

## **BOLD: Before Even Being Allowed in the Case NCLC Submits An Aggressive Challenge to Eleventh Circuit IMC Ruling**

Article By:

Eric J. Troutman

---

The FCC's TCPA one-to-one consent rule still has the faintest of pulses as the NCLC continues to struggle to bring it back to life.

In a new filing yesterday the National Consumer Law Center has submitted a proposed petition seeking a full *en banc* re-hearing and characterizing the Eleventh Circuit panel's ruling in *IMC v. FCC* as a departure from established judicial review norms and contrary to supreme court precedent.

As the [Czar previously explained](#) the *IMC* ruling is, indeed, a breathtaking departure from the rules courts would ordinarily apply to such appeals. However, this change appears to have been enabled by the recent destruction of *Chevron* deference and concomitant strengthening of judicial review.

The issue really boils down to this:

In the old days (last year) a court had to defer to an agency's interpretation of vague phrases in a statute. That is no longer the case.

The *IMC* could held, however, that an agency had to defer to a court's interpretation of vague phrases statute. This had never happened before.

While *IMC*'s approach seems permissible following the death of *Chevron* it by no means follows that they adopted the correct framework. Under a doctrine called *Skidmore* deference courts and agencies are essentially equally powerful— and if *Skidmore* deference were applied *IMC* probably would have come out differently.

NCLC's petition argues the Eleventh Circuit Court of Appeals—all of it—should get together and decide whether *Skidmore* applies here or whether *IMC* sets a vast new paradigm for judicial review of agency action.

Part of me kind of wants to know the answer because I'm a nerd.

But on the other hand, I don't think lead gen is capable of handling another pendulum swing on one-to-one so let's hope this whole thing stays dead.

Anyway you can read the whole petition here: [NCLC En Banc](#)

© 2025 Troutman Amin, LLP

---

National Law Review, Volume XV, Number 70

Source URL: <https://natlawreview.com/article/bold-even-being-allowed-case-nclc-submits-aggressive-challenge-eleventh-circuit-imc>