

STATE OF INDIANA

COUNTY OF JOHNSON

JOHNSON CIRCUIT & SUPERIOR COURTS

MAGISTRATE DIVISION

CAUSE NO. 41CO1-2602-SC-000383

CONDEL BOWEN

Plaintiff

V.

KYLE BANKS

Defendant

JUDGMENT ORDER

This matter came before the Court for bench trial on 07/09/2025. Plaintiff appeared in person, pro-se. Defendant appeared via Zoom Video Conference, pro-se. Parties were sworn and evidence was heard and admitted on the Amended Notice of Claim filed on 4/13/2026. This matter was then taken under advisement.

COMES NOW THE COURT and FINDS the following facts and law to be applicable:

That Plaintiff filed this action claiming six (6) violations by Defendant of the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. §227. That at all times relevant, Plaintiff owned and operated a web design firm and had registered four (4) business phone numbers on the National Call Registry ("Registry"). The Registry provided the cities tied to each such phone number as Greenwood, Bloomington, Cincinnati, and San Antonio, respectively. At all times relevant, Defendant owned and operated a marketing business. Plaintiff made no violation claims as to his personal cell phone number, just the four (4) business numbers. The evidence further showed that Plaintiff's business numbers were internet phone numbers listed under Google Business Profiles.

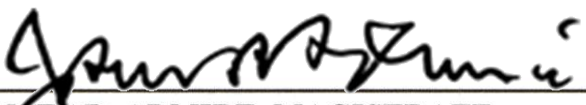
The TCPA "proscribes abusive telemarketing practices by, among other things, restricting certain communications made with an automatic dialing system." *Facebook, Inc. v. Duguid*, 592 U.S. 395 (2021). The TCPA requires that to qualify as an "automatic telephone dialing system" a device must have the capacity either to store a telephone number using a random or sequential number generator or to produce a telephone number using a random or sequential number generator. Defendant testified that he did not use a random or sequential number generator, but instead used targeted listing data. The Court's understanding from the testimony is that targeted listing data is very different from a random or sequential number generator because it uses specific, purposeful criteria rather than pure chance or simple counting. Such testimony was largely unchallenged by Plaintiff. Consequently, the evidence proffered by Plaintiff does not prove or clearly indicate the use of a random or sequential number generator by Defendant. Because the lack use of a random or sequential number generator is dispositive, the Court need not delve further into the analysis of this case. However, the Court does further note that several of the alleged violations occurred within the applicable notice period and the Court found it persuasive that Plaintiff's responses of "OK" and "Really" to Defendant's marketing messaging perhaps invited

further messaging from Defendant about which Plaintiff complains. From the evidence presented, it is the opinion of this Court that Defendant's alleged violations were not violations of the TCPA and did not constitute abusive telemarketing practices. Accordingly, after considering the pleadings and the evidence, the Court NOW FINDS that Plaintiff has not met his burden of proof and his claim should be denied.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that JUDGMENT enter for the Defendant and against the Plaintiff.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the costs of this action previously paid by the Plaintiff remain assessed against the Plaintiff.

DATED: 7/31/2026



JAMES R. ADMIRE, MAGISTRATE
JOHNSON CIRCUIT & SUPERIOR COURTS