



News

Client Success: ACA International Reports on Win by Hinshaw Client Advanced TeleSolutions in Wrong Number Claim Case

October 17, 2019

Hinshaw client Advanced TeleSolutions (ATS) was handed a victory in the U.S. District Court for the Middle District of Florida when a judge denied a motion to certify a class action suit in a wrong number claim brought under the Telephone Consumer Protection Act (TCPA). As ACA International reported, the plaintiff alleged that the defendants attempted to collect consumer debt by calling the plaintiff's cell phone without his consent, using an automatic telephone dialing system (ATDS). Hinshaw's Justin Penn represented ATS in the case.

ATS was the contracted call center hired by defendant Bright House, a cable and internet service provider, to collect money owed to Bright House under a Residential Subscriber Agreement (RSA). In addition to including an arbitration provision, under the RSA, Bright House's customers agreed the company and its vendors could call "the phone numbers ... suppl[ied] to it for any purpose [via] any method, including an automatic dialing system or an artificial or recorded voice." Bright House and ATS placed calls to the plaintiff's cell phone—which was actually the number of a Bright House customer that appears to have been reassigned to the plaintiff—regarding a service with Bright House.

According to the *ACA Daily Digest*, Plaintiff sued Bright House and ATS in a class action complaint and alleged that the defendants attempted to collect a consumer debt by calling plaintiff's cellphone without his consent, using an ATDS. He further sought to certify two nationwide classes. Plaintiff's case was ultimately dismantled by the court's thorough examination of "the individual inquiries that prevent class certification in a *wrong-number claim* under the TCPA."

"The judge rightly concluded that plaintiff's own wrong-party evidence would necessarily require individualized inquiries including which class members were actually subscribers vs. purely a wrong party and those concerning arbitration provisions in the residential subscriber agreements," explained Penn in the ACA's story. "We are thrilled with the court's decision and hope that it will serve as future support for others in the industry who are trying to defeat class certification under similar circumstances."

[Read the full ACA Daily Digest story](#)

The case is *Stephan H. Sliwa v. Bright House Networks, LLC, and Advanced TeleSolutions, Inc., Case No. 2:16-cv-235-FtM-29MRM (M.D. Fla., September 27, 2019)*

Attorneys

Justin M. Penn

Service Areas

Consumer and Class Action
Defense

Consumer Financial Services

Offices

Chicago



"Judge Hangs Up on Class Certification in Wrong Number Claim Case," was published in the *ACA Daily Digest*, October 4, 2019.