



No law requires session replay to prove PEWC

STOP PAYING FOR WHAT THE LAW DOESN'T REQUIRE.

There is no statute, FCC rule, or court decision that requires video or session replay to establish Prior Express Written Consent (PEWC) under the TCPA. Courts focus on clear disclosure, affirmative consumer action, and reliable records — not proprietary replay technology.

COURT GUIDANCE

***Lundbom v. Schwan's Home Service, Inc.*¹**

D. Or. • May 26, 2020

Summary judgment was granted based on screenshots of the web registration page showing consent language and the consumer's affirmative action.

***Berman v. Freedom Financial Network, LLC*²**

9th Cir. • Apr. 5, 2022

The Ninth Circuit analyzed consent using recreated webpage screenshots, assuming their accuracy and evaluating what the consumer saw and clicked — without requiring session replay.

PRACTICAL TAKEAWAY

Court-aligned consent documentation typically emphasizes:

- **Clear disclosure language** retained as presented to the consumer
- **Affirmative consumer action** (what was clicked/checked/submitted)
- **Reliable records** (timestamps and supporting context)

LEGAL CITATIONS

1. Lundbom v. Schwan's Home Service, Inc., No. 3:18-cv-01534-HZ (D. Or. May 26, 2020).
2. Berman v. Freedom Financial Network, LLC, No. 20-16900, slip op. at 6 n.1 (9th Cir. Apr. 5, 2022).