

WHEN DOES A ROBO CALL TO A CELL PHONE VIOLATE THE TCPA?

A cell phone subscriber or regular user of the cell phone may bring a TCPA lawsuit :

The elements of a TCPA claim are :

- [1] A “Call”
- [2] Not made for emergency purposes;
- [3] Without the cell phone user’s prior express consent;
- [4] using either :
 - [A] an Automated Telephone Dialing System (“ATDS”); or
 - [B] a prerecorded or artificial voice;
- [5] to call a cell phone; and
- [6] other than calls or callers which are exempt.

The TCPA provides that cell phone users who prove violations are entitled to statutory damages of *at least \$ 500 per call* and, if the violation was willful, *up to \$ 1,500 per call*.

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A cell phone subscriber or regular user of the cell phone may bring a TCPA lawsuit :

In order to have a valid claim under the TCPA's "cell phone" section, the following conditions must be met :

- [1] A "Call"
- [2] to a cell phone number;
- [3] Not made for emergency purposes;
- [4] Without the cell phone user's prior express consent;
- [5] using either :
 - [A] an Automated Telephone Dialing System ("ATDS"); or
 - [B] a prerecorded or artificial voice; and
- [6] the call or caller is not exempt.

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