

QUICK POST-FACEBOOK UPDATE: Where are all the ATDS Rulings??

Article By:

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I've been fielding a ton of questions post-*Facebook* and I've noticed they are starting to evolve.

It started with the broad "What does *Facebook* mean for me?" sort of questions.

Then it became the more specific "Does *Facebook* mean I can do x" sort of questions.

But now the questions are mostly "Have there been any cases interpreting *Facebook* yet?"

The fact that so many of you are already tired of waiting for clarity a mere 43 days after the big Supreme Court ruling puts a smile on my face. That is a uniquely TCPAWorld phenomenon. In other areas of the law you might wait years for the first case applying Supreme Court precedent. Under the TCPA you only have to wait days generally.

And, indeed, we did only have to wait days for the first case—remember? But it wasn't a very useful case. Nor was the second case.

So here is where we are on day 43 AF (after-Facebook):

- We know that only two cases have applied *Facebook* so far—one in [summary fashion at the pleadings stage](#) (we broke the news) and one in [spectacular fashion, but as dicta](#);
- We know the issue [is being briefed in some cases](#)—mostly in cases where the Plaintiffs' bar strategically thinks they have weak opposing counsel or strong facts;
- We also know that ATDS issues are on remand in two CRITICAL appellate cases—[Duran](#) (focused on text platforms) and [Allan](#) (focused on predictive dialers). Where those cases go next is critically important;
- We know that the TCPA complaints continue to pour in—[but most all of them are DNC cases or prerecorded call cases](#). So the Plaintiff's bar is *not* simply filing ATDS cases the way they used to.

But other than these observations, we're simply playing a waiting game. I expect we'll know a lot more within the next 30 days or so.

In the meantime, my take on *Facebook* hasn't changed since the big webinar we did within 24 hours of the ruling. My stoplight approach still applies:

Dialing Technology Post Facebook





Pre-recorded/Artificial Voice

IVR

Ringless VM

VM

DNC calls

Predictive dialers

Preview dialers

Blast text platforms

AI/Interactive text

Triggered text alerts

P2P txt platforms



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Not legal advice—for demonstrative purposes. Let's chat if you need help on technology solutions post-Facebook.

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