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UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JUMAPILI IKUSEGHAN, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

MULTICARE HEALTH SYSTEM, a  
Washington nonprofit corporation,

Defendant.

NO.

**COMPLAINT -- CLASS ACTION**

**FOR DAMAGES PURUSANT TO 47  
U.S.C. § 227, et seq. (TELEPHONE  
CONSUMER PROTECTION ACT)  
AND INVASION OF PRIVACY**

**DEMAND FOR JURY TRIAL**

Plaintiff Jumapili Ikuseghan (hereinafter referred to as “Plaintiff”), by her undersigned attorneys, for this class action complaint against Defendant MultiCare Health System, alleges as follows:

**I. NATURE OF ACTION**

1. Plaintiff, individually and as a class representative for all similarly situated persons in the United States who have received telephone calls to their cellular telephones from an automatic telephone dialing system by or on behalf of Defendant or its agents brings this action for violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq. (hereinafter referred to as the “TCPA”) against Defendant MultiCare Health System and its

1 present, former, or future direct and indirect parent companies, subsidiaries, affiliates, agents,  
2 and/or related entities (hereinafter referred to as “MultiCare” or “Defendant”).

3 **II. JURISDICTION AND VENUE**

4 2. This Court has subject matter jurisdiction over Plaintiff’s TCPA claims pursuant  
5 to 28 U.S.C. § 1331 because Plaintiff’s TCPA claims arise under the laws of the United States,  
6 specifically 47 U.S.C. § 227.

7 3. This Court has personal jurisdiction over Defendant because it does business in  
8 Washington and many of the wrongful acts alleged in this Complaint were committed in  
9 Washington.

10 4. This Court has supplemental jurisdiction over Plaintiff’s invasion of privacy by  
11 intrusion claim pursuant to 28 U.S.C. § 1367 because Plaintiff’s invasion of privacy by  
12 intrusion claim is so related to the Plaintiff’s TCPA claims, for which this Court has original  
13 jurisdiction, that they form part of the same case or controversy.

14 5. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(1), in that  
15 Defendant does sufficient business in this District to subject it to personal jurisdiction herein  
16 pursuant to 28 U.S.C. § 1391(c)(2). Defendant is licensed to do business in the state of  
17 Washington and conducts business in Washington. Venue is also proper in this District  
18 pursuant to 28 U.S.C. § 1391(b)(2), because Plaintiff received the calls at issue in this case  
19 within this District and a substantial part of the events or omissions giving rise to the claim  
20 occurred in this District.

21 **III. PARTIES**

22 6. Plaintiff Jumapili Ikuseghan is an individual citizen of the state of Washington.  
23 At the time of the violations, Plaintiff resided in King County. Plaintiff currently resides in  
24 Pierce County.

25 7. Defendant MultiCare is a nonprofit corporation, incorporated in Washington  
26 State, with its principal place of business in Tacoma, Washington. MultiCare does business in  
27

1 Washington State, including this District. MultiCare is a health care provider that operates  
2 multiple hospitals and health clinics in Washington State.

3 **IV. THE TELEPHONE CONSUMER PROTECTION ACT OF 1991**  
4 **(TCPA), 47 U.S.C. § 227**

5 8. In 1991, Congress enacted the Telephone Consumer Protection Act, 47 U.S.C. §  
6 227 (TCPA), in response to a growing number of consumer complaints regarding certain  
7 telemarketing practices.

8 9. The TCPA regulates, among other things, the use of automated telephone  
9 equipment, or “autodialers.” Specifically, the plain language of Section 227(b)(1)(A)(iii)  
10 prohibits the use of autodialers to make any call to a wireless number in the absence of an  
11 emergency or the prior express consent of the called party.

12 10. According to findings by the Federal Communications Commission (“FCC”),  
13 the agency Congress vested with authority to issue regulations implementing the TCPA, such  
14 calls are prohibited because as Congress found, automated or prerecorded telephone calls are a  
15 greater nuisance and invasion of privacy than live solicitation calls, and such calls can be costly  
16 and inconvenient. The FCC also recognized that many wireless customers are charged for  
17 incoming calls whether they pay in advance or after the minutes are used.

18 11. On May 9, 2013, the FCC released a Declaratory Ruling wherein it stated that  
19 sellers may be vicariously liable for violations of Section 227(b) committed by third parties that  
20 called consumers on the seller’s behalf. The FCC ruled that vicarious liability can be  
21 established on the federal common law agency principles, including express agency, apparent  
22 authority, and ratification. The FCC underscored that holding a seller vicariously liable for  
23 unlawful violations of Section 227(b) furthers the TCPA policy of protecting consumer privacy  
24 rights.

**V. FACTUAL ALLEGATIONS**

12. MultiCare entered into an agency relationship with Hunter Donaldson for the purpose of Hunter Donaldson making calls, on MultiCare’s behalf, to solicit insurance information from individuals who had received health care from MultiCare.

13. Hunter Donaldson is a healthcare financial services company that utilizes automated telephone equipment and technology, including predictive dialers. Hunter Donaldson states the following on its website:

Through the use of predictive dialers our operator efficiency can be as much as 300% higher than automatic dialing and yield talk times of 45 to 50 minutes per hour. The dialer is designed to predict or anticipate, during the call process, the availability of the next recovery specialist. The dialer then accelerates or decreases the outbound dialing rate for that specialist accordingly to maximize our efforts. Predictive dialers are a vital link to the speed at which we gather information and subsequently process claims.

14. Hunter Donaldson filed for Chapter 11 bankruptcy on June 18, 2014.

15. MultiCare had knowledge that Hunter Donaldson used automated telephone equipment and technology, including predictive dialers.

16. In June 2013, Plaintiff was treated for motor vehicle accident injuries at Tacoma General Hospital, a MultiCare facility.

17. On June 27, 2013, using an automatic telephone dialing system, Hunter Donaldson, on MultiCare’s behalf, placed a prerecorded call to Plaintiff on her cellular telephone number, 425-XXX-4335. Hunter Donaldson left a prerecorded message on Plaintiff’s voicemail. The voicemail left is as follows:

Hello, this is a follow-up call from Hunter Donaldson regarding your recent visit to the hospital. We believe there may be other insurance available to pay for the hospital bills. By providing us with information to this visit, we will be able to resolve the bill quickly. To provide information or for additional assistance, please call 866-964-3758. To learn more about us, please visit www.hdonaldson.org. If we have reached this number in error, please call to have your number removed. Thank you and have a wonderful day.

1 18. On July 6, 2013, using an automatic telephone dialing system, Hunter  
2 Donaldson placed another prerecorded call to Plaintiff's cellular phone on MultiCare's behalf.  
3 Hunter Donaldson left a prerecorded message, identical to the message left on June 27, 2013,  
4 on Plaintiff's voicemail.

5 19. Plaintiff received at least five other calls on her cellular phone from Hunter  
6 Donaldson on MultiCare's behalf.

7  Hunter Donaldson (866) 964-3758 - work 7/4/13 10:36 AM 5 months ago 1 minute long ★  
Call Text more Call quality? [✓] [✕]

8  Hunter Donaldson (866) 964-3758 - work 7/2/13 12:14 PM 5 months ago 1 minute long ★  
Call Text more Call quality? [✓] [✕]

9  Hunter Donaldson (866) 964-3758 - work 7/1/13 4:14 PM 5 months ago 1 minute long ★  
Call Text more Call quality? [✓] [✕]

10  Hunter Donaldson (866) 964-3758 - work 6/28/13 12:55 PM 5 months ago 2 minutes long ★  
Call Text more Call quality? [✓] [✕]

11  Hunter Donaldson (866) 964-3758 - work 6/27/13 12:24 PM 5 months ago 1 minute long ★  
Call Text more Call quality? [✓] [✕]

12  Hunter Donaldson (866) 964-3758 - work 6/27/13 12:22 PM 5 months ago Inbox ★  
Hello, this is a follow up call from 100 Donaldson regarding your recent visit to the hospital. We believe there may be other insurance available to pay for the hospital bills. By providing us with information to this visit. We will be able to resolve itself quickly. To provide information, or. For additional assistance. Please. Call (866) 964-3758. To learn more about us, please visit W W W dot. H. Donaldson, dot org. If we have reached. This number in error, please call to have your number removed. Thank you and have a wonderful day.  
▶ 00:51 Transcript useful? [✓] [✕]  
Call Text more

13  Hunter Donaldson (866) 964-3758 - work 6/24/13 2:16 PM 5 months ago Inbox ★  
Call Text more

14  Hunter Donaldson (866) 964-3758 - work 7/6/13 11:53 AM 4 months ago Inbox ★  
Hello, this is a follow up call from Hunter Donaldson regarding your recent visit to the hospital, they believe there may be other insurance available to pay for the hospital bill. I providing us with information to this is it. We will be able to resolve this so quickly. To provide information or for additional assistance, please call (866) 964-3758. To learn more about us, please visit W W W dot. H. Donaldson, dot org. If we have reached. This number in error, please call to have your number removed. Thank you and have a wonderful day.  
▶ 00:51 Transcript useful? [✓] [✕]  
Call Text more

1 20. Class members have received prerecorded calls and messages, similar to the  
2 prerecorded calls and messages Plaintiff received, from Hunter Donaldson on MultiCare’s  
3 behalf.

4 21. MultiCare had knowledge that Hunter Donaldson repeatedly called Plaintiff and  
5 the Class on its behalf and willfully allowed Hunter Donaldson to do so.

6 22. MultiCare had knowledge that Hunter Donaldson made the prerecorded calls to  
7 Plaintiff and the Class with automated telephone equipment and technology and willfully  
8 allowed Hunter Donaldson to do so.

9 23. MultiCare did not take any steps to make Hunter Donaldson cease using  
10 automated telephone equipment and technology for calls made on MultiCare’s behalf.

11 **VI. CLASS ACTION ALLEGATIONS**

12 24. Plaintiff brings this action individually and on behalf of all other persons  
13 similarly situated (hereinafter referred to as “the Class”).

14 25. Class Definition. Pursuant to Federal Rule of Civil Procedure 23, Plaintiff  
15 brings this action as a class action on behalf of the Class of persons defined as follows:

16 First and Second Claims for Relief:

17 All persons within the United States who received a non-  
18 emergency telephone call from Hunter Donaldson on behalf of  
19 MultiCare to a cellular telephone through the use of an automatic  
20 telephone dialing system or an artificial or prerecorded voice and  
who did not provide prior express consent for such calls, at any  
time from July 7, 2010 to the date of trial

21 Third Claim for Relief:

22 All persons within the United States who received a non-  
23 emergency telephone call from Hunter Donaldson on behalf of  
24 MultiCare to a cellular telephone through the use of an automatic  
25 telephone dialing system or an artificial or prerecorded voice and  
26 who did not provide prior express consent for such calls, at any  
27 time from July 7, 2011 to the date of trial

1 Excluded from the Class are MultiCare and any entities in which MultiCare has a  
2 controlling interest, MultiCare's agents and employees, the Judge to whom this action is  
3 assigned and any member of the Judge's staff and immediate family.

4 26. Numerosity. The Class is so numerous that joinder of all members is  
5 impracticable. Upon information and belief, the Class has thousands of members. Moreover,  
6 the disposition of the claims of the Class in a single action will provide substantial benefits to  
7 all parties and the Court.

8 27. Commonality. There are numerous questions of law and fact common to  
9 Plaintiff and the members of the Class. These common questions of law and fact include, but  
10 are not limited to, the following:

11 a. Whether Hunter Donaldson on behalf of MultiCare made non-emergency  
12 calls to Plaintiff and Class members' cellular telephones using an automatic telephone dialing  
13 system or an artificial or prerecorded voice;

14 b. Whether MultiCare's conduct was knowing or willful; and

15 c. Whether MultiCare is liable for damages, and the amount of such  
16 damages.

17 28. Typicality. Plaintiff's claims are typical of the claims of the Class. Plaintiff's  
18 claims, like the claims of the Class, arise out of the same common course of conduct by Hunter  
19 Donaldson, on Defendant's behalf, and are based on the same legal and remedial theories.

20 29. Adequacy. Plaintiff will fairly and adequately protect the interests of the Class.  
21 Plaintiff has retained competent and capable attorneys who are experienced trial lawyers with  
22 significant experience in complex and class action litigation, including consumer class actions  
23 and robocall class actions. Plaintiff and her counsel are committed to prosecuting this action  
24 vigorously on behalf of the Class and have the financial resources to do so. Neither Plaintiff  
25 nor her counsel has interests that are contrary to or that conflict with those of the proposed  
26 Class.

1           30.     Predominance. Hunter Donaldson has engaged in a common course of conduct,  
2 on behalf of Defendant, toward Plaintiff and the Class. The common issues arising from this  
3 conduct that affect Plaintiff and the Class predominate over any individual issues.  
4 Adjudication of these common issues in a single action has important and desirable advantages  
5 of judicial economy.

6           31.     Superiority. A class action is the superior method for the fair and efficient  
7 adjudication of this controversy. Class-wide relief is essential to compel Defendant to comply  
8 with the TCPA. The interest of individual members of the Class in individually controlling the  
9 prosecution of separate claims against Defendant is small because the statutory damages in an  
10 individual action for violation of the TCPA are small. Management of these claims is likely to  
11 present significantly fewer difficulties than are presented in many class claims because the calls  
12 at issue are all automated. Class treatment is superior to multiple individual suits or piecemeal  
13 litigation because it conserves judicial resources, promotes consistency and efficiency of  
14 adjudication, provides a forum for small claimants, and deters illegal activities. There will be  
15 no significant difficulty in the management of this case as a class action.

16   **VII. FIRST CLAIM FOR RELIEF**  
17   **(Strict Liability Violations of the Telephone Consumer Protection Act,**  
   **47 U.S.C. § 227(b)(1)(A))**

18           33.     Plaintiff realleges and incorporates by reference each and every allegation set  
19 forth in the preceding paragraphs.

20           34.     The foregoing acts and omissions of Hunter Donaldson on MultiCare's behalf  
21 and/or MultiCare's affiliates, agents, and/or other persons or entities acting on MultiCare's  
22 behalf constitute numerous and multiple violations of the TCPA, 47 U.S.C. § 227(b)(1)(A).

23           35.     As a result of Hunter Donaldson's violations of the TCPA, 47 U.S. C. §  
24 227(b)(1)(A), on behalf of MultiCare, Plaintiff and members of the Class are each entitled to an  
25 award of \$500.00 in statutory damages for each and every call in violation of the statute,  
26 pursuant to 47 U.S.C. § 227(b)(3)(B).



**VIII. SECOND CLAIM FOR RELIEF  
(Knowing and/or Willful Violations of the Telephone Consumer Protection Act,  
47 U.S.C. § 227(b)(1)(A))**

37. Plaintiff realleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

38. The foregoing acts and omissions of Hunter Donaldson on MultiCare’s behalf and/or MultiCare’s affiliates, agents, and/or other persons or entities acting on MultiCare’s behalf constitute numerous and multiple knowing and/or willful violations of the TCPA, 47 U.S.C. § 227(b)(1)(A).

39. As a result of MultiCare’s knowing and/or willful violations of 47 U.S.C. § 227, *et seq.*, Plaintiff and members of the Class are each entitled to treble damages of up to \$1,500 for each and every call in violation of the TCPA, 47 U.S.C. § 227(b)(3).

**IX. THIRD CLAIM FOR RELIEF  
(Invasion of Privacy by Intrusion under Washington law)**

41. Plaintiff realleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

42. The foregoing acts and omissions of Hunter Donaldson on MultiCare’s behalf and/or MultiCare’s affiliates, agents, and/or other persons or entities acting on MultiCare’s behalf constitute numerous and multiple violations of invasion of privacy by intrusion into class members’ solitude, seclusion, or private affairs under Washington law.

43. As a result of Hunter Donaldson’s intrusions of privacy, Plaintiff and members of the Class are each entitled to damages for each and every invasion of privacy by intrusion.

**X. PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, on her own behalf and on the behalf of the Class, prays for judgment against MultiCare as follows:

- A. Certification of the proposed Class;
- B. Appoint Plaintiff as representative of the Class;

1 C. Appoint the undersigned counsel as counsel for the Class;

2 D. Award Plaintiff and the Class statutory, compensatory, and exemplary damages,  
3 as allowed by law;

4 E. Award Plaintiff and the Class attorneys' fees and costs, as allowed by law and/or  
5 equity;

6 F. Permit Plaintiff and the Class leave to amend the Complaint to conform to the  
7 evidence presented at trial;

8 G. A trial by jury on all issues appropriate for trial; and

9 H. Grant such other and further relief as the Court deems necessary, just, and  
10 proper.

11 **XI. DEMAND FOR A JURY TRIAL**

12 Plaintiff demands a jury trial on all counts appropriate for trial.

13 DATED this 7th day of July, 2014.

14 TOUSLEY BRAIN STEPHENS PLLC

15  
16  
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