

# Exhibit A1

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA**

Keon Jackson,

Plaintiff,

v.

Athena Bitcoin, Inc.,

Defendant.

Case No. 4:24-cv-00331

**CLASS ACTION COMPLAINT**

**INTRODUCTION**

1. As the Supreme Court has explained, “Americans passionately disagree about many things. But they are largely united in their disdain for robocalls.... For nearly 30 years, the people’s representatives in Congress have been fighting back. As relevant here, the Telephone Consumer Protection Act of 1991, known as the TCPA, generally prohibits robocalls to cell phones and home phones.” *Barr v. Am. Ass’n of Political Consultants*, 140 S. Ct. 2335, 2343 (2020).

2. Defendant Athena Bitcoin, Inc. (“Athena”) has contributed to this barrage of telephone spam by initiating illegal text messages to Plaintiff Keon Jackson (“Jackson”) and thousands of others like him.

3. In August of 2023, Jackson requested that Athena's telemarketing text messages stop. Despite its acknowledgment of his request, Athena continued to send him telemarketing text messages.

4. Jackson wants this spam to stop. Jackson brings this action individually, and on behalf of putative class members, to seek injunctive relief and damages.

### **JURISDICTION AND VENUE**

5. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1331 because this action arises under the TCPA. 47 U.S.C § 227.

6. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because a significant portion of events giving rise to this lawsuit occurred in this district and plaintiff resides in this district.

7. This Court has supplemental jurisdiction over the Florida state claims under 28 U.S.C § 1367.

### **PARTIES**

8. Plaintiff Keon Jackson is a citizen of Florida, residing in Tallahassee.

9. Defendant Athena Bitcoin, Inc. is a Delaware corporation with its principal place of business in Miami, Florida.

10. Defendant Athena operates a network of over 3,000 cryptocurrency ATMs across the world, the vast majority of which are in the United States.

11. Plaintiff is, and at all times relevant hereto for the purposes of Fla. Stat. § 501.059(5) was, a "consumer" as defined by Fla. Stat. § 501.059(1)(b).

12. Defendant is, and at all times relevant hereto was, a “telephone solicitor” as defined by Fla. Stat. § 501.059(1)(i).

### **FACTUAL ALLEGATIONS**

13. Athena owns and operates a global network of more than 3,000 Athena Bitcoin ATMs. These ATMs allow Athena’s customers to buy and sell cryptocurrencies, such as Bitcoin, in exchange for their local currency.<sup>1</sup>

14. Jackson first used an Athena Bitcoin ATM in Tallahassee, Florida on March 7, 2023. The ATM required Jackson to input his phone number in order to make a transaction.

15. Jackson then received a verification code in an SMS text message from Athena. This code allowed him to complete his transaction at the Athena ATM.

16. Jackson again visited an Athena ATM in Tallahassee on April 5, 2023. Again, he received a verification code that allowed him to transact.

17. After April 5, 2023, Jackson never visited an Athena ATM again and consequently never received another verification code in an SMS text message from Athena.

18. Starting on April 26, 2023, Jackson began receiving telemarketing text messages from the short code number 57716 – the same number that sent him the verification code messages. Jackson received a total of five messages between April 26 and July 27, 2023:

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<sup>1</sup> See Athena Bitcoin Global’s S-1/A filed January 12, 2024, at p. 2.  
[https://www.sec.gov/Archives/edgar/data/1095146/000168316824000275/athena\\_s1a5.htm](https://www.sec.gov/Archives/edgar/data/1095146/000168316824000275/athena_s1a5.htm)

- i. April 26, 2023 at 6:35pm UTC from 57716  
New Bitcoin ATMs in Florida! Buy or sell Bitcoin quickly & easily. Visit our new locations. [links.athenabitcoin.com/ari](https://links.athenabitcoin.com/ari). Type STOP to opt out.
  - ii. June 15, 2023 at 8:01am UTC from 57716  
Save big! Enjoy 25% OFF your next Bitcoin purchase at our ATMs until 06/19/23. Select locations only:. None. Type STOP to opt out.
  - iii. June 21, 2023 at 9:18pm UTC from 57716  
Exciting news! Discover our latest locations featuring Athena Bitcoin ATMs Discover the easiest way to access Bitcoin. Find us: [athenabitcoin.com/atm-locations/](https://athenabitcoin.com/atm-locations/).
  - iv. June 28, 2023 at 2:48pm UTC from 57716  
Happy 4th of July! Get 25% OFF your next Bitcoin purchase at our ATMs. Offer ends 07/05/23. Don't miss out: [links.athenabitcoin.com/01m](https://links.athenabitcoin.com/01m) Type STOP to opt out.
  - v. July 27, 2023 at 8:04am UTC from 57716  
Summer Sale! Enjoy 10% OFF your next Bitcoin purchase at our ATMs nationwide. Ends 7/31/23. Find locations: [athenabitcoin.com/summer-sale](https://athenabitcoin.com/summer-sale) Type STOP to opt out.
19. On August 14, 2023, at 8:39pm UTC, Jackson sent a text message saying “stop” to 57716.
20. Jackson immediately received a response from 57716 saying the STOP was received and that he would no longer receive marketing text messages.
21. However, just two days later, on August 16, 2023, the marketing text messages started again. They continued until December 28, 2023:
- i. August 16, 2023 at 10:52am UTC from 57716  
Flash Deal: Enjoy 10% OFF your next purchase at our Athena Bitcoin ATMs. Ends 8/23/23. Start saving now! [athenabitcoin.com/flash-deal/](https://athenabitcoin.com/flash-deal/) Type STOP to opt out.

- ii. August 25, 2023 at 6:54pm UTC from 57716  
Limited Time Offer! 15% OFF your next purchase at Athena Bitcoin ATMs. Ends 8/31/23. Select Locations  
Only: [athenabitcoin.com/super-promo/](https://athenabitcoin.com/super-promo/) Type STOP to opt out.
- iii. August 31, 2023 at 3:12am UTC from 57716  
Flash Sale Alert! Get 25% off your next purchase at Athena Bitcoin ATMs. Ends 9/3/2023. Don't miss out! [www.athenabitcoin.com/flash-deal](https://www.athenabitcoin.com/flash-deal) Type STOP to opt out.
- iv. September 27, 2023 at 2:32am UTC from 57716  
Farewell September! Celebrate it with 25% OFF your next purchase at our Athena Bitcoin ATMs. Ends 10/5/23: [athenabitcoin.com/fall-deal/](https://athenabitcoin.com/fall-deal/) Type STOP to opt out.
- v. November 21, 2023 at 3:59pm UTC from 57716  
Exclusive Black Friday Deal! Get 25% OFF on your next Bitcoin purchase at our ATMs. Ends 11/26/23: <https://athenabitcoin.com/black-friday> Type STOP to opt out.
- vi. December 6, 2023 at 11:24pm UTC from 57716  
Start December Right! Enjoy 10% OFF your next Bitcoin purchase at our ATMs. Don't miss out! Ends 12/17/23: <https://athenabitcoin.com/dec23> Type STOP to opt out.
- vii. December 21, 2023 at 6:04pm UTC from 57716  
Gift BTC Magic! Celebrate Christmas with 25% OFF your next Bitcoin purchase at our ATMs. Ends 12/26/23 <https://athenabitcoin.com/xmas-sale> Type STOP to opt out.
- viii. December 28, 2023 at 6:38pm UTC from 57716  
Start the year right and enjoy 20% OFF at Athena Bitcoin ATMs! Explore now: <https://athenabitcoin.com/new-year-deal> Hurry, ends 1/1/24 Type STOP to opt out.

22. In total, Jackson received eight telemarketing text messages from Athena after he sent a stop request.

23. As demonstrated by the above messages, Athena does not honor consumer requests to opt-out of telemarketing text messages.

24. Athena has not instituted procedures for maintaining a list of persons who request not to receive telemarketing text messages, as evidenced by Athena's text messages to Jackson after he made a stop request.

25. Therefore, Athena sent telemarketing text messages to Jackson prior to implementing and maintaining proper internal do not call list procedures.

26. The purpose of the text messages was to encourage Jackson to purchase cryptocurrencies at Athena's ATMs.

27. Athena's telemarketing text messages, like those sent to Jackson, are primarily used to increase total transaction volume at its ATMs.

28. Athena is not a cryptocurrency exchange like, for instance, Coinbase. Instead, Athena purchases the cryptocurrencies itself and sells them to users of its ATMs at a mark-up of over 20%.<sup>2</sup>

29. The sale of cryptocurrencies (primarily Bitcoin) through its ATMs is Athena's primary source of revenue.<sup>3</sup>

30. Upon information and belief, Athena, like many cryptocurrency ATM companies, targets its offerings at the unbanked population, usually focusing on lower-income areas.<sup>4</sup>

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<sup>2</sup> See Athena Bitcoin Global's S-1/A filed January 12, 2024, at p. 7.

[https://www.sec.gov/Archives/edgar/data/1095146/000168316824000275/athena\\_s1a5.htm](https://www.sec.gov/Archives/edgar/data/1095146/000168316824000275/athena_s1a5.htm)

<sup>3</sup> See Athena Bitcoin Global's 2023 Amended Annual Report, at p. 39.

<https://www.otcmarts.com/otcapi/company/financial-report/397104/content>

<sup>4</sup> See <https://www.bloomberg.com/news/articles/2024-04-17/bitcoin-atms-flood-black-latino-areas-charging-fees-up-to-22>; <https://thebeaconnews.org/stories/2023/08/15/high-fee-crypto-atms-center-around-low-income-parts-of-kansas-city/>

31. If the Athena Bitcoin ATM users purchased Bitcoin through an online exchange like Coinbase, they would likely be charged a commission of 0.5-5%.<sup>5</sup> Instead, by purchasing through the Athena ATMs, they are buying at an inflated price.

32. Athena's telemarketing text messages, therefore, entice consumers to return to its ATMs and continue purchasing cryptocurrencies at an inflated price.

33. Athena sent all of the text messages at issue to 850-694-6782.

34. Jackson is the residential user of the cell phone number 850-694-6782. Jackson uses this phone number at home. Jackson makes and receives all of his personal calls and text messages on this phone number. This is Jackson's only phone number. Jackson does not use this phone number in any business.

35. Athena's text messages are a nuisance and annoyance to Jackson. The calls have invaded Jackson's privacy. The spam has diminished the value of Jackson's phone and Jackson's enjoyment of life.

### LEGAL STANDARD

36. **Internal Do Not Call Procedures.** "No person or entity shall initiate... any call for telemarketing purposes to a residential telephone subscriber unless such person or entity has instituted procedures for maintaining a list of persons who request not to receive such calls." 47 C.F.R. § 64.1200(d). Telemarketers "must honor a residential subscriber's do-not-call request." *Id.* at 64.1200(d)(3).

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<sup>5</sup> <https://help.coinbase.com/en/exchange/trading-and-funding/exchange-fees>

37. **Application to Text Messages.** The rules set forth in paragraph (c) and (d) of [47 C.F.R. § 64.1200] are applicable to any person or entity making telephone solicitations or telemarketing calls or text messages to wireless telephone numbers.” 47 C.F.R. § 64.1200(e).

38. **Florida Telephone Solicitation Act.** “A telephone solicitor or other person may not initiate an outbound telephone call, text message, or voicemail transmission to a consumer, business, or donor or potential donor who has previously communicated to the telephone solicitor or other person that he or she does not wish to receive an outbound telephone call, text message, or voicemail transmission...[m]ade by or on behalf of the seller whose goods or services are being offered.” Fla. Stat. § 501.059(5)(a).

### CLASS ACTION ALLEGATIONS

39. Pursuant to Federal Rule of Civil Procedure 23(b)(2) and 23(b)(3), Jackson brings this action on behalf of all other persons similarly situated.

40. Jackson proposes the following Classes:

**The Internal Do Not Call Class:** All persons in the United States, (1) to whom Athena initiated, or caused to be initiated, more than one text message within any 12-month period, (2) that was not for verification purposes, (3) more than 30 days after receiving a do not call request, (4) within the last four years prior to the filing of this action through the date of class certification.

**The FTSA Stop Class:** All Florida residents (1) with telephone numbers having a Florida area code, (2) to whom Athena initiated, or caused to be initiated, one or more text messages, (3) that were not for verification purposes, (4) more than 15 days after receiving a stop request, (5) since July 1, 2021, through the date of class certification.

41. Counsel, Athena, and Athena's employees and agents are excluded from the classes.

**NUMEROSITY**

42. Jackson does not know the exact number of class members but reasonably believes the number to be in the thousands, thus making joinder of all class members impracticable.

43. Class members are identifiable through phone records and phone number databases.

**COMMONALITY**

44. There are questions of law and fact common to Jackson and the class members including but not limited to:

- i. Whether Athena instituted the requisite internal do not call procedures.
- ii. Whether Athena honors opt-out or "stop" requests.
- iii. Whether Athena's text messages constitute telemarketing.
- iv. Whether Jackson and class members are entitled to statutory damages, trebled damages, and injunctive relief.

**TYPICALITY**

45. Jackson's claims are typical of the claims of the class members. Jackson's claims, like the class members' claims, arise out of the same common course of conduct by Athena and are based on the same legal and remedial theories.

**ADEQUATE REPRESENTATION**

46. Jackson is an adequate representative of the class because Jackson's interests do not conflict with the interests of the class members, Jackson will fairly and adequately protect the interests of the class members, and Jackson is represented by counsel skilled and experienced in class actions, including TCPA class actions.

**PREDOMINANCE OF COMMON QUESTIONS**

47. Common questions of law and fact predominate over questions affecting only individual class members.

**SUPERIORITY**

48. Management of these claims is likely to present significantly fewer difficulties than are presented in many class claims because the damages are statutory. Notice to class members can be provided by mail or other means. Class treatment is superior to multiple individual suits or piecemeal litigation because it conserves judicial resources, promotes consistency and efficiency of adjudication, provides a forum for small claimants, and deters illegal activities. There will be no significant difficulty in the management of this case as a class action.

49. The likelihood that individual class members will prosecute separate actions is remote due to the time and expense necessary to prosecute an individual case.

**FIRST CAUSE OF ACTION**  
**Failure to Honor Opt-Out Requests**  
**(On Behalf of Plaintiff and the Internal Do Not Call Class)**

50. Athena violated 47 C.F.R. § 64.1200(d) by initiating, or causing to be initiated, text messages to Jackson and the Internal Do Not Call Class without instituting procedures for maintaining a list of persons who request not to receive such text messages.

51. Jackson and members of the Internal Do Not Call Class have been damaged and are entitled to an award of \$500 in statutory damages for each violation. 47 U.S.C. § 227(c)(5).

52. The court should award \$1,500 in statutory damages for each violation because the violations were knowing and willful. *Id.*

**SECOND CAUSE OF ACTION**  
**Violation of the Florida Telephone Solicitation Act**  
**(On Behalf of Jackson and the FTSA Stop Class)**

53. Athena violated Fla. Stat. § 501.059(5)(a) by initiating text messages to Jackson and the FTSA Stop Class after they communicated to Athena that they no longer wished to receive text messages.

54. Jackson and members of the FTSA Stop Class have been damaged and are entitled to an award of \$500 in statutory damages for each violation. Fla. Stat. § 501.059(10).

55. The court should award \$1,500 in statutory damages for each violation because the violations were knowing and willful. *Id.*

### **RELIEF REQUESTED**

Jackson respectfully requests the Court grant the following relief:

- A. Certification of the proposed Classes;
- B. Appointment of Jackson as class representative;
- C. Appointment of the undersigned as lead counsel for the Classes;
- D. Injunctive relief, as allowed by law;
- E. An award of damages to Jackson and class members, as allowed by law;
- F. An award of reasonable attorneys' fees and costs pursuant to Fla. Stat. § 501.059(11); and
- G. Orders granting such other relief as the Court deems necessary, just, and proper.

### **JURY DEMAND**

Jackson requests a jury trial as to all claims of the Complaint so triable.

Dated August 20, 2024

Respectfully submitted,

/s/ David Mitchell

David Mitchell

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\*Subject to *Pro Hac Vice* Admission

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of Florida

Keon Jackson

Plaintiff(s)

v.

Athena Bitcoin, Inc.

Defendant(s)

Civil Action No. 4:24-cv-00331

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Athena Bitcoin, Inc.
c/o Incorp Services, Inc.
3458 Lakeshore Drive
Tallahassee, FL 32312

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

David Mitchell, Esq.
LawHQ, P.C.
299 S. Main St. #1300
Salt Lake City, UT 84111
385-285-1090 Ext. 30135

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

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**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: