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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

JOSEPH EDDINGS,

Case No. 6:13-cv-737

Plaintiff,

**COMPLAINT FOR TELEPHONIC
HARASSMENT AND INTRUSION UPON
SECLUSION**

v.

**METLIFE BANK, NATIONAL
ASSOCIATION,**

JURY TRIAL DEMANDED

47 U.S.C. § 227

Defendant.

1.

Joseph Eddings (“plaintiff”) alleges that at all times material:

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COMPLAINT - Page 1

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2.

JURISDICTION AND THE PARTIES

This is a civil action brought under the Telephone Consumer Protection Act (“TCPA”) and Oregon common law.

3.

This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1332, and 1367 because the TCPA is federal law, plaintiff is an Oregon resident, Metlife Bank, National Association (“defendant”) is a non-resident entity, the amount in controversy exceeds \$75,000, including statutory damages, actual damages, punitive damages, attorney’s fees and costs, and plaintiff’s state law claim is so related to the TCPA claim that they form part of the same case and controversy.

4.

Venue is proper in this district because the majority of the acts and transactions occurred here, plaintiff resides here, and defendant calls consumers here.

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5.

FACTUAL ALLEGATIONS

After the housing bubble burst, plaintiff became unable to make his mortgage payments.

6.

Eventually, plaintiff broke his promise to defendant and stopped making his mortgage payments all together.

7.

In 2010, plaintiff hired an attorney to represent him with regard to his mortgage debt with defendant.

8.

In 2010, plaintiff moved out of his home at 2106 Washington Street in Albany secured by defendant's mortgage debt.

9.

In 2010, plaintiff, through his attorney, provided defendant written notice that he surrendered his home and would no longer be paying his mortgage debt.

10.

Defendant received actual written notice that plaintiff hired an attorney to represent him with regard to his mortgage debt.

11.

Defendant received actual written notice that plaintiff surrendered his home and would no longer be paying his mortgage debt.

12.

Defendant wrote to plaintiff's attorney in 2011 and admitted it knew plaintiff abandoned the home.

13.

Defendant's 2011 letter also impliedly admitted it knew plaintiff was represented by an attorney with regard to his mortgage debt.

14.

In 2013, defendant began harassing plaintiff directly by calling his personal cell phone using an automatic telephone dialing system.

15.

Plaintiff called defendant back and told it he would not pay the mortgage debt.

16.

Plaintiff told defendant to stop contacting him directly.

17.

Plaintiff again provided defendant the contact information for his attorney.

18.

Plaintiff made multiple attempts to resolve this matter without the need for a lawsuit.

19.

Sadly, as of the date of this lawsuit, defendant continues to harass and inconvenience plaintiff directly with unwanted calls.

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20.

Defendant knows and should know its calls constitute telephonic harassment because plaintiff told it as much over the phone.

21.

Defendant's choice to keep calling plaintiff's phone number constitutes intentional telephonic harassment.

22.

As a direct and proximate result of defendant's malicious telephonic harassment, plaintiff was forced to bear the expense of the calls, and suffers severe ongoing frustration, helplessness, hopelessness, and other negative emotions to be proved at trial.

23.

Plaintiff's emotional distress is severe and substantial. His stress levels have significantly elevated because of defendant's continued harassment.

24.

As a direct and proximate result of defendant's malicious telephonic harassment, plaintiff also suffers actual damages in the form of time spent and attorney's fees and costs.

25.

Defendant deserves punishment for its choice to continually harass plaintiff.

26.

Plaintiff is entitled to and so demands a trial by jury.

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27.

CAUSES OF ACTION

FIRST CLAIM FOR RELIEF

(TCPA)

(47 U.S.C. § 227)

28.

Plaintiff re-alleges the above by reference.

29.

Defendant injured plaintiff through its willful and malicious telephonic harassment as detailed above, violating the TCPA, specifically 47 U.S.C. § 227(b).

30.

As a result of defendant's willful and malicious telephonic harassment, plaintiff is entitled to treble statutory damages per violation and injunctive relief pursuant to § 227(b)(3).

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31.

SECOND CLAIM FOR RELIEF
(INTRUSION UPON SECLUSION)

32.

Plaintiff re-alleges the above by reference.

33.

Defendant intentionally intruded upon the solitude and seclusion of plaintiff by choosing to leave his personal cell phone number in its automatic telephone dialing system.

34.

Defendant intentionally intruded upon the solitude and seclusion of plaintiff by choosing to telephonically harass him through its automatic telephone dialing system.

35.

Defendant's intentional telephonic harassment is highly offensive and directly caused plaintiff emotional distress.

36.

Defendant's malicious telephonic harassment has no place in American society. Defendant refused to stop after multiple pleas by plaintiff. Defendant's conduct constituted an extraordinary transgression of socially tolerable behavior based on the social standards of Oregon families.

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37.

As a result of defendant's malicious intrusion upon plaintiff's solitude and seclusion, plaintiff is entitled to declaratory relief, punitive damages, and actual damages.

38.

Plaintiff is entitled to and so demands a trial by jury.

WHEREFORE, plaintiff seeks judgment against defendant as follows:

- a. An order enjoining defendant from further harassing plaintiff;
- b. An order holding defendant in violation of the laws prohibiting telephonic harassment;
- c. An award of actual damages, punitive damages, and treble statutory damages;
- d. Reimbursement of plaintiff's reasonable attorney's fees and costs, when appropriate;
- e. For other such relief as this Honorable Court deems just and proper.

DATED: May 1, 2013

/s/ Michael Fuller

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