

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

RONALD FRENCH, individually and on)	
behalf of others similarly situated,)	Case No. 1:22-cv-07158
Plaintiff,)	
)	
v.)	
)	
TRIBUNE PUBLISHING COMPANY,)	Jury Trial Demanded
Defendant.)	

CLASS ACTION COMPLAINT

1. Defendant Tribune Publishing Company (“Tribune”) has repeatedly called Plaintiff’s residential phone line for the purpose of encouraging the purchase of its newspapers.
2. Tribune continued making these telemarketing calls to Plaintiff’s number after Plaintiff told it to stop calling, that his mother whom it was trying to reach had passed away, and that consequently there would be no renewal of her Tribune subscription.
3. Tribune’s calls to Plaintiff violated the Telephone Consumer Protection Act’s robocall, Internal Do Not Call, and Do Not Call Registry provisions.
4. Plaintiff seeks money damages and injunctive relief for himself and classes of other similarly situated persons, pursuant to the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227.

INTRODUCTION

5. Advancements in telephone dialing technology by the 1980s and 90s made reaching a large number of consumers by telephone easier and more cost-effective. However, this technology has also brought with it an onslaught of unsolicited robocalls, spam text messages, and junk faxes that intrude on individual privacy and waste consumer time and money. “Unrestricted telemarketing,” Congress determined, “can be an intrusive invasion of

privacy.” *Mims v. Arrow Fin. Servs., LLC*, 565 U.S. 368, 372 (2012) (quoting TCPA, § 2, ¶ 5, 105 Stat. 2394, note following 47 U.S.C. § 227 (Congressional Findings)). As a result, the government enacted the Telephone Consumer Protection Act to combat these widespread telecommunications abuses. *Id.*

6. As is relevant here, the TCPA’s regulations provide 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.” 47 C.F.R. § 64.1200(c)(2).

7. The TCPA further prohibits “initiat[ing] 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[.]” 47 C.F.R. § 64.1200(d).

8. The FCC—which develops the rules and regulations implementing the TCPA—has explained that its “rules generally establish that the party on whose behalf a solicitation is made bears ultimate responsibility for any violations.” *In re Rules & Regulations Implementing the TCPA*, 10 FCC Rcd. 12391, at ¶ 13 (1995).

9. The FCC has “repeatedly acknowledged the existence of vicarious liability under the TCPA.” *Gomez v. Campbell-Ewald Co.*, 768 F.3d 871, 878 (9th Cir. 2014) (citing *In re Joint Petition Filed by DISH Network, LLC et al. for Declaratory Ruling Concerning the TCPA Rules*, 28 FCC Rcd. 6574 (2013) (“*FCC 2013 Ruling*”). In addition to formal agency, principles of apparent authority and ratification may also provide a basis for vicarious seller liability for TCPA violations. *FCC 2013 Ruling*, 28 FCC Rcd. at 6584 ¶ 28.

10. The TCPA provides for injunctive relief and the greater of actual damages or up to \$500 per violation, which can be trebled where the statute was “willfully or knowingly” violated. 47 U.S.C. § 227(c)(5).

11. Tribune made multiple telemarketing calls to the phones of Plaintiff and others without their prior express invitation or permission or consent, despite such person’s prior request to not be called and/or registration with the National Do Not Call Registry. Plaintiff files this class action complaint on behalf of himself and others similarly situated, seeking relief from Tribune’s illegal calling practices.

PARTIES

12. Plaintiff Ronald French is a natural person and citizen of Illinois, who resides in this District. He was in this District when he received the calls alleged herein.

13. Defendant Tribune Publishing Company is a media company that publishes numerous newspapers, including the Chicago Tribune. It is headquartered in Chicago, Illinois, and is a citizen of Illinois. Tribune is incorporated in Delaware.

JURISDICTION AND VENUE

14. This Court has federal question subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 with respect to Plaintiff’s TCPA claims. *Mims v. Arrow Financial Services, Inc.*, 132 S. Ct. 740 (2012).

15. The Court also has Class Action Fairness Act jurisdiction, because there are thousands of members of each nationwide class, at least one class member is a citizen of a different state from where any defendant is a citizen, and because the aggregate damages exceed \$5,000,000, exclusive of fees, costs and interest.

16. The Court has personal jurisdiction over Tribune and venue is appropriate in this

District under 28 U.S.C. § 1391(a) because Tribune does business in this District, Tribune made or caused to be made the calls that are the subject of this lawsuit to Plaintiff and others in this District, knowingly solicited newspaper home delivery subscriptions and other products and services to Plaintiff and other Illinois consumers during the calls at issue, and because a substantial portion of the events giving rise to this cause of action occurred in this District.

FACTS

17. Plaintiff is the subscriber to a residential telephone line, which has been registered with the National Do Not Call Registry since at least approximately February 28, 2017.

18. Plaintiff's mother was a prior customer of Tribune who lived with him for a period of time before she passed away in July 2021.

19. After receiving unwanted calling from Tribune to his residential telephone line in an attempt to get his mother to renew her terminated subscription to its newspapers, Plaintiff informed Tribune in summer 2021 that his mother had passed away and to not call his phone.

20. In response, Tribune's representative indicated that Tribune would place Plaintiff's phone number on its internal do-not-call list.

21. On information and belief, Tribune's representative's statement to Plaintiff was true; it placed Plaintiff's phone number on its internal do-not-call list in summer 2021.

22. Nonetheless, Tribune continued to call Plaintiff until approximately the fall 2021, after Plaintiff repeatedly asked it to stop and even warned it that he would sue if it did not.

23. While these prior do-not-call requests appeared to be initially successful at getting the calls to stop, Tribune has started to make additional calls to Plaintiff's residential line for purposes of encouraging the purchase of its newspapers again in 2022—including from caller ID (312) 598-9857 on September 19, 2022, September 20, 2022, September 21, 2022 (twice),

September 22, 2022, and September 23, 2022, and from caller ID (312) 530-9745 on August 17, 2022, August 18, 2022, October 25, 2022 (twice), and October 26, 2022, among other occasions.

24. For example, Plaintiff received a call from Tribune at caller ID (312) 530-9745 on October 26, 2022, at approximately 5:24 p.m. When Plaintiff answered, he was thereafter connected to a representative who identified herself as “Christie.” After indicating that she was on a recorded line, Christie went into a sales pitch for Tribune newspapers, and asked if Plaintiff’s mother would like to re-subscribe. Plaintiff advised Christie that he had told Tribune several times in the past that his mother had passed away and to stop calling, that he did not appreciate the solicitation call, and that he was upset that Tribune continued to call his phone number after being told not to do so. Christie refused to provide her address or last name when asked.

25. Upon information and belief, Tribune keeps track of its contacts with consumers, knew when it made these calls that Plaintiff’s number was on the National Do Not Call Registry, and knew that Plaintiff was not a customer of Tribune when it made these calls to him and had not made an inquiry regarding Tribune goods or services for more than three months. *See* 47 C.F.R. § 64.1200(f)(5).

26. Plaintiff did not consent to or ask for Tribune’s calls. To the contrary, he asked not to receive calls.

27. Tribune knows that the public hates telemarketing calls like the ones at issue here, and it knows that they are illegal. It has even published articles criticizing others for using some of the same techniques it employed in these calls.

28. Tribune is also well aware that its practices have resulted in violations. Indeed, it previously paid \$1.7 million to settle an earlier TCPA class lawsuit with similar do-not-call

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