

CONSUMER LAW FINAL CHECKLIST, SPRING 2005 (DeWolf)

QUESTION 1

- Overview
- Federal **Pre-emption**?
- Other federal** authority that controls?
- "**Fraud**" seems extreme - 9 elements
- Is practice "**Unfair**"?
- Standard under **Intl. Harvester**
- (1) **Harm** to consumers
- (2) Violation of **public policy**
- (3) **Unscrupulous/Unethical**
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- Harm* to consumers
- (1) **Substantial** (like fuel geysering)?
- (2) Does risk **exceed** benefit?
- (3) can consumer **avoid** the harm?
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- Requirements for **Class Action**
- (1) **Numerosity**
- (2) **Common Qs** of Law / Fact
- (3) Typicality - diff. **phones / reliance**
- (4) **representativeness** (hard to say)
- (5) common Qs **predominate**
- Federal Class Action reform (**Removal**)?
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- Punitive** damages—standard?
- Evidence of conduct deserving **punishment**?
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- Reimbursement** Remedy—authority?
- Attorney fees—available via **UDAP / LCSPA**
- Can we **restrain** fee award?
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QUESTION 2

- Pro:** Return \$\$ to consumers
- Rebates reward **savvy**; exploit **gullible**
- Chas. of the **Ritz vs. IH / Cliffdale**
- Fewer** deceptive rebate offers
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- Con:** Customers may actually **lose**
- Like **Fairmont Ford**
- Enforcement **incr. cost** to consumer
- Would **Notice** requirement suffice?
- Are autos same as **soda pop**?
- Reducing consumer **choice**

QUESTION 3

- Overview
- Application of **FDCPA**
- (1) Is Hutton a **debt collector**?
- Do they *regularly* collect debts?
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- Violations** of FDCPA
- (a) Failure to provide **notice**
- Opportunity to **dispute** debt
- (b) deceptive or **improper threats**?
- Threat** of legal action (actually filed)
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- (c) **unfair** practices
- Use of **Letterhead**
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- LCSPA**
- Would **FCRA** apply?
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- Remedies
- Under **FDCPA**
- Actual Damages** (P&S)
- Up to **\$1000**
- Attorney Fees**
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- Class Action**?
- Requirements for **certification**
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- Other Remedies**
- UDAP / LCSPA**
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EXAM # \_\_\_\_\_