



## **Texting Traps: Legally Using Texting as a Marketing Tool**

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Earlier this year, The Supreme Court came down with what is commonly referred to as the Facebook decision which narrowly interpreted what constitutes an automated telephone dialing system (or ATDS) under the Telephone Consumer Protection Act (or TCPA). As a result of the decision, real estate professionals can use their cell phones for marketing calls and texts without consent as long as:

- 1) A random or sequential number generator is NOT used, and
- 2) The marketing otherwise adheres to the Do Not Call registry restrictions.

Even so, **it is still highly recommended to obtain prior consent from those you are looking to call or text for marketing purposes to protect against TCPA liability.**

### **Must-See Resources!**

- 1) Before contacting a potential client or recruiting prospects, check out this TCPA Quick Reference Chart from the National Association of REALTORS'® Legal Affairs to make sure you have proper consent: <https://cdn.nar.realtor/sites/default/files/documents/TCPA-Quick-Reference-Card.pdf>
- 2) Review this TCPA Compliance Checklist for guidance on business text messaging: <https://messagedesk.com/resources/guides/tcpa-compliance/>
- 3) NAR has compiled a list of telemarketing and cold-calling resources to help you maintain and grow your prospects or longtime A-list contacts which can be viewed here: <https://www.nar.realtor/telemarketing-cold-calling#section-180591>

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