

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

EUGENE ROSALES, on behalf of  
himself and all others similarly situated;

Plaintiff,

vs.

JOHN C. HEATH, Attorney at Law;

Defendant.

**8:17CV87**

**ORDER**

After conferring with counsel, the court questions whether the named plaintiff has standing to pursue a claim against Defendant, and if so, whether he has standing to represent the class of “[a]ll persons within the United States who, within four years of this Complaint, received on their cellular telephone at least one unauthorized text message from Defendant in which Defendant marketed its credit repair services.” (Filing No. 1, at CM/ECF p. 11, ¶ 60). As to the latter question, if the class must be re-defined to reflect those persons who have claims that are common and typical to Plaintiff’s claim(s), any class re-definition may narrow or otherwise modify the scope of relevant discovery, and it may impact the numerosity factor of the court’s class certification decision.

Accordingly,

IT IS ORDERED:

1) On or before November 30, 2018, Defendant shall move the court for a determination on whether Plaintiff has standing to pursue a claim against Defendant and if so, any re-definition of the class members who may have claims

common and typical of Plaintiff such that Plaintiff can adequately represent their interests.

2) Plaintiff's response shall be filed on or before December 14, 2018, with any reply filed on or before December 21, 2018.

3) The conference call previously set for November 20, 2018 is cancelled.

4) To assure case progression, the clerk shall set an internal case management deadline for December 27, 2018.

November 16, 2018.

BY THE COURT:

s/ Cheryl R. Zwart  
United States Magistrate Judge