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REFRESHING: Coca Cola Wins Huge TCPA Victory With Motion to Strike Massive Class

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The Plaintiff's bar has grown incredibly aggressive in TCPA class actions recently and filed suits with the broadest possible class definition to sweep in as many potential plaintiffs as possible.

In doing so, of course, the plaintiff's attorneys hope to create massive risk for the defendant–and ultimately massive settlements.

In order to beat these guys you need to be aggressive right back, and Coca Cola deployed an ole trick of the Czar's recently to strike a class at the pleadings stage and I love to see it.

In *Barnes v. Coca Cola,* 2025 WL 1027431 (E.D. Cal April 7, 2025) the Plaintiff had asserted a class consisting of every call Coca Cola had ever made.

Rather obviously such a class could never be certified because the vast majority of class members will have no standing and would have consented to the calls. TCPA plaintiffs often file such classes, however, arguing that consent is an affirmative defense that they have no duty to plead around.

In *Barnes,* however, the court correctly determined that a plaintiff needs to plead the real class he intends to certify– not some overly broad nonsense. Noting that the class as plead was simply "implausible" the Court found "**Coca-Cola—like all defendants facing suit—is "entitled to know the class definition being alleged against them**."

This is a massive win for Coca-Cola as the plaintiff will now have to redefine his class and narrow it to the group of people he is actually trying to represent. This will allow Coca Cola to better refine its arguments in opposition to class certification, narrow discovery, and prepare laser focused expert reports.

THIS is the way it is supposed to work. But courts commonly (erroneously) deny defense motions to strike as premature. Good to see that didn't happen here.

Interesting the court also granted Coke's motion to dismiss finding the portion of the message in the complaint from the plaintiff mentioned only a delivery being available–which is not marketing. Although plaintiff contended there was more to the message that encouraged the call recipient to

place an order that portion of the message was not alleged in the complaint– so it could not be considered.

Really great ruling over all.

Notably this motion to dismiss was filed over two years ago in January, 2023! The court took that long to issue this ruling–highlighting just how long it takes to get rulings out of the Eastern District of California right now. It is a VERY backed up federal court.

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