

**CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

JUDITH FLAHIVE, individually and on)	
behalf of a class of similarly situated)	
individuals,)	
)	
<i>Plaintiff,</i>)	Case No.
)	
v.)	Judge:
)	
INVENTURUS KNOWLEDGE)	
SOLUTIONS, INC., a Delaware)	
corporation,)	
)	
<i>Defendant.</i>)	
_____)	

CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, Judith Flahive, brings this Class Action Complaint against Defendant, Inventurus Knowledge Solutions, Inc. (“IKS”), to stop Defendant’s unlawful practice of making unauthorized, automated telephone calls to individuals’ cellphones, and to obtain redress for all persons injured by its conduct. For her Class Action Complaint, Plaintiff alleges as follows based on personal knowledge as to herself and her own acts and experiences, and as to all other matters, on information and belief, including an investigation conducted by her attorneys.

NATURE OF THE ACTION

1. IKS violated federal law by making unauthorized, automated telephone calls featuring a prerecorded or artificial voice to the cellphones of consumers throughout the nation (“robocalls”).
2. By effectuating these unauthorized robocalls, Defendant has violated the called parties’ statutory rights, privacy rights, and their property rights in their cellphones. Plaintiff and the other called parties have suffered actual, concrete harm robocalls, not only because the called

parties were subjected to the aggravation and invasion of privacy that necessarily accompanies robocalls – particularly calls using a prerecorded or non-human artificial voice – but also because the called parties, like Plaintiff, frequently have to pay their cellular phone providers for the receipt of such calls, notwithstanding the fact that the calls violate federal law.

3. The Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227 *et seq.*, and its implementing regulations, 47 C.F.R. § 64.1200, *et seq.*, allow companies to make automated calls featuring an artificial or prerecorded voice so long as they have the prior express consent of the called party. However, the TCPA prohibits companies like IKS from making automated calls featuring an artificial or prerecorded voice to cellphones after the called party has revoked consent to receive such calls. IKS has violated, and continues to violate, the TCPA and its regulations by transmitting automated voice recordings to consumers’ cellphones even though they have repeatedly requested – to no avail – that IKS discontinue placing such calls.

4. In order to redress these injuries, Plaintiff, on behalf of herself and a nationwide Class, brings this suit under the TCPA, which protects the privacy rights of consumers and the right to be free from receiving unsolicited automated calls on their cellphones.

5. On behalf of the Class, Plaintiff seeks an injunction requiring IKS to cease the transmission of all unauthorized automated voice calls to cellphones, and an award of statutory damages to the members of the Class, together with costs and attorneys’ fees.

JURISDICTION AND VENUE

6. This Court may assert personal jurisdiction over Defendant pursuant to 735 ILCS 5/2-209 and in accordance with the Illinois Constitution and the Constitution of the United States, because Defendant is doing business within this State and because Defendant has permanent offices located in Illinois.

7. Venue is proper in the Circuit Court of Cook County under 735 ILCS 5/2-101, because IKS does business in Cook County and is a resident of Cook County, and because IKS makes automated calls to residents of Cook County.

PARTIES

8. Plaintiff Flahive is a resident of the State of California.

9. Defendant IKS is a privately held Delaware corporation that provides calling technology and services to businesses in the healthcare industry throughout the nation. IKS is headquartered in New York and it conducts business in Illinois and elsewhere throughout the United States.

COMMON ALLEGATIONS OF FACT

10. Defendant IKS contracts with businesses in the healthcare industry and provides a number of different services, including billing, accounts receivable, and automated calling services.

11. IKS makes automated calls on behalf of medical service providers and other entities throughout the country. IKS's automated calling service is a telephonic notification system used to transmit messages to its clients' customers. For example, in an effort to increase its clients' revenue, IKS makes calls reminding customers to make payments on their accounts.

12. In an effort to improve recovery on delinquent accounts, however, IKS often fails to honor requests to discontinue placing automated calls, including those that feature an artificial or prerecorded voice, to individuals who have expressly communicated that they no longer wish to be contacted—even though such individuals have the right to revoke consent to receive automated calls under the TCPA.

13. For instance, in or about March 2015, IKS made automated calls to Plaintiff to remind her about a debt she owed to a physical therapy clinic. Upon receiving these calls, Plaintiff communicated to Defendant that she no longer wanted to receive such automated calls. Despite this communication, she continued to receive numerous calls from Defendant.

14. Adding insult to injury, the recipients of these unauthorized calls are not only annoyed and frustrated, they are also forced to bear the costs of receiving these unsolicited and unauthorized prerecorded calls.

15. In addition to being an aggravating invasion of privacy and a violation of the called parties' statutory and property rights, unauthorized robocalls can actually cost their recipients money, because called parties like Plaintiff frequently have to pay their cellphone service providers for the calls they receive, incur a usage allocation deduction from their calling plans, or pay a fixed or variable usage fee per call, regardless of whether the call is authorized or unlawful.

16. Further, in an effort to maximize its clients' revenue, IKS has failed to implement precautions during the phone number inputting process for its customers, and eliminated procedures necessary to confirm that the individuals who receive automated calls are actually the individuals for whom such calls were intended.

17. Indeed, because IKS markets its automated calling and messaging services to its customers as virtually limitless, IKS has designed its system so that it can transmit calls to as many phone numbers as possible on behalf of its customers. As a result, IKS has failed to implement effective limitations on its automated calling operations to ensure that proper consent from the called party is obtained in advance so as to prevent unauthorized calls or to effectively honor and process requests to discontinue the unauthorized calls.

18. As a consequence, many of the automated calls that IKS transmits are sent to telephone numbers that are either initially inaccurate or otherwise become inaccurate over time. Therefore, IKS routinely transmits automated voice calls to telephones belonging to individuals who never provided consent to be called by IKS or its customers. Moreover, as explained above, IKS often continues to make such calls even after the called parties complain or otherwise communicate that they do not consent to receive such calls.

19. IKS has repeatedly failed to comply with applicable federal law prohibiting unsolicited prerecorded or artificial voice calls placed to cellphones, including those placed on behalf of its medical service provider customers.

20. IKS’s practice of making unauthorized voice calls, and continuing to place them despite complaints from the called parties, is widespread and well-documented.

CLASS ACTION ALLEGATIONS

21. Plaintiff brings this action on behalf of herself and a nationwide class (the “Class”) defined as follows:

All individuals and entities in the U.S. who received one or more automated calls made by IKS, and for which the called party had not consented to be called.

22. Excluded from the Class are any members of the judiciary assigned to preside over this matter; any officer, director, or employee of Lewis; and any immediate family member of such officer, director, or employee.

23. Upon information and belief, there are over 1,000 members of the Class such that joinder of all members is impracticable.

24. Plaintiff will fairly and adequately represent and protect the interests of the other members of the Class. Plaintiff has retained counsel with substantial experience in prosecuting complex litigation and class actions. Plaintiff and her counsel are committed to vigorously

prosecuting this action on behalf of the other members of the Class, and have the financial resources to do so. Neither Plaintiff nor her counsel has any interest adverse to those of the other members of the Class.

25. Absent a class action, most members of the Class would find the cost of litigating their claims to be prohibitive, and will have no effective remedy. The class treatment of common questions of law and fact is also superior to multiple individual actions or piecemeal litigation in that it conserves the resources of the courts and the litigants, and promotes consistency and efficiency of adjudication.

26. IKS has acted and failed to act on grounds generally applicable to the Plaintiff and the other members of the Class, requiring the Court's imposition of uniform relief to ensure compatible standards of conduct toward the members of the Class.

27. The factual and legal bases of IKS's liability to Plaintiff and to the other members of the Class are the same, resulting in injury to Plaintiff and to all of the other members of the Class. Plaintiff and the other members of the Class have all suffered harm and damages as a result of IKS's unlawful and wrongful conduct. There are many questions of law and fact common to the claims of Plaintiff and the other members of the Class, and those questions predominate over any questions that may affect individual members of the Class.

Common questions for the Class include, but are not limited to, the following:

- (a) Did IKS and/or its agents place calls using a prerecorded or artificial voice to the cellular phones of persons who did not previously provide consent to receive such calls on their respective cellphone numbers?

- (b) Did IKS and/or its agents systematically continue place calls using a prerecorded or artificial voice to the cellular phones of persons who previously communicated to IKS and/or its clients that they did not consent to receive such calls?
- (c) Did the unauthorized calls made by IKS violate the TCPA?
- (d) Was IKS's conduct in violation of the TCPA willful such that the members of the Class are entitled to treble damages?
- (e) Should IKS be enjoined from continuing to engage in such conduct?

COUNT I
Violation of the Telephone Consumer Protection Act (47 U.S.C. 227, et seq.)
on behalf of the Class

28. Plaintiff incorporates by reference the foregoing allegations as if fully set forth herein.

29. IKS made unsolicited and unauthorized telephone calls using a prerecorded or artificial voice to the cellphone numbers of Plaintiff and the other members of the Class.

30. IKS also made unsolicited and unauthorized telephone calls using a prerecorded or artificial voice to the cellphone numbers of Plaintiff and the other members of the Class after receiving a communication requesting not to receive any subsequent such calls.

31. IKS has, therefore, violated the TCPA, 47 U.S.C. § 227(b)(1)(A)(iii), and its implementing regulations, 47 C.F.R. § 64.1200, *et seq.*

32. As a result of IKS's illegal conduct, the members of the Class have had their privacy rights violated, have suffered actual and statutory damages, and under § 227(b)(3)(B) are each entitled, *inter alia*, to a minimum of \$500.00 in damages for each such violation of the TCPA.

33. To the extent that IKS's misconduct was willful and knowing, the Court should, pursuant to § 227(b)(3)(C), treble the amount of statutory damages recoverable by Plaintiff and the other members of the Class.

WHEREFORE, Plaintiff, on behalf of herself and the Class, prays for the following relief:

1. An order certifying the Class defined above;
2. An award of actual or statutory damages in an amount to be determined at trial;
3. An injunction requiring Defendant to cease all unauthorized prerecorded or artificial voice telephone activities;
4. An award of reasonable attorneys' fees and costs; and
5. Such further and other relief as the Court deems reasonable and just.

JURY DEMAND

Plaintiff requests trial by jury of all claims that can be so tried.

Dated: May 26, 2017

JUDITH FLAHIVE, individually and on behalf of a class of similarly situated individuals

By: /s/ Paul T. Geske

One of Plaintiff's attorneys

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