

Sample Junk Fax Complaint Format

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[Your name,
Address, and
Phone number
or
those of your lawyer]

{Attorneys for }Plaintiff

[court name should begin on line 8 or below:]
[for example:] SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF [county]

[YOUR FULL NAME IN CAPS],) Case No. _____

Plaintiff,) **COMPLAINT**

vs.) Violation{s} of 47 U.S.C. § 227(b)
(Restrictions on the use of automated telephone
equipment), and 47 C.F.R. § 64.1200
(Delivery restrictions).

[DEFENDANTS' FULL NAMES
IN CAPS, SEPARATED BY
SEMICOLONS; SPEAK OF PEOPLE
"individually and as a principal of"
THEIR CORPORATE OR "DOING
BUSINESS AS" NAMES];
and DOES 1 through [for example]50, inclusive,

Defendants.

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1 **GENERAL ALLEGATIONS**

2
3 **THE PARTIES**

4 1. Plaintiff [YOUR NAME IN CAPS] is [describe your residence, give your address].

5 2. Defendant [FIRST DEFENDANT'S NAME] is, {and at all relevant times was},
6 [describe, give main address or mailing address, and if a business, principal officers names, and if a
7 corporation, its registered office and registered agent]

8 NNN. [additional paragraphs for each defendant or different name for defendant]

9 NNN. Plaintiff is ignorant of the true names or capacities of the defendants sued herein
10 under the fictitious names DOE ONE through [FIFTY] inclusive.

11
12 **STATEMENT OF FACTS**

13 NNN. [PLAINTIFF] has, and at all relevant times had, telephone service at (NNN) NNN-
14 NNNN. [PLAINTIFF] receives facsimile transmissions ("faxes") at that number, using a telephone
15 facsimile machine ("fax machine").

16 NNN. On or about [date], [PLAINTIFF] received on [her/his/their/its] fax machine a fax that
17 advertises [DEFENDANT and/or defendant's contact/identifying information or defendant's
18 products, goods or services]. This fax was wholly unsolicited. A copy of this fax advertisement is
19 attached hereto as Exhibit LLL.

20 NNN. [additional paragraph for each fax]

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22
23 **[if applicable, "FIRST", "SECOND", etc.] CAUSE OF ACTION, AGAINST**

24 **ALL DEFENDANTS [or specific defendant(s)], FOR VIOLATION OF**

25 **47 U.S.C. § 227 AND 47 C.F.R. § 64.1200**

26 NNN. Plaintiff repeats each and every allegation contained in the paragraphs above and
27 incorporates such allegations by reference.

1 NNN. Copies of the federal statute and regulations discussed below are attached for the
2 Court's convenience as Exhibit LLL. [this may not be *required* for a complaint]

3 NNN. The Telephone Consumer Protection Act of 1991, Pub.L. 102-243, § 3(a), added
4 Section 227 to Title 47 of the United States Code. 47 U.S.C. § 227 was last amended in 1994.

5 NNN. In pertinent part, 47 U.S.C. § 227(b) provides "It shall be unlawful for any person
6 within the United States . . . to use any telephone facsimile machine, computer, or other device to
7 send an unsolicited advertisement to a telephone facsimile machine[.]"

8 NNN. In pertinent part, 47 C.F.R. § 64.1200(a), a regulation prescribed under 47 U.S.C. §
9 227(b) and effective as of December 20, 1992, provides that "No person may . . . [u]se a telephone
10 facsimile machine, computer, or other device to send an unsolicited advertisement to a telephone
11 facsimile machine."

12 NNN. As used in both 47 U.S.C. § 227 and 47 C.F.R. 64.1200, "[t]he term 'unsolicited
13 advertisement' means any material advertising the commercial availability or quality of any property,
14 goods, or services which is transmitted to any person without that person's prior express invitation or
15 permission." (47 U.S.C. § 227(a)(4); 47 C.F.R. § 64.1200(f)(5).)

16 NNN. Paragraph (3) of 47 U.S.C. § 227(b) provides:

17 (3) Private right of action

18 A person or entity may, if otherwise permitted by the laws or rules of court of
19 a State, bring in an appropriate court of that State--

20 (A) an action based on a violation of this subsection or the regulations
21 prescribed under this subsection to enjoin such violation,

22 (B) an action to recover for actual monetary loss from such a violation, or to
23 receive \$500 in damages for each such violation, whichever is greater, or

24 (C) both such actions.

25 If the court finds that the defendant willfully or knowingly violated this
26 subsection or the regulations prescribed under this subsection, the court may,
27 in its discretion, increase the amount of the award to an amount equal to not
28 more than 3 times the amount available under subparagraph (B) of this
paragraph.

26 NNN. Plaintiff alleges that on or about [give date(s)] defendant{s [or identify which
27 defendant(s)]} used a telephone facsimile machine, computer, or other device to send unsolicited
28 advertisements [for (describe)?] to a telephone facsimile machine owned by plaintiff.

1 NNN. Plaintiff further alleges that {in each instance} defendants did so willfully or
2 knowingly.

3 NNN. [*especially if suing a fax broadcasting service:*]Plaintiff further alleges on information
4 and belief that {in each instance} defendant{s} had actual notice of participation, or a high degree of
5 involvement, in a plan to transmit unsolicited advertisements to telephone facsimile machines (by,
6 for example, knowing the that the transmitted faxes were advertisements or participating in preparing
7 their content, providing or obtaining the fax telephone number of Plaintiff or other recipients, and
8 knowing that Plaintiff or other recipients had not authorized the faxes' transmission by prior express
9 invitation or permission). [mention any other indications that defendant(s) knew they were sending
10 unsolicited ads; for example, if a defendant's trade name includes the word "advertising."]

11 NNN. Plaintiff therefore alleges that defendants violated 47 U.S.C. § 227 and 47 C.F.R. §
12 64.1200.

13
14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff prays for judgement against defendant(s) and relief as follows:

16 A. [as applicable:] {Jointly and severally} against {all} defendant{s}, the statutory award
17 available under 47 U.S.C. § 227(b)(3)(B) of [\$500 times XX, where XX is the number of
18 lawbreaking faxes you received from the defendant(s)] for XX violations against plaintiff of 47
19 U.S.C. § 227(b) or the regulations prescribed thereunder.

20 B. An increase by the Court of the award prayed for in the preceding paragraph to three
21 times the amount available under 47 U.S.C. § 227(b)(3)(B), as authorized by 47 U.S.C. § 227(b)(3)
22 for willful or knowing violation. Here, an increase from an award of [\$500 times XX] to an award of
23 [\$1,500 times XX].

24 [LLL. as applicable:] {Jointly and severally} against {all} defendant{s}, an award of
25 attorney fees, costs and expenses of bringing and prosecuting this action, pursuant to law including
26 Cal. Code Civ. Proc. § 1021.5.
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LLL. Such other and further relief as the Court may deem just and proper.

Dated: [Month day, Year]

Respectfully Submitted,
[YOUR FULL NAME IN CAPS
[or your main lawyer's FIRM NAME and
lawyer(s) names]

by: (you or your main lawyer signs here)
[Your name, or your main lawyer's name]
[if applicable:] ATTORNEYS FOR PLAINTIFF
YOUR FULL NAME IN CAPS