

## Lawsuit claims Uber pesters consumers via spam texts to work as drivers

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James Lathrop used to look forward to getting text messages - until Uber got his cell phone number. The San Francisco-based ride-sharing company has allegedly bombarded him with at least 19 texts in the past two months, urging him to sign up as a driver.

Fed up, he joined a lawsuit aimed at stopping the incessant texts. The suit, filed Dec. 31 in U.S. District Court in San Francisco, is one of many claims lodged recently against a wide variety of businesses that have been allegedly pelting consumers with unsolicited texts in violation of the federal Telephone Consumer Protection Act.

"A lot of businesses are abusing text messages as a way of direct marketing," said Hassan A. Zavareei, the lawyer representing four named plaintiffs from three states in the spam-text case against Uber, including Lathrop of Gresham, Ore. "It has become a real nuisance."

A class action could force the company to compensate any consumer who received the text messages even if they were not named as plaintiffs, potentially increasing company costs.

Uber spokeswoman Kristin Carvell on Friday declined to comment on the spam-text lawsuit.

The company, which offers an alternative to taxicab services by allowing people to provide rides for a fee in their personal vehicles, has also been on the hot seat lately for other reasons.

Controversies have surfaced over Uber's decision to jack up rates for New Year's Eve revelers and over sexual assaults by drivers in India and Chicago, as well as for its apparent efforts to intimidate critical journalists. California prosecutors last month sued Uber and another ride-hailing service, Lyft, claiming they misrepresent and exaggerate the rigor of their driver-background checks.

Other companies also have been sued recently for sending unsolicited texts, since the Federal Communications Commission began interpreting a law that restricts telephone solicitations and the use of automated telephone equipment to include text messages sent to a mobile phone, unless the consumer previously gave consent to receive the message or the message is sent for emergency purposes. The ban applies even if consumers have not placed their mobile phone numbers on the national Do-Not-Call list.

Among the other companies that have been sued are Burger King and CVS. Several companies have settled similar lawsuits, including a Jiffy Lube franchisor for \$47 million and the footwear company Steve Madden for \$10 million.

The Uber suit was filed by the Washington, D.C.-based firm of Tycko & Zavareei. It seeks \$500 for each negligent violation over the past four years, \$1,500 for each knowing violation, punitive damages and an injunction prohibiting Uber from sending texts via the use of an automatic dialer or without recipients' prior express consent. The suit claims that the four plaintiffs and unnamed members of the as-yet un-certified class suffered more than \$5 million in damages. It will be up to a judge to allow the suit to proceed as a class action.

According to the lawsuit, the ride-hailing company has been aggressively seeking new drivers as it rapidly expands. Founded in 2009, the company now provides services in more than 200 cities in 45 countries.

"With millions of riders and ever-increasing demand for more rides in even more cities," Uber's website states, according to the lawsuit, "we are always working hard to recruit new drivers onto the platform."

The texts have prompted complaints to the FCC, including from someone who claimed Uber texted them at 1:44 a.m. and 4:10 a.m.

Lathrop was initially interested in becoming an Uber driver, but stopped applying after he realized his car did not meet the company's requirements. At that point, however, the company had his personal information and continued relentlessly to try to sign him up, according to the lawsuit.

Another plaintiff, Julie McKinney of Lees, Mo., has never been an Uber member, driver or user, but the lawsuit alleges that in December she received at least three text messages from the [company](#) about working as a driver.

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