

Bird Marella Wins Complete Dismissal of Federal Class Action on Behalf of Medical Device Company

Terry Bird, Hernán Vera, and Ashley Bowman secured complete dismissal of a consumer protection class action brought against a software and medical device company in Arizona Federal Court. Among the client's software offerings was a service that allowed health care providers to store patient medical records and x-ray images to facilitate remote diagnoses. Plaintiffs, who claimed to be patients of a health care provider using the software, sought damages on behalf of a purported class of tens of thousands of patients whose data was stored. They alleged unjust enrichment, economic harm, and violations of the California Unfair Competition Law, claiming data housed on the client's servers was susceptible to hacking by unauthorized third-parties.

The Bird Marella defense team successfully argued there was no evidence that patient information was ever viewed, accessed, or stolen from their client's servers, hence no evidence of Plaintiffs' alleged injuries. Furthermore, allegations that Plaintiffs suffered any economic harm were unfounded because any payment to the client was, at best, several steps removed from the Plaintiffs' payment of insurance premiums, copayments, or fees to medical providers. Upon reviewing Bird Marella's motion, United States District Judge Diane J. Humetewa granted a motion to dismiss all claims.