Life Insurer Settles Nationwide "Junk Fax" Class Actions

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Recently, there has been a noticeable increase in lawsuits, particularly putative class actions, brought against life insurance companies pursuant to the Telephone Consumer Protection Act of 1991 (TCPA). As amended by the Junk Fax Prevention Act of 2005, the TCPA prohibits the transmission of advertisements via facsimile without the prior express permission of the recipient. It provides for a private right of action and statutory damages of $500 per violation.

In August, an Illinois court entered an order preliminarily approving a settlement and certifying a settlement class in two putative TCPA class actions involving MetLife. The Illinois settlement, which includes a $23 million settlement fund, resolved allegations that an insurance producer, formerly employed by MetLife, sent unsolicited advertisements for life insurance via facsimile to numerous individuals and businesses. The cases, *Fauley v. Metropolitan Life Insurance Co.* (filed in Illinois state court) and *C-Mart Inc. v. Metropolitan Life Insurance Co.* (filed in Florida federal court), arose from faxes that generically advertised “low cost life insurance rates,” but did not reference MetLife, the producer, or any other insurance company. The producer had purportedly retained a “fax blasting” service to generate leads.

In a memorandum submitted in support of preliminary approval of the settlement, MetLife explained that it “vigorously disputes any liability” for the alleged conduct, but “entered into [the] agreement to settle with the nationwide class based on the risks and uncertainties of litigation ….” MetLife contended that the $23 million settlement fund “exceed[ed] the average monetary recoveries that have been approved by other courts across the country in other TCPA class actions.”

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