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 11 **UNITED STATES DISTRICT COURT**
 12 **EASTERN DISTRICT OF CALIFORNIA**

13 BRANDI TAYLOR,
 14
 15 Plaintiff,
 16
 17 v.
 18
 19 KOHL’S, INC.,
 20
 21 Defendant.

Case No. 2:23-at-869

COMPLAINT FOR DAMAGES

1. VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT, 47 U.S.C. §227 ET SEQ.

2. VIOLATIONS OF THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT, CAL. CIV. CODE §1788 ET SEQ.

3. INVASION OF PRIVACY

DEMAND FOR JURY TRIAL

COMPLAINT

NOW COMES Plaintiff, BRANDI TAYLOR (“Plaintiff”), by and through her attorneys, Farah Law, P.C., complaining as to the conduct of KOHL’S, INC. (“Defendant”) as follows:

NATURE OF THE ACTION

1. Plaintiff brings this action for damages pursuant to the Telephone Consumer Protection Act (“TCPA”) under 47 U.S.C. § 227 *et seq.* and the Rosenthal Fair Debt Collection Practices Act (“RFDCPA”) pursuant to Cal. Civ. Code §1788 *et seq.*, as well as for Invasion of Privacy (“IOP”), for Defendant’s unlawful conduct.

1 10. In 2023, Plaintiff began experiencing financial hardship, causing her to fall behind on her
2 scheduled payments to Defendant, thus incurring debt (“subject debt”).

3 11. For the last several months, Plaintiff has been receiving systematic calls to her cellular
4 phone, (209) XXX-6769, from Defendant.

5 12. At all times relevant to the instant action, Plaintiff was the sole subscriber, owner, and
6 operator of the cellular phone ending in -6769. Plaintiff is and always has been financially
7 responsible for the cellular phone and its services.

8 13. Defendant has used a variety of phone numbers when placing calls to Plaintiff’s cellular
9 phone, including but not limited to (559) 860-2733.

10 14. Upon information and belief, the aforementioned phone number ending in -2733 is
11 regularly utilized by Defendant during its debt collection activities.

12 15. Upon answering Defendant’s phone calls, Plaintiff is subjected to a pre-recorded and/or
13 artificial message prompting her to hold while she is connected to a live representative.

14 16. During unanswered calls, Defendant leaves Plaintiff a pre-recorded and/or artificial
15 message asking that she return its phone calls.

16 17. Upon speaking with Defendant, Plaintiff was informed that Defendant was seeking to
17 collect upon the subject debt.

18 18. Plaintiff informed Defendant that she has limited financial resources, but Defendant
19 persisted with its collection efforts, prompting Plaintiff to demand that Defendant stop calling her.

20 19. Yet, Defendant willfully ignored Plaintiff’s demands and continued placing repeated phone
21 calls to Plaintiff’s cellular phone for the next several weeks, including multiple calls during the
22 same day.

1 20. Plaintiff has even reiterated her requests that Defendant stop calling during subsequent calls,
2 including in July 2023 and August 2023, but in spite of her multiple efforts, Defendant's harassing
3 conduct has continued through the filing of this action.

4 21. Defendant has placed not less than thirty (30) calls to Plaintiff's cellular phone after being
5 notified to stop calling.

6 22. Seeing no end to Defendant's relentless conduct, Plaintiff was forced to hire counsel and
7 her damages therefore include reasonable attorneys' fees incurred in prosecuting this action.

8 23. Due to Defendant's conduct, Plaintiff is entitled to statutory damages, punitive damages
9 and all other appropriate measures to punish and deter Defendant and other collectors from
10 engaging in the unlawful collection practices described in this Complaint, *supra*.

11 24. Plaintiff has been unfairly and unnecessarily harassed by Defendant's actions.

12 25. Plaintiff has suffered additional concrete harm as a result of Defendant's actions, including
13 but not limited to: loss of sleep, invasion of privacy, aggravation that accompanies collection
14 telephone calls, emotional distress, and increased usage of her telephone and services.

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17 **COUNT I – VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT**

18 26. Plaintiff repeats and realleges paragraphs 1 through 25 as though fully set forth herein.

19 27. The TCPA, pursuant to 47 U.S.C. § 227(b)(1)(iii), prohibits calling persons on their
20 cellular phone using an automatic telephone dialing system ("ATDS") *or* an artificial *or* pre-
21 recorded messages without their consent.

22 28. Defendant used pre-recorded and artificial messages when placing calls to Plaintiff's
23 cellular phone. Upon answering phone calls, Claimant was often subjected to an artificial or pre-
24 recorded voice prompting her to hold for the next available representative; and during unanswered
25 calls, Defendant would leave Plaintiff voicemails using a pre-recorded and/or artificial voice asking
26 Plaintiff to return its phone calls.
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1 29. Defendant violated the TCPA by placing at least 30 phone calls to Plaintiff's cellular phone
2 using pre-recorded and/or artificial messages without her consent. Any consent that Plaintiff *may*
3 have given to Defendant by virtue of incurring the subject debt was explicitly revoked by Plaintiff's
4 demands that it cease contacting her.

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6 30. The calls placed by Defendant to Plaintiff were regarding collection activity and not for
7 emergency purposes as defined by the TCPA under 47 U.S.C. §227(b)(1)(A)(i).

8 31. Under the TCPA, pursuant to 47 U.S.C. § 227(b)(3)(B), Defendant is liable to Plaintiff for
9 at least \$500.00 per call. Moreover, Defendant's willful and knowing violations of the TCPA
10 should trigger this Honorable Court's ability to triple the damages to which Plaintiff is otherwise
11 entitled to under 47 U.S.C. § 227(b)(3)(C). Defendant had explicit knowledge that Plaintiff did not
12 wish to receive further phone calls, but Defendant still knowingly continued to place repeated calls
13 to Plaintiff's cellular phone in an effort to harass Plaintiff into submission.

14
15 WHEREFORE, Plaintiff, BRANDI TAYLOR, respectfully requests that this Honorable Court
16 enter judgment in her favor as follows:

- 17 a. Declaring that the practices complained of herein are unlawful and violate the
18 aforementioned statutes and regulations;
- 19 b. Awarding Plaintiff damages of at least \$500.00 per phone call and treble damages pursuant
20 to 47 U.S.C. §§ 227(b)(3)(B)&(C);
- 21 c. Awarding Plaintiff costs and reasonable attorney fees;
- 22 d. Enjoining Defendant from further contacting Plaintiff seeking payment of the subject debt;
23 and
- 24 e. Awarding any other relief as this Honorable Court deems just and appropriate.

25 **COUNT II – VIOLATIONS OF THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT**

26 32. Plaintiff restates and realleges paragraphs 1 through 31 as though fully set forth herein.

27 33. Plaintiff is a "person" as defined by Cal. Civ. Code § 1788.2(g).
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1 34. The subject debt is a “debt” and “consumer debt” as defined by Cal. Civ. Code § 1788.2(d)
2 and (f).

3 35. Defendant is a “debt collector” as defined by Cal. Civ. Code § 1788.2(c).

4 **a. Violations of RFDCPA § 1788.17**

5 36. The RFDCPA, pursuant to Cal. Civ. Code § 1788.17 states that “Notwithstanding any other
6 provision of this title, every debt collector collecting or attempting to collect a consumer debt shall
7 comply with the provisions of Section 1692b to 1692j [of the Fair Debt Collection Practices Act
8 (“FDCPA”)], inclusive of, and shall be subject to the remedies in Section 1692k of, Title 15 of the
9 United States Code.”

10 **i. Violations of FDCPA §1692c(a)(1) and §1692d**

11 37. The FDCPA, pursuant to 15 U.S.C. §1692d, prohibits a debt collector from engaging “in
12 any conduct the natural consequence of which is to harass, oppress, or abuse any person in
13 connection with the collection of a debt.” §1692d(5) further prohibits, “causing a telephone to ring
14 or engaging any person in telephone conversation repeatedly or continuously with intent to annoy,
15 abuse, or harass any person at the called number.”

16 38. The amended Regulation F provides further guidance on what circumstances constitute
17 harassing and oppressive debt collection conduct. 12 C.F.R. § 1006.14(b)(2) provides guidance on
18 when calls are made repeatedly and continuously, and debt collectors are presumed to comply with
19 these provisions if they follow certain guidelines. However, the commentary thereto confirms that
20 this presumptive compliance can be rebutted by several factors, including “[t]he content of a
21 person’s prior communications with the debt collector.” Examples of prior communications with
22 consumers that can evince an intent to harass through phone calls include calls following a demand
23 that such calls cease, and similarly following a consumer informing a debt collector that they refuse
24 to pay the debt. Additionally, pursuant to 12 C.F.R. § 1006.14(h), a debt collector cannot
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1 “communicate or attempt to communicate with a person through a medium of communication if
2 the person has requested that the debt collector not use that medium to communicate with the
3 person.”
4

5 39. Defendant violated §§ 1692c(a)(1), d & 1692d(5), and 12 C.F.R. §§ 1006.14(b)(2) &
6 1006.14(h) through its harassing and noncompliant collection campaign directed towards Plaintiff.
7 Plaintiff notified defendant that she could not pay the debt and to stop calling her. Defendant knew
8 that its continued placement of phone calls would be unwelcome to Plaintiff, yet nevertheless
9 persisted, illustrating its intent to harass Plaintiff through its phone calls. Further, upon becoming
10 aware of Plaintiff’s desire to receive no further collection calls regarding the subject debt,
11 Defendant was obligated to cease utilizing such medium of communication in its efforts to collect
12 the subject consumer debt from Plaintiff – however, such calls persisted notwithstanding
13 Defendant’s obligation to cease. Defendant engaged in this harassing and noncompliant conduct in
14 an effort to harass and annoy Plaintiff into addressing the subject consumer debts.
15

16 40. Defendant continued to place repeated phone calls to Plaintiff’s cellular phone with the
17 hopes that the sustained pressure would cause Plaintiff to succumb to Defendant’s efforts and remit
18 payment. This repeated behavior of systematically calling Plaintiff’s cellular phone, in spite of her
19 demands, was harassing and abusive. The frequency and volume of calls shows that Defendant
20 willfully ignored Plaintiff’s pleas with the goal of annoying and harassing her.
21

22 **ii. Violations of the FDCPA § 1692e**

23 41. The FDCPA, pursuant to 15 U.S.C. §1692e, prohibits a debt collector from using “any
24 false, deceptive, or misleading representation or means in connection with the collection of any
25 debt.”
26

27 42. In addition, this section enumerates specific violations, such as:
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1 “The use of any false representation or deceptive means to collect or attempt
2 to collect any debt or to obtain information concerning a consumer.” 15
3 U.S.C. §1692e(10).

4 43. Defendant violated §1692e and e(10) when it used deceptive means to collect and/or
5 attempt to collect the subject debt. In spite of the fact that Plaintiff informed Defendant of her
6 financial hardship, as well as Plaintiff’s demands that it stop calling her, Defendant continued with
7 its onslaught of collection calls, including the placement of multiple calls during the same day.
8 Defendant engaged in this behavior in a deceptive attempt to force Plaintiff to answer its calls and
9 ultimately make a payment. Through its conduct, Defendant misleadingly represented to Plaintiff
10 that it had the legal ability to contact her after Plaintiff notified Defendant to cease doing so.

11 **iii. Violations of FDCPA § 1692f**

12 44. The FDCPA, pursuant to 15 U.S.C. §1692f, prohibits a debt collector from using “unfair
13 or unconscionable means to collect or attempt to collect any debt.”
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15 45. Defendant violated §1692f when it unfairly and unconscionably attempted to collect on a
16 debt by repeatedly calling Plaintiff after being notified to stop. Attempting to coerce Plaintiff into
17 payment by placing voluminous automated phone calls without her permission is unfair and
18 unconscionable behavior. These means employed by Defendant only served to worry and confuse
19 Plaintiff.
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21 46. Defendant willfully and knowingly violated the RFDCPA. Defendant was aware that
22 Plaintiff did not wish to be contacted, but yet, it continued to bombard Plaintiff with automated
23 phone calls demanding payment for the subject debt. Defendant’s willful and knowing violations
24 of the RFDCPA should trigger this Honorable Court’s ability to award Plaintiff statutory damages
25 of up to \$1,000.00, as provided under Cal. Civ. Code § 1788.30(b).

26 47. As plead in paragraphs 22 through 25, *supra*, Plaintiff has been harmed and suffered
27 damages as a result of Defendant’s illegal actions.
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1 WHEREFORE, Plaintiff, BRANDI TAYLOR, respectfully requests that this Honorable Court
2 enter judgment in her favor as follows:

- 3 a. Declare that the practices complained of herein are unlawful and violate the aforementioned
4 statute;
- 5 b. Award Plaintiff actual damages, pursuant to Cal. Civ. Code § 1788.30(a);
- 6 c. Award Plaintiff statutory damages up to \$1,000.00, pursuant to Cal. Civ. Code §
7 1788.30(b);
- 8 d. Award Plaintiff costs and reasonable attorney fees as provided pursuant to Cal. Civ. Code
9 § 1788.30(c);
- 10 e. Enjoining Defendant from further contacting Plaintiff seeking payment of the subject debt;
and
- 11 f. Award any other relief as the Honorable Court deems just and proper.

12 **COUNT III-INVASION OF PRIVACY-INTRUSION UPON SECLUSION**

13 48. Plaintiff restates and realleges paragraphs 1 through 47 as though fully set forth herein.

14 49. Defendant, through its barrage of communications, especially after Plaintiff informed it of
15 its harassing nature, has repeatedly and intentionally invaded Plaintiff's privacy.
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17 50. Defendant's unsolicited harassment campaign severely disrupted Plaintiff's privacy,
18 disrupted Plaintiff's overall focus, and continually frustrated and annoyed Plaintiff to the point
19 where Plaintiff was denied the ability to quietly enjoy her life, instead having it upended by
20 Defendant's unlawful efforts to solicit her.
21

22 51. Defendant's intrusive and persistent efforts eliminated the peace and solitude that Plaintiff
23 would have otherwise had in her home and/or any other location in which she would have normally
24 brought her cellular phone.

25 52. Plaintiff even told Defendant to stop contacting her on a handful of occasions, but
26 Defendant gave Plaintiff no reasonable escape from its calling campaign.
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1 53. As detailed above, Defendant invaded Plaintiff's legally-protected right to privacy, and
2 caused Plaintiff to suffer concrete and particularized harm.

3 54. Defendant's relentless solicitation efforts and tactics are highly offensive to a reasonable
4 person.

5 55. As plead in paragraphs 22 through 25, *supra*, Plaintiff has been harmed and suffered
6 damages as a result of Defendant's illegal actions.

7
8 WHEREFORE, Plaintiff, BRANDI TAYLOR, respectfully requests that this Honorable Court
9 enter judgment in her favor as follows:

- 10 a. Declaring that the practices complained of herein are unlawful and violate the
11 aforementioned statutes and regulations;
- 12 b. Awarding Plaintiff actual damages;
- 13 c. Award Plaintiff punitive damages;
- 14 d. Award Plaintiff reasonable attorney's fees and costs;
- 15 e. Enjoining Defendant from contacting Plaintiff; and
- 16 f. Awarding any other relief as this Honorable Court deems just and appropriate.
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18 Dated: August 31, 2023

Respectfully submitted,

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20 By: /s/ Neda Farah

Neda Farah, Esq.

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