Good morning TCPA World, it’s been almost a week since I gave you guys a blog so I figured I would give a brief rundown on a new TCPA suit coming out of New York. The case is titled Nichols v. Lumico Life Insurance Company and involves a great deal of fairly scary allegations if you’re Lumico.

In the relevant part, plaintiff here alleges that she registered her home phone number on the NDNC list as of March 30, 2022. On May 11, 2022, she received a call which she answered, and an artificial voice began asking her questions about her
life insurance, age, and health (some might say Lumico got unlucky with timing here!) Plaintiff claims she was forwarded to an agent from Lumico. On May 12, 2022, she again received a call which she answered, and the same artificial voice greeted her before transferring her to an agent.

The scary facts are: (1) the plaintiff’s number here is a residential landline; (2) that residential landline was registered on the NDNC prior to the calls being made; (3) Lumico used artificial or prerecorded voice to greet the recipient of a call (never a good look in the TCPA context); (4) plaintiff claims she has never purchased any life insurance from or had any prior contact with Lumico; and (4) plaintiff purports there are plenty of others in her position which Lumico made multiple attempts of contact.

Ultimately, it’s tough because Plaintiff answered the call and spoke with an agent of Lumico on the first call attempt on May 11, 2022. I like to imagine that she spoke with the agent and talked about life insurance packages instead of requesting the agent to add her to their internal DNC list. Regardless of what the context of the conversation was, the fact remains that the plaintiff’s number was on the DNC list, there was no consent, and no existing-business-relationship exception seems to apply. And now, the plaintiff lists her demand at $5,000,000.... that’s a large chunk of change for something that was so avoidable.

TAKEAWAY: TCPA COMPLIANCE IS REALLY REALLY REALLY IMPORTANT. Invest in this now so you aren’t faced with a debilitating TCPA class action suit in the future. These things (at least the conduct as alleged here) are so avoidable!

That’s all I have for you guys today. Until next time TCPA World!

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