

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

BILLY W. WASS,

Plaintiff,

v.

AMERIGROUP TEXAS, INC.,

Defendant.

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Civil Action No. 4:20-cv-00445-BP

MEMORANDUM OPINION AND ORDER

In this case removed from state court, Plaintiff, Billy W. Wass (“Wass”), proceeding *pro se*, sued Defendant, Amerigroup Texas, Inc. (“Amerigroup”), in County Court at Law No. 2 of Wise County, Texas. ECF No. 5 at 1. In his petition, Wass alleges that Amerigroup violated the Telephone Consumer Protection Act (“TCPA”) and Chapter 304 of the Texas Business and Commerce Code by calling and sending text messages to his phone even though he is on the national and Texas “do not call lists.” ECF No. 5-1 at 4, 7 (citing Telephone Consumer Protection Act, 47 U.S.C. § 227 (2020); Tex. Bus. & Com. Code §§ 304.001–304.259 (2019)). He alleges that some of the calls were “robo-calls” that did not provide an avenue for removing one’s phone number from the call list. *Id.* at 4. Amerigroup filed a notice properly removing the case to this Court based on federal question jurisdiction under 28 U.S.C. § 1331. ECF No. 5 at 1.

By Order dated August 3, 2020, the Court granted Amerigroup’s Motion to Dismiss unless Wass filed an amended complaint that complied with the Federal Rules of Civil Procedure and addressed the deficiencies noted by the Court by August 17, 2020. *See* ECF No. 16. The Court cautioned Wass that failure to comply with the order would result in Amerigroup’s Motion to Dismiss being granted and his federal law claims against Amerigroup being dismissed with

prejudice and his state law claims against Amerigroup being dismissed without prejudice. *Id.* Wass failed to file an amended complaint as ordered and instead filed a Motion to Extend Time on August 17, 2020. ECF No. 18.

By Order dated August 18, 2020, the Court granted in part Wass's Motion to Extend Time and again ordered him to file an amended complaint by August 31, 2020 that complied with the Federal Rules of Civil Procedure and addressed the deficiencies noted in the Court's previous Memorandum and Opinion. *See* ECF No. 19. The Court warned him that failure to comply with the order might result in dismissal of the case for want of prosecution under Federal Rule of Civil Procedure 41(b). *Id.* Wass did not comply with the Court's Order.

Dismissal of Wass's claims is warranted. The Court previously explained why his federal law claims should be dismissed with prejudice and his state law claims should be dismissed without prejudice. *See* ECF No. 19. The Court permitted Wass to amend his complaint and extended the time for him to file an amended complaint. Wass failed to file an amended complaint, and the Court warned Wass that failure to file an amended complaint or to comply with court orders may result in dismissal. Still, Wass did not file an amended complaint as ordered.

Accordingly, the Court **GRANTS** Amerigroup's Motion to Dismiss (ECF No. 7), **DISMISSES WITH PREJUDICE** Wass's federal law claims against Amerigroup, and **DISMISSES** his state law claims against Amerigroup **WITHOUT PREJUDICE**.

It is so **ORDERED** on September 28, 2020.



Hal R. Ray, Jr.
UNITED STATES MAGISTRATE JUDGE