

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

Case No.:

**NIGEL LUCOMBE,
*individually and on behalf of all
others similarly situated,***

CLASS ACTION

Plaintiff,

JURY TRIAL DEMANDED

v.

PRESTIGE FAMILY ASSETS GROUP LLC,

Defendant.

/

CLASS ACTION COMPLAINT

Plaintiff Nigel Lucombe (“Plaintiff”) brings this class action against Defendant Prestige Family Assets Group, LLC (“Defendant”) and alleges as follows upon personal knowledge as to Plaintiff and Plaintiff’s own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by Plaintiff’s attorneys.

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 also engages in unsolicited telemarketing to consumers that have registered their telephone numbers on the National Do Not Call Registry.

3. Through this action, Plaintiff seeks injunctive relief to halt Defendant's unlawful conduct which has resulted in intrusion into the peace and quiet in a realm that is private and personal to Plaintiff and the Class members. Plaintiff also seeks statutory damages on behalf of themselves and members of the Class, and any other available legal or equitable remedies.

PARTIES

4. Plaintiff is a natural person entitled to bring this action under the TCPA, and a citizen and resident of Hillsborough, Florida.

5. Defendant is a Florida limited liability company with its headquarters located in Fort Myers, Florida.

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

JURISDICTION, AND VENUE

7. This Court has federal question subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331, as the action arises under the TCPA.

8. The Court has personal jurisdiction over Defendant and venue is proper in this District because Defendant directs, markets, and provides its business activities to this District, and because Defendant's unauthorized marketing scheme was directed by

Defendant to consumers in this District. Additionally, Plaintiff's telephone number has an area code that specifically coincides with locations in Florida.

FACTS

9. On or about August 23, 2023, January 17, 2024, and January 18, 2024, Defendant caused the following text messages to be delivered to Plaintiff:



Eric Recovery
Text Message
Tue, Aug 29 at 2:15 PM

Hello PDL RAPID GROWTH INVESTMENTS LLC. My name is Eric', and I'm reaching out from Prestige Family Assets Group (Central FL Region) regarding the property located at 36804 ELM AVE DADE CITY FL 33525 that was sold at a foreclosure auction. I wanted to let you know about possible surplus funds that you may be entitled to. I'd love to assist you in claiming these funds with no upfront fees. Have you heard about this before?
Reply STOP to unsubscribe.

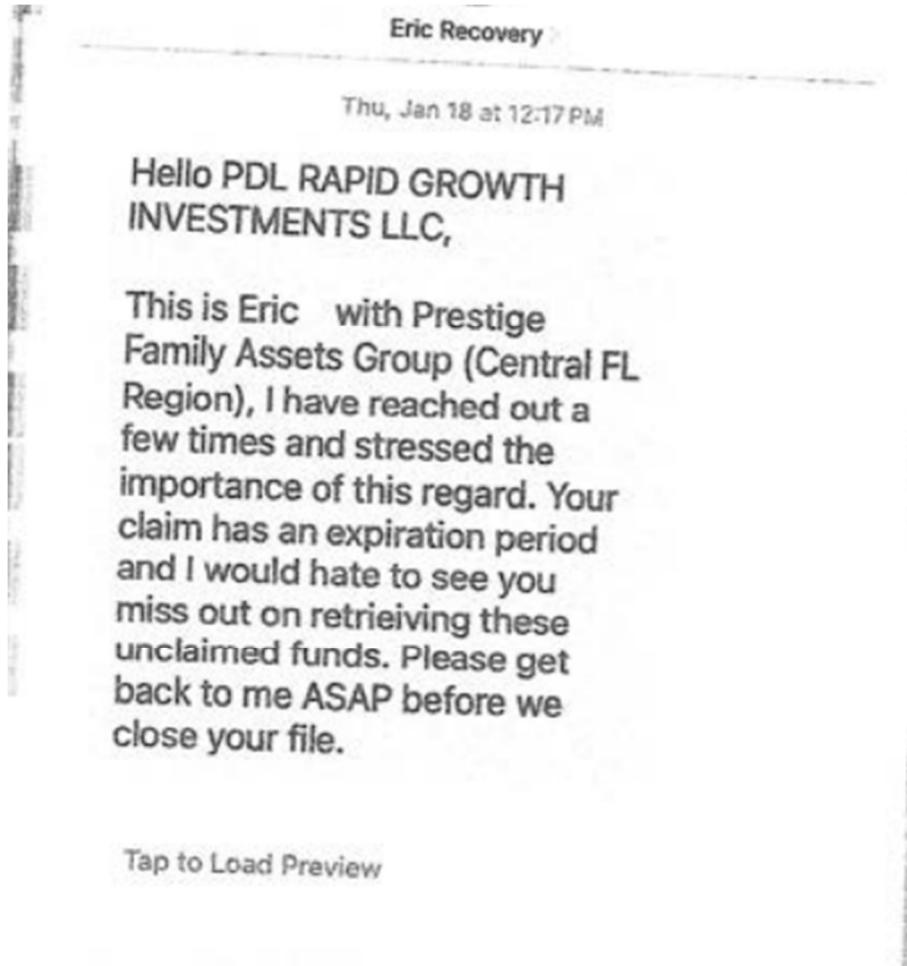
Wed, Jan 17 at 11:55 AM

Hello PDL RAPID GROWTH INVESTMENTS LLC. My name is Eric', and I'm reaching out from Prestige Family Assets Group

Wed, Jan 17 at 11:55 AM

Hello PDL RAPID GROWTH INVESTMENTS LLC. My name is Eric', and I'm reaching out from Prestige Family Assets Group (Central FL Region) regarding the property located at 36804 ELM AVE DADE CITY FL 33525 that was sold at a foreclosure auction. I wanted to let you know about possible surplus funds that you may be entitled to. I'd love to assist you in claiming these funds with no upfront fees. Have you heard about this before?

Hi this is Prestige Family Assets Group (Central Florida Region). I am sorry no one was able to take your call at this moment. Please leave your name and one of our representatives will return



10. Overall, Defendant sent between 3 and 7 text message and phone call solicitations to Plaintiff in the four years preceding the filing of this Complaint.
11. As demonstrated by the above screenshots, the purpose of Defendant's telephonic sales calls was to advertise, promote, and/or market Defendant's property, goods, and/or services.
12. Plaintiff is the regular user of the telephone number that received the above solicitations.

13. Plaintiff registered the cellular telephone number on the National Do-Not-Call Registry approximately 5 years prior to the filing of this case.

14. Plaintiff utilizes the cellular telephone number, which received Defendant's phone calls, for personal purposes and the number is Plaintiff's residential telephone line and primary means of reaching Plaintiff at home.

15. Upon information and belief, Defendant has access to outbound transmission reports for all phone calls and text messages placed advertising/promoting its services and goods. These reports show the dates, times, target telephone numbers, and content of each phone call placed with Plaintiff and the members of the Classes (as defined below).

16. Plaintiff has not transacted any business with Defendant within the past eighteen (18) months before receiving the above phone calls and text messages. Also, Plaintiff has not made any inquiry regarding Defendant's products or services within the past three (3) months before receiving the above phone calls and text messages.

17. Plaintiff never signed any type of authorization permitting or allowing Defendant to send them text message solicitations.

18. Defendant's unlawful conduct resulted in intrusion into the peace and quiet in a realm that is private and personal to Plaintiff and the Class members.

19. Defendant's phone calls and text messages caused Plaintiff and the Class

members harm, including statutory damages, inconvenience, invasion of privacy, aggravation, annoyance, and violation of their statutory privacy rights.

CLASS ALLEGATIONS

PROPOSED CLASSES

20. Plaintiff brings this lawsuit as a class action on behalf of Plaintiff individually and on behalf of all other similarly situated persons pursuant to Fed. R. Civ. P. 23. The class that Plaintiff seeks to represent (the “Class”) is defined as:

DNC Class - All persons in the United States who from four years prior to the filing of this action through the date of class certification (1) Defendant, or anyone on Defendant’s behalf, (2) placed more than one phone call and/or text message within any 12-month period; (3) where the person’s telephone number that had been listed on the National Do Not Call Registry for at least thirty days; (4) regarding Defendant’s property, goods, and/or services; (5) who did not purchase or transact business with Defendant during eighteen months immediately preceding the date of the first phone call or text message; and (6) who did not contact Defendant during the three months immediately preceding the date of the first phone call or text message with an inquiry about a product, good, or service offered by Defendant.

21. Plaintiff reserves the right to modify the Class definitions as warranted as facts are learned in further investigation and discovery.

22. Defendant and their employees or agents are excluded from the Class. Plaintiff does not know the number of members in the Class but believes the number of

members of each of the Class is in the several thousands, if not more.

NUMEROSITY

23. Upon information and belief, Defendant has placed/sent violative phone calls and text messages to telephone numbers belonging to at least 50 persons in each of the Class. The members of each the Class, therefore, are believed to be so numerous that joinder of all members is impracticable.

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

COMMON QUESTIONS OF LAW AND FACT

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

- (a) Whether Defendant can meet its burden of showing that it obtained prior express written consent to make such calls or text messages;
- (b) Whether Defendant initiated solicitation phone calls and text messages to Plaintiff and the DNC Class members who had registered their numbers on the National Do Not Call Registry;
- (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.

26. The common questions in this case are capable of having common answers. If Plaintiff's claim that Defendant routinely transmits telephonic sales calls and text messages without consent is accurate, Plaintiff and the members of the Class will have identical claims capable of being efficiently adjudicated and administered in this case.

TYPICALITY

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

PROTECTING THE INTERESTS OF CLASS MEMBERS

28. 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.

SUPERIORITY

29. 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 each member of the Class is economically unfeasible and procedurally impracticable. While the aggregate damages sustained by the each of 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 members of the Class 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.

30. 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 members of the Class are not parties to such actions.

COUNT I
VIOLATIONS OF 47 U.S.C. § 227(c) AND 64.1200(c)
(On Behalf of Plaintiff and the DNC Class)

31. Plaintiff re-alleges and incorporates the allegations set forth in paragraphs 1-30 as if fully set forth herein.

32. The TCPA's implementing regulation, 47 C.F.R. § 64.1200(c), provides in pertinent part 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.”

33. Per 47 C.F.R. § 64.1200(e), § 64.1200(c) is “applicable to any person or entity making telephone solicitations or telemarketing calls to wireless telephone numbers.”

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

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

36. Defendant violated 47 U.S.C. § 227(c)(5) because Plaintiff and DNC Class members received more than one phone call and text message in a 12-month period from Defendant in violation of 47 C.F.R. § 64.1200.

37. As a result of Defendant’s conduct as alleged herein, Plaintiff and the DNC Class members suffered actual damages and, under section 47 U.S.C. § 227(c), are entitled receive up to \$500 in damages for such violations of 47 C.F.R. § 64.1200. To the extent Defendant’s misconduct is determined to be willful and knowing, the Court

should, pursuant to 47 U.S.C. § 227(c)(5), treble the amount of statutory damages recoverable by the members of the DNC Class.

38. **WHEREFORE**, Plaintiff, on behalf of themselves and members of the DNC Class, prays for the following relief:

- a. An order certifying this case as a class action on behalf of the DNC Class as defined above, and appointing Plaintiff as the representative of the DNC Class and Plaintiff's counsel as Class Counsel;
- b. An award of statutory damages for Plaintiff and each member of the DNC Class as applicable under the TCPA;
- c. An order declaring that Defendant's actions, as set out above, violate the TCPA;
- d. An injunction requiring Defendant to comply with 47 U.S.C. § 227(c) and 47 C.F.R. 64.1200(c);
- e. An award of attorney's fees, costs, and interest, as allowed by applicable law; and
- f. Such further and other relief the Court deems reasonable and just.

JURY DEMAND

Plaintiff and members of each of the Classes hereby demand a trial by jury.

DOCUMENT PRESERVATION DEMAND

Plaintiff demands that Defendant take affirmative steps to preserve all records, lists, electronic databases or other itemization of telephone numbers associated with Defendant and the calls as alleged herein.

Date: November 11, 2024.

Respectfully Submitted,

/s/ Faaris K. Uddin _____.

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