Facebook Changed Nothing?: Court Holds that Facebook Ruling Does not Alter pre-Existing Framework on Text Messages

Friday, May 28, 2021

After a few sleepy weeks in TCPAWorld developments are now pouring in. (And of course they are because its the Friday before a long weekend.)

As I reported earlier, we’ve been waiting with baited breath for decisions applying Facebook, to date we have but three—and none are particularly noteworthy.

Well on Wednesday a Court in Massachusetts gave us a fourth ruling applying Facebook—but only on the narrow issue of whether a text is still a call.

In Barton v. Wellness, CIVIL ACTION NO. 20-40114-TSH, 2021 U.S. Dist. LEXIS 100436 (D. Mass. May 26, 2021) the court held, in essence, that Facebook did not move the needle. Footnote 2 of the decision was perceived to be nothing more than a preservation of the status quo which—according to Barton—is a world in which the vast majority of courts to consider the issue have concluded a text message is a call.

So, for what its worth, at least one Court has now squarely held that a text is still a
call for TCPA purposes even after Facebook. Which is not, at all, surprising since Facebook did not really address that issue to begin with.

Have a good long weekend TCPAWorld.

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