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Small Ross

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Small Ross,

Plaintiff,

vs.

Ebay, Inc.

Defendant.

) Case No.: 5:14 CV 01693

) **COMPLAINT FOR DAMAGES AND**
) **INJUNCTIVE RELIEF PURSUANT TO 47**
) **U.S.C. §227, ET SEQ (THE TELEPHONE**
) **CONSUMER PROTECTION ACT)**

) **JURY TRIAL DEMANDED**

Plaintiff Small Ross alleges the following upon information and belief based upon
personal knowledge:

NATURE OF THE CASE

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF PURSUANT TO 47 U.S.C. §227, ET SEQ

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1 acting within the course and scope of said agency and/or employment with full knowledge and
2 consent of each of the other Defendants. Plaintiff is informed and believes that each of the acts
3 and/or admissions complained of herein was made known to, and ratified by, each of the other
4 Defendants.

5
6 **BACKGROUND ALLEGATIONS**

7 **The Telephone Consumer Protection Act of 1991 (TCPA) 47 U.S.C. § 227**

8 8. In response to a number of consumer complaints regarding telemarketing
9 practices, the Congress of the United States enacted the Telephone Consumer Practices Act (47
10 U.S.C. §227, et seq.)

11 9. Among other things, the TCPA regulates the use of automated telephone
12 equipment, also known as “robocallers” with regard to the calling of wireless or cellular
13 telephones. More specifically, 227(b)(1)(A)(iii) prohibits the robocalling of any cellular or
14 wireless telephone except for emergency purposes or except where the called party has given
15 express consent.
16

17 10. The Federal Communications Commission found that such calls are prohibited
18 because, as Congress found, automated or pre-recorded calls are a greater nuisance and invasion
19 of privacy than live solicitation calls. Moreover, such calls can be inconvenient and costly
20 because wireless customers may be charged for incoming calls.
21

22 **Ebay’s Practice of Robocalling Mr. Ross on his Cell Phone**

23
24
25
26 **COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF PURSUANT TO 47 U.S.C. §227, ET SEQ**

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1 11. Beginning on or around May 2013, Ebay contacted Mr. Ross on his cellular
2 telephone (number ending in 7505 and/or 4560) in an attempt to collect an alleged outstanding
3 debt owed by Plaintiff.

4 12. On multiple instances, Ebay placed at up to 20 calls in a single day to Mr. Ross’
5 cellular telephone for thirty days, seeking to collect the alleged debt owed by Mr. Ross. In all,
6 Ebay placed at least 600 calls to Mr. Ross’ cell phone.

7 13. Ebay used an “automatic telephone dialing system”, as defined by 47 U.S.C.
8 §227(a)(1), to place calls its calls to Mr. Ross seeking to collect the debt allegedly owed by Mr.
9 Ross.
10

11 14. Ebay’s calls constituted calls that were not for emergency purposes as defined by
12 47 U.S.C. §227(b)(1)(A).
13

14 15. Ebay’s calls were placed to a telephone number assigned to a cellular telephone
15 service for which Plaintiff incurs a charge for incoming calls pursuant to 47 U.S.C §227(b)(1).
16

17 16. According to information and belief, Ebay never received Mr. Ross’ “prior
18 express consent” to receive calls on using an automatic telephone dialing system or an artificial
19 or prerecorded voice on his cellular telephone pursuant to 47 U.S.C. §227(b)(1)(A). If Mr. Ross
20 did unwittingly give Ebay “express consent”, he later revoked said “express consent” by telling
21 Ebay to stop calling him.

22 17. On a few occasions, Mr. Ross answered Ebay’s telephone calls in order to advise
23 them to cease calling on his cell phone. However, Mr. Ross was unable to speak with a live
24

25
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1 human representative as Mr. Ross was routinely greeted by “dead air” on the other end of the
2 call.

3 **FIRST CAUSE OF ACTION**

4 **Negligent Violations of the Telephone Consumer Protection Act**

5 **47 U.S.C. §227 et seq.**

6
7 18. Mr. Ross repeats and incorporates by reference into this cause of action the
8 allegations set forth above at paragraphs 1-17.

9 19. The foregoing acts and omissions of Ebay constitute numerous and multiple
10 negligent violations of the TCPA, including but not limited to each and every one of the above
11 cited provisions of 47 U.S.C. section 227 et. seq. Pursuant to 47 U.S.C. section 227(b)(3)(B),
12 Plaintiff is entitled to an award of \$500.00 in statutory damages, for each and every violation.
13

14 20. Plaintiff is also entitled to and seeks injunctive relief prohibiting such conduct in
15 the future.

16 **SECOND CAUSE OF ACTION**

17 **Knowing or Willful Violations of the Telephone Consumer Protection Act**

18 **47 U.S.C. §227 et seq.**

19
20 21. Plaintiff repeats and incorporates by reference into this cause of action the
21 allegations set forth above at paragraphs 1-17.

22 22. The foregoing acts and omissions of Ebay constitute numerous and multiple
23 knowing and/or willful violations of the TCPA, including but not limited to each and every one
24 of the above-cited provisions of 47 U.S.C. section 227 et seq.
25

26 **COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF PURSUANT TO 47 U.S.C. §227, ET SEQ**

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JURY TRIAL DEMAND

Plaintiff Small Ross hereby requests a jury trial on the claims of the complaint.

Dated this 14th day of August, 2014.

ROBINSON BRADFORD LLP

By: /S/Matthew C. Bradford, Esq.
Matthew C. Bradford
ROBINSON BRADFORD LLP
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