

Alert Update: Preliminary injunction prohibits enforcement of portions of Massachusetts emergency debt collection regulation

May 22, 2020

McGlinchey [previously reported](#) that, on May 6, 2020, U.S. District Court Judge Richard Stearns [entered a TRO](#) temporarily enjoining Massachusetts Attorney General Maura Healey from enforcing [emergency regulation 940 CMR 35.00](#), which prohibits certain debt collection activities, including debt collection calls, for a period of 90 days beginning on March 26, 2020 (until June 24, 2020).

The TRO was set to expire on May 21, 2020. On May 20, 2020, ACA International filed a Motion for Clarification requesting that Judge Stearns clarify whether he had intended to grant a preliminary injunction along with the TRO. The Motion for Clarification was unopposed by Attorney General Healey.

Yesterday (May 21, 2020), Judge Stearns **granted the Motion for Clarification**, confirming that he intended to grant a preliminary injunction as well as the TRO with his prior order. This means that the emergency regulation's prohibition against debt collection calls in Massachusetts will remain unenforceable for the duration of the regulation period unless the Attorney General successfully moves to dissolve the preliminary injunction. Accordingly, debt collectors may continue or resume debt collection actions in Massachusetts Courts and debt collection calls **as long as they otherwise comply** with existing Massachusetts and federal debt collection statutes and regulations.

Companies should be aware that the TRO and preliminary injunction **do not affect those portions of the emergency regulation banning self-help repossession**. See 940 CMR 35.03(1). Self-help auto repossessions remain prohibited until the expiration of the emergency regulation on June 24, unless the regulation is extended beyond that date by the Attorney General.

McGlinchey will continue to follow the case and provide updates on any rulings affecting the injunction.

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