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*Attorneys for Plaintiff Eugene Mannacio and
the Proposed Class*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EUGENE MANNACIO, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

SOVEREIGN LENDING GROUP
INCORPORATED

Defendant.

Case No.

**CLASS ACTION COMPLAINT FOR
INJUNCTION AND DAMAGES**

Class Action

JURY TRIAL DEMAND

Plaintiff Eugene Mannacio, by his undersigned counsel, for this class action complaint against Defendant Sovereign Lending Group Incorporated (hereinafter “Sovereign Lending” or “Defendant”) and its present, former, and future direct and indirect parents, subsidiaries, affiliates, agents, and related entities, alleges as follows:

I. INTRODUCTION

1. Nature of Action: This case arises from Defendant’s unsolicited telemarketing in violation of the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227.

2. The telemarketing targeted numbers listed on the National Do Not Call Registry (“NDNCR”) and because telemarketing calls are sent *en masse* the Plaintiff files a putative class action complaint.

1 **II. PARTIES**

2 3. Plaintiff Eugene Mannacio (“Plaintiff”) is a natural person.

3 4. Plaintiff resides in Novato, California.

4 5. Sovereign Lending Capital is a corporation.

5 6. Sovereign Lending Capital’s principal place of business is at 3540 Howard Way,
6 Costa Mesa, CA 92626.

7 7. Sovereign Lending Capital does business in California, including in this District.

8 **III. JURISDICTION AND VENUE**

9 8. Jurisdiction: This Court has federal-question subject matter jurisdiction pursuant
10 to 28 U.S.C. § 1331 because the TCPA is a federal statute. 47 U.S.C. § 227; *Mims v. Arrow Fin.*
11 *Servs., LLC*, 565 U.S. 368, 372 (2012).

12 9. Personal Jurisdiction: This Court has personal jurisdiction over Defendant
13 because its principal place of business is in California and the telemarketing at issue targeted a
14 California area code.

15 10. Venue: Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(1)-(2)
16 because a substantial part of the events giving rise to Plaintiff’s claims—namely, the direction of
17 the illegal telemarketing from Defendant’s office—occurred in this District.

18 11. Intradistrict Assignment: Assignment to this Division is proper pursuant to Civil
19 Local Rule 3-2(c) because a substantial part of the events or omissions that give rise to Plaintiff’s
20 claims—namely, the illegal telemarketing occurred in Novato.

21 **IV. FACTS**

22 **A. The Enactment of the TCPA and the FCC’s Regulations Thereunder**

23 12. Enacted in 1991, the TCPA’s sponsor described unwanted robocalls as “the
24 scourge of modern civilization. They wake us up in the morning; they interrupt our dinner at
25 night; they force the sick and elderly out of bed; they hound us until we want to rip the telephone
26 out of the wall.” 137 Cong. Rec. 30,821 (1991) (statement of Sen. Hollings).

27 13. Do Not Call Registry: The TCPA outlaws unsolicited telemarketing (robocalls or
28 otherwise) to telephone numbers on the NDNCR. 47 U.S.C. § 227(c); 47 C.F.R. § 64.1200(c)(2).

1 Encouraging people to hold telemarketers accountable on behalf on their fellow Americans, the
2 TCPA provides a private cause of action to persons who receive such calls. 47 U.S.C. §
3 227(c)(5).

4 **B. Factual Allegations Regarding Defendant**

5 14. Sovereign Lending is a company that seeks mortgage and refinancing clients.

6 15. To generate business, Sovereign Lending relies on telemarketing.

7 16. Those telemarketing calls violate the TCPA when they are made to residential
8 consumers on the National Do Not Call Registry.

9 **C. Defendant's Unsolicited Telemarketing to Plaintiff**

10 17. Plaintiff is, and at all times mentioned herein was, a "person" as defined by
11 47 U.S.C. § 153(39).

12 18. Plaintiff owns and uses the telephone number 415-883-XXXX.

13 19. Plaintiff's telephone number is used for residential purposes only and is not
14 associated with a business.

15 20. Plaintiff's telephone number has been listed on the NDNCR since 2003.

16 21. Plaintiff has never done business with Sovereign Lending.

17 22. Plaintiff has never consented to receive calls from Sovereign Lending.

18 23. Despite these facts, beginning around October 10, 2021 Mr. Mannacio began to
19 receive unsolicited telemarketing calls from Sovereign Lending Group.

20 24. Mr. Mannacio estimates that he received at least five telephone calls from
21 Sovereign Lending Group between October 10 and October 20, 2021.

22 25. Mr. Mannacio ignored several calls or immediately hung up with the Sovereign
23 Lending Group representative began the pitch.

24 26. However, the calls continued.

25 27. On or about, October 19, 2021, Mr. Mannacio received a call from (415) 757-
26 4598.

1 28. Mr. Mannacio called the number back. The representative that answered the call
2 explained that the telephone call he had received was from Sovereign Lending and they were
3 calling to provide him with information regarding home refinancing.

4 29. Other individuals have complained about receiving calls from (415) 757-4598r.
5 See <https://www.reportedcalls.com/4157574598> (Last Visited November 15, 2021).

6 30. Other individuals have also complained about receiving calls from Sovereign
7 Lending:

8
9 I continue to be harassed by this company after I have repeatedly told them to stop
10 calling me. On 9/11/2021 alone I received 5 phone calls. Two of which was after I told
11 them yet again to not call me. There is a non-licensed person calling to solicit business
12 for the company. Do not give them your contact information as they do not care about
13 you saying do not call them. I made a mistake of refinancing my home with them.
14 They are incompetent and extremely rude.

15 See <https://goo.gl/maps/Vb9qL7yEeez4EHcD7> (Last Visited November 15, 2021).

16 I don't know how many times I have to communicate with them that I am not
17 interested in refinancing my house. We haven't even lived here for a year, and every
18 day I get bombarded with calls from them trying to get me to refinance after each time
19 I told them I wasn't interested and to stop calling to which they responded we'll put
20 you on a don't call list. But here we are, the next day, I'm getting a call from them once
21 again. So much for those "recorded lines for training purposes." They'll just harass you
22 each and every day.

23 See <https://goo.gl/maps/Vb9qL7yEeez4EHcD7> (Last Visited November 15, 2021).

24 31. Plaintiff and the other call recipients were harmed by these calls. They were
25 temporarily deprived of legitimate use of their phones because the phone line was tied up during
26 the telemarketing calls and their privacy was improperly invaded. Moreover, these calls injured
27 Plaintiff and the other call recipients because they were frustrating, obnoxious, annoying, were a
28 nuisance and disturbed the solitude of plaintiff and the class.

V. CLASS ACTION ALLEGATIONS

32. Class Definition: Pursuant to Federal Rule of Civil Procedure 23(b)(2) and (b)(3),
Plaintiff brings this case on behalf of a class defined as follows:

1 All persons in the United States to whom: (a) Defendant and/or a
2 third party acting on Defendant's behalf made more than one call
3 advertising its goods or services; (b) within a 12-month period; (c)
4 to a residential telephone number; (d) that was listed on the National
5 Do Not Call Registry for at least 31 days; (e) between the date four
6 years before the filing of the original complaint in this case and the
7 first day of trial.

8 This is referred to as the "Class."

9 33. Plaintiff is a member and proposed representative of the Class.

10 34. Exclusions: Excluded from the Class are Defendant, any entity in which any of
11 Defendant has a controlling interest or that has a controlling interest in any of Defendant,
12 Defendant' legal representatives, assignees, and successors, the judges to whom this case is
13 assigned and the employees and immediate family members of all of the foregoing.

14 35. Numerosity: The Class is so numerous that joinder of all its members is
15 impracticable as telemarketing campaigns are typically conducted *en masse*.

16 36. Commonality: There are many questions of law and fact common to Plaintiff and
17 class members makes this dispute amenable to classwide resolution. These common questions of
18 law and fact include, but are not limited to, the following:

- 19 a. whether the calls were dialed were solicitations;
- 20 b. whether Defendant's desire to sell its services constitutes an "emergency"
21 within the meaning of the TCPA;
- 22 c. whether Defendant is in the United States;
- 23 d. whether Defendant had a pattern and practice of failing to obtain prior
24 express written consent from people to whom they directed telemarketing;
- 25 e. whether Defendant had a pattern and practice of failing to remove
26 numbers on the NDNCR from their telemarketing lists;
- 27 f. whether Defendant's violations of the TCPA were knowing or willful; and
28 g. whether Defendant should be enjoined from continuing to telemarket to
people in violation of the TCPA.

1 **IX. SIGNATURE ATTESTATION**

2 The CM/ECF user filing this paper attests that concurrence in its filing has been obtained
3 from its other signatories.

4
5 RESPECTFULLY SUBMITTED AND DATED on November 23, 2021.

6 By: /s/ Susan Brown

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CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- 1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

Table with columns for PTF and DEF for Citizen of This State, Citizen of Another State, and Citizen or Subject of a Foreign Country.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, HABEAS CORPUS, OTHER, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation-Transfer 8 Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$

CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE

DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE

SIGNATURE OF ATTORNEY OF RECORD

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)
 - c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment).”
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an “X” in this box if you are filing a class action under Federal Rule of Civil Procedure 23. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.