

In The News

Retailer Conn's Says Ex-Counsel's New TCPA Suit Improper

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Law360 (June 7, 2019, 2:53 PM EDT) -- Retailer Conn Appliances Inc. said its former senior counsel should be sanctioned for representing a client who is now suing it under the same type of Telephone Consumer Protection Act claim the attorney had helped defend the retailer against.

Conn's told a Texas federal court Thursday that former in-house counsel Trista Johnson acted unethically and made the profession of law look bad when she filed suit against it in May over its debt-collection practices.

It argued the Fifth Circuit prohibits attorneys from representing clients on matters that are "substantially related" to work they did for a prior client and that Johnson's suit fits squarely in that category. As senior legal counsel for Conn's, Johnson worked on developing the company's strategy to defend itself against TCPA and Texas Debt Collection Act claims, it said. She knows the confidential way the business works and how it operated. As such, Conn's asked the court to force her off the case.

"It defies all common sense and logic that Ms. Johnson would believe that her actions are within ethical bounds," the company's motion said. "This type of egregious, unprofessional and unethical conduct is the fuel that makes our profession the butt of jokes."

The company said Johnson was involved in all types of defense strategy for the company, handling expert witnesses, the company's handling of telephones and preparing briefs. She also knows how the company works, specifically the practices that would be at the heart of her lawsuit against the company — another reason she should be kicked off the case, Conn's said.

"Whether borne from the anger of her departure from CAI, her eagerness to make a buck, or some other unknown rationale, Ms. Johnson's actions erode the delicate trust that exists between clients and their lawyers, as well as society and the bar," the motion said.

According to her law firm website and LinkedIn profile, Trista Johnson spent a little over a year at Conn's and previously served as in-house counsel for U.S. Bank. She then opened a solo practice focused on consumer protection cases. Earlier in her career, she worked for a plaintiff's-side consumer protection firm in Minnesota.

Roughly 14 months after leaving Conn, Johnson filed suit for client Angelia Johnson, who accuses Conn's of repeatedly calling her over a debt that supposedly belonged to a relative in violation of the TCPA and TDCA. The retailer sells appliances and furniture and the complaint said the relative had a consumer debt with the company.

The complaint said Angelia Johnson never provided the company with a phone number but was reached anyway, was ignored when she told the company not to call anymore and received at least 24 calls in less than a month. In addition, the calls were allegedly made via an automated telephone system in violation of the TCPA. Angelia Johnson was also accused of wrongdoing for not communicating the messages from the company to the relative despite having no obligation to do so, allegedly in violation of the TDCA.

“The strategies and practices that were applied during Ms. Johnson’s employment with CAI remain in effect today,” Conn’s said in its motion. “Thus, Ms. Johnson’s knowledge of this confidential information demands that she be disqualified.”

In addition to requesting sanctions and that Trista Johnson be disqualified from the case, the motion asks the court to prevent Johnson from providing any new attorney that might take over the case with any of her notes. Plus, it asks that Johnson be prevented from taking any similar cases against Conn’s in the future.

Representatives for Johnson and Conn’s did not immediately return requests for comment.

CAI is represented by Michael A. Harvey and Sameer Karim of Munsch Hardt Kopf & Harr PC.

Angelia Johnson is represented by Trista M. Johnson of the Law Office of Trista Johnson.

The case is Angelia Johnson v. Conn Appliances Inc., case number 4:19-cv-01622, in the U.S. District Court for the Southern District of Texas, Houston Division.

The full Law360 article can also be viewed here.

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