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Seventh Circuit Holds Text Messages Are Not "Calls" Under the TCPA's Do Not Call Private Right of Action

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On July 14, 2026, the U.S. Court of Appeals for the Seventh Circuit held in *Steidinger v. Blackstone Medical Services* that Section 227(c)(5) of the Telephone Consumer Protection Act (TCPA) — the provision that allows consumers to sue over repeated do not call violations — does not govern text messages. The court affirmed dismissal of a putative class action brought by consumers who received unwanted marketing texts because the statute creates a private right of action only for a person "who has received more than one telephone call within any 12-month period," and because a text message is not a "telephone call."

The decision is the first federal appellate ruling to address the question following the Supreme Court's 2025 decision in *McLaughlin Chiropractic Associates, Inc. v. McKesson Corp.*, which held that lower courts were not bound by prior Federal Communications Commission (FCC) interpretations of the TCPA. It also sets up a circuit split — the U.S. Court of Appeals for the Ninth Circuit reached the opposite conclusion earlier this year on the related question of whether a text is a "call" under a different TCPA provision — which increases the likelihood of Supreme Court review.

Background

Congress enacted the TCPA in 1991 to curb intrusive telemarketing. Section 227(c) directs the FCC to adopt regulations protecting residential subscribers from unwanted "telephone solicitations" and authorizes the creation of the National Do Not Call Registry. Section 227(c)(5), in turn, gives consumers a private right of action — with statutory damages of up to $500 per violation, which a court may in its discretion treble to $1,500 for willful conduct — against entities that place more than one offending “telephone call” in a 12-month period. In class action litigation, those per-message damages aggregate quickly, which has made Section 227(c)(5) a mainstay of the plaintiffs’ bar.

The plaintiffs in *Steidinger* alleged that they received marketing texts and calls from Blackstone Medical Services promoting the company’s home sleep tests even after they replied “STOP” and registered themselves on the National Do Not Call Registry. They filed a consolidated putative class action asserting claims under the TCPA and the Florida Telephone Solicitation Act. Blackstone moved to dismiss, arguing that Section 227(c)(5) reaches only voice calls. The U.S. District Court for the Central District of Illinois agreed, dismissed the TCPA claims and declined to exercise supplemental jurisdiction over the state-law claim. (The plaintiffs never argued that their suit could proceed on the alleged voice calls alone, so that theory was waived on appeal.)

The Seventh Circuit’s Decision

A unanimous panel affirmed the district court decision in an opinion by Judge Thomas Kirsch on the following grounds:

- **Ordinary Meaning**: The court read “telephone call” by its ordinary 1991 meaning, when dictionaries defined it as communication by sound. (As the court noted, the first text message was not sent until 1992.) Though a fixed term can capture new technology, the court declined to do so.
- **Statutory Context**: The court observed that Section 227(c) elsewhere uses “telephone solicitation,” while Section 227(c)(5) uses only “telephone call.” Under the meaningful-variation canon, the court presumed Congress meant the narrower term — i.e., calls, not solicitations by phone generally.
- **Distinguishing Past Precedent**: The court further declined to rely on an earlier Supreme Court decision (*Campbell-Ewald Co. v. Gomez*) that treated a text message as a “call” under a different TCPA provision. (As the Supreme Court explained in a later case that observation was only an assumption, not a holding.) The *Steidinger* court also distinguished several other decisions — including its own and those of four other circuits — because they arose under Section 227(b), not Section 227(c)(5), and largely predated *Duguid*.
- **No Deference to FCC**: Finally, the court refused to defer to the FCC’s 2024 order extending Do Not Call protections to text messages. As the court explained, that order did not apply to the plaintiffs’ claims because it concerned the interpretation of a different TCPA provision (Section 227(c)(3)). And in any event, the court

reiterated that under *McLaughlin*, it was not bound by the commission's interpretation of the TCPA.

Practical Implications

The *Steidinger* ruling is a meaningful development for any business that uses short message service (SMS) in its marketing programs. For companies that market by SMS, *Steidinger* removes — at least in Illinois, Indiana and Wisconsin — one of the most heavily used vehicles for TCPA class litigation. And defendants located elsewhere now have persuasive appellate authority to cite in the many district courts that have divided on the issue since *McLaughlin*.

Note, however, that the decision's reach is limited in several important respects:

- **Not a safe harbor**. The court expressly left undisturbed the regulation of text messaging under other provisions of Section 227, including agency enforcement. Section 227(b) — which governs autodialed and prerecorded-voice communications and carries its own broadly framed private right of action — is unaffected.
- **The Supreme Court could intervene**. The Ninth Circuit has held in another case (*Howard v. Republican National Committee*) that a text message is a "call" under Section 227(b) of the TCPA. This makes it increasingly likely the Supreme Court will consider this issue.
- **State laws may fill the gap**. Many state telemarketing statutes — including the Florida Telephone Solicitation Act at issue in *Steidinger* — explicitly govern text messages. We can expect plaintiffs' counsel to pivot toward those statutes for class actions going forward.
- **Voice calls remain fully actionable**. Do Not Call compliance for phone calls remains as important as ever, as the decision carves out only text messages.

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