

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

CASE NO. 2:19-cv-00403-MRM

DARYL TEBLUM,
individually and on behalf of all
others similarly situated,

Plaintiff,

CLASS ACTION

JURY TRIAL DEMANDED

v.

PHYSICIAN COMPASSIONATE CARE
LLC d/b/a DOCMJ,

Defendant.

_____ /

**PLAINTIFF'S NOTICE OF SUPPLEMENTAL
DEVELOPMENT IN *DRAZEN V. PINTO***

Plaintiff Daryl Teblum hereby notifies the Court of the following development in support of Plaintiff's Supplemental Briefing Regarding the Effect of *Drazen v. Pinto*, (Doc. 88).

On August 18, 2022, the Plaintiffs-Appellees in *Drazen v. Pinto* filed a Corrected Petition for Rehearing *En Banc* (the "Petition") See No. 21-10199, (11th Cir. August 18, 2022). The Petition submits that

The panel in this case was duty-bound to follow *Salcedo [v. Hanna, 936 F.3d 1162 (11th Cir. 2019)]* and, consequently, vacated the class definition and approved settlement on the ground that some class members received on a single text message and thus lacked standing. See Slip. Op. at 18. This Court should grant a rehearing *en banc* to reevaluate the *Salcedo* holding and to clarify the law regarding the elements necessary to pursue a TCPA claim.

Every other circuit court to address the issue has held that a person does, in fact, have standing to sue based on receipt of an unlawful communication. *See Cranor v. 5 Star Nutrition, LLC*, 998 F.3d 686, 690 (5th Cir. 2021); *Gadelhak v. AT&T Servs., Inc.*, 950 F.3d 458, 462 (7th Cir. 2020) (Barrett, J.); *Melito v. Experian Mktg. Sols., Inc.*, 923 F.3d 85, 93 (2d Cir. 2019); *Van Patten v. Vertical Fitness Grp., LLC*, 847 F.3d 1037, 1042 (9th Cir. 2017). The panel decision in *Salcedo* not only stands alone among the circuit courts, but its analysis is in tension with other decisions from this Court. *See, e.g., Palm Beach Golf Ctr.-Boca, Inc. v. John G. Sarris, D.D.S., P.A.*, 781 F.3d 1245, 1252 (11th Cir. 2015) (*Sarris*). Additionally, its reasoning clashes with the doctrine of representational standing, which the Supreme Court discussed at length in *Vermont Agency of Natural Resources v. United States ex rel. Stevens*, 529 U.S. 765, 773 (2000).

Id. at pgs. 1-2.

A copy of this petition is attached as **Exhibit A**. Pursuant to this Court's previous Orders, a copy of this filing shall be posted on the Settlement Website shortly after this filing.

Dated: August 19, 2022

Respectfully submitted,

/s/ Ignacio J. Hiraldo

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