

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

STATE OF TEXAS et al.,

Plaintiffs,

v.

RISING EAGLE CAPITAL GROUP LLC et  
al.,

Defendants.

CASE NO. 4:20-cv-02021

**PLAINTIFF STATES' REQUEST FOR THE COURT TO ENTER DEFAULT  
AGAINST DEFENDANTS RISING EAGLE CAPITAL GROUP LLC, RISING  
EAGLE CAPITAL GROUP-CAYMAN, AND JSQUARED TELECOM LLC**

Plaintiffs, the States of Arkansas, Indiana, Michigan, Missouri, North Carolina, North Dakota, Ohio, and Texas ("Plaintiffs" or "the States") respectfully ask the to enter a default against Defendants Rising Eagle Capital Group LLC, Rising Eagle Capital Group-Cayman, and JSquared Telecom LLC by Federal Rule of Civil Procedure 55.

1. On June 9, 2020, the States (excluding North Dakota) filed their Original Complaint against Defendants John C. Spiller, II ("Spiller"), Jakob A. Mears ("Mears"), JSquared Telecom LLC ("JSquared"), and Rising Eagle Capital Group, LLC ("Rising Eagle"), alleging violations of the TCPA, its related

rules, and various state telemarketing laws. ECF. No. 1. On August 28, 2020, the States filed their First Amended Complaint against Defendants, adding the State of North Dakota as a plaintiff. ECF No. 42.

2. On October 30, 2020, the States filed their Second Amended Complaint, adding Defendants Rising Eagle Capital Group – Cayman (“Rising Cayman”), Health Advisors of America, Inc. (“Health Advisors”), Michael Theron Smith, Jr. (“Smith”), and Scott Shapiro (“Shapiro”). ECF No. 56.
3. On November 20, 2020, Defendants Rising Eagle (ECF No. 64) and JSquared (ECF No. 66) filed their Answers.
4. On January 7, 2021, Rising Eagle (ECF No. 81), Rising Cayman (ECF No. 80), and JSquared (ECF No. 81) filed Motions to Dismiss Plaintiffs’ Second Amended Complaint.
5. On July 12, 2021, counsel for Rising Eagle, Rising Cayman, and JSquared filed a motion to withdraw as counsel. ECF No. 119.
6. On August 18, 2021, the Court granted the withdraw, and ordered Rising Eagle, Rising Cayman, and JSquared to have counsel by September 10, 2021, or “Defendants Rising Eagle, Rising Eagle Cayman, and JSquared’s Answers and Motions to Dismiss will be stricken.” ECF. No. 130.
7. On September 13, 2021, Plaintiffs filed a Motion to Strike Rising Eagle and JSquared’s Answers and Rising Eagle, Rising Eagle Cayman, and JSquared’s Motions to Dismiss. ECF. No. 131.

8. On September 27, 2021, the Court denied the Defendants' Motions to Dismiss. ECF. No. 133.
9. In the September 27, 2021 Order, the Court wrote in footnote 1: "Counsel for the Rising Eagle Defendants has withdrawn. (Dkt. 130). Plaintiffs have filed a motion to strike the answers and motions to dismiss filed by every Rising Eagle Defendant except John C. Spiller and Jakob Mears. (Dkt. 131). The Court will grant Plaintiffs' motion to strike by separate order."
10. To date, the Court has not granted the Motion to Strike.
11. To date, counsel has not entered an appearance for Rising Eagle, Rising Cayman, and JSquared.
12. The Plaintiff States respectfully ask the Court to order the striking of Rising Eagle, Rising Cayman, and JSquared. A proposed order granting the Motion to Strike can be found at ECF No. 131.
13. After the Answers are stricken, Defendants Rising Eagle and JSquared will not have filed a responsive pleading or otherwise defended the suit.
14. Further, Rising Cayman never filed an answer and has not otherwise defended the suit.
15. Defendants Rising Eagle, Rising Cayman, and JSquared, as corporate entities, are not infants, incompetent persons, or members of the United States Military. 50 U.S.C. App. § 520(1); Fed. R. Civ. P. 55(b)(1).

For the foregoing reasons, Plaintiffs respectfully request this Court to strike Defendants Rising Eagle and JSquared's Answers, and then enter a default against Defendants Rising Eagle, Rising Cayman, and JSquared pursuant to Rule 55(a) of the Federal Rules of Civil Procedure.

Dated September 9, 2022

Respectfully submitted,

/s/ Joseph D. Yeoman  
Joseph D. Yeoman

**FOR THE STATE OF ARKANSAS:**

LESLIE RUTLEDGE

Attorney General for the State of  
Arkansas

/s/ David McCoy

DAVID MCCOY

Ark. Bar No. 2006100

David.McCoy@ArkansasAG.gov

SHANNON HALIJAN

Ark. Bar No. 2005136

Shannon.Halijan@ArkansasAG.gov

PEGGY JOHNSON

Ark. Bar No. 92-223

Peggy.Johnson@ArkansasAG.gov

Assistant Attorneys General

Office of the Arkansas Attorney General

323 Center Street, Suite 200

Little Rock, AR 72201

(501) 682-7506 (McCoy)

(501) 683-1509 (Halijan)

(501) 682-8062 (Johnson)

*Counsel for Plaintiff*

*STATE OF ARKANSAS*

**FOR THE STATE OF INDIANA:**

TODD ROKITA

Attorney General for the State of Indiana

/s/ Douglas S. Swetnam

DOUGLAS S. SWETNAM

Indiana Bar No. 15860-49

douglas.swetnam@atg.in.gov

JOSEPH D. YEOMAN

Indiana Bar No. 35668-29

Joseph.Yeoman@atg.in.gov

Deputy Attorneys General

302 West Washington Street

IGCS – 5th Floor

Indianapolis, IN 46204

(317) 232-6294 (Swetnam)

(317) 234-1912 (Yeoman)

(317) 232-7979 (Fax)

*Counsel for Plaintiff*

*STATE OF INDIANA*

**FOR THE STATE OF MICHIGAN:**

DANA NESSEL

Attorney General for the State of  
Michigan

/s/ Kathy Fitzgerald

KATHY FITZGERALD

Michigan State Bar No. P31454

fitzgeraldk@michigan.gov

SCOTT MERTENS

Michigan State Bar No. P60069

Mertenss@michigan.gov

Assistant Attorneys General

Corporate Oversight Division

Michigan Department of Attorney  
General

P.O. Box 30736

Lansing, MI 48909

(517) 335-7632

*Counsel for Plaintiff*

*STATE OF MICHIGAN*

**FOR THE STATE OF MISSOURI:**

ERIC SCHMITT

Attorney General for the State of  
Missouri

/s/ Michelle L. Hinkl

MICHELLE L. HINKL

Missouri State Bar No. 64494

Michelle.Hinkl@ago.mo.gov

Assistant Attorney General

P.O. Box 861

St. Louis, MO 63188

Telephone: (314) 340-7961

Fax: (314) 340-7981

*Counsel for Plaintiff*

*STATE OF MISSOURI*

**FOR THE STATE OF NORTH  
CAROLINA:**

JOSHUA H. STEIN  
Attorney General for the State of North  
Carolina

/s/ Tracy Nayer  
TRACY NAYER  
North Carolina State Bar No. 36964  
tnayer@ncdoj.gov  
Special Deputy Attorney General  
North Carolina Department of Justice  
Consumer Protection Division  
P.O. Box 629  
Raleigh, North Carolina 27602  
Telephone: (919) 716-6000  
Facsimile: (919) 716-6050

*Counsel for Plaintiff*  
*STATE OF NORTH CAROLINA*

**FOR THE STATE OF NORTH  
DAKOTA:**

DREW H. WRIGLEY  
Attorney General for the State of North  
Dakota

/s/ Brian M. Card  
BRIAN M. CARD  
North Dakota State Bar No. 07917  
bmcard@nd.gov  
Assistant Attorney General  
PARRELL D. GROSSMAN  
North Dakota State Bar No. 04684  
pgrossman@nd.gov  
Assistant Attorney General  
North Dakota Attorney General's Office  
Consumer Protection & Antitrust  
Division  
1720 Burlington Drive, Suite C  
Bismarck, ND 58504-7736

*Counsel for Plaintiff*  
*STATE OF NORTH DAKOTA*

**FOR THE STATE OF OHIO:**

DAVE YOST

Attorney General for the State of Ohio

/s/ Erin B. Leahy

ERIN B. LEAHY

Ohio Bar No. 69509

W. TRAVIS GARRISON

Ohio Bar No. 76757

Assistant Attorneys General

Ohio Attorney General's Office

Consumer Protection Section

30 E. Broad Street, 14<sup>th</sup> Floor

Columbus, Ohio 43215

(614) 752-4730 (Leahy)

(614) 728-1172 (Garrison)

Erin.Leahy@OhioAttorneyGeneral.gov

Travis.Garrison@OhioAttorneyGeneral.gov

*Counsel for Plaintiff*

**STATE OF OHIO**

**FOR THE STATE OF TEXAS:**

KEN PAXTON

Attorney General for the State of Texas

/s/ Patrick Abernathy

PATRICK ABERNATHY

Texas State Bar No. 24109556

Patrcik.abernathy@oag.texas.gov

C. BRAD SCHUELKE

Texas State Bar No. 24008000

Brad.schuelke@oag.texas.gov

Assistant Attorneys General

Office of the Attorney General

P.O. Box 12548 (MC-010)

Austin, Texas 78711

Telephone: (512) 463-2100

Facsimile: (512) 473-8301

*Counsel for Plaintiff*

**STATE OF TEXAS**



**CERTIFICATE OF SERVICE**

I hereby certify that, on September 9, 2022, I electronically filed the foregoing **PLAINTIFF STATES' REQUEST FOR THE COURT TO ENTER DEFAULT AGAINST DEFENDANTS RISING EAGLE CAPITAL GROUP LLC, RISING EAGLE CAPITAL GROUP-CAYMAN, AND JSQUARED TELECOM LLC** with the Clerk using the CM/ECF system, which will automatically send e-mail notification of such filing to all counsel of record. I hereby certify that, on September 9, 2022, I served the below parties via Certified Mail and E-Mail:

John C Spiller, II  
on his own behalf and on behalf of all  
Rising Eagle  
9022 N. Ferndale Place Drive  
Houston, TX 77064  
rpgleads@gmail.com

Jakob A. Mears  
9009 N FM 620 Rd., Apt. 2208  
Austin, Texas 78726  
jakobmears2016@gmail.com

/s/ Joseph D. Yeoman  
Joseph D. Yeoman