

“Put Up Or Shut Up”: TCPA Fax Plaintiff Litigates For Years for a Whopping \$500.00 Recovery

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TCPA litigation doesn't pay. Spread the word. Hash tag it.

Here, I'll prove it.

Back in 2013 a hotel franchisee gets a fax from an advertiser affiliated with the franchisor.

In 2016, the franchisee sues arguing that the fax was illegal. Defendant argues that the franchisee consented by virtue of the franchise agreement with the franchisor and by supplying its fax number in a franchise directory, adding its fax number on a site contact form, and including its fax number on a trade show registration form and subsequently attended that convention.

The parties battled over the case for about 5 years before the Court just decided this Tuesday that none of this conduct clearly indicated a willingness and expectation that the franchisee would receive *advertising* faxes. The case is *Gorss Motels v. Brigadoon Fitness*, CASE NO.: 1:16-CV-330-HAB, 2021 U.S. Dist. LEXIS 14729 (N.D. Ind. January 26, 2021.) The Court quipped that summary judgment is the “put up or shut up” phase and entered judgment in favor of the Plaintiff for the one fax at issue.

So five years of litigation for a \$500.00 recovery. Talk about a long way to go for a little bit of money.

See folks, filing TCPA cases just isn't a good investment. I mean, sure about a gazillion TCPA millionaires have been minted and its the most valuable asset the Plaintiff's bar owns, but.. *Gorss Motels* proves once and for all that bringing TCPA litigation isn't worth the time. So stop filing!

It should be noted that the Plaintiff in this suit has filed about half a million TCPA class actions (hyperbole, I think) and has lost a certification bid in just about every single last one of them. Yet the intrepid folks at Anderson + Wanca keep right on pursuing these things.

And we keep right on reporting on them.

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