

## Is TCCWNA Unconstitutional? Our Three-Part Series Scrutinizes this Unique New Jersey Statute

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This three-part article explores the possibility of raising due process and equal protection challenges to TCCWNA class actions, arguing that class actions brought under the statute violate the requirements of the Fourteenth Amendment's Due Process Clause as interpreted by the Supreme Court, because they automatically award a punitive penalty without individualized consideration of whether the penalty is appropriate. Moreover, the statute awards punitive damages in a manner that is arbitrary and irrational under the Equal Protection Clause. While TCCWNA has been broadly applied, imposing class action liability regardless of the knowledge or deceptive intent of the actor is essentially imposing strict liability on defendants even in the absence of any harm or injury. This was clearly not what the legislature envisioned when it enacted TCCWNA.

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