

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

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| HOOPS & ASSOCIATES, P.C., |) | No. ED96391 |
| a Missouri corporation, individually |) | |
| and as Class Representative, |) | |
| |) | |
| Respondent, |) | |
| |) | Appeal from the Circuit |
| vs. |) | Court of St. Louis County |
| |) | |
| FINANCIAL SOLUTIONS AND |) | |
| ASSOCIATES, INC. |) | |
| |) | |
| and |) | |
| |) | |
| MICHAEL G. GRIMES, |) | |
| |) | Honorable Steven H. Goldman |
| Appellants. |) | |
| |) | Filed: November 15, 2011 |

Michael G. Grimes (hereinafter, “Grimes”), the president and sole shareholder of Financial Solutions and Associates, Inc. (hereinafter, “Financial Solutions”), appeals the trial court’s grant of summary judgment in favor of Hoops & Associates, P.C. (hereinafter, “Hoops”). Grimes raises two points on appeal, claiming the trial court erred in finding him personally liable for violations of the federal Telephone Consumer Protection Act, 47 U.S.C. Section 227, and that class certification was improper because the class was unable to be ascertained or identified.

REVERSED AND REMANDED.

Division IV Holds: Hoops failed to assert in its summary judgment motion that Grimes had actual knowledge that Financial Solutions’ act of faxing potential clients was an actionable wrong; there was no admitted fact or supporting documentation that Grimes acted outside of his corporate capacity. Accordingly, summary judgment, at this time, was inappropriate.

Opinion by: George W. Draper III, Sp.J.
Patricia L. Cohen, P.J., and Robert M. Clayton III, J., concur

Attorneys for Appellant: Steven W. Koslovsky
Attorney for Respondent: Max G. Margulis and John S. Steward

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| 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. |
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