

In the Supreme Court of the United States

CAREER COUNSELING, INC.,
PETITIONER,

v.

AMERIFACTORS FINANCIAL GROUP, LLC,
RESPONDENT.

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT*

SUPPLEMENTAL BRIEF FOR RESPONDENT

LAURI ANNE MAZZUCHETTI
KELLEY DRYE & WARREN
LLP
*1 Jefferson Road, 2nd Floor
Parsippany, NJ 07054
(973) 503-5910*

LISA S. BLATT
Counsel of Record
CHARLES L. MCCLOUD
D. SHAYON GHOSH
WILLIAM MORRISON
WILLIAMS & CONNOLLY LLP
*680 Maine Avenue, S.W.
Washington, DC 20024
(202) 434-5000
lblatt@wc.com*

Counsel for Respondent

CORPORATE DISCLOSURE STATEMENT

Respondent AmeriFactors Financial Group, LLC is not a publicly held corporation. The parent corporation of AmeriFactors Financial Group, LLC is Gulf Coast Bank and Trust Company. No publicly held corporation owns 10% or more of the stock of AmeriFactors Financial Group, LLC.

In the Supreme Court of the United States

No. 24-86

CAREER COUNSELING, INC.,
PETITIONER,

v.

AMERIFACTORS FINANCIAL GROUP, LLC,
RESPONDENT.

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT*

SUPPLEMENTAL BRIEF FOR RESPONDENT

ARGUMENT

Respondent AmeriFactors Financial Group, LLC submits this supplemental brief to address this Court’s ruling in *McLaughlin Chiropractic Associates, Inc. v. McKesson Corp.*, No. 23-1226 (June 20, 2025). As Respondent explained in its Brief in Opposition, *McKesson* has no bearing on this case. BIO 27-28.

Petitioner’s second question presented asks “[w]hether the [Telephone Consumer Protection Act’s] definition of ‘telephone facsimile machine’ is limited to traditional ‘standalone’ fax machines.” Pet. i. The district court in *McKesson* answered that question by deferring to the FCC’s interpretation of the TCPA. *See True*

Health Chiropractic, Inc. v. McKesson Corp., No. 13-cv-2219, 2020 WL 7664484, at *6-7 (N.D. Cal. Dec. 24, 2020). Here, by contrast, the Fourth Circuit disclaimed any such deference, “rely[ing] solely on the plain statutory language for [its] conclusion that an online fax service does not qualify as a ‘telephone facsimile machine’ under the TCPA.” Pet. App. 15a. In other words, the Fourth Circuit did exactly what this Court instructed the district court to do in *McKesson*: it “interpret[ed] the statute as courts traditionally do under ordinary principles of statutory interpretation.” *McKesson*, No. 23-1226, slip op. at 21-22.

Accordingly, *McKesson* does not change the fact that the question of whether online fax services constitute telephone facsimile machines under the TCPA remains unsuited for this Court’s review. Although Petitioner gestures to *Lyngaas v. Curaden AG*, 992 F.3d 412 (6th Cir. 2021), as evidence of a circuit split, that case involved a fax technology entirely different from the one at issue here. *See* BIO at 25-26. No court has endorsed Petitioner’s statutory interpretation, and with good reason—as the Fourth Circuit correctly explained below, petitioner’s position ignores the unambiguous text of the TCPA. *See* BIO at 26-27.

CONCLUSION

The petition for certiorari should be denied.

Respectfully submitted,

LAURI ANN MAZZUCHETTI
KELLEY DRYE & WARREN
LLP
*1 Jefferson Rd., 2nd Fl.
Parsippany, NJ 07054
(973) 503-5910*

LISA S. BLATT
Counsel of Record
CHARLES L. MCCLOUD
D. SHAYON GHOSH
WILLIAM MORRISON
WILLIAMS & CONNOLLY LLP
*680 Maine Avenue, S.W.
Washington, DC 20024
(202) 434-5000
lblatt@wc.com*

JUNE 24, 2025

Counsel for Respondent