

Scott Delacourt Weighs In on Supreme Court Review of TCPA 'Junk Fax' Case

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Scott D. Delacourt, partner in Wiley Rein's Telecom, Media & Technology Practice, was quoted in a November 14 *Law360* article about the U.S. Supreme Court's decision to take up a case involving the Telephone Consumer Protection Act (TCPA). The Justices will consider the extent to which federal courts must defer to the Federal Communications Commission's (FCC) interpretation of the TCPA, and the ruling could impact future litigation, according to the article.

The question before the Supreme Court is whether a West Virginia federal court was required, under the Hobbs Act, to accept the FCC's view that an ad offering free services is still an "unsolicited advertisement" prohibited by the TCPA. The case stems from a "junk fax" suit against health information service PDR Network LLC, which petitioned the high court to review the Fourth Circuit's February 2018 ruling that the lower court was wrong in deciding not to follow the FCC's interpretation of the disputed provision.

The Supreme Court will explore the critical interplay between the Chevron doctrine and the Hobbs Act, and the Justices' decision could impact the latitude courts have to challenge FCC guidance on a range of issues, according to *Law360*.

"It's hard to say that a ruling one way or the other on the Hobbs Act question will advantage the plaintiffs or defense bar across the board," said Mr. Delacourt. "It's tactical - whichever party is going to lose on the interpretation if the district court revisits the agency interpretation is going to argue the Hobbs Act."

Related Professionals

Scott D. Delacourt
Partner
202.719.7459
sdelacourt@wiley.law

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