

Common Sense Rules in LA Lakers Text Message Suit

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Most marketers know they are legally required to get permission before sending text messages to consumers. Despite this, the number of lawsuits involving (allegedly) unsolicited text messages keeps growing, as does the cost of settling these suits. Although the first cases in this area involved practices that were clearly unlawful — such as sending text messages to people who hadn't signed up — now, companies are getting sued over much less. Fortunately, many courts have taken a common sense approach to these cases.

During a Lakers game last year, the team invited fans to text a message for a chance to have it appear on the scoreboard. A fan texted a message, and received the following confirmation from the Lakers in return: "Thnx! Txt as many times as u like. Not all msgs go on screen. Txt ALERTS for Lakers News alerts Msg&Data Rates May Apply. Txt STOP to quit. Txt INFO for info." Shortly thereafter, the plaintiff filed a lawsuit against the Lakers arguing that the team had sent that message without consent, in violation of the Telephone Consumer Protection Act.

Applying a "common sense" reading of the TCPA, a California court determined that, by sending his original message, the plaintiff "expressly consented" to receiving a confirmatory text message from the Lakers. Indeed, the court noted that when the plaintiff sought to display his message on the scoreboard, "it is difficult to imagine how he could have been certain that the Lakers received his message without a confirmative response." Accordingly, the court granted the Laker's motion to dismiss the case.

There are still a number of legal risks associated with text message campaigns, but this decision — [as well as other recent developments](#) — suggests that companies now have a better shot at prevailing in these types of nuisance suits.