Don’t Feed Them: Pizza Hut TCPA Settlement Results in $2MM In Fees for Plaintiff’s Lawyers—and A Huge Potential Recovery for the NCLC

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Time and time again we have written about the National Consumer Law Center’s efforts to lobby Congress—and the Courts—for a broader TCPA. The NCLC seems to be constantly pouring resources into blaming legitimate American businesses for the scourge of Robocalls in this nation—although nothing could be further from the truth—and enabling plaintiff’s lawyers to run amuck with class litigation. This is so although the TCPA does not meaningfully impact the volume of unwanted Robocalls in this country—those calls, by and large, do not come from the legitimate businesses targeted in often-frivolous TCPA class actions.

But the worst part of NCLC’s meddling in this arena is that it keeps cashing in from the very class action lawsuits it seeks to enable. Not a bad racket for a “non-profit” organization.

Last Friday we saw another prototypical TCPA class settlement reach final approval in Keim v. Adf Midatlantic, Case No. 9:12-cv-80577-KAM 2020 U.S. Dist. LEXIS 49933 (S.D. Fl. March 20, 2020). The case involved text messages sent by Pizza Hut franchises in Florida. The deal was worth $6MM with the Plaintiff’s lawyers set to receive $2,000,000.00 for their hard work in the suit. The Plaintiff bringing the case
himself received $10k. The class members themselves will receive a heck of a lot less.

So it goes.

But the part that irks me most about all of this is that the NCLC was designated as the “cy pres” recipient. That means if any class members don’t cash their checks—and trust me a lot of class members won’t, either because they don’t receive them, lose them, or just don’t care to visit the bank to cash such a relatively small check—that money goes to a group that advocates in favor of—you guessed it—an expansive read of the TCPA itself.

So you have Plaintiff’s lawyers funneling “charity” money—perhaps in the six figures—through TCPA class action settlements to an organization that has made it its mission to help Plaintiff’s lawyers bring more TCPA class actions. Self-propagating madness in my view.

You won’t see the NCLC identified as a cy pres recipient in any settlement I’m a part of. You should make sure your defense lawyer takes the same position.

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