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5 *Attorney for Plaintiff*

6 UNITED STATES DISTRICT COURT  
7 CENTRAL DISTRICT OF CALIFORNIA

8 Adam Kestle,

9 Plaintiff,

10 v.

11 The Litigation Practice Group PC,

12 Defendant.  
13  
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Case No.: 8:23-cv-02119

CLASS ACTION COMPLAINT

Violations of the Telephone  
Consumer Protection Act, 47 U.S.C.  
§ 227

DEMAND FOR JURY TRIAL

15 **INTRODUCTION**

16 1. As the Supreme Court has explained, “Americans passionately  
17 disagree about many things. But they are largely united in their disdain for  
18 robocalls.... For nearly 30 years, the people’s representatives in Congress have  
19 been fighting back. As relevant here, the Telephone Consumer Protection Act of  
20 1991, known as the TCPA, generally prohibits robocalls to cell phones and home  
21 phones.” *Barr v. Am. Ass’n of Political Consultants*, 140 S. Ct. 2335, 2343 (2020).  
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1           11. Kestle registered the number 203-809-1964 on the national Do Not  
2 Call Registry (“DNCR”) on December 24, 2022.

3           12. LPG has initiated unwanted and unsolicited calls to Kestle despite his  
4 registration on the DNCR.

5           13. LPG initiated the calls using a tactic known as “ringless voicemail.”

6           14. A ringless voicemail operates as follows:

7               i. The system places two sequential calls to the consumer.

8               ii. The first call briefly engages the consumer’s phone line, typically  
9               lasting less than one or two seconds. This often causes the phone to  
10              ring once, hence the term, “ringless voicemail” can be misleading.

11              iii. While the line is briefly engaged, a second call is made. Unable to  
12              connect due to the first call, this second call is automatically  
13              redirected to the consumer’s voicemail where a prerecorded message  
14              is left.

15              iv. After rerouting the second call, the system immediately terminates  
16              the first call.

17              v. Even in situations where the consumer’s phone does not ring, the  
18              consumer is still interrupted and annoyed by a missed call  
19              notification from an unknown telemarketer.

20           15. On December 30, 2022, at 7:46 PM UTC, LPG called Kestle from  
21 833-257-4239. This call only rang Kestle for two seconds then was disconnected  
22 by LPG before Kestle could answer. Thirty seconds later, Kestle then received a  
23 voicemail from LPG. This voicemail originated from a second call that LPG  
24 initiated immediately after the first call at 7:46 PM UTC.

1           16.    The voicemail said:

2                   *Hello, this is Phil from the National Financial Hardship*  
3                   *Loan Center. Today's date is Wednesday, December 28.*  
4                   *The reason I'm calling is because you are currently*  
5                   *approved for a \$31000 financial hardship loan. There is*  
6                   *no credit check, and we offer same-day approval. This*  
7                   *loan can be used for any purpose, including paying off*  
8                   *debt, unexpected bills or personal use. With the new year*  
9                   *approaching, this can be a really good option for you to*  
10                   *get some financial relief. This applies to all residents.*  
11                   *Due to inflation and rising costs, we offer same day*  
12                   *approval, so we can get this expedited for you. Again,*  
13                   *there is no credit check, and we can offer same day*  
14                   *approval. Please give our national office a call at 855-*  
15                   *601-8979. Again, that number is 855-601-8979. Thank*  
16                   *you and talk to you soon.*

17           17.    LPG initiated the calls using a prerecorded voice. The calls did not  
18                   sound like a live person was talking. After the voicemail greeting beep, there was  
19                   an unnatural two-second delay before the caller started talking indicating a system  
20                   was leaving the voicemail and not a live person. And as described above, this was  
21                   a ringless voicemail which by definition utilizes prerecorded voices to leave a  
22                   voicemail.

23           18.    LPG did not disclose its true identity in the calls.

24           19.    Kestle has received many other calls about “financial hardship loans.”  
Some of these other calls have also been prerecorded. Kestle has opted out of these  
other calls but has nonetheless continued to receive more of the same calls. On  
information and belief, these other calls were also made by LPG.

          20.    A call back to the number provided in the voicemail message led to  
connection with a customer service agent, who identified as “Isaiah,” a “Senior  
Discount Specialist.” He said he was with “Debt Relief Center.” After a few

1 questions, the agent said he was with “LPG,” an attorney group. The same agent  
2 ultimately said he was with “Litigation Practice Group” and provided their  
3 company’s website address as, “lpglaw.com.”

4 21. The website <https://lpglaw.com> states its true identity on its privacy  
5 policy page as “Owner Contact Information” followed by “Litigation Practice  
6 Group 17542 17<sup>th</sup> Street Suite 100 Tustin CA 92780, [Support@lpglaw.com](mailto:Support@lpglaw.com).”

7 22. The purpose of these calls was to sell LPG’s debt relief services.

8 23. LPG’s calls are a nuisance and annoyance to Kestle. The calls have  
9 invaded Kestle’s privacy. The spam has diminished the value of Kestle’s phone  
10 and Kestle’s enjoyment of life.

11 24. The calls were especially intrusive, frustrating, and annoying to Kestle  
12 because LPG purposefully hid its identity. Kestle had no idea who was spamming,  
13 whether the spammer was somebody whom Kestle had previously told to stop, or  
14 whether it was safe for Kestle to make a do-not-call request. By not disclosing  
15 LPG’s identity, LPG knowingly tried to prevent Kestle from monitoring and  
16 enforcing compliance with the TCPA.

### 17 LEGAL STANDARD

18 25. **Prerecorded or Artificial Voice.** The TCPA prohibits calls to cell  
19 phones using an “artificial or prerecorded voice” except for “emergency purposes”  
20 or with the “prior express consent” of the called party. 47 C.F.R. § 64.1200(a)(1).  
21 Calls that introduce an advertisement or constitute telemarketing require “prior  
22 express written consent.” 47 C.F.R. § 64.1200(a)(2).

23 26. **National Do Not Call Registry.** Residential telephone subscribers  
24 who do not want to receive telephone solicitations may place their phone number

1 on the National DNCR. 47 C.F.R. § 64.1200(c)(2). The TCPA proscribes callers  
2 from making “any telephone solicitation to... [a] residential telephone subscriber  
3 who has registered his or her telephone number on the national do-not-call  
4 registry.” 47 C.F.R. § 64.1200(c)(2). Wireless telephone subscribers are allowed to  
5 place their number on the DNCR. 47 C.F.R. § 64.1200(e).

6 27. **Identification of Caller.** The TCPA requires telemarketers to disclose  
7 the name of the individual caller and the name of the person or entity on whose  
8 behalf the call is being made. 47 C.F.R. § 64.1200(d)(4).

### 9 CLASS ACTION ALLEGATIONS

10 28. Pursuant to Civ. R. 23(b)(2) and 23(b)(3) of the Federal Rules of Civil  
11 Procedure, Kestle brings this action on behalf of all other persons similarly situated  
12 throughout the United States.

13 29. Kestle proposes the following Classes:

#### 14 **The Prerecorded Voice Class**

15 All people in the United States (1) to whom LPG initiated one or more  
16 calls to their cellular telephone, (2) using a prerecorded or artificial  
17 voice, (3) within the last four years from the filing of this action.

#### 18 **The DNCR Class**

19 All people in the United States (1) to whom LPG initiated more than  
20 one telephone solicitation within any 12-month period, (2) to their  
21 cellular telephone number, (3) while their phone number was listed on  
22 the national Do Not Call Registry, (4) within the last four years from  
23 the filing of this action.

#### 24 **The Failure to Identify Class**

All persons in the United States (1) to whom LPG initiated more than  
one telemarketing call or text message within any 12-month period,  
(2) to their cellular telephone number, (3) without disclosing the name  
of the individual initiating the calls and the name of the entity on

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whose behalf the calls were made, (4) within the last four years from the filing of this action.

30. LPG does not know the exact number of class members but reasonably believes the number to be in the thousands, thus making joinder of all class members impracticable.

31. Class members are identifiable through phone records and phone number databases.

32. There are questions of law and fact common to Kestle and the class members including but not limited to:

- i. Whether LPG initiated the calls.
- ii. Whether LPG's calls violated the law.
- iii. Whether Kestle and class members are entitled to statutory damages, trebled damages, and injunctive relief.

33. Kestle's claims are typical of the claims of the class members. Kestle's claims, like the class members' claims, arise out of the same common course of conduct by LPG and are based on the same legal and remedial theories.

34. Kestle is an adequate representative of the class because Kestle's interests do not conflict with the interests of the class members, Kestle will fairly and adequately protect the interests of the class members, and Kestle is represented by counsel skilled and experienced in class actions, including TCPA class actions.

35. Common questions of law and fact predominate over questions affecting only individual class members.

36. Management of these claims is likely to present significantly fewer difficulties than are presented in many class claims because the damages are

1 statutory. Notice to class members can be provided by mail or other means. Class  
2 treatment is superior to multiple individual suits or piecemeal litigation because it  
3 conserves judicial resources, promotes consistency and efficiency of adjudication,  
4 provides a forum for small claimants, and deters illegal activities. There will be no  
5 significant difficulty in the management of this case as a class action.

6 37. The likelihood that individual class members will prosecute separate  
7 actions is remote due to the time and expense necessary to prosecute an individual  
8 case.

9 **FIRST CAUSE OF ACTION**  
10 **Illegal Use of a Prerecorded or Artificial Voice**  
11 **(On Behalf of Plaintiff and the Prerecorded Voice Class)**

12 38. LPG violated 47 C.F.R. § 64.1200(a)(1)-(2) by using a prerecorded or  
13 artificial voice without consent and without an emergency purpose when initiating  
14 calls to Kestle and members of the Prerecorded Voice Class.

15 39. Kestle and members of the Prerecorded Voice Class have been  
16 damaged and are entitled to an award of \$500 in statutory damages for each  
17 violation. 47 U.S.C. § 227(b)(3).

18 40. The court should award \$1,500 in statutory damages for each  
19 violation because the violations were knowing and willful. *Id.*

20 41. The court should enjoin such violations. *Id.*

21 **SECOND CAUSE OF ACTION**  
22 **Illegal Solicitation of Persons on the DNCR**  
23 **(On Behalf of Kestle and the Do Not Call Class)**

24 42. LPG violated 47 C.F.R. § 64.1200(c)(2) by initiating calls to Kestle  
and members of the DNCR Class while their phone numbers were on the DNCR.



1 43. Kestle and members of the DNCR Class have been damaged and are  
2 entitled to an award of \$500 in statutory damages for each violation. 47 U.S.C.  
3 § 227(c)(5).

4 44. The court should award \$1,500 in statutory damages for each  
5 violation because the violations were knowing and willful. *Id.*

6 45. The court should enjoin such violations. *Id.*

7 **THIRD CAUSE OF ACTION**  
8 **Failure To Identify**  
9 **(On Behalf of Kestle and the Failure to Identify Class)**

10 46. LPG violated 47 C.F.R. § 64.1200(d)(4) by initiating calls to Kestle  
11 and members of the Failure to Identify Class without disclosing the name of the  
12 individual initiating the calls and the name of the person or entity on whose behalf  
13 the calls were made.

14 47. Kestle and members of the Failure to Identify Class have been  
15 damaged and are entitled to an award of \$500 in statutory damages for each  
16 violation. 47 U.S.C. § 227(c)(5).

17 48. The court should award \$1,500 in statutory damages for each  
18 violation because the violations were knowing and willful. *Id.*

19 49. The court should enjoin such violations. *Id.*

20 **RELIEF REQUESTED**

21 Kestle respectfully requests the Court grant the following relief:

- 22 A. Certification of the proposed Classes;  
23 B. Appointment of Kestle as class representative;  
24 C. Appointment of the undersigned as lead counsel for the Classes;

- 1 D. Injunctive relief as set forth above;
- 2 E. An award of damages to Kestle and class members, as allowed by law;
- 3 F. An award of fees, costs, and interest, as allowed by law; and
- 4 G. Orders granting such other relief as the Court deems necessary, just, and
- 5 proper.

6 **JURY DEMAND**

7 Kestle requests a jury trial as to all claims of the Complaint so triable.

8  
9 DATED November 10, 2023

Respectfully submitted,

10 */s/ John Kauffman* \_\_\_\_\_

11 John Kauffman

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