

MEDIA MENTION

# Josh Turner Discusses Potential Impact of 'Junk Fax' Supreme Court Case

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Joshua S. Turner, partner in Wiley Rein's premier Telecom, Media & Technology Practice and co-chair of the Communications Enforcement & Compliance Practice, was quoted in a December 26 *Bloomberg Law* article about a U.S. Supreme Court case involving unwanted faxes, and how its outcome could impact future challenges to federal agency decisions.

The Supreme Court, which took up the case in November 2018, is considering the extent to which federal courts are barred by the Hobbs Act from calling into question rules and orders of the Federal Communications Commission's (FCC) outside the normal appellate process. The case involves an FCC interpretation of the Telephone Consumer Protection Act (TCPA). The question before the Justices is whether a federal district court in West Virginia was required to accept as valid the FCC's view that a promotion offering free services is still an "unsolicited advertisement" prohibited by the TCPA, or whether it could disregard the FCC's rules and determine for itself whether the meaning of the statute was clear and unambiguous.

The case stems from a "junk fax" suit against a health information service, which is challenging the Fourth Circuit's February 2018 ruling that the lower court was wrong to ignore the FCC's interpretation of the term "advertisement" in deciding the promotion did not violate the TCPA.

If the Supreme Court rules that the Hobbs Act did not require the district court to accept the FCC's interpretation, district courts could be empowered to question and challenge other federal agency orders,

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according to *Bloomberg Law*.

Scaling back the Hobbs Act would allow district courts "to look behind the curtain and question whether the FCC correctly interpreted its rules," said Mr. Turner. That could lead to conflicting rulings and "a lot of confusion," he said.

The article can be found here (*subscription required*).