

Healthcare Message Exempt under the TCPA's Implementing Regulations

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The Dorsey Health Law blog team keeps readers up-to-date on relevant topics in the health care industry. In order to do so, the members of the blog team communicate regularly with other practice groups within the firm for applicable updates from client publications. For this post, we would like to thank Dorsey's Telephone Consumer Protection Act ("TCPA") practice group, who writes monthly summaries about ongoing TCPA cases, for providing the following summary of note:

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In *Bailey v. CVS Pharm., Inc.*, No. 17-cv-11482, 2018 U.S. Dist. LEXIS 137049 (D.N.J. Aug. 14, 2018), the District of New Jersey Court granted CVS' motion to dismiss plaintiff's class action complaint for violation of the TCPA; defendant sent texts to customers notifying them that their prescriptions were ready for pick-up and included the words "flu shots available." Plaintiff had visited one of CVS' pharmacies and provided her phone number to receive notification of when her prescription would be ready for pick-up. The court granted the motion to dismiss, because it found the message to be a "healthcare message" which was exempt under the TCPA's implementing regulations. The court also found that plaintiff had provided prior express consent to receive a message about a "health-related benefit" (e.g., the notification about the flu shot), because under the healthcare exemption, "an entity need only receive express consent, not written, to escape TCPA liability."

You can read the rest of this month's TCPA case summaries [here](#).

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