

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
Wheeling**

DIANA MEY, on behalf of herself and
a class of others similarly situated,

Plaintiff,

v.

Civil Action No. 5:24-CV-55
Judge Bailey

**WILLIAM PINTAS, P&M LAW FIRM,
LLC, P&M LAW FIRM (PR), LLC,
RELIANCE LITIGATION LLC, and
JAMES RYDER INTERACTIVE LLC,**

Defendants.

ORDER

Pending before this Court is Plaintiff's Motion for Anti-Suit Injunction [Doc. 7] and an accompanying Memorandum in Support [Doc. 8], filed on April 25, 2024. This Court held a hearing on plaintiff's Motion for Anti-Suit Injunction on April 30, 2024.

BACKGROUND

Plaintiff filed a Complaint on behalf of herself and a class of others similarly situated on March 19, 2024. See [Doc. 1]. In the Complaint, plaintiff asserts five (5) causes of action: (1) Violations of the TCPA, 47 U.S.C. § 227(c) as to all defendants [id. at 15–16]; (2) Fraudulent Legal Process, W.Va. Code § 61-5-27a(h) as to defendants William Pintas and P&M Law [id. at 16–17]; (3) Abuse of Process as to defendants William Pintas and P&M Law

[id. at 17]; (4) Intentional Infliction of Emotional Distress as to William Pintas [id. at 17–18]; and (5) Injunctive Relief as to William Pintas and P&M Law [id. at 18–19].

Plaintiff alleges that defendant William Pintas “relies on illegal telemarketing to fuel his practice,” and when confronted with his “misconduct, Pintas responded by filing a frivolous and fraudulent action in a remote, territorial jurisdiction, in a transparent effort to silence Mey by inflicting emotional and economic pain.” [Id. at 1].

More specifically, plaintiff alleges that defendants and their agents, acting as a common enterprise to solicit clients for mass tort cases relating to toxic water exposure at Camp Lejeune, “knowingly engaged in a pattern and practice of illegal telemarketing in violation of the TCPA. In particular, Defendants and their agents violated the TCPA by initiating calls to Mey and other putative class members whose numbers are registered on the National Do Not Call Registry.” See [id. at 2].

On March 15, 2023, Mey emailed a demand letter to bill@pintas.com and laura@pintas.com—email addresses associated with P&M Law’s Chicago, Illinois law firm, in an attempt to resolve her claims without resorting to litigation. [Id. at 10]. On March 16, 2023, Mey was contacted by Robby Birnbaum and Chris Meier, attorneys associated with the law firm Greenspoon Marder. [Id.]. Between March 16, 2023, and March 17, 2023, Mey exchanged numerous emails with Birnbaum and Meier, who offered Mey assurances that Pintas wanted to settle her claims. [Id.]. On April 4, 2023, Birnbaum emailed Mey about setting up a Zoom meeting for April 7, 2023, “on getting the claims resolved.” [Id.]. However, on that same day, April 4, 2023, Pintas through P&M Law Firm (PR), LLC (“P&M Law (PR)”) filed a case against Mey in the Commonwealth of Puerto Rico Court of First Instance. See

[Doc. 9-2]. In the Puerto Rican case, P&M Law (PR) asserts a cause of action for fraud and seeks a declaration that (1) Mey consented to be called, (2) Mey established a business relationship, (3) Mey is not a “residential subscriber” for purposes of the TCPA, and (4) there is no cause of action for a telemarketer’s failure to honestly identify itself. See [id. at 7–12]. Interestingly, Pintas, a native English speaker, directed his Puerto Rican attorneys to send Mey an email and complaint written in Spanish. See [id. at 11]. Mey, who does not speak Spanish, assumed the email was spam and deleted the email. [Id.]. Pintas then petitioned the Puerto Rican Court for permission to serve the complaint via publication and subsequently published a “summons by edict” in the *Primera Hora*, a Puerto Rican publication written in Spanish and distributed in Puerto Rico. [Id. at 11–12]. Following service by publication, Pintas obtained default against Mey. [Id. at 12]. After default, Mey learned of the case against her, obtained Puerto Rican counsel and translated a copy of Pintas complaint, and had default lifted. [Id.].

It appears Puerto Rico lacks jurisdiction over this case. Mey never had any contact with Puerto Rico. [Doc. 1 at 11]. As plaintiff points out, “Mey did not receive the calls in Puerto Rico; she had not alleged any claims arising under Puerto Rican law; she had not accused P&M Law Firm (PR) of violating telemarketing laws; she had not accused P&M Law (PR) of violating telemarketing laws; she had not directed any communications into Puerto Rico; and she has not done anything to otherwise avail herself of the Puerto Rican Court.” [Doc. 8 at 5]. Interestingly, Mey’s settlement demand letter was sent to email addresses at the pintas.com domain—email addresses that belong to P&M Law, LLC, which is organized and located in Chicago, Illinois. Moreover, pintas.com list a number of U.S. offices—but none

of those offices are in Puerto Rico. See <https://www.pintas.com/>. Moreover, Pintas himself is an attorney licensed to practice in Illinois—not Puerto Rico. [Doc. 1 at 11]. Thus, Mey had no contact with Puerto Rico or the Puerto Rico plaintiff, P&M Law (PR).

On April 25, 2024, plaintiff filed a Motion for Anti-Suit Injunction [Doc. 7] and Memorandum in Support [Doc. 8]. In the Motion for Anti-Suit Injunction, plaintiff moves for a temporary restraining order and preliminary injunction enjoining defendant P&M Law Firm—as well as its owner and affiliate, William Pintas and P&M Law Firm, LLC—from further prosecuting claims against plaintiff in the Puerto Rican commonwealth court. See [Doc. 7 at 1–2].

In support, plaintiff asserts that the lawsuit filed in the Commonwealth of Puerto Rico’s Court of First Instance is “plainly without appropriate basis or jurisdiction and was filed only as a means to harass and burden [plaintiff] with a costly defense.” [Id. at 2]. Plaintiff argues that an anti-suit injunction “is necessary to protect [plaintiff] from irreparable harm and defend this Court’s own jurisdiction over the federal claims.” [Id.].

On April 30, 2024, a hearing was held on plaintiff’s Motion for Anti-Suit Injunction. After hearing argument from plaintiff, defendants Pintas, P&M Law, and P&M Law (PR), this Court will grant plaintiff’s request for a temporary restraining order.

DISCUSSION

“The suitability of an anti-suit injunction involves different considerations from the suitability of other preliminary injunctions. An anti-suit injunction, by its nature, will involve detailed analysis of international comity. Often ... the injunction will be defensive in nature.” ***E. & J. Gallo Winery v. Andina Licores S.A.***, 446 F.3d 984, 990–91 (9th Cir. 2006). When

an injunction is otherwise permissible under the Anti-Injunction Act, courts will instead weigh the more general “principles of equity, comity, and federalism.” *Wyly v. Weiss*, 697 F.3d 131, 144 (2d Cir. 2012); *1199SEIU United Healthcare Workers E. v. PSC Cmty. Servs.*, 634 F.Supp. 3d 158, 171 (S.D. N.Y. 2022).

The All Writs Act empowers a federal court to enjoin proceedings that interfere with federal judgments. 28 U.S.C. § 1651. This includes the power to enjoin state court proceedings, but only when an exception to the Anti-Injunction Act applies. See *Kay Company v. Equitable Production Co.*, 535 F.Supp.3d 537, 540 (S.D. W.Va. 2021) (Goodwin, J.). The Anti-injunction Act states that “[a] court of the United States may not grant an injunction to stay proceedings in a State court except [1] as expressly authorized by Act of Congress, or [2] where necessary in aid of its jurisdiction, or [3] to protect or effectuate its judgments.” 28 U.S.C § 2283. Thus, the Anti-Injunction Act permits injunctions against state court proceedings (1) where Congress expressly authorizes, (2) where necessary in aid of the court’s jurisdiction, and (3) where necessary to protect or effectuate the court’s judgments. See *id.* “Any doubts as to the propriety of a federal injunction against state court proceedings under the Anti-Injunction Act should be resolved in favor of permitting the state courts to proceed.” *Atlantic Coast Line R. Co.*, 398 U.S. 281, 297 (1970); accord *Smith v. Bayer Corp.*, 564 U.S. 299, 306 (2011). “Even where one of the exceptions to the Anti-Injunction Act applies, power to enjoin state proceedings is discretionary, allowing a court to weigh those factors both pro and con to issuance of injunction.” *Commonwealth Edison Co. v. Gulf Oil Corp.*, 541 F.2d 1263, 1274 (7th Cir. 1976).

Plaintiff seeks an injunction based on the “necessary in aid of its jurisdiction”

exception.¹ [Doc. 8 at 2, 10]. The second exception has traditionally been applied principally to *in rem* proceedings. **Mayo v. Wells Fargo Bank, N.A.**, 2014 WL 504719, at *3 (E.D. Va. Feb. 7. 2014) (Jackson, J.). The second exception is generally reserved for state court actions *in rem*, because the state court's exercise of jurisdiction "necessarily impairs, and may defeat," the federal court's jurisdiction over the *res*. **Kline v. Burke Constr. Co.**, 260 U.S. 226, 229 (1922). The Fourth Circuit has noted "[h]owever, support for a broader application of the 'necessary in aid of its jurisdiction' exception can be found in the Supreme Court's statement that both this exception and the third exception to the Anti-Injunction Act allow federal injunctive relief against state court proceedings where it is 'necessary to prevent a state court from so interfering with a federal court's consideration or disposition of a case as to seriously impair the federal court's flexibility and authority to decide that case.'" **In re American Honda Motor Co., Inc. Dealership Relations Litigation**, 315 F.3d 417, 439 (4th Cir. 2003) (citing **Atlantic Coast Line R. Co.**, 398 U.S. at 295)).

While this case does not involve real property, this Court finds that injunctive relief is "necessary to prevent a state court from so interfering with a federal court's consideration or disposition of a case as to seriously impair the federal court's flexibility and authority to decide that case." See **Atlantic Coast Line R. Co.**, 398 U.S. at 295. More specifically, defendant Pintas asks the territorial court to issue a declaration finding that none of the calls to Mey violated the TCPA because (1) Mey allegedly consented to be called, (2) Mey established a relationship with the caller; (3) Mey is not a "residential subscriber" under the TCPA, and (4)

¹Plaintiff does not argue that the first or third exception apply.

there is no cause of action for a telemarketer's failure to honestly identify itself. [Doc. 9-2]. A declaration on those matters would interfere with this Court's ability to adjudicate Mey's causes of action in this matter. Thus, the second exception applies here.

The fact that the Anti-Injunction Act's second exception applies to Mey's requested relief does not end the analysis under the All Writs Act or the Anti-Injunction Act. The Court must also consider "the principles of equity, comity, and federalism" that bear on any federal court decision to enjoin state proceedings." *Wyly*, 697 F.3d at 140.

Here, this Court finds that the relief sought does not implicate the sort of comity and federalism concerns that might otherwise counsel against issuing an injunction pursuant to the Anti-Injunction Act and that the equities support the requested relief in this case. For starters, defendants asks the Puerto Rican court to foreclose this Court's ability to rule on Mey's federal TCPA claims. More specifically, defendants seek a declaratory ruling that finds the following: (1) Mey consented to be called, (2) Mey established a business relationship, (3) Mey is not a "residential subscriber" for purposes of the TCPA, and (4) there is no cause of action for a telemarketer's failure to honestly identify itself. Such findings would interfere with this Court's ability to rule on the pending case.

Moreover, "to the extent that the impending state court suits were vexatious and harassing, our interest in preserving federalism and comity with the state courts is not significantly disturbed by the issuance of injunctive relief." *Balarezo Family Chiropractic, LLC v. State Farm Mutual Automobile Insurance Co.*, 2024 WL 1343178, at *14 (S.D. Fla. Feb. 12, 2024). It appears that defendants' filing of the Puerto Rican lawsuit was a vexatious lawsuit designed to harass Mey. Despite being a native English speaker himself,

Pintas directed his attorneys to serve the Complaint to Mey in Spanish. Then, in an attempt to effectuate service, Pintas published service in a Puerto Rican newspaper that Mey had no way of knowing existed. See *In re Baldwin-United Corp. (Single Premium Deferred Annuities Ins. Litig.)*, 770 F.2d 328, 337 (2d Cir. 1985) (“To the extent that the impending state court suits were vexatious and harassing, our interest in preserving federalism and comity with the state courts is not significantly disturbed by the issuance of injunctive relief.”)).

Finally, plaintiff alleges that Pintas has accused Mey’s attorney of being a co-conspirator in her alleged attempts to entrap Pintas into violating federal law and as such, Pintas claims he is entitled to discover privileged information between Mey and her attorneys. Any order which would force Mey’s attorneys to disclose privileged communications would irreparably harm Mey. Thus, the equities further weigh in favor of granting an injunction in this matter

In sum, the equities weigh in favor of granting Mey’s request for a temporary restraining order and principles of comity and federalism do not counsel otherwise. The arguments presented by Pintas, P&M Law, and P&M Law (PR) that the temporary restraining order should not be granted are unavailing. As such, Pintas, P&M Law, and P&M Law (PR) are temporarily enjoined from proceeding in any way with the lawsuit in Puerto Rico until a decision on the request for a preliminary injunction is issued.

CONCLUSION

For the reasons discussed above, Plaintiff’s Motion for Anti-Suit Injunction [**Doc. 7**] is hereby **GRANTED**. This Court hereby issues a temporary restraining order for **fourteen (14) days** and hereby **ORDERS** that William Pintas, P&M Law, LLC, and P&M Law (PR), LLC are

ENJOINED from proceeding in any way with the lawsuit in the Commonwealth of Puerto Rico Court of First Instance until a hearing on the Preliminary Injunction is heard on **Monday May 13, 2024, at 10:00 a.m.**

Plaintiff is hereby direct to file opening briefing on the preliminary injunction **on or before May 6, 2024, at 5:00 p.m.** Defendants response is due **on or before May 10, 2024, at 5:00 p.m.** Any reply is due on or before **May 13, 2024, at 9:00 a.m.**

Security will not be required prior to issuing a temporary restraining order because William Pintas, P&M Law, LLC, and P&M Law (PR), LLC will not suffer financial burden in compliance with such injunctive relief.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record herein.

DATED: May 1, 2024.


JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE