



ADT OBTAINS \$10 MILLION SETTLEMENT IN DECEPTIVE TRADE PRACTICES CASE INVOLVING DOOR-TO-DOOR SALES

Kansas and Missouri residents filed complaints against Vivint, Inc.

Kansas City, Mo (January 5, 2018) Two days into trial against its largest competitor, ADT has accepted \$10 million from Utah-based Vivint Inc. to settle unfair and deceptive trade practices claims.

ADT filed suit against Vivint in Florida federal court after hundreds of consumers around the country complained that Vivint sales agents had visited their homes in unannounced door-to-door visits. ADT alleged that the agents misled existing ADT customers—many of whom were elderly or disabled—into believing that Vivint represented or was affiliated with ADT and that Vivint was merely “upgrading” the customers’ equipment. In reality, Vivint was converting the customers away from ADT.

ADT is North America’s leading provider of home security services and has thousands of customers in the Kansas City area. ADT received numerous complaints about Vivint’s conduct from Missouri and Kansas residents, where Vivint has increasingly deployed sales teams to generate new accounts. In August 2015, Vivint entered into an Assurance of Voluntary Compliance with the Missouri Attorney General, where Vivint agreed its sales representatives would not to misrepresent the name of the company they represented or the nature of the products and services they were selling.

In the federal case, a Junction City, Kansas, couple testified that a Vivint sales representative told them that ADT had been “bought out” and that Vivint would be “taking over” their account. By the time they realized that this statement was not true, they were under contract with Vivint. A Missouri resident testified that a Vivint sales representative told her ADT was “merging” with Vivint. Vivint admitted in the case that its sales agent impersonated the customer’s husband on a recorded call in an attempt to save the sale after it was disputed by the customer.

Attorneys at Kansas City-based Shook, Hardy & Bacon L.L.P. represented ADT. Shook attorney Chip Sander noted the logistical difficulties in proving what at first glance seems to be an easy case of wrongful conduct. Evidentiary rules required ADT to obtain the testimony of deceived customers from throughout the country using video teleconferencing technology. Various experts testified in support of ADT’s claimed damages.

“Proving the scope of the conduct is particularly tough,” Sander stated. “The Court was not going to allow ADT to call 900 witnesses who were victims of this conduct, and then you also have the problem of proving all the people this happened to that never took the time to complain.”

In the end, the case was one of principle more than money. “ADT just wanted Vivint to stop misleading customers and to stop using ADT’s name in the process,” said Shook’s Charlie Eblen.

Vivint got the message by the second day of trial, agreeing to pay ADT a total of \$10 million—five times the amount of Vivint’s last pre-trial offer.

The latest settlement closes out a wave of cases filed by ADT against competitors engaging in similar conduct. In total, ADT obtained nearly \$17 million in recoveries in 2017.

The case is *ADT LLC v Vivint, Inc.* No. 17-80432 (S.D. Fla., settled December 11, 2017).

To schedule an interview contact Shook Media Relations Manager, Heather McMichael, 816.389.0419, hcmichael@shb.com

About Shook, Hardy & Bacon

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