

Supreme Court Ruling Protects Driver's License Information

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The U.S. Supreme Court recently ruled in *Matacich v. Spears* that solicitation of prospective clients using personal information from the Department of Motor Vehicles was not permissible under the litigation exception of the Driver's Privacy Protection Act of 1994 ("DPPA"). The DPPA prohibits the disclosure of a driver's personal information without consent unless one of 14 statutorily enumerated exceptions applies. These exceptions include using DMV information for marketing purposes if express consent has been obtained by the State. Trial attorneys submitted a Freedom of Information Act request to the South Carolina Department of Motor Vehicles to obtain the names and addresses of tens of thousands of individuals claiming the data would be used in anticipation of litigation. The attorneys then used this information to solicit clients for a lawsuit against South Carolina car dealerships. The solicited individuals sued the trial attorneys for violating the DPPA by obtaining, disclosing, and using their personal information for mass solicitation without their prior consent. The trial attorneys being sued argued that they did not need consent because their use fell under the "litigation exception" to the DPPA. In a 5-4 decision, the Court narrowly construed that exception, holding that it does not extend to the use of protected data from state drivers' databases to solicit clients. The Court reasoned that Congress could not have intended that personal information, including social security numbers, could be obtained for such a purpose.

TIP: This cases is interesting not only because the Supreme Court has rarely ruled on privacy related cases, but also because it serves as a reminder for companies that are considering obtaining DMV information. DMV information can be used only for specific enumerated purposes as outlined in the DPPA. While these include marketing, it is only with express consent, which can be obtained by the state. Companies obtaining records from the DMV that wish to use the information for marketing purposes should ensure that such consent is in place.

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