

When Your Cellphone is Your Home Phone Under the TCPA

By Charles A. Zdebski and Jay Julien

On May 25, 2023, the Michigan Court of Appeals held that the Telephone Consumer Protection Act and Michigan Home Solicitation Sales Act may cover users of cellphones as “protected residential users.” The statutes are designed in part, to protect consumers from “robo-calling” and other “abusive” telemarketing practices. In finding for the consumer, the Court rejected a lower court finding that the defendant, Transamerica Life Insurance Co., had not violated the laws because cellphones are not for “residential use.” In reversing that decision, the Michigan Court of Appeals brings Michigan in line with the FCC’s position on the TCPA as well as mirrors Tennessee’s interpretation of the law, which recognizes that cellphones can “be used for residential purposes.” The Court ruled against the consumer on one count. In this count, the consumer alleged that the defendant is liable for “spoofing” which is an electronic method used to hide the origin of a call, in violation of 47 CFR 64.1601(e). The Court held that the statute lacked a private right of action because Congress had not intended to create one.

For more information on this [decision](#) or TCPA issues, please contact [Charlie Zdebski](#) at czdebski@eckertseamans.com or 202-659-6605.