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Most Effective Lawyers: Appellate Finalist
Fight over driver information may be on road to U.S. Supreme Court

December 10, 2007

By: Julie Kay

Joel S. Perwin, solo practitioner
Miami appellate lawyer Joel Perwin took on the state this year and won a case that could put money in the pockets of every driver in the state of Florida.

The case centers on whether the Department of Highway Safety and Motor Vehicles is allowed to sell driver's license information to private companies.

Florida collected \$27 million in one year selling information about drivers' vehicles, addresses and other information to marketers.

Perwin represented four Floridians in a class action lawsuit against the state agency and three of its officials. The plaintiffs complained they were being bombarded with bulk mailings and phone calls from telemarketers due to the sale of the information.

U.S. District Judge Jose E. Martinez in Miami dismissed the case in March 2006, ruling the state officials had qualified immunity and no constitutional rights were violated.

Perwin appealed to the 11th U.S. Circuit Court of Appeals, arguing the state knew it would violate a new federal privacy law by selling the information but went ahead anyway.

The state argued it had immunity as a government body and payments to all Florida drivers could bankrupt it. Perwin said that argument is premature.

A unanimous ruling in February reversed Martinez and remanded the case for a ruling on damages. Martinez could levy liquidated damages of \$2,500 per driver but is unlikely to do that.

Perwin said the driver's license privacy case is unique because it has such a widespread effect.

"This affects every driver's license holder in the state of Florida," he said. "It affects whether a mass marketer can call you at dinner."

Both sides are pursuing discovery while the state asks the U.S. Supreme Court to hear the case. State Attorney General Bill McCollum's office has hired a Washington law firm to handle the case.

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and
Last
Word
in
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If the Supreme Court accepts it, Perwin would make his third appearance before the nation's high court. He won once outright and won a partial victory in the other case.

Perwin, an appellate lawyer since 1974, has handled appeals for the government of Belize in a telephone system dispute, Ecuadorian shrimp producers against DuPont and the nation's largest independent hip hop producer in a dispute over rights to a Pitbull album.

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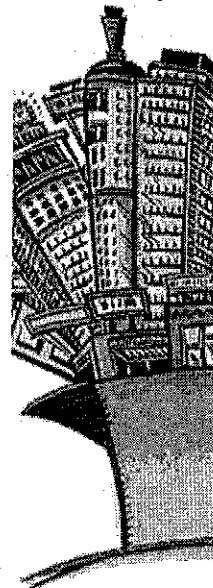
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