



News

Appellate Spotlight: Eleventh Circuit Affirms Summary Judgment Win in TCPA Claim Filed by South Florida Debt Defense Attorney

December 21, 2020

Hinshaw client Navient Solutions, LLC and Student Assistance Corp. recently had a summary judgment win upheld by the Eleventh Circuit in a Telephone Consumer Protection Act (TCPA) case. A South Florida debt defense attorney sued the companies over allegedly receiving calls to his cell phone. Hinshaw partners Barbara Fernandez and Dennis Lueck handled the case.

Evidence adduced in discovery established that during a call with a Navient representative the plaintiff had said "no" to autodialed calls, but shortly after submitted his written consent to receive such calls via Navient's website. Hinshaw's motion for summary judgment was granted on two grounds: first, Hinshaw's legal team argued that under the Second Circuit's opinion in *Reyes v. Lincoln Automotive Financial Services*, the plaintiff could not unilaterally revoke his contractual consent provided as part of a settlement agreement in a class action where he was a member and did not opt-out; second, our team argued that even if he could revoke his consent, he re consented when he submitted his cell number and written consent on Navient's website.

The 11th Circuit did not rule on the *Reyes* issue but affirmed the trial court's finding that Plaintiff re consented.

The ruling was given media coverage by *Daily Business Review* in a story titled "[South Florida Attorney Thwarted by 'Fine Print' in Nuisance Call Suit](#)" (*subscription required*). It was also given industry coverage by *ACA International* in a story titled "[Consumer Consented to Cellphone Calls, Even if He Did Not Intend To Do So.](#)"

The case is *Lucoff v. Navient Solutions, LLC*, Case No: 19-13482.

Attorneys

Barbara Fernandez

Service Areas

Consumer and Class Action
Defense

Consumer Financial Services

The Telephone Consumer
Protection Act