

## Court Denies Plaintiff's Summary Judgment Motion, Cites Factual Dispute Regarding Whether Plaintiff Revoked Consent

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The Eastern District of Michigan recently denied a plaintiff's motion for summary judgment because the defendant raised a genuine issue of material fact regarding whether the plaintiff had revoked his consent to receive the challenged calls. [See \*Mayang v. PAR Grp., Inc.\*, No. 17-12447, 2018 U.S. Dist. LEXIS 118784 \(E.D. Mich. July 17, 2018\)](#).

In *Mayang*, the plaintiff defaulted on a debt to a medical laboratory. That debt was referred to the defendant, which called him more than sixty times in attempting to collect it. The plaintiff then filed suit and eventually moved for the entry of summary judgment in his favor.

The court quickly disposed of the plaintiff's first argument—that he had not consented to the calls in the first place—due to well-established precedent that “a patient is deemed to have consented to be called by a bill collector if he discloses his cell phone number to a healthcare provider who then turns the account over to the bill collector for collection.”

The court also rejected the plaintiff's second argument—that he had revoked his consent to calls by telling the defendant to “stop calling him”—due to genuine issues of material fact. As it happens, the plaintiff's insurance company had already paid the debt in question. But the plaintiff never informed the defendant of this fact during any of the more than sixty calls in question. Instead, the plaintiff claimed that he revoked his consent to further calls by telling the defendant to “stop calling him.” The defendant disputed that claim, however, based on an employee's testimony that the records of the calls showed that the plaintiff had never asked for the calls to stop.

Although the court did not enter summary judgment in favor of the defendant, the decision is still a helpful reminder that records of calls can be a powerful weapon against contrived revocation of consent claims.

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