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13  
14 *Attorneys for Plaintiff Jessica DeMesa*  
*(Other counsel listed on Signature Page)*

15  
16 **UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

17  
18  
19 JESSICA DEMESA, as an individual and on  
behalf of all others similarly situated,

20 Plaintiff,

21 v.

22 TREASURE ISLAND, LLC,

23 Defendant

Case No.

**CLASS-ACTION COMPLAINT FOR:**

Violation of the Telephone Consumer Protection  
Act, 47 U.S.C. § 227

**DEMAND FOR JURY TRIAL**

1  
2 **INTRODUCTION**

3 1. Plaintiff Jessica DeMesa brings this class action on behalf of herself, individually, and all  
4 others similarly situated against Defendant Treasure Island, LLC (“TI”).

5 2. As alleged below, TI has violated the TCPA through its unauthorized contact of  
6 consumers on the consumers’ respective cellular telephones using a virtual concierge platform known as  
7 “Ivy.” Specifically, TI has violated the TCPA by sending consumers unsolicited text messages for  
8 marketing and advertising purposes using Ivy, invading the consumers’ right to privacy.

9 3. Pursuant to 47 U.S.C. § 227(b)(3), Plaintiff and Class Members are entitled to, *inter alia*,  
10 statutory damages and injunctive relief for TI’s violations.

11 **PARTIES**

12 **Plaintiff Jessica DeMesa**

13 4. Plaintiff is a resident of the County of Los Angeles, in the State of California. She is, and  
14 at all times relevant to this action was, a “person” as defined under 47 U.S.C. § 153.

15 **Defendant**

16 5. Plaintiff is informed and believes, and based thereon alleges, that TI is a Nevada  
17 company with its principal place of business located at 3300 Las Vegas Boulevard South, Las Vegas,  
18 Nevada 89106. TI is, and at all times relevant to this action was, a “person” as defined under 47 U.S.C.  
19 § 153.

20 **JURISDICTION**

21 6. This is a class action.

22 7. This court has federal question jurisdiction over this action under 28 U.S.C. §1331 because  
23 Plaintiff’s claim arises under the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227 under  
24 Federal law. Furthermore, this Court has personal jurisdiction over Defendant because, as alleged  
25 below, Defendant is registered to conduct business Nevada, has sufficient minimum contacts with  
26 Nevada, and/or otherwise intentionally avails itself of the markets within Nevada.

27 **VENUE**

28 8. Venue is proper in this District because Defendant resides in this district within the

1 meaning of 28 U.S.C. § 1391 and a substantial part of the acts and omissions alleged herein took place  
2 in this District, as Plaintiff received the text message from Treasure Island in this District.

### 3 FACTUAL ALLEGATIONS

#### 4 Treasure Island's Roll Out of the Ivy-Virtuay Concierge

5 9. TI owns and operates the Treasure Island Hotel and Casino in Las Vegas, Nevada.<sup>1</sup>

6 10. Plaintiff is informed and believes, and based thereon alleges, that, in or before 2016, TI  
7 began working with a California-based company called GoMoment to roll out a guest-engagement  
8 platform known as the Ivy virtual concierge at the Treasure Island Hotel and Casino. Similar to Siri,  
9 Alexa, and Google Assistant, Ivy is a form of artificial intelligence that is used to power a messaging  
10 service designed to interact with hotel guests. As one writer puts it, “[w]hile Siri inhabits an iPhone,  
11 Alexa her Echo and Google Assistant hangs out in the office and home, Ivy is a more itinerant sort:  
12 She’s the world’s largest travel chatbot, working in hotels across the country.”<sup>2</sup> GoMoment explains on  
13 its website homepage that the Ivy product has been “[d]esigned in concert with hotel owners and  
14 operators,” and has “ushered in the next generation of guest engagement and online reputation  
15 management.”<sup>3</sup> According to GoMoment, Ivy is employed by some of the world’s largest hotel brands,  
16 including Hilton, Wyndham, Doubletree, and others.<sup>4</sup>

17 11. Plaintiff is informed and believes, and based thereon alleges, that TI and GoMoment have  
18 had, and continue to have, a close business relationship.

19 12. Plaintiff is informed and believes, and based thereon alleges, that the Ivy platform  
20 through which the messages at issue were sent was developed, and is maintained, by GoMoment in  
21 California. Plaintiff is further informed and believes, and based thereon alleges, that, at all relevant  
22 times, TI was aware of this due to its close working relationship with GoMoment.

23 13. A prime motivation for the implementation of Ivy was and remains boosting hotel  
24

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25 <sup>1</sup> TI, “Privacy Policy & GDPR Notice,” <http://www.treasureisland.com/privacy> (last modified May  
26 24, 2018).

27 <sup>2</sup> Andy Vasoyan, “Hey Ivy, Where’s the Pool?,” [Playa Vista Direct](https://playavistadirect.com/hey-ivy-wheres-pool/), <https://playavistadirect.com/hey-ivy-wheres-pool/> (Feb. 24, 2018).

28 <sup>3</sup> GoMoment, <http://www.gomoment.com/> (last visited July 18, 2018).

<sup>4</sup> Id.

1 revenue by increasing the purchase of hotel-related services and products, such as restaurants, shows,  
2 and the like. GoMoment's homepage states: "Drive more profitable revenue on autopilot with  
3 customized incentives. Keep your guests coming back with personalized service."<sup>5</sup> GoMoment has  
4 explained:

#### 5 **How to increase hotel revenue**

6 Hotels and resorts are always looking for a way to increase revenue and improve  
7 the guest experience. But what is the best way to do so? A combination of automation  
8 and the human touch.

9 What if you could automatically offer guests a reservation at the on-site  
10 restaurant, in a non-intrusive way? What if you could answer your guests [*sic*] questions  
11 instantly without requiring them to call or walk to the front desk? What if that answer  
12 did not require any time or focus from your staff?

13 Well, that's exactly what Ivy does, Maximizing [*sic*] hotel revenue, while  
14 improving guest review scores at the same time.

15 Ivy is the only guest messaging service powered by artificial intelligence (built in  
16 partnership with IBM Watson). She is empowering hotels and resorts to deliver a world-  
17 class experience while generating additional revenue, all with no app download  
18 required.<sup>6</sup>

19 14. Plaintiff is informed and believes, and based thereon alleges, that Ivy was rolled out at  
20 the Treasure Island Hotel and Casino in about 2016, as explained in 2016 by IBM, whose "Watson"  
21 technology powers Ivy:

22 Treasure Island Las Vegas, the 27th largest casino in the world with nearly 3,000  
23 rooms, is using Watson to deliver instant customer service via SMS messages. The hotel  
24 has integrated Watson developer partner Go Moment's mobile guest engagement  
25 application, Ivy. Ivy uses Watson's Natural Language Classifier API to help quickly  
26

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27 <sup>5</sup> GoMoment, <http://www.gomoment.com/> (last visited July 18, 2018).

28 <sup>6</sup> GoMoment, <https://medium.com/@ivygomoment/how-to-increase-hotel-revenue-b7702235f77b>  
(last visited July 18, 2018) (emphasis in original).

1 address guest questions, such as new towels requests or hotel restaurant  
2 recommendations.<sup>7</sup>

3 15. Plaintiff is informed and believes, and based thereon alleges, that TI directed the roll-out  
4 of Ivy and was directly involved in determining message content and tone, as well as to whom and when  
5 messages would be sent.

### 6 **Plaintiff's Experience**

7 16. On or about April 27, 2018, Plaintiff checked into the Treasure Island Hotel and Casino.  
8 Prior to check-in, during the online reservation process through TI's website, Plaintiff was asked for,  
9 and provided, her cellular-telephone number, which has a California prefix. Also during the online  
10 reservation process through TI's website, she was asked for, and provided, her residence address (which  
11 was also in California). Approximately one hour after check-in, she received the following text message  
12 from TI:

13 Hi! I'm Ivy, your personal TEXT Help at Treasure Island. Txt me for things to do or  
14 reply BUFFET23 or LUCKY anytime. On a scale of 1-5 (5=best), how is your check in  
15 and room experience? Terms:

16 Plaintiff did not respond to this text message.

17 17. Following the word "Terms" in the text message that Plaintiff received was a link to a  
18 webpage. Clicking on the link opens up a webpage that promotes the commercial availability and  
19 quality of Ivy, stating, *inter alia*:

#### 20 **Ivy will help you during your stay!**

21 **Want to make a request?** Close this page, go back to the text message you received,  
22 and just reply. You can ask for towels, get the wifi passcode, or even ask for local  
23 recommendations. If Ivy doesn't know the answer, she will connect you with the front  
24 desk. Ivy is available anywhere, anytime during your stay! So please use her!

25 **Want to Opt-Out?** If you do not want to text with Ivy, go back to the text message your  
26

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27 <sup>7</sup> Trips Reddy, "Watson Developers: The Driving Force Transforming Industries and Society,"  
28 <https://www.ibm.com/blogs/watson/2016/11/watson-developers-driving-force-transforming-industries-society/> (Nov. 9, 2016).

1 received and reply STOP.

2 **How Does Ivy Work?** Ivy works simply by text message. To get started, close this page  
3 and reply to the text message you received.

4 **What Can Ivy Help Me With?** You can ask for towels, get the wifi passcode, or even  
5 ask for local recommendations. If Ivy doesn't know the answer, she will connect you  
6 with hotel staff. It's simple. Go back to the text message your received and reply now to  
7 make your first request.

8 **Why Ivy?** Created by busy travelers, Ivy exists to serve your needs while you're on the  
9 go. Hotel staff can't always attend to your every need right away, so Ivy was created to  
10 be your virtual assistant during your stay. We hope you enjoy Ivy and your travels! Ivy  
11 was developed by Go Moment, and is available to hotels worldwide. Sales & media  
12 inquiries can be directed to the Contact Us link below.

13 **Issues or Opting Out:** Reply "STOP" or "UNSUBSCRIBE" at any time to permanently  
14 opt out of Ivy service. Ivy strives to be helpful in all her interactions, and takes abuse  
15 seriously. If Ivy was anything but helpful to you, please let us know using the Contact  
16 Us link below.<sup>8</sup>

17 18. Plaintiff is informed and believes, and based thereon alleges, that other guests of the  
18 Treasure Island Hotel and Casino are sent messages by TI upon check-in that are the same as, or  
19 substantially similar to, the message that Plaintiff received. Plaintiff is further informed and believes,  
20 and based thereon alleges, that these messages were sent for the purpose of both advertising the  
21 availability of the Ivy product, on the one hand, and encouraging the patronage of hotel-related products  
22 and services, on the other hand.

23 19. At no time prior to receiving the text message referenced in paragraph 16 had Plaintiff  
24 ever signed a document, whether in paper or electronic form, reciting that TI was authorized to send text  
25 messages to her using an automatic telephone dialing system for telemarketing or advertising purposes.  
26 Similarly, at no time prior to receiving the text message referenced in paragraph 16 had Plaintiff ever  
27

28 <sup>8</sup> GoMoment, <http://info.gomoment.com/ivy/> (last visited July 24, 2018).

1 signed a document, whether in paper or electronic form, reciting that she was not required to provide  
2 consent as a condition of purchasing any goods or services.

3 20. It is apparent from the context of the text message above that the message was not sent  
4 with an emergency purpose, but instead to advertise the availability of the Ivy product and to promote  
5 services, activities, and events provided by TI.

6 21. At all times relevant to this action, Plaintiff's cellular-telephone number was linked to a  
7 subscription plan under which she was charged each month for cellular-telephone and data services.

8 22. Plaintiff is informed and believes, and based thereon alleges, that her cellular-telephone  
9 number, along with numerous other telephone numbers, was entered into the Ivy platform or into a  
10 database that the Ivy platform is capable of accessing to mass-dial and/or automatically dial numbers,  
11 and that TI sent the message referenced in paragraph 16 using the Ivy platform.

12 23. Plaintiff is informed and believes, and based thereon alleges, that thousands of similar  
13 messages were and continue to be sent *en masse* to the cellular telephones of the guests at the Treasure  
14 Island Hotel and Casino. Plaintiff is further informed and believes, and based thereon alleges, that all of  
15 these text messages were sent using the equipment or software referenced in paragraph 22 *supra*. In  
16 addition, Plaintiff is informed and believes, and based thereon alleges, that, at no time prior to receiving  
17 these text messages had any guest ever signed a document, whether in paper or electronic form,  
18 disclosing that the guests were authorizing the delivery of telemarketing or advertising messages by way  
19 of an automatic telephone dialing system, or disclosing that the guests were not required to provide  
20 consent as a condition of purchasing any goods or services.

### 21 CLASS-ACTION ALLEGATIONS

22 24. Plaintiff seeks to represent the following Class pursuant to Federal Rules of Civil  
23 Procedure 23(a), (b)(2), and/or (b)(3):

24 All persons who, during the four years prior to the filing of the Complaint in this action  
25 through the date of class certification, received one or more text messages from the Ivy  
26 concierge sent by TI.

27 25. Plaintiff reserves the right to amend or modify the proposed Class, or to propose  
28 subclasses or limitations to particular issues, in response to facts later ascertained.

1           26.     **Numerosity:** The identities of Class Members may be ascertained from TI's own  
2 business and marketing records, as well as the records of TI's telephone provider(s). Joinder of all Class  
3 Members would be impracticable due to the sizeable number of such Members and their likely lack of  
4 resources to initiate individual claims. Plaintiff estimates that thousands of text messages were sent to  
5 well-over the forty individuals required for numerosity purposes. Also, as explained below, the amount  
6 that is owed to any given Class Member under the TCPA is relatively small, making it impractical for  
7 them to bring their own individual suits.

8           27.     **Typicality:** Plaintiff's claims are typical of those of Class Members because she  
9 received a text message from Ivy; she never provided prior express written consent to receive the text  
10 message; and the text message was sent to her cellular telephone for an advertising and/or marketing  
11 purpose using the same equipment used to send text messages to all Class Members.

12           28.     **Commonality:** There are questions of law and fact that are common to the Class that  
13 predominate over any questions affecting only individual Class Members. These common questions  
14 include, without limitation:

15                   a)     whether the text messages constitute telemarketing or advertising within the  
16 meaning of the TCPA and its regulations;

17                   b)     whether the equipment used to send the text messages constitutes an automatic  
18 telephone dialing system within the meaning of the TCPA and its regulations;

19                   c)     whether prior express written consent was required under the TCPA and its  
20 regulations before sending any of the text messages; and,

21                   d)     whether the outright failure to secure any prior express written consent constitutes  
22 willful and knowing behavior within the meaning of the TCPA and its regulations.

23           29.     **Adequacy:** Plaintiff will fairly and adequately represent and protect the interests of the  
24 Class. She is not aware of any conflicts that she has with Class Members, and she plans on pursuing the  
25 litigation vigorously. She also has the same interests as those of the Class, and she has retained counsel  
26 who are competent and experienced in class-action litigation. In addition, she has been actively  
27 involved in the litigation, she will continue to participate and be available for the duration of the  
28 litigation, and she understands the duties that he holds to the Class.



1           30.     **Predominance and Superiority.** A class action is superior to other available methods  
 2 for the fair and efficient adjudication of this controversy. Again, the individual joinder of all Class  
 3 Members is impracticable because of the relatively small recovery amounts at stake and the relative lack  
 4 of resources available for individual Class Members vis-à-vis the large corporate Defendant.  
 5 Additionally, the judicial system would be burdened with multiple trials of the same issues, and the  
 6 potential for inconsistent or contradictory judgments would increase. The common questions detailed  
 7 above, in fact, predominate in this action, as Class Members' claims arise out of the same course of  
 8 conduct to which Plaintiff was herself subject. A class action therefore would conserve the resources of  
 9 the parties and the Court while protecting the rights of Class Members. TI's conduct as described above  
 10 is unlawful, continuing, and capable of repetition, and it will continue unless restrained and enjoined by  
 11 the Court. Moreover, it is a matter of public interest to obtain definitive answers to the legality of TI's  
 12 actions in a single case.

### **FIRST CAUSE OF ACTION**

Violation of the TCPA

47 U.S.C. § 227

16           31.     Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set  
 17 forth in this Complaint.

18           32.     The United States Congress enacted the TCPA in order to balance individual privacy  
 19 rights with legitimate telemarketing practices. In enacting this statute, Congress found:

20           (1)     The use of the telephone to market goods and services to the home and other  
 21 businesses is now pervasive due to the increased use of cost-effective telemarketing  
 22 techniques.

23           . . . .

24           (10)    Evidence compiled by the Congress indicates that residential telephone  
 25 subscribers consider automated or prerecorded telephone calls, regardless of the content  
 26 or the initiator of the message, to be a nuisance and an invasion of privacy.

27           (11)    Technologies that might allow consumers to avoid receiving such calls are not  
 28 universally available, are costly, are unlikely to be enforced, or place an inordinate

1           burden on the consumer.

2           (12) Banning such automated or prerecorded telephone calls to the home, except when  
3           the receiving party consents to receiving the call or when such calls are necessary in an  
4           emergency situation affecting the health and safety of the consumer, is the only effective  
5           means of protecting telephone consumers from this nuisance and privacy invasion.

6    TCPA of 1991, PL 102–243, December 20, 1991, 105 Stat 2394.

7           33. The TCPA specifically prohibits automated calls or messages to consumers’ cellular-  
8           telephone numbers without first obtaining the express consent or permission of the consumers:

9           It shall be unlawful for any person within the United States, or any person outside the  
10           United States if the recipient is within the United States[,] (A) to make any call (other  
11           than a call made for emergency purposes or made with the prior express consent of the  
12           called party) using any automatic telephone dialing system . . . (iii) to any telephone  
13           number assigned to a . . . cellular telephone service . . . .

14    47 U.S.C. § 227(b)(1). A text message is a “call” within the meaning of the TCPA. *E.g., Satterfield v.*  
15    *Simon & Schuster, Inc.*, 569 F.3d 946, 954 (9th Cir. 2009).

16           34. Under the relevant regulation, effective October 16, 2013, “prior express consent” as  
17           used in subsection (b)(1)(A)(iii) of the TCPA means “prior express *written* consent” for all  
18           telemarketing or advertising messages. 47 C.F.R. § 64.1200(a)(2) (emphasis supplied). Such consent  
19           must be signed by the consumer; disclose that the consumer authorizes the entity on whose behalf the  
20           message is sent to deliver, or cause to be delivered, telemarketing or advertising messages by way of an  
21           automatic telephone dialing system; and disclose that the consumer is not required to provide consent as  
22           a condition of purchasing any goods or services. *Id.* § 64.1200(f)(8). As alleged above, neither Plaintiff  
23           nor any Class Member ever signed, whether in paper or electronic form, a document containing these  
24           disclosures.

25           35. The foregoing acts and omissions of Defendant constitute a direct violation of the TCPA.  
26           Defendant was and is aware of the TCPA and its requirements, and, on information and belief,  
27           intentionally violated the law in an effort to maximize profits. Defendant’s violations therefore were  
28           willful.

1 36. The TCPA establishes a private right of action for sending unauthorized messages to  
2 consumers:

3 A person or entity may, if otherwise permitted by the laws or rules of court of a State,  
4 bring in an appropriate court of that State (A) an action based on a violation of this  
5 subsection or the regulations prescribed under this subsection to enjoin such violation,  
6 (B) an action to recover for actual monetary loss from such a violation, or to receive \$500  
7 in damages for each such violation, whichever is greater, or (C) both such actions. If the  
8 court finds that the defendant willfully or knowingly violated this subsection or the  
9 regulations prescribed under this subsection, the court may, in its discretion, increase the  
10 amount of the award to an amount equal to not more than 3 times the amount available  
11 under subparagraph (B) of this paragraph.

12 47 U.S.C. § 227(b)(3).

13 37. Pursuant to 47 U.S.C. § 227(b)(3)(B), Plaintiff and Class Members are entitled to an  
14 award of \$500 in statutory damages for each and every text message that they received. Moreover,  
15 because Defendant willfully and knowingly violated the TCPA as alleged above, Plaintiff and Class  
16 Members are entitled to treble damages. Finally, pursuant to 47 U.S.C. § 227(b)(3)(A), Plaintiff and  
17 Class Members are entitled to injunctive relief.

18 **RELIEF REQUESTED**

19 38. Plaintiff, on behalf of himself and all others similarly situated request the Court to enter  
20 judgment against Defendant , and issue an order providing the following relief:

- 21 a. an order certifying the Classes under section Federal Rule of Civil Procedure 26;
- 22 b. judgment in favor of Plaintiff and Class Members for the period of time commencing  
23 four years prior to the filing of the Complaint in this action, for statutory treble damages  
24 against Defendant, as well as for injunctive relief;
- 25 c. an award of pre-judgment and post-judgment interest, to the extent allowable by law;
- 26 d. an award of attorney’s fees and costs of suit, to the extent allowable by law; and
- 27 e. such further relief as the Court deems fit and proper.

28

**DEMAND FOR JURY TRIAL**

39. Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs demand a trial by jury of any and all issues in this action so triable as of right.

Dated: October 17, 2018

THE O'MARA LAW FIRM, P.C.

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*Attorneys for Plaintiff*

JS 44 (Rev. 06/17)

### CIVIL COVER SHEET

The JS 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 by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Jessica Demesa, as an individual and on behalf of all others similarly situated

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

(c) Attorneys (Firm Name, Address, and Telephone Number)  
The O'Mara Law Firm, P.C. David C. O'Mara 311 E. Liberty Street.  
Reno, Nevada, Glancy Prongay & Murray LLP, Lionel Z. Glancy;  
Greenstone Law APC, Mark S. Greenstone

**DEFENDANTS**

Treasure Island, LLC

County of Residence of First Listed Defendant Clark  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)  
unknown

**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)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4
Citizen of Another State	<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

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

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**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):

47 U.S.C. sec. 227

Brief description of cause:

Defendant violated the TCPA through its unauthorized contact of consumers by sending unsolicited text messages

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$  
75,000.00

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY**

(See Instructions):

JUDGE

DOCKET NUMBER

DATE 10/17/18

SIGNATURE OF ATTORNEY OF RECORD

*David O'Mara*

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Nevada

JESSICA DEMESA, as an individual and on behalf of all others similarly situated

Plaintiff(s)

v.

TREASURE ISLAND, LLC

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Treasure Island, LLC
c/o General Counsel
3300 Las Vegas Blvd, South
Las Vegas, Nevada 89106

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: