

## TCPAWORLD AFTERDARK: is this malpractice?

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So... let's talk about something unpleasant.

Followers of TCPAWorld know well that the standing rules in Florida state court just changed. [Like.. massively.](#)

In fact, to have standing to sue for unwanted text messages in state court in Florida now you basically have to show that the conduct was “outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency...”

So basically its impossible to establish standing in an FTSA case. Which means these cases are doomed to immediate dismissal.

Unless, of course, an FTSA Defendant were to do something UTTERLY ridiculous like remove a case OUT OF STATE COURT and into federal court where the standing rules are now less stringent–i.e. where the Plaintiff has a much better chance of keeping his case alive.

But who would ever do something like that?

Williams-Sonoma, Inc., apparently.

In *Conneran v. Williams-Sonoma* the Plaintiff alleges violation of the FTSA arising out of receipt of a telephonic sales call. Just one, apparently.

There is precisely a zero percent chance that claim would meet the Eldridge test. So all the Defendant had to do was move to dismiss and the case was dead. Like, forever.

But instead the case was sent to federal court where the W-S now has to defend the case on the merits.

I mean... what in the world guys?

Maybe I am missing something but this seems absolutely ludicrous to me. And I don't throw the word “malpractice” around lightly.. or at all really. (In fact in the ~2000 articles I have written this is the first time I have ever suggested something of the sort...) But I don't see why a Defendant would

intentionally remove a dead case to federal court and essentially revive it.

If you understand how this makes sense please shoot me a note and I will update this article. I dont want to bury anybody wrongfully—so if there is an angle here let me know—but I am simply stumped.

Anyhoo before YOU remove an FTSA case to federal court PLEASE consider the new standing rules in play in [state court after Edlridge](#).

And if you want to read the Sonoma removal papers they are here: [Willians Sonoma Removal](#)

Sleep tight TCPAWorld...

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