

REVERSED: Seventh Circuit Holds Seller Can Be Held Liable for Lead Generator's Outbound Calls

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Well its appellate day here at TCPAWorld, apparently.

I've been lamenting this potentially [CRAZY important Ninth Circuit ruling](#) and now I have more bad news to share—this time from the Seventh Circuit Court of Appeals.

The appellate court there just reversed a decision of a district court holding that a seller of insurance products could not be held liable for purportedly illegal calls made by a lead generator.

The lead generator had allegedly been provided with scripts for calls to sell the seller's products by a third-party marketer who was empowered to provide insurance quotes on the seller's behalf.

Even though the seller apparently had no direct relationship with the lead generator, the fact that the lead generator was able to sell the seller's insurance products and—through the marketer—provided seller's quotes to consumers in real-time was sufficient to demonstrate actual authority to make the calls at issue on behalf of seller.

Adding to the fun, the court also held that the third-party market was subject to jurisdiction in Illinois—despite an absence of operations in the state—owing to the lead generator's conduct there. As the lead generator was serving as an agent of the marketer the marketer was hooked by the lead generator's conduct.

Disaster all around for the Defendants here. Read broadly this might mean that sellers are essentially always liable for the conduct of lead generators where the lg is empowered to use the seller's name on an *actual* authority theory (at least at the pleadings stage.) It is unclear how the rule of *McCurley*—that only calls made consistent with contract terms—aligns with this new holding.

The case is *Bilek*, No. 20-2504, 2021 U.S. App. LEXIS 23655 (7th Cir. August 10, 2021),

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