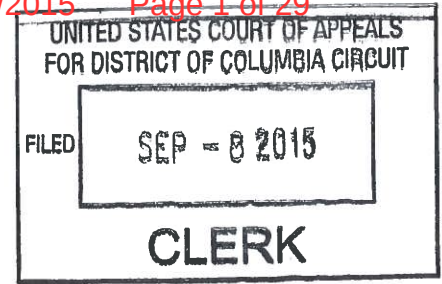


SEP - 8 2015

UNITED STATES COURT OF APPEALS
DISTRICT OF COLUMBIA CIRCUIT



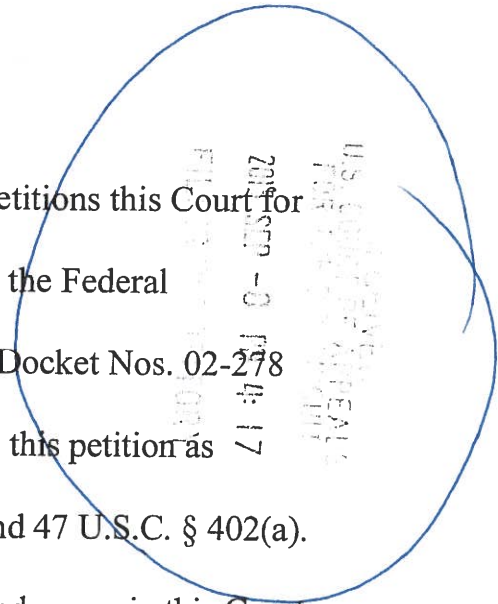
RECEIVED

PORTFOLIO RECOVERY)
ASSOCIATES, LLC,)
)
Petitioner,)
)
v.)
)
FEDERAL COMMUNICATIONS)
COMMISSION and the UNITED STATES)
OF AMERICA,)
)
Respondents.)

Case No. 15-1314

PETITION FOR REVIEW

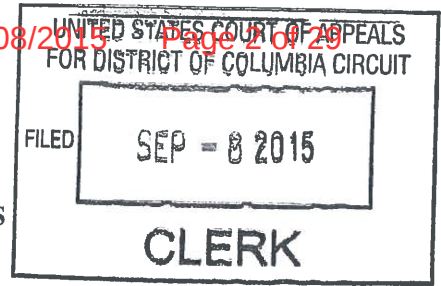
Portfolio Recovery Associates, LLC (“PRA”) petitions this Court for review of the final Declaratory Ruling and Order released by the Federal Communications Commission (“FCC”) on July 10, 2015, in Docket Nos. 02-278 and 07-135 (the “Order”). A copy of the Order is attached to this petition as Exhibit A. PRA seeks review pursuant to 28 U.S.C. § 2344 and 47 U.S.C. § 402(a). This Court has jurisdiction pursuant to 28 U.S.C. § 2342(1), and venue in this Court is proper under 28 U.S.C. § 2343. Petitions for review of the Order have been consolidated in this Court pursuant to 28 U.S.C. § 2112(a). *See Consolidation*



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UNITED STATES COURT OF APPEALS
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OF AMERICA,)
)
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Case No. 15-1314

ORIGINAL

PETITION FOR REVIEW

Portfolio Recovery Associates, LLC (“PRA”) petitions this Court for review of the final Declaratory Ruling and Order released by the Federal Communications Commission (“FCC”) on July 10, 2015, in Docket Nos. 02-278 and 07-135 (the “Order”). A copy of the Order is attached to this petition as Exhibit A. PRA seeks review pursuant to 28 U.S.C. § 2344 and 47 U.S.C. § 402(a). This Court has jurisdiction pursuant to 28 U.S.C. § 2342(1), and venue in this Court is proper under 28 U.S.C. § 2343. Petitions for review of the Order have been consolidated in this Court pursuant to 28 U.S.C. § 2112(a). *See Consolidation*

Order, *In re Rules & Regulations Implementing the Telephone Consumer Protection Act of 1991*, MCP No. 134 (J.P.M.L. July 24, 2015).¹

I. Nature of the Proceedings and Grounds for Relief

The Telephone Consumer Protection Act of 1991 (“TCPA”) sought to eliminate abusive telemarketing practices that were a danger to public safety and an invasion of consumer privacy. To achieve this objective, the TCPA imposes restrictions on the use of “automatic telephone dialing systems” (“ATDS”), which it defines as equipment with the “capacity” to generate numbers randomly or sequentially and to dial those numbers.² Among other restrictions, callers may not use an ATDS to call a wireless phone number without “the prior express consent of the called party.”³ In recent years, however, strained interpretations of the TCPA’s terms — including what equipment qualifies as an ATDS — has produced a surge in costly and unnecessary TCPA litigation.

The Order addresses 21 requests filed with the FCC seeking clarifications of or revisions to the FCC’s rules and interpretations governing the agency’s enforcement of the TCPA. Over the course of the proceedings, dozens of

¹ PRA requests that this Petition, like other pending petitions for review challenging the Order, be consolidated under lead Case No. 15-1211.

² 47 U.S.C. § 227(a)(1).

³ § 227(b)(1)(iii).

businesses, trade groups, and other parties — including PRA⁴ — joined in calling for the FCC to clarify its interpretation of various TCPA provisions in order to stem the rise of burdensome and abusive TCPA lawsuits.

Instead, the Order stretches the TCPA’s terms even further beyond their plain meaning and Congressional intent. The Order’s unlawful rulings include, among other things: (1) asserting that equipment can be an ATDS even if it has none of the statutorily required features, *see* Order ¶¶ 15-16; (2) holding that a called party “may revoke consent at any time and through any reasonable means,” with callers forbidden from setting any parameters on “the manner in which revocation may occur,” *see* Order ¶ 47; and (3) holding callers strictly liable for all but the first call made to a number after it is reassigned — even if the caller could not have known from that first call that the number had been reassigned, *see* Order ¶¶ 85-97. In these and other ways, the Order disregards the TCPA’s language and intent and unlawfully holds callers to unreasonable standards.

In the respects described above and others, the Order is arbitrary and capricious, an abuse of discretion, and otherwise contrary to the Constitution and other laws. *See* 5 U.S.C. § 706(2)(A), (B).

⁴ *See, e.g.*, Comments of Portfolio Recovery Associates, LLC, on Petition for Rulemaking Filed by ACA International, CG Docket No. 02-278 (filed March 24, 2014).

II. Prayer for Relief

PRA prays that this Court (1) vacate or reverse those portions of the Order that are unlawful, (2) remand such portions of the Order to the FCC for an order consistent with this Court's findings, and/or (3) provide such other relief as this Court deems appropriate.

Respectfully submitted,

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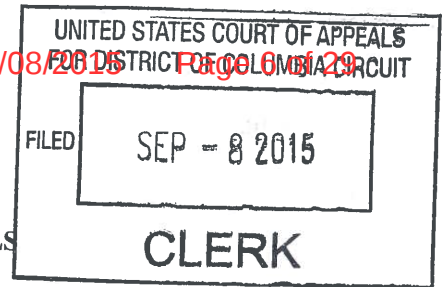
*Counsel to Petitioner Portfolio Recovery
Associates, LLC*

Dated: September 8, 2015

SEP - 8 2015

RECEIVED

UNITED STATES COURT OF APPEALS
DISTRICT OF COLUMBIA CIRCUIT



PORTFOLIO RECOVERY)
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))
FEDERAL COMMUNICATIONS)
COMMISSION and the UNITED STATES)
OF AMERICA,)
))
Respondents.)

Case No. 15-1314

ORIGINAL

CORPORATE DISCLOSURE STATEMENT

Pursuant to Circuit Rule 26.1 of the United States Court of Appeals for the District of Columbia Circuit, Petitioner Portfolio Recovery Associates, LLC hereby discloses as follows:

Portfolio Recovery Associates, LLC, a Delaware limited liability company, is a subsidiary of PRA Group, Inc., a publicly traded company. PRA Group provides a broad range of revenue and recovery services, returning millions of dollars annually to business and government clients. No publicly held corporation owns 10% or more of PRA Group, Inc. stock.

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Exhibit A

CERTIFICATE OF SERVICE

Within one business day of this petition for review being filed:

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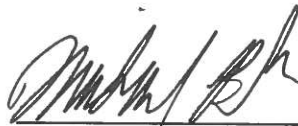
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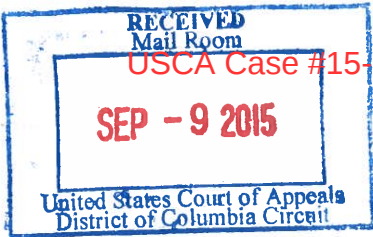
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