

Talk About Bad News: Dallas Morning News hit With TCPA Class Action Claiming Dying Circulation Prompted Illegal Call Campaign

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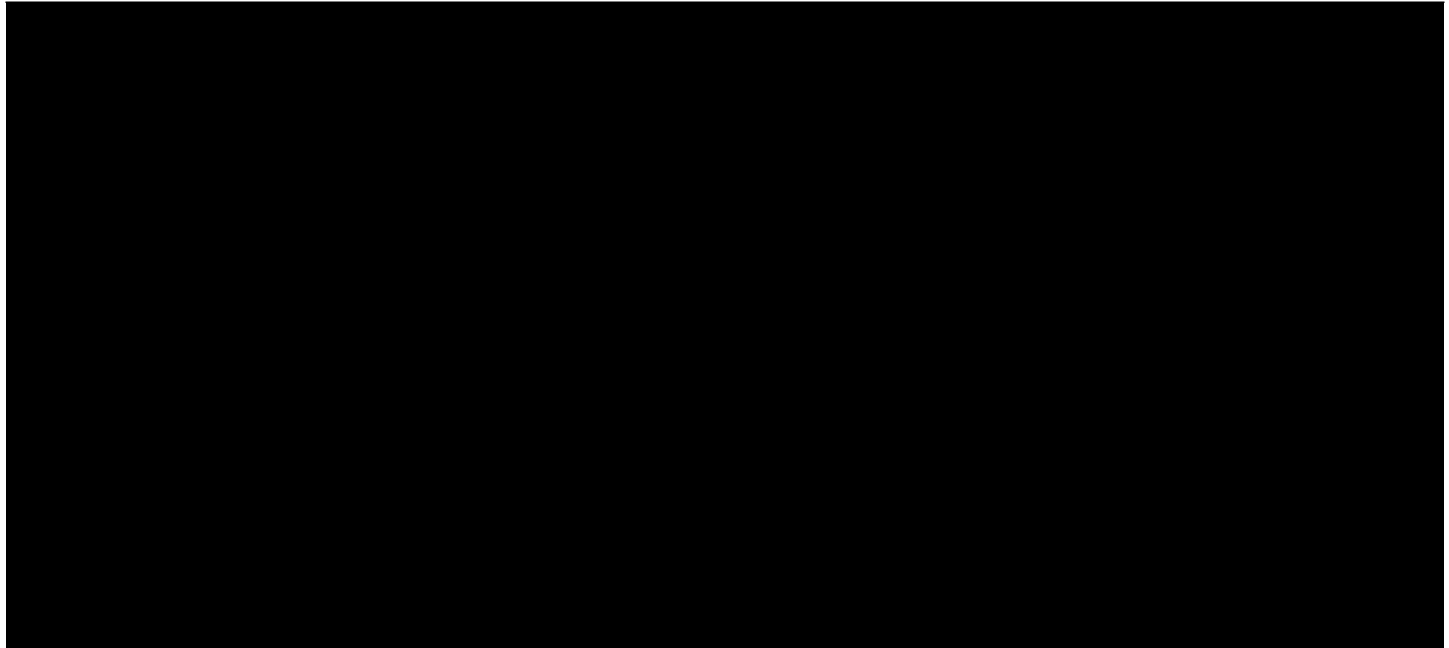
Its not easy running a newspaper these days. Half the country will think you're fake news and the other half will wonder why you're even printing stuff on paper anymore (even the picture of the newspapers above makes me think of something old and dusty). And then there's those pesky class action lawsuits.

In a new suit titled *Fred Dembski v. The Dallas Morning News, Inc.* Case No. 3:18-cv-02042-G (Filed Aug. 7, 2018) the Plaintiff sues in federal district court for the Northern District of Texas contending that the Dallas Morning News is making illegal telemarketing calls to landlines (what are those?) registered on the DNC. The suit can be found here: [Dallas Morning News Complaint](#). The Plaintiff makes no secret of the paper's purported motive: Mr. Dembski alleges that the paper's circulation has crumbled recently resulting in the need for an aggressive telemarketing campaign to prop up its numbers:

Dallas Morning News has seen a considerable drop in their newspaper subscription base as consumers are turning away from print media in favor of digital news media.

Dembski Complaint at par. 2.

The Complaint even provides this handy graph to prove the point:



Colorful.

The Complaint goes on to allege that the dropping circulation has lead to the telemarketing efforts that “regularly result in repeated calls to consumers whose phone numbers are registered on the National Do Not Call Registry.” The Plaintiff himself alleges that he received 7 unsolicited calls to his landline phone without his consent even though his number was on the DNC. Compl. par. 4.

Plaintiff seeks to represent a class of:

All persons in the United States who from four years prior to the filing of is action (1) Defendant (or an agent acting on behalf of Defendant) called more than one time on his/her cellular telephone; (2) within any 12-month period (3) where the cellular telephone number had been listed on the National Do Not Call Registry for at least thirty days; (4) for the purpose of selling Defendant’s products and services; and (5) for whom Defendant claims (a) it obtained prior express written consent in the same manner as Defendant claims it supposedly obtained prior express written consent to call the Plaintiff, or (b) Defendant did not obtain prior express written consent.

Compl. par. 21.

It remains to be seen whether any of these allegations have merit. As the suit was just filed yesterday the Daily Morning News has no yet appeared through counsel. Notably, these DNC suits might be the new wave of TCPA litigation following recent court decisions suggesting that predictive dialers are no longer subject to the TCPA. (Purported DNC violations often do not require the use of an ATDS to trigger TCPA and/or Telemarketing Sales Rule s (TSR) coverage.)

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