

17

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Nicholas Mavis,

Plaintiff

v.

Civil Action No. 3:13-cv-30087-KPN

Diversified Consultants, Inc., and
DOES 1-10, inclusive,

Defendants

**MOTION OF DIVERSIFIED CONSULTANTS, INC.
FOR STAY OF SUMMARY JUDGMENT AND TRIAL DATES**

The Defendant Diversified Consultants, Inc. (“DCI”) moves for an order staying: (1) the date by which summary judgment motions must be filed; and (2) the date of any trial in this action, pending the issuance by the Federal Communications Commission of a potentially dispositive order/ruling as to the operation of the Telephone Consumer Protection Act (“TCPA”). In support of this Motion, DCI states as follows:

1. The plaintiff alleges here that DCI violated the TCPA by making calls to the plaintiff’s cellular telephone using an automatic telephone dialing system (“ATDS”) as defined by the TCPA. DCI asserts that its dialing system is not an ATDS, and that it has not violated the TCPA.

2. The decisional law around the country regarding the operation of the TCPA and precisely what constitutes an ATDS within the meaning of the TCPA is developing and unsettled. At least one court already has indicated that DCI’s phone system is not an ATDS. See O’Connor v. Diversified Consultants, Inc., 4:1-CV-01722-RWS (E.D. Mo. May, 28, 2013).

However, the issue is open in most jurisdictions and has not been resolved by the First Circuit.

*DENIED as moot, the case having been dismissed
So ordered. Michael A. Presko WWT
4.11.14*