

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

| | | |
|-----------------------------------|---|-------------------------|
| KISON PATEL, |) | |
| individually and on behalf |) | |
| of similarly situated persons, |) | Case No.: 1:15-cv-08174 |
| |) | |
| Plaintiff, |) | Honorable John Z. Lee |
| |) | |
| v. |) | |
| |) | |
| AT&T SERVICES, INC., and ILLINOIS |) | |
| BELL TELEPHONE COMPANY, |) | Jury Demanded |
| |) | |
| Defendants. |) | |

AMENDED COMPLAINT - CLASS ACTION

1. Plaintiff, Kison Patel brings this action individually and on behalf of similarly situated persons against Defendant AT&T Services Inc., who called Plaintiff’s cellular telephone using a predictive dialer accompanied with a prerecorded that left a prerecorded voice message with text-to-speech, thereby violating the Telephone Consumer Protection Act, 47 U.S.C. § 227. On information and belief, the call AT&T Services Inc., made was in regard to a Uverse contract involving Illinois Bell Telephone Company and a natural person, not Plaintiff.

2. This Court has jurisdiction under 28 U.S.C. § 1331 (Federal Question) and 47 U.S.C. § 227 (“TCPA”). *Mims v. Arrow Financial Services, LLC*, 132 S.Ct. 740 (2012); *Brill v. Countrywide Home Loans, Inc.*, 427 F.3d 446 (7th Cir. 2005).

3. Venue and personal jurisdiction over Defendant in this District is proper because:
- a. Plaintiff resides in the District;
 - b. Defendants transact business in the District via the telephone lines; and
 - c. Defendants’ activities complained of occurred within the District.

4. AT&T Services, Inc., used a “Predictive Dialer”, as defined by the Federal Communications Commission, to call the cellular telephone used by Plaintiff and each of the putative class members.

5. AT&T Services, Inc., is capable of dialing telephone numbers without human intervention, and delivering an automated prerecorded message with text-to-speech customization to insert an account number into the message.

6. Plaintiff has a cellular telephone assigned the telephone number XXX-XXX-5877 in which he carries on his person and makes and receives calls on. The first seven digits of Plaintiff’s cellular telephone number are redacted herein due to privacy considerations.

7. AT&T Services, Inc., called Plaintiff’s cell phone once on September 1, 2015, two times on September 2, 2015, and two times on September 3, 2015.

8. When plaintiff answered a call on September 3, 2015, from AT&T Services, Inc., on Plaintiff’s cellular telephone a prerecorded message in the form as follows was played:

Hi this is AT&T calling with an important message regarding your AT&T account. Para Espanol marque el dos. If this is a person authorized to take action on your account number [pause] 129229770. Please press 1 now. Otherwise to place this call on hold and allow time for the authorized person to come to the phone press 7. If no one is available right now press 9. [Pause].

I’m sorry I did not receive an entry. If you are authorized to action on your account number [pause] 129229770. Press 1 now. To place this call on hold so the authorized person to come to the phone press 7. If no one is available right now press 9. [Pause].

Please have an authorized billing contact call our business office at 1-800-288-2020 regarding an important matter regarding an important matter with your account number [pause] 129229770.

For more information your account can be viewed at att.com/pay. To hear this again press 3.

Thank you. AT&T appreciates your business.

9. Each time the account number 129229770 was spoke in the message above, the voice was a text-to-speech customization that inserted the account number AT&T Services, Inc., was calling in regard to.

10. Plaintiff did not give either Defendant permission to call his cell phone number regarding account number 129229770.

11. The calls Plaintiff received were from 1-800-288-2020.

12. The telephone number 1-800-288-2020 is a telephone number used by AT&T Services, Inc.

13. The telephone number 1-800-288-2020 is used in relation to AT&T U-verse.

14. AT&T U-verse is a Wireline segment of AT&T Inc.

15. Plaintiff contacted, on information and belief, AT&T Services, Inc., and Plaintiff believes that that based on this communication that the phone calls to his cell phone was to collect an account that is not his, and therefore, no established business relationship existed for either Defendants to contact him regarding account number 129229770.

16. On information and belief, AT&T Services, Inc., makes an entry in the account notes of each customer if it has been contacted by a person who has indicated that the telephone number they are calling is not the person to whom owes money on the account AT&T Services, Inc., is seeking to collect.

17. The Telephone Consumer Protection Act, 47 U.S.C. § 227 provides in pertinent part:

(b) Restrictions on use of automated telephone equipment.

(1) Prohibitions. It shall be unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States—

(A) 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 or an artificial or prerecorded voice—

* * *

(iii) to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call; . . .

18. Under the TCPA, Plaintiff is the “called party”.

19. Under the TCPA, Plaintiff is the “person” seeking the private right of action under 47 U.S.C. § 227(b)(3).

20. Illinois Bell Telephone Company is liable for the actions of AT&T Services, Inc., if the calls to Plaintiff were made on behalf of Illinois Bell Telephone Company. *In re Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 23 FCC Rcd. 559 ¶ 10.

21. On information and belief there are 40 similarly situated called parties whose cellular telephones were called by AT&T Service, Inc., on behalf of Illinois Bell Telephone Company using a predictive dialer and/or used a prerecorded message.

22. On information and belief AT&T Services, Inc., placed similar autodialed calls with a prerecorded message on behalf of (a) Southwestern Telephone Company; (b) Pacific Bell Telephone Company; (c) Indiana Bell Telephone Company, Incorporated; (d) Michigan Bell Telephone Company; (e) Nevada Bell Telephone Company; (f) The Ohio Bell Telephone Company; (g) Wisconsin Bell, Inc.; (h) The Southern New England Telephone Company; and (i) BellSouth Telecommunications, Inc.

23. On information and belief there are 40 similarly situated called parties whose cellular telephones were called by AT&T Service, Inc., using a predictive dialer and/or used a prerecorded message.

WHEREFORE, Plaintiff requests that the Court enter judgment in favor of Plaintiff and

the class and against Defendants for:

- a. Damages allowed under the TCPA;
- b. Injunctive relief; and
- c. Costs.

Respectfully submitted,

s/ Curtis C. Warner
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JURY DEMAND

Plaintiff hereby demands a trial by jury.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Curtis C. Warner, hereby certify that on **October 1, 2015**, I filed the **Amended Complaint above** using the Court's CM/ECF system, which automatically will send notice to those parties who have appeared and are so registered.

John E. Muench
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Kyle J. Steinmetz

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