

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of the)
)
Rules and Regulations Implementing)
) **CG Docket No. 02-278**
the Telephone Consumer Protection)
)
Act of 1991)

**Joe Shields Submission for the Record on the Blackboard Inc. Petition for
Declaratory Ruling**

I hereby respectfully file this Submission for the Record addressing the Blackboard Petition for Declaratory Ruling.

On June 2nd, 2015 the Orlando Sentinel published an article entitled “Woman sues over getting 100 robocalls from Orange County schools.” The article went on to describe troubling behavior that is commonplace with robocalls from educational institutions:

A local woman received about 100 robocalls over four months from Orange County schools, alerting her about everything from an absent child to lockdowns and fundraising campaigns.

The problem is that Erlinda Kells lives in Palm Bay in Brevard County. And she doesn't have any children in the public school system.

When the automated phone calls wouldn't stop, Kells filed a federal lawsuit against the School Board and accusing the district of relentlessly harassing her and violating the federal Telephone Consumer Protection Act.

Woody Rodriguez, the school district's legal counsel, declined to comment on the specifics of the lawsuit, but wrote in an email the purpose of the federal act was to protect against unwanted telephone solicitation — not government entities giving out public service information.

The lawsuit, filed last month in U.S. District Court in Orlando, said the automated calls were a "campaign of abuse" and that Orange County

schools "has many similar complaints from consumers across the county."

Kells doesn't know how her number ended up on the call list for an Orlando middle school. She is seeking statutory, punitive and actual damages and any other relief the court rules is justified, the lawsuit said.

The full article can be found here:

<http://www.orlandosentinel.com/features/education/os-lawsuit-automated-calls-20150602-story.html>

I am submitting a copy of the Original Complaint in Kells v School Board of Orange County, Case No.: 6:15-cv-000791, Dist. Court, (MD Florida 2015).

I respectfully request that the Commission take notice of paragraphs 17 and 19 where the plaintiff notified Walker Middle School that they were calling the wrong number, that they she did not have a student attending school, and to stop calling her cellular telephone number.

I respectfully request that the Commission take notice of paragraphs 22 through 30 and note that many of the robocalls the plaintiff received did not qualify for any emergency exemption. Further, the robocalls were made after knowledge that no prior express consent existed to make the robocalls.

What is particularly troubling is the description of: "...similar complaints from consumers across the county." I fear that the Commission may act to create an exemption for educational institutions without full knowledge of the extent of the problem with robocalls from educational institutions.

The Commissions GroupMe Declaratory Order was based on a lack of complaints filed with the Commission and the Commission's lack of knowledge on the extensive spamviting problem. See Submission for the Record on the GlideTalk Petition Filed 04-

26-14. I fear the Commission will repeat the mistake made with the GroupMe Declaratory Order and eliminate prior express consent for automatically dialed or prerecorded/text message calls from banks, healthcare providers, electricity providers and educational institutions.

It is painfully apparent that banks, healthcare providers, electricity providers and educational institutions are already subjecting consumers to endless harassing robocalls under the guise of an emergency purpose.

The TCPA was enacted to protect consumers from unwanted robocalls to their cell phones. The TCPA contains an exemption for prior express consent or emergency purpose. There is no “informational” call exemption for robocalls to their cell phones.

I question the purpose of industry to volunteer to pay for robocalls and text messages to cell phone numbers when prior express consent already permits industry to make such calls. Clearly, the purpose of the many petitions from banks, healthcare providers, electricity providers and educational institutions is to eliminate prior express consent entirely which will not serve the public interest.

The so called “emergency” call exemption will thwart TCPA protections for those consumers that have never provided prior express consent for robocalls or texts to their cell numbers. The Commission must reject industry efforts for an exemption to cell phone numbers “...we have otherwise obtained...”¹

The Commission should retain the prior express consent requirement that has worked for more than 24 years. Without the TCPA’s prior express consent for calls to cell numbers consumers will be overwhelmed by a tsunami of automatically dialed or prerecorded/text message calls from every possible industry.

¹ See letter from Travis LeBlanc of the Commission to the General Counsel of PayPal Inc.

The Commission must reject any and all attempts to create exemptions for automatically dialed or prerecorded message/text calls to cell numbers without consent of the called party.

Respectfully submitted,

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