

Mixed Messages Ongoing as Courts Disagree Whether Texts Constitute “Calls” Under the TCPA

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As we have previously discussed, a circuit split is rapidly developing on the fundamental question as to whether a text message is a “call” under section 227(c)(5) of the Telephone Consumer Protection Act (TCPA).

That split continues to develop as another district court recently found that, under Ninth Circuit precedent, a text message is, in fact, a call subject to this provision of the TCPA, reaching the direct, opposite conclusion of the Seventh Circuit in *Steidinger v. Blackstone Med. Servs.*, 182 F. 4th 532 (7th Cir. 2026).

What Happened?

- In *Miller*, the plaintiff brought a putative class action against an insurance administrator for violating the TCPA, 47 U.S.C. § 227, by allegedly sending unauthorized text messages to her cell phone.
- The plaintiff contended her number was on the National Do Not Call Registry, but despite this, she received numerous unsolicited telemarketing text messages advising her that temporary auto insurance coverage was expiring and advertising interim coverage. The bottom of the text message included a phone number and a website link where she could receive an insurance quote.
- The plaintiff further claimed that she had no established business relationship with the defendant and had not provided prior express consent to receive text messages from it. Because of this, the plaintiff did what many in her situation choose to do and filed suit against the defendant.
- The defendant, in turn, moved to dismiss, in large part on the Seventh Circuit’s *Steidinger* decision, which found that a text message did not equal a call subject to § 227(c)(5) of the TCPA.

What Did the Court do?

The United States District Court for the Central District of California disagreed with the defendant's arguments and denied the motion to dismiss.

In so ruling, the court noted that in *Steidinger*, the Seventh Circuit had concluded that “texts are not calls, so § 227(c)(5) does not authorize the plaintiff's suit.” The problem, as the court saw it, was that “applying *Steidinger* would necessarily require this Court to reject Ninth Circuit precedent.”

According to the court, the Ninth Circuit previously found that a text message equals a call for TCPA purposes, citing to *Satterfield v. Simon & Schuster, Inc.*, 569 F.3d 046 (9th Cir. 2009) and *Howard v. Republic Nat'l Comm.*, 164 F.4th 1119 (9th Cir. 2026).

Crucially, both of those decisions involved the question of whether a text message constituted a call under a different section of the TCPA (§ 227(b)), a distinction that the court never addressed when it denied the defendant's motion to dismiss.

What Does It Mean?

The split continues to widen over whether text messages are subject to various portions of the TCPA.

For defendants subject to TCPA lawsuits, this means the forum matters. Unless and until the US Supreme Court steps in to decide the issue once and for all, a viable defense to a TCPA text message lawsuit in the Seventh Circuit would not succeed somewhere like the Ninth Circuit.

This also makes nationwide TCPA compliance even trickier. Companies conducting text-messaging marketing campaigns nationwide may need to account for this developing split and comply with the most restrictive applicable interpretation (that a text equals a call) unless and until that issue is firmly decided.

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