OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

DENNIS N. SMITH, JR., ET AL.,	)	No. ED109494
	)	
Respondent,	)	Appeal from the Circuit Court
	)	of St. Louis County
vs.	)	
	)	
LEIF JOHNSON FORD, INC.,	)	Honorable Brian H. May
	)	
Appellant,	)	
	)	
vs.	)	
	)	
DIRECT MARKETING ADVANTAGE, LLC,	)	
	)	
Third-Party Defendant.	)	FILED: August 17, 2021

Leif Johnson Ford, Inc. ("Ford") appeals from the circuit court's order certifying a class action filed by Dennis N. Smith, Jr. ("Smith") individually and on behalf of all other similarly situated plaintiffs alleging a violation of the Telephone Consumer Protection Act ("TCPA"). Ford claims the circuit court erred in certifying the class because Smith fails the typicality requirement for class actions and because common questions of law or fact do not predominate.

AFFIRMED.

DIVISION ONE HOLDS: Because Ford has not shown Smith's claim was atypical in any material way from the class whose members' phone numbers received ringless voicemails without consent in violation of the TCPA, the circuit court did not err in finding the class action satisfied the typicality requirement under Rule 52.08(a), and we deny Point One. Because the predominant common question is whether Ford's conduct led to the delivery of ringless voicemails to those phone numbers listed on the Manifest in violation of the TCPA, and because Ford adduced no evidence of prior consent, the circuit court did not err in finding that common questions of law and fact predominate to satisfy Rule 52.08(b)(3), and we deny Point Two. Accordingly, the circuit court did not abuse its discretion in certifying the class action, and we affirm the circuit's court order.

Opinion by: Kurt S. Odenwald, Judge
Sherri B. Sullivan, C.J., and Kelly C. Broniec, J., concur.

Attorneys for Appellant: Brian E. McGovern, Andrew M. Lammert and William C. Jarvis
Attorneys for Respondent: David T. Butsch and Christopher E. Roberts

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.