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10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA

12 MATTHEW KHAIR,

Case No.:

13 Plaintiff,

**COMPLAINT**

14 vs.

1. Violations of the Rosenthal  
Fair Debt Collection  
Practices Act [ Cal. Civ.  
Code § 1788, *et seq.*]

15 CITIBANK, N.A., and DOES 1 through  
16 10 inclusive,

2. Violations of the Telephone  
Consumer Protection Act [47  
U.S.C. § 227, *et seq.*]

17 Defendant.  
18  
19

20  
21 **INTRODUCTION**

22 1. This is an action for damages brought by Plaintiff Matthew Khair  
23 (“Plaintiff”) for Defendant Citibank, N.A. (“Defendant”) violations of the  
24 Rosenthal Fair Debt Collection Practices Act, Cal Civ. Code §1788, *et seq.*  
25 (hereinafter “RFDCPA”) which prohibits debt collectors from engaging in abusive,  
26 deceptive, and unfair practices. Ancillary to the claim(s) above, Plaintiff further  
27 alleges a claim for Defendant’s violations of the Telephone Consumer Protection  
28 Act., 47 U.S.C. §227, *et seq.* (hereinafter “TCPA”).

1 **PARTIES**

2 2. Plaintiff is a natural person who at all times herein mentioned was a resident  
3 of the City of Woodland Hills, County of Los Angeles, and State of California and  
4 is a “debtor” as defined by Cal. Civ. Code §1788.2(h) and a “person” as defined by  
5 Cal. Civ. Code §1788.2(g).

6 3. At all relevant times herein, Defendant, Citibank, N.A. is a company  
7 engaged, by use of mails and telephone, in the business of collecting a debt from  
8 Plaintiff. Defendant regularly attempts to collect debts alleged to be due another,  
9 and therefore is a “debt collector” as defined by Cal. Civil Code § 1788.2(c).

10 **JURISDICTION AND VENUE**

11 4. This Court has original jurisdiction over Plaintiff’s Federal claims arising  
12 under 47 U.S.C. § 227, *et seq.* The court has supplement jurisdiction over the state  
13 law claim(s) pursuant to 28 U.S.C. § 1367.

14 5. Venue is proper in the Central District of California pursuant to 15 U.S.C. §  
15 1391(b)(2) because a substantial part of the events giving rise to the claim occurred  
16 in that district.

17 **FACTUAL ALLEGATIONS**

18 6. At various and multiple times prior to the filing of the instant complaint,  
19 including within the one year preceding the filing of this complaint, Defendant  
20 contacted Plaintiff by telephone in an attempt to collect an alleged debt.

21 7. The alleged debt sought to be collected arose in which property, services, or  
22 money was acquired on credit primarily for personal, family, or household  
23 purpose. Consequently, the alleged financial obligation was the result of a  
24 “consumer credit transaction”, as defined by Cal. Civ. Code §1788.2(e), and the  
25 alleged debt is a “consumer debt”, as defined by Cal. Civ. Code §1788.2(f).

26 8. Plaintiff informed Defendant to stop contacting him on numerous occasions.  
27 Nonetheless, Defendant continued to contact Plaintiff by telephone.

28 9. Defendant continued to contact Plaintiff two (2) to (6) times per day.

1 10. 12 C.F.R. Part 1006.14 (Regulation F) defines harassing oppressive, or  
2 abusive conduct by debt collectors. It states that contacting a consumer in an  
3 attempt to collect a debt seven or more times in a seven consecutive day period is  
4 harassing, oppressive, and abusive, and presumptively violates the FDCPA.

5 11. Claimant alleges that Respondent contacted him seven (7) or more times  
6 in a seven (7) consecutive day period and therefore violated the FDCPA.

7 12. The calls Defendant made to Plaintiff were to Plaintiff's cellular telephone.

8 13. On information and belief, within the four years preceding the filing of this  
9 complaint, Defendant used an "automatic telephone dialing system" (hereinafter,  
10 "ATDS"), as defined by 47 U.S.C § 227(a)(1), to place its repeated collection calls  
11 to Plaintiff seeking to collect the alleged debt. Plaintiff basis his belief that  
12 Defendant used an ATDS due to the frequency and consist times of day that he  
13 received collection calls from Defendant. Additionally, more times than not, there  
14 would be a significant pause between the time Plaintiff answered his telephone  
15 with a verbal greeting and when Defendant's collection representative would  
16 respond to Plaintiff's greeting with a live response.

17 14. Defendant communicated with Plaintiff with such frequency as to be  
18 unreasonable under the circumstances and to constitute harassment. The frequency  
19 and pattern of Defendant's telephone calls to Plaintiff evidences Defendant's intent  
20 to harass Plaintiff.

21 15. At all times relevant to this action, while conducting business in California,  
22 Defendant has been subject to, and required to abide by, the laws of the United  
23 States, which included the TCPA and its related regulations that are set forth at 47  
24 C.F.R. § 64.1200 ("TCPA Regulations"), as well as the opinions, regulations and  
25 orders issued by the courts and the FCC implementing, interpreting and enforcing  
26 the TCPA and the TCPA regulations.

1 16. At all times relevant to this action, Defendant owned, operated and or  
2 controlled an “ATDS” as defined by TCPA 47 U.S.C. § 227(a)(1) that originated,  
3 routed and/or terminated telecommunications.

4 17. Defendant is not a tax-exempt nonprofit organization.

5 **COUNT I: VIOLATION OF THE ROSENTHAL FAIR DEBT**  
6 **COLLECTION PRACTICES ACT**

7 18. Plaintiff reincorporates paragraphs 1 through 17 as if fully written herein.

8 19. 1788.17 of the RFDCPA mandates that every debt collector collecting or  
9 attempting to collect a consumer debt shall comply with the provisions of Sections  
10 1692b to 1692j, inclusive, of, and shall be subject to the remedies in Section 1692k  
11 of, Title 15 of the United States Code statutory regulations contained within the  
12 FDCPA.

13 20. Defendant’s conduct violated the RFDCPA in multiple ways, including but  
14 not limited to:

- 15 a) Communicating, by telephone or in person, with plaintiff with  
16 such frequency as to be unreasonable and to constitute a harassment to  
17 Plaintiff under the circumstances (Cal. Civ. Code §1788.11(c));
- 18 b) Causing a telephone to ring repeatedly or continuously to annoy  
19 Plaintiff (Cal. Civ. Code §1788.11(d));
- 20 c) Committed any conduct the natural consequence of which is to  
21 harass, oppress, or abuse any person (15 U.S.C. § 1692(d));
- 22 d) Caused the telephone to ring or engaged any person in  
23 telephone conversations repeatedly (15 U.S.C. § 1692d(5)).

24 21. As a result of the above violations of the RFDCPA, Plaintiff suffered and  
25 continues to suffer injury to Plaintiff’s feelings, personal humiliation,  
26 embarrassment, mental anguish and emotional distress, and Defendant is liable to  
27 Plaintiff for Plaintiff’s actual damages, statutory damages, and costs and attorney’s  
28 fees.

1 22. To the extent that Defendant's actions, counted above, violated the  
2 RFDCPA, those actions were done knowingly and willingly.

3 **COUNT II: VIOLATION OF THE TELEPHONE CONSUMER**  
4 **PROTECTION ACT**

5 23. Plaintiff reincorporates paragraphs 1 through 22 as if fully written herein.

6 24. Defendant's violation of the TCPA was willful. Defendant's violation of  
7 the TCPA was willful because Plaintiff requested that Defendant cease calling  
8 Plaintiff.

9 25. The foregoing acts and omissions of Defendant constitute numerous and  
10 multiple negligent violations of the TCPA, including but not limited to each and  
11 every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

12 26. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et seq.*,  
13 Plaintiff is entitled an award of \$500.00 in statutory damages, for each and every  
14 violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

15 27. The foregoing acts and omissions of Defendant constitute numerous and  
16 multiple knowing and/or willful violations of the TCPA, including but not limited  
17 to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

18 28. As a result of Defendant's knowing and/or willful violations of *47 U.S.C. §*  
19 *227 et seq.*, Plaintiff is entitled an award of \$1,500.00 in statutory damages, for  
20 each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)* and *47 U.S.C. §*  
21 *227(b)(3)(C)*.

22 29. Plaintiff is entitled to and seeks injunctive relief prohibiting such conduct  
23 in the future.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiff respectfully prays that judgment be entered against  
26 Defendant for the following:

- 27 A. Actual damages;  
28 B. Statutory damages

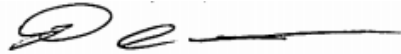
1 C. Costs and reasonable attorney's fees; and

2 D. For such other and further relief as may be just and proper.

3 **PLAINTIFF HEREBY REQUESTS A JURY TRIAL**

4  
5 Date: November 1, 2022

LAW OFFICE OF PAUL MANKIN, APC

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Paul Mankin, Esq.  
Attorney for Plaintiff

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