MISCELLANEOUS

SUPREME COURT HOLDS IF ALL A DEVICE DOES IS CALL NUMBERS AS DIRECTED, IT'S NOT AN AUTOMATIC TELEPHONE DIALING SYSTEM UNDER THE TELEPHONE CONSUMER PROTECTION ACT

Facebook v. Duguid, et al., 292 U.S. ___ (2021).
https://www.supremecourt.gov/opinions/20pdf/19-511_p86b.pdf

FACTS: Plaintiff Noah Duguid sued Defendant Facebook, Inc., alleging that Facebook had violated the Telephone Consumer Protection Act ("TCPA") by maintaining a database of stored phone numbers and programming its equipment to send automated text messages. The TCPA forbids abusive telemarketing practices by restricting communications made with an "automatic telephone dialing system" ("autodialer"). The TCPA defined autodialers as equipment that can "store or produce telephone numbers to be called, using a random or sequential number generator."

The Court used the conventional rules of grammar and punctuation for its statutory interpretation.

Duguid brought a putative class action against Facebook because he was unable to stop their unwanted text messages alerting him of login activity. Facebook moved to dismiss the suit for failure to state a claim because Duguid did not claim the text messages were sent to phone numbers randomly generated. The trial court dismissed with prejudice the complaint. The appellate court reversed, holding Duguid had stated a claim because an autodialer did not need to use a random generator. The Supreme Court granted certiorari to determine whether the statutory definition of an autodialer required the use of a random number generator in storing telephone numbers.

HOLDING: Reversed and remanded.

REASONING: Duguid argued for a statutory interpretation of the TCPA that excluded from autodialers the characteristic use of a "random or sequential number generator" in storing phone numbers. The Court disagreed with Duguid's textual statutory interpretation of an autodialer and found the statutory context supported Facebook's autodialer definition.

The Court used the conventional rules of grammar and punctuation for its statutory interpretation. This led the Court to require the use of a random number generator in both producing and storing phone numbers, refuting Duguid's limitation to only producing. The Court concluded that within the TCPA's statutory context, an autodialer excluded equipment that did not use a random number generator, and concluded that Duguid's definition of an autodialer was too broad as to encompass ordinary cell phone use.

SUPREME COURT HOLDS SECURED CREDITOR MAY RETAIN REPOSSESSED CAR AFTER BANKRUPTCY FILING

City of Chicago v. Fulton, ___ U.S. ___ (2021).
https://www.supremecourt.gov/opinions/20pdf/19-357_6k47.pdf

FACTS: Separate Chapter 13 debtors ("Respondents") requested that the City of Chicago (the "City") return his or her vehicle. The City impounded Respondents' vehicles for failure to pay fines for motor vehicle infractions.

The City refused to turn over the vehicles. In each case, a bankruptcy court held that the City's refusal violated the automatic stay. In a consolidated opinion, the Seventh Circuit affirmed, concluding that by retaining possession of the vehicles, the City had acted "to exercise control over" Respondents' property in violation of §362(a)(3). The Supreme Court of the United States granted certiorari.

HOLDING: Vacated and remanded.

REASONING: The City argued it did not violate the automatic stay by retaining possession of the debtors' vehicles after the bankruptcy filings.

There was a circuit split over whether an entity that retained possession of bankruptcy estate property violated §362(a)(3). The Court examined the definitions of §362(a)(3)'s operative terms. The Court concluded §362(a)(3) halted any affirmative act that would alter the status quo as of the time of the filing of a bankruptcy petition. If read in the alternative, it would have rendered §542 superfluous despite it being the provision governing turnover of estate property. This alternative reading would have also caused contradictions between §362(a)(3) and §542. Section 542 carves out exceptions to the turnover command. Under Respondents' reading, an entity would be required to turn over property under §362(a)(3) even if that property were exempt from turnover under §542. The history of the Bankruptcy Code confirmed the better reading. The Code originally included both §362(a)(3) and §542(a). However, §362(a)(3) lacked the phrase "or to exercise control over property of the estate." When that phrase was later added by amendment, Congress made no mention of transforming §362(a)(3) into an affirmative turnover obligation. It was unlikely Congress would have made such an important change by merely adding the phrase "exercise control" rather than by adding a cross-reference to §542(a) or some other indication that it was so transforming §362(a)(3).

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SUPREME COURT HOLDS MONETARY IS UNAVAILABLE TO THE FEDERAL TRADE COMMISSION UNDER SECTION 13(b)

AMG Capital Mgmt. LLC et al., Petitioners v. FTC, 593 U.S. ___ (2021).
https://www.supremecourt.gov/opinions/20pdf/19-508_l6gn.pdf

FACTS: Petitioner-Appellant, Scott Tucker (All defendants collectively will be referred to as Tucker), controller of several companies that provided borrowers with short-term payday loans. Tucker's companies operated online and provided customers with misleading explanations to loan terms. The terms included fine print saying that the loans would automatically be renewed unless customers took affirmative steps to opt out. This led to more than $1.3 billion in deceptive charges between 2008 and 2012.

The Court reasoned that the language refers only to injunctions, and injunctions are not the same as an award of equitable monetary relief.

The Federal Trades Commission filed suit, alleging Tucker and his companies were engaging in "unfair or deceptive acts or practiced in or affecting commerce," in violation of §5(a) of the Act. 15 U. S. C. §45(a)(1). The Commission relied upon §13(b) and asked for a permanent injunction to prevent Tucker from committing future violations of the Act. Relying on the same provision, the Commission also asked the court to order monetary relief. The district court granted summary judgment for the Commission, the Commission's request for injunction, and directed Tucker to pay $1.27 billion in restitution and disgorgement. Tucker appealed.

The Ninth Circuit rejected Tucker's argument that §13(b) does not authorize the monetary relief the district court granted, pointing to Circuit precedent that interpreted §13(b) as "empower[ing] district courts to grant any ancillary relief necessary to accomplish complete justice, including restitution." Tucker appealed. The Supreme Court granted certiorari.

HOLDING: Reversed and Remanded.

REASONING: The Court looked to decide if Congress, by enacting §13(b)'s words, "permanent injunction," granted the Commission authority to obtain monetary relief directly from courts, thereby effectively bypassing the process set forth in §5 and §19.

The Court reasoned that the language refers only to injunctions, and injunctions are not the same as an award of equitable monetary relief. The Court stated that the words "permanent injunction" have a purpose that does not extend to the grant of monetary relief. When looking at the entire provision it focused on prospective, not retrospective relief.