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3 **UNITED STATES DISTRICT COURT**  
4 **NORTHERN DISTRICT OF CALIFORNIA**  
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8 **LYNN SLOVIN, SAMUEL KATZ AND JEFFERY**  
9 **PRICE**, individually and on behalf of all others  
similarly situated,

10 **Plaintiffs,**

11 **v.**

12 **SUNRUN, INC., CLEAN ENERGY EXPERTS,**  
13 **LLC, DBA SOLAR AMERICA, AND DOES 1**  
14 **THROUGH 5,**

14 **Defendants.**

**Case No.: 15-CV-5340 YGR**

**ORDER GRANTING MOTION OF DEFENDANTS**  
**SUNRUN, INC. AND CLEAN ENERGY EXPERTS,**  
**LLC'S TO STRIKE WITH LEAVE TO AMEND**

**DKT. NO. 36**

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16 Plaintiffs Lynn Slovin, Samuel Katz, and Jeffery Price ("Plaintiffs") bring this putative class  
17 action against Defendants SunRun, Inc., and Clean Energy Experts, LLC, dba Solar America  
18 ("Defendants") for violation of the federal Telephone Consumer Protection Act ("TCPA"), 47  
19 U.S.C. section 227. Plaintiffs filed their Second Amended Complaint on March 25, 2015. (Dkt.  
20 No. 35.)

21 Defendants filed their answer to the Second Amended Complaint and, at the same time,  
22 filed a Motion to Strike. (Dkt. No. 36.) Defendants seek to strike the class actions here on the  
23 grounds that the class alleged is improperly fail-safe and unascertainable, and that it fails the  
24 predominance and typicality requirements of Rule 23 on the face of the complaint. Defendants  
25 object that the proposed class definitions are flawed because they would require a merits-based  
26 determined in order to determine class membership because they are defined as recipients of calls  
27 "from or on behalf of Defendants," yet Plaintiffs have not alleged the entities that may have placed  
28 such calls on behalf of Defendants.

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Based upon the Court's review of the SAC and the motion, and as discussed with the parties at the case management conference held April 25, 2016, the Court **GRANTS** the Motion to Strike **WITH LEAVE TO AMEND**.


Plaintiffs shall file their Third Amended Complaint specifying the third party agents they contend made calls on behalf of Defendants no later than **June 28, 2016**.

Accordingly, the Motion to Strike is **GRANTED WITH LEAVE TO AMEND**. The hearing previously set for June 7, 2016, is **VACATED**.

This terminates Docket No. 36.

**IT IS SO ORDERED.**

Date: **April 28, 2016**

  
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**YVONNE GONZALEZ ROGERS**  
**UNITED STATES DISTRICT COURT JUDGE**