

# NO SMOKING UNTIL 8 AM: R.J. Reynolds Burned By TCPA Time-Of-Day Class Action Lawsuit

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Hi TCPAWorld! R. J. Reynolds Tobacco Company—the powerhouse behind Camel, Newport, Doral, Eclipse, Kent, and Pall Mall—is back in court. This time, though, it isn't about the usual allegations against Big Tobacco. Instead, the plaintiff accuses the company of violating the TCPA's time-of-day restrictions and causing "intrusion into the peace and quiet in a realm that is private and personal to Plaintiff and the Class members." *Vallejo v. R. J. Reynolds Tobacco Company*, 8:25CV00466: [Vallejo v RJ Reynolds Tobacco Complaint Link](#)

Under the TCPA, telemarketing calls or texts can't be made before 8 a.m. or after 9 p.m. (local time for the recipient). We've been seeing a lot of these time-of-day cases pop up lately:

- [IN HOT WATER: Louisiana Crawfish Company Sued Over Early-Morning Text Messages – TCPAWorld](#)
- [IT WAS A MATTER OF TIME: Another Company Allegedly Violated TCPA Time Restrictions. – TCPAWorld](#)
- [TIME OUT!: NFL Team Tampa Bay Buccaneers Hit With Latest in A Series of Time Restriction TCPA Class Action – TCPAWorld](#)
- [SOUR MORNING?: For Love and Lemons Faces TCPA Lawsuit Over Timing Violations – TCPAWorld](#)
- [TOO LATE: 7-Eleven Sued in TCPA Class Action for Allegedly Failing to Comply With Call Time Limitations–And This Is Crazy If its True – TCPAWorld](#)

Here, in *Vallejo v. R. J. Reynolds Tobacco Company*, however, the plaintiff claims he received early-morning marketing texts around 7:15 a.m. and 7:36 a.m., local time. The complaint further alleges that he "never signed any type of authorization permitting or allowing Defendant to send them telephone solicitations before 8 am or after 9 pm," though it doesn't actually say he withheld consent entirely for these messages.

The plaintiff seeks to represent the following class:

All persons in the United States who from four years prior to the filing of this action through the date of class certification (1) Defendant, or anyone on Defendant's behalf, (2) placed more than one marketing text message within any 12-month period; (3) where such marketing text messages were

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initiated before the hour of 8 a.m. or after 9 p.m. (local time at the called party's location).

As I've said before, from my reading of the TCPA, these time-of-day restrictions apply specifically to "telephone solicitations," meaning calls or texts made with the recipient's prior consent or within an existing business relationship might be exempt. Since the plaintiff doesn't deny consenting to these texts in the first place, we'll have to keep an eye on this lawsuit to see if the Central District of California agrees with that interpretation.

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