Lightfoot

NEWS & INSIGHTS

LIGHTFOOT WINS DISMISSAL OF TCPA CLASS ACTION FOR TTI NORTH AMERICA SUBSIDIARY HART CONSUMER PRODUCTS

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Lightfoot, Franklin & White has secured a complete dismissal, with prejudice, of a proposed nationwide class action against Hart Consumer Products, a subsidiary of Techtronic Industries North America, Inc., after a federal judge ruled that text messages are not “telephone calls” under the private right of action provision of the Telephone Consumer Protection Act (TCPA). This is a significant development of law for defendants in cases under the TCPA, which for years has spawned nationwide class action litigation.

In *Conrad v. Hart Consumer Products, Case No. 4:24-cv-307-CLM*, plaintiff Michael Conrad alleged that Hart Consumer Products sent him multiple unwanted marketing text messages advertising Hart-brand products after he placed his cell phone number on the National Do Not Call Registry. Conrad sought to bring the claim on behalf of a nationwide class under 47 U.S.C. § 227(c)(5), the TCPA provision that creates a private right of action for recipients of more than one unwanted “telephone call” within a 12-month period.

Judge Corey L. Maze of the U.S. District Court for the Northern District of Alabama granted Hart Consumer Products’ motion to dismiss, holding that a text message does not qualify as a “telephone call” under the statute's plain language and its ordinary meaning at the time of the TCPA’s 1991 enactment. The court’s ruling aligns with the U.S. Court of Appeals for the Seventh Circuit’s recent opinion in *Steidinger v. Blackstone Medical Services*, which reached the same conclusion. The case was dismissed with prejudice and is closed.

Christopher C. Yearout led the defense team, with partners **J. Chandler Bailey**, **Wes Gilchrist**, **Jeffrey Doss** and associate **Nick Langford**.