

Text Message Lawsuits Continue in California

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While one class action lawsuit is settling in California for \$49,100 against a group of car dealerships, another has been filed against the Pittsburgh Penguins. In the first case, the plaintiffs alleged that the car dealerships sent text messages to consumers without their prior express consent. Plaintiff's counsel had originally indicated that damages –when calculated against each call made– would exceed \$5 million. In the complaint, the named plaintiff indicated that he had neither granted consent for receiving text messages, nor provided defendants with his cell phone number. In addition, plaintiff alleged that the dealership violated the law when it sent a confirmation text in response to his opt-out request. In the second case, filed recently, the plaintiff states that while he signed up to get text message alerts from the Pittsburgh Penguins, he only agreed to receive up to three messages a week. According to the complaint, he received more than three texts each week. The complaint alleges that the extra messages were thus sent without the necessary consent under the Telephone Consumer Protection Act, and that the Pittsburgh Penguins also violated its contract with the plaintiff.

TIP: These cases are yet another reminder that companies need to get appropriate consent to send text messages. When indicating how many messages will be sent –pursuant to Mobile Marketing Association and carrier requirements- companies should think carefully about the number to list. It would be prudent to indicate slightly more messages than a marketing team might actually think they will send, to provide greater flexibility.

1 Min Read

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