

TRADE REGULATION--VIOLATIONS--UNSOLICITED CALLS BY AUTOMATIC
DIALING AND RECORDED MESSAGE PLAYERS. N.C.G.S. § 75-30.¹

The (*state number*) issue reads:

"Did the defendant make an unsolicited telephone call by using an automatic dialing and recorded message player?"

On this issue the burden of proof is on the plaintiff. This means that the plaintiff must prove, by the greater weight of the evidence, that defendant made an unsolicited telephone call by the use of an automatic dialing and recorded message player.²

An automatic dialing and recorded message player is any automatic equipment which incorporates a storage capability of telephone numbers to be called or a random or sequential number generator capable of producing numbers to be called and the capability, working alone or in conjunction with other equipment, of disseminating a prerecorded message to the telephone number called. A telephone call is unsolicited unless, pursuant to a prior agreement between the parties, the person called has agreed

¹N.C.G.S. § 75-30.

²Certain types of organizations are exempted from G.S. § 75-30, including charitable, civic, political, and opinion polling organizations as well as radio and television stations and broadcast rating services conducting a public opinion poll required by law. The caller must clearly identify the nature of the call and the name and address of the calling organization.

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(Continued.)

to accept such calls from the defendant.³

Finally, as to this issue on which the plaintiff has the burden of proof, if you find by the greater weight of the evidence that defendant made an unsolicited telephone call by the use of an automatic dialing and recorded message player, then it would be your duty to answer this issue "Yes" in favor of the plaintiff.

If, on the other hand, you fail to so find, then it would be your duty to answer this issue "No" in favor of the defendant.

³Another defense to G.S. § 75-30 may be made where the defendant proves that the telephone call was preceded by an announcement made by a human operator who:

(A) stated the nature and length in minutes of the recorded message; and
(B) identified the [individual] [business] [group] [organization] calling; and

(C) asked the calling party whether he was willing to listen to the recorded message; and

(D) disconnected from the called party's line if the called party was unwilling to listen to the recorded message.