

Sarah Jacobson and Sherry Xia for Law360: The Turning Tides Of TCPA Litigation

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Here's a fact of modern life that most of us are familiar with: at least once a week, your cell phone lights up with an unknown number. Sometimes you let it go to voicemail, other times you are curious enough to answer. In either case, what you end up receiving is a prerecorded message to refinance your mortgage, purchase identity theft prevention services, or claim a trip to the Bahamas. To curb these types of unwanted calls, in 1991, Congress enacted the Telephone Consumer Protection Act. In 2005, Congress expanded the TCPA to apply to unsolicited faxes as well.

What gives the statute its teeth is the private right of action that it affords: \$500 per violation, with the potential for treble damages if the action was willful. As a result, the TCPA has become a hotbed for litigation in recent years, particularly ripe for class action suits by the plaintiffs bar. In fact, between 2012 and 2016, the number of TCPA lawsuits in federal court alone has swelled from 1,000 to 5,000.

The question now is whether TCPA litigation will be tempered by the recent and anticipated shake-ups in TCPA regulations promulgated by the Federal Communications Commission, the agency tasked with implementing the statute. Three recent events that may turn the tide of TCPA litigation are addressed below.

Excerpted from *Law360*. To read the full article, please [click here](#) (subscription required).