

## **BREAKING: Third Circuit COA Issues STUNNING ATDS Case—Determines SQL Database Part of ATDS “Equipment” But Only ACTUAL USE of ATDS Functionalities Trigger Statute**

Article By:

Eric J. Troutman

---

Well folks, this might be the single most baffling ATDS ruling yet.

The Third Circuit Court of Appeals today held that a lower court erred when it determined Navient’s SQL server was not part of its dialing “equipment” for purposes of assessing whether it used an ATDS.

It likewise held that *Facebook* requires only the capacity to use an ROSNG to store or produce telephone numbers to be dialed for a system to be an ATDS.

Yet it goes on to hold in Navient’s favor because merely USING a system with the CAPACITY to be an ATDS is **NOT ENOUGH** to trigger the TCPA.

This is the first time a court of appeals has so held. Since *Satterfield* was decided back in 2009 courts have looked at the capacity of the system—not on the use of the system—to assess ATDS usage.

In 2018 at the oral argument on *ACA Int’l* the Chief Judge remarked—I was there— on the absurdity of applying the TCPA to calls made by systems that merely have the capacity to perform autodialer functionalities, even if those functionalities were not used.

And yet, that was the rule of law—with the attendant absurdity and focus on capacity that follows. Until, perhaps, today.

**In short, the Third Circuit applied the broadest definition of ATDS we have yet seen—holding that Navient’s system was an ATDS by massively expanding the term “equipment” to include SQL databases—but also held mere use of a system that qualifies as an ATDS is not enough to trigger the TCPA. Instead a caller must actually use the *functionalities* of an ATDS for the calls to trigger the TCPA, even if the system used to make the calls is an ATDS as presently configured.**

Remember when I told you these highlighted words were important:

**Facebook TCPA ATDS Interpretation**

(1) The term "automatic telephone dialing system" means **equipment** which has the **capacity**—

(A) to store **telephone numbers using a random or sequential number generator**; or

(B) to produce telephone numbers to be called, using a random or sequential number generator; and

(C) to dial such numbers.



Yes, this is a mind-blowing departure from current ATDS jurisprudence. I need to sleep on this and will analyze further tomorrow.

For now, here is the [ruling](#).

© 2024 Troutman Amin, LLP

---

National Law Review, Volumess XII, Number 165

Source URL: <https://natlawreview.com/article/breaking-third-circuit-coa-issues-stunning-atds-case-determines-sql-database-part>