7th Circ. Ruling May Reduce Litigation Risk For Text Marketers

By **Cory Eichhorn and Jefflyne Desilme** (August 17, 2026)

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On July 14, in Steidinger v. Blackstone Medical Services, the U.S. Court of Appeals for the Seventh Circuit held that unwanted marketing text messages are not telephone calls under Section 227(c)(5) of the Telephone Consumer Protection Act.

In so holding, the Seventh Circuit eliminated a key private do-not-call claim for text messages in Illinois, Indiana and Wisconsin.

As a result of the Steidinger ruling, consumers within the Seventh Circuit are now precluded from bringing a do-not-call claim under this provision based on receipt of unwanted marketing texts, even if they are registered on the National Do Not Call Registry or have requested the sender to stop.

The decision also limits judicial deference to Federal Communications Commission interpretations of the TCPA, and provides defendants with a strong textual framework to challenge similar claims in other jurisdictions.

This is the first federal circuit decision to squarely decide this issue following the U.S. Supreme Court's 2025 decision in McLaughlin Chiropractic Associates Inc. v. McKesson Corp., which limited judicial deference to the FCC interpretations of the TCPA. The decision is a significant win for companies that use text messaging for marketing and customer communications.

The Court's Reasoning

The court's opinion rested on several grounds. First, under the ordinary public meaning of "telephone call" in 1991, when the TCPA was enacted, the term referred to voice-based sound communications. Text messages, which transmit written characters rather than sound, do not fall within that meaning.

Second, TCPA Sections 227(c)(1)-(c)(4) use the broader term "telephone solicitation," which is separately defined to include a telephone call or message. Section 227(c)(5), by contrast, uses only the narrower term "telephone call." The court applied the meaningful-variation canon, concluding that Congress' deliberate use of a narrower term in (c)(5) means it does not encompass text messages.

Third, the FCC has interpreted "call" under Section 227(c) to include texts, extending National Do Not Call Registry protections to text messages in 2024. However, the court declined to follow that interpretation, citing McLaughlin, which held that courts must interpret the TCPA under ordinary statutory interpretation principles and owe only "appropriate respect" — rather than Chevron-style deference — to FCC readings.

Fourth, the court distinguished 2016's Campbell-Ewald Co. v. Gomez and other Seventh Circuit decisions, such as the 2020 rulings Warciak v. Subway Restaurants Inc. and Douglas v. Western Union Co., as involving Section 227(b), a different provision with different statutory language than Section 227(c)(5).

The court also noted that 2021's Facebook Inc. v. Duguid clarified that Campbell-Ewald's treatment of texts as calls was an unchallenged assumption, not a holding.

What This Means for Clients

This decision is a favorable development for companies that engage in text message marketing or send text communications to consumers.

Not only can plaintiffs within the Seventh Circuit — i.e., Illinois, Indiana and Wisconsin — no longer pursue private TCPA claims under Section 227(c)(5) based solely on the receipt of unwanted marketing texts, but the ruling also eliminates a commonly asserted class action theory and may reduce litigation exposure for text-based marketing programs.

Additionally, companies may have stronger grounds to respond to presuit demand letters and early-stage litigation claims premised on do-not-call text theories because the court's textual holding that a text message is not a telephone call under that provision provides a concrete basis to challenge the viability of such claims at the outset and potentially avoid costly discovery and class certification proceedings.

Companies may also see a shift in settlement dynamics in Seventh Circuit cases premised on do-not-call text theories, as the elimination of a private right of action under Section 227(c)(5) for text messages reduces the potential exposure that previously drove settlement valuations, thereby giving companies greater leverage to litigate rather than settle.

Lastly, the reasoning — grounded in textualism, statutory structure and McLaughlin's limits on FCC deference — provides a strong framework that defendants can cite in other circuits. The court also expressly distinguished prior decisions from the U.S. Courts of Appeals for the First, Second, Ninth and Eleventh Circuits that treated text messages as calls, explaining that those cases involved claims under Section 227(b), not Section 227(c)(5).

It added that the U.S. Courts of Appeals for the First and Second Circuit decisions relied on premises that the Supreme Court has since clarified were never holdings, thereby providing companies in other jurisdictions with a strong basis to challenge similar do-not-call text message claims.

Important Caveats

Although this is a positive development, companies should keep in mind that Section 227(b) claims remain unaffected. The TCPA's separate private right of action under Section 227(b)(3), which applies to calls made using an automatic telephone dialing system or prerecorded/artificial voice, still applies and is not affected by the decision. Texts sent via autodialer technology may still give rise to liability.

Importantly, this is a Seventh Circuit decision, binding only in Illinois, Indiana and Wisconsin. Other circuits have not yet addressed this question post-McLaughlin, and a circuit split or eventual Supreme Court review remains possible.

Companies should also be aware that many states have their own telephone solicitation or consumer protection statutes — e.g., the Florida Telephone Solicitation Act, as asserted in this case — that may independently provide remedies for unwanted text messages regardless of the TCPA ruling.

Separately, the court's ruling addresses only the private right of action under Section 227(c)(5). The FCC may still pursue enforcement actions related to unwanted texts under other provisions of Section 227(c).

Practical Next Steps

Companies facing class action claims under Section 227(c)(5) based on text messages in the Seventh Circuit should consider raising the Steidinger decision in support of dismissal or filing a notice of supplemental authority.

At the same time, it remains important to ensure that text messaging programs comply with autodialer and consent requirements, as potential liability under Section 227(b) for texts remains intact.

Companies should also monitor whether other circuits adopt or reject this reasoning and plan for potential Supreme Court review if a circuit split develops. Lastly, careful attention should be given to applicable state laws — many of which independently regulate unwanted texts — to ensure compliance with those regimes.

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