JS 44 (Rev. 12/12)

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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.)

purpose of initiating the civil d	ocket sheet. (SEE INSTRUC	CTIONS ON NEXT PAC	E OF T	HIS FOR	RM.)	1974, IS ICQI	ined for the use of	the Clerk of Co	ourt for tr	ie	
I. (a) PLAINTIFFS KIA ELDER				DEFENDANTS COMMANDE CORPORATION							
KIA ELDEK				COMCAST CORPORATION							
D 1000 D	of First Listed Plaintiff PF				County of Residence of First Listed Defendant						
(E.	XCEPT IN U.S. PLAINTIFF CA	ASES)		(IN U.S. PLAINTIFF CASES ONLY)							
				NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.							
CRAIG THOR KIMN	Address, and Telephone Number MEL, KIMMEL & SILVER	er) Man P.C			Attorneys (If Known)						
30 EAST BUTLER P PHONE: (215) 540-88	IKE, AMBLER, PA 19002										
(,											
II. BASIS OF JURISDICTION (Place an "X" in One Box Only) III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff											
□ 1 U.S. Government □ 3 Federal Question				(For Diversity Cases Only) and One Box for Defendant)							
Plaintiff	(U.S. Government Not a Party)			OUT AMILIA					PTF 4	DEF 4	
☐ 2 U.S. Government	4 Diversity			Citizer	n of Another State]2 🗆 2	Incorporated and F		□ 5	□ 5	
Defendant	(Indicate Citizenship of	of Parties in Item III)			-		of Business In A				
					n or Subject of a] 3 🔲 3	Foreign Nation		□ 6	□ 6	
IV. NATURE OF SUIT	(Place an "X" in One Box (Only)	·								
CONTRACT		ORTS			RFEITURE/PENALTY		NKRUPTCY	OTHER	STATUT	ES	
☐ 110 Insurance ☐ 120 Marine	PERSONAL INJURY 310 Airplane	PERSONAL INJ 365 Personal Injur		□ 625	Drug Related Seizure of Property 21 USC 881	☐ 422 App ☐ 423 With	eal 28 USC 158 drawal	☐ 375 False C ☐ 400 State Re			
☐ 130 Miller Act ☐ 140 Negotiable Instrument	☐ 315 Airplane Product Liability	Product Liab	ility	☐ 690		28 USC 157		410 Antitrust 430 Banks and Banking			
☐ 150 Recovery of Overpayment	☐ 320 Assault, Libel &	Pharmaceutica				PROPERTY RIGHTS		☐ 450 Comme	rce	g	
& Enforcement of Judgment 151 Medicare Act	Slander 330 Federal Employers'	Personal Injur Product Liabi					820 Copyrights 830 Patent		ition er Influen	ced and	
☐ 152 Recovery of Defaulted Student Loans	Liability 340 Marine	☐ 368 Asbestos Pers Injury Produc				840 Trademark		_ Corrupt	Organizat		
(Excludes Veterans)	☐ 345 Marine Product	Liability			LABOR	SOCIAL SECURITY		480 Consum 490 Cable/S	at TV		
153 Recovery of Overpayment of Veteran's Benefits	Liability 350 Motor Vehicle	PERSONAL PROI		710	Fair Labor Standards Act	☐ 861 HIA (1395ff) ☐ 862 Black Lung (923)		850 Securiti Exchan	ge		
☐ 160 Stockholders' Suits☐ 190 Other Contract	355 Motor Vehicle Product Liability	☐ 371 Truth in Lend☐ 380 Other Persona		720	Labor/Management Relations	☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI		890 Other S			
☐ 195 Contract Product Liability ☐ 196 Franchise	360 Other Personal Injury	Property Dam 385 Property Dam		☐ 740 Railway Labor Act ☐ 751 Family and Medical		□ 865 RSI (405(g))		☐ 893 Environ	mental Ma	atters	
	362 Personal Injury - Medical Malpractice	Product Liabil			Leave Act			895 Freedom		aation	
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETIT	IONS		Other Labor Litigation Employee Retirement	FEDER	AL TAX SUITS	896 Arbitrat		ocedure	
☐ 210 Land Condemnation ☐ 220 Foreclosure	☐ 440 Other Civil Rights ☐ 441 Voting	Habeas Corpus: 463 Alien Detaine	e	Income Security Act		870 Taxes (U.S. Plaintiff or Defendant)		Act/Rev	iew or Ap		
230 Rent Lease & Ejectment	442 Employment	☐ 510 Motions to Va				☐ 871 IRS-	—Third Party	☐ 950 Constitu		of	
240 Torts to Land 245 Tort Product Liability	443 Housing/ Accommodations	Sentence 530 General				26 (JSC 7609	State Sta	itutes		
290 All Other Real Property	445 Amer. w/Disabilities Employment	Other:			IMMIGRATION Naturalization Application						
	446 Amer. w/Disabilities Other	540 Mandamus & 550 Civil Rights	Other	□465	465 Other Immigration						
	448 Education	555 Prison Condit			Actions						
		560 Civil Detained Conditions of	-								
V. ODYGYV		Confinement									
V. ORIGIN (Place an "X" in ⊠ 1 Original		nanded from	LJ4	Reinst	tated or 5 Trans	sferred from	☐ 6 Multidis	trict			
Proceeding Star		ellate Court		Reope		her District	Litigatio				
	Cite the U.S. Civil Statu	te under which you	are filin	g (Do 1			ersity):				
VI. CAUSE OF ACTION	47 U.S.C. § 227 et seq. Brief description of caus	201									
ACTION	TELEPHONE CONSU		N ACT								
VII. REQUESTED IN CHECK IF THIS IS A CLASS ACTION DEMAND S CHECK YES only if demanded in complaint:					nt:						
COMPLAINT:	UNDER RULE 23,	F.R.Cv.P.				J	URY DEMAND:	⊠ Yes	☐ No		
VIII. RELATED CASE IF ANY	(See instructions):			1							
		JUDGE	A			DOCKE	T NUMBER				
DATE 07/10/2015		SIGNATURE OF AT	TORNE	Y OF RI	ECORD						
FOR OFFICE USE ONLY	- Washington		1								
	IOUNT	APPLYING IFP			HIDOE		146 nm	ocr.			
	47 T4717	THE PHILIPPING IFF			JUDGE		MAG. JUD	UE			

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UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 1415 Fairmont Avenue, Philadelphi	.a, PA 19130
Address of Defendant: One Comcast Center, Philadelphia	, PA 19103
Place of Accident, Incident or Transaction:	
(Use Reverse Side For A	Additional Space)
Does this civil action involve a nongovernmental corporate party with any parent corporation a	and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)	
Does this case involve multidistrict litigation possibilities?	Yes□ No.
RELATED CASE. IF ANY:	Yes□ No.
Case Number: Judge	Date Terminated:
Civil cases are deemed related when yes is answered to any of the following questions:	
1. Is this case related to property included in an earlier numbered suit pending or within one year.	ear previously terminated action in this court?
	Yes□ No\\
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior s action in this court?	suit pending or within one year previously terminated
determ in the vourt.	Yes□ No. 🗓
3. Does this case involve the validity or infringement of a patent already in suit or any earlier r	numbered case pending or within one year previously
terminated action in this court?	Yes□ No🏞
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil right	is accorded by the same in Juridia 10
is this case a second of successive habeas corpus, social security appear, or pro se civil right	Yes No A
	1 es 🗆 Noes
CIVIL: (Place ✓ in one category only)	
A. Federal Question Cases:	B. Diversity Jurisdiction Cases:
1. □ Indemnity Contract, Marine Contract, and All Other Contracts	1. □ Insurance Contract and Other Contracts
2. □ FELA	2. □ Airplane Personal Injury
3. □ Jones Act-Personal Injury	3. □ Assault, Defamation
4. □ Antitrust	4. □ Marine Personal Injury
5. □ Patent	5. Motor Vehicle Personal Injury
6. □ Labor-Management Relations	6. □ Other Personal Injury (Please specify)
7. □ Civil Rights	7. □ Products Liability
8. □ Habeas Corpus	8. □ Products Liability — Asbestos
9. □ Securities Act(s) Cases	9. □ All other Diversity Cases
10. □ Social Security Review Cases	(Please specify)
11. All other Federal Question Cases (Please specify) 47 U.S.C. § 227 et seq.	* * * * * * * * * * * * * * * * * * *
ARBITRATION CERT	HEICATION
CDATG THEOR KINNEY (Check Appropriate Ca	ntegory)
I, CRAIG THOR KIMMEL , counsel of record do hereby certification of the country o	
□ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and 1 \$150,000.00 exclusive of interest and costs;	belief, the damages recoverable in this civil action case exceed the sum of
□ Relief other than monetary damages is sought.	
DATE: 07 10 15	
DATE: <u>07-10-15</u> Attorney-at-Law	57100 Attorney I.D.#
NOTE: A trial de novo will be a trial by jury only if the	
Leartify that to my knowledge the within age is not all the	
I certify that, to my knowledge, the within case is not related to any case now pending or except as noted above.	within one year previously terminated action in this court
DATE: 07-10-15	57100
Allornevat-Law	Attornay ID#

CIV. 609 (5/2012)

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

CIVIL ACTION

<u>Felephone</u>	FAX Number	E-Mail Address					
215-540-8888 x 116	877-788-2864	kimmel@creditlaw.co	om				
Date	Attorney-at-law	Attorney for					
07-10-15	<u></u>	Plaintiff, Kia Elder					
f) Standard Management –	Cases that do not fall into ar	ny one of the other tracks.	()				
(e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.)							
 d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. 							
c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X							
b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. (
a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255.							
SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:							
In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for blaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve of the plaintiff and all other parties, a Case Management Track Designation Form specifying the track of which that defendant believes the case should be assigned.							
COMCAST CORPORA	ATION	NO.					
KIA ELDER V.		CIVIL ACTION					

(Civ. 660) 10/02

UNITED STATES DISTRICT COURT

1		RTHE				
2	EASTERN DISTRIC	CT OF PENNSYLVANIA				
3	WIA ELDED					
4	KIA ELDER,)				
5	Plaintiff					
6	v.) Case No.:				
7 8	COMCAST CORPORATION,) COMPLAINT AND DEMAND FOR) JURY TRIAL				
9	Defendant) (Telephone Consumer Protection) Act)				
10	1677 5 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 -	<i>J</i> 1100)				
11	COM	PLAINT				
12						
13	KIA ELDER ("Plamuil"), by	and through her attorneys, KIMMEL &				
14	SILVERMAN, P.C., alleges the follow	ving against COMCAST CORPORATION				
15	("Defendant"):					
16	INTRO	DUCTION				
17						
18	1. Plaintiff's Complaint is based on the Telephone Consumer Protection					
19	Act ("TCPA"), 47 U.S.C. § 227 et seq.					
20	JURISDICTIO	ON AND VENUE				
21	2. Jurisdiction of this Court	arises pursuant to 28 U.S.C. § 1331. See				
22						
23	Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).					
24	3. Defendant conducts business in the Commonwealth of Pennsylvania					
25	and as such, personal jurisdiction is established.					

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

- 5. Plaintiff is a natural person residing in Philadelphia, Pennsylvania 19130.
 - 6. Plaintiff is a "person" as that term is defined by 47 U.S.C. § 153(39).
- 7. Defendant is a corporation with its headquarters located at One Comcast Center, Philadelphia, Pennsylvania 19103.
- 8. Defendant is a "person" as that term is defined by 47 U.S.C. §153(39).
- 9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

- 10. Plaintiff has a cellular telephone number that she has had for more than one year.
 - 11. Plaintiff has only used this number as a cellular telephone number.
- 12. The phone number has been assigned to a cellular telephone service for which Plaintiff incurs a charge for incoming calls.
- 13. Beginning in late September 2014, and continuing through June 2015, Defendant repeatedly called Plaintiff on her cellular telephone.

	14. When contacting Plaintiff on her cellular telephone, Defendant use							
an	automatic	telephone	dialing	system	and	automated	and/or	pre-recorded
me	ssages.							

- 15. Defendant's automated messages stated: "We're calling from Comcast," before the call would be transferred to a live representative.
- 16. Defendant's telephone calls were not made for "emergency purposes."
- 17. In late September 2014, Plaintiff spoke with a male collector of Defendant who informed Plaintiff he was calling to collect on a \$527.00 cable television bill.
- 18. Plaintiff informed Defendant that she had paid that debt in 2011 and told the collector that she wanted Comcast to stop calling her on her cellular telephone.
- 19. Defendant acknowledged Plaintiff's instructions to stop calling her cellular telephone but the calls did not stop.
- 20. Defendant continued to call Plaintiff on her cellular telephone, and at this point it was entirely without her express prior consent.
- 21. From late September 2014, Defendant placed cellular calls to Plaintiff an average of once or twice each day.
 - 22. Calls continued at least through June 18, 2015.

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None of the phone calls were made for "emergency purposes." 23.

DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT

- Plaintiff incorporates the forgoing paragraphs as though the same 24. were set forth at length herein.
- Defendant initiated multiple automated telephone calls to Plaintiff's 25. cellular telephone using a prerecorded voice and without her express prior consent.
- 26. Defendant initiated these automated calls to Plaintiff using an automatic telephone dialing system.
 - Defendant's calls to Plaintiff were not made for emergency purposes. 27.
- 28. Defendant's calls to Plaintiff, in and after September 2014, were not made with Plaintiff's prior express consent.
- 29. Defendant's acts as described above were done with malicious, intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the purpose of harassing Plaintiff.
- 30. The acts and/or omissions of Defendant were done unfairly, unlawfully, intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal defense, legal justification or legal excuse.
- 31. As a result of the above violations of the TCPA, Plaintiff has suffered the losses and damages as set forth above entitling Plaintiff to an award of statutory, actual and trebles damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, KIA ELDER, respectfully prays for a judgment as follows:

- a. All actual damages suffered pursuant to 47 U.S.C. § 227(b)(3)(A);
- b. Statutory damages of \$500.00 per violative telephone call pursuant to 47 U.S.C. § 227(b)(3)(B);
- c. Treble damages of \$1,500.00 per violative telephone call pursuant to 47 U.S.C. §227(b)(3);
- d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3); and
- e. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff KIA ELDER, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

DATED:07/10/15

KIMMEL & SILVERMAN, P.C.

By:

CRAIG THOR KIMMEL Attorney ID # 57100 Kimmel & Silverman, P.C.

30 E. Butler Pike Ambler, PA 19002

Phone: (215) 540-8888 Fax: (877) 788-2864

Email: kimmel@creditlaw.com