

# Telecommunications

## Overview

Carlton Fields has extensive experience representing internet, cable, local, wireless, and long-distance telecommunications providers as well as numerous manufacturers and suppliers to the communications industry. We understand that our telecommunications clients operate in a fiercely competitive industry that serves customers with high expectations. Meeting those expectations requires tremendous capital investment to anticipate cutting-edge technologies. In addition, the pressure to grab market share has grown as lines have blurred between telecommunication service providers, content providers, and financial services firms.

Our industry knowledge is firsthand. Some of our lawyers are former telecommunications industry executives, which makes us particularly attuned to our clients' need for timely business-driven solutions. For example, our group includes a former senior executive for AT&T Wireless Services whose positions at the company included vice president of business security and senior corporate counsel.

We also work with non-telecom clients on telecommunications issues that affect their businesses. For example, we assist clients with their telemarketing plans, helping them navigate the federal and state laws that regulate how they can market their services to clients. Alleged violations of the laws in this area have generated many recent class action lawsuits. As a leading national class action defense firm, we are well-equipped to handle these matters.

## Litigation and Arbitration

When our clients face litigation, they benefit from our telecommunications industry knowledge — it means we waste no resources getting “up to speed” on the industry's particularities.

Our comprehensive experience in federal and state courts across the country includes class action defense, dealer litigation, employment cases, consumer claims, cell site disputes, antitrust litigation, landlord-tenant disputes, zoning and permitting disputes, interconnection claims, condemnation proceedings, bankruptcy, and securities litigation.

### Class Action Defense

Telecommunications companies have been frequent class action targets since the 1990s. From the beginning, we have helped telecommunications clients defend against those claims, drawing on our institutional knowledge and experience as a leading national class action defense firm. We are one of only a handful of firms that have actually tried major class action cases. In addition, we are frequently retained to manage or coordinate a company's overall response to multidistrict

litigation.

## **Intellectual Property**

We represent telecommunications industry clients in a broad range of patent, trademark, and copyright litigation, always working to ensure that lawsuits do not hinder their ability to conduct business and generate revenue. We defend clients against lawsuits filed across the country, and initiate litigation when their intellectual property rights are infringed.

In addition, we help clients identify domain names with active websites that may be infringing registered trademarks, particularly websites that offer prepaid cellular plans and phones. We send cease-and-desist letters to the registrants of all identified domain names (both domestic and international). If further action is required to shut down those websites, we weigh whether to file a cybersquatting and trademark infringement action in the U.S. district courts, or follow the Uniform Domain-Name Dispute-Resolution Policy under ICANN to have the domains transferred to our client.

## **Trial Support and Appeals**

We handle the full range of appellate matters (e.g., civil, administrative, and criminal appeals) for clients that operate in a wide variety of industries, including telecommunications. Our national appellate practice and trial support group includes lawyers who have briefed and argued cases before the U.S. Supreme Court, nearly every federal appellate court, and in the state courts of more than 30 states.

In addition, we provide trial support, often teaming with trial counsel (whether from our firm or another) to provide services including preparing and arguing dispositive legal motions, and helping to preserve the record for appeal.

## **Employment Litigation and Consulting**

Carlton Fields represents employers of all sizes in all types of employment disputes, including state and federal court actions, administrative charges and hearings, arbitrations, class and collective actions, and informal mediations. We also draft employment policies and provide advice on employment practices, including on hiring and termination issues.

## **Telemarketing Litigation and Consulting**

We defend corporate clients, including telecommunications firms, against individual and class action lawsuits arising from alleged violations of the Telephone Consumer Protection Act (TCPA). Learn more about our [TCPA](#) practice.

## **Subpoena, Court Interception Orders, and CALEA Compliance**

Many of our telecommunications clients receive high volumes of subpoenas and court orders

seeking access to customer records and communications. The laws governing these issues can be a minefield for telecommunications providers, who must balance providing appropriate and lawful access to law enforcement with protecting their customers' privacy rights. While the federal telecommunications act and regulations require carriers to protect customer proprietary network information, federal and state wiretap laws, including the federal Electronic Communications Privacy Act, require them to disclose that information when presented with appropriate legal process.

These issues are compounded by the secrecy requirements imposed on certain requests pursuant to the Foreign Intelligence Surveillance Act. The way in which telecommunications providers must deliver the information to law enforcement is detailed in the requirements of the federal Communications Assistance to Law Enforcement Act (CALEA), which imposes fines of up to \$10,000 per day on noncompliant carriers. These issues garner significant attention from the press, legislators, and regulators, further complicating the risks for service providers.

Carlton Fields lawyers have decades of experience helping telecommunications carriers navigate these issues. We help clients develop compliance policies and prepare guidelines and manuals for their employees to follow. We are available 24/7 to advise on responding to exigent circumstance requests and deal with law enforcement officers and prosecutors who sometimes require an immediate response. We provide training to our clients' employees and to law enforcement officers on our clients' behalf to ensure our compliance with the law and minimize risk. We also represent telecommunications clients in court on disputes related to their subpoena, court order, and wiretap compliance.

## Wireless Handset Trafficking, Fraud, and Theft

We have a proven track record of saving our clients hundreds of millions of dollars in fraud losses by stopping and pursuing perpetrators of various schemes targeting telecommunications companies, including handset trafficking and subsidy theft, activation fraud, identity theft, dealer fraud, employee misconduct, and equipment theft.

Since 2005, our attorneys have led a nationwide effort to stop handset trafficking and subsidy theft on behalf of our wireless industry clients. We helped our clients build multifaceted anti-trafficking programs that include undercover investigations, litigation, modifications to our clients' customer terms and conditions of service, working with handset manufacturers to improve the technological impediments to reflashing, implementing point of sale restrictions, and collaborating with law enforcement authorities, in-house security teams, and private investigators to pursue and prosecute traffickers.

Our efforts have solved a significant problem for our clients by stemming their losses from this fraud and restoring hundreds of millions of dollars to their bottom lines. Additionally, we work with

industry groups and government officials to craft legislation and regulations that protect our clients by more definitively criminalizing the conduct of bulk traffickers and unlockers.

## Transactions

Carlton Fields represents telecommunications companies in complex corporate finance transactions (both equity and debt); corporate acquisitions and divestitures; complex joint venture arrangements (including those related to asset sharing and network build-out); and contract matters, including those related to intellectual property licensing and outsourcing. Our knowledge of consolidation's impact on the cable industry and wireless market is firsthand — we acted as counsel in the transaction that created one of the largest wireless network operators in the United States. In addition, we have represented telecommunications clients in billions of dollars' worth of corporate transactions, real estate purchase, sale, and leasing.

### **Financing and M&A**

We structure sophisticated public and private equity and debt financing transactions involving private equity funds, commercial banks, and investment banks, and negotiate mergers and acquisitions.

### **Intellectual Property**

We draft and negotiate technology and content licensing agreements, customer, reseller, VAR and OEM agreements, outsourcing and manufacturing agreements, technology transfer agreements, development and distribution agreements, source code escrow agreements, evaluation and beta test agreements, maintenance and support agreements, and equipment leases.

### **Real Estate and Transmission Sites**

Our telecommunications industry experience includes real estate purchase and sale, as well as leasing, transactions, such as those regarding the acquisition and disposition of network transmission facilities, retail locations, office space, and customer care centers. We have extensive experience addressing the unique issues telecommunications carriers face in connection with the location of cellular transmission sites and rights-of-way use. As telecommunications technologies evolve, so do our clients' needs for space. We help them negotiate changes to leases, acquiring new property, and disposing of obsolete facilities and locations.

## Government, Regulatory and Compliance

We represent telecommunications clients in their dealings with local, state, and federal governmental agencies across the country.

We assist clients with:

- [Government affairs and lobbying](#)
- [Environmental, land use and development approvals and litigation](#)
- [Administrative litigation and appeals](#)
- [Real Estate and Transmission Sites](#)
- [Government Compliance](#)
- [Government Contracts](#)
- [Tax](#)
- [Data Privacy and Cybersecurity](#)
- [Employment Consulting](#)
- [TCPA Compliance](#)

## Experience

### LITIGATION AND ARBITRATION

#### Class Action Defense

- Defended large national wireless service provider in nationwide consumer class action.
- Represented telecommunications service provider and communications equipment manufacturer in seeking redress for alleged overcharges of LCD screens in multidistrict litigation matter.
- Represented a cable company, defeating attempted class action shareholder lawsuit to set aside \$1.5 billion merger transaction.

#### Intellectual Property

- Represented the largest prepaid cellular provider in a trademark dispute and obtained a settlement for our client.

- Represented several major cell phone providers in trademark and unfair competition disputes, including a judgment order that resulted in permanent injunctive relief; substantial monetary damages; enhanced monetary damages; and a finding of an exceptional case to include an award of attorneys' fees.
- Defended an international telecommunications corporation against claims of misappropriation of trade secrets and defamation of title to patent rights; representation included a two-and-a-half-week jury trial.
- Obtained orders of contempt in trademark and patent infringement suits for various clients, including electronics manufacturer and telecommunications company.

### **Trial Support and Appeals**

- Representing major cell phone carrier in cell tower litigation and on appeal.

### **Wireless Handset Trafficking, Fraud, and Theft**

- Helped three of the largest national wireless companies build cross-functional teams to combat handset trafficking and subsidy theft.
- Obtained 182 final judgments and permanent injunctions against 485 wireless phone traffickers on behalf of four of the largest national wireless service providers, resulting in awards of more than \$550 million in damages by federal courts across the country, including in Texas, New York, California, Michigan, Florida, Pennsylvania, Georgia, New Jersey, Illinois, Virginia, Arizona, Washington, Idaho, and Oklahoma.

### **Employment Litigation and Consulting**

- Represented prepaid wireless service provider in litigation and arbitration involving wage, discrimination, wrongful and other employment-related termination claims.

## **TRANSACTIONS**

### **Financing**

- Represented a mobile network operator in private equity financing by large private equity groups.
- Represented wireless telecommunications company in \$200 million acquisition financing.
- Represented a mobile network operator in \$300 million syndicated credit facility.

### **Mergers and Acquisitions**

- Negotiated \$7.2 billion merger of a mobile network operator and a wireless PCS with a foreign telecommunications company to form a holding company.

- Negotiated acquisition by a cable company of multiple cable service providers across the county.

## Real Estate and Transmission Sites

- Represented a mobile network operator in sale/leaseback transactions involving telecommunications towers and other assets.

# Insights

12.02.2023

FCC Notice Of Inquiry Highlights AI Robocall Concerns

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09.02.2021

Time to Fight Back – How Wireless Providers Should Leverage a Federal Indictment to Stop Cellphone Traffickers

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01.27.2021

Article III and Rule 23: Do We Stand Together or All on Our Own?

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09.21.2020

An Unauthorized Bounty: Eleventh Circuit Strikes Named Plaintiff Incentive Payment

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06.12.2020

U.S. Supreme Court to Weigh in on Computer Fraud and Abuse Act (CFAA) for the First Time

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01.23.2020

New Wave of Deaf and Blind Californians Suing Websites

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05.18.2019

Supreme Court Upholds Ninth Circuit Decision: Antitrust Action Against Apple May Proceed

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03.22.2019

First SIM-Swap Conviction: What's the Message for Mobile Providers?

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02.27.2018

Plumbers Overcome Spokeo-Based Standing Blockage in Putative TCPA Class Action

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12.18.2017

Robust Transparency Requirements for Broadband Providers After FCC Vote

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09.05.2017

Circuit Court Finds Putative Class Affidavits, Combined With Other Records, May Satisfy Ascertainability Requirement

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07.12.2017

Your Apps May Be Selling You Out

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05.30.2017

Dish Network Liable for \$61 Million After North Carolina District Court Trebles Damages in TCPA Class

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02.09.2017

TCPA Class Certified Based Largely on “Concrete Injury” Determination

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11.23.2016

Injunction Placing New Overtime Rule on Hold Affects Employers in Every Industry

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11.17.2016

FCC Adopts New Broadband Privacy Rules

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10.04.2016

A Look At Manufacturer Liability For The Internet Of Things

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09.28.2016

District Courts Find Impermissible “Fail-Safe” Class Definitions But Deny Motions to Strike Class Allegations

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09.22.2016

2018 Diversity Visa Lottery Program: Cuba, Ecuador, and Guatemala Eligible to Register

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07.19.2016

Tendering Funds to Support Unaccepted Offer of Judgment Still Does Not Moot Case

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05.17.2016

Supreme Court's Spokeo Decision Leaves Questions Unresolved

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03.31.2016

Federal Court Issues \$1 Million Contempt Award for Repeated Cell Phone Unlocking Misconduct

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03.25.2016

Will Tender of Full Amount of Named Plaintiff's Claim Moot a TCPA Class Action?

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03.22.2016

2016 Carlton Fields Class Action Survey Reveals Important Trends in Class Action Management

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02.24.2016

Move Along; Nothing to See in Ninth Circuit's TCPA Opinion

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01.20.2016

Supreme Court Rules Unaccepted Rule 68 Offer of Judgment Cannot Moot Class Action

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12.23.2015

Consumer Bankers Association, Chamber of Commerce Join Challenge to FCC TCPA Ruling

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12.21.2015

Florida State Court Holds Pizzerias Liable Under TCPA for Third-Party Fax Blasts

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11.19.2015

Courts Consider Definition of Autodialer and Standing under the Telephone Consumer Protection Act after FCC Ruling

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08.26.2015

California Court Dismisses TCPA Claim, Finding Human Intervention in Transmission of Internet Text Messages Removed Them From FCC Autodialer Definition

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08.25.2015

FCC Issues \$2.96 Million Fine for Robocalling Violations

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08.06.2015

The FCC's TCPA Regulatory Ruling Imposes Tighter Call Restrictions

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07.20.2015

DOL Guidance Suggests Many Independent Contractors are Misclassified and Should be Covered by The FLSA

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07.16.2015

Cyberclaim Coverage Denied: The TCPA Protects Privacy, Not Personally Identifiable Information

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05.29.2015

Cuba's Underdeveloped Telecommunications Infrastructure Presents Opportunities

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05.08.2015

Eleventh Circuit Court of Appeals: Warrantless Cell Site Data Constitutional

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04.27.2015

Federal Order Addresses California Restrictions on When Wireless Providers Can Produce Documents Responsive to Subpoenas

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01.16.2015

Online Merchants Beware: The New FTC Rule on Internet, Mail, and Telephone Order Purchases

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01.12.2015

Consumer Financial Protection Bureau Attempts to Regulate Telecom

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12.22.2014

Eleventh Circuit Reverses Mais

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10.22.2014

Q&A With Carlton Fields' Jim Walker

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07.17.2014

Appellate Ruling Addresses Cell Phone Privacy Concerns

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07.17.2014

U.S. Supreme Court: Warrant Generally Required to Search Information on a Cell Phone, Even Incident to Arrest

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07.07.2014

Your Electronic Communications to Canada May Now Be Illegal

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04.22.2014

Deal carefully with bitcoins until legislation catches up

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03.13.2014

Protecting Trade Secrets from Discovery Disclosure in Florida

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11.08.2013

The Top Three Unsettled Telephone Consumer Protection Act Issues

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10.23.2013

NIST Issues Preliminary Cybersecurity Framework for Critical Infrastructure Organizations

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05.01.2013

Ninth Circuit Provides Clarity and Eases Compliance for Telecom Service Providers

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01.18.2013

Ninth Circuit Relaxes Standard for "Prior Consent" to Call Cell Phones

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02.06.2012

A Guide to Secondary Meaning Surveys

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12.20.2011

Telecommunications Industry Links

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## Our Team

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## Related Capabilities

### Practices

- Antitrust and Trade Regulation
- Appellate & Trial Support
- Business Transactions
- Cybersecurity and Privacy
- Government Law & Consulting
- Labor & Employment
- Intellectual Property
- Litigation and Trials

### Industries

- Real Estate
- Securities & Investment Companies
- Technology

- Tax
- Telecom: Litigation and Arbitration
- Telecom: Transactions
- Telephone Consumer Protection Act
- Real Estate
- White Collar Crime & Government Investigations
- Internal Investigations
- Technology & Intellectual Property Transactions
- Technology
- AdTech
- Esports and Electronic Gaming
- International: Latin America
- International: Europe
- International: Cuba
- Administrative Litigation and Appeals
- Class Actions