

Update on the Law

A collection of news and updates from the legal community

Newsletter: Data Privacy/Data Breach and Technology Law February 23, 2009

ALERT: Possible Damages of up to \$2M Against Carnival Corporation for Violation of the Telephone Consumer Protection Act of 1991 (aka the “Do Not Fax Law”).

Remember the old Do Not Fax law from the early 1990s? Apparently Carnival Corporation didn't. In **Gottlieb v. Carnival Corporation**, 04-civ-4202, the Federal court found Carnival liable to Gottlieb, the sole owner of SMG Travel, for violating the Act by sending approximately 1400 faxes to him over a three to four year period. Carnival argued, among other things, that its actions fell under the prior business exception to the Act, which allows for faxes between the parties where there is a previous business relationship. The court rejected this argument as the plaintiff never registered with Carnival as a travel agent and had never provided a fax number to Carnival. The Act calls for damages of up to \$500 per violation, plus treble damages for willful and knowing violations.

Conclusion: Simple back office processes such as automated marketing via fax can result in substantial damages to your company. The law firm of DiFrancesco, Bateman, Coley, Yospin, Kunzman, Davis & Lehrer, P.C. can help by performing an operational audit to ensure that these automated processes comply with laws such as Do Not Fax and Do Not Call, as well as other communication laws. We deliver a compliance plan, will oversee implementation of the compliance plan, and will train key personnel. For more information email Todd Ruback at Truback@newjerseylaw.net or call at 908-757-7800 x196.

A publication of DiFrancesco, Bateman, Coley, Yospin, Kunzman, Davis & Lehrer, P.C.,
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