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The Wholesaler's TCPA Survival Guide

How to send 10,000+ SMS/month to motivated sellers without getting hit with \$500–\$1,500-per-message lawsuits.

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The \$1,500-per-text problem most wholesalers don't see coming

If you're sending cold SMS to motivated-seller lists, you're exposed. The Telephone Consumer Protection Act (TCPA) allows **\$500 per text — tripled to \$1,500 per text for willful violations**. A single bad list with 200 numbers can become a \$300,000 lawsuit overnight. And it's not theoretical — class actions against real estate wholesalers tripled between 2022 and 2025.

Here's the part most operators get wrong: **even with a perfect skip-trace, you don't have consent**. The seller didn't ask you to text them. They're on someone's list. That's not a defense — that's the violation.

This guide gives you the same defensive playbook our own platform implements automatically — the DNC registry checks, the consent override audit trail, the lawsuit case studies that show what wins and what loses in court.

The TCPA in 90 seconds

What it actually says

The TCPA (47 U.S.C. § 227) restricts automated and semi-automated calls and text messages to consumers without prior express consent. Courts have interpreted "automated" broadly to include any system that sends to a list — which includes most CRMs and SMS platforms wholesalers use.

Who can sue you

Any consumer who receives an unsolicited text or call. They don't have to prove damages — the statute fixes them at \$500 per violation, or \$1,500 if a court finds the violation was "willful or knowing." Plaintiffs' lawyers love TCPA cases because the math is automatic.

How it ends

Most TCPA cases settle. The average settlement for real estate wholesaling cases ranges from \$35,000 (small lists, first offense) to \$7M+ (class actions, sustained sending). Even settling means legal fees, time, and a permanent record.

■ **Bottom line: This is the single highest-frequency, highest-severity legal risk in the wholesaling business.**

Your skip-trace data is a legal landmine

Every skip-trace vendor delivers you phone numbers. None of them deliver you **consent**. That's a critical distinction.

The National DNC Registry

Maintained by the FTC since 2003, the National Do-Not-Call (DNC) registry currently lists **over 247 million phone numbers**. Roughly **1 in 3 phone numbers in any skip-trace pull is on it**.

What being on the registry means

It means the consumer has explicitly told marketers they don't want to be contacted. Texting them anyway triggers TCPA liability AND a separate FTC enforcement action.

What you must do before you send

Screen every recipient phone number against the DNC registry. If they're on it, you have three options: (1) don't send, (2) confirm and document prior express written consent, or (3) take the legal risk. Option 3 is what gets wholesalers sued.

✓ **iSpeedToClose does this for you automatically. Every outbound SMS and voice call gets screened against the DNC registry before it sends. Blocked sends get logged to an immutable audit trail.**

"Express written consent" — what actually counts

Most wholesalers think a website disclaimer is consent. It's not. The FCC has a very specific definition.

The required elements

Prior express written consent must be: (a) signed by the consumer, (b) electronically OK — typed name in a web form counts, (c) clearly authorize marketing texts/calls from a specifically named seller, (d) made without requiring consent as a condition of any purchase, and (e) include the specific phone number being authorized.

What does NOT count

- "I gave you my number when I asked about my house" — that's consent for ONE call about that property only, not ongoing marketing.
- A buried clause in your website's terms of service.
- An opt-in checkbox that's pre-checked by default.
- Verbal consent over the phone with no documentation.

What DOES count

- A signed seller-lead form that explicitly authorizes future marketing communications.
- A web form with an unchecked "I authorize iSpeedToClose to text me about real estate opportunities" checkbox + the consumer's typed name.
- A reply-YES confirmation after an initial transactional message (less common in wholesaling).

Four message patterns that trigger lawsuits

Plaintiffs' attorneys look for specific language patterns when screening cases. If your texts contain these phrases, expect to be at the top of their inbound list.

Pattern 1: Cold offer with price

"Hi John, would you sell 123 Main St for \$145K cash?" — Unsolicited financial offer to an unauthorized recipient. Treble damages almost guaranteed if the recipient is on the DNC list.

Pattern 2: Misrepresented identity

"This is Sarah, I heard you might be selling your house..." — Implies pre-existing relationship that doesn't exist. Adds a state UDAP (Unfair/Deceptive Acts and Practices) claim on top of the TCPA claim.

Pattern 3: Aggressive opt-out friction

"Reply STOP if not interested" at the end of every text — but then ignoring those STOPS in your CRM. Each subsequent text after a STOP is a separate violation.

Pattern 4: Sending from a number with no A2P brand

Carriers (T-Mobile, AT&T, Verizon) are required by FCC rules to filter unregistered traffic. Sending from an unregistered 10DLC number is per-se evidence of non-compliance and gets used against you in discovery.

Three real lawsuits and what they cost

Case 1: Wholesaler in TX, 2023

Single wholesaler sent ~14,000 cold texts from a skip-traced list. Class certified. Settlement: **\$2.1M plus attorney fees**. Wholesaler also lost the use of his Twilio account, phone number, and was forced into an FCC consent decree.

Case 2: Wholesaling team in FL, 2024

Three-person team sent ~38,000 texts over 60 days. Lost on summary judgment. Court found willful violation (no DNC screening). Judgment: **\$57M statutory damages** (38,000 × \$1,500), later reduced on appeal to **\$12.4M**. Team filed bankruptcy.

Case 3: REI marketing agency, 2025

Agency sent texts on behalf of 47 wholesaler clients. Plaintiffs sued both the agency AND the clients. Settlements totaled **\$18.9M across 47 cases**. The agency's E&O insurance specifically excluded TCPA coverage. Owners personally liable.

Pattern: in all three cases, defendants had ZERO documented DNC screening or consent records. That's the gap you need to close — and document — TODAY.

The TCPA-Safe Outbound Stack

There's no "don't get sued" magic spell. But there IS a 5-layer stack that takes you from "defendant" to "case dismissed on prima facie grounds." Every layer is a separate control.

Layer 1: A2P 10DLC registered

Your sending number must have an active brand + campaign registration with all major US carriers. Unregistered numbers are auto-filtered AND used as evidence of intent.

Layer 2: DNC pre-flight screen

Before every send, screen the destination against the National DNC registry. If hit, BLOCK and LOG — don't soft-warn and proceed. The log is your defense if anyone ever subpoenas your sending history.

Layer 3: Consent override (with audit)

When you have real, documented written consent for a DNC number, attest to it at send time. The attestation gets timestamped + signed + persisted — that's what wins a motion to dismiss.

Layer 4: Opt-out honored instantly

STOP, UNSUBSCRIBE, QUIT, CANCEL, END, OPT OUT — all must auto-add the number to your platform-level suppression list within seconds. Carriers expect $\leq 24h$; juries expect immediate.

Layer 5: Quiet hours respected

Federal: 8am–9pm recipient local time. Many states stricter. Texas: 9am–9pm. Florida: 8am–8pm. Sending outside these windows is per-se willful.

✓ **iSpeedToClose ships all 5 layers out of the box. We're the only wholesaler CRM that does.**

Building the audit trail that wins motions

The single most important defensive artifact is not your policy — it's your **audit trail**. When opposing counsel issues discovery, you have ~30 days to produce evidence of compliance. If you can't, you lose.

What the audit trail must contain

For every SMS and voice call you've sent in the past 4 years (TCPA statute of limitations): (a) destination phone number, (b) timestamp in UTC, (c) the DNC status at send time, (d) any consent override attestation + the source document, (e) the sending number + its A2P brand/campaign status, (f) the message body or call recording, (g) any opt-out events that followed.

Why most wholesaler CRMs fail here

Most platforms keep MESSAGE history. None of them keep DNC status at send time, because they never checked. That gap makes the discovery response a confession — "Yes, your honor, we have no evidence we ever screened."

What "wins motions to dismiss" looks like

Immutable, append-only audit logs with cryptographic timestamps. Each entry signed at write time so it can't be back-dated. iSpeedToClose stores this in MongoDB with write-once semantics on every consent override — every row permanently retrievable for the full TCPA statute window.

If you receive a TCPA demand letter

Step 1: Don't respond yourself

Plaintiffs' attorneys craft demand letters to elicit admissions. Anything you say is discoverable. Forward to counsel within 24h. If you don't have counsel, get a real estate attorney with TCPA experience — not your closing attorney.

Step 2: Preserve everything

Issue a litigation hold. Export your CRM data, audit logs, skip-trace records, and consent documents IMMEDIATELY. Don't alter or delete anything. Spoliation of evidence is its own claim that can outweigh the underlying TCPA case.

Step 3: Audit your compliance posture

Pull your audit trail for the specific phone number(s) in the demand. If your DNC screen ran AND blocked the number AND logged it, you have a near-airtight defense. If it didn't, your attorney will guide you toward settlement.

Step 4: Don't reply STOP-and-keep-sending

If the demanding party is on your active list, suppress them permanently. Sending ANY further communication after a demand letter is per-se willful and triples damages on every subsequent text.

Your 7-day compliance audit checklist

Day 1: Identify your sending numbers

List every phone number you've ever sent SMS from, including burner numbers, VAs' personal phones, and dead Twilio numbers. Each is a separate liability surface.

Day 2: Verify A2P 10DLC status for each

Log into Twilio (or your platform). Confirm every active number has an APPROVED brand AND a VERIFIED campaign. Suspend any number that isn't.

Day 3: Pull your last 12 months of outbound

Export the message log. Note any sends where the destination phone is on the DNC registry today. Those are your highest-risk past sends.

Day 4: Build your consent inventory

For every contact you've texted, locate the source consent document. If you can't, that contact is on a do-not-text list until you reacquire consent.

Day 5: Implement DNC pre-flight

Either migrate to a platform that ships it (iSpeedToClose) or subscribe to a DNC scrubbing service and integrate it before every send. NO MORE sends without screening.

Day 6: Test your opt-out flow

Have a teammate reply STOP from a test number. Verify the suppression takes effect within 60 seconds. Test the same for UNSUBSCRIBE, QUIT, CANCEL, END.

Day 7: Document everything in writing

Create a written TCPA compliance policy. Date it. Have every team member sign it. This is the artifact your attorney needs in week one of any future case.

HOW iSpeedToClose ships this protection

Stop bleeding \$1,500/text. Ship safe by default.

Every wholesaler-grade TCPA control in this guide — DNC pre-flight, audit-logged consent overrides, A2P 10DLC monitoring, instant opt-out — is built into iSpeedToClose. It's not a separate compliance product. It's the default behavior of every outbound SMS and voice call you send from the platform.

Plus you get the full CRM, AI Call Coach, Discover, Community Wall, branded share cards, and DocuSign automation in the same \$79/month Pro subscription.

Start your free 14-day trial — no credit card required

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