Lightfoot

NEWS & INSIGHTS

LIGHTFOOT SECURES DISMISSAL OF TCPA CLAIMS AGAINST GENERAL ELECTRIC CO.

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A North Carolina federal court dismissed, with prejudice, Telephone Consumer Protection Act (TCPA) claims against Lightfoot, Franklin & White LLC client General Electric Co. (GE).

Lightfoot partners **Wes Gilchrist**, **Jeff Doss** and **Brian Kappel** prepared the motion to dismiss and briefing for GE. The Lightfoot team argued that the plaintiff failed to state a TCPA claim because she did not adequately allege that text messages she received had been sent using an autodialer.

In an issue of first impression for courts within the Fourth Circuit, U.S. District Judge Louise W. Flanagan adopted Lightfoot's argument, joining a growing majority of jurisdictions that have read the TCPA's statutory text to require the use of a random or sequential number generator for TCPA liability to attach. These decisions have come in the wake of the District of Columbia Circuit's landmark decision in *ACA International v. Federal Communications Commission*, 885 F.3d 687 (D.C. Cir. 2018).

In another important ruling, with potentially wide-ranging implications for companies operating in North Carolina, the court also held that the *ACA International* decision invalidated prior interpretive rulings by the FCC prohibiting the use of so-called predictive dialers and other similar devices.

The case is *Snow v. General Electric Co., et al.* in the U.S. District Court for the Eastern District of North Carolina, Case No. 5:18-cv-00511-FL (2019 WL 2500407).

Gilchrist represents clients in a variety of complex litigation and has experience defending against TCPA claims. After earning an economics degree from Harvard, he worked on Wall Street in investment banking and equity research covering IT and software companies. His law practice focuses on banking and finance, antitrust and class action litigation.

Doss focuses his practice on white-collar criminal defense and complex civil litigation, in addition to conducting internal investigations for private and public entities. He has defended businesses and individuals in connection with grand jury investigations, administrative enforcement proceedings, and criminal prosecutions at the trial and appellate levels.

Kappel regularly represents companies involved in employment-related matters and commercial litigation, including defending against antitrust, complex class action and product liability claims. He also represents institutional and individual clients with collegiate sports and NCAA compliance-related issues.