

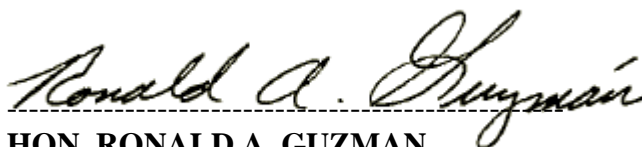
State Police, 251 F.3d 612, 630 (7th Cir. 2001), and that it might be proper for a judge to consider a motion for summary judgment prior to considering a motion for class certification. The 2003 amendments to Federal Rule of Civil Procedure 23(c)(1)(A) also indicate that requiring the class certification ruling to be made “as soon as practicable after commencement of an action” no longer reflected prevailing practice and failed to take into consideration the many valid reasons that may justify deferring the initial certification decision. Fed. R. Civ. P. 23 advisory committee notes (2003 Amendment). Thus, that language was replaced by requiring determination “at an early practicable time.” *Id.*

Contrary to Defendant’s position, Plaintiff seeks plenary class discovery, including requests for information regarding recipients not only of the subject fax, but also any other faxes sent by Defendant during the four-year class period. The justification for this expansive discovery appears to be simply that the improper fax message to Plaintiff is, by itself, a sufficient basis for a reasonable belief that Defendant has sent other improper faxes (presumably to individuals other than Plaintiff) during the last four years.

The Court finds unpersuasive Defendant’s argument regarding the likelihood of an early successful summary judgment motion that would make the question of class certification moot. Similarly, Plaintiff’s argument that because it received one fax communication in violation of the TCPA, it should be allowed to rummage around Defendant’s records of all fax communications it sent within the last four years, no matter who the recipients were or what the subject matter, is also unpersuasive. The Court will allow class certification discovery with regards to the subject fax.

SO ORDERED.

ENTERED: October 28, 2015

A handwritten signature in cursive script, reading "Ronald A. Guzman". The signature is written in black ink and is positioned above a horizontal dashed line.

HON. RONALD A. GUZMAN
United States District Judge