

Spearheading an Aggressive Enforcement Campaign Against Cell Phone Trafficking

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When a leading telecommunications company became the target of an international cell phone trafficking scheme, Carlton Fields' Technology and Telecommunications Group spearheaded an aggressive enforcement campaign to protect the company and its customers. Fifteen years ago, TracFone Wireless Inc., the country's largest prepaid wireless phone company, turned to Carlton Fields for help with an existential crisis facing the company. TracFone's innovative business model — selling specially manufactured wireless phones at discounted prices in national retail stores, and recouping those discounts through the subsequent sale of wireless airtime — was under attack. Traffickers were exploiting the subsidies TracFone intended to benefit their legitimate customers by purchasing the discounted phones, hacking TracFone's proprietary software, unlocking the phones, and then reselling them for profit overseas. Nearly three quarters of all phones sold by TracFone were purchased by traffickers, never activated on TracFone's wireless network, and never generated any revenue. Carlton Fields attorneys, including the former head of security for AT&T Wireless, worked with TracFone to develop an innovative program that solved the company's trafficking fraud problem, saving hundreds of millions of dollars in losses. The multifaceted program required close collaboration with TracFone's legal, fraud, finance, sales, and technical teams, and included undercover investigations, working with law enforcement, educating consumers, and drafting new laws and regulations. But the core of the program was an aggressive campaign of litigation to protect TracFone and consumers from traffickers. Carlton Fields attorneys developed innovative new legal claims and obtained dozens of published decisions enforcing TracFone's rights, and continue to stamp out trafficking outbreaks as soon as they appear. As part of that effort, Carlton Fields attorneys and TracFone representatives traveled to Dubai, where they recovered more than 30,000 trafficked TracFone phones, along with mountains of evidence that implicated other traffickers in the United States. Armed with this evidence, Carlton Fields began filing new lawsuits in 2019, delivering a strong zero-tolerance message from TracFone to traffickers. The defendants in one of those cases — individuals and companies from New Jersey and Florida — sought to dismiss all nine claims asserted in TracFone's complaint and were rebuffed by the court on every assertion

following extensive briefing and more than an hour of oral argument by Carlton Fields attorneys. A few months later, Carlton Fields obtained a final judgment in the case, awarding \$10 million in damages and a permanent injunction, for the loss of goodwill and damage to TracFone's reputation caused by the defendants' conduct. The outcome was the latest in a long string of victories by Carlton Fields and TracFone against handset traffickers. Since 2005, Carlton Fields has filed 232 federal lawsuits on behalf of TracFone and other national wireless service providers against 693 traffickers across the United States. Those cases resulted in the entry of 269 permanent injunctions and final judgments, awarding more than \$854 million in damages to Carlton Fields' clients.

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