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McLaughlin Fallout Begins: Courts Split On Whether the TCPA's DNC Rules Cover Texts

Prepared by PossibleNOW's sister company, CompliancePoint

A New Era of TCPA Interpretation

As we detailed at the beginning of July, the U.S. Supreme Court's decision in McLaughlin v. McKesson is poised to **usher in a period of heightened uncertainty in TCPA litigation**—and the first signs of that shift have already arrived in less than a month.

In its landmark June 20, 2025, decision, the Court held that federal district courts (i.e., trial-level courts) are no longer bound by the Federal Communications Commission's (FCC's) interpretations of the Telephone Consumer Protection Act (TCPA) under the Hobbs Act. Trial courts (all 94 of them) are now free to interpret the TCPA independently, giving only persuasive weight—not binding effect—to FCC guidance.

And just one month later, two district courts have **already issued contradictory decisions that illustrate exactly the kind of uncertainty McLaughlin was expected to trigger**—and over a topic it was expected to trigger: whether text messages are subject to the TCPA's Do-Not-Call (DNC) provisions.

This ruling is a seismic shift in how courts may interpret, apply, and enforce telemarketing law going forward.

FCC's Longstanding View: Texts = Calls

The FCC has maintained through a series of orders over a period of years that a "call" under the TCPA includes a text message, and courts have generally deferred to that view. This interpretation has been applied across both major subsections of the statute: § 227(b), which governs autodialed/prerecorded calls, and § 227(c), which governs calls to numbers on the National DNC Registry. The FCC's rationale has been grounded in the functional similarity between texts and calls—both are directed to a telephone number and both can be intrusive.

To the FCC's credit (and the FTC's as well), they have been the ones fielding consumer complaints and working to adapt outdated statutory language to modern technology. As communication channels have evolved, both agencies have tried to fill in the gaps through rulemaking and declaratory rulings. Congress, by contrast, has been silent, **leaving regulators to carry the burden of interpretation** in a rapidly changing digital landscape.

The Fist Post-McLaughlin Split

With that "Hobbs deference" now gone, on July 21, **two district courts**—the Central District of Illinois and the District of Oregon— issued the first contradictory rulings of the post-McLaughlin era. Each **ruled on nearly identical motions to dismiss**, challenging the long-standing FCC principle that text messages are treated as "calls" under § 227(c)—**but reached opposite conclusions.**

Case 1: Jones v. Blackstone Medical Services, LLC (C.D. Ill.)

In this case, the plaintiffs alleged they received unsolicited marketing text messages from the defendant, despite their phone numbers being listed on the National Do Not Call Registry. The claims were brought exclusively under § 227(c), which governs the TCPA's DNC provisions—and did not allege any voice calls.

In May 2025, Blackstone filed a motion to dismiss, squarely challenging the FCC's position that text messages qualify as "calls" under § 227(c). Blackstone argued straightforwardly that "Plaintiffs raise only claims relating to text messages under § 227(c), which does not impose any liability for sending text messages."

The court agreed. Citing McLaughlin, the Central District Court of Illinois noted that it was no longer bound to defer to the FCC's interpretation. Instead, it conducted its own textual analysis of § 227(c), which refers repeatedly to "telephone solicitations" and "calls"—but makes no mention of text messages.

On that basis, **the court held that text messages are not subject to the TCPA's DNC rules** and dismissed the plaintiffs' claims with prejudice, meaning the plaintiff is barred from filing the same claim again in that court. This ruling marks a significant departure from years of reliance on the FCC's interpretations and could open the door to further challenges in other districts.

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Case 2: Wilson v. Skopos Financial, LLC (D. Or.)

Just hours later, the District Court of Oregon ruled in Wilson v. Skopos Financial, a factually similar case involving marketing text messages sent to a consumer on the National Do Not Call Registry. Again, no voice calls were alleged—only SMS.

Skopos had filed its motion to dismiss in April 2025, raising essentially the same argument as Blackstone: "The TCPA section 227(c) creates a cause of action for recipients of telephone calls, not text messages. Plaintiff does not allege that he received telephone calls from Reprise. Plaintiff, therefore, has failed to state a claim under 47 U.S.C. § 227(c)(5)."

In contrast to the Blackstone court, however, the Oregon court declined to break from the FCC's view, instead finding it persuasive even though it was no longer binding post-McLaughlin. The court emphasized that text messages, like calls, can constitute intrusive solicitations and that excluding them from § 227(c) would frustrate the statute's privacy-protective purpose.

Accordingly, the court denied the motion to dismiss, allowing the plaintiff's DNC-based claims to proceed.

Strategic Timing: Both Motions to Dismiss Filed Before McLaughlin

Notably, **in both cases, the defendants' motions to dismiss were filed well before the Supreme Court handed down its McLaughlin ruling.** But with that case pending before the Court since late last year, defense counsel in both matters appeared to anticipate that the justices might gut the Hobbs Act's deference requirement—creating an opening for district courts to independently reassess the "texts-equal-calls" framework under § 227(c).

Final Thoughts: Uncertainty Ahead, But Compliance Shouldn't Flinch

These early post-McLaughlin rulings signal what's to come: **growing fragmentation and unpredictability** in how courts interpret and apply the TCPA.

And this is just the beginning. It would not be surprising to see a district court conclude that prior express consent under § 227(c) need not be in writing—or to see other long-standing FCC interpretations and constructs tested in new ways, now that trial courts are untethered from agency guidance.

But it is important to remember that these are narrow, geographically situated decisions issued by individual federal courts. They reflect a shifting—not settled—legal landscape and **should not be misread as a green light to ease compliance obligations.**

We strongly advise against using such rulings as a basis to begin cold-texting individuals on the National Do Not Call Registry, for example. Businesses should continue treating text messages as subject to the TCPA's DNC provisions. While courts may now chart different paths, the safest course—for now—is to rely on the FCC's interpretations as a conservative compliance baseline until higher courts—or Congress—provide a more unified framework.

Speaking of Congress, legislative clarity is long overdue. These rulings highlight courts' **growing struggle to apply a decades-old statute to modern technologies—with dramatically different results.** Perhaps Congress will see the writing on the wall and revisit legislation like the Do Not Disturb Act, floated during the 2024 legislative session, which aimed to codify modern definitions and consent standards for robocalls and texts.

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