

7th Circuit Finds That the Private Right of Action in Section 227(c) of the Telephone Consumer Protection Act Does Not Apply to Text Messages

Skadden

July 15, 2026

If you have any questions regarding the matters discussed in this memorandum, please contact the following attorneys or call your regular Skadden contact.

Michael W. McTigue Jr.

Partner / New York
212.735.3529
michael.mctigue@skadden.com

Meredith C. Slawe

Partner / New York
212.735.3534
meredith.slawe@skadden.com

Colm P. McInerney

Counsel / New York
212.735.2498
colm.mcinerney@skadden.com

Glenn S. Korman

Associate / New York
212.735.3353
glenn.korman@skadden.com

This memorandum is provided by Skadden, Arps, Slate, Meagher & Flom LLP and its affiliates for educational and informational purposes only and is not intended and should not be construed as legal advice. This memorandum is considered advertising under applicable state laws.

One Manhattan West
New York, NY 10001
212.735.3000

Executive Summary

- **What's new:** The Seventh Circuit held in *Steidinger, et al. v. Blackstone Medical Services* that Section 227(c) of the TCPA does not provide a private right of action for the receipt of unwanted text messages.
- **Why it matters:** Since the Supreme Court's 2025 *McLaughlin* ruling, which instructed courts to interpret the TCPA pursuant to its plain language and without deference to interpretations by the FCC, federal district courts have been split on whether Section 227(c)(5) applies to text messages. *Steidinger* is the first appellate case to address the issue post-*McLaughlin*. The court applies a practical and straightforward reading of the statute and this decision should help stem the recent wave of Section 227(c) do-not-call text cases that have flooded federal court dockets.
- **What to do next:** Companies conducting text messaging telemarketing campaigns should continue to monitor the evolving case law on this issue and should be cognizant of state telemarketing laws, many of which may apply to text messages.

On July 14, 2026, the U.S. Court of Appeals for the Seventh Circuit held in *Steidinger, et al. v. Blackstone Medical Services*¹ that the private right of action contained in Section 227(c)(5) of the Telephone Consumer Protection Act²(TCPA) “does not permit plaintiffs to sue for the receipt of unwanted texts.” This is because Section 227(c)(5) is limited only to providing redress for the receipt of unwanted “telephone calls.”³ *Steidinger* is a significant, practical development that applies the plain language of the statute.

The TCPA, passed in 1991 to preserve “normal, expected or desired communications between businesses and their customers,” has been a continued source of abusive litigation targeting lawful, compliant communications by companies to their customers. Efforts by litigants and courts to expand the TCPA beyond its original purpose, together with a series of Federal Communications Commission (FCC) regulations and declaratory rulings, have created an uncertain compliance environment that exposed businesses to the risk of statutory damages of \$500 to \$1,500 per violation.

Until 2021, plaintiffs’ firms focused many TCPA claims on Section 227(b)’s restrictions on the use automatic telephone dialing systems (ATDS) to make calls to certain specialized lines such as emergency services lines and cellphone numbers. But the Supreme Court’s unanimous decision in 2021’s *Facebook, Inc. v. Duguid*,⁴ applying the plain language of the statute, narrowed the scope of the devices that qualify as an ATDS. This prompted a shift by the TCPA plaintiffs’ bar to pursuing TCPA claims unaffected by *Duguid*, including those brought under Section 227(c)’s do-not-call provisions.

¹ No. 25-2398, — F.4th —, 2026 WL 2028517, at *1 (7th Cir. July 14, 2026).

² U.S. Code § 227 *et seq.*

³ *Id.*

⁴ U.S. 395 (2021).

7th Circuit Finds That the Private Right of Action in Section 227(c) of the Telephone Consumer Protection Act Does Not Apply to Text Messages

Section 227(c) addresses the need to protect “residential telephone subscribers” from unwanted “telephone solicitations.”⁵ It provides for a private right of action under Section 227(c)(5) for unwanted “telephone call[s].”⁶ To implement Section 227(c), the TCPA authorized the FCC to establish a “single national database” of telephone numbers belonging to “residential subscribers” who object to receiving “telephone solicitations.”⁷ In 2003, the FCC did so, creating the National Do-Not-Call Registry.⁸ Until recently, applying the so-called *Chevron* deference doctrine set out in *Chevron v. National Resources Defense Council*,⁹ most courts deferred to the FCC’s TCPA’s interpretations. In the context of Section 227(c)’s private right of action, courts generally understood the FCC’s regulations as covering text messages.

But two recent Supreme Court decisions changed the landscape. In *Loper Bright Enterprises v. Raimondo*,¹⁰ the Court overturned the *Chevron* doctrine, holding that “courts must exercise independent judgment in determining the meaning of statutory provisions.” Then, in *McLaughlin Chiropractic Associates, Inc. v. McKesson Corp.*,¹¹ the Court held that federal district courts were not bound by FCC statutory interpretations in TCPA enforcement proceedings. Rather, courts must “interpret the TCPA under ordinary principles of statutory interpretation” and “independently determine” whether the agency’s interpretation of a statute is correct. In the wake of these decisions, federal district courts have been split, with many courts no longer deferring to the FCC and instead finding that Section 227(c)(5)’s private right of action does not apply to text messages.

In *Steidinger*, the Seventh Circuit was the first U.S. federal court of appeals to address the issue post-*Loper Bright* and *McLaughlin*. The plaintiffs-appellants were individuals who allegedly received unwanted marketing text messages and calls from defendant-appellee Blackstone Medical Services (Blackstone) urging them to buy the company’s home sleep tests. They commenced a putative class action asserting claims under the TCPA and the Florida Telephone Solicitation Act.¹² The district court granted Blackstone’s motion to dismiss, finding that

Section 227(c)(5) of the TCPA did not apply to text messages and declining to exercise supplemental jurisdiction over the remaining FTSA claim.

The Seventh Circuit affirmed, holding that Section 227(c)(5)’s private right of action “does not permit plaintiffs to sue for the receipt of unwanted texts.”¹³ The court began with the plain language of the text. It noted that, as understood in 1991, a “telephone call” would not encompass a text message. The Seventh Circuit noted that the fact that other subsections of Section 227(c) use the term “telephone solicitation” (which the TCPA defines to include telephone calls or messages), where Section 227(c)(5) is limited to “telephone call[s],” reinforced that Section 227(c)’s private right of action was limited to telephone calls. The court rejected reliance on the Supreme Court’s decision in *Campbell-Ewald Co. v. Gomez*¹⁴ — where the Court stated that in the context of a Section 227(b) claim, a text message “qualifies as a ‘call’” — noting that the Supreme Court subsequently indicated in *Duguid* that *Campbell-Ewald* was not a substantive decision but simply assumed that that a “call” covered text messages. The court rejected reliance on other Section 227(b) cases for similar reasons.

Turning to the FCC’s interpretation, the Seventh Circuit stated that it “doesn’t inform our understanding of § 227(c)(5),”¹⁵ noting that while the FCC had interpreted “call” to include text messages, it had not engaged in rulemaking to define the term for purposes of Section 227(c)(5). The FCC’s decision to extend National Do-Not-Call Registry protections to text messages was implemented under Section 227(c)(3), which refers to “telephone solicitations,” not Section 227(c)(5). The court stated that, in any event, pursuant to *McLaughlin* “we aren’t bound by the FCC’s interpretation.”¹⁶

Finally, the court addressed policy arguments presented by *Steidinger*, observing that “Congress’s general concern about intrusive telemarketing practices doesn’t necessarily mean that it adopted a broad definition of telephone call.”¹⁷ In this regard, it noted that while Congress was concerned in 1991 with telemarketing calls that might create a public safety risk by seizing phone lines needed for emergency services, “[s]pam text messages don’t pose this risk.”¹⁸

⁵ U.S.C. § 227(c)(1).

⁶ *Id.* § 227(c)(5).

⁷ *Id.* § 227(c)(3).

⁸ See 47 C.F.R. § 64.1200(c).

⁹ U.S. 837 (1984).

¹⁰ U.S. 369, 394 (2024).

¹¹ U.S. 146, 152, 155 (2025).

¹² Fla. Stat. § 501.059(5).

¹³ WL 2028517, at *1.

¹⁴ 577, 667 U.S. 153 (2016).

¹⁵ WL 2028517, at *4.

¹⁶ WL 2028517, at *4.

¹⁷ *Id.* at *5.

¹⁸ *Id.*

7th Circuit Finds That the Private Right of Action in Section 227(c) of the Telephone Consumer Protection Act Does Not Apply to Text Messages

Steidinger represents a persuasive, well-reasoned analysis tied to the text of the statute. It is a welcome development and, even outside the Seventh Circuit, may encourage more federal district courts to hold that text messages are not covered by Section 227(c)(5)'s private right of action. In turn, this may help stem the

tide of abusive TCPA lawsuits. It remains to be seen how other circuit courts will interpret Section 227(c)(5) and whether, ultimately, this issue will need to be decided by the Supreme Court.