

Motion to Dismiss TCPA Claims Against Adult Club Denied

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An adult club called The Playhouse, owned by B&B Entertainment, was accused of sending unsolicited text messages to potential customers using an automated telephone dialing machine in violation of the Telephone Consumer Protection Act. B&B filed a motion to dismiss, arguing that the plaintiffs in the class complaint had not alleged what numbers were called or whether B&B had stopped sending messages upon consumer requests. The court denied the motion, finding that the plaintiff had advanced sufficient facts to state a claim. Specifically, that plaintiff never gave B&B permission to call his cell phone and that it used an automotive dialing device. The court noted that plaintiff did not need to identify the specific phone number called or the identities of the putative class members. The court found it was sufficient at this stage for plaintiff to allege the dates and content of the messages he received from a 773 telephone number, that numerous other persons received the same text to their cell phones, and plaintiff never gave B&B his phone number.

TIP: This case serves as reminder that companies should obtain appropriate consent before sending text messages.

1 Min Read

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