TCPA Tracker: March-April 2026

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I. Sixth Circuit Holds Click-to-Consent Online Agreements Are Enforceable

The Sixth Circuit reversed the decision by the United States District Court for the Eastern District of Michigan which denied a motion to compel arbitration based on a "click" consent to a website's mandatory arbitration provision.

Plaintiff-Appellee Michael Dahdah filed a class action under 47 U.S.C. § 227 against Defendant Rocket Mortgage, LLC, alleging that Defendant placed calls to Plaintiff's number, which was listed on a Do Not Call registry. Defendant moved to compel arbitration, asserting that Plaintiff agreed to an arbitration provision when Plaintiff repeatedly clicked a button on Defendant's website to obtain mortgage refinancing options.

Defendant's website included text informing users that clicking would result in agreement to its hyperlinked "Terms of Use," which included a mandatory arbitration provision and consent to receive telephone calls. The district court determined there was no binding contract and denied Defendant's motion to arbitrate.

The Sixth Circuit disagreed, finding under California law that clicking the button on Defendant's website constituted valid acceptance and consent to be contacted. The Sixth Circuit analyzed consent under standards for a "hybrid" offer, asking whether a reasonably prudent Internet user would have found a website's proposed terms conspicuous. Under the totality of the circumstances, the Sixth Circuit found that Defendant's website proposed a hybrid offer which was clearly conspicuous and that Plaintiff accepted the offer upon clicking the button to agree.

Accordingly, the Sixth Circuit reversed the district court decision and remanded the case to be referred to arbitration.

Dahdah v. Rocket Mortg., LLC, 166 F.4th 556 (6th Cir. 2026).

II. Northern District of Georgia Finds Text Messages Are Not Covered Under the TCPA

The United States District Court for the Northern District of Georgia granted a motion to dismiss brought by Defendant 1-800-Flowers.Com, Inc., holding that text messages are not telephone calls as defined in 47 U.S.C. § 227(c).

Plaintiff Ethan Radvansky alleged that he received promotional text messages from Defendant without his consent. The text messages were allegedly intended for someone else other than the Plaintiff. Plaintiff filed a class action under 47 U.S.C. § 227(c), seeking to certify a class encompassing individuals contacted by Defendant whose telephone numbers were placed on the National Do Not Call Registry. Defendant moved to dismiss, arguing that text messages are not covered under the TCPA.

The court agreed with Defendant and decided the issue with "fresh eyes" after *McLaughlin* changed the legal landscape surrounding deference to agency interpretation. The court explained, "the meaning of these terms should be considered as they were understood at the time the TCPA was enacted, prior to the invention of text messages." The court also found that Congress did not intend for text messages to be included in the definition of "telephone calls" and that ordinary persons would not use the term "telephone call" to refer to text messages.

Accordingly, Plaintiff's complaint was dismissed.

Radvansky v. 1-800-Flowers.com, Inc., 2026 WL 456919, 2026 U.S. Dist. LEXIS 32415 (N.D. Ga. Feb. 17, 2026).

III. District Court of Maryland Rejects Heightened Prior Express Written Consent Standard

The United States District Court for the District of Maryland granted a motion to decertify a class and held prior express consent is the correct standard to overcome an alleged TCPA violation in the wake of *Loper Bright*.

Plaintiff Deborah Bradley filed a class action under 47 U.S.C. § 227 against Defendants DentalPlans.com, and Cigna Health and Life Insurance Company, alleging that Defendants placed unauthorized telemarketing calls to her and the proposed class members. The court initially granted Plaintiff's motion for class certification and denied Defendants' motion for summary judgment. Defendant DentalPlans later moved the court to reconsider and to decertify the class based on changes in controlling law.

Defendant DentalPlans argued that the FCC's regulations requiring prior express written consent for telemarketing calls no longer controlled after the *Loper Bright* and *McLaughlin* decisions. DentalPlans argued that because Plaintiff gave prior express consent, the class should be decertified.

The court agreed with Defendants, acknowledging that post-*Loper Bright*, courts must "use traditional tools of statutory interpretation to interpret the true meaning of a statute, rather than defer" to agency interpretation. The court "exercis[ed] its independent judgment" to reject the FCC's "prior express written consent" standard. Although the FCC's interpretation was reasonable, the court stated that since "Congress has required only prior express consent, not prior express *written* consent, that is all that is required to overcome an alleged TCPA violation."

The court found that Plaintiff gave prior express consent by agreeing to receive calls from Defendants after speaking with a representative over the phone and signing up for Defendants' dental plan.

Accordingly, the court granted the motion for reconsideration and decertification.

Bradley v. DentalPlans.com, 2026 WL 788856, 2026 U.S. Dist. LEXIS 59569 (D. Md. Mar. 20, 2026).

IV. Middle District of Florida Finds Text Messages Are Not Covered Under the TCPA

The United States District Court for the Middle District of Florida granted a motion to dismiss brought by Defendants Smarter Contact, Inc. and Smarter Contact Holdings, LLC, holding that text messages are not telephone calls as defined in 47 U.S.C. § 227(c).

Plaintiff Chelsea James alleged that she received text messages from various phone numbers despite listing her cell phone number on the National Do Not Call Registry. Plaintiff filed a class action under 47 U.S.C. § 227(c) and the corresponding federal regulation 47 C.F.R. § 64.1200(c), seeking to assert claims on behalf of two classes of plaintiffs. Defendants moved to dismiss.

The court was guided by *McLaughlin* in determining that district courts were no longer bound by the FCC's interpretation of the TCPA. As a result, the court would determine a statute's meaning based on the law's "ordinary meaning at the time Congress adopted them." The court determined that the ordinary meaning of "telephone call" did not include modern text messages. The court pointed to the existence of the term "text message" elsewhere in the TCPA through later amendments as evidence that Congress did not intend texts to be included within the meaning of "telephone call" under the TCPA.

Plaintiff argued that Congress intended to retain the FCC's interpretation, that calls would encompass text transmissions similar to a paging device, and that a liberal construction of the TCPA would benefit consumers. The court rejected all three arguments, stating that Congress clearly expressed its language and thus "its intent is clear and unambiguous."

Accordingly, Plaintiff's complaint was dismissed with prejudice.

James v. Smarter Contact, Inc., 2026 WL 879244, 2026 U.S. Dist. LEXIS 68492 (M.D. Fla. Mar. 31, 2026).