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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

DAVID VACCARO, individually and ) Case No.  
on behalf of all others similarly situated,) )  
Plaintiff, ) **CLASS ACTION**  
 ) **COMPLAINT FOR DAMAGES**  
vs. ) **AND INJUNCTIVE RELIEF**  
 ) **PURSUANT TO THE TELEPHONE**  
NEXTDOOR.COM, INC., ) **CONSUMER PROTECTION ACT,**  
 ) **47 U.S.C. § 227, ET SEQ.**  
Defendant. ) **DEMAND FOR JURY TRIAL**

**INTRODUCTION**

1. DAVID VACCARRO (“Plaintiff”) bring this Class Action Complaint for damages, injunctive relief, and any other available legal or equitable remedies, resulting from the illegal actions of NEXTDOOR.COM, INC. (“Defendants”), in negligently contacting Plaintiff on Plaintiff’s cellular telephone, in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq., (“TCPA”), thereby invading Plaintiff’s privacy. Plaintiff alleges as follows upon personal knowledge as to himself and his own acts and experiences, and, as to all other

1 matters, upon information and belief, including investigation conducted by their  
2 attorneys.

3 2. The TCPA was designed to prevent calls and messages like the ones  
4 described within this complaint, and to protect the privacy of citizens like  
5 Plaintiff. “Voluminous consumer complaints about abuses of telephone  
6 technology – for example, computerized calls dispatched to private homes –  
7 prompted Congress to pass the TCPA.” *Mims v. Arrow Fin. Servs., LLC*, 132 S.  
8 Ct. 740, 744 (2012).

9 3. In enacting the TCPA, Congress intended to give consumers a choice  
10 as to how creditors and telemarketers may call them, and made specific findings  
11 that “[t]echnologies that might allow consumers to avoid receiving such calls are  
12 not universally available, are costly, are unlikely to be enforced, or place an  
13 inordinate burden on the consumer. TCPA, Pub.L. No. 102–243, § 11. Toward  
14 this end, Congress found that  
15

16 [b]anning such automated or prerecorded telephone calls to the  
17 home, except when the receiving party consents to receiving the call  
18 or when such calls are necessary in an emergency situation affecting  
19 the health and safety of the consumer, is the only effective means of  
20 protecting telephone consumers from this nuisance and privacy  
21 invasion.

22 *Id.* at § 12; see also *Martin v. Leading Edge Recovery Solutions, LLC*, 2012 WL  
23 3292838, at\* 4 (N.D.Ill. Aug. 10, 2012) (citing Congressional findings on  
24 TCPA’s purpose).

25 4. Congress also specifically found that “the evidence presented to the  
26 Congress indicates that automated or prerecorded calls are a nuisance and an  
27 invasion of privacy, regardless of the type of call...” *Id.* at §§ 12-13. See also,  
28 *Mims*, 132 S. Ct. at 744.



**PARTIES**

1  
2 9. Plaintiff is, and at all times mentioned herein was, a citizen and  
3 resident of the State of California. Plaintiff is, and at all times mentioned herein  
4 was, a “person” as defined by 47 U.S.C. § 153 (39).

5 10. Plaintiff is informed and believes, and thereon alleges, that  
6 Defendants are, and at all times mentioned herein were, a business incorporated  
7 in Delaware and resides and does business within the State of California.  
8 Defendants, are and at all times mentioned herein were “persons,” as defined by  
9 47 U.S.C. § 153 (39). Defendants provide social network for neighborhoods.  
10 Plaintiff alleges that at all times relevant herein Defendants conducted business in  
11 the State of California and in the County of Los Angeles, and within this judicial  
12 district.  
13

**FACTUAL ALLEGATIONS**

14  
15 11. At all times relevant Defendants conducted business in the State of  
16 California and in the County of Los Angeles, within this judicial district.

17 12. On or about November of 2019, Plaintiff received a text message  
18 from Defendants on his cellular telephone, number ending in -3928.

19 13. During this time, Defendants began to use Plaintiff’s cellular  
20 telephone for the purpose of sending Plaintiff spam advertisements and/or  
21 promotional offers, via text messages, including a text message sent to and  
22 received by Plaintiff on or about November 18, 2019.

23 14. On November 18, 2019, Plaintiff received a text message from  
24 Defendants that read:

25  
26 “Click here to download Nextdoor  
<https://nextdoor.app.link/ICYRuYpJI1>”

27 ///

28 ///

1 15. These text messages placed to Plaintiff's cellular telephone were  
2 placed via an "automatic telephone dialing system," ("ATDS") as defined by 47  
3 U.S.C. § 227 (a)(1) as prohibited by 47 U.S.C. § 227 (b)(1)(A).

4 16. The telephone number that Defendants, or their agent called was  
5 assigned to a cellular telephone service for which Plaintiff incurs a charge for  
6 incoming calls pursuant to 47 U.S.C. § 227 (b)(1).

7 17. These telephone calls constituted calls that were not for emergency  
8 purposes as defined by 47 U.S.C. § 227 (b)(1)(A)(i).

9 18. Plaintiff was never a customer of Defendants and never provided his  
10 cellular telephone number Defendants for any reason whatsoever. Accordingly,  
11 Defendants and their agents never received Plaintiffs prior express consent to  
12 receive unsolicited text messages, pursuant to 47 U.S.C. § 227 (b)(1)(A).

13 19. These telephone calls by Defendant, or its agents, violated 47 U.S.C.  
14 § 227(b)(1).

15  
16 **CLASS ACTION ALLEGATIONS**

17 20. Plaintiff brings this action on behalf of herself and on behalf of and  
18 all others similarly situated ("the Class").

19 21. Plaintiff represents, and is a member of, the Class, consisting of all  
20 persons within the United States who received any unsolicited text messages from  
21 Defendants which text message was not made for emergency purposes or with the  
22 recipient's prior express consent within the four years prior to the filing of this  
23 Complaint.

24 22. Defendants and their employees or agents are excluded from the  
25 Class. Plaintiff does not know the number of members in the Class, but believes  
26 the Class members number in the hundreds of thousands, if not more. Thus, this  
27  
28

1 matter should be certified as a Class action to assist in the expeditious litigation of  
2 this matter.

3 23. Plaintiff and members of the Class were harmed by the acts of  
4 Defendants in at least the following ways: Defendants, either directly or through  
5 their agents, illegally contacted Plaintiff and the Class members via their cellular  
6 telephones by using marketing and text messages, thereby causing Plaintiff and  
7 the Class members to incur certain cellular telephone charges or reduce cellular  
8 telephone time for which Plaintiff and the Class members previously paid, and  
9 invading the privacy of said Plaintiff and the Class members. Plaintiff and the  
10 Class members were damaged thereby.

11 24. This suit seeks only damages and injunctive relief for recovery of  
12 economic injury on behalf of the Class, and it expressly is not intended to request  
13 any recovery for personal injury and claims related thereto. Plaintiff reserves the  
14 right to expand the Class definition to seek recovery on behalf of additional  
15 persons as warranted as facts are learned in further investigation and discovery.  
16

17 25. The joinder of the Class members is impractical and the disposition  
18 of their claims in the Class action will provide substantial benefits both to the  
19 parties and to the court. The Class can be identified through Defendants' records  
20 or Defendants' agents' records.

21 26. There is a well-defined community of interest in the questions of law  
22 and fact involved affecting the parties to be represented. The questions of law  
23 and fact to the Class predominate over questions which may affect individual  
24 Class members, including the following:

- 25 a) Whether, within the four years prior to the filing of this Complaint,  
26 Defendants or their agents sent any text messages to the Class (other  
27 than a message made for emergency purposes or made with the prior  
28

1 express consent of the called party) to a Class member using any  
2 automatic dialing system to any telephone number assigned to a  
3 cellular phone service;

4 b) Whether Plaintiff and the Class members were damaged thereby, and  
5 the extent of damages for such violation; and

6 c) Whether Defendants and their agents should be enjoined from  
7 engaging in such conduct in the future.

8 27. As a person that received at least one marketing and text message  
9 without Plaintiff's prior express consent, Plaintiff is asserting claims that are  
10 typical of the Class. Plaintiff will fairly and adequately represent and protect the  
11 interests of the Class in that Plaintiff has no interests antagonistic to any member  
12 of the Class.

13 28. Plaintiff and the members of the Class have all suffered irreparable  
14 harm as a result of the Defendants' unlawful and wrongful conduct. Absent a  
15 class action, the Class will continue to face the potential for irreparable harm. In  
16 addition, these violations of law will be allowed to proceed without remedy and  
17 Defendants will likely continue such illegal conduct. Because of the size of the  
18 individual Class member's claims, few, if any, Class members could afford to  
19 seek legal redress for the wrongs complained of herein.

20 29. Plaintiff has retained counsel experienced in handling class action  
21 claims and claims involving violations of the Telephone Consumer Protection  
22 Act.  
23

24 30. A class action is a superior method for the fair and efficient  
25 adjudication of this controversy. Class-wide damages are essential to induce  
26 Defendants to comply with federal and California law. The interest of Class  
27 members in individually controlling the prosecution of separate claims against  
28

1 Defendants are small because the maximum statutory damages in an individual  
2 action for violation of privacy are minimal. Management of these claims is likely  
3 to present significantly fewer difficulties than those presented in many class  
4 claims.

5 31. Defendants have acted on grounds generally applicable to the Class,  
6 thereby making appropriate final injunctive relief and corresponding declaratory  
7 relief with respect to the Class as a whole.

8 **FIRST CAUSE OF ACTION**

9 **NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT**

10 **47 U.S.C. § 227 ET SEQ.**

11 32. Plaintiff incorporates by reference all of the above paragraphs of this  
12 Complaint as though fully stated herein.

13 33. The foregoing acts and omissions of Defendants constitute numerous  
14 and multiple negligent violations of the TCPA, including but not limited to each  
15 and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

16 34. As a result of Defendants' negligent violations of 47 U.S.C. § 227 et  
17 seq, Plaintiff and The Class are entitled to an award of \$500.00 in statutory  
18 damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

19 35. Plaintiff and the Class are also entitled to and seek injunctive relief  
20 prohibiting such conduct in the future.

21 **SECOND CAUSE OF ACTION**

22 **KNOWING AND/OR WILLFUL VIOLATIONS OF THE**

23 **TELEPHONE CONSUMER PROTECTION ACT**

24 **47 U.S.C. § 227 ET SEQ.**

25 36. Plaintiff incorporates by reference all of the above paragraphs of this  
26 Complaint as though fully stated herein.  
27  
28



1 37. The foregoing acts and omissions of Defendants constitute numerous  
2 and multiple knowing and/or willful violations of the TCPA, including but not  
3 limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 et  
4 seq.

5 38. As a result of Defendants' knowing and/or willful violations of 47  
6 U.S.C. § 227 et seq, Plaintiff and The Class are entitled to an award of \$1,500.00  
7 in statutory damages, for each and every violation, pursuant to 47 U.S.C. §  
8 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

9 39. Plaintiff and the Class are also entitled to and seek injunctive relief  
10 prohibiting such conduct in the future.

11 **PRAYER FOR RELIEF**

12 Wherefore, Plaintiff respectfully requests the Court grant Plaintiff, and The  
13 Class members the following relief against Defendants:

14 **FIRST CAUSE OF ACTION FOR NEGLIGENT VIOLATION OF**  
15 **THE TCPA, 47 U.S.C. § 227 ET SEQ.**

- 16
- 17 • As a result of Defendants' negligent violations of 47 U.S.C. § 227(b)(1),  
18 Plaintiff seeks for himself and each Class member \$500.00 in statutory  
19 damages, for each and every violation, pursuant to 47 U.S.C. §  
20 227(b)(3)(B).
  - 21 • Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such  
22 conduct in the future.
  - 23 • Any other relief the Court may deem just and proper.

24 **SECOND CAUSE OF ACTION FOR NEGLIGENT VIOLATION OF**  
25 **THE TCPA, 47 U.S.C. § 227 ET SEQ.**

- 26
- 27 • As a result of Defendants' negligent violations of 47 U.S.C. § 227(b)(1),  
28 Plaintiff seeks for himself and each Class member \$1500.00 in statutory

1 damages, for each and every violation, pursuant to 47 U.S.C. §  
2 227(b)(3)(B).

- 3 • Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such  
4 conduct in the future.  
5 • Any other relief the Court may deem just and proper.

6 **TRIAL BY JURY**

7 40. Pursuant to the seventh amendment to the Constitution of the United  
8 States of America, Plaintiff is entitled to, and demands, a trial by jury.

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10  
11 Respectfully Submitted this 6th Day of December, 2019.

12 LAW OFFICES OF TODD M. FRIEDMAN, P.C.

13  
14 By: /s/ Todd M. Friedman  
15 Todd M. Friedman  
16 Law Offices of Todd M. Friedman  
17 Attorney for Plaintiff  
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