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8 Attorney for Plaintiff, Winifred Cabiness

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA

11 WINIFRED CABINESS,	)	Case No.
	)	
12 Plaintiff,	)	
	)	
13 v.	)	<b>COMPLAINT FOR VIOLATION OF</b>
	)	<b>TELEPHONE CONSUMER</b>
14	)	<b>PROTECTION ACT</b>
15 EDUCATIONAL FINANCIAL SOLUTIONS,	)	
16 LLC DBA CAMPUS DEBT SOLUTIONS,	)	
and DOES 1-10,	)	
	)	<b>DEMAND FOR JURY TRIAL</b>
17 Defendant.	)	

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19  
20 Plaintiff WINIFRED CABINESS (“Ms. CABINESS”), through her attorneys, alleges on  
21 personal information and on information and belief based upon the investigation made by and  
22 through her attorneys, as follows.

23 **JURISDICTION**

24 1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C.  
25 § 1331 as the claims alleged herein arise under the Telephone Consumer Protection Act, 47  
26 U.S.C. § 277. *Mims v. Arrow Fin. Serv., LLC*, 132 S.Ct. 740 (2012).

27 2. Injunctive relief is available under 47 U.S.C. §227(b)(3)(A).

1 **VENUE**

2 3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because Defendant  
3 conducts business in this District, and the actions giving rise to this suit occurred within this  
4 District.

5 **PARTIES**

6 4. Plaintiff WINIFRED CABINESS is, and at all times relevant was, a natural  
7 person and a citizen of California residing in Contra Costa County, California.

8 5. Defendant EDUCATIONAL FINANCIAL SOLUTIONS, LLC dba CAMPUS  
9 DEBT SOLUTIONS, is a corporation organized and existing under the laws of the State of  
10 Delaware, with its principal place of business in the State of Florida, and doing business in the  
11 State of California.

12 6. DOES 1-10 are the individuals who initiated or oversaw the phone calls to  
13 Plaintiff's phone. Plaintiff is ignorant of their identities because she did not answer the phone  
14 and did not speak with them. Plaintiff therefore sues these Defendants by fictitious names.  
15 Plaintiff will amend this complaint to allege their true names and capacities when ascertained.

16 **INTRODUCTION**

17 7. Within the past year, Plaintiff's cellular telephone has been bombarded with calls  
18 from EDUCATIONAL FINANCIAL SERVICES, LLC dba CAMPUS DEBT SOLUTIONS  
19 ("CDS"). CDS initially misled Ms. CABINESS to believe that it was an agent of the  
20 Department of Education. Upon discovering that it was not, Ms. CABINESS told an agent of  
21 CDS by e-mail to refrain from any further calls. Yet her instruction was ignored. CDS called  
22 Ms. CABINESS repeatedly over the subsequent months, often multiple times in the same day.  
23 The calls continue and Ms. CABINESS now will not answer calls from numbers that she does  
24 not recognize, fearing that they will be from CDS.

25 8. The Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq., prohibits this  
26 practice and forbids the use of an Automatic Telephone Dialing System to place calls to cellular  
27 telephones.

**STATEMENT OF FACTS**

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2 9. Sometime prior to May 2015, Defendant EDUCATIONAL FINANCIAL  
3 SERVICES, LLC dba CAMPUS DEBT SOLUTIONS gained control of a telephone number –  
4 (800) 848-0979 – that used to belong to the United States Department of Education (“DoEd”).  
5 The DoEd had previously used the number as a call center for federally backed student loans,  
6 and it had listed the number on both DoEd forms and websites.

7 10. In mid-May, Ms. CABINESS attempted to contact the DoEd regarding her  
8 student loans. She found the (800) 848-0979 number listed on one of her old DoEd account  
9 statements and she called it, unaware that the number had since been acquired by CDS.

10 11. On the call with CDS, the CDS representative remained vague about his identity  
11 and employer, and Ms. CABINESS believed that she was speaking with a representative of the  
12 DoEd.

13 12. The CDS representative requested and obtained Ms. CABINESS’ social security  
14 number, her full name, and her login credentials for the National Student Loan Data System –  
15 the DoEd’s website for borrowers to access their loan information. However, when the  
16 representative pressed Ms. CABINESS for authorization to withdraw fees directly from her  
17 bank account, Ms. CABINESS became suspicious about with whom she was speaking, and told  
18 the representative that she would call back the next day.

19 13. Ms. CABINESS attempted to call the representative back the next day. She  
20 connected to a message system that identified the company, not as DoED, but as Campus Debt  
21 Solutions. Ms. CABINESS immediately ended the call and did not call back again.

22 14. Over the next several days, an employee of CDS named Daniel Benitez  
23 repeatedly called Ms. CABINESS on her cell phone, (xxx)xxx-0913, and tried to pressure her to  
24 enter into a loan repayment plan through CDS.

25 15. On May 27, 2015, concerned and upset by the constant calls, Ms. CABINESS  
26 sought legal advice at the East Bay Community Law Center (“EBCLC”). With EBCLC’s help,  
27 Ms. CABINESS sent an e-mail to CDS, addressed to DBenitez@campusdebt.com, asking to be  
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1 placed on CDS' do not call list. She stated in the e-mail: "I am not interested in any services  
2 with your company, Campus Debt Solutions. Please destroy any information you have collected  
3 from me and cease all contact immediately."

4 16. On June 23, 2015, Ms. CABINESS received two calls from (510) 270-2836 – a  
5 number that she did not recognize. She did not answer the calls. Following this, an advocate at  
6 EBCLC, called the (510) 270-2836 phone number and was connected to Campus Debt  
7 Solutions.

8 17. Beginning in November 2015, and continuing through the new year, CDS called  
9 Ms. CABINESS's cell phone repeatedly from the (510) 270-2836 number, often several times  
10 in the same day. These repeated calls to Ms. CABINESS, particularly during the holidays,  
11 caused her a large amount of stress and anxiety. She did not answer the calls.

12 18. As of February 2016, Ms. CABINESS was still receiving calls from CDS to her  
13 cell phone.

14 19. CDS indicates on its website ([www.campusdebt.com](http://www.campusdebt.com)), and specifically on its  
15 privacy policy page ([www.campusdebt.com/about/privacy-policy](http://www.campusdebt.com/about/privacy-policy)) that it uses an Automatic  
16 Telephone Dialing System to place both phone calls and text messages.

17 20. On February 11, Ms. CABINESS answered a call from (510) 270-2836. The  
18 phone rang for several seconds before she answered. Upon answering, Ms. CABINESS heard  
19 only silence for several seconds, then Ms. CABINESS hung up the phone.

20 21. Ms. CABINESS is informed and believes, and on the basis of such information  
21 and belief alleges that her experience with the call from CDS – answering the phone but hearing  
22 only silence or "dead air" – indicates that the call was placed using a predictive dialing system.  
23 A predictive dialing system allows a single human operator to make calls to multiple consumers  
24 at the same time. Whichever consumer answers the phone first will be connected to the human  
25 operator. All further consumers that answer the phone will hear only silence.

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**FIRST CAUSE OF ACTION**

**(Telephone Consumer Protection Act)**

22. Plaintiff alleges and incorporates herein by this reference each and every allegation set forth in all other paragraphs.

23. Defendant violated 47 U.S.C. § 227(b)(1)(A)(iii) of the Telephone Consumer Protection Act by making telephone calls to Plaintiff’s cellular telephone, which were initiated by an automatic telephone dialing system, and which were made without Plaintiff’s prior express consent.

24. The foregoing acts of Defendant constitute a violation of the Telephone Consumer Protection Act and its implementing regulations.

25. Defendant’s violations were negligent, or alternatively, they were willful or knowing. 47 U.S.C. § 312(f)(1).

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests that judgment be entered against Defendant and in favor of Plaintiff for:

- A. \$500 in statutory damages for each violation of the Telephone Consumer Protection Act held not to be a knowing or willful violation;
- B. \$1,500 treble damages, for each violation of the Telephone Consumer Protection Act held to be a knowing or willful violation;
- C. A permanent injunction prohibiting Defendant from placing non-emergency calls to Plaintiff’s cellular telephone by use of an automatic telephone dialing system;
- D. Costs of the instant suit; and
- E. Such other or further relief as the Court deems just and proper.

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Dated: March 4, 2016

/S/ Sharon Djemal  
3130 Shattuck Avenue  
Berkeley, CA 94705  
Email: [sdjemal@ebclc.org](mailto:sdjemal@ebclc.org)  
Tel: (510) 269-6612

**JURY DEMAND**

Plaintiff hereby demands trial by jury.

/S/ Sharon Djemal

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Cabiness, Winifred

(b) County of Residence of First Listed Plaintiff Alameda, CA (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Sharon Djemal, SBN 208461; (510)269-6612 East Bay Community Law Center 3130 Shattuck Ave., Berkeley, CA 94705

DEFENDANTS

Educational Financial Services, LLC dba Campus Debt Solutions, and DOES 1-10

County of Residence of First Listed Defendant Broward County, FL (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Real Estate, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 47 U.S.C. §227. Brief description of cause: Defendant engaged in phone calls to Plaintiff's cell phone in violation of 47 U.S.C. §227

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 3/4/2016 SIGNATURE OF ATTORNEY OF RECORD S/ Sharon Djemal

(Place an "X" in One Box Only)

- San Francisco/Oakland, San Jose, Eureka

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.