

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT, IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

ALLEN ROUSH, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

SHARK TANK GROUP LLC,

Defendant.

Case No.

CLASS ACTION COMPLAINT

Plaintiff Allen Roush brings this class action against Defendant Shark Tank 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”), and the Florida Telephone Solicitation Act (“FTSA”), Fla. Stat. § 501.059.
2. To solicit consumers, Defendant engages in mass text messaging and continues to text message consumers after they have opted out of Defendant’s text messages.
3. Through this action, Plaintiff seeks injunctive relief to halt Defendant’s conduct, which has resulted in the invasion of privacy, harassment, aggravation, and disruption of the daily life of hundreds of individuals. Plaintiff also seeks statutory damages on behalf of Plaintiff and members of the Class, and any other available legal or equitable remedies.

PARTIES

4. Plaintiff is a natural person.

5. Defendant is a California limited liability company. Defendant directs, markets, and provides its business activities throughout the State of Florida.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction under Florida Rule of Civil Procedure 1.220 and Fla. Stat. § 26.012(2). The matter in controversy exceeds the sum or value of \$50,000 exclusive of interest, costs, and attorney's fees.

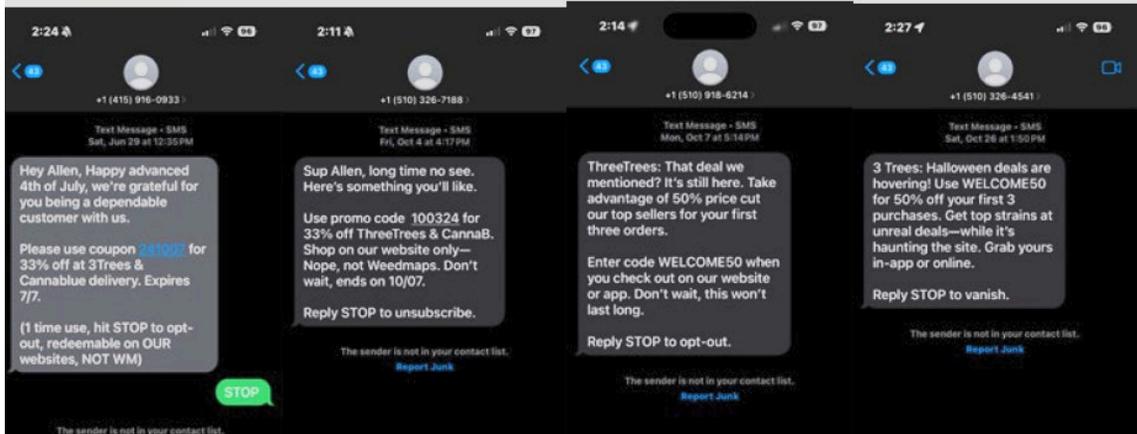
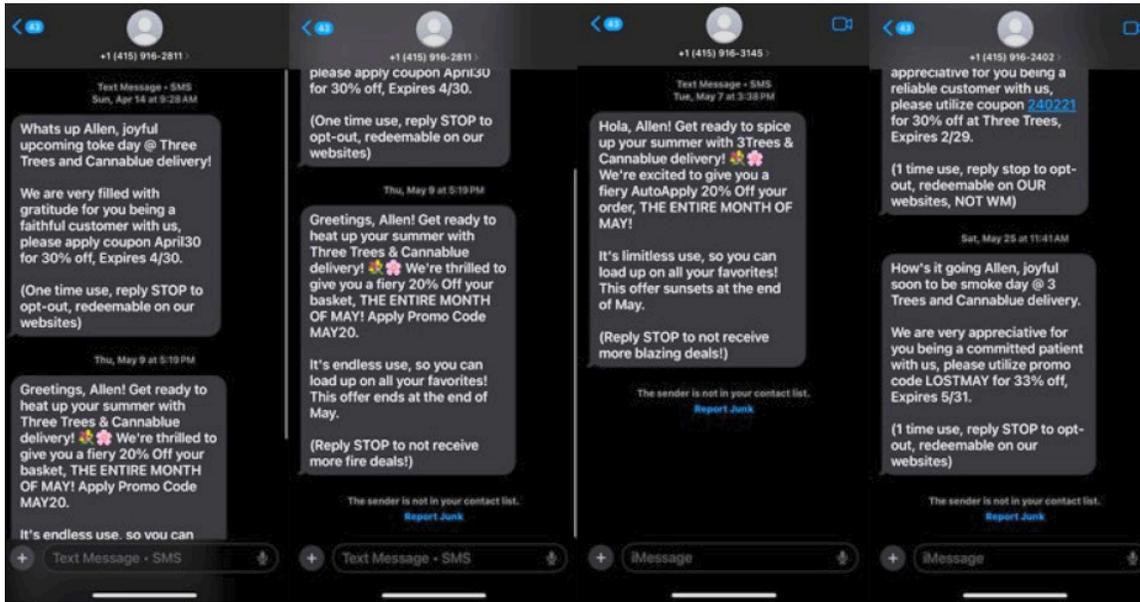
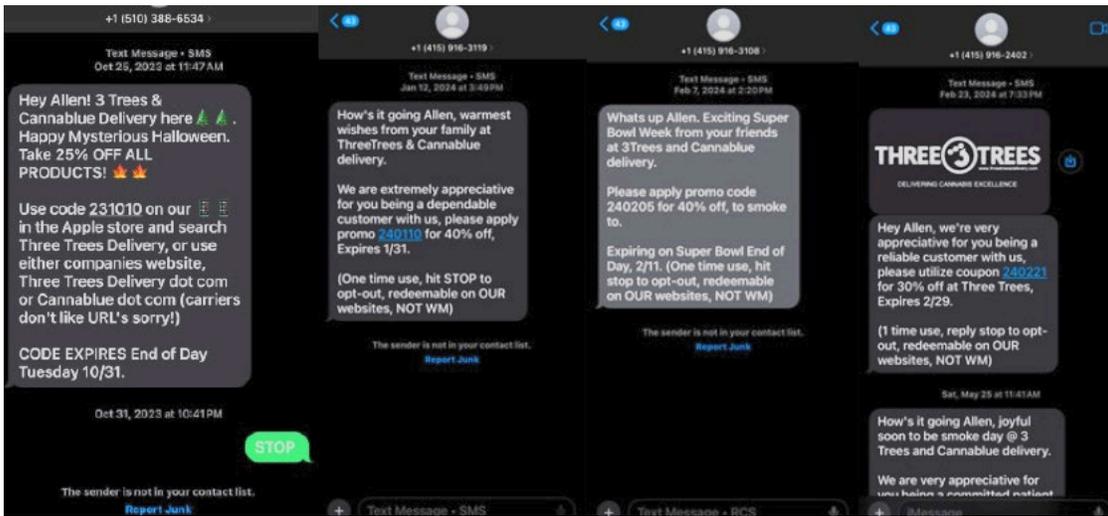
7. Defendant is subject to personal jurisdiction in Florida because this suit arises out of and relates to Defendant's contacts with this state. Defendant made or caused to be made telephonic sales calls into Florida without regards to consumers rights' in violation of the TCPA and FTSA.

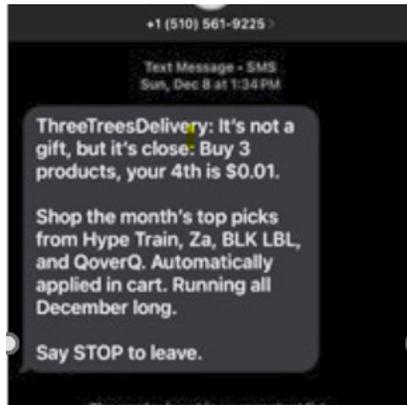
8. Personal Jurisdiction and Venue proper in this Court under *Babcock v. Whatmore*, 707 So.2d 702, 704 (Fla.1998) as class members in this District and in the State of Florida received unwanted text messages.

FACTS

9. Defendant engages in text message marketing to consumers' cell phones, even after consumers have requested to opt out of Defendant's marketing.

10. Specifically, since on or about October 25, 2023, Defendant has caused multiple text messages to be transmitted to Plaintiff's cellular telephone number ending in 4840 (the "4840 Number") after "stop" instructions by Plaintiff, as demonstrated below:





11. As depicted above, Plaintiff requested for Defendant to stop contacting him on October 25, 2023 by texting “Stop” in response as instructed by Defendant’s text message.

12. Despite this, Defendant sent Plaintiff additional text messages on January 12, 2024, February 7, 2024, February 23, 2024, April 14, 2024, May 7, 2024, May 9, 2024, May 25, 2024, June 29, 2024, October 4, 2024, October 7, 2024, October 26, 2024, and December 8, 2024, despite Plaintiff again requesting that Defendant stop texting him on June 29, 2024.

13. Defendant has the capability of immediately complying with Plaintiff’s opt-out request.

14. These facts strongly suggest that Defendant fails to ensure that requests by Plaintiff and the Class members to opt-out of future communications are honored within a reasonable time.

15. For example, these facts suggest that Defendant has failed to maintain a master opt-out list and/or failed to maintain internal policies to sufficiently honor the opt-out requests made by Plaintiff and members of the Class.

16. Moreover, these facts suggest that Defendant’s uses multiple telephone numbers to send telemarketing lists without proper procedures in place to ensure opt-out requests are honored.

17. Plaintiff’s and the Class members’ opt-out requests were not honored within a reasonable time from when the opt-out request was made.

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

19. Defendant's text messages constitute telemarketing because they encouraged the future purchase or investment in property, goods, or services, i.e., promoting Defendant's automobile sales and purchases.

20. Further, as demonstrated by the above screenshots, the purpose of Defendant's text messages was to solicit the sale of consumer goods and/or services – in this case personal automobile sales and purchases.

21. Upon information and belief, Defendant caused other text messages to be sent to individuals residing within this judicial district and with Florida area codes which are local to this judicial district.

22. Defendant's texts were not made for an emergency purpose or to collect on a debt pursuant to 47 U.S.C. § 227(b)(1)(B).

23. Upon information and belief, Defendant does not have a written policy for maintaining an internal do not call list pursuant to 47 U.S.C. § 64.1200(d)(1).

24. Upon information and belief, Defendant does not inform and train its personnel engaged in telemarketing in the existence and the use of any internal do not call list pursuant to 47 U.S.C. § 64.1200(d)(2).

25. Defendant's refusal to honor Plaintiff's opt-out requests demonstrates that Defendant does not maintain a standalone do-not-call list. The precise details regarding its lack of training are solely within Defendant's knowledge and control.

26. Defendant did not maintain the required procedures for handling and processing opt-out requests prior to the initiation of the violative text messages it sent to Plaintiff as reflected by the fact that Plaintiff made an opt-out request and that request was never processed; they were ignored by Defendant and its employees and Defendant escalated the volume of its text message solicitations.

27. Defendant sent at least two solicitations after Plaintiff's initial opt-out requests.

28. At no point in time did Plaintiff provide Defendant with his express written consent to be contacted.

29. Plaintiff has no existing business relationship with Defendant

30. To the extent that Defendant had express consent to contact Plaintiff, that consent was expressly revoked when Plaintiff responded “Stop”.

31. Plaintiff is the subscriber and/or sole user of the 4840 Number.

32. Plaintiff registered his 4840 Number with the national do-not-call registry on September 9, 2009 and has been registered at all times relevant to this action.

33. 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 her 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.

34. Upon information and belief, Defendant has access to outbound transmission reports for all text messages sent advertising/promoting its services and goods. These reports show the dates, times, target telephone numbers, and content of each message sent to Plaintiff and the Class members.

35. To send the text messages, Defendant used a messaging platform (the “Platform”), which permitted Defendant to transmit blasts of text messages.

36. The Platform also has an auto-reply function that results in the automatic transmission of text messages.

37. Defendant was not required to and did not need to utilize the Platform to send messages to Plaintiff and the Class members. Instead, Defendant opted to use the Platform to maximize the reach of its text message advertisements at a nominal cost to Defendant.

38. Defendant would be able to conduct its business operations without sending automated text messages to consumers.

39. Defendant would be able to send automated text messages to consumers, and in compliance with the FTSA, by securing the proper consent from consumers prior to sending text messages.

40. Defendant would be able to send text messages to consumers without consent by utilizing a non-automated text messaging system.

41. Accordingly, it is not impossible for Defendant to comply with the FTSA in the context of transmitting text messages.

42. The burden and cost to Defendant of securing consent from consumers that complies with the FTSA is nominal.

43. Compliance with the FTSA will not result in Defendant having to cease its business operations.

44. Compliance with the FTSA will not result in Defendant having to alter the prices of any goods or services it provides in the marketplace.

45. Plaintiff and the Class members revoked any consent they may have provided Defendant to text message them by responding with “stop” opt-out instructions.

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

CLASS ALLEGATIONS

PROPOSED CLASS

47. Plaintiff brings this lawsuit as a class action on behalf of herself individually and on behalf of all other similarly situated persons as a class action pursuant to Florida Rule of Civil Procedure 1.220(b)(2) and (b)(3).

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

Class:

All persons within the United States who, from March 4, 2021 to the date of the Court’s approval of this settlement, (1) made a request to Defendant to not receive future text messages, (2) were sent a text message from Defendant or anyone on Defendant’s behalf, (3) to said person’s residential telephone number, (4) regarding Defendant’s goods, products or services.

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

50. Defendant and its employees or agents are excluded from the Classes. Plaintiff does not know the number of members in each the Class but believes the Class members number in the several hundreds, if not more.

NUMEROSITY

51. Upon information and belief, Defendant has placed text messages messages to cellular telephone numbers belonging to approximately 1,808 persons throughout the United States after they had asked Defendant to stop doing so. The members of the Class, therefore, are believed to be so numerous that joinder of all members is impracticable.

COMMON QUESTIONS OF LAW AND FACT

52. 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 initiated telephonic sales text messages to Plaintiff and the Class members;
- b. Whether Defendant continued to send text message solicitations after opt-out requests;
- c. Whether Defendants maintain an internal do-not-call list and instruct their employees on how to use the list; and
- d. Whether Defendant is liable for damages, and the amount of such damages.

53. 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

54. 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

55. 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

56. 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.

57. 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
VIOLATION OF 47 U.S.C. § 227(c) and 47 C.F.R. § 64.1200(d)
(On Behalf of Plaintiff and the Class)

58. Plaintiff re-alleges and incorporates the foregoing allegations set forth in paragraphs 1 through 57 as if fully set forth herein.

59. In pertinent part, 47 C.F.R. § 64.1200(d) provides:

No 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. The procedures instituted must meet the following minimum standards:

(1) *Written policy.* Persons or entities making calls for telemarketing

purposes must have a written policy, available upon demand, for maintaining a do-not-call list.

(2) *Training of personnel engaged in telemarketing.* Personnel engaged in any aspect of telemarketing must be informed and trained in the existence and use of the do-not-call list.

(3) *Recording, disclosure of do-not-call requests.* If a person or entity making a call for telemarketing purposes (or on whose behalf such a call is made) receives a request from a residential telephone subscriber not to receive calls from that person or entity, the person or entity must record the request and place the subscriber's name, if provided, and telephone number on the do-not-call list at the time the request is made. Persons or entities making calls for telemarketing purposes (or on whose behalf such calls are made) must honor a residential subscriber's do-not-call request within a reasonable time from the date such request is made. This period may not exceed thirty days from the date of such request. If such requests are recorded or maintained by a party other than the person or entity on whose behalf the telemarketing call is made, the person or entity on whose behalf the telemarketing call is made will be liable for any failures to honor the do-not-call request. A person or entity making a call for telemarketing purposes must obtain a consumer's prior express permission to share or forward the consumer's request not to be called to a party other than the person or entity on whose behalf a telemarketing call is made or an affiliated entity.

60. Under 47 C.F.R. § 64.1200(e), the rules set forth in 47 C.F.R. § 64.1200(d) are applicable to any person or entity making telephone solicitations or telemarketing calls to wireless telephone numbers.

61. Plaintiff and the Internal Do Not Call Class members made requests to Defendant not to receive text messages from Defendant.

62. Defendant failed to honor Plaintiff and the Internal Do Not Call Class members opt-out requests.

63. Defendant's refusal to honor opt-out requests is indicative of Defendant's failure to implement a written policy for maintaining a do-not-call list and to train its personnel engaged in telemarketing on the existence and use of the do-not-call-list, or were negligent in doing so.

64. Thus, Defendant has violated 47 C.F.R. § 64.1200(d).

65. Pursuant to section 227(c)(5) of the TCPA, Plaintiff and the Internal Do Not Call Class members are entitled to an award of \$500.00 in statutory damages, for each and every negligent violation.

66. Plaintiff and the Internal Do Not Call Class members are also entitled to and seek injunctive relief prohibiting Defendant's conduct in the future, pursuant to section 227(c)(5).

COUNT II
VIOLATION OF THE TCPA, 47 U.S.C. § 227
(On Behalf of the Class)

67. Plaintiff re-alleges and incorporates the allegations set forth in paragraphs 1 through 57 as if fully set forth herein.

68. 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 -not-call registry of persons who do not wish to receive telephone solicitations that is maintained by the federal government."

69. 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."1

70. 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."

71. 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).

72. Defendant violated 47 C.F.R. § 64.1200(c) by initiating, or causing to be initiated, telephone solicitations to telephone subscribers such as Plaintiff and the Do Not Call Registry 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.

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

74. 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 Do Not Call Registry Class.

COUNT III
VIOLATION OF THE FTSA § 501.059(5)
(On Behalf of the Class)

75. Plaintiff re-alleges and incorporates the allegations set forth in paragraphs 1 through 57 as if fully set forth herein.

76. In pertinent part, the FTSA provides:

A telephone solicitor or other person may not initiate an outbound telephone call, text message, or voicemail transmission to a consumer, business, or donor or potential donor who has previously communicated to the telephone solicitor or other person that he or she does not wish to receive an outbound telephone call, text message, or voicemail transmission:

- (a) Made by or on behalf of the seller whose goods or services are being offered; or
- (b) Made on behalf of a charitable organization for which a charitable contribution is being solicited.

Fla. Stat. § 501.059(5).

77. "Telephone solicitor" means a natural person, firm, organization, partnership, association, or corporation, or a subsidiary or affiliate thereof, doing business in this state, who makes

or causes to be made a telephonic sales call, including, but not limited to, calls made by use of automated dialing or recorded message devices.” Fla. Stat. § 501.059(1)(i).

78. Defendant is a telephone solicitor as defined under the FTSA.

79. Plaintiff and the Class Members are consumers who received one or more text messages regarding Defendant’s goods and services after they communicated to Defendant that they did not wish to receive Defendant’s text messages.

80. Plaintiff and the Class members made requests to Defendant not to receive texts from Defendant.

81. Defendant continued to text message Plaintiff and the Class Members to harass them into making purchases from Defendant.

82. Defendant failed to honor Plaintiff’s and the Class members’ opt-out requests.

83. As a result of Defendant’s conduct, and pursuant to § 501.059(10)(a) of the FTSA, Plaintiff and Class members were harmed and are each entitled to a minimum of \$500.00 in damages for each violation. Plaintiff and the Class members are also entitled to an injunction against future calls.
Id.

84. Plaintiff requests for this Court to enter an Order granting the relief outlined in the Prayer for Relief below.

PRAYER FOR RELIEF

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

- a) An order certifying this case as a class action on behalf of the Class as defined above, and appointing Plaintiff as the representative of the Class and Plaintiff’s counsel as Class Counsel;
- b) An award of statutory damages for Plaintiff and each member of the Class as applicable under the TCPA and FTSA;
- c) An order declaring that Defendant’s actions, as set out above, violate the TCPA and FTSA;

d) Such further and other relief as the Court deems necessary.

JURY DEMAND

Plaintiff hereby demand a trial by jury.

DOCUMENT PRESERVATION DEMAND

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

Dated: January 5, 2026

HIRALDO P.A.

/s/ Manuel S. Hiraldo
Manuel S. Hiraldo, Esq.
Florida Bar No. 030380
101 NE 3rd Avenue, Suite 1500
Ft. Lauderdale, Florida 33301
Email: mhiraldo@hirdolaw.com
Telephone: 954.400.4713

Michael L. Eisenband
/s/ Michael Eisenband
515 E. Las Olas Boulevard, Suite 120
Ft. Lauderdale, Florida 33301
Michael Eisenband
Florida Bar No. 94235
Email: MEisenband@Eisenbandlaw.com
Telephone: 954.732.2792

IJH LAW

By: /s/ Ignacio Hiraldo
Ignacio J. Hiraldo (State Bar No. 56031)
1200 Brickell Ave Ste 1950
Miami, FL 33131-3298
E: ijhiraldo@ijhlaw.com
T: 786.496.4469

Counsel for Plaintiff and the Class