

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**JAMES JULIAN,**

**Plaintiff,**

v.

**CLEARLINK INSURANCE  
AGENCY, LLC,**

**Defendant.**

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**Case No.** \_\_\_\_\_

**COMPLAINT**

Plaintiff James Julian files this Complaint against Clearlink Insurance (herein “Clearlink”) for violations of the federal Telephone Consumer Protection Act (“TCPA”) and its implementing regulations, and alleges as follows:

**INTRODUCTION**

1. The TCPA was enacted to protect consumers’ privacy interests by prohibiting unwanted, repetitive, and invasive telephone solicitations.
2. From September 22, 2023 to June 5, 2024, Plaintiff received a barrage of illegal telemarketing calls made by telemarketers soliciting Medicare insurance services on behalf of Clearlink at the authorization and direction of Clearlink.
3. Plaintiff seeks redress under the TCPA, demanding that the calls stop.

**JURISDICTION AND VENUE**

4. This Court has subject matter jurisdiction over Counts I under 28 U.S.C § 1331, because the claims arise under the federal Telephone Consumer Protection Act, 47 U.S.C. § 227. *See*

*Mims v. Arrow Fin. Servs., LLC*, 565 U.S. 368, 386-87 (2012) (holding that federal courts have federal question jurisdiction over private actions brought under the TCPA).

5. This Court has specific personal jurisdiction over Clearlink because Clearlink purposefully availed itself to the State of Kansas and this District, and there is a sufficient relationship between Clearlink’s purposeful contacts with Kansas and the litigation:

- a) Clearlink targets Kansas when marketing their services and regularly conducts business in this District, including via telephone solicitations.
- b) These calls to Kansas injured Plaintiff in Kansas, creating a causal link among Clearlink, the forum, and the litigation that exceeds the non-causal affiliation that is sufficient to support personal specific jurisdiction. *See Ford Motor Co. v Mont. Eight Jud. Dist. Ct.*, 141 S. Ct. 1017 (2021).

6. Venue is proper under 28 U.S.C. § 1391(b)(2).

### **PARTIES**

7. Plaintiff is a natural person domiciled in Kansas who received the incessant and intrusive calls made on behalf of Clearlink to market their Medicare insurance services.

8. Clearlink Insurance Agency, LLC (“Clearlink”) is a limited liability company organized and existing under the laws of Utah and registered as a foreign limited liability company in the state of Kansas and may be served via its registered agent Corporation Service Company, 1100 SW Wanamaker Rd, Suite 103, Topeka, KS 66604.

### **FACTUAL ALLEGATIONS**

9. Plaintiff successfully registered his personal phone number ending in -1687 on the National Do-Not-Call Registry (“DNC”) on April 25, 2006.

10. Plaintiff's phone ending in -1687 is a residential phone line.
11. Plaintiff is a "person" as defined by 47 U.S.C. § 153(39).
12. Clearlink is a "person" as the term is defined by 47 U.S.C. § 153(39).
13. As part of their marketing, Clearlink contracted with and hired telemarketing companies ("John Does") to tele-solicit consumers for their services.
14. Clearlink authorized John Does to act as agents of Clearlink.
15. Clearlink has been alerted to the TCPA violations via multiple Federal lawsuits and still has not taken any actions to curtail their TCPA-violating behavior.
16. Clearlink has been the subject of numerous complaints from consumers for making telemarketing calls identical to those made to Plaintiff.
17. In those consumer complaints, consumers have objected to Clearlink's telemarketing calls, did not consent to them, and received them despite being listed on the National Do-Not-Call Registry.
18. Plaintiff received at least two hundred nineteen (219) phone calls to his personal cell phone ("the calls") from September 22, 2023 to June 5, 2024, from John Does calling on behalf of Clearlink soliciting their Medicare insurance services. *See Exhibit A.*
19. Plaintiff has never had any relationship with Clearlink and has never been a customer of Clearlink.
20. Plaintiff never gave Clearlink his prior express written consent to receive any of the alleged calls.
21. Other than to determine the identity of the caller, Plaintiff never requested information regarding services from Clearlink.

22. Each alleged call started with the same telemarketing script when Plaintiff answered soliciting Clearlink's services.
23. The alleged calls were clearly generated from an automated dialing system (ATDS) because (a) there was an audible transition tone after Plaintiff answered the call and spoke and (b) there was a pause of silence or dead air on each call prior to the caller speaking.
24. On every alleged call, the incoming caller identification was misidentified or "spoofed" to conceal the identity of the caller.
25. On every alleged call, the caller would initially provide a false company name on whose behalf the call was made.
26. Plaintiff did not request information regarding Clearlink's services and was not interested.
27. On two separate phone calls, solely for the purpose of identifying the source of the unsolicited telephone solicitation, Plaintiff provided information necessary to be connected to an agent or employee of Clearlink.
28. Plaintiff informed the agent employee that Plaintiff's phone number was on the Do Not Call Registry and requested that the phone calls cease.
29. Despite Plaintiff's request to be removed from the calling list, Plaintiff was bombarded and harassed with over two hundred nineteen (219) calls from John Does calling on behalf of Clearlink soliciting its services.
30. Plaintiff answered each call contained in Exhibit A and saved each incoming phone number as a unique contact in his cellphone.
31. On each call listed in Exhibit A, Plaintiff answered and heard the same telemarketing script soliciting Clearlink's services.

32. Plaintiff was extremely annoyed and aggravated for continuing to receive unsolicited calls with the same solicitation script during working hours and followed the prompts for the sole purpose of identifying the company responsible for the harassing phone calls.

33. On September 22, 2023, Plaintiff received a call from phone number 913-569-2255 calling on behalf of Clearlink offering Medicare/Medicaid Additional Benefits.

34. On the first call and on each subsequent call from Clearlink, the caller followed the same telemarketing sales script and asked for Plaintiff's name, date of birth, address, health ailments and whether the call recipient has any additional insurance or benefits on top of their standard Medicare/Medicaid coverage.

35. On September 22, 2023, Plaintiff received a call from John Does showing caller ID 913-569-2255 on behalf of Clearlink soliciting Medicare Insurance services. Plaintiff answered the caller's script questions and was transferred to a person named Lerone, an agent with Clearlink Insurance located in El Paso, TX. Lerone gave Plaintiff a call back number of (833) 723-0577 if the call were to become disconnected. Plaintiff asked Lerone to remove him from the call list.

36. On November 9, 2023, Plaintiff again received a call from John Does showing caller ID 913-252-1621 on behalf of Clearlink soliciting Medicare Insurance services. Plaintiff answered the caller's script questions and was transferred to Carol Stokes, agent with Clearlink Insurance. Ms. Stokes gave Plaintiff a call back number of (833) 723-0577 or her direct line (833) 975-1053 if the call were to become disconnected. Plaintiff asked Ms. Stokes to remove Plaintiff from the call list.

37. After the first alleged call, Clearlink was on notice that Plaintiff did not want to receive any more calls from Clearlink.

38. On October 31, 2023 Plaintiff sent a certified letter to Clearlink demanding the calls

cease (Exhibit B).

39. On November 16, 2023, Plaintiff and his counsel corresponded via email with Clearlink's legal counsel regarding the violations of the TCPA.

40. After the October 31, 2023 and November 16, 2023 correspondence, Plaintiff continued to receive unsolicited telemarketing calls from Clearlink.

41. On November 17, 2023, Plaintiff was again called by an agent for Clearlink. The call center agent unsuccessfully attempted to connect Plaintiff to Clearlink, then notified Plaintiff that he had been "blacklisted", and the call was disconnected.

42. All of the calls Plaintiff received from Clearlink after the November 17, 2023 demand letter would disconnect prior to connecting to an agent because Clearlink was aware of Plaintiff's phone number being listed on the DNC registry and that Plaintiff had demanded that the calls from Clearlink cease.

43. On January 8, 2024, Plaintiff was called by and spoke with a call center agent of Clearlink and, after an unsuccessful attempt to connect Plaintiff, was again informed by the agent that he was "blacklisted."

44. Clearlink ignored all of Plaintiff's do not call requests.

45. Each call Clearlink made to Plaintiff after the very first call was made knowingly and willfully.

46. Plaintiff never gave his prior express written consent to receive any calls from or on behalf of Clearlink.

47. None of the alleged calls were made to Plaintiff for emergency purposes.

48. Each alleged call was placed without the maintenance of an internal do-not-call policy.

49. On information and belief, Clearlink did not have a written do-not-call policy while John Does were calling Plaintiff.

50. On information and belief, Clearlink did not train John Does on the existence and use of any do-not-call list.

51. Plaintiff was harmed by the calls. Plaintiff was temporarily deprived of legitimate use of his phone because the phone line was tied up during the telemarketing calls and his privacy was improperly invaded.

52. Moreover, these calls injured Plaintiff because they were frustrating, obnoxious, annoying, were a nuisance and disturbed the solitude of Plaintiff. The calls caused Plaintiff's cell phone battery's depletion, used up cellular data, and prevented Plaintiff from otherwise using his telephone for lawful purposes.

53. John Does placement of multiple calls on behalf of Clearlink within a twelve-month period to Plaintiff's residential phone line, listed on the National DNC Registry since April 25, 2006, violated 47 U.S.C. § 227(c) and 47 C.F.R. § 64.1200(c).

**INJURY, HARM, DAMAGES, AND ACTUAL DAMAGES TO PLAINTIFF AS A  
RESULT OF THE CALLS**

54. Plaintiff has been denied the use of his phone, enjoyment of his phone, and had the functionality of his phone decreased because of unnecessary charging, erosion of phone memory, and had his privacy invaded by the harassing telemarketing calls.

55. The calls harmed Plaintiff by causing the very harm that Congress sought to prevent a "nuisance and invasion of privacy."

56. Plaintiff has been annoyed, harassed, and irritated by robocalls placed to him from John

Does on behalf of Clearlink.

57. The calls harmed Plaintiff by trespassing upon and interfering with Plaintiff's rights and interests in Plaintiff's cellular telephone by placing unwanted telemarketing calls to Plaintiff.

### **CAUSES OF ACTION**

#### **COUNT I**

##### **DNC Violations**

##### **Violation of the TCPA, 47 U.S.C. § 227(c); 47 C.F.R. § 64.1200(c)**

58. Plaintiff realleges and incorporates by reference paragraphs 1-57.

59. The TCPA prohibits telephone solicitation of residential telephone subscribers whose numbers are registered on the National Do-Not-Call Registry, 47 U.S.C. § 227(c)(5).

60. Even though Plaintiff's number has been registered on the National DNC Registry since April 25, 2006, which was more than thirty-one (31) days prior to the alleged calls, Clearlink and/or their telemarketers or agents made at least two hundred nineteen (219) unsolicited telephone solicitation calls to Plaintiff's residential telephone line, without Plaintiff's consent, and thereby violated 47 U.S.C § 227(c) and 47 C.F.R. § 64.1200(c) (the "DNC Violations").

61. Plaintiff suffered the following injuries from each violation: invasion of privacy; intrusion on Plaintiff's right of seclusion; occupation of Plaintiff's telephone line by unwelcome calls, rendering the phone unavailable for legitimate calls; inconvenience; loss of usefulness of Plaintiff's phone; unnecessary expenditure of Plaintiff's phone's battery power; degradation of the battery; and trespass to Plaintiff's chattel, namely his cellular telephone.

62. Under § 227(c)(5), Plaintiff is entitled to receive up to \$500 in damages for each violation of 47 U.S.C. § 227(c) and 47 C.F.R. § 64.1200(c). Because the violations were knowing and willful, the Court may award up to \$1,500 per violation.



**COUNT II**

**Violation of the TCPA, 47 U.S.C. § 227(b)(1)(A)(iii), by Artificial or  
Prerecorded Telemarketing Without Prior Express Written Consent**

63. Plaintiff realleges and incorporates by reference paragraphs 1-62.

64. Defendants and/or their telemarketers or agents violated the TCPA, 47 U.S.C. § 227(b)(1)(A)(iii), at least two hundred nineteen (219) times by placing non-emergency telemarketing calls to Plaintiff's cellular telephone number using an artificial or prerecorded message without prior express written consent.

65. Plaintiff was statutorily damaged at least two hundred nineteen (219) times under 47 U.S.C. § 227(b)(3)(B) by Defendant by the telephone calls described above, in the amount of \$500.00 per call.

66. Plaintiff was further statutorily damaged because Defendants and/or their telemarketers or agents willfully or knowingly violated this subsection of the TCPA. Plaintiff requests that the court treble the damage amount to \$1,500.00 as permitted under U.S.C. § 227(b)(3)(C) for each willful and/or knowing violation.

67. Plaintiff is also entitled to and does seek an injunction prohibiting Defendants and/or their telemarketers or agents from violating the TCPA, 47 U.S.C. § 227(b)(1)(A)(iii), by placing non-emergency telemarketing calls to any cellular telephone number using an artificial or prerecorded voice message without prior express written consent.

68. Accordingly, Plaintiff seeks an order under Section 227(c)(5) awarding \$1,500 for each violation.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for the following relief:

- A. Leave to amend this Complaint to name additional John Does as they are identified and to conform to the evidence presented at trial.
- B. A declaration that actions complained of herein by Clearlink violate the TCPA.
- C. An injunction enjoining Clearlink and/or their telemarketers or agents from engaging in the unlawful conduct set forth herein.
- D. An award of \$1,500 per call in statutory damages arising from the TCPA §227(b) intentional violations jointly and severally against the corporation and individual for 219 calls.
- E. An award of \$1,500 per call in statutory damages arising from the TCPA § 227(c) intentional violations jointly and severally against the corporation and individual for 219 calls.
- F. An award to Plaintiff of damages, as allowed by law under the TCPA.
- G. An award to Plaintiff of interest, costs and attorneys' fees, as allowed by law and equity.
- H. Such further relief as the Court deems necessary, just, and proper.

Dated July 8, 2024

Respectfully submitted,

/s/ Paul K. Thoma

Paul K. Thoma

KS # 16145

Attorney for Plaintiff James Julian

9216 Bond

Overland Park, KS 66214

Telephone: (913) 488-5666

Fax: (913) 492-7801

Email: [pkerry11@gmail.com](mailto:pkerry11@gmail.com)

**Demand For Jury Trial**

Plaintiff hereby demands a trial by jury on all claims so triable.

Dated: July 8, 2024

*/s/ Paul K. Thoma*

\_\_\_\_\_  
Paul K. Thoma

KS # 16145

Attorney for Plaintiff James Julian

9216 Bond

Overland Park, KS 66214

Telephone: (913) 488-5666

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## Exhibit A

Call #	Phone Number	Call Date
1	9135692255	9/22/2023
2	9136771715	9/22/2023
3	6202937452	10/3/2023
4	7623669211	10/3/2023
5	3166136589	10/15/2023
6	9133744486	10/15/2023
7	9132521607	10/21/2023
8	8103285294	10/23/2023
9	8177178916	10/23/2023
10	9132735174	10/23/2023
11	8177179321	10/24/2023
12	7854357287	10/24/2023
13	9136026902	10/24/2023
14	6205400610	10/25/2023
15	9133810120	10/26/2023
16	6203005576	10/30/2023
17	6203005576	10/30/2023
18	9134997391	10/31/2023
19	8563780515	10/31/2023
20	6202974645	11/1/2023
21	9208041124	11/1/2023
22	8023979801	11/1/2023
23	7852031501	11/1/2023
24	6167721303	11/2/2023
25	3092207418	11/2/2023
26	9139083661	11/2/2023
27	6203229785	11/2/2023
28	3082819415	11/4/2023
29	2174510889	11/4/2023
30	9858370505	11/4/2023
31	8599976784	11/4/2023
32	8178805662	11/5/2023
33	9133557150	11/5/2023
34	7014331157	11/6/2023
35	2694154285	11/6/2023
36	8178804553	11/6/2023
37	4422683780	11/6/2023
38	2547371581	11/6/2023

39	7347460494	11/7/2023
40	4069980758	11/7/2023
41	4436891008	11/7/2023
42	2174380903	11/7/2023
43	8599976416	11/7/2023
44	8287424966	11/8/2023
45	9133996434	11/8/2023
46	7019351975	11/9/2023
47	4323162624	11/9/2023
48	4702561468	11/9/2023
49	8178809898	11/9/2023
50	2075785626	11/9/2023
51	9132521621	11/9/2023
52	9132521621	11/9/2023
53	9137458289	11/9/2023
54	9135658269	11/9/2023
55	5753835815	11/10/2023
56	9802733685	11/11/2023
57	7348726812	11/11/2023
58	7019633945	11/13/2023
59	8178802580	11/13/2023
60	5168662213	11/13/2023
61	2172814950	11/14/2023
62	3168880476	11/14/2023
63	6204645082	11/15/2023
64	4013202437	11/15/2023
65	8178802350	11/15/2023
66	9136030949	11/15/2023
67	8178803245	11/15/2023
68	9133606902	11/15/2023
69	9139420791	11/15/2023
70	9014594763	11/15/2023
71	9713068332	11/16/2023
72	9139461805	11/16/2023
73	6095089958	11/16/2023
74	7066738578	11/16/2023
75	7127871538	11/16/2023
76	9704276990	11/16/2023
77	9133109649	11/16/2023
78	9132946336	11/16/2023
79	9132946336	11/16/2023
80	8178804528	11/16/2023
81	9135835458	11/17/2023

82	3136390125	11/17/2023
83	9132984009	11/17/2023
84	2057380235	11/17/2023
85	8178803680	11/17/2023
86	5715033793	11/17/2023
87	9133231442	11/17/2023
88	3022619327	11/17/2023
89	9137668299	11/17/2023
90	8178803894	11/18/2023
91	2562282188	11/18/2023
92	8178803500	11/18/2023
93	2295974112	11/18/2023
94	4452041714	11/19/2023
95	7372004515	11/20/2023
96	3167108925	11/20/2023
97	6027831516	11/20/2023
98	6027831516	11/20/2023
99	3166778522	11/20/2023
100	2396868540	11/20/2023
101	7172807243	11/20/2023
102	9138996562	11/20/2023
103	9202823327	11/20/2023
104	6029073291	11/21/2023
105	9136030554	11/21/2023
106	9132015192	11/21/2023
107	9139930691	11/27/2023
108	9134936541	11/27/2023
109	9137669791	11/28/2023
110	9133839813	11/28/2023
111	9852025383	11/28/2023
112	9133089690	11/28/2023
113	8132795928	11/28/2023
114	3017892746	11/28/2023
115	9139485951	11/28/2023
116	2105724251	11/28/2023
117	9722363001	11/28/2023
118	3137719047	11/29/2023
119	8604839172	11/29/2023
120	9134167365	11/29/2023
121	8177683446	11/29/2023
122	9853002634	11/29/2023
123	9133349472	11/29/2023
124	8178805470	11/30/2023

125	8178805470	11/30/2023
126	9137226847	11/30/2023
127	9104639781	11/30/2023
128	7792137704	11/30/2023
129	9134325012	12/1/2023
130	6028802648	12/2/2023
131	9138253324	12/2/2023
132	9133645275	12/2/2023
133	9137661484	12/2/2023
134	2028807822	12/2/2023
135	2028807900	12/2/2023
136	2028807900	12/2/2023
137	3168880702	12/4/2023
138	9133551750	12/4/2023
139	4433521962	12/4/2023
140	9133543758	12/4/2023
141	9137529282	12/5/2023
142	9136822501	12/5/2023
143	2028806070	12/5/2023
144	9132279349	12/5/2023
145	9137529282	12/5/2023
146	9137665042	12/5/2023
147	9134021905	12/5/2023
148	9136484658	12/5/2023
149	9135698853	12/5/2023
150	9133644323	12/5/2023
151	9178801589	12/5/2023
152	9134991721	12/5/2023
153	8178805278	12/6/2023
154	9132688450	12/6/2023
155	9138565611	12/6/2023
156	9132364675	12/6/2023
157	4048802628	12/6/2023
158	9134096910	12/6/2023
159	9138889129	12/6/2023
160	9133208734	12/7/2023
161	9137252035	12/7/2023
162	9137660732	12/7/2023
163	4048802738	12/7/2023
164	9135355603	12/7/2023
165	9133208636	12/7/2023
166	9138946951	12/7/2023
167	9132733396	12/7/2023

168	4048803058	12/8/2023
169	2128805219	12/9/2023
170	8178805478	12/10/2023
171	9134007371	12/12/2023
172	9135683628	12/12/2023
173	9377094684	12/12/2023
174	9137220862	12/14/2023
175	2133762200	12/14/2023
176	2342865562	12/14/2023
177	9137282435	12/15/2023
178	9377094684	12/20/2023
179	7325190385	12/21/2023
180	9377094684	12/22/2023
181	9377094684	12/22/2023
182	9133846297	12/22/2023
183	9377094684	1/3/2024
184	9132506602	1/8/2024
185	9139282212	1/15/2024
186	9137227812	1/16/2024
187	9135686921	1/18/2024
188	9062002746	1/19/2024
189	6814671164	1/19/2024
190	9132625069	1/25/2024
191	3137101832	1/26/2024
192	9139674835	2/15/2024
193	9133847375	2/16/2024
194	9133847346	2/16/2024
195	9136813359	2/19/2024
196	9132549881	3/4/2024
197	9134997908	3/4/2024
198	9108894117	4/23/2024
199	9132626922	4/25/2024
200	9132625376	4/29/2024
201	6204122105	4/30/2024
202	6203809245	5/1/2024
203	4237347180	5/9/2024
204	3162298636	5/13/2024
205	6204735904	5/14/2024
206	6098525287	5/14/2024
207	3235161165	5/15/2024
208	4708098626	5/15/2024
209	3168880705	5/22/2024
210	9137286199	5/22/2024



211	6202440150	5/23/2024
212	8048777403	5/23/2024
213	6206055046	5/24/2024
214	9132857965	5/24/2024
215	6802945626	5/25/2024
216	2065776559	5/27/2024
217	3162052938	5/27/2024
218	6803569846	5/27/2024
219	7856551835	6/5/2024