

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

STARLENIE ERNER,	)	
Plaintiff,	)	Case No. 1:19-cv-08405
	)	
v.	)	
	)	
ROBOCALLER CLAIMING TO BE	)	<b>JURY TRIAL DEMANDED</b>
SOCIAL SECURITY ADMINISTRATION,	)	
and DOES 1-5,	)	
Defendants.	)	

**COMPLAINT**

1. Plaintiff Starlenie Erner is a young woman who lives in the Chicago area. On August 30, 2019, Ms. Erner received a “press 1” prerecorded message robocall purporting to be from the Social Security Administration (“SSA”) on her cellular telephone.

2. As explained more fully below, the caller told Plaintiff that there was a crime scene on the Texas-Mexico border involving an automobile covered in blood and cocaine, and that the U.S. Marshals had traced the car to Plaintiff.

3. Plaintiff was instructed to purchase a \$1,000 bond from the caller, which would be refunded the following day. Plaintiff believed the caller’s above false statements, and thus drained her bank account by purchasing two Target gift cards in order to pay for the “bond,” which the caller took under fraudulent pretenses.

4. Plaintiff brings this action to obtain relief for the improper phone call and fraud under the Telephone Consumer Protection Act (“TCPA”), the Telemarketing Sales Rule (“TSR”) and the Consumer Fraud and Deceptive Business Practices Act (“ICFA”).

**Parties**

5. Plaintiff Starlenie Erner is an individual who resides in this District.

6. Plaintiff does not currently know the identity of Defendant “Robocaller Claiming

to be Social Security Administration,” (hereinafter “Robocaller”) and plans to seek subpoena discovery in order to determine this person(s)’ identity.

7. Defendants Does 1-5 are unknown persons who materially assisted and/or coordinated the fraudulent robocall scheme.

### **Jurisdiction & Venue**

8. The Court has subject-matter jurisdiction under 28 U.S.C. § 1331 because Plaintiff’s TCPA and Telemarketing Sales Rule claims arise under federal law. 47 U.S.C. § 227 & 16 C.F.R. § 310.7(a).

9. The Court has supplemental jurisdiction over the state law claims because they are so related to the federal claims that they form part of the same case and controversy.

10. Venue is proper because Plaintiff resides in this District, received the offending robocall while in this District and was defrauded in this District; thus a substantial part of the events and omissions giving rise to Plaintiff’s claims occurred in this District.

### **Facts**

11. On August 30, 2019, at approximately 4:30 p.m., Plaintiff received a call from (866) 005-5456, which played a prerecorded message stating that her social security number was being suspended because of suspicious activity, and instructed her to “press 1” to address the issue.

12. After following the call’s prerecorded prompt, Plaintiff was connected with an individual who identified himself as “social security agent” by the name of “Steven Wolf.” Wolf told Plaintiff that a federal investigation into Plaintiff began when a black 2008 Toyota Camry was found abandoned on the South Texas border.

13. Wolf said that the car contained blood and cocaine, which the U.S. Marshals

found suspicious, and that that U.S. Marshals ran her social security number and found it linked to two addresses in Rowlett, TX. Wolf explained that the U.S. Marshals raided one home and found 23 pounds of cocaine, and that there were 8 bank accounts registered in her name that had wired over \$50,000 dollars to foreign accounts in Mexico and Columbia.

14. Wolf then told Plaintiff that until they find the suspect, all of the charges arising from the above would be levied against Plaintiff, that her SSN would be suspended, and that the bank account would be seized.

15. Wolf explained that in order to avoid being held responsible, Plaintiff should cooperate with the investigation.

16. Wolf seemed to know Plaintiff's address, social security number, and name during the call.

17. Wolf repeatedly emphasized how important it is that Plaintiff be "honest" on the "federal [phone] line."

18. Wolf also told Plaintiff that there were different store cards in her name, such as JC Penny and Victoria's Secret, and provided other details that persuaded Plaintiff that there was a real culprit stealing her identity.

19. Wolf then transferred Plaintiff to his alleged supervisor, "Jennifer Garcia."

20. Garcia asked Plaintiff to confirm the case ID number Wolf had provided, along with his SSA verification number.

21. Garcia told Plaintiff several times that the state of Texas had charges against her for money laundering and drug trafficking, that they would seize Plaintiff's real bank account for the investigation, and take the funds Plaintiff needed for rent and groceries.

22. Garcia threatened punitive action if Plaintiff were to hang up the "federal line",

and that Plaintiff had to put \$1,000 on gift cards immediately, to pay for “bond.”

23. This woman explained that a federal Social Security Officer would meet Plaintiff at her residence the next day with a government bond check in the amount Plaintiff put on the cards.

24. Plaintiff had \$1,040 dollars to her name at the time; just enough to cover her September rent.

25. Garcia told Plaintiff to go to Target, and Plaintiff obliged by going to the Target store located at 4955 Dempster Street, Skokie, Illinois 60077.

26. Garcia stayed on the line while Plaintiff purchased two \$500 Target gift cards, and instructed Plaintiff to read the numbers for those cards to her over the phone.

27. Garcia explained that federal officials would come to Plaintiff’s residence at 10:00 a.m. the following day to provide reimbursement for the “bond,” and to drop off a new social security card.

28. Looking back, Plaintiff can plainly see that what happened was fraudulent. However, the substance, tone, and tenor of the conversation – at the time – scared her into believing that this was all real. Plaintiff was genuinely scared that somehow she was being linked to illegal, criminal activities and believed this was a government agent speaking to her.

29. The call lasted a total of 1 hour 13 minutes.

30. The following day, Saturday, August 31, 2019, Plaintiff did not receive a call from anyone, and no federal agents came to her home. Plaintiff then checked the funds on the gift cards online, and they both had a balance of zero dollars. Plaintiff then tried calling the number back, but could not get through.

**COUNT I – TELEPHONE CONSUMER PROTECTION ACT**

31. Plaintiff incorporates all prior paragraphs.

32. Robocaller and Does 1-5 violated the TCPA by – for example – making autodialed and prerecorded voice calls to Plaintiff’s cellular telephone without consent. *See* 47 U.S.C. § 227(b)(1)(A)(iii).

WHEREFORE, Plaintiff requests that the Court enter judgment against Defendants for:

- A. An injunction against further similar violations and calls;
- B. Statutory and actual damages; and
- C. Such other or further relief as the Court deems just and proper.

**COUNT II – TELEMARKETING SALES RULE**

33. Plaintiff incorporates all prior paragraphs.

34. Robocaller and Does 1-5 violated the TSR, 16 C.F.R. § 310 *et seq.* by – for example – fraudulently inducing Plaintiff to purchase goods and/or services, in this case two Target Gift cards totaling \$1,000 and a bond, during a telephone call.

35. Additionally, Robocaller and Does 1-5 may be liable for materially participating or assisting with such fraud.

WHEREFORE, Plaintiff requests that the Court enter judgment against Defendants for:

- A. An injunction against further violations and calls;
- B. Damages; and
- C. Such other or further relief as the Court deems just and proper.

**COUNT III – CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT**

36. Plaintiff incorporates all prior paragraphs.

37. Robocaller and Does 1-5 violated the ICFA, 815 ILCS 505/1 *et seq.*, in

committing or participating in the actions described above.

WHEREFORE, Plaintiff requests that the Court enter judgment against Defendants for:

- A. An injunction against further violations and calls;
- B. Damages, including actual and punitive damages;
- C. Attorney's fees and costs;
- D. Such other or further relief as the Court deems just and proper.

**JURY DEMAND**

Plaintiff requests a jury trial as to all claims of the complaint so triable.

Respectfully submitted,

STARLENIE ERNER

By: /s/ Alexander H. Burke

Dated: December 23, 2019

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