UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

AMERICAN ASSOCIATION OF POLITICAL CONSULTANTS, INC.,	)	
DEMOCRATIC PARTY OF OREGON, INC.,	)	
PUBLIC POLICY POLLING, LLC,	)	
TEA PARTY FORWARD PAC, and	)	**Civil Action No. _____**
WASHINGTON STATE DEMOCRATIC CENTRAL COMMITTEE,	)	
Plaintiffs	)	
vs.	)	
LORETTA LYNCH, in her official capacity as Attorney General of the United States	)	
Defendant.	)	

COMPLAINT

COMES NOW American Association of Political Consultants, Inc. ("AAPC"), Democratic Party of Oregon, Inc. ("DPO"), Public Policy Polling, LLC ("PPP"), Tea Party Forward PAC ("TPF"), and Washington State Democratic Central Committee ("WSDCC") (collectively "Plaintiffs") by and through counsel, and allege the following:

I. NATURE OF THE CASE

1. This is a civil action wherein Plaintiffs pray for declaratory judgment as well as preliminary and permanent injunctions to restrain Defendant from acting under color of law to deprive Plaintiffs of rights secured to them by the First Amendment to the United States Constitution.

2. Specifically, Plaintiffs allege that the ban on certain calls to cell phones in the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227(b)(1)(A)(iii) (hereinafter the "cell phone call ban"), is an unconstitutional violation of their First Amendment rights because it is content based and cannot withstand strict scrutiny.

II. JURISDICTION

3. Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. § 1331.

III. VENUE

4. Venue lies with this Court pursuant to 28 U.S.C. § 1391(e)(1)(C) because a plaintiff resides in this district and this case does not involve real property.

IV. AUTHORITY FOR RELIEF

5. Authority for declaratory relief sought by Plaintiffs is conferred upon this Court by 28 U.S.C. §§ 2201 and 2202, and by Fed. R. Civ. P. 57.

V. PARTIES

6. Plaintiff AAPC is a bipartisan, nonprofit association of political professionals located in McLean, Virginia and organized under § 501(c)(6) of the Internal Revenue Code ("IRC"). AAPC provides education for its members and advocates for the protection of political free speech. AAPC members include political fundraisers, organizers, and persons who conduct and analyze political polls, i.e. political pollsters and opinion researchers. AAPC members make calls to persons on their cell phones to solicit political donations and to discuss political and governmental issues.

7. Plaintiff DPO is located in Portland, Oregon and organized as a tax-exempt nonprofit organization under § 527 of the IRC. DPO works to promote the interests of the Democratic Party in the State of Oregon including coordinating, organizing and electing

Democratic candidates. DPO makes calls to registered Democratic and progressive non-affiliated voters on their cell phones to discuss political and governmental issues, give voters critical information to help them with the voting process, encourage voters to return their ballots by deadlines and vote for Democratic candidates, and solicit political donations.

8. Plaintiff PPP is a limited liability for-profit company located in Raleigh, North Carolina. PPP measures and tracks public opinion on candidates, campaigns, and other political issues with automated telephone surveys. PPP makes calls to persons on their cell phones on behalf of politicians, political organizations, unions, consultants, and other organizations.

9. Plaintiff TPF is located in Alexandria, Virginia and organized as a tax-exempt nonprofit organization under § 527 of the IRC. TPF works to promote the interests of the Tea Party by reforming political parties and government to advance the core principles of the Founding Fathers, recruiting Americans who share that same vision, and encouraging grassroots operations to vote and elect candidates who represent these ideals. TPF makes calls to potential voters on their cell phones to solicit political donations and discuss political and governmental issues.

10. Plaintiff WSDCC is the Democratic Party in the State of Washington and is located in Seattle, Washington. WSDCC is organized under § 527 of the IRC. WSDCC works to elect Democrats, uphold Democratic values, and support Democrats across the state. WSDCC members include elected officials, candidates for office, activists, and voters. WSDCC makes calls to registered voters on their cell phones to discuss political and governmental issues and to solicit political donations.

11. Defendant Loretta Lynch ("Attorney General") heads the United States Department of Justice ("DOJ") which is the agency in the United States government responsible

for enforcement of federal law. In her official capacity as Attorney General of the United States, she enforces the law complained of in this action. Plaintiffs sue her in her official capacity.

VI. STANDING

12. Plaintiff AAPC has Article III standing as an organization to bring suit on behalf of its members. *See* Declaration of Alana Joyce in Support of Standing, attached hereto as Exhibit A; *see also Friends of the Earth v. Laidlaw Envtl. Servs. Inc.*, 528 U.S. 167, 181 (2000); *Summers v. Earth Island Inst.*, 555 U.S. 488, 498 (2009).

13. Plaintiff DPO has Article III standing to bring suit as it has a personal stake in the outcome of the action. *See* Declaration of Brad Martin in Support of Standing, attached hereto as Exhibit B; *see also Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992).

14. Plaintiff PPP has Article III standing to bring suit as it has a personal stake in the outcome of the action. *See* Declaration of Dean Debnam in Support of Standing, attached hereto as Exhibit C; *see also Lujan*, 504 U.S. at 560.

15. Plaintiff TPF has Article III standing to bring suit as it has a personal stake in the outcome of the action. *See* Declaration of Niger Innis in Support of Standing, attached hereto as Exhibit D; *see also Lujan*, 504 U.S. at 560.

16. Plaintiff WSDCC has Article III standing to bring suit as it has a personal stake in the outcome of the action. *See* Declaration of Karen Deal in Support of Standing, attached hereto as Exhibit E; *see also Lujan*, 504 U.S. at 560.

VII. STATEMENT OF FACTS

17. Congress passed the TCPA in 1991 as Pub. L. No. 102-243, 105 Stat. 2394 (codified at 47 U.S.C. § 227) to protect telephone subscribers' privacy rights in connection with commercial telephone solicitations.

18. Congress instructed the Federal Communications Commission ("FCC") to account for the "free speech protections embodied in the First Amendment of the Constitution" when considering the impact of any restrictions on noncommercial communications. TCPA, Pub. L. 102-243, § 2(13).

19. The TCPA states:

> It shall be unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States—
>
> (A) to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice--
> …
>
> (iii) to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call, unless such call is made solely to collect a debt owed to or guaranteed by the United States;

47 U.S.C. § 227(b)(1)(A)(iii); 47 C.F.R. § 64.1200(a)(1)(iii) (the "cell phone call ban").

20. The TCPA regulations define "emergency purposes" as "calls made necessary in any situation affecting the health and safety of consumers." *Id*. at (f)(4) (hereinafter the "emergency exemption").

21. The TCPA defines "automatic telephone dialing system" ("ATDS") as "equipment which has the capacity to store or produce telephone numbers to be called, using a random or sequential number generator; and to dial such numbers." 47 U.S.C. § 227(a)(1).

22. The FCC, the states, through their attorneys general or otherwise, and private persons, including classes of persons, can sue for actual or statutory damages for violations of the cell phone call ban for $500 or more per telephone call. *Id*. at (b)(3), (g); 47 U.S.C. § 503.

23. The TCPA provides that the FCC "shall prescribe regulations to implement the requirements of this subsection …." 47 U.S.C. § 227(b)(2).

24. In the 1992 Order regarding the implementation of the TCPA, the FCC stated the purpose of its regulations under this subsection:

> This R&O amends part 64 of the Commission's rules by adding § 64.1200 to restrict the use of automatic telephone dialing systems and artificial or prerecorded voice messages for telemarketing purposes or for transmitting unsolicited telephone facsimile advertisements. The rules require that persons or entities making telephone solicitations establish procedures to protect residential subscribers from unwanted solicitations, and set forth exemptions to certain prohibitions under this part …. The rules are intended to impose reasonable restrictions on autodialed or prerecorded voice telephone calls consistent with considerations regarding public health and safety and commercial speech and trade, and to allow consumers to avoid unwanted telephone solicitations without unduly limiting legitimate telemarketing practices.

57 Fed. Reg. 48333 (Oct. 23, 1992).

25. Since 1992, the FCC and Congress have passed at least six exemptions to the cell phone call ban which apply based on the identity of the caller and/or the content of the exempted calls.

26. In 2012, the FCC exempted from the cell phone call ban "autodialed or prerecorded message calls by a wireless carrier to its customer when the customer is not charged." 77 Fed. Reg. 34233, 34235 (June 11, 2012) (hereinafter referred to as the "wireless exemption").

27. In 2014, the FCC exempted from the cell phone call ban prerecorded and ATDS calls for "package delivery notifications to consumers' wireless phones either by voice or text … so long as those calls are not charged to the consumer recipient, including not being counted against the consumer's plan limits on minutes or texts, and comply with the conditions …." *In the Matter of Cargo Airline Association Petition for Expedited Declaratory Ruling*, 29 FCC Rcd 3432, 3439 (Mar. 27, 2014) (hereinafter referred to as the "package delivery exemption").

28. In 2014, the FCC exempted from the cell phone call ban prerecorded and ATDS "non-telemarketing voice calls or text messages to wireless numbers … [that] rely on a representation from an intermediary that they have obtained the requisite consent from the consumer." *In the Matter of GroupMe, Inc. / Skype Communications S.A.R.L.*, 29 FCC Rcd 3442, 3444 (Mar. 27, 2014) (hereinafter referred to as the "intermediary consent exemption").

29. In 2015, the FCC exempted from the cell phone call ban prerecorded and ATDS "non-telemarketing, healthcare calls that are not charged to the called party" and "for which there is exigency and that have a healthcare treatment purpose …." *In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 et al.*, 30 FCC Rcd 7961, 8930-31 (July 10, 2015) (hereinafter referred to as the "HIPAA exemption").

30. In 2015, the FCC exempted from the cell phone call ban prerecorded and ATDS calls regarding "(1) 'transactions and events that suggest a risk of fraud or identity theft; (2) possible breaches of the security of customers' personal information; (3) steps consumers can take to prevent or remedy harm caused by data security breaches; and (4) actions needed to arrange for receipt of pending money transfers.'" *Id*. at 8023 (hereinafter referred to as the "bank and financial exemption").

31. In 2015, Congress exempted from the cell phone call ban prerecorded and ATDS calls "made solely to collect a debt owed to or guaranteed by the United States". TCPA, Pub. L. No. 114-74, § 301(a) 129 Stat. 588 (2015) (amending 47 U.S.C. § 227(b)(1)(A)(iii); 47 C.F.R. § 64.1200(a)(1)(iii)) (hereinafter referred to as the "debt collection exemption").

COUNT I
(The Cell Phone Call Ban is a Content-based Restriction on Speech)

32. Plaintiffs incorporate by reference the allegations in paragraphs one through 31.

33. The First Amendment reflects a "profound national commitment" to the principle that "debate on public issues should be uninhibited, robust, and wide-open," and has "consistently commented on the central importance of protecting speech on public issues." *Boos v. Barry*, 485 U.S. 312, 318 (1998).

34. "[P]olitical speech is at the very core of the First Amendment." *Carey v. Fed. Elec. Comm'n.*, 791 F. Supp. 2d 121, 133-34 (D.D.C. 2011) (citing *Buckley v. Valeo*, 424 U.S. 1, 39 (1976)). "The First Amendment affords the broadest protection to such political expression in order 'to assure the unfettered interchange of ideas for the bringing about of political and social changes desired by people.'" *McIntyre v. Ohio Elec. Comm'n.*, 514 U.S. 334, 346 (1995).

35. The First Amendment to the United States Constitution prohibits discrimination as to the content of speech or the identity of the speaker. *Reed v. Town of Gilbert*, 135 S. Ct. 2218, 2227 (2015) ("Government regulation of speech is content-based if a law applies to particular speech because of the topic discussed or the idea or message expressed.").

36. The debt collection exemption created by Congress and the FCC's exemptions are based on the content of the speech, which includes the identity of the speaker. *U.S. v. Playboy Entm't Group*, 529 U.S. 803, 812 (2000). Content-based restrictions of protected speech are subject to strict scrutiny. *Cahaly v. Larosa*, 796 F.3d 399, 405 (4th Cir. 2015) ("As a content-based regulation of speech, the anti-robocall statute is subject to strict scrutiny … [u]nder this standard, the government must prove 'that the restriction furthers a compelling interest and is narrowly tailored to achieve that interest.'"); *Riley v. Nat'l Fed. of the Blind*, 487 U.S. 781, 800 (1988) ("These more narrowly tailored rules are in keeping with the First Amendment directive that government not dictate the content of speech absent compelling necessity, and then, only by means precisely tailored.").

37. The Defendant therefore bears the burden of demonstrating that the cell phone call ban is narrowly tailored to further a compelling interest which it is entitled to protect using the least restrictive means available. *Secr'y of the State of Md. v. Joseph H. Munson Co.*, 467 U.S. 947, 959-61 (1984); *Vill. of Schaumburg v. Citizens for a Better Env't.*, 444 U.S. 620, 636-37 (1980). The cell phone call ban does not satisfy strict scrutiny.

38. The TCPA restricts Plaintiffs' fully-protected, political speech whereas the FCC permits prerecorded and ATDS calls or text messages to cell phones (or any service for which the called party is charged) if made pursuant to the wireless exemption. *See* 77 Fed. Reg. at 34235. By favoring commercial speech over Plaintiffs' political speech, the cell phone call ban violates the constitutional rights of these political organizations. *See Metromedia, Inc. v. City of San Diego*, 453 U.S. 490, 513 (1980).

39. The TCPA restricts Plaintiffs' fully-protected, political speech whereas the FCC permits prerecorded and ATDS calls or text messages to cell phones (or any service for which the called party is charged) if made pursuant to the package delivery exemption. *See* 29 FCC Rcd at 3435. By favoring commercial speech over the noncommercial political speech of Plaintiffs, the cell phone call ban violates the constitutional rights of these political organizations. *See Metromedia*, 453 U.S. at 513.

40. The TCPA restricts Plaintiffs' fully-protected, political speech whereas the FCC permits prerecorded and ATDS calls or text messages to cell phones (or any service for which the called party is charged) if made pursuant to the intermediary consent exemption. *See* 29 FCC Rcd at 3444. By favoring this speech over the noncommercial political speech of Plaintiffs, the cell phone call ban violates the constitutional rights of these political organizations. *See Metromedia*, 453 U.S. at 513.

41. The TCPA restricts Plaintiffs' fully-protected, political speech whereas the FCC permits prerecorded and ATDS calls or text messages to cell phones (or any service for which the called party is charged) if made pursuant to the HIPAA exemption. *See* 30 FCC Rcd at 8031. By favoring this speech over the noncommercial political speech of Plaintiffs, the cell phone call ban violates the constitutional rights of these political organizations. *See Metromedia,* 453 U.S. at 513.

42. The TCPA restricts Plaintiffs' fully-protected, political speech whereas the FCC permits prerecorded and ATDS calls or text messages to cell phones (or any service for which the called party is charged) if made pursuant to the bank and financial exemption. *See* 30 FCC Rcd at 8024-28. By favoring commercial speech over the noncommercial political speech of Plaintiffs, the cell phone call ban violates the constitutional rights of these political organizations. *See Metromedia,* 453 U.S. at 513.

43. The TCPA restricts Plaintiffs' fully-protected, political speech whereas the TCPA permits prerecorded and ATDS commercial calls or text messages to cell phones (or any service for which the called party is charged) if made pursuant to the debt collection exemption. 47 U.S.C. § 227(b)(1)(A)(iii); 47 C.F.R. § 64.1200(a)(1)(iii). By favoring commercial speech over the noncommercial political speech of Plaintiffs, the cell phone call ban violates the constitutional rights of these political organizations. *See Metromedia,* 453 U.S. at 513.

44. The cell phone call ban is therefore an unconstitutional content-based restriction on Plaintiffs' fully-protected, political speech in violation of the First Amendment. *Police Dep't of Chi. v. Mosley,* 408 U.S. 92, 95 (1972) ("[A]bove all else, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content.").

COUNT II
(The Cell Phone Call Ban is Underinclusive)

45. Plaintiffs incorporate by reference the allegations in paragraphs one through 44.

46. A law is underinclusive and thus not narrowly tailored "when it discriminates against some speakers but not others without a legitimate 'neutral justification' for doing so." *Nat'l Fed'n of the Blind v. F.T.C.*, 420 F.3d 331, 345 (4th Cir. 2005) ("Even when the government has a compelling interest for restricting speech, it may not seek to further that interest by creating arbitrary distinctions among speakers that bear no 'reasonable fit' to the interest at hand.").

47. An underinclusive statute "raises serious doubts about whether the government is in fact pursuing the interest it invokes, rather than disfavoring a particular speaker or viewpoint." *Brown v. Entm't Merchs. Ass'n*, 131 S. Ct. 2729, 2740 (2011) (holding that a California statute that prohibited the sale or rental of "violent video games" to minors violated the First Amendment because it was underinclusive and did not preclude minors from having access to violent information in other forms).

48. The cell phone call ban is underinclusive because it exempts commercial prerecorded and ATDS calls or text messages to cell phones (or any service for which the called party is charged) if made pursuant to the wireless exemption. *See* 77 Fed. Reg. at 34235.

49. The cell phone call ban is underinclusive because it exempts prerecorded and ATDS calls or text messages to cell phones (or any service for which the called party is charged) if made pursuant to the package delivery exemption. *See* 29 FCC Rcd at 3435.

50. The cell phone call ban is underinclusive because it exempts prerecorded and ATDS calls or text messages to cell phones (or any service for which the called party is charged) if made pursuant to the intermediary consent exemption. *See* 29 FCC Rcd at 3444.

51. The cell phone call ban is underinclusive because it exempts prerecorded and ATDS calls or text messages to cell phones (or any service for which the called party is charged) if made pursuant to the HIPAA exemption. *See* 30 FCC Rcd at 8031.

52. The cell phone call ban is underinclusive because it exempts prerecorded and ATDS calls or text messages to cell phones (or any service for which the called party is charged) if made pursuant to the bank and financial exemption. *Id*. at 8024-28.

53. The cell phone call ban is underinclusive because it exempts commercial prerecorded and ATDS calls or text messages to cell phones (or any service for which the called party is charged) if made pursuant to the debt collection exemption. *See* 47 U.S.C. § 227(b)(1)(A)(iii); 47 C.F.R. § 64.1200(a)(1)(iii).

54. There is no relation between any legitimate government purpose behind the cell phone call ban and the speech banned, regulated, or allowed by it.

55. Plaintiffs' speech is no more harmful than the speech allowed by the content-based exemptions to the cell phone call ban.

56. The cell phone call ban is an impermissible means of advancing any legitimate interest of Defendant. The cell phone call ban is therefore unconstitutional.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray for the following relief and judgment from this Court:

1. A preliminary injunction enjoining the enforcement of the TCPA by Defendant, its agents and employees against these Plaintiffs, and others similarly situated;

2. A permanent injunction enjoining the enforcement of the TCPA by Defendant, its agents and employees against these Plaintiffs, and others similarly situated;

3. A declaratory judgment pursuant to Fed. R. Civ. P. 57 and 28 U.S.C. § 2201 that the TCPA on its face is unconstitutional as it violates the First Amendment to the United States Constitution;

4. An award of nominal damages in the amount of $1.00 as a result of Defendant's violation of Plaintiffs' constitutional rights;

5. An order requiring that Defendant pay all costs, interest, and attorneys' fees as may be incurred with this civil action as allowed by law; and

6. An order providing such other and further relief as the Court deems just and proper and for the purpose of redressing Plaintiffs' grievances.

Dated: May 12, 2016.

Respectfully Submitted,

/s/ Charles George
Charles George
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ATTORNEYS FOR PLAINTIFFS

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Case No.: _____

AMERICAN ASSOCIATION OF POLITICAL CONSULTANTS, INC.,

DEMOCRATIC PARTY OF OREGON, INC.,

PUBLIC POLICY POLLING, LLC,

TEA PARTY FORWARD PAC, and

WASHINGTON STATE DEMOCRATIC CENTRAL COMMITTEE,

Plaintiffs,

v.

LORETTA LYNCH, in her official capacity as Attorney General of the United States,

Defendant.

INDEX OF EXHIBITS / ATTACHMENTS TO COMPLAINT

	Description
1.	Index of Exhibits/Attachments
2.	Exhibit A - Declaration of Alana Joyce in Support of Standing by American Association of Political Consultants
3.	Exhibit B - Declaration of Brad Martin in Support of Standing by Democratic Party of Oregon
4.	Exhibit C - Declaration of Dean Debnam in Support of Standing by Public Policy Polling
5.	Exhibit D - Declaration of Niger Innis in Support of Standing by Tea Party Forward PAC
6.	Exhibit E - Declaration of Karen Deal in Support of Standing by Washington State Democratic Central Committee
7.	Civil Action Cover Sheet
8.	Proposed Summons

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA

AMERICAN ASSOCIATION OF POLITICAL CONSULTANTS, INC.,	)	
DEMOCRATIC PARTY OF OREGON, INC.,	)	
PUBLIC POLICY POLLING, LLC,	)	
TEA PARTY FORWARD PAC, and	)	**Civil Action No. _____**
WASHINGTON STATE DEMOCRATIC CENTRAL COMMITTEE,	)	
Plaintiffs	)	
vs.	)	
LORETTA LYNCH, in her official capacity as Attorney General of the United States	)	
Defendant.	)	

DECLARATION OF ALANA JOYCE IN SUPPORT OF STANDING BY AMERICAN ASSOCIATION OF POLITICAL CONSULTANTS

COMES NOW Alana Joyce, being duly sworn, and states as follows:

1. My name is Alana Joyce. I am over the age of 18, am authorized to make this affidavit on behalf of American Association of Political Consultants, Inc. ("AAPC"), and am otherwise competent to make this affidavit.

2. I make this affidavit based on my own personal knowledge.

3. I have been the Executive Director of AAPC since 2011.

4. In my role as Executive Director, I oversee all AAPC general management, membership growth and retention, and annual conference functions including the recognition of excellence in political consulting practices.

EXHIBIT
A
ALL-STATE LEGAL®

5. AAPC is incorporated in the District of Columbia with its principal office in McLean, Virginia.

6. AAPC is organized as a tax-exempt nonprofit organization under § 501(c)(6) of the Internal Revenue Code.

7. AAPC is the largest bipartisan association of political and public affairs professionals in the world.

8. AAPC provides education for its members and advocates for the protection of political free speech.

9. AAPC members include individuals and businesses that handle all aspects of campaigning including political fundraisers, political organizers, persons who conduct and analyze political polls, i.e. political pollsters and opinion researchers, and persons who organize get out the vote (GOTV) efforts

10. AAPC members make calls to registered voters on their cell phones to solicit political donations.

11. AAPC members make calls to persons on their cell phones to discuss, persuade, inform and measure opinions on political and governmental issues.

12. AAPC members make calls to registered voters on their cell phones to get out the vote (GOTV).

13. The interest of AAPC's members in soliciting political donations, discussing political and governmental issues, measuring political opinion and supporting GOTV efforts by cell phone is connected to AAPC's organizational purpose, which, in large part, is to defend political free speech and provide education and resources regarding same to its members.

14. AAPC, therefore has suffered an injury in fact and has organizational standing to bring suit on behalf of its members in the above-entitled action.

FURTHER AFFIANT SAYETH NOT.

STATE OF VIRGINIA)
)
COUNTY OF FAIRFAX)

Dated at Virginia, this 28 day of April, 2016.

Alana Joyce

Sworn to, subscribed and acknowledged in my presence this 28th day of April, 2016, by Ashley DeWitt

Notary Public

My Commission Expires: 6-30-17

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA

AMERICAN ASSOCIATION OF POLITICAL CONSULTANTS, INC.,	)	
DEMOCRATIC PARTY OF OREGON, INC.,	)	
PUBLIC POLICY POLLING, LLC,	)	
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WASHINGTON STATE DEMOCRATIC CENTRAL COMMITTEE,	)	
Plaintiffs	)	
vs.	)	
LORETTA LYNCH, in her official capacity as Attorney General of the United States	)	
Defendant.	)	

DECLARATION OF BRAD MARTIN IN SUPPORT OF STANDING BY DEMOCRATIC PARTY OF OREGON

COMES NOW Brad Martin, being duly sworn, and states as follows:

1. My name is Brad Martin. I am over the age of 18, am authorized to make this affidavit on behalf of the Democratic Party of Oregon ("DPO"), and am otherwise competent to make this affidavit.

2. I make this affidavit based on my own personal knowledge.

3. I have been Executive Director of DPO since 2013.

4. In my role as Executive Director, I am responsible for managing DPO's internal operations, fundraising, running "get-out-the-vote" campaigns, and recruiting and electing Democrats among other duties.

ALL-STATE LEGAL®
EXHIBIT
B

5. DPO is located at 232 NE 9th Avenue, Portland, Oregon 97232.

6. DPO is organized as a tax-exempt nonprofit organization under § 527 of the Internal Revenue Code.

7. DPO works to promote the interests of the Democratic Party in the State of Oregon including coordinating, organizing and electing Democratic candidates, adopting a party platform, ensuring the party's issues are enacted into law, and representing DPO to the Democratic National Committee and to other states.

8. DPO makes calls to registered Democratic and progressive non-affiliated voters on their cell phones to discuss political and governmental issues, give voters critical information to help them with the voting process, encourage voters to return their ballots by deadlines and vote for Democratic candidates, and solicit political donations.

9. DPO, therefore, has a personal stake in the outcome of the action, has suffered an injury in fact, and has standing to bring suit in the above-entitled action.

[Signatures on the following page.]

FURTHER AFFIANT SAYETH NOT.

STATE OF OREGON)
)
COUNTY OF MULTNOMAH)

Dated at Portland, Oregon, this 4th day of May, 2016.

Brad Martin

Sworn to, subscribed and acknowledged in my presence this 4 day of May, 2016, by Bradley B. Martin

Notary Public

My Commission Expires: 9/2/2019

OFFICIAL SEAL
BRYCE FONG SAETEURN
NOTARY PUBLIC - OREGON
COMMISSION NO. 942478
MY COMMISSION EXPIRES SEPTEMBER 02, 2019

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA

AMERICAN ASSOCIATION OF POLITICAL CONSULTANTS, INC.,	)	
DEMOCRATIC PARTY OF OREGON, INC.,	)	
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WASHINGTON STATE DEMOCRATIC CENTRAL COMMITTEE,	)	
Plaintiffs	)	
vs.	)	
LORETTA LYNCH, in her official capacity as Attorney General of the United States	)	
Defendant.	)	

DECLARATION OF DEAN DEBNAM IN SUPPORT OF STANDING BY PUBLIC POLICY POLLING

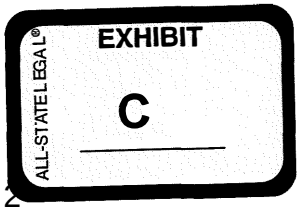
COMES NOW Dean Debnam, being duly sworn, and states as follows:

1. My name is Dean Debnam. I am over the age of 18, am authorized to make this affidavit on behalf of Public Policy Polling, LLC ("PPP"), and am otherwise competent to make this affidavit.

2. I make this affidavit based on my own personal knowledge.

3. I have been President and CEO of PPP since 2001.

4. PPP is a limited liability company located at 2912 Highwoods Blvd., Suite 201, Raleigh, North Carolina 27604.



5. In my role as President and CEO, I oversee all PPP general management including polling and research for national political clients ranging from United States Senate campaigns to major progressive advocacy organizations.

6. PPP measures and tracks public opinion on candidates, campaigns, and other political issues with automated telephone surveys.

7. PPP makes calls to persons on their cell phones on behalf of politicians, political organizations, unions, consultants, and other organizations.

8. PPP, therefore, has a personal stake in the outcome of the action, has suffered an injury in fact, and has standing to bring suit in the above-entitled action.

FURTHER AFFIANT SAYETH NOT.

STATE OF NORTH CAROLINA)
)
COUNTY OF WAKE)

Dated at Raleigh, North Carolina, this 26th day of April, 2016.

Dean Debnam

Sworn to, subscribed and acknowledged in my presence this 26th day of April, 2016, by Dean Debnam.

Julia S. LaColle
Notary Public JULIA S. LACOLLE

My Commission Expires: 5/20/2017

JULIA S LaCOLLE NOTARY PUBLIC

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA

AMERICAN ASSOCIATION OF POLITICAL CONSULTANTS, INC.,	)	
DEMOCRATIC PARTY OF OREGON, INC.,	)	
PUBLIC POLICY POLLING, LLC,	)	
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Plaintiffs	)	
vs.	)	
LORETTA LYNCH, in her official capacity as Attorney General of the United States	)	
Defendant.	)	

DECLARATION OF NIGER INNIS IN SUPPORT OF STANDING BY TEA PARTY FORWARD PAC

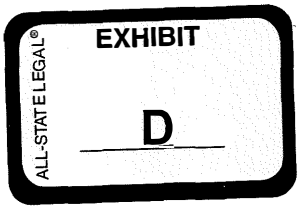
COMES NOW Niger Innis, being duly sworn, and states as follows:

1. My name is Niger Innis. I am over the age of 18, am authorized to make this affidavit on behalf of the Tea Party Forward PAC ("TPF"), and am otherwise competent to make this affidavit.

2. I make this affidavit based on my own personal knowledge.

3. I have been the Chairman of TPF since 2015.

4. In my role as Chairman, I am responsible for the customary oversight of activities, approval of plans and program, and I am the acting spokesperson in media and other internal and external communications.



5. TPF is located at 211 N. Union St., Suite 100, Alexandria, Virginia 22314.

6. TPF is organized as a tax-exempt nonprofit organization under § 527 of the Internal Revenue Code.

7. TPF works to promote the interests of the Tea Party including reforming all political parties and government to advance the core principles of the Founding Fathers, recruiting Americans who share that same vision, and encouraging grassroots operations to vote and elect candidates who represent these ideals.

8. TPF makes calls to potential voters on their cell phones to solicit political donations and discuss political and governmental issues.

9. TPF, therefore, has a personal stake in the outcome of the action, has suffered an injury in fact, and has standing to bring suit in the above-entitled action.

[Signatures on the following page.]

FURTHER AFFIANT SAYETH NOT.

STATE OF VIRGINIA)
)
COUNTY OF FAIRFAX)

Dated at NORTH LAS VEGAS @ WF, this 9 day of May, 2016.

Niger Innis

Sworn to, subscribed and acknowledged in my presence this ___ day of _____, 2016, by _____.

Notary Public

My Commission Expires: _____

WELLS FARGO

Acknowledgment by Individual

State of Nevada County of Clark

On this 9th day of May, 2016, before me, Diana MacCarthy
Name of Notary Public

the undersigned Notary Public, personally appeared

Niger Ray Innis
Name of Signer(s)

○ Proved to me on the oath of _____

○ Personally known to me

X Proved to me on the basis of satisfactory evidence Nevada Driver License # 1045447076
(Description of ID)

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed it.

WITNESS my hand and official seal.

DIANA MACCARTHY
NOTARY PUBLIC
STATE OF NEVADA
My Commission Expires: 09-18-18
Certificate No: 14-14853-1

Notary Seal

(Signature of Notary Public)

My commission expires 09-18-18

Optional: *A thumbprint is only needed if state statutes require a thumbprint.*

Right Thumbprint of Signer
Top of thumb here

Description of Attached Document

Type or Title of Document
United States District Court Eastern District of North Carolina

Document Date
5-9-2016

Number of Pages
3

Signer(s) Other Than Named Above
None

Scanner Enabled Stores should scan this form
Manual Submission Route to Deposit Operations

DSG5350 (Rev01-01/15)

FO01-00000DSG5350-01

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA

AMERICAN ASSOCIATION OF POLITICAL CONSULTANTS, INC.,	)	
DEMOCRATIC PARTY OF OREGON, INC.,	)	
PUBLIC POLICY POLLING, LLC,	)	
TEA PARTY FORWARD PAC, and	)	**Civil Action No. _____**
WASHINGTON STATE DEMOCRATIC CENTRAL COMMITTEE,	)	
Plaintiffs	)	
vs.	)	
LORETTA LYNCH, in her official capacity as Attorney General of the United States	)	
Defendant.	)	

DECLARATION OF KAREN DEAL IN SUPPORT OF STANDING BY WASHINGTON STATE DEMOCRATIC CENTRAL COMMITTEE

COMES NOW Karen Deal, being duly sworn, and states as follows:

1. My name is Karen Deal. I am over the age of 18, am authorized to make this affidavit on behalf of the Washington State Democratic Central Committee ("WSDCC"), and am otherwise competent to make this affidavit.

2. I make this affidavit based on my own personal knowledge.

3. I have been the Executive Director of WSDCC since 2014.

4. In my role as Executive Director, my duties include, but are not limited to, directing our political program, staff management, and internal and external outreach.

5. WSDCC is located at 615 2nd Avenue Suite 580, Seattle, Washington 98104.

ALL-STATE LEGAL® EXHIBIT E

6. WSDCC is organized as a tax-exempt nonprofit organization under § 527 of the Internal Revenue Code.

7. WSDCC works to elect Democrats, uphold Democratic values, and support Democrats across the state. WSDCC members include elected officials, candidates for office, activists, and voters.

8. WSDCC makes calls to registered voters on their cell phones to discuss political and governmental issues and to solicit political donations.

9. WSDCC, therefore, has a personal stake in the outcome of the action, has suffered an injury in fact, and has standing to bring suit in the above-entitled action.

FURTHER AFFIANT SAYETH NOT.

STATE OF WASHINGTON)
)
COUNTY OF KING)

Dated at 2:45 PM, **this** 25 **day of** April, **2016.**

Karen Deal

Sworn to, subscribed and acknowledged in my presence this 25th **day of** April, **2016, by** Karen Deal.

Notary Public

My Commission Expires: 08/13/2018

JS 44 (Rev. 11/15)

CIVIL COVER SHEET

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.)*

I. (a) PLAINTIFFS

American Association of Political Consultants, Inc.; Democratic Party of Oregon, Inc.; Public Policy Polling, LLC; Tea Party Forward PAC; and Washington State Democratic Central Committee

(b) County of Residence of First Listed Plaintiff Fairfax Co., VA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Charles George
Wyrick Robbins Yates & Ponton, LLP, 4101 Lake Boone Trail, Ste. 300,
Raleigh, NC 27607; (919) 781-4000

DEFENDANTS

LORETTA LYNCH, in her official capacity as Attorney General of the United States

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*
c/o United States Attorney for the Eastern District of North Carolina
310 New Bern Avenue, Suite 800
Raleigh, NC 27601

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ❒ 1 U.S. Government Plaintiff
- ❒ 3 Federal Question *(U.S. Government Not a Party)*
- ☒ 2 U.S. Government Defendant
- ❒ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	❒ 1	❒ 1	Incorporated *or* Principal Place of Business In This State	❒ 4	❒ 4
Citizen of Another State	❒ 2	❒ 2	Incorporated *and* Principal Place of Business In Another State	❒ 5	❒ 5
Citizen or Subject of a Foreign Country	❒ 3	❒ 3	Foreign Nation	❒ 6	❒ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ❒ 110 Insurance
- ❒ 120 Marine
- ❒ 130 Miller Act
- ❒ 140 Negotiable Instrument
- ❒ 150 Recovery of Overpayment & Enforcement of Judgment
- ❒ 151 Medicare Act
- ❒ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ❒ 153 Recovery of Overpayment of Veteran's Benefits
- ❒ 160 Stockholders' Suits
- ❒ 190 Other Contract
- ❒ 195 Contract Product Liability
- ❒ 196 Franchise

REAL PROPERTY
- ❒ 210 Land Condemnation
- ❒ 220 Foreclosure
- ❒ 230 Rent Lease & Ejectment
- ❒ 240 Torts to Land
- ❒ 245 Tort Product Liability
- ❒ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ❒ 310 Airplane
- ❒ 315 Airplane Product Liability
- ❒ 320 Assault, Libel & Slander
- ❒ 330 Federal Employers' Liability
- ❒ 340 Marine
- ❒ 345 Marine Product Liability
- ❒ 350 Motor Vehicle
- ❒ 355 Motor Vehicle Product Liability
- ❒ 360 Other Personal Injury
- ❒ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ❒ 365 Personal Injury - Product Liability
- ❒ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ❒ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ❒ 370 Other Fraud
- ❒ 371 Truth in Lending
- ❒ 380 Other Personal Property Damage
- ❒ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☒ 440 Other Civil Rights
- ❒ 441 Voting
- ❒ 442 Employment
- ❒ 443 Housing/ Accommodations
- ❒ 445 Amer. w/Disabilities - Employment
- ❒ 446 Amer. w/Disabilities - Other
- ❒ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ❒ 463 Alien Detainee
- ❒ 510 Motions to Vacate Sentence
- ❒ 530 General
- ❒ 535 Death Penalty

Other:
- ❒ 540 Mandamus-& Other
- ❒ 550 Civil Rights
- ❒ 555 Prison Condition
- ❒ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ❒ 625 Drug Related Seizure of Property 21 USC 881
- ❒ 690 Other

LABOR
- ❒ 710 Fair Labor Standards Act
- ❒ 720 Labor/Management Relations
- ❒ 740 Railway Labor Act
- ❒ 751 Family and Medical Leave Act
- ❒ 790 Other Labor Litigation
- ❒ 791 Employee Retirement Income Security Act

IMMIGRATION
- ❒ 462 Naturalization Application
- ❒ 465 Other Immigration Actions

BANKRUPTCY
- ❒ 422 Appeal 28 USC 158
- ❒ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ❒ 820 Copyrights
- ❒ 830 Patent
- ❒ 840 Trademark

SOCIAL SECURITY
- ❒ 861 HIA (1395ff)
- ❒ 862 Black Lung (923)
- ❒ 863 DIWC/DIWW (405(g))
- ❒ 864 SSID Title XVI
- ❒ 865 RSI (405(g))

FEDERAL TAX SUITS
- ❒ 870 Taxes (U.S. Plaintiff or Defendant)
- ❒ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ❒ 375 False Claims Act
- ❒ 376 Qui Tam (31 USC 3729(a))
- ❒ 400 State Reapportionment
- ❒ 410 Antitrust
- ❒ 430 Banks and Banking
- ❒ 450 Commerce
- ❒ 460 Deportation
- ❒ 470 Racketeer Influenced and Corrupt Organizations
- ❒ 480 Consumer Credit
- ❒ 490 Cable/Sat TV
- ❒ 850 Securities/Commodities/ Exchange
- ❒ 890 Other Statutory Actions
- ❒ 891 Agricultural Acts
- ❒ 893 Environmental Matters
- ❒ 895 Freedom of Information Act
- ❒ 896 Arbitration
- ❒ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ❒ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ❒ 2 Removed from State Court ❒ 3 Remanded from Appellate Court ❒ 4 Reinstated or Reopened ❒ 5 Transferred from Another District *(specify)* ❒ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
28 U.S.C. § 2201

Brief description of cause:
TCPA ban on certain calls made to cell phones violates Plaintiffs' First Amendment rights

VII. REQUESTED IN COMPLAINT:

❒ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE
05/12/2016

SIGNATURE OF ATTORNEY OF RECORD
/s/ Charles George

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

American Association of Political Consultants, Inc.; Democratic Party of Oregon, Inc.; Public Policy Polling, LLC; Tea Party Forward PAC; and Washington State Democratic Central Committee *Plaintiff(s)* v. LORETTA LYNCH, in her official capacity as Attorney General of the United States *Defendant(s)*	)	Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Loretta Lynch
Attorney General of the United States
c/o United States Attorney for the Eastern District of North Carolina
Attn: Civil Process Clerk
310 New Bern Avenue, Suite 800
Raleigh, NC 27601

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Charles George
Wyrick Robbins Yates & Ponton LLP
4101 Lake Boone Trail, Suite 300
Raleigh, NC 27607

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____ , a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc: