

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

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	:	Case No.: 4:20-cv-1186-JAR
TIMOTHY MILES, on behalf of himself and others similarly situated,	:	
	:	
Plaintiff,	:	Class Action
	:	
vs.	:	Jury Trial Demanded
	:	
MEDICREDIT, INC.,	:	
	:	
Defendant.	:	
	:	
	x	

SECOND AMENDED CLASS ACTION COMPLAINT

Nature of the Action

1. Timothy Miles (“Plaintiff”) brings this class action against Medcredit, Inc. (“Medicredit”) under the Telephone Consumer Protection Act (“TCPA”), [47 U.S.C. § 227](#).

2. Section 227(b)(1)(A)(iii) of the TCPA sets forth restrictions on the use of automated telephone equipment and prerecorded voice calls, and provides in pertinent part:

It shall be unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States—

(A) to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice—

(iii) to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call.

3. Upon information and belief, Medcredit routinely violates [47 U.S.C. § 227\(b\)\(1\)\(A\)\(iii\)](#) by placing non-emergency telephone calls to consumers’ cellular telephone numbers by using an artificial or prerecorded voice, without the prior express consent of the

consumers, in that Mediacredit repeatedly delivered artificial or prerecorded voice messages to wrong or reassigned cellular telephone numbers that do not belong to the intended recipients of the calls. *Accord Lemos v. Credit One Bank, N.A.*, [960 F.3d 1164, 1166](#) (9th Cir. 2020) (“The principal question in this case is whether Credit One can escape liability under the TCPA because the party it intended to call (its customer) had given consent to be called, even though the party it actually called had not. Consistent with every circuit to have addressed this issue, we hold that this argument fails under the TCPA’s text, most naturally read.”).

4. Of note, Mediacredit previously settled two class actions in connection with which the plaintiffs asserted claims under the TCPA nearly identical to those Plaintiff now asserts. *See Martinez v. Mediacredit, Inc.*, No. 4:16-cv-01139-ERW, [Doc. 105](#) (E.D. Mo. May 15, 2018) (Webber, J.); *Prater v. Mediacredit, Inc.*, No. 4:14-cv-00159-ERW, [Doc. 89](#) (E.D. Mo. Dec. 7, 2015) (Webber, J.).

Jurisdiction

5. This Court has subject matter jurisdiction under [47 U.S.C. § 227\(b\)\(3\)](#) and [28 U.S.C. § 1331](#).

6. Venue is proper before this Court pursuant to [28 U.S.C. § 1391\(b\)](#), where Mediacredit resides in this District, and where a substantial part of the events giving rise to this action occurred in this District.

Parties

7. Plaintiff is a natural person who at all relevant times resided in Chapel Hill, North Carolina.

8. Mediacredit is a debt collection company with principal offices located in Earth City, Missouri.

9. Parallon Business Solutions, LLC (“Parallon”) owns Mediacredit.

10. Parallon shares senior management with Medcredit, including having the same president, vice president, and treasurer.

11. Parallon touts itself as “one of the country’s largest premier revenue cycle partners, with more than 18,100 employees serving more than 4,300 hospitals and physician practices.”¹

12. Annually, Parallon collects “more than \$51 billion and interact[s] with 49 million patients.”²

13. Parallon operates at least seven call centers.³

14. Parallon uses “automated dialers, IVR, and sophisticated workflows” as part of its collection practices.⁴

15. Medcredit has a Public Utility Commission of Texas Automatic Dial Announcing Device permit, no. 150005, which it first obtained in 2015 and which it renewed through at least January 2021.⁵

16. Medcredit’s Public Utility Commission of Texas Automatic Dial Announcing Device permit is registered through Deron Brown, senior counsel of Parallon.

Factual Allegations

17. In an attempt to contact a third party named “Amy” for the purpose of attempting to collect an alleged debt, Medcredit placed numerous calls to cellular telephone number (314) XXX-2368—a number for which Plaintiff is the customary user.

¹ <https://parallon.com/about-us> (last visited Oct. 4, 2021).

² <https://parallon.com/about-us> (last visited Oct. 4, 2021).

³ <https://parallon.com/about-us/people/don-wright> (last visited Oct. 4, 2021).

⁴ <https://parallon.com/services/early-out-self-pay-services> (last visited Oct. 4, 2021).

⁵ See https://www.puc.texas.gov/industry/communications/directories/adad/report_adad.aspx?ID=ADSQL01DB1245703600001 (last visited Oct. 4, 2021).

18. Mediacredit began placing calls and delivering artificial or prerecorded voice messages to Plaintiff's cellular telephone number before January 2018, and the calls and prerecorded voice messages continued through at least February 2018.

19. Mediacredit called Plaintiff's cellular telephone number on January 22, 2018.

20. Mediacredit called Plaintiff's cellular telephone number on January 30, 2018.

21. Mediacredit called Plaintiff's cellular telephone number on February 5, 2018.

22. Mediacredit called Plaintiff's cellular telephone number on February 12, 2018.

23. Mediacredit called Plaintiff's cellular telephone number on February 21, 2018.

24. Mediacredit called Plaintiff's cellular telephone number on February 28, 2018.

25. In connection with some of its calls to Plaintiff's cellular telephone number, Mediacredit also delivered prerecorded voice messages to Plaintiff's cellular telephone voice mail.

26. By way of example, one of the prerecorded voice messages that Mediacredit delivered to Plaintiff's cellular telephone voice mail in February 2018 stated:

Hello, we are calling from Mediacredit on behalf of Missouri Baptist Medical Center. This is a call from a debt collector. Please return our call at 1-800-888-2238 Monday through Friday during normal business hours. Thank you.

27. Mediacredit's records will identify each call it placed to Plaintiff's cellular telephone number.

28. Mediacredit's records will identify each prerecorded voice message it delivered, or attempted to deliver, to Plaintiff's cellular telephone.

29. Mediacredit placed calls to Plaintiff's cellular telephone number from telephone number (800) 888-2238, a number assigned to Mediacredit.

30. When dialed, telephone number (800) 888-2238 plays a prerecorded voice message greeting that begins: "Hello, thank you for calling Mediacredit Incorporated"

31. Medcredit placed each of its calls and delivered each of its prerecorded voice messages to Plaintiff's cellular telephone number in an effort to contact and collect a debt allegedly owed by a third party, unknown to Plaintiff, potentially named "Amy".

32. On at least one occasion, Plaintiff answered Medcredit's call and, after a delay, was connected to one of Medcredit's representatives.

33. Upon being connected to one of Medcredit's representatives, Plaintiff explained that Medcredit had the wrong number, and that he did not know the person Medcredit was attempting to reach.

34. Despite informing Medcredit that it was placing calls to the wrong person, Medcredit continued to place calls to Plaintiff's cellular telephone number.

35. Upon information and good faith belief, Medcredit utilizes a "WN" notation—signifying "wrong number"—when a call recipient informs Medcredit that it placed a call to a wrong number.

36. Medcredit did not have Plaintiff's prior express consent to place any calls to his cellular telephone number.

37. Medcredit did not have Plaintiff's prior express consent to deliver artificial or prerecorded voice messages to his cellular telephone.

38. Plaintiff never provided his cellular telephone number to Medcredit.

39. Plaintiff never had any business relationship with Medcredit.

40. Plaintiff was never a patient at Missouri Baptist Medical Center.

41. Plaintiff does not, and never did, owe money to Missouri Baptist Medical Center.

42. Medcredit did not place any calls to Plaintiff's cellular telephone number for emergency purposes.

43. Upon information and good faith belief, Mediacredit placed its calls and delivered artificial or prerecorded voice messages to Plaintiff's cellular telephone number under its own free will.

44. Upon information and good faith belief, Mediacredit had knowledge that it was using an artificial or prerecorded voice in connection with calls it placed to Plaintiff's cellular telephone number.

45. Plaintiff suffered actual harm as a result Mediacredit's calls and prerecorded voice messages in that he suffered an invasion of privacy, an intrusion into his life, a private nuisance, and was forced to spend time attempting to get Mediacredit's calls and prerecorded voice messages to stop.

46. Upon information and good faith belief, Mediacredit, as a matter of pattern and practice, places calls using an artificial or prerecorded voice, absent prior express consent, to telephone numbers assigned to a cellular telephone service.

Class Action Allegations

47. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b) on behalf of himself and a class of similarly situated individuals as defined below:

All persons and entities throughout the United States (1) to whom Mediacredit, Inc. placed, or caused to be placed, at least one call (2) directed to a number assigned to a cellular telephone service, by (3) using an artificial or prerecorded voice, (4) from December 16, 2017 through and including the date of class certification, (5) where the called party did not have an account with Mediacredit, Inc.

Excluded from the class are Mediacredit, its officers and directors, members of their immediate families and their legal representatives, heirs, successors, or assigns, and any entity in which Mediacredit has or had a controlling interest.

48. The proposed class is so numerous that, upon information and belief, joinder of all members is impracticable.

49. The exact number of class members is unknown to Plaintiff at this time and can only be determined through appropriate discovery.

50. The proposed class is ascertainable because it is defined by reference to objective criteria.

51. In addition, and upon information and belief, the cellular telephone numbers of all members of the class can be identified in business records maintained by Mediacredit and third parties, including class members.

52. Plaintiff's claims are typical of the claims of the members of the class because all of the class members' claims originate from the same conduct, practice and procedure on the part of Mediacredit, and Plaintiff possesses the same interests and has suffered the same injuries as each class member.

53. Like all members of the proposed class, Plaintiff received artificial or prerecorded voice messages from Mediacredit, without his consent, in violation of 47 U.S.C. § 227.

54. Plaintiff will fairly and adequately protect the interests of the members of the class and has retained counsel experienced and competent in class action litigation.

55. Plaintiff's counsel was previously certified as class counsel in TCPA class actions against Mediacredit.

56. Plaintiff has no interests that are contrary to or in conflict with the members of the class that he seeks to represent.

57. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy, since joinder of all members is impracticable.

58. Furthermore, as the damages suffered by individual members of the class may be relatively small, the expense and burden of individual litigation make it impracticable for the members of the class to individually redress the wrongs done to them.

59. There will be little difficulty in the management of this action as a class action.

60. Issues of law and fact common to the members of the class predominate over any questions that may affect only individual members, in that Mediacredit has acted on grounds generally applicable to the class.

61. Among the issues of law and fact common to the class are:

- a. Mediacredit's violations of the TCPA as alleged in this second amended class action complaint;
- b. Mediacredit's use of artificial or prerecorded voice messages;
- c. Mediacredit's practice of delivering artificial or prerecorded voice messages to wrong or reassigned cellular telephone numbers;
- d. Whether Mediacredit is liable for artificial and prerecorded messages it delivers to persons who are not the intended recipients of its calls; and
- e. the availability of statutory damages.

62. Absent a class action, Mediacredit's violations of the law will be allowed to proceed without a full, fair, judicially supervised remedy.

**Count I: Violations of 47 U.S.C. § 227(b)(1)(A)(iii)
On behalf of Plaintiff and the class**

63. Plaintiff repeats and re-alleges each and every factual allegation contained in paragraphs 1-62.

64. Mediacredit violated [47 U.S.C. § 227\(b\)\(1\)\(A\)\(iii\)](#) by utilizing an artificial or prerecorded voice in connection with calls it placed to Plaintiff's cellular telephone number, without his consent.

65. As a result of Mediacredit's violations of [47 U.S.C. § 227\(b\)\(1\)\(A\)\(iii\)](#), Plaintiff and the members of the class are entitled to damages in an amount to be proven at trial.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

(a) Determining that this action is a proper class action and designating Plaintiff as the class representative under Rule 23 of the Federal Rules of Civil Procedure;

(b) Adjudging that Mediacredit violated [47 U.S.C. § 227\(b\)\(1\)\(A\)\(iii\)](#), and enjoining Mediacredit from continuing to place calls by using an artificial or prerecorded voice to Plaintiff and members of the proposed class without the prior express consent of the consumers, and from committing further violations of [47 U.S.C. § 227\(b\)\(1\)\(A\)\(iii\)](#);

(c) Awarding Plaintiff and members of the class statutory damages pursuant to [47 U.S.C. § 227\(b\)\(3\)](#) in an amount up to \$1,500.00 per violation;

(d) Awarding Plaintiff and members of the class their reasonable costs, expenses, and attorneys' fees incurred in this action, including expert fees, pursuant to Rule 23 of the Federal Rules of Civil Procedure; and

(e) Awarding other and further relief as the Court may deem just and proper.

Jury Trial Demanded

Plaintiff hereby demands a trial by jury.

Dated: October 7, 2021

/s/ Michael L. Greenwald

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