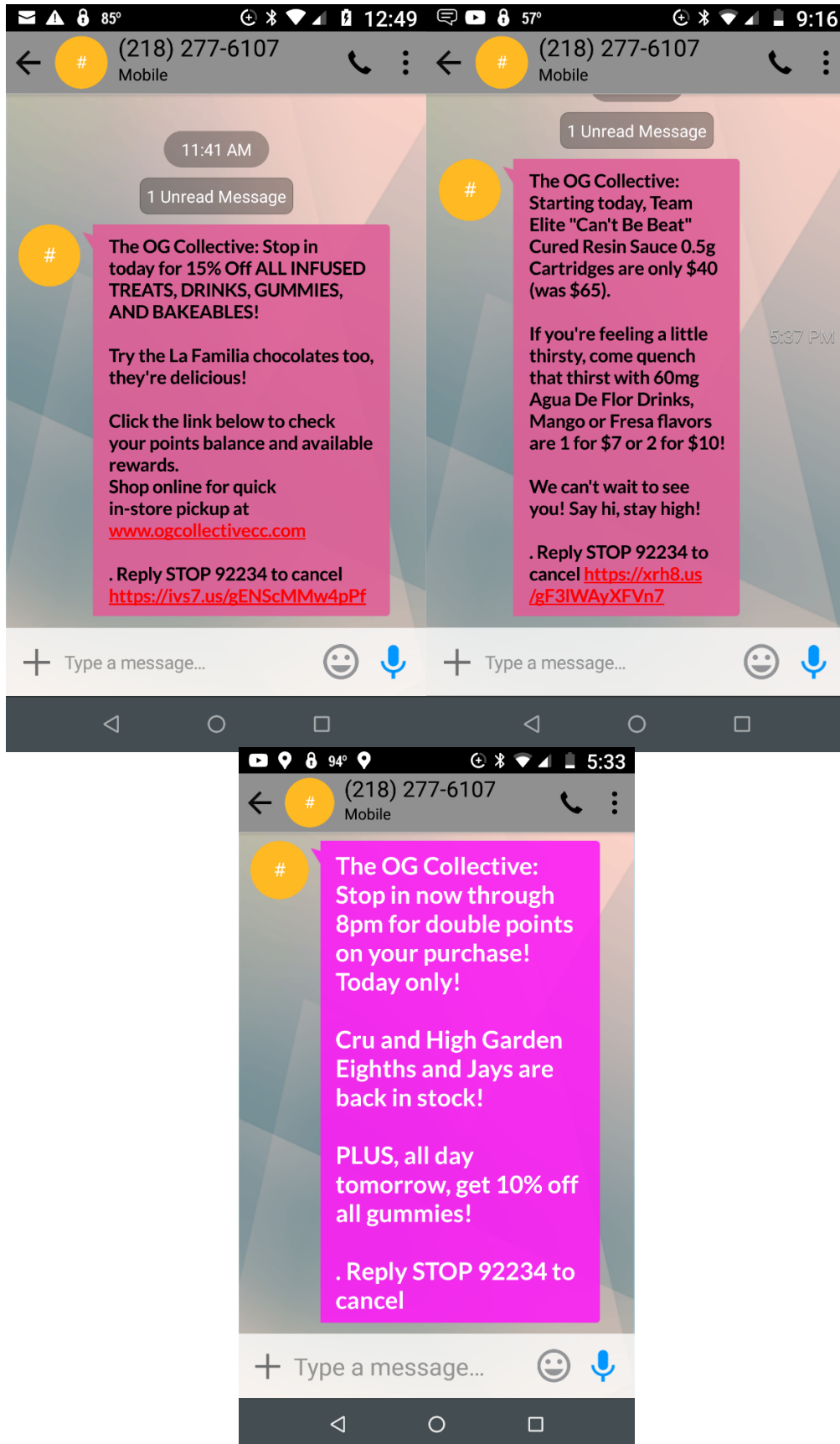
## FACTUAL ALLEGATIONS

23. Beginning in or about December 2019, Defendant sent the following telemarketing text messages to Plaintiff's cellular telephone number ending in 3246 (the "3246 Number"):









1           24. Defendant's text messages were transmitted to Plaintiff's cellular  
2 telephone, and within the time frame relevant to this action.

3           25. Defendant's text messages constitute telemarketing because they  
4 encouraged the future purchase or investment in property, goods, or services, i.e.,  
5 selling Plaintiff cannabis products.

6           26. The information contained in the text messages advertise Defendant's  
7 various discounts and promotions, which Defendant sends to promote its business.

8           27. Plaintiff received the subject texts within this judicial district and,  
9 therefore, Defendant's violations of the TCPA occurred within this district. Upon  
10 information and belief, Defendant caused other text messages to be sent to  
11 individuals residing within this judicial district.

12           28. At no point in time did Plaintiff provide Defendant with her express  
13 written consent to be contacted using an ATDS.

14           29. Plaintiff is the subscriber and sole user of the 3246 Number and is  
15 financially responsible for phone service to the 3246 Number.

16           30. Plaintiff has been registered with the national do-not-call registry since  
17 February 19, 2004.

18           31. The impersonal and generic nature of Defendant's text message  
19 demonstrates that Defendant utilized an ATDS in transmitting the messages. *See*  
20 *Jenkins v. LL Atlanta, LLC*, No. 1:14-cv-2791-WSD, 2016 U.S. Dist. LEXIS 30051,  
21 at \*11 (N.D. Ga. Mar. 9, 2016) ("These assertions, combined with the generic,  
22 impersonal nature of the text message advertisements and the use of a short code,  
23 support an inference that the text messages were sent using an ATDS.") (citing *Legg*  
24 *v. Voice Media Grp., Inc.*, 20 F. Supp. 3d 1370, 1354 (S.D. Fla. 2014) (plaintiff  
25 alleged facts sufficient to infer text messages were sent using ATDS; use of a short  
26 code and volume of mass messaging alleged would be impractical without use of an  
27 ATDS); *Kramer v. Autobytel, Inc.*, 759 F. Supp. 2d 1165, 1171 (N.D. Cal. 2010)

1 (finding it "plausible" that defendants used an ATDS where messages were  
2 advertisements written in an impersonal manner and sent from short code); *Hickey*  
3 *v. Voxernet LLC*, 887 F. Supp. 2d 1125, 1130; *Robbins v. Coca-Cola Co.*, No. 13-  
4 CV-132-IEG NLS, 2013 U.S. Dist. LEXIS 72725, 2013 WL 2252646, at \*3 (S.D.  
5 Cal. May 22, 2013) (observing that mass messaging would be impracticable without  
6 use of an ATDS)).

7 32. The text messages originated from telephone numbers (567) 201-4154  
8 and (833) 217-3097, a number which upon information and belief is owned and  
9 operated by Defendant.

10 33. The numbers used by Defendant ((567) 201-4154 and (833) 217-3097)  
11 is known as a "long code," a standard 10-digit phone number that enabled Defendant  
12 to send SMS text messages *en masse*, while deceiving recipients into believing that  
13 the message was personalized and sent from a telephone number operated by an  
14 individual

15 34. Long codes work as follows: Private companies known as SMS  
16 gateway providers have contractual arrangements with mobile carriers to transmit  
17 two-way SMS traffic. These SMS gateway providers send and receive SMS traffic  
18 to and from the mobile phone networks' SMS centers, which are responsible for  
19 relaying those messages to the intended mobile phone. This allows for the  
20 transmission of a large number of SMS messages to and from a long code.

21 35. Specifically, upon information and belief, Defendant utilized a  
22 combination of hardware and software systems to send the text messages at issue in  
23 this case. The systems utilized by Defendant have the capacity to store telephone  
24 numbers using a random or sequential number generator, and to dial such numbers  
25 from a list without human intervention.

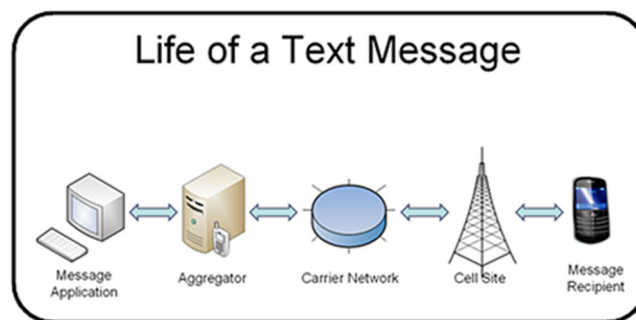


d) Upon receipt of each packet, the SMS aggregator transmitted each packet – automatically and with no human intervention – to the respective mobile carrier for the telephone number, again in the sequential order listed by Defendant. Each mobile carrier then sent the message to its customer’s mobile telephone.

44. The above execution these instructions occurred seamlessly, with no human intervention, and almost instantaneously. Indeed, the Platform is capable of transmitting thousands of text messages following the above steps in minutes, if not less.

45. Further, the Platform “throttles” the transmission of the text messages depending on feedback it receives from the mobile carrier networks. In other words, the platform controls how quickly messages are transmitted depending on network congestion. The platform performs this throttling function automatically and does not allow a human to control the function.

46. The following graphic summarizes the above steps and demonstrates that the dialing of the text messages at issue was done by the Platform automatically and without any human intervention:



47. Defendant’s unsolicited text messages caused Plaintiff actual harm, including invasion of her privacy, aggravation, annoyance, intrusion on seclusion, trespass, and conversion. Defendant’s text messages also inconvenienced Plaintiff and caused disruption to her daily life.

48. Defendant's unsolicited text messages caused Plaintiff actual harm. Specifically, Plaintiff estimates that she spent approximately fifteen minutes investigating the unwanted text messages including how they obtained her number and who the Defendant was.

49. Furthermore, Defendant's text messages took up memory on Plaintiff's cellular phone. The cumulative effect of unsolicited text messages like Defendant's poses a real risk of ultimately rendering the phone unusable for text messaging purposes as a result of the phone's memory being taken up. *See* <https://www.consumer.ftc.gov/articles/0350-text-message-spam#text> (finding that text message solicitations like the ones sent by Defendant present a "triple threat" of identity theft, unwanted cell phone charges, and slower cell phone performance).

50. Defendant's text messages also can slow cell phone performance by taking up space on the recipient phone's memory. *See* <https://www.consumer.ftc.gov/articles/0350-text-message-spam#text> (finding that spam text messages can slow cell phone performance by taking up phone memory space).

## **CLASS ALLEGATIONS**

### **PROPOSED CLASS**

51. Plaintiff brings this case as a class action pursuant to Fed. R. Civ. P. 23, on behalf of herself and all others similarly situated.

52. Plaintiff brings this case on behalf of the Class defined as follows:

**No Consent Class: All persons who from four years prior to the filing of this action (1) were sent a text message by or on behalf of Defendant, (2) using an automatic telephone dialing system, (3) for the purpose of soliciting Defendant's goods and services, and (4) for whom Defendant claims (a) it did not obtain prior express written consent, or (b) it obtained prior express written consent in the**

1 same manner as Defendant claims it supposedly  
2 obtained prior express written consent to call the  
3 Plaintiff.

4 **Do Not Call Registry Class:** All persons in the United  
5 States who from four years prior to the filing of this  
6 action (1) were sent a text message by or on behalf of  
7 Defendant; (2) more than one time within any 12-  
8 month period; (3) where the person's telephone  
9 number had been listed on the National Do Not Call  
10 Registry for at least thirty days; (4) for the purpose of  
11 selling Defendant's products and services; and (5) for  
12 whom Defendant claims (a) it did not obtain prior  
express written consent, or (b) it obtained prior  
express written consent in the same manner as  
Defendant claims it supposedly obtained prior  
express written consent to call the Plaintiff.

13 53. Defendant and its employees or agents are excluded from the Class.  
14 Plaintiff does not know the number of members in the Class but believes the Class  
15 members number in the several thousands, if not more.

16 **NUMEROSITY**

17 54. Upon information and belief, Defendant has placed automated calls to  
18 cellular telephone numbers belonging to thousands of consumers throughout the  
19 United States without their prior express consent. The members of the Class,  
20 therefore, are believed to be so numerous that joinder of all members is  
21 impracticable.

22 55. The exact number and identities of the members of the Class are  
23 unknown at this time and can only be ascertained through discovery. Identification  
24 of the Class members is a matter capable of ministerial determination from  
25 Defendant's call records.

## COMMON QUESTIONS OF LAW AND FACT

56. There are numerous questions of law and fact common to members of the Class which predominate over any questions affecting only individual members of the Class. Among the questions of law and fact common to the members of the Class are:

- a) Whether Defendant made non-emergency calls to Plaintiff's and Class members' cellular telephones using an ATDS;
- b) Whether Defendant can meet its burden of showing that it obtained prior express written consent to make such calls;
- c) Whether Defendant's conduct was knowing and willful;
- d) Whether Defendant is liable for damages, and the amount of such damages; and
- e) Whether Defendant should be enjoined from such conduct in the future.

57. The common questions in this case are capable of having common answers. If Plaintiff's claim that Defendant routinely transmits text messages to telephone numbers assigned to cellular telephone services is accurate, Plaintiff and the Class members will have identical claims capable of being efficiently adjudicated and administered in this case.

## TYPICALITY

58. Plaintiff's claims are typical of the claims of the Class members, as they are all based on the same factual and legal theories.

## PROTECTING THE INTERESTS OF THE CLASS MEMBERS

59. Plaintiff is a representative who will fully and adequately assert and protect the interests of the Class, and has retained competent counsel. Accordingly, Plaintiff is an adequate representative and will fairly and adequately protect the interests of the Class.

**PROCEEDING VIA CLASS ACTION IS SUPERIOR AND ADVISABLE**

60. A class action is superior to all other available methods for the fair and efficient adjudication of this lawsuit, because individual litigation of the claims of all members of the Class is economically unfeasible and procedurally impracticable. While the aggregate damages sustained by the Class are in the millions of dollars, the individual damages incurred by each member of the Class resulting from Defendant's wrongful conduct are too small to warrant the expense of individual lawsuits. The likelihood of individual Class members prosecuting their own separate claims is remote, and, even if every member of the Class could afford individual litigation, the court system would be unduly burdened by individual litigation of such cases.

61. The prosecution of separate actions by members of the Class would create a risk of establishing inconsistent rulings and/or incompatible standards of conduct for Defendant. For example, one court might enjoin Defendant from performing the challenged acts, whereas another may not. Additionally, individual actions may be dispositive of the interests of the Class, although certain class members are not parties to such actions.

**COUNT I**  
**Violations of the TCPA, 47 U.S.C. § 227(b)**  
**(On Behalf of Plaintiff and the Class)**

62. Plaintiff re-alleges and incorporates the foregoing allegations as if fully set forth herein.

63. It is a violation of the TCPA to make "any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system ... to any telephone number assigned to a ... cellular telephone service ...." 47 U.S.C. § 227(b)(1)(A)(iii).

64. Defendant – or third parties directed by Defendant – used equipment having the capacity to dial numbers without human intervention to make non-

1 emergency telephone calls to the cellular telephones of Plaintiff and the other  
2 members of the Class defined below.

3 65. These calls were made without regard to whether or not Defendant had  
4 first obtained express permission from the called party to make such calls. In fact,  
5 Defendant did not have prior express consent to call the cell phones of Plaintiff and  
6 the other members of the putative Class when its calls were made.

7 66. Defendant has, therefore, violated § 227(b)(1)(A)(iii) of the TCPA by  
8 using an automatic telephone dialing system to make non-emergency telephone calls  
9 to the cell phones of Plaintiff and the other members of the putative Class without  
10 their prior express written consent.

11 67. Defendant knew that it did not have prior express consent to make these  
12 calls, and knew or should have known that it was using equipment that at constituted  
13 an automatic telephone dialing system. The violations were therefore willful or  
14 knowing.

15 68. As a result of Defendant's conduct and pursuant to § 227(b)(3) of the  
16 TCPA, Plaintiff and the other members of the putative Class were harmed and are  
17 each entitled to a minimum of \$500.00 in damages for each violation. Plaintiff and  
18 the members of the Class are also entitled to an injunction against future calls. *Id.*

19 **COUNT II**  
20 **Knowing and/or Willful Violation of the TCPA, 47 U.S.C. § 227(b)**  
21 **(On Behalf of Plaintiff and the Class)**

22 69. Plaintiff re-alleges and incorporates the foregoing allegations as if fully  
23 set forth herein.

24 70. At all times relevant, Defendant knew or should have known that its  
25 conduct as alleged herein violated the TCPA.

26 71. Defendant knew that it did not have prior express consent to make these  
27 calls, and knew or should have known that its conduct was a violation of the TCPA.  
28

72. Because Defendant knew or should have known that Plaintiff and Class Members had not given prior express consent to receive its autodialed calls, the Court should treble the amount of statutory damages available to Plaintiff and the other members of the putative Class pursuant to § 227(b)(3) of the TCPA.

73. As a result of Defendant's violations, Plaintiff and the Class Members are entitled to an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

### COUNT III

#### **Violation of the TCPA, 47 U.S.C. § 227**

#### **(On Behalf of Plaintiff and the Do Not Call Registry Class)**

74. Plaintiff repeats and realleges the paragraphs 1 through 61 of this Complaint and incorporates them by reference herein.

75. The TCPA's implementing regulation, 47 C.F.R. § 64.1200(c), provides that "[n]o person or entity shall initiate any telephone solicitation" to "[a] residential telephone subscriber who has registered his or her telephone number on the national do-not-call registry of persons who do not wish to receive telephone solicitations that is maintained by the federal government."

76. 47 C.F.R. § 64.1200(e), provides that § 64.1200(c) and (d) "are applicable to any person or entity making telephone solicitations or telemarketing calls to wireless telephone numbers."<sup>1</sup>

77. 47 C.F.R. § 64.1200(d) further provides that "[n]o person or entity shall initiate any call for telemarketing purposes to a residential telephone subscriber unless such person or entity has instituted procedures for maintaining a list of persons who request not to receive telemarketing calls made by or on behalf of that person or entity."

<sup>1</sup> *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order, 18 FCC Rcd 14014 (2003) Available at [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-03-153A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-03-153A1.pdf)

1           78. Any “person who has received more than one telephone call within any  
2 12-month period by or on behalf of the same entity in violation of the regulations  
3 prescribed under this subsection may” may bring a private action based on a  
4 violation of said regulations, which were promulgated to protect telephone  
5 subscribers’ privacy rights to avoid receiving telephone solicitations to which they  
6 object. 47 U.S.C. § 227(c).

7           79. Defendant violated 47 C.F.R. § 64.1200(c) by initiating, or causing to  
8 be initiated, telephone solicitations to telephone subscribers such as Plaintiff and the  
9 Do Not Call Registry Class members who registered their respective telephone  
10 numbers on the National Do Not Call Registry, a listing of persons who do not wish  
11 to receive telephone solicitations that is maintained by the federal government.

12           80. Defendant violated 47 U.S.C. § 227(c)(5) because Plaintiff and the Do  
13 Not Call Registry Class received more than one telephone call in a 12-month period  
14 made by or on behalf of Defendant in violation of 47 C.F.R. § 64.1200, as described  
15 above. As a result of Defendant’s conduct as alleged herein, Plaintiff and the Do Not  
16 Call Registry Class suffered actual damages and, under section 47 U.S.C. § 227(c),  
17 are entitled, inter alia, to receive up to \$500 in damages for such violations of 47  
18 C.F.R. § 64.1200.

19           81. To the extent Defendant’s misconduct is determined to be willful and  
20 knowing, the Court should, pursuant to 47 U.S.C. § 227(c)(5), treble the amount of  
21 statutory damages recoverable by the members of the Do Not Call Registry Class.

22                           **PRAYER FOR RELIEF**

23           **WHEREFORE**, Plaintiff, individually and on behalf of the Class, prays for  
24 the following relief:

- 25           a) An order certifying this case as a class action on behalf of the Class as  
26 defined above, and appointing Plaintiff as the representative of the  
27 Class and Plaintiff’s counsel as Class Counsel;

- b) An award of actual and statutory damages for Plaintiff and each member of the Class;
- c) As a result of Defendant's negligent violations of 47 U.S.C. §§ 227, *et seq.*, Plaintiff seeks for herself and each member of the Class \$500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 277(b)(3)(B);
- d) As a result of Defendant's knowing and/or willful violations of 47 U.S.C. §§ 227, *et seq.*, Plaintiff seeks for herself and each member of the Class treble damages, as provided by statute, up to \$1,500.00 for each and every violation pursuant to 47 U.S.C. § 277(b)(3)(B) and § 277(b)(3)(C);
- e) An order declaring that Defendant's actions, as set out above, violate the TCPA;
- f) A declaratory judgment that Defendant's telephone calling equipment constitutes an automatic telephone dialing system under the TCPA;
- g) An injunction requiring Defendant to cease all unsolicited text messaging activity, and to otherwise protect the interests of the Class;
- h) An injunction prohibiting Defendant from using, or contracting the use of, an automatic telephone dialing system without obtaining, recipient's consent to receive calls made with such equipment;
- i) An award of reasonable attorneys' fees and costs pursuant to, *inter alia*, California Code of Civil Procedure § 1021.5; and
- j) Such further and other relief as the Court deems necessary.

**JURY DEMAND**

Plaintiff hereby demand a trial by jury.

1 DATED: June 10, 2020

EDWARDS POTTINGER LLC

2 By: /s/ Seth M. Lehrman  
3 Seth M. Lehrman  
4 Attorney for Plaintiff  
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