



## Small Firms, Big Cases: Miami Shop Takes on Planet Fitness

### PLANET FITNESS IS HEADED TO THE JUDGMENT ZONE.

The fast-growing gym franchise tried to send a proposed class action over its robo-texting practices to arbitration, but a federal judge has determined that the arbitration clause in its membership agreement does not apply. Now, a small Miami firm will get its day in court.

**The facts:** Planet Fitness has made a name for itself as the gym that doesn't put a lot of pressure on its members. Along with its famous "[lunk alarm](#)"—a siren that gymgoers can sound when any meatheads get too obnoxious with their grunting and groaning—Planet Fitness has [monthly free-pizza nights](#). Don't forget the bagel breakfasts, either. Planet Fitness doesn't even offer personal training services, much less push them on members.

But last summer, Florida resident Jonnathan Ramos says he did feel some unwelcome pressure from the gym—through his phone. It was August, and Ramos had just cancelled his membership at Planet Fitness' Homestead, Florida location, where he had been a member for three years. That's when Planet Fitness sent an automated text enticing him to return. [It read as follows:](#)

"Planet Fitness: JONNATHAN! We're making it easier than ever to come back to PF. For a limited time you can rejoin for \$1 Down and get ONE MONTH FREE. Use promo code BACK2PF10 for our classic membership or BACK2PFBC for the PF Black Card! Text STOP to opt-out or HELP for help. Rejoin Now."

According to Ramos, Planet Fitness had [never received his consent](#) to be sent automated text messages.

**The claims:** Thirteen days after receiving the text, Ramos fired back a message of his own. He wasn't asking to renew his classic membership. Instead, he filed a proposed class action lawsuit against the owner of the Homestead location,

alleging violations of the federal Telephone Consumer Protection Act (TCPA). In short, the TCPA prohibits automated messages sent to cell phones without the recipient's prior consent.

TCPA cases can pose a serious threat to health clubs. Gold's Gym, 24 Hour Fitness and other fitness centers have all faced TCPA actions in recent years. In 2015, Life Time Fitness [agreed to a \\$15 million settlement](#) of a TCPA class action. In that litigation, Life Time claimed that by giving the gym their cell numbers, members implicitly consented to text messaging. Since 2013, however, the TCPA has required written consent.

In Ramos' case against Planet Fitness, the judge's analysis rendered irrelevant the question of whether Ramos had consented to text messages through his membership agreement. That agreement contained an arbitration clause, and Planet Fitness relied on that in its attempt to kick the case out of court. But the Southern District of Florida court found that because the offending text message was sent after Ramos cancelled his membership, [the agreement did not apply to it](#). Neither the arbitration clause nor any consent to text messaging, then, could save Planet Fitness from facing the TCPA claims in court.

**The firm behind the case:** To lead his case against Planet Fitness, plaintiff Ramos has a small law firm with plenty of muscle. (Sorry, couldn't resist.) [IJH Law](#) is a Miami-based, civil litigation firm founded by Big Law expat Ignacio Hiraldo. The Harvard-educated lawyer trained at the megafirm of Hogan Lovells before joining Buckley LLP, a consumer finance boutique that has grown quickly over the last decade. That was perhaps the first indication that Hiraldo was interested in taking his career in a more entrepreneurial direction.

In 2018, he relocated to Miami and founded IJH Law. At his own shop, he focuses on consumer protection issues generally, and three areas in particular: internet fraud, debt collection (asserting client rights under the *Fair Debt Collection Practices Act*) and [TCPA cases](#). He has effectively positioned himself as a lawyer for consumers fed up with being spammed, scammed and harassed.

Interestingly (and potentially confusingly), there is another small-firm lawyer named Hiraldo working for the plaintiff here. His name is [Manuel Hiraldo](#), and he is also a former Big Law attorney who set up his own shop in Florida. His website indicates that after founding his firm in 2016, he has racked up an impressive list of class action settlements, including four multi-million dollar settlements last year alone. The results include a \$3 million [settlement with Jenny Craig](#) in yet another TCPA class action.

**Wrap-up:** This instance of a small firm handling big litigation is much more than just a one-off. You'll see that as we make "Small Firms, Big Cases" a regular feature on this site. This is driven—at least in part—by the trend of attorneys with big time pedigrees breaking off from Big Law firms to form specialty boutiques with the same level of talent as the big guys, but with a commitment to client value and service that is often absent from Big Law. Have a case you think we should feature in "Small Firms, Big Cases"? Please let us know.

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