

Scott Shaffer Quoted in New York Law Journal and Law360 on Second Circuit's TCPA Ruling

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Olshan Advertising partner Scott Shaffer was quoted in both the New York Law Journal and Law360 about the significance of a legal ruling concerning the Telephone Consumer Protection Act (TCPA). The new ruling, issued by the Second Circuit Court of Appeals, prohibits consumers from revoking consent they have previously provided to allow companies to place marketing or debt-collection calls if the consent was part of a contract with the companies. The ruling represents a considerable victory for companies, particularly those being sued for calls made as part of debt collection efforts. According to Scott, the ruling will encourage companies to modify their consumer agreements to add consent provisions that allow for robo-calls. However, as Scott told the New York Law Journal, companies must be mindful of deceptive language when doing so: "drafters of leases, credit extensions and similar agreements would be well advised to add a carefully worded provision saying consent is a bargained-for consideration." Scott explains further by saying, "When a company is sitting down to write its contract, it should be thinking about writing it in a way that the person is giving his or her permission, but is doing so voluntarily. You can't say that if you want this loan, you have to give us permission; that's probably not going to fly under the FCC's definition of prior express consent." Judicial interpretation of the TCPA is in a state of flux, and Scott will continue to blog about the latest developments here on this site.

PROFESSIONALS

Scott Shaffer

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