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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

DARREN MACDONALD, individually,
and on behalf of all others similarly
situated,

Plaintiff,

v.

ROCKET MORTGAGE, LLC, a
Michigan company,

Defendant.

Case No.

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff Darren MacDonald (“MacDonald” or “Plaintiff”) brings this Class Action Complaint and Demand for Jury Trial against Defendant Rocket Mortgage, LLC (“Rocket Mortgage” or “Defendant”) to stop Rocket Mortgage from violating the Telephone Consumer Protection Act (“TCPA”) by places unsolicited calls and sending unsolicited text messages to consumers without their consent, including calls/texts to consumers registered on the National Do Not Call Registry (DNC), and to otherwise obtain injunctive and monetary relief for all persons injured by Rocket Mortgage’s conduct. Plaintiff, for his Complaint, alleges as follows upon personal knowledge as to himself and his own acts and

experiences, and, as to all other matters, upon information and belief, including investigation conducted by his attorneys.

PARTIES

1. Plaintiff MacDonald is a Scottsdale, Arizona resident.
2. Defendant Rocket Mortgage is a Michigan company headquartered in Detroit, Michigan. Rocket Mortgage conducts business throughout this District and the United States.

JURISDICTION AND VENUE

3. This Court has federal question subject matter jurisdiction over this action under 28 U.S.C. § 1331, as the action arises under the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (“TCPA”).

4. This Court has personal jurisdiction over Defendant and venue is proper in this District under 28 U.S.C. § 1391(b) because Defendant does business in this District and directed its communications to Plaintiff in this District.

INTRODUCTION

5. As the Supreme Court explained at the end of its term this year, “Americans passionately disagree about many things. But they are largely united in their disdain for robocalls. The Federal Government receives a staggering number of complaints about robocalls—3.7 million complaints in 2019 alone. The States likewise field a constant barrage of complaints. For nearly 30 years, the people’s representatives in Congress have been fighting back.” *Barr v. Am. Ass’n of Political Consultants*, No. 19-631, 2020 U.S. LEXIS 3544, at *5 (U.S. July 6, 2020).

6. When Congress enacted the TCPA in 1991, it found that telemarketers called more than 18 million Americans every day. 105 Stat. 2394 at § 2(3).

7. By 2003, due to more powerful autodialing technology, telemarketers were calling 104 million Americans every day. In re Rules and Regulations Implementing the TCPA of 1991, 18 FCC Rcd. 14014, ¶¶ 2, 8 (2003).

8. The problems Congress identified when it enacted the TCPA have only grown exponentially in recent years.

9. According to online robocall tracking service “YouMail,” 4.6 billion robocalls were placed in October 2023 alone, at a rate of 148.7 million per day. www.robocallindex.com (last visited November 5, 2023).

10. The FCC also has received an increasing number of complaints about unwanted calls, with 150,000 complaints in 2016, 185,000 complaints in 2017, and 232,000 complaints in 2018. FCC, Consumer Complaint Data Center, www.fcc.gov/consumer-help-center-data.

11. “Robocalls and telemarketing calls are currently the number one source of consumer complaints at the FCC.” Tom Wheeler, *Cutting off Robocalls* (July 22, 2016), statement of FCC chairman.¹

12. “The FTC receives more complains about unwanted calls than all other complaints combined.” Staff of the Federal Trade Commission’s Bureau of Consumer

¹ <https://www.fcc.gov/news-events/blog/2016/07/22/cutting-robocalls>

Protection, *In re Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Notice of Proposed Rulemaking, CG Docket No. 02-278, at 2 (2016).²

COMMON ALLEGATIONS

13. Defendant Rocket Mortgage is a mortgage lender that provides home loan and refinancing solutions to consumers.³

14. Rocket Mortgage makes telemarketing calls to solicit its mortgage services to consumers.

15. Rocket Mortgage makes telemarketing calls and sends text messages to residential telephone consumers whose numbers are registered on the DNC, who have never provided their phone number to Defendant, and who never consented to receive phone calls from the Defendant.

16. Employees that have been employed by Rocket Mortgage have listed cold calling as a core part of their job descriptions in LinkedIn profiles and job review websites like Indeed, including:

² https://www.ftc.gov/system/files/documents/advocacy_documents/comment-staff-ftc-bureau-consumer-protection-federal-communications-commission-rules-regulations/160616robocallscomment.pdf

³ <https://www.rocketmortgage.com/about>



Malcolm Brown (He/Him)

Software Development Manager|C-Level Presentations| B2B Consulting | Sales Strategy & Closing | Financial Services | Cross Fun



Product Manager

Rocket Mortgage · Full-time

Jul 2021 – Present · 2 yrs

Atlanta, Georgia, United States

- Leverage various contact methods such as cold calling or in-person meetings to secure profitable sales through firm provided leads and contact-lists, and self-generated leads (e.g., tradeshows) to complement commercial acquisition of product sales opportunities
- All prospecting must be facilitated with integrity, and in accordance with our values, with a focus on profitably delivering solutions commensurate with the prospective clients needs.
- Pipeline management (10 – 20% of time)
- Effectively manage a pipeline of prospective customers provided by American Express and self-prospect within territory (Corporate and Business prospects with revenue between \$10M-\$300M)
- Turn leads into prospects (contacts who know you and are willing to share info on available opportunity), follow up with contacts in CRM database, and probe for potential opportunities with the prospects

Skills: Communication · Community Outreach · Business Strategy · Team Leadership · Product Development · Strategic Planning

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Ebony Owens

Senior Communications Specialist with Rocket Mortgage



Rocket Mortgage

1 yr 6 mos

Detroit, Michigan, United States

- **Senior Communications Specialist**

Full-time

Aug 2022 - Present · 11 mos

On-site

Perform a heavy volume of inbound and outbound phone duties, including contacting and transferring clients to appropriate parties, cold calling and setting appointments

Effectively and efficiently perform work in the internal proprietary software and technology of the company

Participate in regular training on products and clients of the company

Filter leads on behalf of the company's clients by staying current on market and product shifts

Communicate carefully, intentionally and with accurate information to prioritize a positive experience for clients

Respond to all communication urgently, balancing phone calls, emails and chat messages appropriately

Work efficiently to meet team and personal goals

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⁴ <https://www.linkedin.com/in/malcb1/>

⁵ <https://www.linkedin.com/in/ebony-owens-4790ba7b/>

No work life balance, “bro” atmosphere

Mortgage Banker (Former Employee) - Detroit, MI - September 26, 2022

Training was good, post training work was purely cold calling. After a few months of that they throw you into purchase or refinance banking “usually not your choice.” Hours and expectations become ridiculous with pretty bad pay. Not hitting goal penalizes you. Burn out is real. If you go for this position, i hope your single with no family and no other responsibilities. Then, you may make decent money. Maximum of 2 years at this position is typical. 6

Kiss your personal life goodbye.

Mortgage Banker (Former Employee) - Remote - March 9, 2022

When you start working here, you will quite literally sell yourself to them. They keep pushing you by claiming the enormous commission checks you will make (sure you might make some good money) but, just make sure you’re willing to put in 12-14 hours a day for 5-6 days per week. You will also be stuck doing the absolute worst job for the first two months, it will make you hate your life. “Hot leads” but you’re actually just cold calling and forcing people into things that they don’t want all while being underpaid during those months. If you are willing to put in the time and if cold calling people doesn’t bother you than you could potentially make a lot of money but it just was not for me.

✓ Pros

Good training

✗ Cons

No work life balance, long hours, horrible job responsibilities. 7

Many consumers have posted complaints online regarding unsolicited telemarketing calls that they received from Defendant Rocket Mortgage, including complaints from consumers who were not able to get Rocket Mortgage to stop calling or texting them.

⁶ <https://www.indeed.com/cmp/Rocket-Companies/reviews?fjobtitle=Mortgage+Banker&start=20>

⁷ <https://www.indeed.com/cmp/Rocket-Companies/reviews?fjobtitle=Mortgage+Banker&start=40>



Michael Lebowitz, CFA
@michaellebowitz

Rocket Mortgage must be very desperate. Getting 4-5 cold calls a day even after telling them to stop calling me.

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Lucas Graf @LJGraf · Oct 4, 2022

OMG, they will not leave me alone either. I have a <3% rate with them already, how do they figure I would want to refi?!?!?

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- “This is one of the numbers used by Rocket Mortgage, an incessant robo-caller, seven days a week. *We have told them to stop calling, but they persist.* Apparently they were clued in by a rogue real estate agent that we are selling our current home and looking to buy a home in another state. Our credit union and bank have offered us very competitive mortgage terms, so we surely do not need the rogues at Rocket whatever. Yes, where is their home base, North Korea, China, Russia?”(emphasis added)¹⁰
- “OMG. I've received 8 calls in the past 12 hours from this number. It does not say Rocket Mortgage, and they do not leave a message. I trust it's an agent of RM from the comments here. I've blocked the number now, but this borders on harassment!”¹¹
- “Every single one of these is from my blocked messages list. I blocked their number in July because they would call me every single morning at 6 am. *I asked them several times to please stop contacting me.* The entire month of June and July was a daily call and daily request to not be contacted... It looks like thankfully they stopped but I wish there was a way to report them for this kind of harassment! Three straight months of constant contact after several formal requests not to be contacted.”¹² (emphasis added)
- “Rocket Mortgage had a supervisor interrupt their sales pitched when I said ‘stop, no, remove me from your call list’. Dude hops on the line and says ‘What are you trying to accomplish here?’ I said ‘you called me, I’m trying to

⁸ <https://twitter.com/michaellebowitz/status/1567904424873410565?lang=en>

⁹ *Id.*

¹⁰ <https://800notes.com/Phone.aspx/1-866-390-5570>

¹¹ *Id.*

¹²

https://www.reddit.com/r/mildlyinfuriating/comments/13ot77o/rocket_mortgage_harassed_me_for_months/

accomplish that never happening again’. After 30 seconds of back talk I hung up, blocked the number, and now I just have to delete the 3 to 5 voicemails they leave per day...”¹³

- “cold call solicitation”¹⁴
- “I have been getting multiple calls daily for MONTHS, not even for me. Yesterday I got TWELVE calls. After nicely telling the person ***I AM NOT WHO THEY ARE CALLING, they continue to give their sales pitch.*** If I was inclined to need these services, I certainly WOULD NOT USE ROCKET MORTGAGE!”¹⁵ (emphasis added)
- “Horrible, I got a call from them even though I am not looking to finance anything. A lady called me first and halfway through the call a guy just started talking to me. He ended up hanging up on me. Even if i was looking for home financing I would never use them based on the quality of the unsolicited call.”¹⁶
- “I am looking for a local mortgage company, as soon as they put my credit score, I had received more than 50 phone calls. Rocket mortgage was one of them.”¹⁷
- “Multiple calls from 888-241-6243, asking to call back at this number 888-700-7369. VM says ‘Hi I’m ___ with Rocket Mortgage part of Quicken Loans, speak to you about that home financing information that you were looking into. Please give us a call back at 888-700-7369, talk soon’. Never requested any information.”¹⁸
- “He said his name was Ryan from Rocket Mortgage, that he was calling back. The caller did not have my right name when he left the message”¹⁹
- “she said she was with rocket mortgage. but i've never used them, or even used any intuit/quicken services or software before! possible phishing going on here!”²⁰

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https://www.reddit.com/r/personalfinance/comments/wldfh7/i_have_received_80_calls_in_the_last_24_hours/

¹⁴ <https://lookup.robokiller.com/p/866-368-1552>

¹⁵ <https://www.google.com/search?q=Rocket+Mortgage+google+maps>

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ <https://800notes.com/Phone.aspx/1-888-700-7369/3>

¹⁹ *Id.*

²⁰ <https://lookup.robokiller.com/p/800-448-8133>

17. In response to these call and text message solicitations, Plaintiff files this class action lawsuit seeking injunctive relief, requiring Defendant to cease from sending placing unsolicited calls and sending unsolicited text messages to consumers' cellular telephone numbers, and otherwise calling/texting consumers registered on the DNC, as well as an award of statutory damages to the members of the Class.

PLAINTIFF'S ALLEGATIONS

18. Plaintiff MacDonald registered his cell phone number on the DNC on August 27, 2003.

19. Plaintiff MacDonald is the subscriber and sole user of the cell phone number ending with 5850.

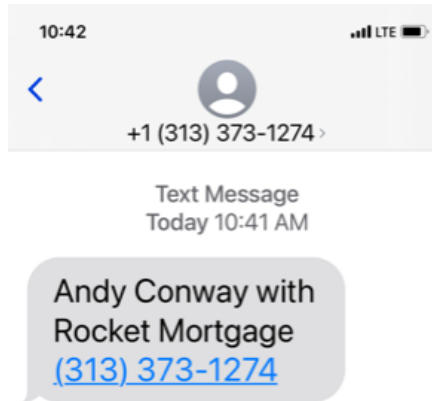
20. Plaintiff MacDonald uses his cell phone number for personal use only as one would use a landline telephone number in a home, to resolve household issues and to communicate with family and friends.

21. The calls that Plaintiff MacDonald received from Defendant Rocket Mortgage were all received more than 31 days after Plaintiff registered his cell phone number on the DNC.

22. On June 8, 2022 at 8:01 AM, Plaintiff MacDonald received an unsolicited call from 480-447-3563 to his cell phone from a Rocket Mortgage employee named Andy Conway soliciting refinancing services.

23. Plaintiff MacDonald told Rocket Mortgage caller on that call never to call his cell phone number again and quickly ended the call.

24. At 10:41 AM on June 8, 2022, Plaintiff MacDonald received an unsolicited text message from 313-373-1274, also from Andy Conway:



25. Andrew “Andy” Conway is a Senior Mortgage Banker at Rocket Mortgage according to LinkedIn:



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26. Plaintiff MacDonald has never conducted any business with Defendant Rocket Mortgage, nor has he given his consent to receive telemarketing calls/texts from or on behalf of Defendant Rocket Mortgage.

²¹ <https://www.linkedin.com/in/andrew-conway-373921ba/>

27. Plaintiff MacDonald was in the process of selling his home at the time Rocket Mortgage solicited him for business. He was not looking to get refinancing.

28. The unauthorized telephone call and text placed by Defendant, as alleged herein, have harmed Plaintiff MacDonald in the form of annoyance, nuisance, and invasion of privacy, and disturbed the use and enjoyment of his phone, in addition to the wear and tear on the phone's hardware (including the phone's battery) and the consumption of memory on the phone.

29. Seeking redress for these injuries, MacDonald, on behalf of himself and a Class of similarly situated individuals, brings suit under the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.*, which prohibits unsolicited calls and text messages to telephone numbers registered on the DNC.

CLASS ALLEGATIONS

30. Plaintiff brings this action pursuant to Federal Rule of Civil Procedure 23(b)(2) and 23(b)(3) on behalf of himself and all others similarly situated and seeks certification of the following Class:

Do Not Call Registry Class: All persons in the United States who from four years prior to the filing of this action (1) Defendant (or an agent acting on behalf of Defendant) called and/or texted more than one time within any 12 month period, (2) on the person's residential telephone number, (3) where the person's telephone number had been listed on the National Do Not Call Registry for at least thirty days, (4) for substantially the same reason Defendant called and/or texted Plaintiff.

31. The following individuals are excluded from the Class: (1) any Judge or Magistrate presiding over this action and members of their families; (2) Defendant, its

subsidiaries, parents, successors, predecessors, and any entity in which Defendant or its parents have a controlling interest and their current or former employees, officers and directors; (3) Plaintiff's attorneys; (4) persons who properly execute and file a timely request for exclusion from the Class; (5) the legal representatives, successors or assigns of any such excluded persons; and (6) persons whose claims against Defendant have been fully and finally adjudicated and/or released. Plaintiff anticipates the need to amend the Class definitions following appropriate discovery.

32. **Numerosity:** On information and belief, there are hundreds, if not thousands, of members of the Class such that joinder of all members is impracticable.

33. **Commonality and Predominance:** There are many questions of law and fact common to the claims of Plaintiff and the Class, and those questions predominate over any questions that may affect individual members of the Class. Common questions for the Class include but are not necessarily limited to the following:

- (a) whether Defendant systematically placed calls and/or sent text messages to Plaintiff and consumers whose telephone numbers were registered with the National Do Not Call registry;
- (b) whether the calls and text messages constitute telemarketing;
- (c) whether Defendant's conduct constitutes a violation of the TCPA;
- (d) whether members of the Class are entitled to treble damages based on the willfulness of Defendant's conduct.

34. **Adequate Representation:** Plaintiff will fairly and adequately represent and protect the interests of the Class, and has retained counsel competent and experienced in class actions. Plaintiff has no interests antagonistic to those of the Class, and Defendant

has no defenses unique to Plaintiff. Plaintiff and his counsel are committed to vigorously prosecuting this action on behalf of the members of the Class and have the financial resources to do so. Neither Plaintiff nor his counsel has any interest adverse to the Class.

35. **Appropriateness:** This class action is also appropriate for certification because Defendant has acted or refused to act on grounds generally applicable to the Class and as a whole, thereby requiring the Court's imposition of uniform relief to ensure compatible standards of conduct toward the members of the Class and making final class-wide injunctive relief appropriate. Defendant's business practices apply to and affect the members of the Class uniformly, and Plaintiff's challenge of those practices hinges on Defendant's conduct with respect to the Class as a whole, not on facts or law applicable only to Plaintiff. Additionally, the damages suffered by individual members of the Class will likely be small relative to the burden and expense of individual prosecution of the complex litigation necessitated by Defendant's actions. Thus, it would be virtually impossible for the members of the Class to obtain effective relief from Defendant's misconduct on an individual basis. A class action provides the benefits of single adjudication, economies of scale, and comprehensive supervision by a single court.

FIRST CAUSE OF ACTION
Telephone Consumer Protection Act
(Violation of 47 U.S.C. § 227)
(On Behalf of Plaintiff MacDonald and the Do Not Call Registry Class)

36. Plaintiff repeats and realleges the prior paragraphs of this Complaint and incorporates them by reference herein.

37. The TCPA's implementing regulation, 47 C.F.R. § 64.1200(c), provides that

“[n]o person or entity shall initiate any telephone solicitation” to “[a] residential telephone subscriber who has registered his or his 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.”

38. 47 C.F.R. § 64.1200(e), provides that § 64.1200(c) is “applicable to any person or entity making telephone solicitations or telemarketing calls to wireless telephone numbers.”²²

39. Any “person who has received more than one telephone call within any 12-month period by or on behalf of the same entity in violation of the regulations prescribed under this subsection may” may bring a private action based on a violation of said regulations, which were promulgated to protect telephone subscribers’ privacy rights to avoid receiving telephone solicitations to which they object. 47 U.S.C. § 227(c)(5).

40. Defendant violated 47 C.F.R. § 64.1200(c) by initiating, or causing to be initiated, phone call and/or text message solicitations to telephone subscribers such as Plaintiff and the Do Not Call Registry Class members who registered their respective telephone numbers on the National Do Not Call Registry, a listing of persons who do not wish to receive telephone solicitations that is maintained by the federal government.

41. Defendant violated 47 U.S.C. § 227(c)(5) because Plaintiff and the Do Not Call Registry Class received more than one phone call and/or text message in a 12-month

²² *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order, 18 FCC Rcd 14014 (2003) Available at https://apps.fcc.gov/edocs_public/attachmatch/FCC-03-153A1.pdf (last visited Sept. 16, 2022).

period made by or on behalf of Defendant in violation of 47 C.F.R. § 64.1200, as described above. As a result of Defendant's conduct as alleged herein, Plaintiff and the Do Not Call Registry Class suffered actual damages and, under section 47 U.S.C. § 227(c), are entitled, *inter alia*, to receive up to \$1,500 in damages for such violations of 47 C.F.R. § 64.1200.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the Class, prays for the following relief:

- a) An order certifying the Class as defined above; appointing Plaintiff as the representative of the Class; and appointing his attorneys as Class Counsel;
- b) An award of money damages to be paid into a common fund for the benefit of Plaintiff and the Class;
- c) An order declaring that Defendant's actions, as set out above, violated the TCPA;
- d) An injunction requiring Defendant to cease all unsolicited calls and texting activity and to otherwise protect the interests of the Class; and
- e) Such further and other relief as the Court deems just and proper.

JURY DEMAND

Plaintiff requests a jury trial.

Respectfully Submitted,

DARREN MACDONALD, individually and on behalf of all other similarly situated individuals.

Dated: December 5, 2023.

By: /s/ Nathan Brown

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** Pro Hac Vice Motion Forthcoming*