

THE
NATIONAL LAW REVIEW

Simple as That: Quick Hitting Decision Explains why TCPA Injunctions Are so Easy to Plead and Obtain

Thursday, June 20, 2019

Injunctions are odd things. They amount to judicial decrees that limit or require conduct under the penalty of contempt. In most jurisdictions they are pretty hard to obtain and often require dramatic equitable showings.

As with so much else in TCPAWorld, injunctions operate a little differently around here. In a 399-word opinion, District Judge Federico A. Moreno explained why in denying a Defendant's Motion to Dismiss for failure to state a claim last week. In this short opinion, Judge Moreno succinctly outlines the requirements for injunctive relief under the act AND plainly states that Plaintiff sufficiently pled her demand for treble damages. *Gutierrez v. Fla. Advert. & Mktg. Corp.*, No. 18-25400-CIV-MORE, 2019 U.S. Dist. LEXIS 100805, at *1-3 (S.D. Fla. June 12, 2019).

In *Gutierrez*, the Court refreshed the parties' memories in stating, "where a statute bans certain conduct or establishes certain rights, a court may grant an injunction to enforce the statute." *Id.* at 2. In few words, the opinion gave a crash course on TCPA injunctive relief; under the Act, a plaintiff is not required to make a showing of likelihood of success on the merits OR irreparable harm. Instead, alleging a claim of a continuing statutory violation is all that is required to request injunctive relief in a complaint.

We, as practitioners, should recognize that the bar to seek injunctive relief under the TCPA is extremely low. We should not waste our clients' time (and money) by arguing that the traditional requirements for equitable relief need to be plead.

Judge Moreno further found room to clarify the "willingness" requirement of prayer for treble damages. He finds that Plaintiff's allegations that Defendant knowingly called class members without consent are plainly adequate to authorize the demand for treble damages.

This opinion lacked unnecessary fluff, and (should) provide guidance for all of us on two important issues in TCPA World, injunctive relief and treble damages. At least a few issues are straightforward around here.

© Copyright 2019 Squire Patton Boggs (US) LLP

Source URL: <https://www.natlawreview.com/article/simple-quick-hitting-decision-explains-why-tcpa-injunctions-are-so-easy-to-plead-and>

The logo for Squire Patton Boggs, featuring the word "SQUIRE" in a large, bold, serif font, followed by a stylized blue and green circular icon. Below it, the words "PATTON BOGGS" are written in a smaller, all-caps, sans-serif font.

Article By

[Alexandra M. Petrillo](#)

[Squire Patton Boggs \(US\) LLPTCPA World](#)

[Communications, Media & Internet](#)

[Litigation / Trial Practice](#)

[11th Circuit \(incl. bankruptcy\)](#)