

NO SHIELD: Warranty Provider American Home Shield Caught in TCPA Class Action Over Alleged Robocalls-And Is Bot Traffic to Blame?

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Interesting one for you this morning TCPAWorld.

American Home Shield was recently sued in a new TCPA class action alleging the warranty provider left prerecorded voicemail messages without consent. What is fascinating to me is that AHS claims Plaintiff visited its owned and operated website ahs.com and filled out a request for a quote but the Plaintiff strenuously denies it.

So Plaintiff Kimberly Remsen contends she received multiple unwanted prerecorded calls starting on July 12, 2023. The calls were allegedly identical to calls complained about on YouMail.

AHS responded to a pre-suit demand letter claiming that Plaintiff visited ahs.com but AHS apparently refused to provide back up evidence:

28. On July 22, 2023, a reply was sent by Ashley Williams, Customer & Regulatory Claim Resolution Specialist for AHS confirming that Plaintiff's phone number was added to AHS's do not call database.

29. On July 24, 2023, a 2nd reply was sent by Defendant AHS, claiming that Plaintiff Remsen filled out a form on <https://quote.ahs.com/affiliated-ni> on July 12, 2023 at 4:21 PM CT containing her contact information.

30. Defendant AHS was asked on July 24, 2023 to provide the details that the Plaintiff allegedly provided, including an IP address, but defendant AHS did not respond to this inquiry as of September 6, 2023.

31. Plaintiff Remsen did not visit ahs.com or any websites affiliated with Defendant AHS.

As a result Plaintiff sued AHS under the TCPA looking to represent two (overly broad in my view) classes:

Pre-recorded No Consent Class: All persons in the United States who from four years prior to the filing of this action through class certification (1) Defendant AHS called on their cellular telephone number (2) using an artificial or pre-recorded voice.

Do Not Call Registry Class: All persons in the United States who from four years prior to the filing of this action through class certification (1) Defendant AHS called more than one time, (2) within any 12-month period, (3) where the person's residential telephone number had been listed on the National Do Not Call Registry for at least thirty days, (4) for substantially the same reason Defendant called Plaintiff.

Couple of interesting things here:

1. Since these calls were consented to (perhaps) on AHS' own website, the use of the prerecorded calls here would not have violated the FTC's new TSR guidance;
2. Notice, however, that despite the fact that consent was allegedly provided on AHS own website this lawsuit still followed. This is either because Plaintiff is a super scumbag liar—possible—or because the data was filled out on the AHS site by a third-party using a bot who hoped to get paid via an attribution URL.

Unfortunately the lead generation world is so hit and miss right now that if AHS was using a third-party to drive traffic it might have been a fake lead even though it was on AHS' own website. Crazy! (There's a reason the [R.E.A.C.H. standards](#) require fraud detection!) Or this could be an absolute scam by a troll litigant—also crazy!

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