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California Residents: Their Consent Now Required

Whose consent do you need to record a telephone call? The California Supreme Court recently ruled in *Kearney v. Solomon Smith Barney, Inc.* that a Georgia business that recorded a California resident's call without their consent violated California's two-party consent rule. If you are operating in a one-party consent (i.e. your consent) state but conducting business in California, you are now clearly subject to California law with regard to the recording of telephone conversations made to or received from California. This law applies to inbound and outbound calls, consumer and business to business calls, for-profit and nonprofit calls.

To comply with this ruling, all organizations that record calls placed into or out of California should do the following:

- Review current recording practices to ensure that all parties are at least advised that the call will or may be recorded or monitored.
- Consider laws of other states that may have all party consent requirements. Two-party consent states include:
 - California
 - Connecticut
 - Delaware
 - Florida
 - Maryland
 - Michigan
 - Massachusetts
 - Montana
 - New Hampshire
 - Pennsylvania
 - Washington

Although the Supreme Court did not award damages in this case, telemarketers can be subject to civil sanctions for violating the two party consent requirement of another state since this decision has officially provided notice. Therefore, it is important to ensure that telemarketing policies and procedures reflect this new ruling.