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Attorney for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF UTAH**

Shirl Cornwall,

Plaintiff,

v.

Comenity Capital Bank,

Defendant.

**PROPOSED CLASS ACTION
COMPLAINT**

JURY DEMANDED

Case No. 2:26-cv-300

INTRODUCTION

1. As the Supreme Court has explained, “Americans passionately disagree about many things. But they are largely united in their disdain for robocalls.... For nearly 30 years, the people’s representatives in Congress have been fighting back. As relevant here, the Telephone Consumer Protection Act of 1991, known as the TCPA, generally prohibits robocalls to cell phones and home phones.” *Barr v. Am. Ass'n of Political Consultants*, 591 U.S. 610, 613 (2020).

2. Defendant Comenity Capital Bank has violated the TCPA by calling Cornwall, and thousands of others like him, with nonconsensual prerecorded or artificial calls.

3. Comenity has been sued more than a dozen other times for violations of the TCPA.

4. To stop Comenity’s illegal calls, Cornwall brings this putative class action.

JURISDICTION AND VENUE

5. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1331 because this action arises under the TCPA, 47 U.S.C § 227, which is a federal statute.

6. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because Comenity resides in this District and a significant portion of the facts giving rise to this lawsuit occurred in this District.

PARTIES

7. Plaintiff Shirl Cornwall is a resident of Lawrenceville, Georgia.

8. Defendant Comenity Capital Bank is a Utah corporation with its principal place of business in Draper, Utah.

FACTUAL ALLEGATIONS

9. Cornwall is the subscriber and sole user of the cellular number 305-661-5206.

10. On February 9, 2026, Comenti y called 305-661-5206.

11. On this call, Comenity played an audio message or computer-generated message.

12. For purposes of the TCPA, this call used a prerecorded or artificial voice.

13. The audio message that Comenity played said:

This is an... This is an important message for Herminia Cornwall. This is Lynn. I represent Comenity Capital Bank. This is a reference number for Herminia and I have you listed as a person who could possibly connect us. If you could have her return my call regarding a personal business matter, I would greatly appreciate it. I can be reached directly at 800-304-7265, choose Option 1. Enter my extension, that's 1511987. I would be available today and tomorrow until six eastern time. Please make it a priority to return my call within those hours and on my extension. Remember, I cannot help you if you continue to ignore this matter with Comenity Capital Bank. I am trying to avoid the continuing escalation. I do look forward to speaking with you and helping you today.

14. The call was clearly not a real person speaking. This is obvious on multiple fronts:

- i. Monotone: The voice lacks the natural pitch variation of human speech. It is rigid and monotone throughout.

- ii. **False Start:** Immediately following the voicemail beep, the automated system experienced a mechanical "false start." The recording initiated with the phrase, "This is an...", abruptly terminated, and then instantaneously reset to play the message again with precisely the same voice.
- iii. **Inorganic Pacing:** The message is characterized by long, unnatural pauses that interrupt the middle of clauses and sentences. For example, when stating, "I would be available today and tomorrow until six...", there is an abrupt three-second pause immediately after the word "today," a cadence entirely inconsistent with a real human speaker.
- iv. **Recurring Inflection:** The intonation reveals an artificial system stringing together discrete audio files rather than generating fluid speech. For instance, the word "1" is repeated multiple times with identical, static inflection, indicating the system is triggering the same audio clip.
- v. **Incorrect Sentence Termination Inflection:** In natural speech, the speaker's intonation falls at the end of a sentence. Conversely, this artificial voice uses a rising inflection at the end of sentences, including in the instruction "choose Option 1." The end-of-sentence inflection sounds and is robotic.
- vi. **Absence of Fillers:** The speech is completely missing any human fillers, including "um," "uh," "so," etc. The perfectly clean execution of the sentences, combined with the awkward mechanical pauses and speech, indicates that the audio was not spoken by a live person in real-time but was instead a prerecorded or artificial voice.

15. The message states that the call was made on behalf of Comenity Capital Bank regarding a personal business matter.

16. However, the message also acknowledges that the call is made to a "reference number" who could potentially "connect" Comenity to the intended recipient of the call, Herminia Cornwall.

17. Comenity is in the business of providing credit cards to retail companies.

18. The purpose of the call was an attempt to collect a debt on a Comenity card.

19. Yet Cornwall has no relationship with Comenity, has no account or credit card with Comenity, never provided his phone number to Comenity, and never gave permission for Comenity to send any type of communication.

20. Comenity's calls to Cornwall did not have an emergency purpose.

21. Comenity's prerecorded calls are a nuisance and annoyance to Cornwall. The calls have invaded his privacy and home.

22. On information and belief, Comenity obtained Cornwall's phone number from a third party.

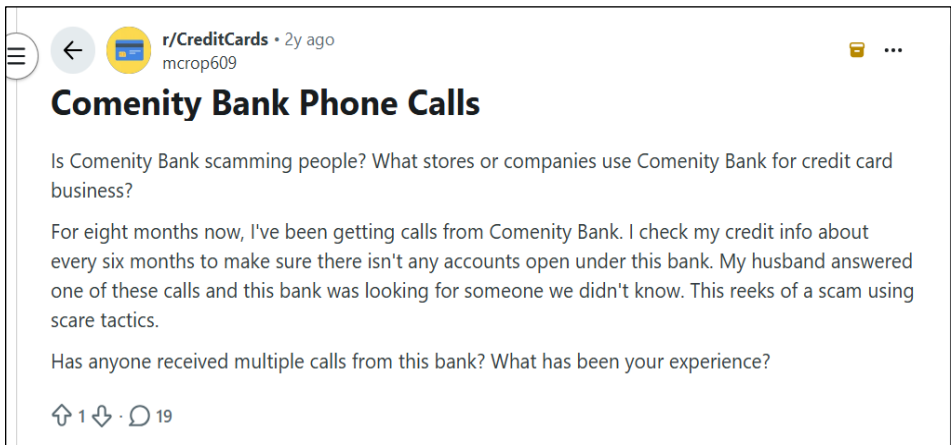
23. On information and belief, Comenity obtained Cornwall's phone number through some form of skip tracing.

24. Cornwall is not the only person to receive Comenity's nonconsensual prerecorded and artificial calls. There are many online complaints about Comenity placing calls to the wrong person, and not leaving them alone after being told they have the wrong person:^{1 2}



¹ *Comenity Bank keeps calling me asking for someone else's name*, Reddit (Feb. 27, 2023), https://www.reddit.com/r/CreditCards/comments/117katu/comenity_bank_keeps_calling_me_asking_for_someone/.

² *Comenity Bank Phone Calls*, Reddit (Mar. 28, 2024), https://www.reddit.com/r/CreditCards/comments/1brso7d/comenity_bank_phone_calls/



CLASS ACTION ALLEGATIONS

25. Pursuant to Federal Rule of Civil Procedure 23(b)(3), Cornwall brings this action on behalf of all other persons similarly situated throughout the United States.

26. Cornwall proposes the following class:

The Artificial Voice Class

All persons in the United States (1) to whom Comenity Capital Bank initiated, or caused to be initiated, a call (2) directed to a telephone number assigned to a cellular telephone service, but not assigned to a customer or account holder of Comenity Capital Bank, (3) in connection with which Comenity Capital Bank used, or caused to be used, an artificial or prerecorded voice, (4) within the four years from the filing of this action through the date of class certification.

27. The class likely exceeds 10,000 members.

28. As a result, joinder is impracticable.

29. On information and belief, last year Comenity made more than one million calls that played a message using a prerecorded or artificial voice.

30. On information and belief, Comenity has records with annotations, notes, codes, database flags, or similar designation that indicate Comenity called the wrong number or wrong person.

31. On information and belief, in the last four years, Comenity has made calls using a prerecorded or artificial voice to people who told Comenity—whether before, during, or after the call—that it was calling the wrong person.

32. On information and belief, Comenity has recordings of the calls it makes, including the call to 305-661-5206 on February 9, 2026.

33. On information and belief, Comenity has transcriptions of the calls it makes, including the call to 305-661-5206 on February 9, 2026.

34. Questions of law and fact common to the class include whether Comenity initiated the calls, whether the calls used a prerecorded or artificial voice, whether the calls were to cellular telephones, and whether Comenity had consent to initiate the calls.

35. Cornwall's claims are typical of the class because they arise out of the same conduct by Comenity (prerecorded or artificial calls to non-account holders) and are based on the same legal theory under the TCPA (prerecorded or artificial calls without consent).

36. Cornwall is an adequate representative because his interests do not conflict with the class, and he will fairly represent the interest of the class. Plaintiff's counsel also has no conflict and is experienced in TCPA class actions.

37. The questions common to the class predominate over individualized questions.

38. A class is superior to individual suits because it saves judicial resources, promotes consistency and efficiency, provides a forum for small claimants, and deters illegal activities. Class members prosecuting separate actions is unlikely because of the time and expense required. Damages are statutory and straightforward. Notice can be provided by mail or other means. There is no difficulty in managing this case as a class.

FIRST CAUSE OF ACTION
Illegal Use of a Prerecorded or Artificial Voice
(On Behalf of Cornwall and the Artificial Voice Class)

39. Comenity violated 47 U.S.C. § 227(b)(1)(A)(iii) by initiating, or causing to be initiated, calls using a prerecorded or artificial voice without prior express consent and without an emergency purpose when calling Cornwall and members of the Artificial Voice Class.

40. Cornwall and members of the Artificial Voice Class have been damaged and are entitled to an award of \$500 in statutory damages for each violation. 47 U.S.C. § 227(b)(3).

41. The court should treble damages for knowing and willful violations. *Id.*

RELIEF REQUESTED

Cornwall respectfully requests the Court grant the following relief:

- A. Certification of the proposed class;
- B. Appointment of Cornwall as class representative;
- C. Appointment of The HQ Firm, P.C. as counsel for the class;
- D. An award of damages to Cornwall and class members, as allowed by law;
- E. An award of fees, costs, and interest, as allowed by law; and
- F. Orders granting such other relief as the Court deems necessary, just, and proper.

JURY DEMAND

Cornwall requests a jury trial as to all claims so triable.

Dated: April 10, 2026

Respectfully submitted,

/s/ Thomas Alvord

Thomas Alvord