

Professional Plaintiffs and the TCPA

The **Telephone Consumer Protection Act (TCPA)** was enacted in 1991 to protect consumers from unwanted telemarketing calls, robocalls, and text messages.

For organizations that use telemarketing campaigns to reach consumers, a significant risk of TCPA non-compliance is the law's private right of action that gives people the right to sue for violations. A group of "**professional plaintiffs**" have emerged seeking to exploit the TCPA and cash in from lawsuits.

Our sister company CompliancePoint reviewed **1690 TCPA lawsuits** filed nationwide in 2024. **31%** of the cases were from people who have filed multiple lawsuits, demonstrating how prolific professional plaintiffs can be.

Who are professional plaintiffs?

Professional plaintiffs are individuals who intentionally put themselves in situations where they are likely to receive "unsolicited" communications, often with the goal of identifying TCPA violations.

These plaintiffs may:

- Sign up for promotional offers or newsletters to receive marketing communications.
- Maintain multiple phone lines to increase the likelihood of being contacted.
- Use tools to document violations, such as call recording apps or detailed logs.

While some professional plaintiffs may genuinely seek to hold businesses accountable, others exploit the TCPA's statutory damages to generate significant financial gain.

How do professional plaintiffs operate?

Professional plaintiffs typically:

- **Provoke Contact:** They may fill out forms, subscribe to services, or otherwise engage with businesses to trigger communications.
- **Document Violations:** Once contacted, they meticulously document the details, including the time, date, and nature of the communication.
- **File Lawsuits:** Armed with evidence, they file lawsuits alleging TCPA violations, often seeking settlements or statutory damages.

Key Considerations for Businesses

The rise of professional plaintiffs has created challenges for businesses, including:

- **Increased Litigation Costs:** Defending against TCPA lawsuits can be expensive, even if the business ultimately prevails.
- **Reputational Damage:** TCPA violations, whether intentional or accidental, can harm a company's reputation.
- **Operational Changes:** Businesses must invest in compliance measures, such as robust consent management systems, to mitigate risks.

Balancing Consumer Protection and Abuse Prevention

While the TCPA is critical for protecting consumers from unwanted communications, the rise of professional plaintiffs highlights the need for a comprehensive approach:

- Familiarize yourself with the TCPA's requirements
- Maintain a clean and compliant contact database
- Implement and document robust consent practices
- Monitor third-party vendors for compliance with the TCPA
- Establish a complaint resolution process before complaints escalate to lawsuits
- Adopt a proactive compliance culture
- Invest in technology that ensures compliance and mitigates risk

How PossibleNOW Can Help

Our **TCPA Known Litigator List** is designed to help prevent TCPA and debt collection-related lawsuits by identifying plaintiffs and attorneys who have been involved in multiple lawsuits in the past, or who were identified as professional plaintiffs in individual or class action lawsuits. With DNCsolution and our known Litigator List, protect your company from serial TCPA litigators that actively work to entrap unsuspecting marketers.

Conclusion

While the TCPA serves an important role in protecting consumers, professional plaintiffs can exploit its provisions to target businesses. By taking proactive steps to ensure compliance and adopting a robust risk management strategy, you can protect your business from costly litigation and maintain trust with your customers. Remember, prevention is always better than cure—invest in compliance today to safeguard your future.