

Calling Reassigned Cell Numbers Likely Violates TCPA

MAY 22, 2012

The Seventh Circuit recently declined to dismiss a lawsuit against a debt collector that repeatedly called individuals who had inherited their cell phone numbers. The individuals claimed that the company, Enhanced Recovery Co. LLC, had violated the Telephone Consumer Protection Act (TCPA) because they had never given consent to receive calls sent using an auto-dialer. Instead, their cell phone numbers had been previously held by other individuals – who may have granted consent, but the plaintiffs did not. This provision of the Act is the same that prohibits sending text messages to cell phones without consent. According to the Seventh Circuit, this was the first time it had examined who needs to grant consent: the original cell phone subscriber or the subsequent one. Among the alternatives, the court indicated the company could have used included conducting reverse look-ups to see if the person who currently holds the number is the same as the person who originally gave consent.

TIP: It is important to make sure that you have consent from the individuals whose cell phone numbers you call or text using an auto-dialer. Other than conducting reverse look-ups, other options include limiting the duration of time that an opt-in is valid, to reduce the risk that someone is contacted after their number has been reassigned.

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