



February 10, 2023

COURT RULES CIVIL DAMAGES POSSIBLE FOR DEFENDANT'S CRIMINAL FAILURE TO REGISTER

In *Laccinole v. Gulf Coast Collection Bureau, Inc.*, No. CV 22-223-JJM-LDA, 2023 WL 157719 (D.R.I. Jan. 11, 2023), the court partially denied defendant Gulf Coast Collection Bureau's ("Gulf Coast") motion to dismiss because of an outstanding issue whether the defendant could be criminally liable for failing to register as a debt collector under Rhode Island law.

Plaintiff Christopher Laccinole alleged (among other things) that Gulf Coast and certain officers in their individual capacity violated the TCPA by: (i) improperly making collection calls using an Automated Telephone Dialing System; (ii) failing to properly identify itself; and (iii) failing to provide contact information. The plaintiff further alleged that he should be entitled to civil damages for defendant's failure to register as a debt collector. The plaintiff's TCPA claims were dismissed.

Regarding the defendant's failure to register as a debt collector, the court determined that under R.I. Gen. Laws § 9-1-2, a plaintiff may bring claims to recover civil damages incurred from criminal offenses. The plaintiff must properly allege (which the plaintiff did) that the defendant acted criminally when it failed to register. The court noted that failing to register as a debt collector is a misdemeanor that exposes an unregistered party to fines up to \$2,000 or imprisonment for not more than 1 year, or both. We will continue to follow and report on this case.

The court's ruling expands the scope of risks and considerations for state registration and licensing for industry participants. State licensing and registration statutes commonly are criminal in nature, often including fines and prison terms for violations. Compliance with applicable state licensing and registration laws can, however, be a potentially complex analysis, with important practical and operational implications. Sophisticated structures and arguments may be available to avoid triggering licensure (and thereby avoiding potential criminal sanctions for non-licensure). We can assist in determining the applicability of state licensing and registration laws to your business plans. Let us know how we can help. □

✧ *Mike Tomkies and Nathan Copeland*

DEALING WITH MULTISTATE COMPLIANCE? We routinely advise on activities that may be subject to licensing requirements under state and federal law and can help craft strategies to avoid or to comply with such licensing. We also offer by subscription several easy-to-use multi-state reference Digests, including a Debt Collection Digest, to aid in analysis and compliance. Contact us for details.

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