

87 Debt Collection Calls in 3 Weeks? Maybe too much

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We return to the issue of retail debt collection with a case out of Illinois in which a federal judge has asked a jury to decide if a debt collection agency's constant calling to a Banana Republic credit card holder violated the Fair Debt Collection Practices Act (FDCPA). The debt collector called the cardholder three to five times each day, with no two calls made less than two hours apart, for a total of eighty-seven calls between December 5 and December 23. On the 87th call, the cardholder answered and told the debt collector she could not pay the debt and to stop phoning her. Even though the debt collector did not call the cardholder again, the federal court refused summary judgment and decided a jury should review whether the volume and pattern of calling amounted to harassment under the FDCPA. We [previously reported](#) on a case out of California where a federal judge dismissed an FDCPA claim under the same circumstances and against the same debt collector.

Good news is that the federal judge dismissed the Telephone Consumer Protection Act (TCPA) claim against the debt collector because the cardholder had consented to the calls in the credit card agreement. The decision is significant because the court interpreted the contractual consent for contact by the creditor, and any other owner or servicer of the account, to include third-party debt collectors. In other words, under the TCPA, consent to credit is equivalent to consent given to third-party entities acting on that creditor's behalf.

Download a copy of the decision, [Losch v. Advanced Call Center Technologies, LLC](#), Case No. 15-cv-06644 (N.D. Ill. Apr. 12, 2017).

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Topics

Illinois, FDCPA, Debt Collection, TCPA, Fair Debt Collection Practices Act, Telephone Consumer Protection Act