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11 **IN THE UNITED STATES DISTRICT COURT**  
 12 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

13 **SUZIE CESARINA, individually,**  
 14 **and on behalf of all others similarly**  
 15 **situated,**

16 **Plaintiff,**

17 **vs.**

18 **T-MOBILE USA, INC.,**

19 **Defendant.**

20 **Case No.**

21 **CLASS ACTION COMPLAINT**

- 22 (1) Violation of Unfair Competition Law (Cal. Business & Professions Code §§ 17200 *et seq.*)
- 23 (2) Violation of Unfair Competition Law (Cal. Business & Professions Code §§ 17200 *et seq.*)
- 24 (3) Violations of the False Advertising Law, (Cal. Bus. & Prof. Code § 17500, *et seq.*)
- 25 (4) Violation of the Electronic Funds Transfer Act §§ 1693 *et seq.*

26 **Jury Trial Demanded**

1 Plaintiff Suzie Cesarina (“Plaintiff”), individually and on behalf of all other  
2 members of the public similarly situated, allege as follows:

3 **NATURE OF THE ACTION**

4 1. Plaintiff brings this class action Complaint against Defendant T-  
5 MOBILE USA, INC. (hereinafter “Defendant”) to stop Defendant’s practice of  
6 falsely advertising its services in order to falsely induce consumers to switch to  
7 their telephone service and to obtain redress for all California consumers (“Class  
8 Members”) (a) who were represented to have four telephone lines with unlimited  
9 minutes, text messages, data for \$100, (hereinafter collectively referred to as the  
10 “Class Services”) (b) who were represented to receive free tablets (hereinafter  
11 collectively referred to as the “Class Products”), or (c) whose bank accounts  
12 were debited on a reoccurring basis without obtaining a written authorization  
13 signed or similarly authenticated for preauthorized electronic fund transfers,  
14 Defendant.

15 2. Defendant is a Washington corporation and is engaged in the  
16 advertising, sale, and provider of telephone services with a large share of its  
17 business done in California.

18 3. Defendant represents to prospective consumers that they would be  
19 able to receive four telephone lines for \$100 unlimited minutes, text messages,  
20 data. In addition, Defendant also advertises that it will provide free tablets with  
21 an activation fee that we will be reimbursed over time.

22 4. Plaintiff and others similarly situated purchased Defendant’s  
23 telephone services and received tablets from Defendant.

24 5. Defendant misrepresented and falsely advertised to Plaintiff and  
25 others similarly situated the price of these services because Defendant charged  
26 purchasers of these services and products for more than was advertised and  
27 deducted these funds from consumers accounts of Plaintiff and those similarly  
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1 situated to Plaintiff which these consumers never agreed to pay for.

2 6. Defendant's misrepresentations to Plaintiff and others similarly  
3 situated caused them to purchase Defendant's telephone services and tablets,  
4 which Plaintiff and others similarly situated would not have purchased absent  
5 these misrepresentations by Defendant and its employees. In so doing, Defendant  
6 has violated California consumer protection statutes.

7 **JURISDICTION AND VENUE**

8 7. This class action is brought pursuant to Federal Rule of Civil  
9 Procedure 23. All claims in this matter arise exclusively under California law.

10 8. This matter is properly venued in the United States District Court  
11 for the Central District of California, in that Plaintiff was subject to Defendant's  
12 advertisements at Defendant's retail location at 186 The Shops at Mission Viejo,  
13 Mission Viejo, CA 92691 located in Orange County and the Central District of  
14 California. In addition, Defendant does business, inter alia, in the Central District  
15 of California.

16 9. There is original federal subject matter jurisdiction over this matter  
17 pursuant to the Class Action Fairness Act of 2005, Pub. L. 109-2, 119 Stat. 4  
18 (Feb. 18, 2005), by virtue of 28 U.S.C. §1332(d)(2), which explicitly provides  
19 for the original jurisdiction of federal courts in any class action in which at least  
20 100 members are in the proposed plaintiff class, any member of the plaintiff  
21 class is a citizen of a State different from the State of citizenship of any  
22 defendant, and the matter in controversy exceeds the sum of \$5,000,000.00,  
23 exclusive of interests and costs.

24 10. In the case at bar, there are at least 100 members in the proposed  
25 Class, the total claims of the proposed Class members are in excess of  
26 \$5,000,000.00 in the aggregate, exclusive of interests and costs, and Plaintiff and  
27 the class are citizens of California State.

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**THE PARTIES**

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11. Plaintiff Suzie Cesarina is a citizen and resident of the State of California.

12. Defendant T-MOBILE USA, INC. is a Delaware corporation with its principal place of business located and headquarters is located in Washington. Defendant conducts a large share of its business within California.

13. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and omissions alleged herein were performed by, or is attributable to, Defendant and/or its employees, agents, and/or third parties acting on its behalf, each acting as the agent for the other, with legal authority to act on the other's behalf. The acts of any and all of Defendant's employees, agents, and/or third parties acting on its behalf, were in accordance with, and represent, the official policy of Defendant.

14. Plaintiff is informed and believes, and thereon alleges, that said Defendant is in some manner intentionally, negligently, or otherwise responsible for the acts, omissions, occurrences, and transactions of each and all its employees, agents, and/or third parties acting on its behalf, in proximately causing the damages herein alleged.

15. At all relevant times, Defendant ratified each and every act or omission complained of herein. At all relevant times, Defendant, aided and abetted the acts and omissions as alleged herein.

**PLAINTIFF'S FACTS**

16. In or around November of 2016, Plaintiff went to The Shops at Mission Viejo where she was drawn to Defendant's advertisements of 4 lines for only \$100 for unlimited talk, text and data after, including taxes and fees.

17. While waiting in line to purchase these services Defendant advertised to Plaintiff that she could receive an additional two tablets absolutely

1 free.

2 18. For the service plan, Plaintiff paid more than valuable consideration.

3 19. A salesperson of Defendant who was authorized to make  
4 representations on behalf of Defendant informed Plaintiff that if she switched to  
5 Defendant's telephone plan, then she would pay \$100 per month and receive the  
6 four 4 lines for only \$100 for unlimited talk, text and data after, including taxes  
7 and fees and the free tablets.

8 20. However, once Plaintiff had selected a tablet to "purchase", the  
9 Defendant's sales representative told her that she would have to pay an  
10 activation fee, which would be reimbursed.

11 21. Relying on the assurance that Plaintiff would receive the above  
12 referenced service and products, Plaintiff decided to terminate her current  
13 telephone service and purchase the telephone services from Defendant. Plaintiff  
14 purchased the telephone service because of the above referenced representations  
15 made by Defendant.

16 22. Defendant's sales representative then presented her with a hand-held  
17 electronic device, and instructed her to sign her name onto the device,  
18 electronically. Defendant's sales representatives told her that she would  
19 subsequently apply her electronic signature onto the relevant purchase  
20 documents, from the device. Plaintiff was never informed what the actual  
21 purchase documents consisted of, but Plaintiff did not believe it to be anything  
22 other than a signature for payment. Plaintiff was never presented with a contract  
23 to read and/or sign, and the device had no writing on it pertaining to any  
24 agreement that Plaintiff was being asked to sign, it just had a place for her to  
25 write her signature with a stylus. Plaintiff was never informed to go elsewhere to  
26 review any terms and conditions of the agreement Plaintiff entered into.

27 23. Plaintiff was never presented with the agreement prior to signing,  
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1 the electronic device contained no information about the agreement, and a copy  
2 was never printed and given to her after signing.

3 24. However, after Plaintiff purchased Defendant's telephone services,  
4 she did not receive any of the things that Defendant had advertised.

5 25. First, Defendant began charging Plaintiff well over the \$100 per  
6 month.

7 26. Second, Defendant failed to reimburse Plaintiff for the activation  
8 fee.

9 27. Third, Defendant began charging these extra funds from Plaintiff's  
10 account without her permission.

11 28. After noticing the inaccurate electronic debit, Plaintiff immediately  
12 contacted Defendants and disputed the withdrawal based on the representations  
13 of terms of the payment for the telephone and tablet made by Defendant's sales  
14 representative.

15 29. Plaintiff had never seen any explanation of these additional charges,  
16 nor had Defendant's sales' representatives informed her of these additional  
17 charges. Further, Plaintiff never had the opportunity to see any explanation of  
18 these charges (if they did appear on the 'contract') because Plaintiff was never  
19 given a copy of the documents Plaintiff had signed. Importantly, Defendant  
20 failed to provide clear and readily understandable notice of this amount, and of  
21 additional services for which the transfer was set to take place, by written notice,  
22 10 days before the scheduled transfer date, as required under Regulation E §  
23 205.10(d)(1), governing EFTA.

24 30. Plaintiff immediately asked Defendant to cancel any additional  
25 charges that she did not agree to.

26 31. However, Plaintiff discovered that Defendant had continued to  
27 automatically withdraw additional funds from her account on a reoccurring basis.  
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1 Defendant failed to provide clear and readily understandable notice of these  
2 variations in the transfer amounts, and of additional services for which the  
3 transfer was set to take place, by written notice, 10 days before the scheduled  
4 transfer date, as required under Regulation E § 205.10(d)(1), governing EFTA.

5 32. Plaintiff never provided Defendant with any authorization to deduct  
6 these extra sums of money on a regular recurring basis from Plaintiff's banking  
7 account.

8 33. Defendants continued to deduct these monthly sums from Plaintiff  
9 for several months without Plaintiff's authorization.

10 34. Further, Defendants did not provide to Plaintiff, nor did Plaintiff  
11 execute, any written or electronic writing memorializing or authorizing the  
12 additional recurring or automatic payments.

13 35. Plaintiff did not provide Defendants either with a written or an  
14 electronic signature authorizing the additional recurring or automatic payments.

15 36. Defendant's sales tactics regarding its telephone services and tablets  
16 rely on falsities and have a tendency to mislead and deceive a reasonable  
17 consumer.

18 37. Defendant expressly represented to Plaintiff (a) she would have four  
19 telephone lines with unlimited minutes, text messages, data for \$100 and (b)  
20 would be reimbursed for her activation fees of the tablet and that they would be  
21 free.

22 38. Plaintiff alleges that such representations were part of a common  
23 scheme to mislead consumers and incentivize them to purchase telephone  
24 services in spite of the inhibition brought about by the difficulty of installing  
25 them.

26 39. In purchasing the Class Services, Plaintiff relied upon Defendant's  
27 representations.  
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1           40. Such representations were clearly false because Plaintiff was  
2 charged more than \$100 per month.

3           41. Plaintiff would not have purchased the telephone service and tablets  
4 if she knew that the above-referenced statements made by Defendant were false.

5           42. Had Defendant properly marketed, advertised, and represented the  
6 Class Services, Plaintiff would not have purchased the telephone service.

7           43. Plaintiff gave her money to Defendant because of Defendant's  
8 representations. Defendant benefited from falsely advertising the telephone  
9 service and tablets. Defendant benefited on the loss to Plaintiff and provided  
10 nothing of benefit to Plaintiff in exchange.

11           44. Had Defendant properly marketed, advertised, and represented the  
12 Class Services, no reasonable consumer who purchased a telephone service and  
13 tablets would have believed that the telephone service was \$100 per month or  
14 that the tablet was free.

15                           **CLASS ACTION ALLEGATIONS**

16           45. Plaintiff brings this action, on behalf of herself and all others  
17 similarly situated, and thus, seeks class certification under Federal Rule of Civil  
18 Procedure 23.

19           46. The classes Plaintiff seeks to represent (the "Classes") are defined  
20 as follows:

21                       EFTA Class: All persons in the United States whose  
22 bank accounts were debited on a reoccurring basis by  
23 Defendant without Defendants obtaining a written  
24 authorization signed or similarly authenticated for  
preauthorized electronic fund transfers within the one  
year prior to the filing of this Complaint

25                       EFTA Class 2: All persons in the United States whose  
26 bank accounts were debited on a reoccurring basis by  
27 Defendant after revoking consent to withdraw such  
28 funds

Telephone Service Class: All California Citizens who,  
between the applicable statute of limitations and the



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present, purchased one or more Class Services in the State of California, and whose telephone service were advertised as \$100 for four lines with unlimited talk, text and data.

Tablet Class: All California Citizens who, between the applicable statute of limitations and the present, purchased one or more Class Products in the State of California, and whose table was advertised to be free

47. As used herein, the term “Class Members” shall mean and refer to the members of the Classes described above.

48. Excluded from the Classes are Defendant, its affiliates, employees, agents, and attorneys, and the Court.

49. Plaintiff reserves the right to amend the Classes, and to add additional subclasses, if discovery and further investigation reveals such action is warranted.

50. Upon information and belief, the proposed class is composed of thousands of persons. The members of the class are so numerous that joinder of all members would be unfeasible and impractical.

51. No violations alleged in this complaint are contingent on any individualized interaction of any kind between class members and Defendant.

52. Rather, all claims in this matter arise from the identical business practices to Class Members’ when purchasing telephone services and tablets, when in fact, such representations were false.

53. There are common questions of law and fact as to the Class Members that predominate over questions affecting only individual members, including but not limited to:

- (a) Whether Defendant engaged in unlawful, unfair, or deceptive business practices in selling Class Services and Products to Plaintiff and other Class Members;
- (b) Whether Defendant made misrepresentations with respect to

- 1 the Class Services and Products sold to consumers;
- 2 (c) Whether Defendant profited from both the sale of the
- 3 telephone services and tablets;
- 4 (d) Whether Defendant withdrew funds from Class Members that
- 5 it was not authorized to take;
- 6 (e) Whether Defendant violated California Bus. & Prof. Code §
- 7 17200, *et seq.* and California Bus. & Prof. Code § 17500, *et*
- 8 *seq.*;
- 9 (f) Whether Defendant violated 15 U.S.C. § 1693 *et seq.*;
- 10 (g) Whether Plaintiff and Class Members are entitled to equitable
- 11 and/or injunctive relief;
- 12 (h) Whether Defendant's unlawful, unfair, and/or deceptive
- 13 practices harmed Plaintiff and Class Members; and
- 14 (i) The method of calculation and extent of damages for Plaintiff
- 15 and Class Members.

16 54. Plaintiff is a member of the classes she seeks to represent

17 55. The claims of Plaintiff are not only typical of all class members,

18 they are identical.

19 56. All claims of Plaintiff and the classes are based on the exact same

20 legal theories.

21 57. Plaintiff has no interest antagonistic to, or in conflict with, the

22 classes.

23 58. Plaintiff is qualified to, and will, fairly and adequately protect the

24 interests of each Class Member, because Plaintiff bought Class Services and

25 Products from Defendant during the Class Period and had funds automatically

26 withdrawn from her account without her permission. Defendant's unlawful,

27 unfair and/or fraudulent actions concerns the same business practices described

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1 herein irrespective of where they occurred or were experiences. Plaintiff's  
2 claims are typical of all Class Members as demonstrated herein.

3 59. Plaintiff will thoroughly and adequately protect the interests of the  
4 class, having retained qualified and competent legal counsel to represent herself  
5 and the class.

6 60. Common questions will predominate, and there will be no unusual  
7 manageability issues.

8 **FIRST CLAIM FOR RELIEF**  
9 **Unfair and Unlawful Business Practices in Violation of the Unfair**  
10 **Competition Law,**  
11 **Cal. Bus. & Prof. Code § 17200, et seq.**  
12 **(On Behalf of Plaintiff and the Telephone Service Class and the Tablet**  
13 **Class)**

14 61. Plaintiff incorporates the above allegations by reference.

15 62. Defendant's conduct resulted from policies that Defendant  
16 contrived, ratified, and implemented throughout its retail locations.

17 63. Defendant's conduct is unlawful, in violation of the UCL, because it  
18 contravenes the legislatively declared policy against unfair methods of business  
19 competition. Additionally, Defendant's conduct is unlawful because, as set forth  
20 below, it violates the False Advertising Law and the Consumer Legal Remedies  
21 Act.

22 64. Defendant engaged in unfair methods of competition and unfair  
23 trade practices that violate the UCL in at least the following respects:

24 a. With the intent and effect of stifling open and vigorous competition  
25 in the market for telephone and telephone related products and services,  
26 Defendant devised and executed a scheme to mislead consumers throughout its  
27 retail locations.

28 b. Defendant intentionally caused the above referenced misleading of  
consumers through purposeful, willful and intentional objectively false  
statements and omissions.

1 c. Defendant made no action to rectify the above referenced deception  
2 and provided no corrective advertising that was easily accessible to consumers  
3 which would offset its blatantly false advertising.

4 d. By forcing Plaintiff and Class members believe that its products and  
5 services were cheaper than they appeared, Defendant has obtained an unfair  
6 advantage in the marketplace and has hindered competition for other telephone  
7 and telephone related products and services.

8 e. To induce purchases of Defendant's products and services,  
9 Defendant provided misleading signages and representations throughout its retail  
10 locations.

11 f. Defendant's conduct was designed to increase and maintain its  
12 share of the telephone and telephone related products and services market due to  
13 conditions separate from competitive factors like pricing and features of goods  
14 and services.

15 65. Defendant acted to inhibit competition in a manner that is unfair and  
16 substantially injurious to the consuming public. Defendant's unfair methods of  
17 competition and unfair acts and practices are contrary to California law and  
18 policy and constitute unscrupulous, unethical, outrageous, and oppressive  
19 business practices.

20 66. Defendant has indicated that it considers itself free to commit  
21 similar injurious acts of unfair competition in the future. It should be enjoined  
22 from doing so pursuant to Business and Professions Code section 17203.

23 67. The gravity of the harm resulting from Defendant's conduct detailed  
24 above outweighs any possible utility of this conduct. There are reasonably  
25 available alternatives that would further Defendant's legitimate business  
26 interests.

27 68. Plaintiff and Class members could not have reasonably avoided  
28 injury from Defendant's unfair business conduct. Plaintiff and Class members

1 did not know, and had no reasonable means of learning, that Defendant's  
2 products did not have the pricing information that Defendant represented.

3 69. As a direct and proximate result of Defendant's conduct, Plaintiff  
4 and Class members have suffered injuries in fact, including because:

5 a. Defendant's unfair methods of competition and unfair acts and  
6 practices have prevented Plaintiff and Class members from making purchasing  
7 decisions on the basis of competitive factors in the marketplace for consumer  
8 and business goods.

9 b. As a result of Defendant's unfair methods of competition and unfair  
10 acts and practices, Plaintiff and Class members who purchased telephone  
11 services and telephone related products that they would not have purchased  
12 absent Defendant's false representations.

13 c. Defendant's unfair methods of competition and unfair acts and  
14 practices have caused Plaintiff's and Class members' to purchase products and  
15 services that were substantially more expensive advertised.

16 70. All of Defendant's unlawful and unfair conduct occurred during  
17 Defendant's business and was part of a generalized course of conduct.

18 71. Plaintiff and the Class accordingly are entitled to relief as provided  
19 for under the UCL, including restitution, declaratory relief, and a permanent  
20 injunction prohibiting Defendant from committing these violations. Plaintiff also  
21 respectfully seek reasonable attorneys' fees and costs under applicable law,  
22 including California Code of Civil Procedure section 1021.5.

23 **SECOND CLAIM FOR RELIEF**  
24 **Fraudulent Business Practices in Violation of the Unfair Competition Law,**  
25 **Cal. Bus. & Prof. Code § 17200, *et seq.***  
26 **(On Behalf of Plaintiff and the Telephone Service Class and the Tablet**  
27 **Class)**

28 72. Plaintiff incorporates the above allegations by reference.

73. Defendant's conduct resulted from policies that Defendant  
contrived, ratified, and implemented systematically throughout its retail

1 locations.

2 74. Defendant's conduct violates the UCL's prohibition of fraudulent  
3 business practices.

4 75. To induce purchases of Defendant's telephone services and related  
5 products, Defendant made misleading statements in its advertisements that  
6 deceived Plaintiff and Class members and reinforced its reasonable expectation  
7 and belief about the price of its products and services.

8 76. A reasonable consumer would expect that they would be able to rely  
9 on the pricing information provided by Defendant.

10 77. At the time Plaintiff and Class members purchased their Class  
11 Products, Defendant was aware of consumers' widespread and common practice  
12 of relying on the pricing information of Defendant. Defendant deliberately  
13 furthered, fostered, and reinforced this expectation, through uniform  
14 misrepresentations and material omissions.

15 78. Defendant's uniform listing of false pricing information  
16 communicated to reasonable consumers through the use of paper signages and  
17 representations and other representations and omissions mislead these consumers  
18 into believing that Defendant's telephone services and related products were  
19 different than advertised.

20 79. These multiple statements, together with (i) consumers' existing  
21 reasonable expectations to rely on Defendant's representations, and (ii)  
22 Defendant's suppression of the true, material fact that the telephone services and  
23 products were of a different price, completed Defendant's deceptive scheme.

24 80. Defendant's conduct had a strong tendency and likelihood to  
25 deceive reasonable consumers. Defendant's conduct misled, deceived, and  
26 tricked Plaintiff and Class members into purchasing Defendant's telephone  
27 products and related services they would not have purchased in the absence of  
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1 Defendant's deception.

2 81. When they purchased Defendant's telephone services and related  
3 products, Plaintiff and Class members reasonably relied to their detriment on  
4 Defendant's misleading statements in its advertisements, representations and  
5 omissions. These statements deceived Plaintiff and Class members by, among  
6 other things, reinforcing their reasonable expectation and belief that they could  
7 rely on Defendant's pricing information.

8 82. The pricing information was material and highly important to  
9 Plaintiff and Class members in deciding to purchase Class Products and Class  
10 Services.

11 83. Defendant has a duty to clearly and conspicuously disclose to  
12 Plaintiff and Class members the true and accurate pricing information of its  
13 products, because (i) a reasonable consumer would find this information highly  
14 important and material to the decision of whether to purchase a telephone service  
15 and related products instead of another item, and (ii) a reasonable consumer  
16 would expect that, unless otherwise informed, he or she would be able to rely on  
17 Defendant's representations of the pricing information.

18 84. Defendant caused Plaintiff and Class members to forgo purchasing  
19 telephone services and related products from other companies due to its false  
20 representations and concealment of material facts.

21 85. At the direct expense of Plaintiff and Class members, Defendant  
22 benefited and profited from its false representations and concealment of material  
23 facts. As a direct and proximate result of Defendant's deception, more  
24 consumers purchased Defendant's telephone services and related products.

25 86. Defendant's wrongful and injurious deception continued when it  
26 failed to provide corrective advertising to Plaintiff and Class members

27 87. To induce purchases of Defendant's telephone services and related  
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1 products, Defendant intentionally caused the Class Products and Class Services  
2 to be perceived as being different prices than they in fact were.

3 88. Defendant's misleading signages and representations had a strong  
4 tendency to, and actually did, deceive Plaintiff and Class members.

5 89. Plaintiff and Class members reasonably relied to their detriment on  
6 Defendant's misleading signages and representations. Defendant's misleading  
7 misrepresentations and omissions caused actual harm to Plaintiff and Class  
8 members by inducing them to purchase Defendants' telephone services and  
9 related products. Plaintiff and Class members purchased Defendant's telephone  
10 services and related products as a direct and proximate result of Defendant's  
11 misleading statements and omissions.

12 90. All of Defendant's misleading and fraudulent conduct occurred  
13 during Defendant's business and was part of a generalized course of conduct.

14 91. Plaintiff and the Class accordingly are entitled to relief as provided  
15 for under the UCL, including restitution, declaratory relief, and a permanent  
16 injunction. Plaintiff also respectfully seek reasonable attorneys' fees and costs  
17 under applicable law, including California Code of Civil Procedure section  
18 1021.5.

19 **THIRD CLAIM FOR RELIEF**  
20 **Violations of the False Advertising Law,**  
21 **Cal. Bus. & Prof. Code § 17500, *et seq.***

22 **(On Behalf of Plaintiff and the Telephone Service Class and the Tablet**  
23 **Class)**

24 92. Plaintiff incorporates the above allegations by reference.

25 93. Defendant violated the FAL by using false and misleading  
26 statements, and material omissions, to promote the sale of Class Products and  
27 Class Services.

28 94. Class Products and Class Services were more expensive than



1 Defendant promised.

2 95. Defendant made uniform representations and material omissions  
3 that communicated to Plaintiff and Class members that Class Products and Class  
4 Services were of a different price.

5 96. Defendant knew, or in the exercise of reasonable diligence should  
6 have known, that its representations and omissions were false and misleading at  
7 the time it made them. Defendant deliberately provided false representations and  
8 omissions to deceive reasonable consumers.

9 97. Defendant's false and misleading advertising of Class Products and  
10 Class Services deceived the general public.

11 98. As a direct and proximate result of Defendant's misleading and false  
12 advertising, Plaintiff and Class members have suffered injury-in-fact and have  
13 lost money and property. Plaintiff and Class members reasonably relied to their  
14 detriment on Defendant's material misrepresentations and omissions that Class  
15 Products and Class Services would be a higher price. Plaintiff and Class  
16 members received products that were materially different than advertised: the  
17 Class Products were of a different price than advertised.

18 99. Plaintiff and Class members bring this action under Business and  
19 Professions Code section 17535 to enjoin the violations described herein and to  
20 require Defendants to issue appropriate corrective disclosures. Defendant's false  
21 advertising will continue to harm consumers unless and until it is enjoined.  
22 Plaintiff and Class members therefore seek: (a) an order requiring Defendant to  
23 cease its false advertising; (b) full restitution of all monies Defendant derived  
24 from its false advertising; (c) interest at the highest rate allowable by law; and  
25 (d) an award of reasonable attorneys' fees and costs under applicable law,  
26 including Code of Civil Procedure section 1021.5.

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2 **FOURTH CLAIM FOR RELIEF**  
3 **Violations of the Electronic Funds Transfer Act**  
4 **15 U.S.C. § 1693 *et seq.***  
5 **(On Behalf of Plaintiff and the EFTA Class)**

6 100. Section 907(a) of the EFTA, 15 U.S.C. § 1693e(a), provides that a  
7 “preauthorized electronic fund transfer from a consumer’s account may be  
8 authorized by the consumer only in writing, and a copy of such authorization  
9 shall be provided to the consumer when made.”

10 101. Section 903(9) of the EFTA, 15 U.S.C. § 1693a(9), provides that the  
11 term “preauthorized electronic fund transfer” means “an electronic fund transfer  
12 authorized in advance to recur at substantially regular intervals.”

13 102. Section 205.10(b) of Regulation E, 12 C.F.R. § 205.10(b), provides  
14 that “[p]reauthorized electronic fund transfers from a consumer’s account may  
15 be authorized only by a writing signed or similarly authenticated by the  
16 consumer. The person that obtains the authorization shall provide a copy to the  
17 consumer.”

18 103. Section 205.10(b) of the Federal Reserve Board's Official Staff  
19 Commentary to Regulation E, 12 C.F.R. § 205.10(b), Supp. I, provides that “[t]he  
20 authorization process should evidence the consumer’s identity and assent to the  
21 authorization.” *Id.* at ¶10(b), comment 5. The Official Staff Commentary  
22 further provides that “[a]n authorization is valid if it is readily identifiable as  
23 such and the terms of the preauthorized transfer are clear and readily  
24 understandable.” *Id.* at ¶10(b), comment 6.

25 104. In multiple instances, Defendants have debited Plaintiff’s and also  
26 the putative Class members’ bank accounts on a recurring basis without  
27 obtaining a written authorization signed or similarly authenticated for  
28 preauthorized electronic fund transfers from Plaintiff’s and also the putative  
Class members’ accounts, thereby violating Section 907(a) of the EFTA, 15

1 U.S.C. § 1693e(a), and Section 205.10(b) of Regulation E, 12 C.F.R. § 205.10(b).

2 105. In multiple instances, Defendants have debited Plaintiff's and also  
3 the putative Class members' bank accounts on a recurring basis without  
4 providing a copy of a written authorization signed or similarly authenticated by  
5 Plaintiff or the putative Class members for preauthorized electronic fund  
6 transfers, thereby violating Section 907(a) of the EFTA, 15 U.S.C. § 1693e(a),  
7 and Section 205.10(b) of Regulation E, 12 C.F.R. § 205.10(b).

8 **FIFTH CLAIM FOR RELIEF**  
9 **Violations of the Electronic Funds Transfer Act**  
10 **15 U.S.C. § 1693 *et seq.***  
11 **(On Behalf of Plaintiff and the EFTA Class 2)**

12 106. Plaintiff reincorporates by reference all of the preceding paragraphs.

13 107. The EFTA, 15 U.S.C. §1693e(a), provides that “[a] consumer may  
14 stop payment of a preauthorized electronic fund transfer by notifying the  
15 financial institution orally or in writing at any time up to three business days  
16 preceding the scheduled date of such transfer.”

17 108. Section 205.10(c)(1) of Regulation E provides that  
18 “[a] consumer may stop payment of a preauthorized electronic fund transfer from  
19 the consumer's account by notifying the financial institution orally or in writing  
20 at least three business days before the scheduled date of the transfer.””

21 109. In multiple instances, Defendants debited bank accounts of the Class  
22 members on a recurring basis after the consumer requested to stop payments of  
23 a preauthorized electronic fund transfer from the consumer's account by  
24 notifying the financial institution orally or in writing at least three business  
25 days before the scheduled date of the transfer in violation of the EFTA, 15  
26 U.S.C. § 1693e(a) and Regulation E, 12 C.F.R. § 205.10(c)(1).

27 **MISCELLANEOUS**

28 110. Plaintiff and Class Members allege that they have fully complied  
with all contractual and other legal obligations and fully complied with all

1 conditions precedent to bringing this action or all such obligations or conditions  
2 are excused.

3 **REQUEST FOR JURY TRIAL**

4 111. Plaintiff requests a trial by jury as to all claims so triable.

5 **PRAYER FOR RELIEF**

6 112. Plaintiff, on behalf of herself and the Class, requests the following  
7 relief:

- 8 (a) An order certifying the Class and appointing Plaintiff as  
9 Representative of the Class;
- 10 (b) An order certifying the undersigned counsel as Class Counsel;
- 11 (c) An order requiring T-MOBILE USA, INC., at its own cost, to  
12 notify all Class Members of the unlawful and deceptive  
13 conduct herein;
- 14 (d) An order requiring T-MOBILE USA, INC. to engage in  
15 corrective advertising regarding the conduct discussed above;
- 16 (e) Actual damages suffered by Plaintiff and Class Members as  
17 applicable or full restitution of all funds acquired from  
18 Plaintiff and Class Members from the sale of misbranded  
19 Class Services during the relevant class period;
- 20 (f) Punitive damages, as allowable, in an amount determined by  
21 the Court or jury;
- 22 (g) Any and all statutory enhanced damages;
- 23 (h) All reasonable and necessary attorneys' fees and costs  
24 provided by statute, common law or the Court's inherent  
25 power;
- 26 (i) Pre- and post-judgment interest; and
- 27 (j) All other relief, general or special, legal and equitable, to  
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which Plaintiff and Class Members may be justly entitled as  
deemed by the Court.

Dated: November 23, 2017      Respectfully submitted,

LAW OFFICES OF TODD M. FRIEDMAN , PC

By: /s/ Todd M. Friedman  
TODD M. FRIEDMAN, ESQ.  
Attorney for Plaintiff Suzie Cesarina