

Virginia · Elections · Social Media

Text, don't call, in the 2018 midterm elections



By Natalie Fertig



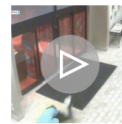
Updated October 22, 2018 04:37 PM EDT

WASHINGTON (Circa) – A lawsuit has been filed in the state of Texas against Beto O'Rourke's campaign for Senate, claiming that the text messages sent by the campaign violate telecommunications laws.

The Fort Worth Star-Telegram reported that a lawsuit was filed in Collins County – part of the greater Dallas-Fort Worth area – by a plaintiff named Sameer Syeed. According to the lawsuit, Syeed claimed to have received at least nine different texts at two different cell phone numbers by individuals representing the Beto O'Rourke campaign, which he claims is in violation of the Telephone Consumer Protection Act.

As Circa previously reported, the Beto O'Rourke campaign is one of the most prolific users of peer-to-peer text message software Relay. Relay co-founder Daniel Souweine explained the legality of peer-to-peer text messaging to Circa.

Circa Now



NATION

Man seeks refuge inside hotel after being shot at through doors

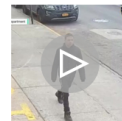
6 Hours Ago



TRAVEL

Meet the Venice Beach flipper turning Instagram on its head

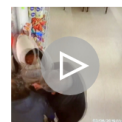
7 Hours Ago



NATION

A man allegedly shot a gun at a group of people in the middle of the day, police in New York are

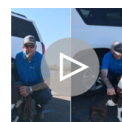
16 Hours Ago



NATION

Police in Georgia are looking for this suspect involved in a robbery

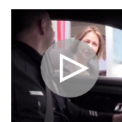
16 Hours Ago



NATION

This dog was found safe by police in Arizona two weeks after being ejected from a car involved in an

16 Hours Ago



NATION

Watch these police officers in Los Angeles pay it forward with free meals for customers in a fast food

17 Hours Ago

"The general line in the sand is that you can't use an automated dialing system," said Souweine. "Relay is not an automated dialing system."

Automated text messages typically are sent to thousands of people at one time and are received as a five-digit shortcode, according to Souweine. To send those mass texts, you need "explicit advance permission."

Tue, Sep 25, 4:24 PM

MoveOn: Are you registered to vote? Are you sure? Don't find out too late. Today's National Voter Registration Day. Check your status:

[Tap to Load Preview](#)

The messages sent through Relay, however, are sent one by one, can be individually edited and will show up on a recipient's phone as a traditional 10-digit phone number. Because of this, text banks are legally in the same realm as phone banks, which have always been allowed to use the public voter files available to all campaigns and are exempt from some of the no-solicitation laws.

Syeed's suit asks that the campaign pay \$500 or more per text message to every individual included in the class action lawsuit.

A campaign spokesperson for the Beto O'Rourke campaign told the Fort Worth Star-Telegram that the campaign's practices are perfectly legal.

This story is developing and may be updated.

October 16, 2018 01:08 PM EDT

WASHINGTON (Circa) — When Phylcia Reidel's husband received a text message from an unknown number, addressed to an unknown woman, Reidel was annoyed.

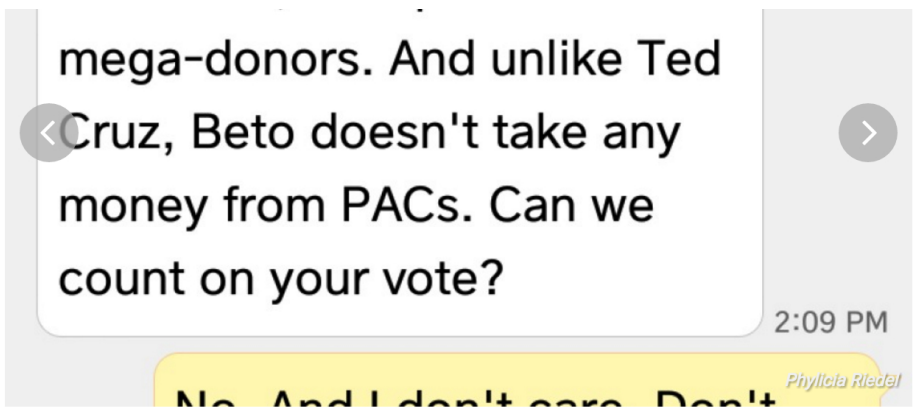
"If it had been someone else, that could have created a problem between another couple," the Texas resident said via direct message.

But it turns out that Reidel also received a similar message — albeit addressed to her. The texts were from the Beto O'Rourke campaign for Senate in Texas.

Text messages to Phylcia Reidel from the Beto O'Rourke for Senate campaign

1 of 2

**Senate to represent Texans
statewide, not special interest**



Text messages from the Beto O'Rourke campaign

Reidel, who considers herself nonpolitical and says it's been a while since she's voted, isn't sure how the O'Rourke campaign got her phone number. But she isn't the only one. On the Beto O'Rourke Facebook page, there are a series of comments annoyed or angry at texts they have received from the campaign.

"I sure would like to know where and how you got my cell number," wrote a user named Gil Roy. "Stop sending unsolicited texts to thousands of cell phones."

"I keep getting unsolicited spam text [sic] from Beto O'Rourke campaign," wrote another user, Clint Court. "This shows me your ethics. I would never vote for someone with no ethics or character."

The Beto O'Rourke campaign declined to speak on the record for this story.

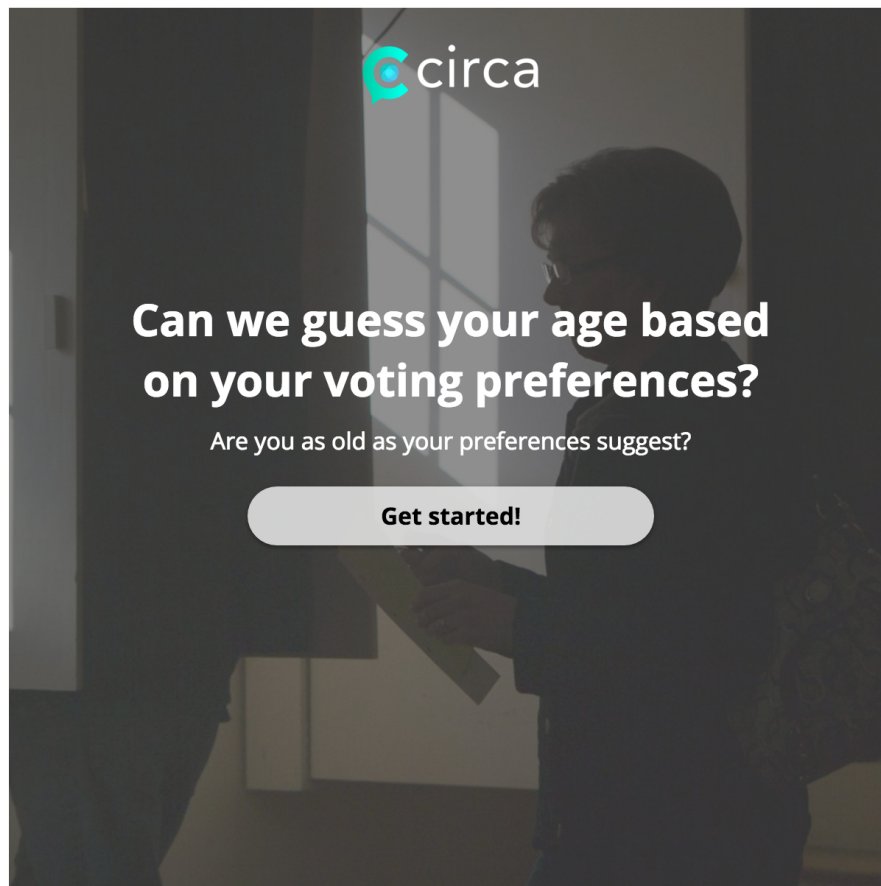


The text messages these Texans are receiving are "peer to peer text messages," the latest wave in political organizing. Pioneered by the Bernie Sanders campaign in 2016,

peer to peer messaging is now used by campaigns, PACs and organizations alike, across the political spectrum.

In 2016, 50.8 percent of households didn't have a landline, [according to a survey by the National Center for Health Statistics](#). But those households did have at least one cell phone. To reach and engage with more cell phone users, political organizers are replacing phone calls with peer to peer text messaging.

"In 2018, lots of people, including me most of the time, are reluctant to answer a phone call if they don't know the number on the other end," explained ACLU Director of Strategic Initiatives Ronald Newman. "Text messaging can break through that a bit because the message is delivered, and you'll look at it and you'll read it."



The ACLU has sent over 30 million texts so far in this election cycle, and has more initiatives starting up in the final weeks before the midterm elections.

"You can send text messages really fast," explains Lillie Catlin, a deputy national organizing director at the ACLU. "We'll be able to have a ton of those conversations really quickly, as opposed to the time that it would take to knock on doors or make even make [sic] phone calls."

Not only can a single volunteer for organizations such as the ACLU send up to 100 texts a minute with text messaging software, but peer to peer text messaging is attractive to campaigns and organizations because it is more effective, more universal and gets around some of the no solicitation rules that govern mass text blasts.

Using either personal phones or a texting software like [Relay](#) or [Opn Sesame](#), volunteers send texts one by one, and are able to then reply to any questions they may receive in return. Because every text must be sent individually and all texts are able to be individually edited before sending, peer to peer texts escape some of the FCC limits

be individually edited before sending, peer-to-peer texts escape some of the FCC limits on mass texting blasts or "robo texts."

The ACLU uses Relay, as do the Beto O'Rourke and Alexandria Ocasio-Cortez campaigns, among others. Relay's software allows a volunteer or organizer to create a template text message and then have certain fields — like name and phone number — auto-populate as the software cycles through the voter data the organization has on file. After that initial text, any responses and additional conversation can be organic, facilitated by the volunteer sitting on the other end of the phone number.

Relay also creates a new phone number for different texting campaigns, so volunteers aren't receiving texts straight to their personal phone. Often the new phone number can be set to the target area, rather than the area code of the volunteer.

Whether individual campaigns send texts to voters on the 'do not call' list is up to their own discretion. And purchasing up to date or correct voter phone sheets is still difficult, for any campaign.

Brian, a Republican voter from Michigan now living in the D.C. area, recently received a text addressed to "Emily" from Bernie Sanders' volunteer team. The message asked Brian — who hasn't lived in Michigan since 2015 — to attend a rally in Ann Arbor a few days later. He posted a screenshot of it to Facebook and received replies back from other friends who had also been mis-texted.

Today 11:00 AM

Hey Emily! This is Brian volunteering for Bernie Sanders. Bernie's hosting a rally with Gretchen Whitmer to defeat Donald Trump's hand-picked candidate for Governor, Bill

"I think some campaigns need to understand there's a downside," said Patrick O'Keefe, Executive Director of the Maryland Republican Party. "At some point people are going to get sick of it. And if you're not doing it in a tasteful manner it's going to turn them off."

In Maryland, O'Keefe told Circa that so far the GOP doesn't send texts to anyone on "do not call" lists, in the same way they would not knock on a door that had a "no solicitors" sign outside it.

"We try to respect what people want because for us it's not helpful to reach out and contact somebody who doesn't want to be contacted," said O'Keefe. "That's gonna make them less likely to vote for your candidate, less likely to support your cause."

Back in Texas, some responses to the Beto campaign echoed that sentiment, saying they were less likely after receiving the texts to vote for Beto O'Rourke.

Phylicia Riedel herself told the volunteer who texted her that she "did not appreciate spam." Riedel said the texts immediately stopped when she asked, but that they made her angry to begin with.

"It actually made me mad when I saw these messages because I don't appreciate others "selling" my information for political gain," Riedel explained via direct message. "I feel like they're begging for people to vote for them."

Virginia



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About the Author



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Natalie Fertig joined Circa as a videographer in September 2017. She previously reported for McClatchy newspaper's video lab, and holds an MA in journalism from CUNY Graduate School of Journalis...



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