

Judge Confirms Robocalls Cause ‘Concrete Harm’ Under Supreme Court’s Spokeo Ruling

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Unwanted robocalls to a cell phone cause concrete, particularized injury to consumers, a federal judge in West Virginia recently ruled. Diana Mey can continue her lawsuit against Got Warranty Inc. and others for violating the Telephone Consumer Protection Act.

Mey is represented by John Barrett and Jonathan R. Marshall of Bailey Glasser’s Charleston, West Virginia office, as well as attorneys from Broderick & Paronich PC and the Law Office of Matthew P. McCue.

Got Warranty, NCWC, Inc., and Palmer Administrative Services Inc. filed a motion to dismiss Mey’s case after the U.S. Supreme Court’s mid-May ruling in Spokeo v. Robins, which clarified rules governing when someone has standing to sue.

U.S. District Judge John Preston Bailey ruled that Mey still had standing under the Spokeo standard. For customers with pre-paid cell phones, unwanted telemarketing and robocalls “cause direct, concrete, monetary injury by depleting limited minutes,” Bailey wrote. In addition, robocalls deplete a phone’s battery, subjecting recipients to the cost of electricity to recharge the phone. “While certainly small, the cost is real, and the cumulative effect could be consequential,” the judge wrote.

Finally, the unwanted calls constitute an invasion of property and a waste of the consumer’s time, both harms protected by common law and the U.S. Constitution, the judge ruled.