

## **CREASY DEFENSE EVAPORATES: Caller Loses Creasy Issue to TCPA Plaintiff it Already Beat on the Same Issue on the Same Claim in a Different Court**

Article By:

Eric J. Troutman

---

So how dead is the [Creasy argument right now?](#)

I'll tell you how dead.

Two people walk into a federal court and file a TCPA suit against a company in a lawsuit.

One of those people—some [guy named Creasy](#)— gets his case dismissed on the grounds that the TCPA is unconstitutional.

The other person's case is also dismissed but she lives in a different state. So she re-files the same case in a different court against the same company.

The company moves to dismiss the suit citing *Creasy*—a case that literally involved the same argument, the same calls and the same Plaintiff. But the new court shrugged and refused to apply *Creasy* and then decided that the TCPA was constitutional as to the calls to the Plaintiff, after all.

So the same company got sued by the same person twice for the same calls. The first court found that the suit could not be brought. The second court went ahead and let the case proceed because it didn't like the *Creasy* ruling and thought it was wrongly decided.

The same company can't use the *Creasy* argument against the same Plaintiff that it literally already beat on the same issue on the same claim *in the actual original Creasy case*.

*That's* how dead *Creasy* is.

And *that's* how ridiculous TCPAWorld is.

Case is *Hogans*, No. 5:20-CV-566-D, 2021 U.S. Dist. LEXIS 182992 (E.D. N.C. Sept. 24, 2021).

I should note that *Creasy* might still find its way back to life—its a great argument, even if the courts

are not lining up to apply it right now. We'll keep an eye on it.

© 2025 Troutman Amin, LLP

---

National Law Review, Volume XI, Number 270

Source URL: <https://natlawreview.com/article/creasy-defense-evaporates-caller-loses-creasy-issue-to-tcpa-plaintiff-it-already>