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Formal Question

2 messages

Alexander Falconi <admin@ournevadajudges.com>
To: Marshal Willick <marshal@willicklawgroup.com>

Thu, Jul 9, 2020 at 1:38 PM

Hi Mr. Willick, the question first, the context second.

Question: If at the beginning of a phone call, the caller is notified they are being recorded for quality and training purposes, does that same caller also have the right to record the call, or are they also required to notify same?

Context: Pandemic Unemployment Assistance callers claim to have been told by Department of Training and Rehabilitation personnel that the automated "you are being recorded" isn't sufficient notice for the caller him or herself to also record the call.

Response: live, by recording, or by response to this email (statement) is fine. Your choice!

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Alexander Falconi**Administrator**| *Scrutiny, Competence, Truth.*<https://www.ournevadajudges.com>

Marshal Willick <marshal@willicklawgroup.com>
To: Alexander Falconi <admin@ournevadajudges.com>

Thu, Jul 9, 2020 at 2:04 PM

The answers to this question may well vary by state; where and which "Pandemic Unemployment Assistance" line from what "Department of Training and Rehabilitation" is not identified.

In Nevada, as a general proposition, telling a caller that the call is being recorded constitutes adequate notice so that going forward with the conversation is considered to be with the implied consent of both participants. In 1998, the Nevada Supreme Court held in *Lane v. Allstate* that the same rules applied to a participant taping a call as to interception of a call by a third party – i.e., that the consent of both parties to the call was required. This tells me that if implied consent works for one of the parties to the call (i.e., the agency) it is adequate notice and consent for the other party to do the same. I am not aware, however, if this precise question has ever been asked of a Nevada appellate court, or if so ever answered. A state by state guide to one and two party consent states, with some other information, can be found at <https://www.justia.com/50-state-surveys/recording-phone-calls-and-conversations/>.

Marshal



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