Accutrac
Web: www.accutracllc.com
Email: info@accutracllc.com
Phone: (765) 608-5050

Legal Discussion

TCPA Lawsuit

Case Name

Duke et al v. Bank of America

Governing Bodies

Federal Communications Commission (FCC)

Violated Laws

Standards of Consumer Financial Protection Bureau (CFPB)

Telephone Consumer Protection Act (TCPA)

Regulations set forth by the Federal Trade Commission (FTC)

Penalties Paid

- $32 million suit
- Between $20-$40 per claim
- $2,000 for each of the seven named plaintiffs
- $2.4 million to the plaintiff's attorneys
- Total penalties paid: $34.4 million

Case Summary

The seven plaintiffs of the case Duke et al v. Bank of America alleged that the defendant (Bank of America) issued automated-voice calls and automated text messages to plaintiffs' cell phones without prior express consent.

The consumers were receiving these calls and text messages regarding servicing of Bank of America residential mortgages and Bank of America credit card accounts. The plaintiffs alleged to have given no prior express consent.

The actions of Bank of America violated **TCPA law, 47 U.S. Code § 227 (b)(1)(A)**, which states:

(1) It shall be unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States—

(A) to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice—

(iii) to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call, unless such call is made solely to collect a debt owed to or guaranteed by the United States;

The case was decided in 2013, and in 2015 and 2016 the FCC issued declaratory rulings that elaborated on situations in which callers could call without prior express consent for a limited window in which they can obtain prior express consent.

Judgement

The judge gave permission for the settlement in favor of the plaintiff, which was settled as a class-action suit. 7 million people were eligible to claim funds from the $32 million settlement, and each claimant received between $20 and $40. Under the TCPA, each award is can be either $500 or $1500 per call for suits. However, because Bank of America reached a settlement instead, the amount awarded per claim ended up much less than if the defendant fought the suit. Without admitting wrongdoing or fault, the defendant settled for $32 million, perhaps to avoid a larger penalty.

Legal Discussion
TCPA Lawsuit

How Our Products Prevent Lawsuits of this Nature

Our Phone Consent and Pinpoint Consent products provide you with recorded consent from your consumers. By contacting consumers directly with live agents, the risk of fault for calling via ATDS is nonexistent for us, and therefore for your company. By gaining recorded consent any potential plaintiffs cannot allege that they never gave consent, which removes the burden of proof from your company. In the situation that a suit is brought against your company, you will possess recorded proof of consent from our Phone Consent product. Both our Phone Consent product and our Pinpoint Consent product allow you to have proof of consent through recorded, non-ATDS verification calls.

Another potential solution that would help avoid lawsuits of this nature is our Pinpoint and Transfer product. Instead of using ATDS systems to repeatedly dial consumer phone numbers, you can use Pinpoint and Transfer, our warm transfer product, to both verify phone numbers and get the consumer live on the phone. Rather than risking a lawsuit from ATDS usage, you can speak with the consumers you need to speak with and deliver your message without any lawsuit risk, giving you a better chance to collect the owed debts from consumers.

Company Background

Accutrac is a large-volume verification company that offers right party contact, POE, VPOE, consent, point-of-credit, and validation solutions to companies in the credit, collections, and accounts receivables industry.

Information

Accutrac, LLC
Address:
33 West 10th Street
Anderson, IN 46016

Web: www.accutracllc.com
Email: info@accutracllc.com
Phone: (765) 608-5050