

POLITICAL TRAP?: Are Political Campaign Calls Seeking Telephone Solicitations for DNC Purposes?

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Arguably nobody was a bigger winner on April 1, 2021 when the Supreme Court decided *Facebook* that political candidates. The Supremes essentially blessed the use of many forms of text messaging to communicate with consumers under federal law—even without consent. And politicians love to robotext people to ask for votes.

Plus—unlike businesses—campaigns are generally free to disregard the DNC list because political messages are not treated as “telephone solicitations” under the CFR.

Or are they?

In a new decision out earlier this month *Camunas v. Nat'l Republican Senatorial Comm.*, CIVIL ACTION NO. 21-1005, 2021 U.S. Dist. LEXIS 214217 (E.D. Pa. November 4, 2021) the Plaintiff argued that campaign calls/texts that seek a campaign contribution *are* actually telephone solicitations under the DNC rules because they seek money.

Hmmm.

Here's the definition of telephone solicitation under the CFR:

means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services...

I'm not seeing the part where asking for a campaign contribution triggers the enactment. Notably other statutes—like California's anti-text statute—*expressly* cover political messaging. But the federal DNC rules do not.

Little wonder the *Camunas* court rejected the plaintiff's argument, although it did so on a different basis. 47 CFR 64.1200(f)(15)(3) exempts calls made by tax exempt organizations—which the Defendant in this instance apparently was.

Anyway, something else to keep an eye on.

Maybe I'll cover this at the Summit. We'll see.

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