LITIGATION MINUTE: SEVENTH CIRCUIT RULES THAT TEXT MESSAGES ARE NOT "TELEPHONE CALLS" UNDER THE TCPA—WHAT TO KNOW AND WHAT COMES NEXT

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A major decision issued on 14 July 2026 by the US Court of Appeals for the Seventh Circuit marks a potential shift in the legal landscape governing text message marketing under the Telephone Consumer Protection Act (the TCPA). In *Steidinger v. Blackstone Med. Servs.*, No. 25-2398, the Seventh Circuit held that Section 227(c)(5) of the TCPA does not permit plaintiffs to sue for the receipt of unwanted text messages, because text messages are not “telephone calls” within the meaning of that provision. For businesses operating in Illinois, Indiana, and Wisconsin—the three states within the Seventh Circuit—this decision has immediate and significant implications.

STEIDINGER DECISION

The plaintiffs in *Steidinger* alleged that they received text messages either after they had replied “STOP” or registered on the National Do-Not-Call (DNC) Registry.

Writing for a unanimous panel, Judge Kirsch anchored the analysis in the ordinary public meaning of “telephone call” at the time of the TCPA's enactment in 1991. Consulting contemporaneous dictionary definitions, the court found that a “telephone” was an instrument for reproducing sounds at a distance, and a “call” meant getting into communication by telephone—meaning a telephone call referred to communication via sound. Because text messages do not reproduce sounds, the court concluded they do not qualify as a “telephone call.”

The Court reinforced this through structural statutory analysis, noting that the surrounding subsections of Section 227(c) consistently use the broader term “telephone solicitation,” which the TCPA defines as “the initiation of a telephone call or message,” yet Section 227(c)(5) creates a private right of action only for the receipt of more than one “telephone call” without mentioning telephone messages. Applying the meaningful-variation canon, the Court concluded that Section 227(c)(5) provides a narrower remedy than recovery for all forms of telephone solicitation.

The Court also dismissed the plaintiffs' reliance on past Federal Communications Commission (FCC) guidance in light of the Supreme Court's overruling of *Chevron* deference in *McLaughlin Chiropractic Assocs., Inc. v. McKesson Corp*., 606 U.S. 146 (2025). Noting that it was “not bound by the FCC's interpretation [under McKesson...]” the Seventh Circuit reviewed Section 227(c)(5) *de novo*.

CIRCUIT SPLIT

Steidinger creates—or at least sharpens—a split in circuit level authority on the question of whether text messages qualify as “calls” under the TCPA.

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The Ninth Circuit, in *Howard v. Republican Nat'l Comm*., 164 F.4th 1119 (9th Cir. 2026), recently held that a text message is a "call" within the meaning of the TCPA. However, the Ninth Circuit's decision was decided under Section 227(b), not Section 227(c)(5). The First, Second, and Eleventh Circuits similarly found that Section 227(b) applies to text messages (*see Breda v. Cellco P'ship*, 934 F.3d 1, 4 n.1 (1st Cir. 2019); *Melito v. Experian Mktg. Sols., Inc*., 923 F.3d 85, 88–89 (2d Cir. 2019); *Murphy v. DCI Biologicals Orlando, LLC*, 797 F.3d 1302, 1305 (11th Cir. 2015)), though those decisions all preceded the Supreme Court's overruling of *Chevron* deference in *McKesson Corp*.

The circuit split will likely widen since the same question is currently presented to the Eleventh Circuit in the *Radvansky v. Kendo Holdings* appeal. As a circuit split grows, the pressure on the Supreme Court or Congress to resolve this question will likewise increase.

WHAT THIS MEANS FOR BUSINESSES

Immediate Relief in the Seventh Circuit

Steidinger is binding precedent across Illinois, Indiana, and Wisconsin, and it abrogates contrary Northern District of Illinois decisions. There is no longer a private right of action for unwanted marketing texts under the DNC rules anywhere in the Seventh Circuit. The success of a TCPA text message class action will turn on where the case is filed, and businesses operating nationally face an uneven patchwork of exposure that is unlikely to be resolved until the Supreme Court or Congress acts.

Do Not Abandon SMS Compliance Programs, Even in the Seventh Circuit

Because it is often impossible to determine where all of a business's contacts are located, any attempt to limit text messages to the states in the Seventh Circuit will be imperfect at best. In addition, Section 227(c)(5) is one lane of exposure, but it is not the entire highway. The Section 227(b) regulated-technology provisions, the FCC's enforcement authority under Section 227(c), and the growing web of state mini-TCPAs all remain active. Texts may not be "calls" for purposes of Section 227(c)(5) in the Seventh Circuit, but they are absolutely still regulated. Businesses that send marketing texts should maintain robust consent records, honor opt-out requests promptly, and continue to monitor state-law developments.

Watch for Supreme Court Review

The Supreme Court has granted *certiorari* in a number of TCPA cases over the past decade. A petition for *certiorari* is a likely possibility, especially as additional circuits (including the Eleventh) weigh in on the question.

The legal landscape surrounding the TCPA continues to evolve. We continue to work with our clients to counsel litigation avoidance and compliance strategies, informed by our experiences defending these claims. We will update with developments as courts continue to address the interpretation of the TCPA.

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