



UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

NATHEN BARTON,

Plaintiff  
v.

JOE DELFGAUW, XANADU  
MARKETING INC., THE CREDIT PROS  
INTERNATIONAL CORPORATION,  
EXPERIAN INFORMATION  
SOLUTIONS INC., LGNB LLC,  
STARTER HOME INVESTING INC,  
TORT EXPERTS LLC, LAW OFFICE OF  
TOM WAGSTAFF, JR., LLC, LEARNER  
& ROWE, PC DV INJURY LAW PLLC, &  
JOHN DOE 1-10

Defendants.

Case No.: 3:21-cv-05610-RJB

ORIGINAL COMPLAINT FOR A  
CIVIL CASE AND INJUNCTIVE  
RELIEF

Jury Trial:  Yes  No

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1 **I. BASIS FOR JURISDICTION**

2 Plaintiff Nathen Barton is a natural person and resident of Clark County, Washington.  
3 Nearly all the acts alleged in this complaint occurred in Clark County, Washington State, during  
4 the year 2021.

5 Jurisdiction in this court is correct because of where Plaintiff resides, and his residence is  
6 a nexus where Plaintiff suffered personal injury and invasion of privacy at the hands of the  
7 Defendant. All the telemarketing phone calls and text messages alleged in this complaint were  
8 made to one specific 360-area code cell phone with a phone number that is assigned to Plaintiff  
9 in exchange for a monthly service fee. All the calls and text messages alleged occurred during  
10 the year 2021. Defendants were or should have been aware they were reaching into the Western  
11 area of Washington State by text messaging a 360-area code number.

12 **II. THE PARTIES TO THE LITIGATION**

13 Plaintiff Nathen Barton resides at 4618 NW 11<sup>th</sup> Cir, Camas WA 98607, inside the  
14 bounds of Clark County, Washington State.

15 Defendant Xanadu Marketing Inc, (“Xanadu”) is a Michigan company with the official  
16 address of 14200 Ironwood Dr, Suite B, Grand Rapids Michigan 49534.

17 However, on their website *xanadumarketing.com* they report the address 956 3 Mile  
18 Road NW, Grand Rapids MI 49544.

19 Xanadu’s Michigan registered agent is Edward Winkler, with the address of 956 3 Mile  
20 Road NW, Grand Rapids MI 49544.

21 Defendant Joe Delfgauw (“Delfgauw”), with the with address of 14200 Ironwood Dr,  
22 Suite B, Grand Rapids Michigan 49534, is the President and Secretary of Xanadu. In fact, he is  
23 the president of 10 Michigan companies that start with the word “Xanadu”.

24 Xanadu says of themselves:

1 “Xanadu Marketing is not a telemarketer, but rather a marketing company that contacts  
2 individuals who have provided their information in response to products and/or services  
that the individual has expressed interest in.”<sup>1</sup>

3 Plaintiff never expressed interest Xanadu, nor invited or consented to Xanadu sending  
4 Plaintiff text messages, and Xanadu does not seem to be shy in sending unsolicited text  
5 messages, according to a 2019 Federal court case 1:19-cv-12018-FDS.

6 Defendant The Credit Pros International Corporation (“Credit Pros”) is a Florida  
7 registered business with principal address of 7750 Okeechobee Blvd, Suite #4-765, West Palm  
8 Beach, FL 33411.

9 Credit Pros may be served process via Cogency Global Inc., 1780 Barnes Blvd SW,  
10 Tumwater WA 98515

11 Defendant Experian Information Solutions, Inc. (“Experian”), is an Ohio registered  
12 company with principal address of 475 Anton Blvd, Costa Mesa CA 92626.

13 Experian may be served with process via C T Corporation System, 711 Capitol Way S  
14 Ste 204, Olympia WA 98501.

15 Defendant LGNB LLC (“LGNB”) is a Wyoming company with principal address 30 N  
16 Gould St Ste N, Sheridan WY 82801.

17 LGNB may be served with process through Northwest Registered Agent Services Inc, 30  
18 N Gould St Ste N, Sheridan WY 82801.

19 Defendant Starter Home Investing Inc. (“Starter Home”) is a Michigan company with  
20 official address 3181 Prairie St Suite 104, Grandville MI 49418.

21 Starter Home may be served with process through Edward Winkler, with the address of  
22 956 3 Mile Road NW, Grand Rapids MI 49544.

23  
24 <sup>1</sup> See Exhibit 11 attached to Plaintiff’s original complaint, Case 1:19-cv-12018-FDS.

1 Defendant Tort Experts LLC (“Tort Experts”) is a Florida registered company with  
2 principal address of 2000 PGA Blvd Apt 317, Palm Beach FL 33408.

3 Tort Experts may be served with process via their registered agent Harpal Singh, 2000  
4 PGA Blvd Apt 317, Palm Beach FL 33408.

5 Defendant Law Office of Tom Wagstaff, JR., LLC (“Wagstaff”) is a Kansas registered  
6 company with principal address of 5550 High Drive, Mission Hills, KS 66208.

7 Wagstaff may be served with process via their registered agent Tom Wagstaff Jr, 5550  
8 High Drive, Mission Hills, KS 66208.

9 Defendant Learner & Rowe, PC (“Learner & Rowe”) is an Arizona registered company  
10 with principal address of 2701 E Camelback Road #140, Phoenix AZ 85016.

11 Learner & Rowe may be served with process via Kevin Rowe, 2701 E Camelback Road  
12 #140, Phoenix AZ 85016.

13 Defendant DV Injury Law PLLC (“DV Injury Law”) is a Michigan registered company  
14 with principal address 30095 Northwestern Highway, Suite 10A, Farmington Hills MI 48334.

15 DV Injury Law by be served with process via Venar Raad Ayar, 30095 Northwestern  
16 Highway, Suite 10A, Farmington Hills MI 48334.

17 John Doe 1-10 are other people and entities who materially participated in or had  
18 positions of responsibility supervising the alleged illegal conduct.

19 The role of each Defendant in the litigation will be explained below. Plaintiff did not  
20 invite or consent to phone or text solicitation by any of them.

21 **III. STATEMENT OF CLAIM**

22 On July 9, 2020, Plaintiff registered and paid for a Washington State (360) telephone area  
23 code cellular number to be primarily used by his minor child. It is a Protected Computer as it is  
24 used in a manner that affects interstate or foreign commerce or communication. The phone is

1 and was on a very limited service plan, with each call, text, or data usage subtracting from a  
 2 fixed amount of each available each month.

3 The cell phone number at issue was registered on the FTC national *do-not-call* registry  
 4 more than 31 days before April 1, 2021.

5 **Text Messages from SMS Short Code 33959**

6 On April 1, 2021, Plaintiff started receiving many text messages from the SMS short code  
 7 33959 which is registered to a Lending Cloud Homes<sup>2</sup>, a registered *doing-business-as* for the  
 8 Michigan company Starter Home Investing Inc (“Starter Home”), with the official address of 956  
 9 3 Mile Road NW, Grand Rapids, MI 49544.

10 The following seven (7) messages were received from SMS short code 33959 on April 1,  
 11 2021, at the indicated times:

12 13 11:04am	You just filled out our Rent to Own or HomeBuyer from! Let’s get you Approved! Start here <a href="http://buyzerodowns.com">http://buyzerodowns.com</a>
14 15 11:07am	Did you get your Credit Score? Your Score will dictate your Options inlcuing (sic) Down Payment & Zero Down. Start below <a href="http://credit-score-first.com">http://credit-score-first.com</a>
16 11:10am	Here are 2, 3 and 4 Bedroom Rent to Own Homes! <a href="Http://find-a-home.xyz">Http://find-a-home.xyz</a>
17 11:14am	Take our 30 Second Quiz & see if you Qualify for up to \$6000 in Grants <a href="http://begin-here2day.xyz">http://begin-here2day.xyz</a>
18 19 11:24am	A Lot if (sic) Rent to Own Home seekers qualify for the Roud (sic) Up Settlement of \$15000 in Compensation. Claim your (sic) below <a href="http://settlements4u.xyz">http://settlements4u.xyz</a>
20 11:59am	Great News! Based on Your Score & Profile, you should get Approved for Zero Down Home Loans here <a href="http://buy-zero-down.xyz">http://buy-zero-down.xyz</a>
21 22 12:04pm	Lastly, Get \$500 to \$5000 for moving costs, security deposits and rent/houes (sic) payments. <a href="http://loans-for-u.xyz">http://loans-for-u.xyz</a> and <a href="http://get-started-2day.live">http://get-started-2day.live</a>

24 <sup>2</sup> See <https://usshortcodedirectory.com/search/?shortcode-number=33959>

In every case, the links in the text messages redirected to the intermediate links before finally opening a last webpage, or directly linked to *xanadutracking.com*. These intermediate links always used the domains *xanadutracking.com* or *xanaduemarketing.outgrow.com*.

Time passed.

The following one (1) message was received from SMS short code 33959 on April 12, 2021, at the indicated time:

12:51pm	Complete this 60 second, 4 Question, Quiz to see if you Quality for \$6300 in Job Training/School Grants <a href="http://get-your-start.xyz/358819495">http://get-your-start.xyz/358819495</a>
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The link in the text message redirected to the *xanadumarketing.outgrow.us* domain.

Starter Home Investing Inc. has the following officers and directors:

Title	Name	Address
PRESIDENT	JOE DELFGAUW	956 3 MILE ROAD NW GRAND RAPIDS, MI 49544 USA
TREASURER	NANCY GOULD	956 3 MILE ROAD NW GRAND RAPIDS, MI 49544 USA
SECRETARY	EDWARD WINKLER	956 3 MILE ROAD NW GRAND RAPIDS, MI 49544 USA
DIRECTOR	JOE DELFGAUW	956 3 MILE ROAD NW GRAND RAPIDS, MI 49544 USA

What legal entity owns *xanadutracking.com* or uses *xanaduemarketing.outgrow.com*?

Xanadu Marketing Inc. has the following officers and directors:

PRESIDENT	JOE DELFGAUW	14200 IRONWOOD DR. NW SUITE B GRAND RAPIDS, MI 49534 USA
TREASURER	NANCY GOULD	14200 IRONWOOD DR. NW SUITE B GRAND RAPIDS, MI 49534 USA
SECRETARY	JOE DELFGAUW	14200 IRONWOOD DR. NW SUITE B GRAND RAPIDS, MI 49534 USA
DIRECTOR	ANGELA COLE	14200 IRONWOOD DR. NW SUITE B GRAND RAPIDS, MI 49534 USA

*XanaduMarketing.com*, presumably owned by Xanadu Marketing Inc., lists the address of 956 3 Mile Rd NW, Grand Rapids MI 49544. The sending of text messages using a SMS short code registered to Starter Home, and the used of the “Xanadu” name tied to a different legal

1 entity is first of many indications that Delfgauw is co-mingling business operations of several  
 2 legal entities.

3 **Text Messages from SMS Short Code 365365**

4 On April 5, 2021, and April 8, 2021, Plaintiff received one text message each day from the  
 5 SMS short code 365365, a SMS short code registered to a “Lending Cloud Alerts” which appears  
 6 to be business entity different yet from Starter Home and Xanadu.

7 5-Apr-21	
8 8:46am	2, 3 & 4 Bedroom, 2 Bath Homes from \$599/mo! <a href="http://clickto-startnow.club/358819495">http://clickto-startnow.club/358819495</a> Credit Issues Ok, Low Down Payment
9 8-Apr-21	
10 10.11am	New Auto Insurance Company offer #37/mo to people in your Zip Code! Plus 1-2 months of no payments! <a href="http://get-started-today.live/358819495">http://get-started-today.live/358819495</a>

11  
 12 The link <http://clickto-startnow.club/358819495> redirected through *xanadutracking.com*  
 13 to yet a different website. This is another indication that Delfgauw is co-mingling business  
 14 operations of several entities.

15 **Text Messages from (803) 618-8038**

16 On April 2, 2021, Plaintiff received a test message from (803) 618-8038 with the message  
 17 “Your refund filing date is approaching. Arrange your meeting with Tax Axe and  
 18 our licensed agents!  
 Answer  
 RTN55  
 And proceed!”

19  
 20 The Tax Axe is a registered doing-business-as for Income Tax Planning Group Inc.  
 21 (“TPG”). TPG uses the website *thetaxaxe.org*, and this website uses the same internet name  
 22 servers as *xanadumarketing.com*<sup>3</sup>. This indicates that the two websites use the same web hosting

23  
 24 <sup>3</sup> See <https://dnschecker.org/ns-lookup.php?query=thetaxaxe.org> and <https://dnschecker.org/ns-lookup.php?query=xanadumarketing.com>

1 account, an indication that Delfgauw is co-mingling business operations between TPG and  
2 Xanadu.

3 TPG's corporate officers and directors are:

4	PRESIDENT	JOE DELFGAUW	956 3 MILE ROAD NW GRAND RAPIDS, MI 49544 USA
	TREASURER	NANCY GOULD	956 3 MILE ROAD NW GRAND RAPIDS, MI 49544 USA
5	SECRETARY	JOE DELFGAUW	956 3 MILE ROAD NW GRAND RAPIDS, MI 49544 USA
6	DIRECTOR	JOE DELFGAUW	956 3 MILE ROAD NW GRAND RAPIDS, MI 49544 USA

7 And TPG's official address is 956 3 Mile Road NW, Grand Rapids Michigan 49544.

8 On April 9, 2021, TPG sent a second text solicitation to Plaintiff.

9 **Solicitations from 1st Time Home Buyer Program Inc**

10 On April 13, 2021, Plaintiff missed a phone call from (360) 230-6935. 1st Time initiated  
11 the call for the purposes of encouraging Plaintiff to purchase education related goods or services.

12 On April 13, 2021, Plaintiff received a phone call from (360) 318-7867. The caller  
13 introduced herself as "Francine", a "rent to own specialist" from "the Cardinal Program". She  
14 said she would bring on a "licensed specialist" to discuss rent-to-own and loans.

15 The "licensed specialist" was an agent for Lexington Law, who specialize in credit repair.

16 Plaintiff later learned that "the Cardinal Program" is a *doing-business-as* for 1st Time  
17 Home Buyer Program Inc., and they placed this call to encourage Plaintiff to purchase goods or  
18 services.

19 On April 20, 2021, Plaintiff received a phone call from (360) 230-6935. The caller called  
20 for the purpose of encouraging Plaintiff to purchase education related goods or services.

21 Eventually the caller emailed Plaintiff from [agent@thecardinalprogram.com](mailto:agent@thecardinalprogram.com). This website lists  
22 the Contact address as

23 3181 Prairie St SW  
24 Grandville MI 49418



1 Cardinal Program (“Cardinal”) is a State of Michigan registered *doing-business-as* name  
 2 for 1st Time Home Buyer Program Inc. (“1st Time”), who’s 2019 Annual Report listed their  
 3 registered agent as Edward Winkler with the address of

4 3181 Prairie St SW  
 5 Grandville MI 49418

6 In a pattern becoming all too familiar, 1st Time’s officers and directors are

7 PRESIDENT	JOE DELFGAUW	956 3 MILE ROAD N.W. GRAND RAPIDS, MI 49544
TREASURER	NANCY GOULD	956 3 MILE ROAD N.W. GRAND RAPIDS, MI 49544
8 SECRETARY	JOE DELFGAUW	956 3 MILE ROAD N.W. GRAND RAPIDS, MI 49544
DIRECTOR	JOE DELFGAUW	956 3 MILE ROAD N.W. GRAND RAPIDS, MI 49544

9 Website *thecardinalprogram.com* uses the same internet name servers as  
 10 *xanadumarketing.com*<sup>4</sup>. This indicates that the two websites use the same web hosting account,  
 11 another indication that Delfgaw is co-mingling business operations between 1st Time and  
 12 Xanadu.

### 13 Enter The Credit Pros International Corporation

14 On April 30, 2021, Plaintiff received a phone call from (360) 318-7867. The caller  
 15 identified herself as “Nesheka” a “housing specialist at The Cardinal Program”. Nesheka called  
 16 on behalf of 1st Time for the purpose of encouraging Plaintiff to purchase housing and credit  
 17 related goods or services. called for the purpose of encouraging Plaintiff to purchase education  
 18 related goods or services.

19 Then Nesheka transferred the call to a “licensed” specialist, who turned out to be Oscar, an  
 20 agent for The Credit Pros International Corporation (“Credit Pros”), a Florida corporation with  
 21 website *thecreditpros.com*. Credit Pros got on the call with the intent to encourage Plaintiff to  
 22 purchase credit repair services. Plaintiff hung up on Oscar.

23 \_\_\_\_\_  
 24 <sup>4</sup> See <https://dnschecker.org/ns-lookup.php?query=thecardinalprogram.com> and <https://dnschecker.org/ns-lookup.php?query=xanadumarketing.com>

1 Credit Pros called Plaintiff right back from number (360) 200 4320. Credit Pros called  
2 with the intent to encourage Plaintiff to purchase credit repair services.

3 **More about (360) 318-7867**

4 Plaintiff's phone revealed a history of calls from (360) 318-7867:

5 12:47pm, April 30, 2021, a call discussed above from 1st Time.

6 2:55pm, April 13, 2021, an 8 minute 33 second incoming call, a call discussed above from  
7 1st Time

8 10:00am, April 5, 2021, a missed call from 1st Time, initiated for the purpose of  
9 encouraging Plaintiff to purchase goods or services.

10 10:10am, April 2, 2021 a 26 second incoming call from 1st Time, initiated for the purpose  
11 of encouraging Plaintiff to purchase goods or services.

12 **Enter *ApexPageBuilder.com***

13 On June 11, 2021, Plaintiff received a text message, seemingly from SMS short code  
14 94657. This SMS short code is associated with Houses into Homes, and email address  
15 [info@houses-into-homes.com](mailto:info@houses-into-homes.com). The internet domain houses-into-homes.com uses the internet  
16 name servers for *xanadumarketing.com*. On the webpage *houses-into-homes.com/terms-of-*  
17 *service/*, the physical address for this business entity is listed as:

18 956 3 Mile Rd NW,  
19 Grand Rapids , MI 49544

20 Which matches the physical address used by many entities connected to Delfgauw.

21 Otherwise, the name House into Homes appears to be unregistered.

22 The June 11 text message from SMS short code 9457 said:

23 Add your Rent, Netflix & Amazon Prime to your Credit Report to increase your  
24 Score! Start below, It's Free <http://increasemyscore.live/358819495>

25 The internet domain *increasemyscore.live* uses the internet name servers for  
26 *xanadumarketing.com*. Clicking on the link for *increasemyscore.live* redirects to the domain

1 *apexpagebuilder.com*. The domain *apexpagebuilder.com* uses the internet name servers for  
 2 *xanadumarketing.com*.

3 The domain *apexpagebuilder.com* lists the phone number (888) 631-7141, but that phone  
 4 number is also associated with Assisting Renters Inc<sup>5</sup>. The officers and directors for Assisting  
 5 Renters Inc are:

PRESIDENT	JOE DELFGAUW	956 3 MILE ROAD NW GRAND RAPIDS, MI 49544
TREASURER	NANCY GOULD	956 3 MILE ROAD NW GRAND RAPIDS, MI 49544
SECRETARY	EDWARD WINKLER	956 3 MILE ROAD NW GRAND RAPIDS, MI 49544
DIRECTOR	JOE DELFGAUW	956 3 MILE ROAD NW GRAND RAPIDS, MI 49544

6  
 7  
 8  
 9 Delfgauw is again co-mingling business operations between different legal entities he is  
 10 responsible for.

11 Clicking the link <http://increasemyscore.live/358819495> opens the website  
 12 <https://apexpagebuilder.com/p/add-rent-your-credit-report-3>, and the purpose of that page is to  
 13 encourage consumers to click a large red button that directs consumers to the website  
 14 *Experian.com*, for the purpose of encouraging Plaintiff to sign up for *Experian.com* products and  
 15 services. *Experian.com* is owned by Experian Information Solutions, Inc.

16 On August 4, 2021, Plaintiff received a text message, seemingly from SMS short code  
 17 94657. The text message said

18 Add your Rent, Netflix & Amazon Prime to your Credit Report to increase your  
 19 Score! Start below, It's Free <http://increasemyscore.live/358819495>

20 Same as the June 11 text mentioned above, clicking the link eventually leads to  
 21 *Experian.com*, and the intent of the text is to encourage Plaintiff to sign up for *Experian.com*  
 22 products and services.

### 23 Roundup Lawsuit

24 <sup>5</sup> See <https://start.cortera.com/company/research/l8q8jqo7p/assisting-renters/>

1 **Roundup Lawsuit unsolicited call #1**

2 On June 8, 2021, Plaintiff received a phone call seemingly from (877) 710-1419. The call  
3 started with an artificial or pre-recorded voice message asking about exposure to the weed killer  
4 chemical roundup. A specific quote from the call is:

5 “You are receiving this message because you have previously opted in on injury helpdesk  
6 survey path”.

7 The entity behind the call initiated it for the purpose of encouraging Plaintiff to purchase  
8 goods or services. The caller did not identify the entity behind the call.

9 **Roundup Lawsuit unsolicited call #2**

10 On June 29, 2021, Plaintiff received a phone call seemingly from (877) 436-0937. The  
11 call started with an artificial or pre-recorded voice message asking about exposure to the  
12 weedkiller chemical roundup. A specific quote from the call is:

13 “You are receiving this message because you have previously opted in on injury helpdesk  
14 survey path”.

15 The entity behind the call initiated it for the purpose of encouraging Plaintiff to purchase  
16 goods or services. The caller did not identify the entity behind the call.

17 **Roundup Lawsuit unsolicited call #3**

18 On July 13, 2021, Plaintiff received a text message seemingly from SMS short code 33959  
19 which is registered to a Lending Cloud Homes<sup>6</sup>, a registered *doing-business-as* for Starter Home.

20 The message said:

21 Each Person that used Round Up can receive \$15,000 in Compensation.  
22 Claim yours below <http://rounduplawsuit.live/358819495>

23 The domain *rounduplawsuit.live* uses the internet name servers for *xanadumarketing.com*.

24 <sup>6</sup> See <https://usshortcodedirectory.com/search/?shortcode-number=33959>

1 Clicking on the URL in the text message opens the webpage *weedkillerclaim.com*, a  
2 website owned by the Wyoming company LGNB LLC (“LGNB”), by use of the intermediate  
3 domain *xanadutracking.com*.

4 *weedkillerclaim.com/terms* points to website *tortexperts.com*:

5 “16. Contact Us. If you have any questions about the practices of the site or this  
6 Agreement, please e-mail us at [optout@tortexperts.com](mailto:optout@tortexperts.com), or send a letter to LGNB LLC: 30  
7 N Gould St Ste N Sheridan, WY 82801.”<sup>7</sup>

#### 7 **Roundup Lawsuit unsolicited call #4**

8 On August 10, 2021, Plaintiff received a phone call seemingly from (877) 791-1559. The  
9 call started with an artificial or pre-recorded voice message asking about exposure to the  
10 weedkiller chemical roundup. A specific quote from the call is:

11 “You are receiving this message because you have previously opted in on injury helpdesk  
12 survey path”.

13 The entity behind the call initiated it for the purpose of encouraging Plaintiff to purchase  
14 goods or services. The caller did not identify the entity behind the call.

15 Plaintiff called the calling number right back and learned that the calling number was  
16 spoofed.

#### 17 **Roundup Lawsuit unsolicited call #5**

18 On August 10, 2021, Plaintiff received a phone call from (360) 200-6775. The caller  
19 identified herself as from the Lerner and Rowe law firm<sup>8</sup>, and the caller inquired about Roundup  
20 injuries.

21  
22  
23 <sup>7</sup> See <https://www.weedkillerclaim.com/terms> paragraph 16

24 <sup>8</sup> Arizona corporation LERNER & ROWE, PC and see <https://lernerandrowe.com/>

1 Lerner and Rowe initiated the for the purpose of encouraging Plaintiff to purchase goods  
2 or services. Plaintiff believes this call was a follow-up to the call titled “Roundup Lawsuit  
3 unsolicited call #4”.

4 **Enter TortExperts LLC**

5 TortExperts.com is owned by TortExperts LLC (“TortExperts”), a Florida company who  
6 describes their purpose as:

7 “TortExperts provides qualified leads.  
8 High-quality leads sent to your law firm. This involves pre-screen claimants for all our  
9 clients. Lead generation through TV, Radio, Social media, Google, and more.  
10 Intake process starting, either within your own call center or with our call center partners.  
11 Only pay per case you sign up.  
12 Given TortExperts experience with the legal lead generation industry, we know our leads  
13 convert into cases, so we only charge you per case you sign up.”<sup>9</sup>

14 TortExperts is currently soliciting consumers for Talcum Powder Cancer Leads, Zantac  
15 Cancer Leads, and Roundup Cancer Leads. Plaintiff has received phone calls soliciting legal  
16 services for each of these topics.

17 Plaintiff believes that TortExperts sends text messages and robocalls to consumers to  
18 generate “leads” (names and phone numbers of people with certain kinds of legal claims) that  
19 TortExperts can sell to law firms who specialize in specific legal claims.

20 Plaintiff believes TortExperts and other Defendants are also behind the following calls:

21 **Zantac Unsolicited Phone Call #1**

22 On July 27, 2021, Plaintiff received a phone call seemingly from (888) 410-2734. The call  
23 started with an artificial or pre-recorded voice message asking about Zantac injury. A specific  
24 quote from the call is:

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<sup>9</sup> See <https://tortexperts.com/about/>

1 “You are receiving this message because you have previously opted in on injury helpdesk  
2 survey path”.

3 The entity behind the call initiated it for the purpose of encouraging Plaintiff to purchase  
4 goods or services. The caller did not identify the entity behind the call.

5 **Talcum Powder Unsolicited Phone Call #1**

6 At or about 8:57am on April 30, 2021, Plaintiff received a text message seemingly from  
7 (877) 436-0946. The text message said:

8 Ivette Text YES, if you are female and were a Talcum power (sic) user & now has (sic)  
9 ovarian cancer

10 The entity behind the text message initiated it for the purpose of encouraging Plaintiff to  
11 purchase goods or services. The text message did not identify the entity behind the text message.

12 **Talcum Powder Unsolicited Phone Call #2**

13 On July 13, 2021, Plaintiff received a phone call seemingly from (888) 996-4451. The call  
14 started with an artificial or pre-recorded voice message asking about Talcum powder injury. A  
15 specific quote from the call is:

16 “You are receiving this message because you have previously opted in on injury helpdesk  
17 survey path”.

18 The entity behind the call initiated it for the purpose of encouraging Plaintiff to purchase  
19 goods or services. The caller did not identify the entity behind the call.

20 **“You are receiving this message because you have previously opted in on injury  
21 helpdesk survey path”**

22 Plaintiff received many phone calls related to product injury or car accident legal claims,  
23 where the start of the call contained this identical message spoken with pre-recorded or  
24 artificially generated voice:

“You are receiving this message because you have previously opted in on injury helpdesk  
survey path”.

1 These additional calls are:

2 **Auto Accident Unsolicited Phone Call #1**

3 On July 6, 2021, Plaintiff received a phone call seemingly from (888) 996-4593. The call  
4 started with an artificial or pre-recorded voice message asking about automobile accident injuries  
5 requiring medical treatment. A specific quote from the call is:

6 “You are receiving this message because you have previously opted in on injury helpdesk  
7 survey path”.

8 The entity behind the call initiated it for the purpose of encouraging Plaintiff to purchase  
9 goods or services. The call did not identify the entity behind the call.

10 **Paraquat Unsolicited Phone Call #1**

11 At or about 5:30pm on May 7, 2021, Plaintiff received a text message seemingly from  
12 (888) 676-2129. The text message said:

13 Ivette Text YES, if you are female and were a Talcum power (sic) user & now has (sic)  
14 ovarian cancer

15 The entity behind the text message initiated it for the purpose of encouraging Plaintiff to  
16 purchase goods or services. The text message did not identify the entity behind the text message.

17 **Paraquat Unsolicited Phone Call #2**

18 On May 8, 2021, Plaintiff received a phone call from (720) 687-2323. The call lasted four  
19 seconds, of silence. Plaintiff called the number back and reached the Wagstaff lawfirm<sup>10</sup> with  
20 website *thewagstafflawfirm.com*. They admitted to calling Plaintiff’s number regarding  
21 Paraquat.  
22  
23

24 <sup>10</sup> Law Office of Tom Wagstaff, JR., LLC in the state of Kansas to be exact.



1 Wagstaff initiated the call for the purpose of encouraging Plaintiff to purchase goods or  
2 services. Plaintiff believes the Wagstaff call is a follow up call to the May 7, 2021, Talcum  
3 powder text message.

4 **Paraquat Unsolicited Phone Call #3**

5 On June 22, 2021, Plaintiff received a phone call seemingly from (877) 514-4145. The  
6 call started with an artificial or pre-recorded voice message asking about Paraquat injury. A  
7 specific quote from the call is:

8 “You are receiving this message because you have previously opted in on injury helpdesk  
9 survey path”.

10 The entity behind the call initiated it for the purpose of encouraging Plaintiff to purchase  
11 goods or services. The call did not identify the entity behind the call.

12 **Elmiron Unsolicited Phone Call #1**

13 At or about 9:41am on May 6, 2021, Plaintiff received a text message seemingly from  
14 (877) 515-3078. The text message said:

15 Ivette Reply to us YES, if you have blurry-Vision or macular/degeneration & were taking  
16 the scriptELMIRON

17 The entity behind the text message initiated it for the purpose of encouraging Plaintiff to  
18 purchase goods or services. The text message did not identify the entity behind the text message.

19 **Elmiron Unsolicited Phone Call #2**

20 On May 12, 2021, Plaintiff received a phone call from (360) 743-8004. The caller  
21 identified herself as from DV Injury Law<sup>11</sup> calling about Elmiron drug injuries.

22  
23  
24 <sup>11</sup> DV Injury Law PLLC, registered in Michigan, see <https://dvinjurylaw.com>

1 DV Injury initiated the call for the purpose of encouraging Plaintiff to purchase goods or  
2 services. Plaintiff believes the DV Injury call is a follow up call to the May 6, 2021, Elmiron  
3 text message.

4 **Elmiron Unsolicited Phone Call #3**

5 At or about 8:25 am on May 13, 2021, Plaintiff received a phone call from (360) 743-8004.  
6 The caller was silent for all 12 seconds of the call, and then the caller hung up.

7 DV Injury initiated the call for the purpose of encouraging Plaintiff to purchase goods or  
8 services.

9 **Elmiron Unsolicited Phone Call #4**

10 At or about 3:00 pm on May 13, 2021, Plaintiff received a phone call from (360) 743-  
11 8004. The caller was silent for all 11 seconds of the call, and then the caller hung up.

12 DV Injury initiated the call for the purpose of encouraging Plaintiff to purchase goods or  
13 services.

14 **Elmiron Unsolicited Phone Call #5**

15 At or about 3:54 pm on May 14, 2021, Plaintiff received a phone call from (360) 743-  
16 8004. The caller was silent for all 15 seconds of the call, and then the caller hung up.

17 DV Injury initiated the call for the purpose of encouraging Plaintiff to purchase goods or  
18 services.

19 **Elmiron Unsolicited Phone Call #6**

20 On August 17, 2021, Plaintiff received a phone call from (877) 894-1533. The call started  
21 with an artificial or pre-recorded voice message asking about Elmiron injury. A specific quote  
22 from the call is:

23 “You are receiving this message because you have previously opted in on injury helpdesk  
24 survey path”.

1 The entity behind the call initiated it for the purpose of encouraging Plaintiff to purchase  
2 goods or services. The caller did not identify the entity behind the call.

3 **Relationship between the Defendants**

4 Defendant TortExperts publishes on their homepage<sup>12</sup>:

5 TortExperts is a marketing company providing performance based lead generation to law  
6 firms nationwide for mass tort, class action lawsuits. Our specialized focus in the Mass  
7 torts fields has provided us with a great deal of expertise in generating qualified leads with  
8 a high conversion rate.

9 Delfgaww uses the assets of different companies under his control to initiates text messages  
10 and phone calls to consumers and drive traffic to TortExperts and LGNB.

11 TortExperts has its own outbound calling assets and partnerships to also initiate text  
12 messages and phone call solicitations to consumers to gain ‘customers’ or ‘leads’.

13 TortExperts and LGNB are looking for consumers or ‘leads’ who are potential clients for  
14 law firms looking to pursue litigation for specific injuries. TortExperts and LGNB make money  
15 for the introduction and/or when a consumer becomes a ‘customer’ of a law firm based on the  
16 introduction.

17 DV Injury Law, Wagstaff, and Lerner & Rowe are the buyers of that information, who in  
18 turn, initiate phone calls to the ‘leads’ to gain clients for themselves, and then a portion of  
19 litigation proceeds or fees for representing those clients.

20 Delfgaww, through Xanadu and Starter Home and other companies he controls, uses the  
21 outbound text and phone call assets under his control to solicit consumers for products and  
22 services beyond legal representation, such as consumer credit enhancement, higher education,  
23 home ownership, rental homes, loans, and tax returns.

24 <sup>12</sup> See <https://tortexperts.com/>

1 Delfgauw steers some of these consumers to businesses under his control, and he directs  
2 some of the consumers to other companies that have paid for the traffic, such as Credit Pros and  
3 Experian.

4 **These calls are annoying**

5 The phone ringing and buzzing and missed calls are obnoxious, an invasion of privacy, and  
6 a waste of time. These phone calls were initiated to encourage Plaintiff to purchase goods or  
7 service.

8 **Joe Delfgauw's Personal Liability**

9 Delfgauw is the President of many different corporations, and under his supervision,  
10 Plaintiff received text message and phone call solicitations luring him to different websites and  
11 invitations to spend money for goods and services. However, the websites and outbound  
12 solicitations are done through a mis-mash of internet domains and phone numbers and hosting  
13 and business assets bolted together from many different corporations governed by Delfgauw.

14 This is a breach of the duty Delfgauw owes to each separate legal entity under his  
15 supervision.

16 Holding Delfgauw personality liable for the widespread conduct of his business operations  
17 is likely the only way to ensure Plaintiff can collect a judgement against the different  
18 corporations under his supervision.

19 **Commercial Telephone Solicitors**

20 RCW 19.158.020 says:

21 (1) A "commercial telephone solicitor" is any person who engages in commercial  
22 telephone solicitation

23 (2) "Commercial telephone solicitation" means:  
24

1 (a) An unsolicited telephone call to a person initiated by a salesperson and  
2 conversation for the purpose of inducing the person to purchase or invest in  
property, goods, or services;

3 RCW 19.158.050(1) says in part:

4 “In order to maintain or defend a lawsuit or do any business in this state, a commercial  
5 telephone solicitor must be registered with the department of licensing.”

6 Although RCW 19.158.050(3) says “The department of licensing shall issue a  
7 registration number to the commercial telephone solicitor.”, in practice this Commercial  
8 Telephone Solicitor “registration number” appears as an endorsement on the business license  
9 issued by The Washington State Department of Revenue.

10 Credit Pros has this endorsement on their Washington State business license.

11 Experian is licensed to do business in Washington but does not have this endorsement on  
12 their Washington State business license

13 The other Defendants are not registered to do any business in Washington State, thus do  
14 not have this endorsement on their not-existing Washington State business license, and they  
15 acted as unlicensed commercial telephone solicitors while soliciting goods and services to  
16 Plaintiff in conversation.

17 **IV. RELIEF**

18 **Federal Claims**

19 **TCPA 47 U.S.C. 227**

20 Defendants violated 47 U.S.C. 227(c)(5) by calling or texting Plaintiff’s cellular  
21 telephone number without invitation or consent.

22 Defendants violated 47 U.S.C. 227(b) by calling Plaintiff’s cellular telephone without  
23 invitation or consent, while using an artificial or prerecorded voice.

24 **Washington State Claims**

**RCW 19.158**

RCW 19.158.040 says:  
Unprofessional conduct.

In addition to the unprofessional conduct described in RCW 18.235.130, the director of the department of licensing may take disciplinary action for any of the following conduct, acts, or conditions:

- (1) It shall be unlawful for any person to engage in unfair or deceptive commercial telephone solicitation.
- (2) A commercial telephone solicitor shall not place calls to any residence which will be received before 8:00 a.m. or after 9:00 p.m. at the purchaser's local time.
- (3) A commercial telephone solicitor may not engage in any conduct the natural consequence of which is to harass, intimidate, or torment any person in connection with the telephone call.

Defendants were not registered as Commercial Telephone Solicitors with the Washington State Department of Licensing when many of the solicitation calls were placed to Plaintiff, in violation of RCW 19.158.050(1).

RCW 19.158.110(1) requires:

- (1) Within the first minute of the telephone call, a commercial telephone solicitor or salesperson shall:
  - (a) Identify himself or herself, the company on whose behalf the solicitation is being made, the property, goods, or services being sold;

In many solicitation calls initiated by Defendants to Plaintiff, Defendants violated Washington State RCW 19.158.110(1) by not identifying the company on whose behalf the solicitation was being made.

Defendants violated Washington State RCW 19.158.150 many times by soliciting Plaintiff on his cell phone while they were not registered on with the Washington State Department of Licensing as Commercial Telephone Solicitors, or while working on behalf of an unregistered Commercial Telephone Solicitor.

**RCW 80.36.390(2)**

Washington State RCW 80.36.390(2) says

1 A person making a telephone solicitation must identify him or herself and the company or  
2 organization on whose behalf the solicitation is being made and the purpose of the call  
within the first thirty seconds of the telephone call.

3 In many solicitation calls the Defendants failed to identify a legally identifiable company or  
4 organization name behind the solicitation within the first 30 seconds of the phone calls.

5 **RCW 80.36.400**

6 Washington State RCW 80.36.400(2) states:

7 “No person may use an automatic dialing and announcing device for purposes of  
8 commercial solicitation. This section applies to all commercial solicitation intended to be  
received by telephone customers within the state.”

9 Defendants violated Washington State RCW 80.36.400(2) many times by calling  
10 Plaintiff’s cellular telephone number times without consent or invitation, while using an  
11 automatic dialing and announcing device for commercial solicitation.

12 RCW 80.36.400 defines “Commercial solicitation means the unsolicited initiation of a  
13 telephone conversation for the purpose of encouraging a person to purchase property, goods, or  
14 services.”

15 **Treble Damages**

16 Plaintiff believes the record shows that Defendants’ violations of the law were willful or  
17 knowing. Therefore, Plaintiff asks for treble damages under TCPA 47 U.S.C. 227(c)(5), TCPA  
18 47 U.S.C. 227(b)(3), and the presumption that violations of RCW 80.36.400 and RCW  
19 19.158.030 triple damages under the Washington State Unfair Business Practices Act RCW  
20 19.86.

21 **Injunctive Relief**

22 TCPA 47 U.S.C. 227(b)(3)(A) and 47 U.S.C. 227(c)(5)(A) allows “an action based on a  
23 violation of the regulations prescribed under this subsection to enjoin such violation,”.

24 Washington State RCW 80.36.390(6) says:

1 A person aggrieved by repeated violations of this section may bring a civil action  
2 in superior court to enjoin future violations, to recover damages, or both.

3 Plaintiff is not unique – he simply had the misfortune to be targeted by Defendants’ mass  
4 calling and texting machine. It is reasonable to believe that Defendants have done this many  
5 times in the past and will continue harming the residents of this State and other States in the  
6 future.

7 Plaintiff asks this Court to enjoin the Defendants from calling phone numbers using pre-  
8 recorded or artificial voices without consent.

9 **All other Possible Damages**

10 Plaintiff prays for all possible damages, in law and in equity, statutory, real, and punitive,  
11 that he might entitled too. Examples might be, but are not limited to, court costs, attorney fees,  
12 pre-judgement interest, and post-judgement interest.

13 **V. CERTIFICATION AND CLOSING**

14 Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my  
15 knowledge, information, and belief that this complaint: (1) is not being presented for an improper  
16 purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;  
17 (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or  
18 reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so  
19 identified, will likely have evidentiary support after a reasonable opportunity for further  
20 investigation or discovery; and (4) the complaint otherwise complies with the requirements of  
21 Rule 11.

22 I agree to provide the Clerk's Office with any changes to my address where case-related  
23 papers may be served. I understand that my failure to keep a current address on file with the  
24 Clerk's Office may result in the dismissal of my case.



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Date of signing:

8/18/2021

Signature of Plaintiff



Printed Name of Plaintiff

Nathen Barton

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