

BLOOD IN THE WATER: DirecTV, LLC Faces Another \$100,000,000 TCPA Exposure Days After Settling TCPA Suit for \$17,000,000—And its Only Going to Get Worse

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Dark TCPA news here.

So as we reported late last year, DirecTV faced a certification ruling in *Brown*, a case involving collection calls that went badly for it in California. [Exposure was roughly \\$90MM.](#)

I just checked the docket and it turns out it reached a settlement for \$17 MILLION dollars in that case a handful of days ago. Preliminary approval papers were literally just filed last Friday on July 29, 2022.

Well a weekend later DirecTV has itself a new TCPA catastrophe. On Monday August 1, 2022—i.e. two days later—a Court in West Virginia certified a wholly different class involving marketing calls. The case is *Vance v. DirecTV, LLC*, 2022 WL 3044653, Case No. 5:17-CV-179 (N.D. Va. August 1, 2022).

In *Vance*, one of DirecTV's authorized retailers allegedly made a large number of calls to numbers on the DNC without express written consent. The only real issues were whether the calls were made and whether DirecTV was responsible for them. Apparently there was no evidence that different levels of control were applied at different timeframes, because the Court held that common issues "overwhelming" predominate over individualized issues—you don't see that every day.

I haven't reviewed the papers but based on the ruling it looks like DirecTV hung its hat on ascertainability arguments—which is just a terrible idea.

This is one of the briefest and overwhelmingly damaging certification rulings I have seen. And with 325, 030 identified calls at issue—again, *never* produce class data if you can avoid it in these cases folks—DirecTV faces a cool **\$165,515,000.00** in exposure. Again based on the activities of only ONE of its innumerable retailers.

Feels like another 8 figure settlement is in the offing here.

Notably DirecTV has agreed to pay close to \$5MM to the class lawyers in *Brown*. And it seems as

if *Vance* will net class counsel *at least* another \$5MM in fees, possibly more.

So \$10MM bucks going to plaintiff's lawyers in a single 365 day period. Not a good look.

This is why the TCPAWorld is so full of sharks and supersharks. The money here is insane. In most areas of the law a class attorney would be lucky to see a \$5MM payout a couple times in their career. In TCPAWorld, class counsel can manage this sort of payout multiple times a year.

I should note that I'm not saying DirecTV did anything wrong here—other than making the mistake of litigating in West Virginia, which anyone will tell you is a no no. Ha.

But when a company is poised to write two eight figure TCPA settlement checks in one year, something is going on. And its only going to get worse.

The last thing to keep in mind here *Vance* case involved calls made by only a single retailer. DirecTV can expect a series of copycat cases now involving its other retailers since the first case has met with success. I'd expect a bunch of new filings now, even as the supersharks try to convince it to settle "the big one" once and for all, and clear out all of its liability.

There's blood in the water folks. And when that happens the sharks come swimming in from miles around. They're looking for the kill.

This is the dark side of TCPAWorld. The predators truly do act like pack hunters surrounding the wounded animal. Its like one of those nature shows.

I never enjoy watching those. Dont have the stomach for it.

But I'll keep an eye on this saga for you.

Stay safe out there TCPAWorld.

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