

## Hilton Says Vacationers Stole Expert In Telemarketing Suit

By **Carolina Bolado**

*Law360, Miami (April 25, 2017, 7:12 PM EDT)* -- A Hilton Worldwide Holdings Inc. subsidiary asked a Florida federal court Tuesday to disqualify counsel and an expert witness for a proposed class of consumers accusing the company of violating their privacy with prerecorded telemarketing calls, saying the class hired an expert who had previously worked with Hilton in similar litigation.

Hilton Grand Vacations LLC, a unit that offers resort timeshares for consumers, said lead plaintiff Melanie Glasser and her attorneys, Keogh Law Ltd. and The Consumer Protection Firm, deliberately hired an expert witness, Randall A. Snyder, who had previously been retained by Hilton in nearly identical litigation.

In the other lawsuit, which is currently pending before the Ninth Circuit, Hilton had provided Snyder confidential information regarding the dialing systems, policies and the procedures surrounding the autodialer used to place prerecorded telemarketing calls that are at issue in the case, according to the motion.

Hilton also gave Snyder access to its defense strategies and continued to consult with him until July 2015 about the dialing systems that are the subject of Glasser's lawsuit, according to the motion.

"Plaintiff's counsel thereby obtained Hilton's confidences, and are attempting to use these confidences to Hilton's detriment, in violation of the Florida Rules of Professional Conduct, the local rules of this district, and national ethical standards of professional responsibility," Hilton said.

Disqualification of both counsel and Snyder is necessary to "protect the integrity of this proceeding moving forward," Hilton said.

Glasser filed her suit in April, accusing the company of calling her repeatedly in February as part of an attempt to have her sign up for a promotional vacation package. She filed suit on behalf of all individuals who received those promotional calls since October 2013, court documents said.

In January, U.S. District Judge James D. Whittemore refused to allow Hilton to escape the suit, ruling that Glasser had met the standard for pleading concrete injury claims under the Telephone Consumer Protection Act. He said there was no need for her to allege she answered the calls.

In addition, the company's request to transfer the case to the Eastern District of Virginia was also

denied. It had claimed that Glasser consented to the calls by signing up for the HHonors Program, which makes her subject to a forum selection clause, according to court documents.

Hilton relies on two different definitions of its reward program — one from 2010 and one from 2013, which Judge Whittemore said supersedes all previous versions — and it never produced any evidence or argument that Glasser was subject to the forum selection clause in the first place, according to the order.

Glasser is represented by Amanda Allen and William Howard of the Consumer Protection Firm PLLC and Timothy Sostrin of Keogh Law Ltd.

Hilton Grand Vacations is represented by Angela C. Agrusa and David Farkas of Liner LLP and Sandra Millor of Akerman LLP.

The case is Glasser v. Hilton Grand Vacations, case number 8:16-cv-00952, in the U.S. District Court for the Middle District of Florida, Tampa Division.

--Additional reporting by Fola Akinnibi. Editing by Kelly Duncan.

*Update: This article has been updated to include additional counsel information for Hilton.*