

## RETURN TO NORMALCY: Choice Home Warranty Stuck in TCPA Class Action and it Feels Like Home

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In *Bradshaw v. CHW Group*, 2025 WL 306783 (D. NJ Jan 24, 2025) Choice Home Warranty moved to dismiss a complaint leveraging a bunch of weak argument that seemed doomed to failure—and they were!

First, Defendant argued Plaintiff didn't allege it called her cell phone. But, of course it did. The Complaint alleged a discussion with the Defendant and then receipt of a call from a person who identified herself as working for Defendant. Yeah that's... pretty clear. Especially at the pleadings stage when a Court has to assume the Plaintiff is telling the truth.

Next, Defendant claims the calls were not prerecorded. But the message sounded robotic, was a general message and—my goodness—the recording started mid-sentence on the voicemail. Yeah, that argument's a loser. The Court found the allegations of prerecorded voice usage sufficient.

Third, Defendant argued Plaintiff failed to allege the calls were made without consent. Yet Plaintiff alleged he asked Defendant to stop calling repeatedly. So not sure why Choice Home Warranty thought that doesn't qualify as revoking any consent that was present—indeed, the fact that its lawyers would even make that argument almost concedes their client wasn't following the DNC rules. Eesh.

Speaking of which, the allegations here were particularly egregious such that the Court inferred the Defendant didn't even have an internal DNC policy. Ouch.

The Court also issued a perfunctory denial of the motion to strike that came along with the motion to dismiss.

So there you go, a complete and total rejection of Choice Home Warranty's pleadings motions— and there's nothing here that was even remotely had a chance as far as I could tell. Not sure what they were thinking. But we move on.

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