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 12 *Attorneys for Plaintiff, Dick Ling*

9 IN THE UNITED STATES DISTRICT COURT
 10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 DICK LING, individually, and on
 13 behalf of other members of the
 14 general public similarly situated,

14 Plaintiff,

15 vs.

16 STS MEDIA, INC. D/ B/A UNREAL
 17 MOBILE;
 18 DOES 1-10, inclusive, and each of
 19 them,

19 Defendant.

Case No.

CLASS ACTION COMPLAINT

- (1) Violation of Unfair Competition Law (Cal. Business & Professions Code §§ 17500 *et seq.*) and
- (2) Violation of Unfair Competition Law (Cal. Business & Professions Code §§ 17200 *et seq.*)

Jury Trial Demanded

1 Plaintiff Dick Ling (“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 STS
5 MEDIA, INC. D/ B/A UNREAL MOBILE (hereinafter “Defendant”) to stop
6 Defendant’s practice of falsely advertising that it will provide services that it has
7 no intention to provide and to redress for a nationwide class of consumers (“Class
8 Members”) who were advertised certain terms and conditions with their cellular
9 plan that were false, within the applicable statute of limitations period, by
10 Defendant.

11 2. Defendant is a Delaware corporation and is engaged in the business
12 of cellular service and related services throughout California.

13 3. Defendant represents that it will provide certain terms and conditions,
14 specifically, rollover data up to 500MB per month for no additional charge, when
15 in fact, they do charge an additional \$3.99/month for rollover plans.

16 4. Plaintiff and others similarly situated received these kind of plans
17 from Defendant and only after purchasing the plans were charged the additional
18 \$3.99/month for rollover data.

19 5. Defendant misrepresented and falsely advertised to Plaintiff and
20 others similarly situated that they would provide certain terms and conditions
21 related to the inclusion of rollover data up to 500MB/month, when in fact they did
22 not and had no intention to do so.

23 6. Defendant’s misrepresentations to Plaintiff and others similarly
24 situated caused them to purchase these plans, which Plaintiff and others similarly
25 situated would not have taken absent these misrepresentations by Defendant and
26 its employees. In so doing, Defendant has violated California consumer protection
27 statutes.
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JURISDICTION AND VENUE

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2 7. This class action is brought pursuant to Federal Rule of Civil
3 Procedure 23.

4 8. This matter is properly venued in the United States District Court for
5 the Northern District of California, in that Defendant does business in the Northern
6 District of California and has its principal place of business and headquarters
7 within this district. A substantial portion of the events giving rise to Defendant’s
8 liability took place in this district, as this is where Plaintiff purchased his plan, and
9 this is where Plaintiff resides and used his cellular plan.

10 9. There is original federal subject matter jurisdiction over this matter
11 pursuant to the Class Action Fairness Act of 2005, Pub. L. 109-2, 119 Stat. 4 (Feb.
12 18, 2005), by virtue of 28 U.S.C. §1332(d)(2), which explicitly provides for the
13 original jurisdiction of federal courts in any class action in which at least 100
14 members are in the proposed plaintiff class, any member of the plaintiff class is a
15 citizen of a State different from the State of citizenship of any defendant, and the
16 matter in controversy exceeds the sum of \$5,000,000.00, exclusive of interests and
17 costs.

18 10. In the case at bar, there are at least 100 members in the proposed Class
19 and Sub-classes, the total claims of the proposed Class members are in excess of
20 \$5,000,000.00 in the aggregate, exclusive of interests and costs, and Plaintiff seeks
21 to represent a nationwide class of consumers, establishing minimum diversity.

THE PARTIES

22
23 11. Plaintiff Dick Ling is a citizen and resident of the State of California,
24 County of Contra Costa.

25 12. Defendant STS MEDIA, INC. D/ B/A UNREAL MOBILE is a
26 corporation with its principle place of business located with its headquarters in the
27 State of Delaware, and who conducts business selling consumer phone plans and
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1 operating those telecommunications services, nationwide, including in California.

2 13. Plaintiff alleges, on information and belief, that Defendant's
3 marketing campaigns, as pertains to this matter, were disseminated throughout
4 California, and nationwide.

5 14. Plaintiff is informed and believes, and thereon alleges, that at all time
6 relevant, Defendant's sales of products and services are governed by the
7 controlling law in the state in which they do business and from which the sales or
8 products and services, and the allegedly unlawful acts originated, which is
9 California.

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

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

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

25 **PLAINTIFF'S FACTS**

26 18. In or around December 2018, Plaintiff purchased a cellular phone
27 service from Defendant. The main and prominent features of Plaintiff's monthly
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1 plan was advertised as “unlimited talk, text, and 1 GB of data.” The terms and
2 conditions prominently stated and advertised that the unused data, up to 500MB
3 per month, can be rolled over to the next month for no additional fees.

4 19. Not only were these terms and conditions clearly advertised to
5 Plaintiff at the time of purchase, but they were further prominently advertised on
6 the jacket of the sim card purchased by Plaintiff.

7 20. From January-March of 2019, Plaintiff monitored his monthly cell
8 phone use, and the rollover data, and was glad to see that up to 500MB of his
9 unused data had been rolled over, for a total of 1.5GB, as per the advertised terms,
10 into his next months cycle.

11 21. However, beginning in April 2019, Plaintiff noticed that his
12 accumulated 1.5GB of data which had been rolled over from previous months, had
13 completely disappeared from his account.

14 22. Plaintiff contacted the Defendant’s customer service line, and was
15 told though a customer service rep, Leidy, that the company had changed its
16 policies and procedures, unbeknownst to Plaintiff. Now, Plaintiff was informed,
17 he was going to be charged \$3.33/month for an additional “rollover” plan for his
18 unused data.

19 23. When Plaintiff complained that he had never been informed of this
20 change in terms and conditions, and that it was not what had been advertised to
21 him, Leidy informed him that the change was “posted on the website” and that
22 Plaintiff would be receiving an e-mail alerting him to the changes. This never
23 occurred, and Plaintiff never received any e-mails alerting him to any changes of
24 the terms and conditions of his plan.

25 24. Defendant continued to mislead consumers and falsely advertise that
26 its various plans included rollover data with no additional fee, despite the fact that
27 this was patently false.
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1 25. However, Defendant had no intention on honoring its representations.
2 That is, Defendant had no intention on providing rollover data after at least April
3 2019, to its customers, without additional fees, as they were falsely advertising.

4 26. Plaintiff relied on Defendant’s representations as to the nature of
5 Defendant’s services for himself, and for his family when he purchased additional
6 services based on their false representations that the plans included rollover data
7 at no additional charge.

8 27. Plaintiff’s reliance was reasonable because there was no indication
9 that Defendant would change its terms and conditions without informing the
10 Plaintiff, and continue to falsely advertise rollover data at no additional charge,
11 despite the fact that this was not a true statement or representation.

12 28. Had Plaintiff known that Defendant would falsely advertise that
13 rollover data was included in his plan for no additional charge, and that Defendant
14 would engage in a “bait and switch” after Plaintiff was already a customer and had
15 purchased additional plans for his family, Plaintiff would not have used
16 Defendant’s services.

17 29. Defendant never indicated in any of its representations, that it was
18 changing its terms and conditions to add an additional charge to rollover data
19 plans.

20 30. As a result of Defendant’s conduct, Defendant deceived Plaintiff and
21 the proposed class members, and caused him to sustain actual economic damages
22 for which he now seeks recompense.

23 31. The aforementioned representations are objectively false and
24 constitute a false advertisement under Cal. Bus. & Prof. Code §§ 17500 et. seq.,
25 and an unlawful, unfair, or deceptive business practices under Cal. Bus. & Prof.
26 Code §§ 17200 et. seq.

27 32. Defendant’s violations of the law include, but not limited to, the false
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1 advertising, marketing, representations, and sale of the consumer cellular plans to
2 consumers in California, that do not include the advertised terms and conditions.

3 33. On behalf of the class, Plaintiff seeks an injunction requiring
4 Defendant to cease advertising and selling these plans with false representation
5 that they include rollover data, when in fact, they do not, as well as and an award
6 of damages to the Class Members, together with costs and reasonable attorneys'
7 fees.

8 CLASS ACTION ALLEGATIONS

9 34. Plaintiff brings this action, on behalf of himself and all others
10 similarly situated, and thus, seeks class certification under Federal Rule of Civil
11 Procedure 23.

12 35. The class Plaintiff seeks to represent (the "Class") is defined as
13 follows:

14 All consumers, who, between the applicable statute of
15 limitations and the present, purchased one or more Class
16 Products in the United States, and whose data plan was
advertised to include rollover data at no additional cost.

17 36. As used herein, the term "Class Members" shall mean and refer to the
18 members of the Class described above.

19 37. Excluded from the Class are Defendant, its affiliates, employees,
20 agents, and attorneys, and the Court.

21 38. Plaintiff reserves the right to amend the Class, and to add additional
22 subclasses, if discovery and further investigation reveals such action is warranted.

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

26 40. No violations alleged in this complaint are contingent on any
27 individualized interaction of any kind between class members and Defendant.
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1 41. Rather, all claims in this matter arise from the identical, false,
2 affirmative written statements that the services would be provided for Class
3 Members', when in fact, such representations were false.

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

- 7 (a) Whether Defendant engaged in unlawful, unfair, or deceptive
8 business practices in the marketing and sale of it's cellular
9 plans to Plaintiff and other Class Members;
- 10 (b) Whether Defendant made misrepresentations with respect to
11 the inclusion of rollover data at no additional charge on plans
12 which it sold to consumers;
- 13 (c) Whether Defendant profited from the sale of the services;
- 14 (d) Whether Defendant violated California Bus. & Prof. Code §
15 17200, *et seq.*, California Bus. & Prof. Code § 17500, *et seq.*,
16 and California Civ. Code § 1750, *et seq.*;
- 17 (e) Whether Defendant violated California Bus. & Prof. Code §
18 17200, *et seq.*, California Bus. & Prof. Code § 17500, *et seq.*,
19 and California Civ. Code § 1750, *et seq.*;
- 20 (f) Whether Plaintiff and Class Members are entitled to equitable
21 and/or injunctive relief;
- 22 (g) Whether Defendant's unlawful, unfair, and/or deceptive
23 practices harmed Plaintiff and Class Members; and
- 24 (h) The method of calculation and extent of damages for Plaintiff
25 and Class Members.

26 43. Plaintiff is a member of the class he seeks to represent

27 44. The claims of Plaintiff are not only typical of all class members, they
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1 are identical.

2 45. All claims of Plaintiff and the class are based on the exact same legal
3 theories.

4 46. Plaintiff has no interest antagonistic to, or in conflict with, the class.

5 47. Plaintiff is qualified to, and will, fairly and adequately protect the
6 interests of each Class Member. Defendant's unlawful, unfair and/or fraudulent
7 actions concerns the same business practices described herein irrespective of
8 where they occurred or were experiences. Plaintiff's claims are typical of all Class
9 Members as demonstrated herein.

10 48. Plaintiff will thoroughly and adequately protect the interests of the
11 class, having retained qualified and competent legal counsel to represent himself
12 and the class.

13 49. Common questions will predominate, and there will be no unusual
14 manageability issues.

15 **FIRST CAUSE OF ACTION**

16 **Violation of the California False Advertising Act**

17 **(Cal. Bus. & Prof. Code §§ 17500 *et seq.*)**

18 50. Plaintiff incorporates by reference each allegation set forth above.

19 51. Pursuant to California Business and Professions Code section 17500,
20 *et seq.*, it is unlawful to engage in advertising "which is untrue or misleading, and
21 which is known, or which by the exercise of reasonable care should be known, to
22 be untrue or misleading...or...to so make or disseminate or cause to be so made or
23 disseminated any such statement as part of a plan or scheme with the intent not to
24 sell that personal property or those services, professional or otherwise, so
25 advertised at the price stated therein, or as so advertised."

26 52. California Business and Professions Code section 17500, *et seq.*'s
27 prohibition against false advertising extends to the use of false or misleading
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1 written statements.

2 53. Defendant misled consumers by making misrepresentations and
3 untrue statements about the terms and conditions of the rollover data, namely,
4 Defendant advertised that rollover data was included up to 500MB per month at
5 no additional cost, and advertised as such, fully knowing and intending comply
6 with these terms and conditions, and made false representations to Plaintiff and
7 other putative class members in order to solicit the sale of these plans.

8 54. Defendant knew that their representations and omissions were untrue
9 and misleading, and deliberately made the aforementioned representations and
10 omissions in order to deceive reasonable consumers like Plaintiff and other Class
11 Members.

12 55. As a direct and proximate result of Defendant's misleading and false
13 advertising, Plaintiff and the other Class Members have suffered injury in fact and
14 have lost money or property. Plaintiff reasonably relied upon Defendant's
15 representations regarding the cellular plans terms, namely that the rollover data
16 advertised as being included was, in fact, included. In reasonable reliance on
17 Defendant's false advertisements, Plaintiff and other Class Members purchased
18 the cellular plans. In turn Plaintiff and other Class Members ended up with
19 services that turned out to actually be different than advertised, and therefore
20 Plaintiff and other Class Members have suffered injury in fact.

21 56. Plaintiff alleges that these false and misleading written
22 representations made by Defendant constitute a "scheme with the intent not to sell
23 that personal property or those services, professional or otherwise, so advertised
24 at the price stated therein, or as so advertised."

25 57. Defendant advertised to Plaintiff and other putative class members,
26 through written representations and omissions made by Defendant and its
27 employees, that the rollover data would be included in each of their cellular plans
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1 at no additional cost.

2 58. Defendant knew that this representation was false, and that, in fact, it
3 was going to charge \$3.99/month for any rollover data.

4 59. Thus, Defendant knowingly sold cellular plans to Plaintiff and other
5 putative class members which falsely advertised the terms and conditions that
6 were included.

7 60. The misleading and false advertising described herein presents a
8 continuing threat to Plaintiff and the Class Members in that Defendant persists and
9 continues to engage in these practices, and will not cease doing so unless and until
10 forced to do so by this Court. Defendant's conduct will continue to cause
11 irreparable injury to consumers unless enjoined or restrained. Plaintiff is entitled
12 to preliminary and permanent injunctive relief ordering Defendant to cease their
13 false advertising, as well as disgorgement and restitution to Plaintiff and all Class
14 Members Defendant's revenues associated with their false advertising, or such
15 portion of those revenues as the Court may find equitable.

16 **SECOND CAUSE OF ACTION**

17 **Violation of Unfair Business Practices Act**

18 **(Cal. Bus. & Prof. Code §§ 17200 *et seq.*)**

19 61. Plaintiff incorporates by reference each allegation set forth above.

20 62. Actions for relief under the unfair competition law may be based on
21 any business act or practice that is within the broad definition of the UCL. Such
22 violations of the UCL occur as a result of unlawful, unfair or fraudulent business
23 acts and practices. A plaintiff is required to provide evidence of a causal
24 connection between a defendant's business practices and the alleged harm--that is,
25 evidence that the defendant's conduct caused or was likely to cause substantial
26 injury. It is insufficient for a plaintiff to show merely that the defendant's conduct
27 created a risk of harm. Furthermore, the "act or practice" aspect of the statutory
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1 definition of unfair competition covers any single act of misconduct, as well as
2 ongoing misconduct.

3 **UNFAIR**

4 63. California Business & Professions Code § 17200 prohibits any
5 “unfair ... business act or practice.” Defendant’s acts, omissions,
6 misrepresentations, and practices as alleged herein also constitute “unfair”
7 business acts and practices within the meaning of the UCL in that its conduct is
8 substantially injurious to consumers, offends public policy, and is immoral,
9 unethical, oppressive, and unscrupulous as the gravity of the conduct outweighs
10 any alleged benefits attributable to such conduct. There were reasonably available
11 alternatives to further Defendant’s legitimate business interests, other than the
12 conduct described herein. Plaintiff reserves the right to allege further conduct
13 which constitutes other unfair business acts or practices. Such conduct is ongoing
14 and continues to this date.

15 64. In order to satisfy the “unfair” prong of the UCL, a consumer must
16 show that the injury: (1) is substantial; (2) is not outweighed by any countervailing
17 benefits to consumers or competition; and, (3) is not one that consumers
18 themselves could reasonably have avoided.

19 65. Here, Defendant’s conduct has caused and continues to cause
20 substantial injury to Plaintiff and members of the Class. Plaintiff and members of
21 the Class have suffered injury in fact due to Defendant’s decision to charge them
22 for rollover data that was supposedly included in their purchased cellular plans.
23 Thus, Defendant’s conduct has caused substantial injury to Plaintiff and the
24 members of the Sub-Class.

25 66. Moreover, Defendant’s conduct as alleged herein solely benefits
26 Defendant while providing no benefit of any kind to any consumer. Such
27 deception utilized by Defendant convinced Plaintiff and members of the Class that
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1 the rollover data was being included in their cellular plans, in order to induce them
2 to spend money and purchase Defendant's services. In fact, knowing that they
3 were going to charge an additional \$3.99/month for the rollover data to Plaintiff
4 and other putative class members, Defendant unfairly profited in that Defendant
5 knew that it was making false representations to customers, in order to sell them
6 cellular plans. Thus, the injury suffered by Plaintiff and the members of the Sub-
7 Class is not outweighed by any countervailing benefits to consumers.

8 67. Finally, the injury suffered by Plaintiff and members of the Class is
9 not an injury that these consumers could reasonably have avoided. After
10 Defendant, falsely represented that the cellular plan included these terms and
11 conditions that they did not, these consumers suffered injury in fact due to
12 Defendant's charging an additional fee for rollover data. Defendant failed to take
13 reasonable steps to inform Plaintiff and class members that the rollover data was
14 in fact, not included, including failing to provide an opportunity to Plaintiff and
15 class members to read and review the accurate services provided with their cellular
16 plans prior to purchase. As such, Defendant took advantage of Defendant's
17 position of perceived power in order to deceive Plaintiff and the Class members
18 to pay higher prices. Therefore, the injury suffered by Plaintiff and members of
19 the Class is not an injury which these consumers could reasonably have avoided.

20 68. Thus, Defendant's conduct has violated the "unfair" prong of
21 California Business & Professions Code § 17200.

22 **FRAUDULENT**

23 69. California Business & Professions Code § 17200 prohibits any
24 "fraudulent ... business act or practice." In order to prevail under the "fraudulent"
25 prong of the UCL, a consumer must allege that the fraudulent business practice
26 was likely to deceive members of the public.

27 70. The test for "fraud" as contemplated by California Business and
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1 Professions Code § 17200 is whether the public is likely to be deceived. Unlike
2 common law fraud, a § 17200 violation can be established even if no one was
3 actually deceived, relied upon the fraudulent practice, or sustained any damage.

4 71. Here, not only were Plaintiff and the Class members likely to be
5 deceived, but these consumers were deceived by Defendant. Such deception is
6 evidenced by the fact that Plaintiff purchased a cellular plan from the Defendant
7 under the basic assumption that the advertised terms and conditions, including free
8 rollover data up to 500MB per month, was accurate. Plaintiff's reliance upon
9 Defendant's deceptive statements is reasonable due to the unequal bargaining
10 powers of Defendant and Plaintiff. For the same reason, it is likely that
11 Defendant's fraudulent business practice would deceive other members of the
12 public.

13 72. As explained above, Defendant deceived Plaintiff and other Class
14 Members by representing the cellular plans as including the rollover data, when it
15 did not.

16 73. Thus, Defendant's conduct has violated the "fraudulent" prong of
17 California Business & Professions Code § 17200.

18 UNLAWFUL

19 74. California Business and Professions Code Section 17200, et seq.
20 prohibits "any unlawful...business act or practice."

21 75. As explained above, Defendant deceived Plaintiff and other Class
22 Members by representing that it's cellular plans included terms and conditions
23 which they did not actually include.

24 76. Defendant used false advertising, marketing, and misrepresentations
25 to induce Plaintiff and Class Members to purchase cellular plans from Defendant,
26 in violation of California Business and Professions Code Section 17500, et seq.
27 Had Defendant not falsely advertised, marketed or misrepresented the terms and
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1 conditions of the cellular plans they were selling, Plaintiff and Class Members
2 would not have purchased them at all. Defendant's conduct therefore caused and
3 continues to cause economic harm to Plaintiff and Class Members.

4 77. These representations by Defendant are therefore an "unlawful"
5 business practice or act under Business and Professions Code Section 17200 *et*
6 *seq.*

7 78. Defendant has thus engaged in unlawful, unfair, and fraudulent
8 business acts entitling Plaintiff and Class Members to judgment and equitable
9 relief against Defendant, as set forth in the Prayer for Relief. Additionally,
10 pursuant to Business and Professions Code section 17203, Plaintiff and Class
11 Members seek an order requiring Defendant to immediately cease such acts of
12 unlawful, unfair, and fraudulent business practices and requiring Defendant to
13 correct its actions.

14 **REQUEST FOR JURY TRIAL**

15 79. Plaintiff requests a trial by jury as to all claims so triable.

16 **PRAYER FOR RELIEF**

17 80. Plaintiff, on behalf of himself and the Class, requests the following
18 relief:

- 19 (a) An order certifying the Class and appointing Plaintiff as
20 Representative of the Class;
- 21 (b) An order certifying the undersigned counsel as Class Counsel;
- 22 (c) An order requiring Defendant, at its own cost, to notify all
23 Class Members of the unlawful and deceptive conduct herein;
- 24 (d) An order requiring Defendant to engage in corrective
25 advertising regarding the conduct discussed above;
- 26 (e) Actual damages suffered by Plaintiff and Class Members as
27 applicable or full restitution of all funds acquired from Plaintiff
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and Class Members from the sales of the cellular plans that falsely advertised inclusion of the rollover data at no additional charge, during the relevant class period;

- (f) Punitive damages, as allowable, in an amount determined by the Court or jury;
- (g) Any and all statutory enhanced damages;
- (h) All reasonable and necessary attorneys’ fees and costs provided by statute, common law or the Court’s inherent power;
- (i) Pre- and post-judgment interest; and
- (j) All other relief, general or special, legal and equitable, to which Plaintiff and Class Members may be justly entitled as deemed by the Court.

Dated: February 14, 2020

Respectfully submitted,

LAW OFFICES OF TODD M. FRIEDMAN , PC

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

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

DICK LING, individually, and on behalf of other members of the general public similarly situated,

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

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

DEFENDANTS

STS MEDIA, INC. D/ B/A UNREAL MOBILE; DOES 1-10, inclusive, and each of them

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)

- 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)

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

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

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

Large table with categories: 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): 28 U.S.C. §1332(d)(2),

Brief description of cause: Class Action Fairness Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ 5,000,000.00

CHECK YES only if demanded in complaint: JURY DEMAND: X 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) X SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE 02/14/2020

SIGNATURE OF ATTORNEY OF RECORD

s/Todd M. Friedman

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.