

CIRCLE TCPA: Purple Thunder Polar Pop Text Message Lands Circle K In TCPA Class Action

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So Circle K was just sued in a nationwide TCPA class action because they sent a promotional text for a new slurpee flavor:

Breaking News! Mtn Dew Purple Thunder on Polar Pop! Exclusive at Circle K!
Try for FREE! Expires 5/15: <https://mfon.us/4txhpr8wx7s>

Have to admit, I have never heard of Mtn Dew Purple Thunder but I'll bet it makes a heck of a Polar Pop (which I assume is like a Slurpee, but I refuse to look it up to confirm.)

Per the complaint the Plaintiff EMISIAH HUGHES claims to have requested Circle K to stop messages to his phone b texting stop to 31310.

But he claims he continued to receive text messages—including the one above—after asking Circle K to stop.

The stop was allegedly sent in February and the texts allegedly followed in May, 2023—so this appears to be a circumstance where Circle K cannot take advantage of the FCC's safeharbor for revocation (assuming these facts are true.)

Plaintiff alleges hundreds or "thousands" of others received the same sorts of messages after asking Circle K to stop and seeks to represent a class of:

All persons in the United States from four years prior to the filing of this action through class certification to whom: (1) Circle K sent text messages marketing its products or services, (2) Circle K sent more than one text message to the person in a twelve-month period, and, (3) Circle K sent such text messages after the person requested that Circle K stop sending them text messages.

I can spot a few things wrong with this class definition.

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