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Seventh Circuit holds text messages do not constitute "telephone calls" under Section 227(c)(5) of the TCPA

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In *Steidinger v. Blackstone Medical Services*, 182 F.4th 532 (7th Cir. 2026), the Seventh Circuit became the first federal appellate court to hold that text messages are not "telephone calls" within the meaning of Section 227(c)(5) of the Telephone Consumer Protection Act ("TCPA"). While the decision immediately impacts TCPA litigation within the Seventh Circuit, it may also signal a fundamental narrowing of a key basis for TCPA liability generally.

In *Steidinger*, the named plaintiffs in a putative class action alleged they received unwanted marketing text messages from Blackstone Medical Services promoting home sleep tests even after they opted out (by replying "STOP" or registering on the National Do-Not-Call Registry). 182 F.4th at 534. Blackstone moved to dismiss, arguing that § 227(c)(5) creates a private right of action only for unwanted "telephone calls," not text messages. *Id.* at 535. After the district court agreed and dismissed the TCPA claims, the Seventh Circuit affirmed.

The Court of Appeals began with the text of § 227(c)(5), which grants a cause of action to any person "who has received more than one telephone call within any 12-month period" in violation of the regulations prescribed under the subsection. To determine the ordinary public meaning of "telephone call" at the time of the TCPA's 1991 enactment, the *Steidinger* court consulted "contemporaneous dictionary definitions" and found that a "telephone" was "[a]n instrument for reproducing sounds at a distance" and a "call" meant "to get or try to get into communication by telephone." *Id.* at 535-36. Thus, a "telephone call" in 1991 referred to communication via sound. Because text messages do not reproduce sounds, the court concluded they do not qualify as a new application of the term "telephone call." *Id.* at 536.

The *Steidinger* court then observed that neighboring subsections of § 227(c) consistently use the broader term "telephone solicitation," which the TCPA defines as "the initiation of a telephone call *or message*." *Id.* Yet Congress chose to limit § 227(c)(5)'s private right of action exclusively to "telephone calls"—without mentioning "messages" or employing the broader term "telephone solicitation." Applying the meaningful-variation canon—i.e., Congress knew how to reach messages when it wanted to, and it chose not to do so in this provision (*id.* at

536-37)—the Seventh Circuit ruled that this deliberate word choice “both explains and supports our conclusion that § 227(c)(5) does not apply to text messages” (*id.* at 540).

The Court of Appeals also cited *McLaughlin Chiropractic Associates, Inc. v. McKesson Corp.*, 606 U.S. 146 (2025), in holding it was not bound by the FCC’s prior interpretations treating “call” as encompassing text messages. *Id.* at 538. The court noted that the FCC had never engaged in rulemaking to define the term specifically for purposes of § 227(c)(5), and that the FCC’s extension of National Do-Not-Call Registry protections to text messages was implemented under § 227(c)(3)—which refers to “telephone solicitations”—not under § 227(c)(5).

While *Steidinger* materially limits claims under Section 227(c)(5)—which creates a private right of action for violations of the Do-Not-Call regulations—it does not reach other provisions of the TCPA, including Section 227(b)(3) (creating a private right of action in connection with the use of automatic telephone dialing systems and prerecorded-voice messages without consent), Section 227(c)(1)-(4) (governing the FCC’s enforcement authority regarding unwanted “telephone solicitations,” which includes messages), and Section 227(e) (which Congress amended in 2018 to expressly cover text messages). It also does not address state “mini-TCPA” statutes, including the Florida Telephone Solicitation Act at issue in *Steidinger* itself. *See id.* at 534-35.

The Seventh Circuit’s decision creates at least some tension with *Howard v. Republican National Committee*, 164 F.4th 1119, 1124 (9th Cir. 2026), where the Ninth Circuit ruled that “a text message is properly deemed to be a ‘call’ within the meaning of the TCPA.” But *Howard* addressed Section 227(b), not 227(c)(5), as the Seventh Circuit itself noted. 182 F.4th at 538. Moreover, *Howard*’s discussion of whether texts are “calls” is arguably dicta, since the court ultimately affirmed dismissal on other grounds (that the text message was not “made or initiated using an artificial or prerecorded voice”). *See* 164 F.4th at 1125-28. And while earlier decisions of the First, Second, and Eleventh Circuits treated texts as “calls” under Section 227(b) (*see Steidinger*, 182 F.4th at 538), these decisions predated both *McLaughlin* and *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), and thus rested on FCC deference that no longer applies.

Nevertheless, given the volume of Section 227(c)(5) litigation nationwide (and the current disagreement on the “text as call” issue in district courts in the post-*Chevron* era), the issue decided in *Steidinger* may soon be before the Supreme Court. In the meantime, *Steidinger* constitutes the first federal appellate decision squarely holding that texts are not “calls” under Section 227(c)(5) and thus should carry significant persuasive weight outside the Seventh Circuit.