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Stoops Extended!: Court Holds Calls to Cell Phone Associated with Sham Business Do Not Afford Standing to Assert TCPA Claim

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As the Czar just reported, [TCPAWorld is full of alleged shams and manufactured lawsuits](#). Many courts have allowed suits by “regular” professional TCPA Plaintiffs to proceed, but when a Plaintiff takes matters into his own hands and takes affirmative steps toward creating his own harm, that’s when you see courts push back.

The latest example is in *Shelton v. Target Advance LLC*, CIVIL ACTION NO. 18-2070, 2019 U.S. Dist. LEXIS 64713 (E.D. Pa April 16, 2019). There, Plaintiff used his cell phone for business and personal use, but listed the number as the contact for his business, Final Verdict Solutions, in public directories. Defendant called the number to pitch a business loan, apparently without consent. Sounds like slam dunk TCPA violation right? Wrong.

The Defendant argued that Final Verdict Solutions is not a business at all—it is merely a sham concocted by the Plaintiff to net business-to-business telemarketing calls to his cell phone. Although the Court reserved judgment on the issue—there was a factual dispute as to whether or not that is true—it held that *if* the business really was a sham, then the Plaintiff would likely lack prudential standing to pursue TCPA claims for calls to that number following the rationale in the Czar’s big win *Stoops v. Wells Fargo Bank, N.A.*, 197 F.Supp.3d 782 (W.D. Pa. 2016). Awesome!

In an additional piece of good news, the Court also granted judgment to the Defendant on the component of Plaintiff’s DNC claims. Pretty straightforward stuff. Those claims require calls to a ‘residential’ number and, as Plaintiff was clearly using the number for business purposes the Court found that the Plaintiff lacked standing to pursue those claims. (Notably, the Court probably incorrectly determined that Plaintiff lacked standing; rather, the Defendant had a complete defense to the claim, which is not the same thing as the court lacking standing—as [Justice Easterbrook reminded TCPAWorld a few days ago](#).)

Good to see the defendant in *Shelton* calling the Plaintiff to account for his alleged sham business activity. The opinion recites that the Plaintiff may have already recovered numerous TCPA settlements. That sounds a lot like what the Czar was facing in *Stoops* and it’s pretty intolerable. If the claims against the Plaintiff turn out to be true, we look forward to another big prudential standing ruling in TCPAWorld.

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