

CAPTIVE?: Farmers Insurance Sued in TCPA Class Action Following Text Messages from Independent Agent Who is Specifically Named in Class Definition (Ouch) [Video]

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So imagine being an independent agent of a large insurer that ends up sued in a nationwide TCPA class action and the class definition is limited to text messages sent by YOUR AGENCY.

It just happened, and it has to hurt so bad.

Apropos, just last month I spoke to a gathering of some of the most successful insurance agents in the country at the Allstate Mega Agency Conference.

Almost all of them were buying third-party leads and making outbound calls. They had a decent sense of the TCPA and DNC rules but they were almost entirely in the dark of the nuances—such as the new FCC one-to-one rule. Scary.

Their primary concern, however, was the impact of a predatory TCPA class action on their business; i.e. that someone would try to get to Allstate through one of them even though they are independent agents. I had little good news to provide. The truth is, TCPA litigators and their sophisticated counsel are constantly looking for paths to attack big nam brands hoping for an easy (big money) payout. And the Courts have mostly been helping them do it.

Take today's suit for example.

Repeat TCPA litigator Kimberly Starling (how many demands has she served?) just filed a TCPA class action against Farmers alleging text messages she received from the Todd Henderson Insurance Agency violated the TCPA. The message read as follows:

Hi Kimberly, This is Matthew at Todd Henderson Insurance Agency, Inc. I am reaching out before your home insurance renews to try and get you better coverage and save you money. Would you prefer that I text or email your quote to you?

Plaintiff alleges she responded “stop” but shortly thereafter she received a second message reading:

Hello Kimberly, I'm Matthew, a local Farmers Agent. I am interested in

earning your business and working for you. I'll contact you soon about your Home Insurance renewal. In the meantime I can get a head [sic] start on your quote. Just text back "yes." If you're not interested in my assistance, text back "stop."

An additional message followed.

The Plaintiff is suing Farmers for the messages in a TCPA class action– but check this out, the focus of the definition is the specific agency that sent the texts to Plaintiff–Todd Henderson insurance!:

For the four-year period prior to the filing of this lawsuit to the date of Class certification, all persons:

(1)who received two or more calls or text messages during a 12-month period in connection with the marketing of Farmers' products or services;

(2)whose number was registered on the Do Not Call Registry for more than 30 days at the time the calls were received; and

(3)whose number is registered to an individual and not a business.

The class is limited to calls or texts placed by or on behalf of Todd Henderson Insurance Agency, Inc and/or R. Todd Henderson.

Eesh.

I obviously take no position on the merits of the lawsuit but you have to feel for the guys at Todd Hendersons shop. This is tough.

If you're an independent agent please take this stuff seriously.

And here's a quick THREE MINUTE sprint through the recent developments in LeadGen and the one-to-one rule. You have time to watch this:

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