

Telephone and Texting Compliance News — February 2024

March 01, 2024 | Article | By [Russell H. Fox](#), [Jonathan P. Garvin](#), [Joshua Briones](#), [Esteban Morales](#)

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We are pleased to present our latest edition of *Telephone and Texting Compliance News*, providing insights and news related to the Telephone Consumer Protection Act (TCPA). In this month's newsletter, we report on an FCC Declaratory Ruling confirming that TCPA prohibitions covering prerecorded or artificial voice calls apply to real voices generated by artificial intelligence. We also provide an overview of a newly adopted Report and Order that strengthens consumers' consent revocation rights in relation to text messages and a notice seeking additional comment on whether the TCPA applies to robocalls and robotexts wireless providers send to their subscribers. Finally, we cover two FCC Enforcement Bureau Removal Orders, which cut 13 entities from the robocall mitigation database and bar all intermediate and voice service providers from accepting traffic directly from those entities.

This month's Litigation Update discusses the latest nail in the TCPA fax case certification coffin, *Career Counseling, Inc. v. AmeriFactors Fin. Grp., LLC*, in which the Fourth Circuit affirmed a lower court's denial of class certification based on a lack of ascertainability of class members. The fact pattern in the case dates back to 2016 when Career Counseling allegedly received an unsolicited fax from AmeriFactors and moved forward with a TCPA claim. Although the Fourth Circuit also granted summary judgment to the plaintiff on its individual TCPA claim, the decision is indicative of a TCPA class certification war being won by defendants.

If you have suggestions for topics you'd like us to feature in this newsletter, or any questions about the content in this issue, please feel free to reach out to an attorney on Mintz's [TCPA and Consumer Calling Practice team](#).

In This Edition

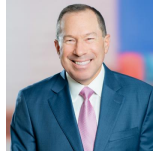
Regulatory Update

- **Commission Declares TCPA Prohibits AI-Generated Voices**
- **Commission Adopts Rules to Strengthen Texting Consent Revocation Rights**
- **Commission Removes 13 Entities from Robocall Mitigation Database, Requires Downstream Blocking**

Litigation Update

- ***Career Counseling v. AmeriFactors* — Another Defense Win in the Fax Class Certification War**

Authors



Russell H. Fox, Member

Russell H. Fox is a wireless communications attorney at Mintz. He guides clients through federal legislative, regulatory, and transactional matters. Russell also participates in FCC proceedings, negotiates spectrum agreements, and represents clients in spectrum auctions.



Jonathan P. Garvin, Associate

Jonathan Garvin is an attorney at Mintz who focuses on legal challenges facing companies in the communications and media industries. He advises clients on transactional, regulatory, and compliance issues before the FCC involving wireless, broadband, broadcast, and cable matters.



Joshua Briones, Member / Managing Member, Los Angeles Office

Joshua Briones is a commercial litigator who defends consumer class actions for Mintz. He's represented clients in a wide range of industries, including financial services, life sciences, manufacturing, and retail, in cases involving false advertising, unfair trade practices, and other claims.



Esteban Morales, Member

Esteban Morales is a Mintz litigator who handles class action defense and financial services litigation for companies of all sizes. He defends clients targeted in class action suits, and the results include dismissals at the pleading stage. Esteban practices in Mintz's Sports Law Practice.

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