



**TROUTMAN AMIN, LLP**  
— DESERVE TO WIN —

# THE CZAR'S LATEST AND GREATEST TCPA UPDATE (TIME TO WIN!)

ERIC J. TROUTMAN ("THE CZAR")

# TCPA LAWSUITS UP HUGE IN 2025!



TROUTMAN AMIN LLP

2 DEC 2025

1 COMMENT

### NUMBERS DON'T LIE: Statistics Show Why TCPA Risk is 10x Higher Than Risk Posed By Other Consumer Protection Statutes

TCPA Filings Up nearly 100% from last year!!! 78.9% of all TCPA suits were filed as class actions. The highest percentage in history. Likely ~2,000 class actions this year (approximately 7.5 per business day.)

2 DEC 2025

ADD A COMMENT

### TCPA AVALANCHE: TCPA Class Action Numbers Continue to Spike

# The TCPA is the LARGEST Litigation CASHCOW In American History

- More multi-million dollar class action settlements under TCPA than any other statute (40 in 2019 alone!)
- \$500-\$1,500 per call violation.
- Private right of action.
- Uncapped statutory damages—can be **BILLIONS in exposure**.
- Four-year statute of limitations.
- Difficult to decipher terms—creates perfect litigation storm requiring a powerful defense.
- **NCLC just got \$1.7MM from a TCPA judgment to further advocate for more TCPA litigation!!!**



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# SETTLEMENTS IN 2025 HAVE BEEN INSANE

3 DEC 2025

**SETTLEMENT DISASTER: Kaiser Permanente Agrees to Settle TCPA Class Action for \$10.5MM And It May Be the Worst TCPA Settlement Ever**

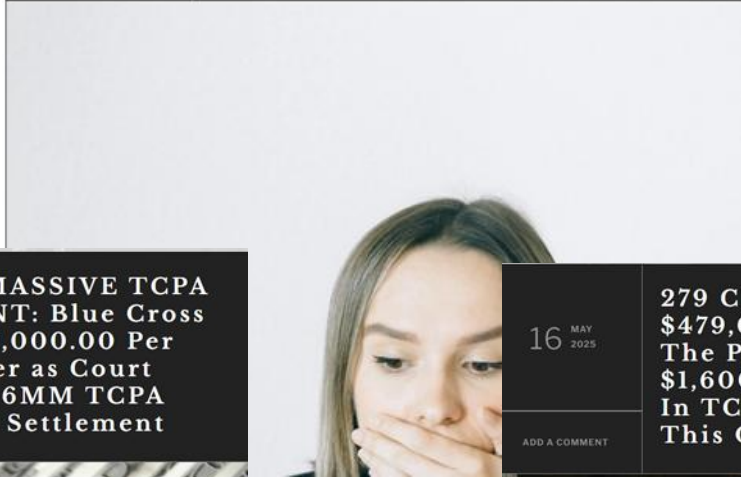
ADD A COMMENT



25 NOV 2025

**HOLY TOLEDO: Quote Wizard Sued in Another TCPA Class Action After Settling Last One For \$19MM**

ADD A COMMENT



19 AUG 2025

**MASSIVE \$30MM TCPA SETTLEMENT OPENS EYES: A First of a Kind 15 Year Deal Shows Just How Deep the TCPA Can Cut**

1 COMMENT

**TCPA CLASS ACTION SETTLEMENT**



19 FEB 2025

**ANOTHER MASSIVE TCPA SETTLEMENT: Blue Cross Pays Over \$1,000.00 Per Class Member as Court Approves \$1.6MM TCPA Class Action Settlement**

2 COMMENTS

16 MAY 2025

**279 CLASS MEMBERS- \$479,000 SETTLEMENT: The Pisa Group to Pay Over \$1,600.00 Per Class Member In TCPA Settlement- But This One Is Interesting**

ADD A COMMENT




# #BIGLAW HAS NO IDEA WHAT THEY'RE DOING

21 JUL 2025  
BIGLAW FIRM SANCTIONED \$1MM BY COURT!!!- And NOBODY Is Covering It But Me  
ADD A COMMENT



14 JUL 2025  
ANOTHER ONE???: Folsom Insurance Agency LLC Facing Sanctions After TCPA Discovery Loss By #BigLaw Counsel  
1 COMMENT



6 JUN 2025  
"WHOLLY INADEQUATE": Another TCPA Defendant Represented by #BigLaw Gets Crushed And When Are Folks Going to Start Listening?  
1 COMMENT

28 MAY 2025  
EXPENSIVE LOSS: #BigLaw Firms Charge Volkswagen Over \$2.2MM in Fees and Costs- Settle TCPA Class Action For \$275,000 Individually Anyway (GROSS!)  
1 COMMENT

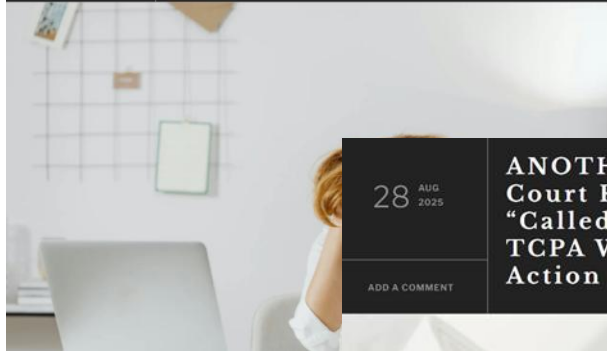
14 JUL 2025  
TREND: American Express DESTROYED by Discovery Order in TCPA Class Action As ANOTHER #BIGLAW Firm Fails  
ADD A COMMENT



# #BIGLAW HAS NO IDEA WHAT THEY'RE DOING

20 AUG 2025  
ADD A COMMENT

**BALLS: Another Court Holds Cell Phones are Residential Under TCPA DNC Rules As Terrible #BigLaw Briefing Sinks a Viable Argument**



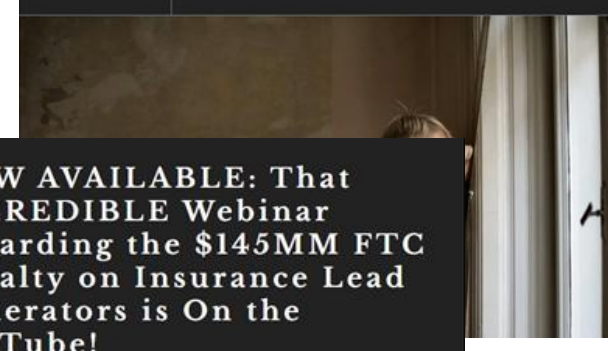
24 MAR 2025  
1 COMMENT

**BIG LAW LOSS: TCPA Defendant Loses Bifurcation Effort After Terrible Discovery Objections- Is #BigLaw Inexperience to Blame?**



8 MAY 2025  
ADD A COMMENT

**BIGLAW LOSES ANOTHER TCPA CERTIFICATION: Court Certifies Rare TCPA Revocation Class Against Money Source And It Its Getting Pretty Clear What's Happening Here**



28 AUG 2025  
ADD A COMMENT

**ANOTHER #BIGLAW LOSS: Court Rejects Defendant's "Called Party" Argument in TCPA Wrong Number Class Action**



18 AUG 2025  
1 COMMENT

**NOW AVAILABLE: That INCREDIBLE Webinar Regarding the \$145MM FTC Penalty on Insurance Lead Generators is On the YouTube!**



# The Sharks in These Waters are Well Fed.



**TROUTMAN FIRM**  
— DESERVE TO WIN —

BOUTIQUE LAW FIRMS

## Litigation Boutique Offers Bonuses Of Up To \$575K To Hardworking Associates

Holy moly. Talk about an eye-popping bonus!

By STACI ZARETSKY on December 13, 2022 at 2:44 PM



BOUTIQUE LAW FIRMS

## Elite Firm Ramps Up Its Compensation, Offering Higher Salaries To Associates

Associates can really rake in the dough at this firm.

Class	Annual Salary
1 <sup>st</sup> year	\$225,000
2 <sup>nd</sup> year	\$235,000
3 <sup>rd</sup> year	\$260,000
4 <sup>th</sup> year	\$295,000
5 <sup>th</sup> year	\$345,000
6 <sup>th</sup> year	\$370,000

If you like these salaries, you should see the firm's bonuses, which are directly tied to the firm's success. Dovel & Luner's bonuses typically beat Biglaw's market scale bonuses by multiples – sometimes rising to amounts as high as \$700,000.



# WHAT MAKES THE TCPA SO SCARY?

- **Private Class Actions**
  - Every call made by an entity can be at issue in a case if there is even a single violation;
  - Four year statute of limitations;
  - \$500.00 per call minimum up to \$1,500.00;
  - Billions of dollars on the line in these cases often over simple mistakes (or difficulties understanding the law)
- **Personal Liability**
  - Individuals involved can be sued personally!





# PERSONAL LIABILITY

14 NOV 2024	<b>NIGHTMARE: Three Porch Executives Face Tens of Millions (Billions?) in Personal Liability for Texts Sent to Enroll Pros into Lead Generation Service</b>
ADD A COMMENT	



10 JUL 2025	<b>GETTING PERSONAL: Insurance Agent Sued Personally In TCPA Class Action Against Senior Life Insurance Company</b>
2 COMMENTS	





# WHAT MAKES THE TCPA SO SCARY?

19 AUG 2025

**MASSIVE \$30MM TCPA SETTLEMENT OPENS EYES: A First of a Kind 15 Year Deal Shows Just How Deep the TCPA Can Cut**

1 COMMENT

**TCPA CLASS ACTION SETTLEMENT**



**FOLLOWING YOU AROUND FOR 15 YEARS**

- New 15 year payment structure makes class litigation more attractive against smaller companies

# ROBOCALLS ARE UP MASSIVELY SINCE JANUARY!



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9 JUL 2025	<b>REVENGE OF THE ROBOCALLS: June Robocall Numbers Jump Again as Industry Efforts to Stop Unwanted Calls Flat Fail</b>
1 COMMENT	
	

- Robocalls up 9 straight months YoY
- 300MM more in June, 2025 than June, 2024
- Robocalls were previously dropping!

# LEADING TO MASSIVE STATE LAW HEADACHES



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WE DESERVE TO WIN

8 JUL 2025

**MASSIVE DAMAGE: Texas Litigator Tatum Lands \$221k Default Judgment Under State Mini-TCPA And It is Only Going to Get Worse**

1 COMMENT

23 JUN 2025

**EVERYTHING IS BIGGER IN TEXAS: SB140 PASSED- TEXAS' NEW MINI-TCPA TAKES EFFECT SEPTEMBER 1, 2025!: Bringing New Private Right of Action, Broader Telephone Solicitation & Right to Claims**



**TEXAS TRAVESTY: Team Breaks Down New Telemarketing Law In Texas Rattling Call Centers Nationwide!!**

 Troutman A...  
816 subscribers

[Analytics](#) [Edit video](#)

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**TROUTMAN FOR AMERICA**

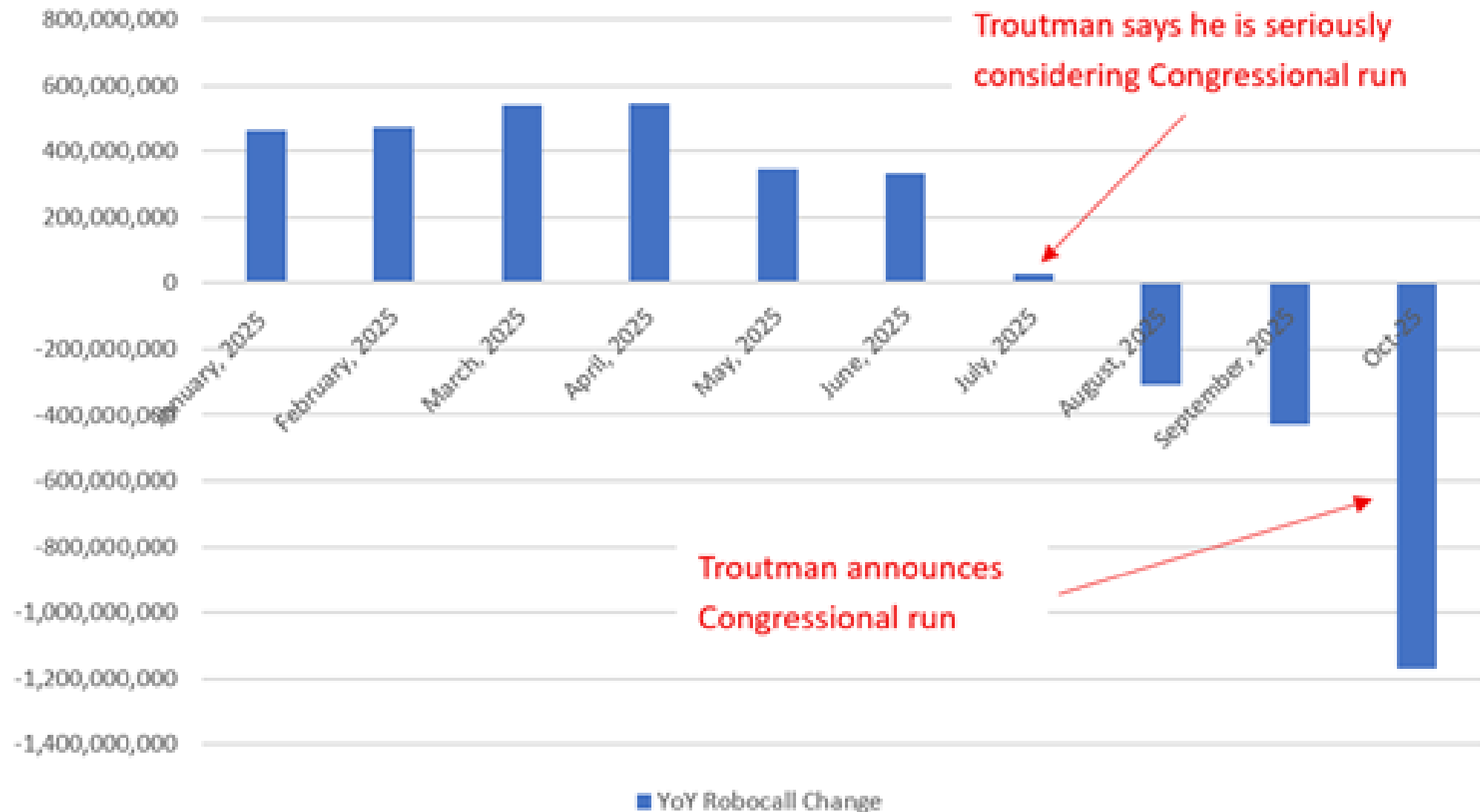
— AMERICA DESERVES TO WIN —

1. Stop robocalls

2. Save the world

(somebody has to do it)

## YoY Robocall Change




# FTC JUST DESTROYED TWO INSURANCE MARKETING LEAD SELLERS



11 AUG 2025

**DEEP DIVE: FTC Hits Insurance Lead Generators with \$145MM in Penalty— And there are Two Major Lessons Here**

2 COMMENTS



7 AUG 2025

**WHOA! MASSIVE \$140 MILLION JUDGMENT AGAINST ASSURANCE IQ: FTC Slams Assurance IQ for Misleading Health Plan Marketing in Violation of the FTC Act and Telemarketing Sales Rule**

ADD A COMMENT



# WHAT DID THEY DO WRONG?



1. Hired #BigLaw;
2. Misrepresented policies as providing comprehensive benefits (sort of);
3. Used pictures of public figures and presidential names without disclaiming government affiliation;
4. Failed to supervise affiliates.



# ARBITRATION – THREE BIG ISSUES



TCPA claims are generally subject to arbitration. E.g. *Ashford v. Credit one* 2025 WL 3254934 (M.D. Al. Nov. 17 2025)(TCPA class action compelled to arbitration where arbitration was in card services agreement.)

## 1. Lead Buyers Not Covered by Agreement

- *Faucett v. Move, Inc.* 2025 WL 1112935 (9th Cir. 2025)(Lead buyer cannot enforce arbitration provision where it is **not covered by the agreement.**)
- *Sessoms v. US Health Advisors* 2025 WL 2432191 (E.D.N.C. Aug. 22, 2025)(lead buyer who was **not listed on arbitration clause** cannot enforce the provision)

## 2. Arbitration Hyperlink Not Offset Color

- *Ferrell v. Snapcommerce Holdings, Inc.* 2025 WL 3280992 (N.D. Cal. Nov. 25, 2025)(failure to use **offsetting color** for hyperlink rendered terms and conditions unenforceable.)
- *Valiente v. Nexgen Global*, 2025 WL 3140480 (11th Cir. 2025)(failure to use hyperlink **offset color** and other issues result in conditions being unenforceable.)

## 3. Plaintiff Claims Didn't Visit the Website

- *Conrad v. Camping World Holdings*, 2025 WL 66689 (N.D. Al. Jan, 9, 2025)(Arbitration denied where Plaintiff **claimed he did not visit the website.**)
- *Gilliam v. Prince Health*, 2025 WL 1126545 (M.D. Tenn April 16, 2025)(Arbitration denied where Plaintiff **denied visiting website.**)

# ATDS CASES ARE STILL LURKING IN 2025



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*Frato v. Capital Management Services*, 2025 WL 2830614 (D. N.J. Oct. 6, 2025) (click and pause allegations sufficient to state ATDS claim against debt collector where allegations of number rotation were included.)

*Ioszpe v. Unifin*, 2025 WL 2487349 (W.D. Ok. Aug. 28, 2025)(allegations of click and pause coupled with number rotation sufficient to allege ATDS usage)

*Taylor v. Offerspedia, LLC* 2024 WL 5098223 (S.D. Tx. Dec. 12, 2024)(click and pause allegations coupled with “unsubscribe” allegations on SMS sufficient to allege ATDS.)

# B2B Cases Are Still A Massive Problem



## **B2B Calls ARE Actionable IF:**

- 1. Made to a cellular phone using regulated technology (ATDS, AI voice, prerecorded/artificial voice); OR**
- 2. Made to a residential number (PURPOSE does not protect you– it is the USE of the phone that matters)**

*Shelton v. Pro Source* 2025 WL 817485 (E.D. Pa March 14, 2025)(Shelton can sue for calls to his phone number that he alleges is used for residential purposes even though a different court found it was a business number previously.)

*Koeller v. Cyflare*, 2025 WL 3280316 (E.D. Mo. Nov. 25, 2025)(testimony regarding business use of phones not admissible at pleadings stage.)

# CALLER ID PRIVATE RIGHT OF ACTION!



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## NEW LITIGATION RISK: Liability from Non-Compliance with the TCPA's Caller ID Requirements

In the first ruling of its kind, a federal court in Michigan held that 47 C.F.R. § 64.1603(d), regarding Caller ID Requirements, confers a private right of action under the TCPA—meaning penalties of \$500 per non-compliant call or text, or up to \$1,500 per knowing or willful violation.

### The Rule: Caller ID Requirements

Two requirements, under § 64.1603(d), for all telemarketing calls and/or text messages:

- 1. PHONE NUMBER DISPLAY REQUIREMENT:** Transmit outbound telephone number
  - The phone number may be substituted for the telemarketer's customer service phone number
  - Blocking or hiding the outbound phone number is not permitted
- 2. NAME DISPLAY REQUIREMENT:** Display the name of the telemarketer by displaying either:
  - The name of the telemarketer on the recipient's Caller ID OR
  - The name of the caller on behalf of which the telemarketing call is placed on the recipient's Caller ID

#### A Requirement for a Branded Caller ID Solution?

- § 64.1603(d) requires displaying the name of the telemarketer "when available by the telemarketer's carrier"
- This regulation was drafted in 2003—now, in 2025, there is little doubt about the availability of Caller ID
- Whether through a carrier or a branded Caller ID solution, the regulation requires a name to be displayed

The above requirements are for all telemarketing, regardless of whether there is any type of consent and regardless of even an established business relationship.

### The Risk: MASSIVE LIABILITY

- With a private right of action, plaintiffs may bring class action claims with each call/text creating liability of
  - \$500 per violation meaning every call or text that does not comply with the above requirements
  - \$1,500 per knowing or willful violation
- If you are not showing Caller ID, a class could include all of your telemarketing call and text recipients

### The Origin: a Ruling in Michigan

- It was the first ruling of its kind, as a federal court in Michigan held that the Caller ID Requirements confer a private right of action under the TCPA, thereby allowing a plaintiff to sue for past Caller ID violations
- The Michigan ruling is the minority view, as every previous ruling has gone the other way, but it shows that you can be held liable for violating the Caller ID Requirements—and other courts may follow suit

### Next Steps: Review Your Calling Practices

1. Are you showing your business name for all calls and text messages?
  - If you are not, you may be violating the Caller ID Requirements
    - Check to see if your carrier or dialing system supports showing your name on the outbound Caller ID
    - If not, you may need to look into a branded Caller ID solution to comply with the requirements

*Dobronski v. SelectQuote* 2025 WL 900439 (E.D. Mich March 25, 2025)(telemarketers must display their names on Caller Id or face \$500.00 private right of action.)

*Barton v. Bright Solar Marketing*, 2025 WL 2880136 (Oct. 9, 2025)(telemarketer failure to transmit caller ID information can be sued for \$500.00 per call)

*Newell v. JR Capital*, 2:25-cv-01419-GAM (E.D. Pa. July 16 , 2025)(caller ID transmission rules apply to SMS messages)

# CEMA CRITICAL RISK IN WA STATE!




**TROUTMAN AMIN, LLP**  
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## TCPA Compliance Alert: Washington's Consumer Electronic Mail Act ("CEMA") Is The Most Dangerous Statute You May Not Know You're Violating

CEMA imposes liability for persons conducting business in Washington who "initiate" or "assist in the transmission" of an electronic commercial text message to a cellphone number assigned to a Washington resident. CEMA does *not* create a private right of action, but instead makes a violation of CEMA "an unfair or deceptive act" under Washington's Consumer Protection Act. This may result in statutory damages amount of \$500 for each unlawful text message.

### Key Terms

"Assist the transmission" is defined as "provid[ing] substantial assistance or support which enables any person to formulate, compose, send, originate, initiate, or transmit a commercial electronic mail message or a commercial electronic text message."

"Commercial electronic text message" is defined as "an electronic text message sent to promote real property, goods, or services for sale or lease."

While "promote" has not been defined, Courts have interpreted the term broadly, holding that "a text message promotes a business' services where it aims to contribute to the growth or prosperity of said business." *Aaland v. CRST Home Sols., LLC*, No. 86708-3-1, 2025 WL 2641255, at \*7 (Wash. Ct. App. Sept. 15, 2025).

### Compliance Takeaways:

- **Do not send commercial text messages in Washington without specific, documented consent from the recipient.**
- **Assisting can be enough.** Even if your company does not directly send texts, designing referral programs, generating templates, or providing links may expose you to liability.
- **Referral programs are high-risk.** Pre-filled messages, referral incentives, or easy-click systems are repeatedly found to constitute "substantial assistance."
- **Audit existing SMS and referral campaigns.** Identify any features that could be construed as assisting in the transmission of commercial texts to Washington residents.
- **Engage counsel early.** If your business is sending or facilitating SMS messages in Washington, contact Troutman Amin, LLP for a compliance review.

### Refer A Friend Programs: A High-Risk Area

"Washington courts have repeatedly held that text message referral programs violate CEMA, even where the company lacks complete control over message timing or content. This has resulted in multi-million dollar awards and settlements:

- **Bottoms v. Block, Inc. (Cash App)** - Block's "Invite Friends" program let users send pre-composed referral texts through the app. The Court held that designing the system, creating templates, and enabling users to send with "easy steps" constituted substantial assistance. In September 2025, Block agreed to pay up to \$12.5 million to settle claims, covering nearly 2 million Washington numbers.
- **Moore v. Robinhood Fin. LLC** - Robinhood's referral program promised free stock, generated referral texts, and enabled users to send them with just a few clicks. The Court found Robinhood had "developed and ordered the entire chain of events" leading to the texts. Robinhood later settled for \$9 million in June 2024.
- **Jensen v. Capital One** - Capital One argued its assistance was not substantial because customers controlled when and how messages were sent. The Court disagreed, finding that providing the referral text and link could constitute substantial assistance. The Court also criticized Capital One's consent disclosure as too general, since it did not cover the specific referral texts at issue. The case is still pending.

16 SEP 2025

## STUNNINGLY BROAD: CEMA Applies to Recruitment Messages And Messages That "Promote Growth of Business" Holds Washington Court of Appeals As #BigLaw Loses Again

ADD A COMMENT

11 SEP 2025

## BOTTOMS UP: Kimberly Bottoms Hits Pay Dirt With \$12.5MM Settlement Against Block, Inc. For "Invite a Friend" Messages

1 COMMENT



5 NOV 2025

## \$1,000 A CALL!: Failure To Identify Carriers Steep Penalties In Washington State

ADD A COMMENT



# 2025 WAS MASSIVE FOR CLASS CERTIFICATION



TROUTMAN AMIN LLP  
ATTORNEYS AT LAW

10 APR 2025

**OH THE HUMANITY:  
Humana Crushed in TCPA  
Class Certification  
Over Wrong Num  
Robocalls**

ADD A COMMENT



8 MAY 2025

**BIGLAW LOSES ANO  
TCPA CERTIFICATIO  
Court Certifies Rare  
Revocation Class Aga  
Money Source And It  
Getting Pretty Clear  
Happening Here**

ADD A COMMENT



4 DEC 2025

**NEEDLE DEE: Major Bank  
Faces \*\*\$17BB\*\* in TCPA  
Damages in Certified Class  
Action.**

ADD A COMMENT



# BUT TROUTMAN AMIN, LLP DID OK...



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Also check out:

*Dominick Leon v. loanDepot.com, LLC*, No. 2:25-CV-01787-JLS-AGR, 2025 WL 2632396, (C.D. Cal. Aug. 22, 2025)(Troutman Amin, LLP win. Court holds class that did not exclude consented calls was overly broad and could not be certified so it was stricken at the pleadings stage.)

# OTHER GOOD NEWS



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22 OCT 2025

**KILLSHOT: Court Explains Why TCPA DNC Cases Should Literally Never Be Certified**

ADD A COMMENT

## DNC cases can't be certified?

*Schmitendorf v. Juicy's Vapor Lounge*, 2025 WL 2966205 (D. Ks Oct. 21, 2025)(Court holds DNC cases cannot be certified owing to individualized issues as to residential usage of phones.)

# CIRCLE K SAGA...



...TAMAN AMIN...  
...DESERVE TO WIN...

7 OCT 2025

**CERTIFICATION DENIED!: EBR Issues Prevent Certification of TCPA Suit Against Circle K (Exactly as I Said they Would)**

1 COMMENT



28 JAN 2025

**POINT OF SALE SORROW: Circle K Must Face Trial in TCPA Suit Involving Suggestive Confirmation Texts follow POS SMS Club Opt In**


1 COMMENT



# RETURNING MISSED CALLS..



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1 JUL 2025	<b>INVITATION: Court Refuses to Allow Litigators to Manufacture TCPA Claims— Holds A Company Can Safely Return a Missed Call Without Violating the TCPA’s DNC Provisions</b>
2 COMMENTS	
	

Butera v. Sugarhouse Real Estate Group 2025 WL 1798968 (D. Utah June 30, 2025)(court holds plaintiff cannot sue for return call from brokerage after he called to determine who had called him.)



# ARE TEXTS "CALLS" UNDER DNC RULES

*Esquivel v. Mona Lee, Inc.*, No. 3:25-CV-00607-H-BLM, 2025 WL 3275607 (S.D. Cal. Nov. 24, 2025)(text messages are calls for DNC purposes)

*Wilson v. Skopos* 2025 WL 2029274 (D. Or. July 21, 2025)(SMS messages ARE calls)

*Jones, et al. v. Blackstone*, 2025 WL 2042764 (C.D. Ill. July 21, 2025)(SMS messages are NOT calls for DNC purposes.)

*Jones v. Safr Technologies* 2025 WL 2256659 (D. Mass. Aug. 7, 2025)(ordinary meaning of the word call means a voice communication and not SMS message--- interpreting state law)

*Davis v. CVS Pharmacy, Inc.* 2025 WL 2491195 (N.D. Fl. Aug. 26, 2025)(texts are not calls)

*Mujahid v. Newity*, 2025 WL 3140725 (N.D. Ill Nov. 10, 2025)(text messages ARE calls for DNC purposes)

*Sayed v. Naturopathica Holistic Health*, 2025 WL 2997759 (M.D. Fl. Oct 24, 2025) (text messages are NOT calls for DNC purposes)

*Wilson v. Medvidi, Inc.* 2025 WL 2856295 (N.D. Cal. Oct. 7, 2025) (text messages ARE calls for DNC purposes)

*Blosley v. A Bradley Hospitality* 2025 WL 2686984 (S.D. Fl. Sept 19, 2025)(text messages ARE calls.)





# SUPREME COURT CHANGES EVERYTHING

20 JUN  
2025

**BREAKING: THEY DID IT!!:  
SCOTUS Guts the Hobbs  
Act! District Courts Free to  
Disregard FCC TCPA  
Rulings in Civil  
Enforcement Actions**

4 COMMENTS

1. Are texts calls for DNC purposes?
2. Are cell phones residential lines?
3. Is express written consent still required?
4. Does implied express consent still exist?





# NEW NPRM MAKES MASSIVE CHANGES

9 OCT  
2025

**MASSIVE FCC NEWS:  
Commission Set to  
Obliterate TCPA/Robocall  
Provisions With World  
Changing NPRM**

[ADD A COMMENT](#)



1. Foreign originated calls
2. Abandon abandonment?
3. Caller ID changes
4. Roll back revocation rules

# INSURANCE AUTHORIZATION MESSAGES EXEMPT



17 NOV 2025

**AUTHORIZATION MESSAGES EXEMPT?: Optum Wins Massive Expansion of TCPA's Emergency Purposes Exception And Litigators Need To Keep This In Mind**

ADD A COMMENT



*Aguirre v. Optum, 2025 WL 3190830 (C.D. Cal. Oct.24, 2025)(Insurance authorization messages are emergency purposes)*



# TEXAS REGISTRATION RULES CHANGE

23 JUN 2025

**EVERYTHING IS BIGGER IN TEXAS: SB140 PASSED— TEXAS' NEW MINI-TCPA TAKES EFFECT SEPTEMBER 1, 2025!:**  
**Bringing New Private Right of Action, Broader Telephone Solicitation Definition & Right to Repeat Claims**

ADD A COMMENT

25 NOV 2025

**TALKING TEXAS: What the Heck is Going On with the Texas Registration Rules?**

ADD A COMMENT



## COMPLIANCE ALERT

TEXAS PASSES MAJOR AMENDMENT TO MINI-TCPA EFFECTIVE SEPTEMBER 01, 2025



TROUTMAN AMIN, LLP  
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On June 20, 2025, Governor Abbott signed into law Texas Bill SB140, drastically amending Texas's mini TCPA statute - the Texas Business & Commerce Code ("TBCC"). The new law will take effect on **September 01, 2025**. The TBCC has a private right of action under Sec. 304.052, for violations of Texas's Do Not Call ("DNC"), Automated Dial Announcing Device ("ADAD") provisions. However, before filing a lawsuit under the TBCC, a consumer must first file a complaint before the Texas Public Utility Commission, the Texas Attorney General, or any state agency.

### KEY CHANGES

#### Private Right of Action Under Deceptive Trade Practices Act

SB140 creates a NEW private right of action for telemarketing DNC or ADAD violations (including DNC, ADAD, and Texas Registration violations) under the Texas Deceptive Trade Practices Act ("DTPA"), allowing consumers to bypass the procedural barriers under the TBCC. Under the DTPA, consumers can seek treble damages, mental anguish awards, and attorney's fees.

#### Expanded Definition of "Telephone Call" and "Telephone Solicitation"

After **September 01, 2025**, a telemarketing call will include text messages, images, graphics messages, or other electronic transmission initiated by a seller to induce a person to purchase, rent, claim, or receive an item.

#### Repeat Claims - \$1,000 to \$5,000 Per Violation

The new law clarifies that multiple legal recoveries for the same violation will not limit future recovery. Texas already allows for dual recovery under the TCPA and the TBCC, with some courts holding that a violation of the TCPA constitutes an automatic violation of the TBCC. Therefore, a TCPA violation in Texas can cost you not \$500.00 but \$1,000.00 per violation. Additionally, Sec. 302.101, of the TBCC requires sellers to hold a registration certification if making telephone solicitations from Texas or to consumers in Texas, with a penalty of \$5,000 per violation.

### WATCH OUT FOR: Texas's High Risk ADAD Definition

TBCC Sec. 301.001, defines an ADAD as: Equipment used for telephone solicitation or collection that can:

- (A) store telephone numbers to be called or produce numbers to be called through use of a random or sequential number generator; and
- (B) convey, alone or in conjunction with other equipment, a prerecorded or synthesized voice message to the number called without the use of a live operator.

The Texas definition, unlike the TCPA's definition of ATDS, limits the scope to interpret the phrase "through use of a ROSNG" as applying to both storing and producing numbers.

Additionally, subsection (B) of the Texas statute does not reference dialing but rather the ability to use either a prerecorded or synthesized voice message - implying that mere number storage may trigger the application of subsection (A).

### NEXT STEPS

- Update and implement telemarketing policies to include text messages, graphics messages, or other electronic transmission before **September 01, 2025**.
- Develop strategies for identifying serial plaintiffs who are likely to pursue aggressive litigation in light of the high penalties and multiple liability provisions.
- Consider moving toward non-regulated technology and human selection systems to avoid falling within the broad ADAD definition.
- Obtain the necessary telemarketing registrations, unless an exemption applies.
- Ensure compliance with Texas call time restrictions and only make telephone solicitations between 9:00 AM to 9:00 PM (Monday through Saturday) or 12:00 Noon to 9:00 PM (Sunday).
- Obtain legal guidance from outside counsel as needed to ensure compliance.
- Subscribe to TCPAWorld.com and Troutman Amin, LLP's YouTube channel (@deservetowin) for updates and legal alerts.

[www.troutmanamin.com](http://www.troutmanamin.com)

[www.tcpaworld.com](http://www.tcpaworld.com)



# HONEYPOT LAWSUITS

29 JUL  
2025

**TCPAWORLD ON THE ROAD: Nomorobo is at it again– Suing RSI ENTERPRISES, INC for at least \$1.798MM**

[ADD A COMMENT](#)





# MARKETING VS. INFORMATIONAL



*Abboud v. Circle K* 2025 WL 307039 (D. Az. Jan. 27, 2025)(Double opt in message reading ""Circle K: Reply 'YES' to Sign Up to receive special offers via txt message. Msg & Data rates may apply." May be marketing.)

*Germain v. Mario's Air Conditioning and Heating*, 2025 WL 2229885 (M.D. Florida Aug. 5, 2025)(Court finds message reminding consumers to flip off a breaker ahead of a storm was marketing.)

*Rockwell v. Medicus Healthcare Solutions*, 2025 WL 959745 (W.D.N.Y. Mar. 31, 2025)(Recruitment calls are not solicitations.)

*Zipongo v. Hulce* 2025 WL 829603 (7th Cir. 2025)(Calls to advise of a service being paid for by a third party are not solicitations.)

**Mario's AC is reminding you to consider flipping off the breaker to your AC unit during a hurricane. We are here for you. 727-306-0182 STOP to end.**



# TROLL FACTORY?

13 <small>AUG</small> <small>2023</small>	<b>PEAK BEHIND THE CURTAIN: Robocall Forum Operator Ordered to Turn Over Records of TCPA Plaintiffs Chat Records— And Now We Are Getting Somewhere!</b>
1 COMMENT	

- Robocall forums and chat rooms will often radicalize TCPA trolls and litigators
- We may finally get a peak behind the curtain at these tactics thanks to a recent court ruling.