February 21, 2014

Commission’s Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Room TW-A325
Washington, DC 20554

Re: Petition for Declaratory Ruling filed by the Retail Industry Leaders Association
(CG Docket No. 02-278)

To whom it may concern:

The American Financial Services Association (“AFSA”) welcomes the opportunity to comment on the Petition for Declaratory Ruling (“Petition”) filed by the Retail Industry Leaders Association (“RILA”) requesting that the Federal Communications Commission (“FCC”) clarify certain aspects of the Telephone Consumer Protection Act (“TCPA”), and in particular the prior written consent rules that became effective October 16, 2013. We request that the FCC declare expeditiously that the TCPA rules effective October 16, 2013, do not apply to isolated, immediate, one-time responses to consumer-initiated requests for text offers (“on demand texts”).

AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. Its more than 350 members include consumer and commercial finance companies, auto finance/leasing companies, mortgage lenders, mortgage servicers, credit card issuers, industrial banks and industry suppliers. Like the retailers discussed in the Petition, AFSA members may use on demand text offers to meet their customer’s increased expectations for value, personalization, and convenience.

On demand texts are only sent as a one-time, immediate response to a consumer-initiated text request. For example, consumers may see a call to action display, such as “text ‘lease’ to 12-345 for a special offer.” If interested, consumers text the word “lease” to the number provided. Consumers then receive a near instant text response containing the desired offer.

I. Sending a one-time, on demand text in response to a consumer’s specific request does not violate the TCPA.

AFSA agrees with RILA that the FCC could not have intended for the new written consent rules that became effective October 16, 2013 to apply to consumer-initiated on demand texts because these texts are: “(1) proactively initiated by the consumer, not a telemarketer, (2) isolated, one-
time only messages sent immediately in response to a consumer’s specific request, and (3) contain only the specific information requested by the consumer.”¹

Sending a one-time, on demand text in response to a consumer’s specific request does not constitute “initiating” a call for TCPA purposes. Neither does sending a one-time on demand text in response to a consumer’s specific request constitute an “advertisement” or “telemarketing” for TCPA purposes. Clarifying that on demand texts may be made without prior written consent is consistent with the purpose and intent of the TCPA. As the Petition notes, “Because one-time, responsive, on demand texts in no way impinge on a consumer’s privacy, and instead are a direct response providing what the consumer specifically requested, this clarification will in no way undermine the congressional intent of the TCPA.”² The TCPA rules are intended to prevent consumers from receiving intrusive and unwanted telemarketing calls. On demand texts are not intrusive, but on the contrary are desired, requested communications.

II. Clarification is necessary to eliminate the high risk of frivolous class action lawsuits.

Given the increasing number of frivolous and costly TCPA class action lawsuits, the FCC should explicitly state what is obvious – that a company should be able to provide the information specifically requested by a consumer without being subject to TCPA litigation.

Plaintiffs’ attorneys see dollar signs with every potential TCPA case. In several TCPA class actions, companies settled for millions of dollars. Each class action member only received a few dollars, while the attorneys walked away with millions.³ For example, Bank of America recently entered into a $32 million settlement with a class of 7.7 million individuals based on alleged violations of the TCPA.⁴ Without conceding any violation of the TCPA, the bank agreed not to oppose any request from plaintiffs’ counsel for attorneys’ fees up to $8 million. The settlement will provide less than $5 to each plaintiff if every single person submits a claim (with the exception of seven named class representatives who receive $2,000 each). Instead of receiving compensation from class action litigation, consumers will experience rising costs as businesses struggle to make up the massive legal fees incurred during TCPA litigation.

The lack of clarity, combined with penalties of up to $1500 per violation of the TCPA, has provided plaintiffs’ attorneys with fodder for lawsuits that enrich the attorneys rather than compensate their clients. Hundreds of TCPA class actions seeking multi-millions of dollars have been filed in recent years, and their number continues to climb. TCPA lawsuits were up 116 percent in September 2013 compared to September 2012. To demonstrate the number of TCPA lawsuits, we have included an appendix with a partial list of TCPA case law available on the TCPAlaw.com site. Even when companies prevail, the cost of defending a TCPA class action most often exceeds $100,000, which may be devastating for small and mid-size companies.

¹ See Petition of Retail Industry Leaders Association for Declaratory Ruling, CG Docket No. 02-278, filed by Retail Industry Leaders Association on Dec. 30, 2013.
² Ibid.
⁴ Dkt. No. 59-1, Rose v. Bank of Am. Corp. Case No. 5:11-cv-02390-EJD (N.D. Cal.).
III. Conclusion

AFSA requests that the FCC make the narrow declaration that obtaining prior express written consent is not necessary when responding to a consumer with an on demand text. We look forward to working with the FCC on this Petition. Please contact me by phone, 202-466-8616, or e-mail, bhimpler@afsamail.org, with any questions.

Sincerely,

[Signature]

Bill Himpler  
Executive Vice President  
American Financial Services Association
Appendix

This is only a partial list of TCPA case law on the TCPALaw.com site.

AL

- Accounting Outsourcing, LLC Commc'ns, LP v. Verizon Wireless Personal Commc'ns, LP, 2006 TCPA Rep. 1678 (2006) (Motion to reconsider denial of motion to amend complaint denied.)

AZ

- Driesen v. First Revenue Assurance, LLC, 2010 TCPA Rep. 2070 (2010) (Motion to dismiss denied.)

TCPALaw.com originally began in 1996 as a repository of research materials and case law for litigants and attorneys. It slowly evolved with news, a slip reporter service, and on-line databases for tracking defendant activities. It is now the number one source for research and support of TCPA litigation. It has been recommended to litigants by the FCC as a resource, and counts many state legislators’ offices and state attorneys’ general offices as subscribers. Case list available at: http://www.tcpalaw.com/free/cases.htm.
CA

- Abuan v. JPMorgan Chase & Co., 2013 TCPA Rep. 2642 (2013) (Motion to dismiss granted with leave to amend.)
- Amini v. Group 1 Automotive, Inc., 2011 TCPA Rep. 2215 (2011) (Order to show cause.)
- Blair v. CBE Group Inc., 2013 TCPA Rep. 2529 (2013) (Motion to dismiss granted in part and denied in part.)
- Blair v. CBE Group Inc., 2013 TCPA Rep. 2651 (2013) (Motion to strike and to dismiss denied.)
- Brown v. DIRECTV, LLC, 2013 TCPA Rep. 2558 (2013) (Motion to compel arbitration granted.)
- Craftwood II, Inc. v. Tomy Intern., Inc., 2013 TCPA Rep. 2573 (2013) (Motion to dismiss denied.)
- Freidman v. Massage Envy Franchising, LCC, 2013 TCPA Rep. 2557 (2013) (Motion to dismiss granted.)
- Friedman v. Torchmark Corp., 2013 TCPA Rep. 2509 (2013) (Motion to dismiss granted with leave to amend.)
- Friedman v. Torchmark Corp., 2013 TCPA Rep. 2597 (2013) (Motion to dismiss granted.)


o Hughes v. Frontrange Solutions USA, Inc., 2007 TCPA Rep. 1707 (2007) (Motion to dismiss affirmed.)

o Huizar v. Mandarich Law Group LLP, 2013 TCPA Rep. 2593 (2013) (Motion to dismiss denied.)


o Ibeiy v. Taco Bell Corp, 2012 TCPA Rep. 2322 (2012) (Motion to dismiss granted.)

o In re Jiffy Lube Intern., Inc., Text Spam Litig., 2012 TCPA Rep. 2259 (2012) (Motions to dismiss and compel arbitration denied.)


o Iniguez v. The CBE Group, 2013 TCPA Rep. 2611 (2013) (Motions to strike and to dismiss denied.)

o Iniguez v. The CBE Group, 2013 TCPA Rep. 2683 (2013) (Motion for reconsideration and for interlocutory appeal denied.)


- Lo v. Oxnard European Motors, LLC, 2011 TCPA Rep. 2224 (2011) (Motion to approve class settlement granted.)
- **Onley v. Job.com, Inc.**, 2013 TCPA Rep. 2635 (2013) (Motion to strike class allegations and to dismiss denied.)
- **Pimental v. Google Inc.**, 2012 TCPA Rep. 2256 (2012) (Motion to dismiss denied.)
- **Pimental v. Google, Inc.**, 2012 TCPA Rep. 2486 (2012) (Motion to dismiss denied.)
- **Smith v. Microsoft Corp.**, 2012 TCPA Rep. 2332 (2012) (Motion to dismiss denied.)
- **Smith v. Microsoft Corp.**, 2013 TCPA Rep. 2691 (2013) (Motion to strike denied.)
- **Sutton v. First Chartered Fin., 2004 TCPA Rep. 1701 (2004)** (Order holding that TCPA claims can be brought as separate actions.)
- **True Health Chiropractic Inc v. McKesson Corp.**, 2013 TCPA Rep. 2673 (2013) (Motion to transfer venue denied.)
- **Vaccaro v. CVS Pharmacy, Inc.**, 2013 TCPA Rep. 2569 (2013) (Motion to dismiss denied.)
- **Van Patten v. Vertical Fitness Group, LLC, 2013 TCPA Rep. 2528 (2013)** (Motion to compel denied.)
- j2 Global Commc'ns., Inc. v. Protus IP Solns., Inc, 2008 TCPA Rep. 1753 (2008) (Motion to dismiss denied as to constitutional grounds; granted in part otherwise)

CN

CO
Makowski v. First Nat. of Neb., Inc., 2013 TCPA Rep. 2467 (2013) (Motion for summary judgment recommended be granted in part and denied in part.)
McKenna v. Oliver, 2006 TCPA Rep. 1498 (2006) (affirmed on other grounds)
U.S. Fax Law Center, Inc. v. The Barrington Group, 2005 TCPA Rep. 1827 (2005) (Motion to dismiss granted.)
US Fax Law Center, Inc. v. iHire, Inc., 2005 TCPA Rep. 1660 (2005) (Motion to certify questons to state supreme court denied.)

CT

Giovaniiello v. ALM Media, LLC, 2010 TCPA Rep. 2041 (2010) (Motion to dismiss granted.)

**DC**

- City Lights School, Inc. v. T-Mobile USA, Inc., 2003 TCPA Rep. 1698 (2003) (Motion to dismiss and motion for class certification denied.)

**DE**


**FL**

- Goldstein v. Juris Publ'g, Inc., 2006 TCPA Rep. 1699 (2006) (Motion to dismiss, stay, or in the alternative transfer, denied.)
- **Johnson v. Credit Protection Ass'n, L.P., 2012 TCPA Rep. 2399 (2012)** (Motion to dismiss granted.)
- **Kahn v. Portfolio Recovery Assoc's., LLC, 2011 TCPA Rep. 2088 (2011)** (Motion to dismiss denied.)
- **Keim v. ADF MidAtlantic, LLC, 2013 TCPA Rep. 2575 (2013)** (Motion to dismiss granted.)
- **Lusskin v. Seminole Comedy, Inc., 2013 TCPA Rep. 2554 (2013)** (Motion to dismiss denied.)
- **Manfred v. Bennett Law, PLLC, 2012 TCPA Rep. 2413 (2012)** (Motion to dismiss and for more definite statement denied.)
- **Mims v. Arrow Fin. Servs., LLC, 2010 TCPA Rep. 2176 (2010)** (Motion to dismiss granted.)
- **Moise v. Credit Control Servs., Inc., 2011 TCPA Rep. 2451 (2011)** (Order on discovery.)
- **Moise v. Credit Control Servs., Inc., 2011 TCPA Rep. 2452 (2011)** (Order regarding prior express consent.)
- **Ortega v. Collectors Training Inst. of Ill., Inc., 2011 TCPA Rep. 2085 (2011)** (Motion to dismiss denied.)
- **Ownings v. T-Mobile USA, Inc., 2013 TCPA Rep. 2594 (2013)** (Motion to stay and compel arbitration granted.)
- **PHS v. Anda, Inc., 2012 TCPA Rep. 2415 (2012)** (Motion to compel denied in part and granted in part.)
- **Palm Beach Golf Center-Boca, Inc. v. Sarris, 2013 TCPA Rep. 2664 (2013)** (Motion to dismiss granted.)
- **Penzer v. MSI Mktg., Inc., d/b/a Y2Marketing, 2003 TCPA Rep. 1142 (2003)** (Order granting class cert.)
- **Pollock v. Bay Area Credit Servs., LLC, 2009 TCPA Rep. 1912 (2009)** (Motions to dismiss and for summary judgment granted in part and denied in part.)


Scott v. Merchants Ass'n Collection Div., Inc., 2012 TCPA Rep. 2389 (2012) (Motion to dismiss and for a more definite statement denied.)

Shea v. BBVA Compass Bancshares, Inc., 2013 TCPA Rep. 2469 (2013) (Motion to compel arbitration granted.)


Wood v. GC Services, LP, 2012 TCPA Rep. 2270 (2012) (Motion for summary judgment recommended to be granted.)


GA


GM


IA


IL

• Addison Automatics, Inc. v. RTC Group, Inc., 2013 TCPA Rep. 2577 (2013) (Motion to dismiss denied.)
• Alleman v. Yellowbook, 2013 TCPA Rep. 2614 (2013) (Motion to dismiss granted.)
• Ballard Nursing Center, Inc. v. All Pro Ele., Inc., 2008 TCPA Rep. 1857 (2008) (Motion to dismiss denied.)
• Ballard Nursing Ctr., Inc. v. GF Health Prod., Inc., 2007 TCPA Rep. 1757 (2007) (Remand granted.)
• Bridgeport Pain Control Center, Ltd. v. Cutera, Inc., 2009 TCPA Rep. 1870 (2009) (Motion to amend granted.)
• Bridgeview Health Care Center Ltd. v. Clark, 2013 TCPA Rep. 2493 (2013) (Motion for summary judgment granted in pat and denied in part.)
• Bridgeview Health Care Center Ltd. v. Clark, 2013 TCPA Rep. 2603 (2013) (Motion for reconsideration denied.)
• Bridgeview Health Care Center, LTD v. Clark, 2011 TCPA Rep. 2192 (2011) (Motion for summary judgment denied.)
• Bridgeview Health Care Center, LTD v. Clark, 2011 TCPA Rep. 2193 (2011) (Motion for class certification granted.)
• Bridgeview Health Care Center, LTD v. Clark,, 2013 TCPA Rep. 2473 (2013) (Motion for summary judgment granted in part.)
- C.E. Designing, Ltd. v. Letrix USA, Inc., 2013 TCPA Rep. 2656 (2013) (Motion for class certification granted.)


Creative Montessori Learning Center v. Ashford Gear, LLC, 2010 TCPA Rep. 2038 (2010) (Motion to dismiss granted in part and denied in part.)


Creative Montessori Learning Center v. Ashford Gear, LLC, 2011 TCPA Rep. 2149 (2011) (Motion for class certification granted.)


Desai v. ADT Sec. Sys., Inc., 2012 TCPA Rep. 2382 (2012) (Motion to dismiss third-party claims granted in part and denied in part.)

Desai vs. ADT Security Services, Inc., 2011 TCPA Rep. 2143 (2011) (Motion to dismiss denied.)

Dobbin v. Wells Fargo Auto Fin., Inc., 2011 TCPA Rep. 2138 (2011) (Motion to dismiss granted.)


Flexicorps, Inc. v. Benjamin & Williams Debt Collectors, 2007 TCPA Rep. 1726 (2007) (Motion to dismiss denied.)

Flexicorps, Inc. v. Benjamin & Williams Debt Collectors, Inc., 2007 TCPA Rep. 1557 (2007) (Motion to dismiss granted and motion to transfer venue denied.)


G.M. Sign, Inc. v. MFG.COM, Inc., 2009 TCPA Rep. 1885 (2009) (Motion to dismiss denied.)


Glen Ellyn Pharmacy v. Meda Pharm. Inc., 2011 TCPA Rep. 2077 (2011) (Motion to dismiss conversion and state law claims denied.)


Hanley v. Green Tree Servicing, LLC, 2013 TCPA Rep. 2494 (2013) (Motion to dismiss granted.)
Holt v. MRS BPO, LLC, 2013 TCPA Rep. 2655 (2013) (Motion to dismiss and for partial summary judgment denied.)
Holtzman v. Turza, 2011 TCPA Rep. 2167 (2011) (Motion for summary judgment granted. Motion to decertify class denied.)
Hurst v. Mauger, 2013 TCPA Rep. 2510 (2013) (Motion to dismiss granted.)
Jamison v. First Credit Services, Inc., 2013 TCPA Rep. 2500 (2013) (Motion for class certification denied.)
Jamison v. First Credit Services, Inc., 2013 TCPA Rep. 2583 (2013) (Motion to dismiss granted.)
Loncarevic & Assoc., Inc. v. Stanley Foam Corp., 2013 TCPA Rep. 2495 (2013) (Motion for class certification granted.)
Lozano v. Twentieth Century Fox Film Corp., 2010 TCPA Rep. 1963 (2010) (Motion to dismiss denied.)
Martin v. Midland Funding LLC, 2011 TCPA Rep. 2166 (2011) (Motion to reassign and consolidate denied.)
Martin v. PPP, Inc., 2010 TCPA Rep. 1996 (2010) (Motion to dismiss granted.)
o North Suburban Chiropractic Clinic, Ltd. v. Merck & Co., Inc., 2013 TCPA Rep. 2617 (2013) (Motion to dismiss denied.)
o Paldo Sign and Display Co. v. Topsail Sportswear, Inc., 2010 TCPA Rep. 1938 (2010) (Motion to dismiss state law claims granted.)
o Pickering v. ADP Dealer Servs., Inc., 2013 TCPA Rep. 2475 (2013) (Motion to dismiss denied.)
o Pintas v. Bebon Office Machines Co., 2007 TCPA Rep. 1683 (2007) (Motion to strike class allegations denied.)
o Pollack v. Fitness Innovative Techs., LLC, 2009 TCPA Rep. 1858 (2009) (Motion to dismiss denied.)
o Powell v. West Asset Mgmt., Inc., 2011 TCPA Rep. 2118 (2011) (Motion to strike affirmative defense granted.)
o Quality Mgmt. & Consulting Servs., Inc. v. SAR Orland Food Inc., 2013 TCPA Rep. 2666 (2013) (Motion for class certification denied.)
o Quality Mgmt.and Consulting Servs., Inc. v. SAR Orland Food Inc., 2012 TCPA Rep. 2316 (2012) (Motion to dismiss granted.)


Robin Hill Dev., Co. v. JD&T Ent., Inc., d/b/a Travel to Go, 2002 TCPA Rep. 1073 (2002) (order denying Def. mtn. to dismiss)


Sandusky Wellness Center LLC v. Medtox Scientific, Inc., 2013 TCPA Rep. 2578 (2013) (Motion to dismiss denied.)

Sather Builders, Inc. v. Cornerstone Distrib., Inc., 2010 TCPA Rep. 2083 (2010) (Motion to dismiss granted in part and denied in part.)


Scott v. Westlake Servs., LLC, 2013 TCPA Rep. 2546 (2013) (Motion to dismiss granted.)


Sengenberger v. Credit Control Services, Inc., 2010 TCPA Rep. 2115 (2010) (Motion to reconsider granted.)

Shen v. Distributive Networks, 2007 TCPA Rep. 1676 (2007) (Final order and judgment in settlement class.)


o Targin Sign Sys., Inc. v. CYC Golden Palace Corp., 2011 TCPA Rep. 2195 (2011) (Motion for class certification granted.)
o Targin Sign Sys., Inc. v. Preferred Chiropractic Center, LTD, 2010 TCPA Rep. 1937 (2010) (Motion for class certification granted.)
o The Savannah Grp., Inc. v. Truan, 2011 TCPA Rep. 2202 (2011) (Motion to dismiss granted.)
o Travel 100 Group, Inc. v. Mediterranean Shipping Co., (USA), Inc., 2006 TCPA Rep. 1887 (2006) (Motion to strike denied; Motion for summary judgment granted.)
o Uesco Indus., Inc. v. Poolman of Wis., Inc., 2013 TCPA Rep. 2550 (2013) (Reversed and remanded.)
o United States v. DISH Network, LLC, 2013 TCPA Rep. 2519 (2013) (Motion for sanctions granted in part and denied in part.)
- United States v. DISH Network, LLC, 2013 TCPA Rep. 2670 (2013) (Motion to compel allowed in part and denied in part.)
- Whiting Corp. v. Goindustry, 2005 TCPA Rep. 1719 (2005) (Motion to dismiss denied.)

IN


Gold v. YOUMAIL, INC., 2013 TCPA Rep. 2482 (2013) (Motion to amend granted.)


KS


KY


Spillman v. RPM Pizza, Inc., 2010 TCPA Rep. 2062 (2010) (Motion to remand denied.)

Bais Yaakov of Spring Valley v. ACT, Inc, 2013 TCPA Rep. 2686 (2013) (Motion to dismiss denied.)
Jones v. FMA Alliance Ltd., 2013 TCPA Rep. 2644 (2013) (Motion to dismiss granted.)
Physicians HealthSource, Inc. v. MultiPlan Services, Corp., 2013 TCPA Rep. 2620 (2013) (Motion to dismiss granted.)

MD

Brey Corp. v. LQ Mgmt. L.L.C., 2011 TCPA Rep. 2229 (2011) (Motion to dismiss denied.)
Dr. Stuart T. Zaller, LLC V. Pharmawest Pharmacy, LTD., et al., 2011 TCPA Rep. 2198 (2011) (Motion to dismiss granted in part and denied in part.)
- Levitt v. Fax.com, Inc., 2007 TCPA Rep. 1600 (2007) (Motion to decertify class granted.)
- Worsham v. TNT Mktg., Inc., 2007 TCPA Rep. 1508 (2007) (Motion to dismiss denied.)

MI

- Bridging Communities, Inc. v. Top Flite Fin., Inc., 2013 TCPA Rep. 2434 (2013) (Motion to dismiss denied.)
- Bridging Communities, Inc. v. Top Flite Fin., Inc., 2013 TCPA Rep. 2544 (2013) (Motion for class certification denied.)
- Compressor Eng'g Corp. v. Chicken Shack, Inc., 2010 TCPA Rep. 2028 (2010) (Motion to dismiss granted.)
- Compressor Eng'g Corp. v. Chicken Shack, Inc., 2013 TCPA Rep. 2599 (2013) (Motion to dismiss granted in part and denied in part.)
- Compressor Eng'g Corp. v. Manufacturers Fin. Corp., 2012 TCPA Rep. 2364 (2012) (Motion for leave to file 3rd party complaint denied.)
- Compressor Eng'g Corp. v. Manufacturers Fin. Corp., 2013 TCPA Rep. 2520 (2013) (Motion for class certification denied.)
- State Farm Fire and Cas. Co. v. Piron, 2011 TCPA Rep. 2162 (2011) (Recommendation to enter default be granted.)

MN


MO

o Affordable Healthcare, LLC v. Protus IP Solutions, Inc., 2009 TCPA Rep. 1884 (2009) (Motion to dismiss out of state plaintiffs granted.)


Evans & Green, LLP v. Meadoworks, LLC, 2012 TCPA Rep. 2232 (2012) (Motion to remand denied.)
- Goans Acquisition, Inc. v. Merchant Solutions, LLC, 2013 TCPA Rep. 2629 (2013) (Motion to dismiss granted.)


Margulis v. 1-800-GOT-JUNK?, LLC, 2006 TCPA Rep. 1470 (2006) (Motion to dismiss class allegations denied.)


Moore v. CCB Credit Servs., Inc., 2013 TCPA Rep. 2433 (2013) (Motion to dismiss denied in part and granted in part.)


○ St. Louis Heart Center, Inc. v. Gilead Palo Alto, Inc., 2013 TCPA Rep. 2639 (2013) (Motion to stay granted.)
○ St. Louis Heart Center, Inc. v. Vein Centers For Excellence, Inc., 2011 TCPA Rep. 2266 (2011) (Motion to dismiss granted in part and denied in part.)
○ St. Louis Heart Center, Inc. v. Vein Centers For Excellence, Inc., 2013 TCPA Rep. 2689 (2013) (Motion for class certification granted.)
○ St. Louis Heart Center, Inc., v. Forest Pharm., Inc., 2013 TCPA Rep. 2471 (2013) (Motion to dismiss denied.)
○ Swope v. Credit Mgmt., LP, 2013 TCPA Rep. 2459 (2013) (Motions to stay and to dismiss denied.)
○ Swope v. Credit Mgmt., LP, 2013 TCPA Rep. 2490 (2013) (Motion to sever and transfer granted.)


VC Group Corp., v. HMA S. County,, 2011 TCPA Rep. 2157 (2011) (Motion for summary judgment granted.)

VC Group, Corp. v. HMA S. County, LLC, 2011 TCPA Rep. 2188 (2011) (Affirmed.)

VC Group, Corp. v. HMA S. County, LLC, 2011 TCPA Rep. 2213 (2011) (Affirmed; motion to publish denied.)


Vertex Chem. Corp. v. HMA S. County, LLC, 2010 TCPA Rep. 2148 (2010) (Motion for class certification denied.)


MS


NC


- Gibbons v. GC Services LLC, 2013 TCPA Rep. 2628 (2013) (Motion to dismiss granted in part and denied in part.)
- Jenkins v. Mann Bracken, LLP, 2011 TCPA Rep. 2174 (2011) (Motion to strike and for default granted.)

**ND**


**NH**


**NJ**

- Bais Yaakov of Spring Valley v. Peterson's Nelnet, LLC, 2013 TCPA Rep. 2461 (2013) (Motion to certify interlocutory appeal granted.)
- City Select Auto Sales, Inc. v. David Randall Assocs., Inc., 2012 TCPA Rep. 2253 (2012) (Motion to dismiss denied.)

Fenzo's Auto, Inc. v. Montagnaro's, Inc., 2011 TCPA Rep. 2117 (2011) (Motion to remand granted.)


Mikhail v. Pipersville Car Parts, LLC, 2011 TCPA Rep. 2095 (2011) (Motions to transfer and to strike denied.)


Zelma v. Art Conway, 2013 TCPA Rep. 2690 (2013) (Motion to dismiss granted.)

NV

o Kaffko v. Quepasa Corp., 2011 TCPA Rep. 2186 (2011) (Motion to quash denied.)
o Pfister v. Selling Source, LLC, 2013 TCPA Rep. 2526 (2013) (Motion to transfer granted.)

NY

o Bais Yaakov of Spring Valley v. Alloy, Inc., 2013 TCPA Rep. 2484 (2013) (Motion to dismiss granted in part and denied in part.)
o Branham v. ISI Alarms, Inc., 2013 TCPA Rep. 2608 (2013) (Motion to dismiss denied.)
- Kaplan v. Life Fitness Center, 1999 TCPA Rep. 1122 (1999) (order on trial de novo granting judgment to pl.)
o McGaughey v. Treistman, 2007 TCPA Rep. 1523 (2007) (Motion for class certification denied and motion to dismiss granted.)


o Rudgayzer & Gratt, v. LRS Com'm'ns, Inc., 2003 TCPA Rep. 1319 (2003) (Motion to vacate and amend complaint denied.)


OH


- Charvat v. Crawford, 2002 TCPA Rep. 1702 (2002) (Motion to dismiss granted as to TCPA claims.)
- Charvat v. DFS Servs. LLC, 2011 TCPA Rep. 2116 (2011) (Motion for default held in abeyance, motion to dismiss granted.)


Charvat v. NMP, LLC, 2012 TCPA Rep. 2328 (2012) (Motion for default denied without prejudice.)


o MDC Acquisition Co. v. Traveler's Property Cas. Co. of Am., 2013 TCPA Rep. 2654 (2013) ()

o Michel v. WM Healthcare Solutions, Inc., 2011 TCPA Rep. 2220 (2011) (Motion to compel granted.)
o Sandusky Wellness Center, LLC v. DrFirst.com, Inc., 2012 TCPA Rep. 2427 (2012) (Motion to stay or transfer granted.)
- Stefano & Assoc., Inc. v. TCRM Commercial Corp., 2007 TCPA Rep. 1742 (2007) (Motion to dismiss granted.)

OK


OR


Destination Ventures, Ltd. v. FCC, 1994 TCPA Rep. 1166 (1994) (Plaintiff's MSJ judgment denied; Defendant's motion to dismiss granted.)


PA


Hoover v. Monarch Recovery Mgmt., Inc., 2012 TCPA Rep. 2349 (2012) (Motion to dismiss and for judgment on the pleadings granted in part and denied i)


Lutz Appellate Servs, Inc. v. Curry, 1994 TCPA Rep. 1176 (1994) (Motion to dismiss granted.)


TN

- McLaughlin Chiropractic Assoc., Inc. v. McKesson Corp., 2013 TCPA Rep. 2479 (2013) (Motion to transfer granted.)

TX

- Adamcik v. Credit Control Servs., Inc., 2011 TCPA Rep. 2226 (2011) (Motion for judgment as a matter of law is granted in part and denied in part.)
o Biddle v. Santander Consumer USA, 2011 TCPA Rep. 2135 (2011) (Motion to dismiss denied.)
o Brandt v. Welch, 2001 TCPA Rep. 1197 (2001) (Motion to remand granted.)
o Chair King, Inc. v. Houston Cellular Corp., 1995 TCPA Rep. 1150 (1995) (Motion to dismiss granted except as to trespass to chattels claim.)
o Diugosh v. DirectBuy, Inc. of San Antonio, 2013 TCPA Rep. 2657 (2013) (Motion to dismiss denied.)
o Genaw v. NCO Fin. Sys., Inc., 2013 TCPA Rep. 2523 (2013) (Motion to dismiss granted.)
o Girards v. Inter-Continental Hotels Corp., 2007 TCPA Rep. 1782 (2007) (Final judgment approving class settlement.)

US


UT


VA

Clayton v. Aaron's Inc., 2013 TCPA Rep. 2552 (2013) (Motion to dismiss granted.)
Gray v. Wittstadt Title & Escrow Co., LLC, 2011 TCPA Rep. 2218 (2011) (Motion to dismiss granted.)
Lee v. Wells Fargo Home Mortg., 2013 TCPA Rep. 2688 (2013) (Motion to dismiss granted.)
Mey v. Monitronics Intern., Inc., 2012 TCPA Rep. 2272 (2012) (Motion to strike offer of judgment denied.)

WA

- Gragg v. Orange Cab Co., Inc., 2013 TCPA Rep. 2518 (2013) (Motion to dismiss granted in part and denied in part.)
- Kavu, Inc. v. Omnipak Corp., 2007 TCPA Rep. 1587 (2007) (Motion to approve class settlement granted.)
- Permison v. Comcast Holdings Corp., 2013 TCPA Rep. 2457 (2013) (Motion to compel arbitration denied in part.)

WI


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