

AUGUST 27, 2017

Aaron French Quoted On L.A. Lakers Case

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Business Litigation Practice Group Leader Aaron French weighed in on a decision by the Ninth Circuit Court that protects insurers in Telephone Consumer Protection Act (TCPA) cases. The matter involved a Los Angeles Lakers basketball fan who sued the team after he texted a message to be placed on the team's scoreboard during a game. Shortly afterward, the Laker fan began receiving robo texts, which resulted in extra texting charges to the fan. The fan, and others in his class, sued the team, claiming their privacy was not protected adequately. The team's insurer, Federal Insurance Company, maintained that the fans' claim was actually an invasion of privacy claim and that such a claim was not part of the team's policy. An appellate panel ruled in favor of Federal, and that ruling was affirmed by the Ninth Circuit.

Analyzing the case in a *Law360* article published August 24th, Aaron was quoted as saying "The biggest impact for insurer is that those carriers with broad invasion-of-privacy exclusions now have solid precedent – binding precedent if they are in the Ninth Circuit – to exclude TCPA claims without the need to add specific TCPA exclusions to their policies."

Aaron added the Ninth Circuit ruling's broad declaration that TCPA claims are privacy-based may block future attempts by class action plaintiffs to avoid invasion-of-privacy exclusions similar to Federals by using different wording in their complaints. "This could effectively close the loop on TCPA plaintiffs trying to plead around broad invasion-of-privacy exclusions by just leaving out the term 'privacy,'" Aaron said.