

UNITED STATES DISTRICT COURT  
DISTRICT OF MONTANA  
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

SCOTT RHODES,

Defendant.

Case No. \_\_\_\_\_

**COMPLAINT FOR  
RECOVERY OF CIVIL  
MONETARY FORFEITURE  
AND INJUNCTIVE RELIEF**

Plaintiff, the United States of America, by and through the undersigned attorneys, acting upon request to the Attorney General by the Federal Communications Commission (the “FCC” or “Commission”) pursuant to 47 U.S.C. §§ 401(a) and 504(a), hereby alleges as follows:

1. This action is brought by the United States against Defendant Scott Rhodes (“Defendant” or “Rhodes”), in response to Defendant’s repeated violation of the Truth in Caller ID Act, 47 U.S.C. § 227(e)(1). Defendant has made thousands of telephone calls in which he has unlawfully falsified, or “spoofed” his caller identification information “with the intent to defraud, cause harm, or wrongfully obtain anything of value.” § 227(e)(1).

2. On January 14, 2021, the FCC issued a Forfeiture Order in the amount of \$9,918,000 against Defendant for 4,959 violations of 47 U.S.C. § 227(e)(1) and 47 C.F.R. § 64.1604 (the “Forfeiture Order”). Pursuant to 47 U.S.C. § 504(a), the United States seeks to enforce the Forfeiture Order.

3. Pursuant to 47 U.S.C. § 401(a), the United States seeks injunctive relief in the form of a writ of mandamus commanding Defendant to comply with the Truth in Caller ID Act.

### **JURISDICTION AND VENUE**

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, as well as 47 U.S.C. §§ 401(a) and 504(a).

5. Venue is proper in this District pursuant to 28 U.S.C. §§ 1355(b), 1391(b), and 1395(a), as well as 47 U.S.C. § 504(a), because Defendant resides within this District.

### **THE PARTIES**

6. Plaintiff is the United States of America.

7. Defendant Scott Rhodes is a resident of Libby, Montana, which is located in this District.

### **STATUTORY AND REGULATORY BACKGROUND**

8. The FCC is an independent federal regulatory agency created by

Congress to regulate intrastate, interstate, and foreign wire and radio communications pursuant to the Communications Act of 1934, as amended (the “Communications Act” or the “Act”), 47 U.S.C. §§ 151 *et seq.*

9. The Truth in Caller ID Act, 47 U.S.C. § 227(e)(1), makes it unlawful to “cause any caller identification service” in connection with any telecommunications service or IP-enabled voice service “to knowingly transmit misleading or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully obtain anything of value.” 47 U.S.C. § 227(e)(1). The practice of knowingly transmitting misleading or inaccurate caller identification (“caller ID”) information referenced by the statutory provision is commonly referred to as “spoofing.” Section 64.1604 of the FCC’s rules implements the prohibition on unlawful spoofing. *See* 47 C.F.R § 64.1604.

10. The Act and operative rules authorize the Commission to impose a forfeiture of up to \$11,766 for each spoofing violation. *See* 47 U.S.C. § 227(e)(5)(A); 47 C.F.R. § 1.80(b)(4); Annual Adjustment of Civil Monetary Penalties To Reflect Inflation, 85 Fed. Reg. 2318-01 (Jan. 15, 2020).

11. Pursuant to 47 U.S.C. § 503(b)(4), the FCC may impose a forfeiture penalty on a person for spoofing violations upon a finding that such violations occurred, if before doing so:

- a. the Commission issues a “notice of apparent liability,” in writing, with respect to such person;
  - b. such notice has been received by such person, or the Commission has sent such notice to the last known address of such person, by registered or certified mail; and
  - c. such person is granted an opportunity to show, in writing why no such forfeiture penalty should be imposed.
12. In determining the amount of a forfeiture penalty, the Act requires that the FCC “take into account the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.” 47 U.S.C. § 503(b)(2)(E).
13. The FCC’s forfeiture penalties are “payable into the Treasury of the United States” and are “recoverable . . . in a civil suit in the name of the United States[.]” 47 U.S.C. § 504(a).
14. In addition to authorizing the imposition of a forfeiture penalty for past violations, the Act also empowers the United States to take action to prevent prospective violations.
15. 47 U.S.C. § 401(a) authorizes “the Attorney General of the United

States at the request of the Commission” to seek a “writ or writs of mandamus commanding” a person who has violated any part of the Act “to comply with the provisions of [the Act].” The term “writ or writs of mandamus” in § 401(a) has regularly “been interpreted to include injunctions against persons alleged to be violating the Act.” *United States v. Girona*, Civ. No. AWT-99-1262, 2000 WL 565496, at \*2–3 (D. Conn. Mar. 27, 2000).

### **FACTUAL BACKGROUND**

16. Defendant has a long history of making telephone calls with the intention of upsetting the calls’ recipients and invading their privacy with unwanted and outrageous messages. These calls often involve the use of an automatic telephone dialing system or an artificial or prerecorded voice—a practice known as “robocalling.”

### **The Truth In Caller ID Act Violations Charged by FCC**

17. In 2018, Defendant engaged in five separate robocall campaigns in which he used a dialing platform’s service to “transmit misleading or inaccurate caller identification information” on thousands of discrete occasions. § 227(e)(1). Defendant caused the dialing platform to display to recipients caller ID numbers that were not assigned to Defendant.

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