

## Procedural Win! Another Court Bifurcates Discovery in a TCPA Class Action

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How best to secure the “just, speedy, and inexpensive determination of every action”? A good place to start is with discovery.

A recent decision from a District Court in Maryland illustrates one tool available to courts and parties looking to save time and money: bifurcation. *See Akselrod v. MarketPro Homebuyers, LLC*, 2021 U.S. Dist. LEXIS 5253 (D. Md. Jan. 12, 2021).

The case involves a putative class action by Gustave Akselrod alleging two violations of the TCPA by MarketPro Homebuyers: (1) a violation of the TCPA’s prohibitions on ATDS calls to individuals without consent; and (2) calls to individuals on the National Do-Not-Call Registry.

Evaluating MarketPro’s request to bifurcate discovery between liability and class issues, the court reasoned correctly that “whether an ATDS was used and whether messages were telephone solicitations are issues of liability largely distinct from class certification issues (e.g., numerosity, commonality, typicality, and adequacy of representation).” And, the court explained, limiting discovery “has the potential to simplify the case and to save both parties the time and expense of class discovery, which can be particularly resource intensive.”

Consistent with this sound reasoning, the court bifurcated discovery between liability and class issues. Practically, the decision will help encourage a “just” resolution of the action. Hopefully courts continue to adopt this prudent approach to discovery in TCPA class actions.

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