

STATE OF NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. _____

STATE OF NORTH CAROLINA, ex rel.
JOSHUA H. STEIN, ATTORNEY GENERAL

Plaintiff,

v.

CLUB EXPLORIA, LLC

Defendant.

COMPLAINT

1. North Carolina law generally prohibits callers from using robocall machines to make unsolicited calls to telephone subscribers. North Carolina law also requires telemarketers to identify themselves at the beginning of calls. Defendant Club Exploria LLC violated both of these requirements, resulting in numerous unlawful calls to North Carolinians.

2. Joshua H. Stein, the Attorney General of North Carolina, brings this action in order to obtain injunctive relief, penalties, and other appropriate relief.

Parties

3. Plaintiff State of North Carolina, by and through Joshua H. Stein, Attorney General of North Carolina (the “Attorney General”), brings this action pursuant to authority granted by Chapters 75 and 114 of the North Carolina General Statutes.

4. Defendant Club Exploria LLC (“Exploria”) is a limited liability company headquartered in Florida and incorporated in Delaware.

5. Exploria solicits customers in North Carolina to sell them timeshares or vacation rentals using robocalls. In contracts with robocalling companies, Exploria has listed North Carolina as one of its “Target Areas.”

North Carolina Telephone Solicitations and Robocall Laws

6. N.C.G.S. § 75-100, *et seq.*, generally protects “telephone subscribers” from deceptive and abusive “telephone solicitors.” There are additional protections against callers who use “automatic dialing and recorded message players” to make unsolicited calls.

7. The statute’s definition of “telephone solicitor” includes a business that makes telemarketing calls “directly or through salespersons or agents.” N.C.G.S. § 75-101(10). A “telephone subscriber” is an individual who subscribes for residential telephone service from a carrier, including a wireless carrier. N.C.G.S. § 75-101(11).

8. An “automatic dialing and recorded message player” is “[a]ny automatic equipment that incorporates a storage capability of telephone numbers to be called . . . that, working alone or in conjunction with other equipment, disseminates a prerecorded message to the telephone number called.”

9. Telephone callers doing business in North Carolina who use automatic dialing and recorded message players generally may not place any unsolicited telephone calls to telephone subscribers. N.C.G.S. § 75-104(a).

10. A telephone solicitor must also, “[a]t the beginning of the telephone solicitation, state clearly the identity of the telephone solicitor and identify the individual making the telephone solicitation.” N.C.G.S. § 75-102(c)(1).

Factual Allegations

11. Exploria is a timeshare company that, through its agents, made unsolicited calls using prerecorded voices to solicit business for itself.

12. Exploria used soundboard technology to make its unsolicited telephone calls. Soundboard technology allows a live telemarketer to communicate with a call recipient by playing prerecorded audio snippets instead of their own live voice.

13. The calls followed one of several prerecorded scripts. One such script began this way:

Hello this is _____, a Trip Advisor calling from the Helping Hands Association. We're on a recorded line, and you can press 1 to be removed. Can you hear me ok?

[Wait for recipient's reply] Great!

Great! Helping Hands Association is pleased to announce some exciting news. Magical Orlando, Florida was just voted America's #1 vacation destination. We're so excited — and celebrating by giving away 3-night vacation getaways to the first 100 qualified travelers. All we ask in return is that you tell your family and friends about the wonderful time that you had with our marketing partner, Exploria Resorts. You can do that, right?

You'll stay at the award-winning Summer Bay Orlando Resort, located 10 minutes from Walt Disney World Resort. Our 400-acre lavishly landscaped resort is right in the heart of everything you will want to do. You'll enjoy amenities such as on-site restaurants, outdoor pools, water sports, biking, horseshoes, 19 tennis courts, a state-of-the-art fitness center, game rooms for the kids. Free wi-fi, free parking, and free shuttles to the big theme parks. There's 25 championship golf courses nearby, too.

I just have a few questions to make sure that you qualify. It will only take a second. Then I can have you speak to the vacation specialist that can tell you more about it, and answer any questions that you have, okay?

14. Many of those calls went to telephone subscribers in North Carolina.

15. Exploria, through its agents, used various automatic systems that, when working in conjunction with each other, (1) stored telephone numbers to be called; (2) called such numbers; and (3) played prerecorded messages to the recipients of those telephone calls, including through the use of soundboards. Such calls were therefore placed using an “automatic dialing and recorded message player” under N.C.G.S. § 75-101(2).

16. Exploria did not obtain the telephone subscriber's prior express invitation or permission before making these calls.

17. Moreover, the telephone calls misidentified the caller as “Helping Hands Association,” and either did not mention “Exploria” in the recording at all or, at most, mentioned “Exploria” midway through the calls.

Causes of Action

First Cause of Action: Unsolicited Telephone Calls

18. Plaintiff realleges and incorporates Paragraphs 1 through 17 as if fully set forth herein.

19. North Carolina General Statute § 75-104(a) prohibits the “use of an automatic dialing and recorded message player to make an unsolicited telephone call” unless a relevant exception applies.

20. Exploria, using automatic dialing and recorded message players, made unsolicited telephone calls to North Carolinians. No exception to the statute applies.

Second Cause of Action: Failure to Identify

21. Plaintiff realleges and incorporates Paragraphs 1 through 17 as if fully set forth herein.

22. North Carolina General Statute § 75-102(c)(1) requires any telephone solicitor making telephone solicitations to, among other things, “[a]t the beginning of the telephone solicitation, state clearly the identity of the telephone solicitor and identify the individual making the telephone solicitation.”

23. Exploria is a telephone solicitor, and it made telephone solicitations to North Carolinians. In those solicitations, Exploria did not identify itself at the beginning of the telephone solicitation.

Prayer for Relief

WHEREFORE, the Attorney General prays this Court for the following relief:

- A. That this Court issue a permanent injunction, prohibiting Exploria, acting through itself or others, from, among other things, using an automatic dialing and recorded message player to make any calls to North Carolina telephone subscribers.
- B. That Exploria be required to pay civil penalties and other appropriate relief or compensation, pursuant to N.C.G.S. § 75-105(a).
- C. That costs and reasonable attorneys' fees be awarded to the State of North Carolina pursuant to N.C.G.S. §§ 75-16.1 and -105(d).
- D. Other appropriate relief.

Respectfully submitted this the 18th day of October, 2024.

JOSHUA H. STEIN
Attorney General of North Carolina

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