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ENDORSED  
FILED  
Superior Court of California  
County of San Francisco  
DEC 19 2014  
CLERK OF THE COURT  
BY: ROSSALY DE LA VEGA  
Deputy Clerk

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF SAN FRANCISCO

12  
13 **PEOPLE OF THE STATE OF  
CALIFORNIA,**

14 Plaintiff,

15 v.

16 **T-MOBILE USA, INC., a corporation,**

17 Defendant.

18 Case No.

19 **COMPLAINT FOR INJUNCTIVE AND  
OTHER RELIEF**

(BUS. & PROF. CODE, § 17200 et seq.)

[EXEMPT FROM FILING FEES  
PURSUANT TO GOVERNMENT CODE  
SECTION 6103]

20  
21 **COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF**

22 1. Plaintiff, the PEOPLE OF THE STATE OF CALIFORNIA, by Kamala D. Harris,  
23 Attorney General of the State of California, ("Plaintiff" or "the People") brings this action against  
24 Defendant T-MOBILE USA, INC., ("T-Mobile," "Defendant" or "Carrier") for violating the  
25 California Unfair Competition Law (Bus. & Prof. Code § 17200 et seq.), and alleges the  
26 following on information and belief.  
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1           8.     T-Mobile has retained a portion of each charge for Third-Party Subscriptions paid by  
2 consumers, in some cases as high as a third or more of the amount paid. T-Mobile's practices  
3 have caused consumers millions of dollars of injury.

4                   **T-MOBILE'S UNFAIR AND DECEPTIVE ACTS AND PRACTICES**

5           9.     T-Mobile participated in deceptive and unfair acts or practices in violation of  
6 California Business and Professions Code Section 17200, by including unauthorized charges on  
7 the telephone bills of its mobile phone customers.

8           10.    T-Mobile markets its telephone and data services to consumers. T-Mobile's sales  
9 representatives often discuss these services only, and not purported third-party services, with  
10 consumers. T-Mobile's contracts make clear and prominent representations about the services it  
11 provides, whereas information about third-party services is buried in lengthy terms and conditions  
12 of its service contract.

13          11.    T-Mobile has not obtained authorization from consumers before charging them for  
14 Third-Party Subscriptions. Instead, the third-party merchants or billing intermediaries  
15 purportedly have obtained authorization. In many cases, however, these third parties have failed  
16 to obtain authorization from consumers.

17          12.    T-Mobile's bills include charges for its own services and third-party services, and T-  
18 Mobile has not conspicuously disclosed the third-party charges to consumers.

19          13.    The third-party charges are not broken out separately in the bill summary, but have  
20 been lumped together under a generic descriptor, which may include both third-party charges and  
21 other charges, such as for texting, with the total transferred to the total amount due in full by a  
22 specific date. Many consumers believe they are obligated to pay T-Mobile for all charges  
23 appearing on their phone bills.

24          14.    Bills have not provided detailed information to the consumer about the nature of  
25 recurring Third-Party Subscriptions that the consumer purportedly authorized. In some cases,  
26 even in detailed sections of the bill, the third-party subscriptions have been listed under the  
27 category "Premium Services."  
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1           15. Some consumers do not even receive mobile phone bills. Consumers with prepaid  
2 accounts do not receive monthly bills from T-Mobile; instead, these consumers pay a certain  
3 amount of money upfront for a specific number of minutes. When an unauthorized charge for  
4 \$9.99 has been charged to these consumers' accounts, T-Mobile has deducted \$9.99 worth of  
5 minutes from their available balance. T-Mobile typically has provided no notice to the consumer  
6 of the charge.

7           16. Some consumers who become aware of unauthorized charges have complained to T-  
8 Mobile that they did not authorize the charges. Despite knowing about these complaints of  
9 unauthorized charges, T-Mobile did not take sufficient steps to determine whether consumers  
10 actually authorized the charges for Third-Party Subscriptions purportedly offered by problematic  
11 third-party merchants.

12           17. When consumers have sought refunds for unauthorized charges from T-Mobile, T-  
13 Mobile frequently has refused to provide them. In some instances, T-Mobile has told consumers  
14 that there is nothing it can do about the unauthorized charges.

15           18. In other instances, T-Mobile has instructed consumers to seek a refund directly from  
16 the third-party merchant, while failing consistently to provide accurate contact information for the  
17 third-party merchant.

18           19. T-Mobile has often asserted that consumers authorized the charge, despite the fact  
19 that T-Mobile did not have records of the purported authorization. T-Mobile has even told  
20 consumers who called to complain about unauthorized charges that the consumers had authorized  
21 the charges by not actively declining a solicitation by a third-party merchant.

22           20. Even when some refund is provided, T-Mobile has refused to grant a full refund, but  
23 has granted a partial refund.

24           21. After receiving complaints that consumers did not authorize particular subscriptions,  
25 T-Mobile continued to charge other consumers for such subscriptions, without obtaining  
26 authorization from them, notifying consumers of upcoming charges, confirming charges with  
27 consumers, or including additional information on consumers' phone bills regarding the  
28 subscriptions.

22. Industry auditors have monitored the online advertising of third-party merchants that purportedly offer Third-Party Subscriptions, and T-Mobile has received audits and “alerts” from these industry auditors. These auditors’ alerts have provided examples of deceptive marketing by third-party merchants to obtain consumers’ phone numbers and purportedly enroll them in a monthly subscription. Yet T-Mobile has continued to charge consumers for the recurring Third-Party Subscriptions offered by those merchants identified by the auditors, including subscriptions the alerts specifically identified as failing to obtain valid authorization from the consumers.

23. T-Mobile has also continued to charge consumers for Third-Party Subscriptions purportedly offered by third-party merchants that were the subject of law enforcement actions regarding cramming practices.

## VIOLATIONS OF LAW

## CALIFORNIA UNFAIR COMPETITION LAW

24. The People reallege and incorporate each and every allegation contained in the preceding paragraphs 1 through 23.

25. T-Mobile, in the course of providing mobile telephone services, has engaged in business acts or practices that were unlawful, unfair, deceptive, or misleading, and therefore violated section 17200 of the California Unfair Competition Law (Bus. & Prof. Code § 17200) by including unauthorized third-party charges on the telephone bills of its mobile phone customers. T-Mobile has represented, expressly or by implication, that the charges appearing on T-Mobile's phone bills were for T-Mobile's services authorized by the consumer, even when the charges were unauthorized charges for Third-Party Subscriptions.

## PRAYER FOR RELIEF

WHEREFORE, the People of the State of California respectfully request that this honorable Court enter an order:

A. Issuing a permanent injunction prohibiting T-Mobile, its agents, employees, and all other persons and entities, corporate or otherwise, in active concert or participation with any of them, from engaging in unfair, deceptive or misleading conduct;

1 B. Ordering T-Mobile to disgorge all revenues, profits, and gains achieved in whole or  
2 in part though the unfair acts or practices complained of herein;

3 C. Assessing a civil penalty against defendant for each violation of Business and  
4 Professions Code section 17200.

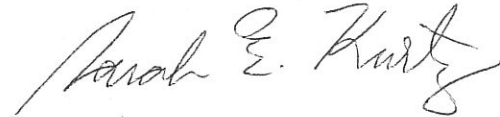
5 D. Ordering T-Mobile to pay Plaintiff's costs of suit, including but not limited to all  
6 costs of prosecution and investigation;

7 E. Granting such other and further relief as the Court deems equitable and proper.

8 Dated: December 18, 2014

Respectfully Submitted,

9 KAMALA D. HARRIS  
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11 MARK J. BRECKLER  
12 Chief Assistant Attorney General  
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15 

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