NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted January 27, 2025*
Decided January 27, 2025

Before

MICHAEL Y. SCUDDER, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

NANCY L. MALDONADO, *Circuit Judge*

No. 24-2288

ASHOK ARORA, *Plaintiff-Appellant*,	Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.
v.	No. 15-cv-06109
MIDLAND CREDIT MANAGEMENT, INC. and MIDLAND FUNDING, LLC, *Defendants-Appellees*.	Jeremy C. Daniel, *Judge*.

ORDER

Ashok Arora sued Midland Credit Management ("MCM") and Midland Funding after MCM repeatedly called his cellphone, allegedly causing him physical and psychological harm that prevented him from working. Arora alleged violations of federal and state law. 47 U.S.C. § 227, 15 U.S.C. §§ 1692–1692p. The district court

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

entered summary judgment for the defendants on the federal claims, and after a bench trial the court found in favor of the defendants on the state-law claim. We affirm.

MCM is a debt collector, servicing debts purchased by Midland Funding. Between December 2013 and July 2014, MCM called Arora's cellphone 240 times to reach Elizabeth Adams, who owed money to Midland Funding. Adams, years earlier, had the same phone number as Arora's. Arora and Adams did not know each other, and Arora did not owe any money to Midland Funding.

MCM placed the calls using predictive dialing, a system that automatically called selected telephone numbers manually entered into a database of debtors. If a call was answered, the system would connect an agent to the call.

Of the 240 calls placed, Arora answered about 30 of them and responded to an agent only once. In that conversation, he explained that he was not Adams and threatened legal action against MCM for continuing to call him. MCM did not call him again.

In July 2015, Arora filed a one-count complaint against MCM and Midland Funding for violating the Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227, which protects individuals from harassment associated with unsolicited calls. *See FTC v. Day Pacer LLC*, No. 24-1289, 2025 WL 25217, at *8 (7th Cir. Jan. 3, 2025). Based on the frequency and timing of the calls, Arora suspected that MCM had tracked his phone activity so that the predictive dialer would call his number when he was busy. He also argued that the calls disrupted his sleep, made him irritable, exacerbated his hypertension, and caused both headaches and digestive issues (though he never sought medical care for these conditions). He added that the calls created employment problems—he became unfocused, lost clients, and abandoned new projects.

Arora's case was promptly consolidated with a multidistrict litigation suit against MCM for discovery. During the MDL proceedings, the plaintiffs (including Arora) took discovery about MCM's telephone dialing practices and technology.

After Arora's case was remanded to the Northern District of Illinois, he moved to amend his complaint to add new claims and—on the discovery deadline—to compel a deposition of Adams. The court granted Arora's motion to file an amended complaint but denied the motion to compel, concluding that he filed the motion too late for new discovery and regardless, any information about Adams was irrelevant to his TCPA claim against the defendants.

Arora then filed an amended complaint, asserting a second TCPA claim, as well as a claim under the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. §§ 1692–1692p, and a state-law intrusion-upon-seclusion claim.

Because of the added claims, the court reopened discovery. Arora requested to depose MCM and Midland Funding about Adams and the debt she owed. The defendants objected, asserting that the court had already deemed irrelevant any information related to Adams. But the court granted Arora's request in part, concluding that his new FDCPA claim entitled him to some discovery from the defendants on the nature of the debt owed. The defendants disavowed having any knowledge of the debt Adams owed to Midland Funding because the debt had originated from a credit union loan—the purpose of which was known only to Adams. Accordingly, the court gave the defendants the option to either file declarations attesting to their lack of knowledge or submit to Arora's requested deposition. The defendants filed declarations, and discovery closed shortly thereafter. Three months after the discovery deadline, Arora moved to compel the defendants' depositions and the production of documents, but the court denied the motion as untimely.

MCM and Midland Funding then moved jointly for summary judgment, attaching the declarations to the motion. As for the TCPA claims, the court determined that Arora lacked competent evidence that the predictive dialer was an "automatic telephone dialing system" subject to the statute. 47 U.S.C. § 227(b)(1)(A). The court next determined that Arora's FDCPA claim failed because there was insufficient evidence to conclude that Adams's debt was a consumer debt, and thus a jury would be unable to determine that the defendants took any action as debt collectors under the statute. *See* 15 U.S.C. § 1692d. Regarding the state-law intrusion-upon-seclusion claim, the court denied the motion for summary judgment, finding that there was a genuine dispute whether MCM's calls were highly offensive and created anguish and suffering.

The parties proceeded to a two-day bench trial on Arora's state-law claim. Arora testified, as did two MCM employees with knowledge of the company's complaint procedures, harassment policies, and contact information services. At the close of trial, the court decided in favor of the defendants, determining that Arora had failed to establish a prima facie case of intrusion upon seclusion. The court concluded, first, that a reasonable person would not have found the calls to be objectionable or highly offensive: MCM called during regular business hours with a good-faith belief that the telephone number belonged to Adams, and when Arora told an agent that MCM had the wrong number, the calls ceased. And the court determined that Arora did not offer competent evidence to establish that he suffered any concrete injury because of MCM's calls: He had not shown, as a result of the calls, that he sought medical treatment for any physical or psychological ailments or that he suffered any adverse employment issues.

On appeal, Arora first challenges the summary judgment on the FDCPA claims, arguing that defendants' declarations (over their stated lack of knowledge of the purpose of Adams's debts) were not admissible business records. But declarations need only be "made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated." FED. R. CIV. P. 56(c)(4). *See, e.g.*, *Wheatley v. Factory Card and Party Outlet*, 826 F.3d 412, 420 (7th Cir. 2016). The declarations here met these requirements. The declarations were created by a MCM manager with personal knowledge of the defendants' business records; the records were admissible because they were created in the regular course of business, *see Igasaki v. Ill. Dep't of Fin. and Pro. Regul.*, 988 F.3d 948, 956 (7th Cir. 2021); and the manager was authorized to speak on behalf of the defendants.

Next, Arora challenges the denial of his final motion to compel the defendants' deposition on grounds that additional discovery would have enabled him to prove that MCM sought to collect a consumer debt—an essential element of his FDCPA claim. 15 U.S.C. § 1692a(5). But the court reasonably denied the motion—filed three months after the discovery deadline—as untimely. District courts have broad discretion in discovery-related matters, and we have regularly upheld decisions to deny motions, like Arora's, that are filed months after they could have been. *See Gonzales v. City of Milwaukee*, 791 F.3d 709, 713 (7th Cir. 2015) (seven months after close of written discovery); *Packman v. Chi. Trib. Co.*, 267 F.3d 628, 647 (7th Cir. 2001) (one month after close of discovery and days after defendants moved for summary judgment). Nor was the court required to construe the motion to compel as a request for a continuance under Federal Rule of Civil Procedure 56(d). This rule allows a nonmoving party to seek additional time for discovery when faced with a motion for summary judgment, though the party must include an affidavit or declaration with specific reasons why he cannot yet present evidence essential to justify his opposition. *See* FED. R. CIV. P. 56(d); *see, e.g.*, *MAO-MSO Recovery II, LLC v. State Farm Mut. Auto Ins. Co.*, 994 F.3d 869, 877 (7th Cir. 2021). Arora's motion did not meet those requirements, so the court had no obligation to consider granting a continuance for additional discovery.

Finally, Arora challenges the district court's determination that he failed to make out a prima facie case of intrusion upon seclusion. Under Illinois law, to prevail on a claim of intrusion upon seclusion, a plaintiff must show that "(1) the defendant committed an unauthorized intrusion or prying into the plaintiff's seclusion; (2) the intrusion would be highly offensive or objectionable to a reasonable person; (3) the matter intruded on was private; and (4) the intrusion caused the plaintiff anguish and suffering." *Spiegel v. McClintic*, 916 F.3d 611, 618–19 (7th Cir. 2019) (quoting *Busse v. Motorola, Inc.*, 813 N.E.2d 1013, 1017 (Ill. App. Ct. 2004)). Arora contests the court's conclusion that he failed to meet the second and fourth elements. As to the second element, the offensiveness of the intrusion, Arora highlights the volume and frequency of the calls, MCM's failure to identify itself on the calls, and his lack of association with the debt owed.

The court did not clearly err when it concluded that MCM's actions were not highly offensive. When there are two permissible views of the evidence, the court's choice between them can never be clearly erroneous. *See Anderson v. City of Bessemer*, 470 U.S. 564, 574 (1985). Indeed, MCM called hundreds of times, but the calls were not made at odd hours, and Arora ignored most of the calls, informing an agent only once that he was not the debtor (upon which the calls then stopped). Thus, the district court did not clearly err when it weighed the evidence at trial and concluded that MCM's mistaken phone calls, made during regular business hours to someone genuinely believed to be the debtor, would not be highly offensive to a reasonable person.

Similarly, Arora challenges the court's conclusion that his deposition and testimony failed to establish that MCM's calls caused him anguish and suffering—the fourth element of an intrusion-upon-seclusion claim. Under Illinois law, Arora's testimony needed to prove a concrete injury, such as "medical care, an inability to sleep or work, or a loss of reputation and integrity in the community." *Spiegel*, 916 F.3d at 619. But Arora presented no evidence that he sought medical or psychological assistance for suffering caused by MCM's calls. And even though Arora testified that he lost sleep and suffered at work during the period that MCM called him, he did not provide any evidence that these troubles were directly attributable to the calls.

AFFIRMED