

CONSUMER PROTECTION

Fall 2016 Final
Professor Coppola

Subject to the pain of disciplinary proceedings and the likelihood of expulsion, I state truthfully and represent that I have no papers, personal effects or electronic devices on or near my person and that all electronic devices, papers and personal effects that I brought into the room have been placed at the front or side of the room with all electronic devices being powered off. I understand that if my electronic device goes off during the examination, I will receive an F for this examination and may be subject to additional sanctions.

I understand I may leave the room if it is essential to go to the bathroom, but only one person may be out at any time, and I must sign the bathroom book when I leave indicating the time I leave and upon my return.

Finally, I will not speak of the contents of this examination or anything to do with this examination with anyone for any reason until 9 P.M., Thursday, December 22, 2016. I also represent that I have heard nothing about this examination in advance and recognize that MSL's honor code requires me to report immediately anyone violating these provisions and the honor code.

Signed under the pains and penalty of perjury at Andover this ____ day of December, 2016.

SIGNATURE

Print Name

PROFESSOR COPPOLA
CONSUMER LAW FINAL EXAMINATION
FALL 2016

- ❖ This is a 3-hour exam. It consists of two essays totaling 50 points and 10 definitions totaling 50 points.
- ❖ Please use one blue book only and write on one side of a page.
- ❖ Write your answers to the definitions on the exam sheet in the spaces provided.
- ❖ Write your student ID number on both the blue book and the exam.

GOOD LUCK!
HAVE A NICE & SAFE HOLIDAY

ESSAYS

QUESTION ONE (30 POINTS)

Fully explain your answers

Mighty Motor Company manufactures snowmobiles and sells them through dealerships all over the United States. You are its corporate counsel, and it has a list of questions for you about the proposed warranty for the snowmobiles.

- a. Can it give a full one-year warranty on the engine and no warranty at all on the rest of the snowmobile?
- b. If Mighty Motor Company gives no warranty but offers the consumer an extended service agreement, will that trigger Magnuson-Moss?
- c. The company's dealerships will sell the snowmobiles and repair them when necessary, but the dealerships do not want to be liable in any way under the written warranty. Is this possible?
- d. Mighty Motor Company wants to have complete control over its liability, so it has decided to offer a limited warranty, and it would like to disclaim the implied warranties of merchantability and fitness for a particular purpose that would otherwise arise under the Uniform Commercial Code. Tell the company how to do this.
- e. Mighty Motor Company doesn't like going to court, so it wants to arbitrate any disputes with consumers and make the arbitration binding on both parties. Can it set up its own arbitration panel (staffed by paid employees of Mighty Motors) and make the consumers bring all of their disputes to the panel for resolution?
- f. If Mighty Motor were *leasing* the snowmobiles to consumers, would Magnuson-Moss apply at all?

QUESTION TWO (20 POINTS) – Christmas Gift

When her husband died of a heart attack during a Bocci Ball Tournament, Mrs. Gagooza was so devastated that she was barely able to function. Her husband's body was taken to the Dorma in Pace Funeral Home, where it was embalmed, placed in a very expensive casket, displayed for viewing, taken to the cemetery, and buried in an elaborate ceremony. Mrs. Gagooza was even more devastated when she received a bill for \$32,000! She calls you, the family consigliere (lawyer) and asks if she has to pay this outrageous amount. You ask a few questions and she tells you that she never requested an embalming (which is not required by state law), nor did she receive any price quotations. The bill includes the cost of an "outer burial container" (\$4,000) which means that the casket itself was placed in another container prior to burial at the cemetery. What do you advise in Anytown, USA?

DEFINITIONS (5 POINTS EACH)

PLEASE DEFINE THE FOLLOWING IN THE SPACES PROVIDED

1. Debt Collector: _____

2. 3-Day Right of Recession: _____

3. The "Effects Test": _____

4. Consumer Report: _____

5. Confession of Judgement: _____

6. F.D.A. Approval: _____

7. Perfect Tender Rule: _____

8. Security Deposit Rule For Landlords : _____

9. Fiduciary: _____

10. Notice to Quit: _____

PROFESSOR COPPOLA
CONSUMER LAW FINAL EXAMINATION
SPRING 2016

- ❖ This is a 3-hour exam. It consists of two essays totaling 40 points, 10 definitions totaling 50 points and 1 fill-in-the-blank totaling 10 points.
- ❖ Please use one blue book only and write on one side of a page.
- ❖ Write your answers to the definitions and fill in the blanks, on the exam sheet in the spaces provided.
- ❖ Write your student ID number on both the blue book and the exam.

GOOD LUCK!
HAVE A NICE & SAFE SUMMER

ESSAYS

QUESTION ONE (20 POINTS)

The Fair Debt Collection Practices Act only applies if the debt collector is attempting to collect a “debt” as that term is defined by the Act. Resolve the following issues with a yes or no and a brief explanation. Explain why in one sentence.

1. Sally Quickfingers shoplifted 87 items from Big Department Store. If the store sends a debt collector after her, will FDBPA apply?

2. Portia Moot gave a check for \$213 to Cornucopia Grocery Store, and when the check bounced, the store turned the collection of the check over to its lawyer. Does the statute apply here?

3. On behalf of his client, landlord Simon Mustache, attorney Sam Ambulance sent Tuesday Tenant a letter demanding that she pay back rent, and threatening eviction if she did not. Is this a FDCPA matter?

4. When Mr. and Mrs. Suburb failed to pay their county property tax, the county turned the overdue tax obligations to Trash Collection Agency. Is a tax obligation a “debt” under FDCPA?

QUESTION TWO (20 POINTS)

How well do you pay attention in class?

Jake was at Bar having some beers with friends. When his cell phone rang, Jake walked to the back of the Bar near the bathrooms to take the call. When Jake leaned against a closed door (which had a “Do Not Enter” sign on it) while talking on his phone, the door opened and Jake lost his balance and fall down a flight of unlit stairs to the basement and died. Jake’s

Mother, the administrator of Jake's estate, sent a common law and Chapter 93A demand letter to Harold, the owner of both Bar and the building in which Bar was located. When Harold did not respond to the demand letter, Jake's Mother (on behalf of Jake's estate and herself personally) filed suit against Harold in Superior Court for wrongful death (based on negligence and/or gross negligence) and for breach of Chapter 93A.

During discovery, Harold admitted that the stairs that Jake had fallen down (i) did not comply with the state building code, (ii) had been built 20 years ago and repaired thereafter in work not covered by building permits, and (iii) had been the subject of frequent complaints to Harold by Bar employees as being dangerous.

At the close of the evidence at trial, the judge gave the wrongful death claims to the jury while reserving the Chapter 93A claim to herself. Harold objected to the Chapter 93A claim not being given to the jury, but the judge overruled this objection. The judge did, however, give the jury an advisory question as to whether the stairs' lack of compliance with the building code caused Jake's death. Write a memorandum as to what issues may arise on appeal by either side?

DEFINITIONS (5 POINTS EACH)

PLEASE DEFINE THE FOLLOWING IN THE SPACES PROVIDED:

1. The American Rule _____

2. Reasonable Relationship Theory _____

3. "Statin" Drug _____

4. Senator Ted Kaufman, D-Del _____

5. Fraud Enforcement Recovery Act _____

6. Due Diligence _____

7. Leslie Clement _____

8. Negative Option

9. The Effects Test

10. Investigative Consumer Report

FILL IN THE BLANKS (1 POINT EACH)

1. The average American holds _____ credit cards. How many?
2. "Secret History of the Credit Card" takes place in _____, South Dakota.
3. Walter Riston was Chairman of _____ in New York.
4. The most lucrative part of running a deceptive dance studio is to get the clients to pay for _____.
5. The great American mortgage bubble burst in _____.
6. Prior to buying loans, the major funding banks would hire _____ underwriters.
7. Nearly _____ thousand elderly Americans are spending their later years in for-profit assisted living facilities.
8. The country's largest assisted living company is _____.
9. Which government agency oversees assisted living conditions?

10. About _____ of all assisted living clients have dementia.

Just for Fun Trivia - Optional

[No Extra Credit]

John Wayne starred in almost 100 pictures. In only 8 of them did his character die. Name the movies.

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____

PROFESSOR COPPOLA
CONSUMER LAW FINAL EXAMINATION
FALL 2014

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- ❖ Please use one blue book only and write on one side of a page.
- ❖ Write your answers to the definitions and the short answers on the exam sheet in the spaces provided.
- ❖ Write your student ID number on both the blue book and the exam.

GOOD LUCK!
HAVE A SAFE & HAPPY HOLIDAY

ESSAYS

ESSAY #1 (25 POINTS)

I.M. Gullible comes to your office with a sad tale about her new car. Six months ago she bought the car from BS Motors. When the car was delivered, it had a large scratch across the roof and, the black dashboard was smeared with red paint. The salesman, O. So Sleezy, told her not to worry, drive it home and bring it back Monday, "We'll fix the scratch and the red paint problem."

She took the car back Monday for the two problems and reminded them to install luggage rack that Sleezy had promised her as a bonus for buying the car. She was told to return at 5:00 P.M., which she did. Her car was in the parking lot and she observed that the scratch was fixed and the luggage rack had been installed. Much to her dismay, the red paint was still on the dash. When she inquired about it, she was told that the man that worked on it had gone home and she should call for another appointment.

The next day Gullible called BS and complained not only about the red paint but also about the fact that one corner of the luggage rack kept popping free. She was told to bring the car back soon. Two days later, Gullible took time off from work to take the car to BS. Once again, when she picked the car up, the rack was fixed but the paint had still not been

removed. A note in the car explained to her that a special solvent was needed and had been ordered for the job. She was also told to bring the car back another time.

The next day, while driving on the freeway, it started to rain heavily and she found out that the windshield wipers did not work. She narrowly avoided a bad accident. She again took time off from work the next day and had the wipers repaired but, the solvent to clean the red paint still had not arrived.

The following week, Gullible was driving her aged mother home, when the car stalled in heavy traffic. She had it towed to BS, where, the mechanic supposedly adjusted the carburetor. Before driving it away, she was informed that the solvent had still not arrived. The next day, the car stalled again. BS, as their own expense, again had the car towed to their repair department. They readjusted the carburetor and installed new plugs.

Two weeks later, the car stalled in heavy traffic just as it started to rain and the wipers again would not work. This time BS (who had not charged her a penny for the repair attempts) told her that the problem was an improperly programmed internal computer and that a specialist would have to look at it. Sadly, the specialists would not be available for a week and they would have to let her know when to bring the car in. The following

week, the specialist worked on the computer and, when Gullible took the car, she inquired about the solvent and, of course, it had not arrived.

The car worked well for 2 months in spite of the red paint still being on the dash. Subsequently, during a 2 week period, the car stalled in traffic twice, the wipers refused to work, and the luggage rack kept popping free.

Fed up, she comes to your law office. You find out that the dealer has had the car for a week and to their credit, they have given her a loaner. She is not sure when she will get her car back and she also not sure if she wants it back because she is afraid of it.

She wants to know what her options are. Must she keep the car? What if the dealer won't take it back? Can she sell it? What legal obstacles will you encounter? She needs her car for work, what happens if she keeps driving it? Can she get damages if she has to sue?

Unfortunately, your office is in a state that does not have a lemon law. In addition to answering her questions, what additional advice can you give her and, if you are retained, what legal issues will you encounter?

ESSAY #2 (15 POINTS)

Assume now that your state has a lemon law similar to Massachusetts General Laws-93A. What will you do and what obstacles might you encounter?

Definitions: (5 POINTS EACH)

1. “Superior Knowledge” Rule:

2. Justifiable Reliance:

3. Silent Fraud:

4. Implied Acceptance:

5. Negative Option:

6. Material Breach:

7. Door-to-Door Sale, Right of Recession Rule:

8. Revocation of Acceptance:

CONSUMERLAWfinalFALL2014/coppola

PROFESSOR COPPOLA
CONSUMER LAW FINAL EXAMINATION
SPRING 2015

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- ❖ Please use one blue book only and write on one side of a page.
- ❖ Write your answers to the definitions and the short answers on the exam sheet in the spaces provided.
- ❖ Write your student ID number on both the blue book and the exam.

GOOD LUCK!
HAVE A NICE & SAFE SUMMER

ESSAYS

QUESTION ONE (20 POINTS)

Mrs. Easymark had just lost her husband of 30 years in a fatal car accident. More importantly, the family car was totaled. Wanting to be able to get around and also be able to find employment, she decided to buy a used car.

One day, she went to “Trust Us Motors” and spoke to a salesman, Mr. Sleeze. Sleeze had been taking a ribbing from fellow sales personnel over a trade-in that he had taken that turned out to be a real turkey. They could not even sell it at auction. When he saw Mrs. Easymark, he figured that this was his chance to unload it.

After Easymark told Sleeze about her transportation needs, Sleeze showed her the “turkey.” Sleeze said “it does not look like much but for only \$2,500, it will be dependable and it should not cause you any problems for five years.” He told her that if anything went wrong, “Trust Us” had a first rate repair facility that would fix it, right away, or she would get her money back.

When she signed the contract to purchase, none of the aforementioned warranty language was contained in it and she also failed to notice the small print that said “this car sold for parts only.” Sleeze even offered to get the car inspected for her at his buddy’s garage before delivery.

About one week after she took delivery of the car, it blew up. She went back to “Trust Us” and Sleeze not only denied making any oral warranties, he pointed out the contract language to her. This state has no state law governing consumer transactions. Advise her as to what action she can take.

QUESTION TWO (20 POINTS)

Assume that this sale of the turkey took place in Massachusetts. You have to advise Mrs. Easymark of her rights and obligations under Chapter 93a and her best course of action in the recovery of the \$2,500 she spent to purchase the vehicle. Prepare a detailed 93a letter specifying your cause of

PROFESSOR COPPOLA
CONSUMER LAW FINAL EXAMINATION
SPRING 2014

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- ❖ Please write your answers to the definitions on the exam paper in the spaces provided.
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GOOD LUCK!
HAVE A NICE & SAFE SUMMER!

ESSAYS

ESSAY #1 (30 POINTS)

I.M. Gullible comes to your office with a sad tale about her new 2014 automobile. Six months ago she bought the car from BS Motors. When the car was delivered, it had a large scratch across the roof and, the black dashboard was smeared with red paint. The salesman, O. So Sleezy, told her not to worry, drive it home and bring it back Monday, “We’ll fix the scratch and the red paint problem.”

She took the car back Monday for the two problems and reminded them to install a luggage rack that Sleezy had promised her as a bonus for buying the car. She was told to return at 5:00 P.M., which she did. Her car was in the parking lot and she observed that the scratch was fixed and the luggage rack had been installed. Much to her dismay, the red paint was still on the dash. When she inquired about it, she was told that the man that worked on it had gone home and she should call for another appointment.

The next day Gullible called BS and complained not only about the red paint but also about the fact that one corner of the luggage rack kept popping free. She was told to bring the car back soon. Two days later, Gullible took time off from work to take the car to BS. Once again, when she picked the car up, the rack was fixed but the paint had still not been

removed. A note in the car explained to her that a special solvent was needed and had been ordered for the job. She was also told to bring the car back another time.

The next day, while driving on the freeway, it started to rain heavily and she found out that the windshield wipers did not work. She narrowly avoided a bad accident. She again took time off from work the next day and had the wipers repaired but, the solvent to clean the red paint still had not arrived.

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She wants to know what her options are. Must she keep the car? What if the dealer won't take it back? Can she sell it? What legal obstacles will you encounter? She needs her car for work, what happens if she keeps driving it? Can she get damages if she has to sue?

Unfortunately, your office is in a state that does not have a lemon law. In addition to answering her questions, what additional advice can you give her and, if you are retained, what legal issues will you encounter?

ESSAY #2 (20 POINTS)

Assume now that your state has a lemon law similar to Massachusetts General Laws-93A. What will you do and what obstacles might you encounter?

Definitions:

1. “Superior Knowledge” Rule:

2. Justifiable Reliance:

3. Silent Fraud:

4. Implied Acceptance:

5. Negative Option:

6. Material Breach:

7. Door-to-Door Sale, Right of Recession Rule:

8. Revocation of Acceptance:

PROFESSOR COPPOLA
CONSUMER LAW FINAL EXAMINATION
FALL 2013

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GOOD LUCK!
HAVE A NICE & SAFE HOLIDAY

ESSAYS

QUESTION ONE (30 POINTS)

Fully explain your answers

Mighty Motor Company manufactures snowmobiles and sells them through dealerships all over the United States. You are its corporate counsel, and it has a list of questions for you about the proposed warranty for the snowmobiles.

a. Can it give a full one-year warranty on the engine and no warranty at all on the rest of the snowmobile?

b. If Mighty Motor Company gives no warranty but offers the consumer an extended service agreement, will that trigger Magnuson-Moss?

c. The company's dealerships will sell the snowmobiles and repair them when necessary, but the dealerships do not want to be liable in any way under the written warranty. Is this possible?

d. Mighty Motor Company wants to have complete control over its liability, so it has decided to offer a limited warranty, and it would like to disclaim the implied warranties of merchantability and fitness for a particular purpose that would otherwise arise under the Uniform Commercial Code. Tell the company how to do this.

e. Mighty Motor Company doesn't like going to court, so it wants to arbitrate any disputes with consumers and make the arbitration binding on both parties. Can it set up its own arbitration panel (staffed by paid employees of Mighty Motors) and make the consumers bring all of their disputes to the panel for resolution?

f. If Mighty Motor were *leasing* the snowmobiles to consumers, would Magnuson-Moss apply at all?

QUESTION TWO (20 POINTS)

When her husband died of a heart attack during a Bocci Ball Tournament, Mrs. Gagooza was so devastated that she was barely able to function. Her husband's body was taken to the Dorma in Pace Funeral Home, where it was embalmed, placed in a very expensive casket, displayed for viewing, taken to the cemetery, and buried in an elaborate ceremony. Mrs. Gagooza was even more devastated when she received a bill for \$32,000! She calls you, the family consigliere (lawyer) and asks if she has to pay this outrageous amount. You ask a few questions and she tells you that she never requested an embalming (which is not required by state law), nor did she receive any price quotations. The bill includes the cost of an "outer burial container" (\$4,000) which means that the casket itself was placed in another container prior to burial at the cemetery. What do you advise in Anytown, USA?

DEFINITIONS (5 POINTS EACH)

PLEASE DEFINE THE FOLLOWING IN THE SPACES PROVIDED

1. Debt Collector: _____

2. 3-Day Right of Recession: _____

3. The "Effects Test": _____

4. Consumer Report: _____

5. Confession of Judgement: _____

6. F.D.A. Approval: _____

7. Perfect Tender Rule: _____

8. Security Deposit Rule For Landlords : _____

9. Fiduciary: _____

10. Notice to Quit: _____

PROFESSOR COPPOLA
CONSUMER LAW FINAL EXAMINATION
FALL 2015

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GOOD LUCK!
HAVE A NICE & SAFE HOLIDAY SEASON

ESSAYS

QUESTION ONE (20 POINTS)

Mrs. Easymark had just lost her husband of 30 years in a fatal car accident. More importantly, the family car was totaled. Wanting to be able to get around and also be able to find employment, she decided to buy a used car.

One day, she went to “Trust Us Motors” and spoke to a salesman, Mr. Sleeze. Sleeze had been taking a ribbing from fellow sales personnel over a trade-in that he had taken that turned out to be a real turkey. They could not even sell it at auction. When he saw Mrs. Easymark, he figured that this was his chance to unload it.

After Easymark told Sleeze about her transportation needs, Sleeze showed her the “turkey.” Sleeze said “it does not look like much but for only \$2,500, it will be dependable and it should not cause you any problems for five years.” He told her that if anything went wrong, “Trust Us” had a first rate repair facility that would fix it, right away, or she would get her money back.

When she signed the contract to purchase, none of the aforementioned warranty language was contained in it and she also failed to notice the small print that said “this car sold for parts only.” Sleeze even offered to get the car inspected for her at his buddy’s garage before delivery.

About one week after she took delivery of the car, it blew up. She went back to “Trust Us” and Sleeze not only denied making any oral warranties, he pointed out the contract language to her. This state has no state law governing consumer transactions. Advise her as to what action she can take.

QUESTION TWO (20 POINTS)

Assume that this sale of the turkey took place in Massachusetts. You have to advise Mrs. Easymark of her rights and obligations under Chapter 93a and her best course of action in the recovery of the \$2,500 she spent to purchase the vehicle. Prepare a detailed 93a letter specifying your cause of

action and damages and all other statutory requirements pertaining to a demand letter.

QUESTION THREE (10 POINTS)

When her husband died of a heart attack during a Bocci Ball Tournament, Mrs. Gagooza was so devastated that she was barely able to function. Her husband's body was taken to the Dorma in Pace Funeral Home, where it was embalmed, placed in a very expensive casket, displayed for viewing, taken to the cemetery, and buried in an elaborate ceremony. Mrs. Gagooza was even more devastated when she received a bill for \$32,000! She calls you, the family consigliere (lawyer) and asks if she has to pay this outrageous amount. You ask a few questions and she tells you that she never requested an embalming, nor did she receive any price quotations. The bill includes the cost of an "outer burial container" (\$4,000) which means that the casket itself was placed in another container prior to burial at the cemetery. What do you advise in Anytown, USA?

DEFINITIONS (5 POINTS EACH)

PLEASE DEFINE THE FOLLOWING IN THE SPACES PROVIDED

1. Debt Collector: _____

2. 3-Day Right of Recession: _____

5. Equal Credit Opportunity Act: _____

6. Redlining: _____

7. Tenant At Will: _____

8. Fiduciary: _____

STUDENT IDENTIFICATION NUMBER: _____

CONSUMER LAW FINAL EXAM
PROFESSOR COPPOLA
SPRING 2010

FINAL EXAMINATION

This is a closed book examination. It consists of one (1) essay question and ten (10) definitions. The essay question is worth fifty (50) points. The definitions are worth five (5) points each. The total time for the examination is three (3) hours.

The essay question is to be answered in the blue book provided. The 10 definitions are to be answered on the exam itself. The blue books and final exams will be collected at the end of the examination time. Please place your exam inside of your blue book when you turn it in.

GOOD LUCK! HAVE A GREAT SUMMER VACATION!

Consumer Law Final Exam Spring 2010
Part One - Essay Question

Essay Question – 50 points

Out of work and in need of insurance, Sara Palin applied for a \$1,000,000.00 life insurance policy with the “Safe Hands” Insurance Company. The application advised that an investigation would be made into the general reputation, character, mode of living, and personal character of the applicant. She would have a right to a written explanation as to the investigation’s nature and scope. While filling out the application, Sara wrote the following in the margin, “please send me this written explanation” and referenced it by an arrow aimed at the clause promising one. “Safe Hands” immediately ordered a complete report on Sara from the Eagle Eye Credit Bureau.

Using one page each, one side of page only, answer each of the 5 questions fully in the blue book provided.

1. Eagle Eye had done an investigation a year earlier when Sara was considered as a vice – presidential candidate. May it use this information? Also, the does either “Safe Hands” or Eagle Eye have duties under the FRCA that have not been met?
2. Eagle Eye’s prior investigation had turned up the fact that Sara had not paid her taxes and had a tax lien filed against her in 1998. Also, the report showed she had filed a bankruptcy petition in 2000, and had been given a bankruptcy discharge from her debts in May 2002. May Eagle Eye reveal these matters to “Safe Hands”?
3. If “Safe Hands” turns Sara down for the coverage, what must they tell her?
4. Sara is adamant that a mistake has been made. She claims she always paid her taxes and had never been through bankruptcy. What are her rights?

5. Assume Sara prevails and “Safe Hands” issues her the policy. The policy contains a provision that ends her premiums if she becomes incapacitated. Two years later, Sara becomes ill and gives “Safe Hands” notice of her intention to take advantage of the provision. “Safe Hands” smells a rat and rehires Eagle Eye to do an investigation to determine if Sara is indeed incapacitated. But “Safe Hands” didn’t tell Sara that it was having this investigation made. Has “Safe Hands” violated the FCRA ?

Part Two – Definitions

10 Definitions – 5 points each

1. Investigative Consumer Report:
2. Statement Of Condition:
3. Notice to Quit:
4. Final Repair Attempt:

5. Usury:

6. Negative Option:

7. Cooling Off Period:

8. Mail Order Rule:

9. Fair Credit Billing Act:

10. Cease And Desist Order:

**CONSUMER LAW FINAL
FALL 2009
PROFESSOR COPPOLA**

This is a 3 hour exam. It consists of 1 essay worth 50 points and 10 definitions worth 5 points each. Please use 1 blue book, 1 side of a page only, for the essay. Please write your answers to the definitions on the exam paper in the space provided.

Good Luck and Happy Holidays!

Consumer Law Final

Question #1

50 Points

Out of work, George W. Bush applied for a job with the Committee to elect Sarah Palin. The Committee, without telling George W., secretly ordered the Big Brother Credit Bureau to conduct an in-depth investigation of George W. by interviewing his friends and neighbors. One of them, Dick Cheney, lied to the credit bureau and told them that George W. was a swinger. The Committee then refused to hire George W. and would not tell him why. He investigated on his own and found out about the Big Brother Report. When he went to the Big Brother Office, they refused to talk to him. He went home and put on a disguise (a Bill Clinton mask) and then went back to Big Brother pretending to be a lobbyist intent on hiring George W.. For a fee, they gave him a credit report on that individual.

Meanwhile, his wife Laura went to Octopus National Bank to apply for a loan to hold the family over until George W. could find work, because, her forty hours a week at Haliburton Plumbing Supply just was not enough. To curry sympathy from the loan officer, she put a pillow under her shirt so that she would look about 8 months pregnant. As it turns out, this was the wrong thing to do because, the loan officer Michael Misogynist, asked her the following questions: "Are you pregnant?" and "Do you plan to quit your job when the baby is born?" "Why have you come here? We will take your application, because the law says we must, but it's a useless gesture since we never loan money to pregnant women." He also asked if she was married and inquired as to the amount of her husband's income. He also wanted to know if her husband was willing to be a co-signer and if she had a telephone and in what name was the phone listed.

The Bush's come to your office because they know that you are a consumer law expert, (meaning you took the course and passed it). They would like to know if anyone in the 2 scenarios which they experienced that day, violated any Federal Consumer Laws and what recourse they may have including damages, if any.

PLEASE ADDRESS GEORGE W. AND LAURA SEPARATELY

Definitions 5 Points Each
Please Define The Following In The Space Provided

1. Deception:

2. Effects Test:

3. Confession of Judgment:

4. Unconscionability:

5. Merchantability:

6. Lemon Law Arbitration:

7. Fair Credit Reporting Act:

8. Equal Credit Opportunity Act:

9. Magnason-Moss:

10. Essential Purpose of Limited Remedies:

END OF EXAM
DO NOT WRITE BELOW THIS LINE.

Consumer Protection

Exam Number _____

Professor Coppolla Spring 2009

Please read the fact pattern in Question One carefully. Take some time to think about the legal issues raised and then write a well-reasoned and well-written analysis of those issues in the blue book provided. Please put your examination number on your blue book. Good luck.

Question One

Hispanic residents of Chelsea, Massachusetts who are cell phone users claim that the contracts the companies make them sign are intentionally not written in easy to understand language and mandate excessive deposits for residents in certain zip codes as well as costly insurance. They also claim that wireless telephones emit an unsafe level of radiation and that Nokia Inc., ATT Wireless Inc. of Massachusetts and its retail stores, ATT Wireless at the Mall, Inc. of Delaware have fraudulently concealed all this from purchasers. Nokia claims the cell phone users' state law claims are inappropriate as federal law determines what they can and cannot do.

A cell phone is actually a radio containing a low power transmitter. When a wireless telephone is turned on, it searches for a tower within range. A series of sophisticated computers controls all of the base stations in a particular area to coordinate radio transmissions to and from wireless telephones. Numerous representations regarding the safety of this process have been made to the involved

cities and towns throughout the cell tower permitting process. Many of these towers are located in relatively poor communities with much higher mortality rates.

Wireless telephones emit a low level of radiation from their antennae when they communicate with base stations. While it is well established that exposure to high levels of radiation can cause adverse health effects, there is no scientific consensus on the effects of low-level exposure. The Federal Communications Commission requires all transmitters that emit any radiation to be authorized by the agency before they are marketed or sold.

The Chelsea cell phone users inform you that (1) in establishing the cell phone contracts and credit accounts many improper questions were asked and cell phone user below the age of 25 were required to take out costly credit insurance and pay higher base charges than other customers, (2) wireless telephones emit an unsafe level of radiation and (3) Nokia, in knowing this, negligently and fraudulently endangered the consuming public by marketing wireless telephones (4) ATT knew of all this and conspired to fraudulently misrepresent the product and induced them to purchase additional equipment necessary to make the device safer and (5) the retail outlets became part of this fraud and deceived them with false promises and assertions regarding the quality, cost and safety of the product. According to the cell phone users, they have been damaged by the companies' costly unnecessary charges and exposure to the risks of adverse biological effects from the radiation emitted by their wireless telephones. The data they have assembled indicates that residents who live in Chelsea with a zip code of 02150, on average, pay 37% more for base cell phone service. They also have evidence that cities and towns

with large non-native English speakers are twice as likely to have in excess of 5 cell phone towers in a 5 square mile radius as compared to other communities that have 2 cell phone towers per 5 square mile radius and that the incidence of cancer is significantly higher as well. The cell phone users who consult you all signed the contracts in question, pay higher base charges and were not informed of these dangers when they leased or bought their wireless telephones.

Describe how you would proceed, what issues need to be addressed and how you would expect a court to resolve the various issues raised by these facts.

.....

Question Two

In the space provided, please define each concept fully in well-written sentences. After doing that please then explain fully how, if at all, the given concept is applicable to the facts outlined in Question One.

Magnuson-Moss Warranty Act

Deceit

Preemption

Remedies

Bait and Switch

**CONSUMER LAW
PROFESSOR COPPOLA**

FINAL EXAM – FALL 2008

Please write all your answers in the spaces provided on the exam.

Question 1: 3.333 points each = 20 points

Hilda Howard was a professor of mathematics at Football University. She went to Octopus National Bank to apply for a loan to finance a new porch for her home. At the time of the application, she was eight months pregnant. The loan officer, Michael Misogynist, asked her the following questions. Decide which, if any, violate Reg. B of the ECOA.

- a. "Why have you come here? We'll take your application, because the law says we must, but it's a useless gesture since we never loan money to pregnant women."

ANS:

- b. "Are you pregnant?"

ANS:

- c. "Do you plan to quit your job when the baby is born?"

ANS:

- d. "Are you married?"

ANS:

- e. "What is your husband's income? Will your husband be willing to lend his name as a co-signer?"

ANS:

- f. "Do you own a telephone? In what name is the phone listed?"

ANS:

Question 2

5 points each = 25 points

Mighty Motor Company manufactures snowmobiles and sells them through dealerships throughout the United States. You are its corporate counsel and it has a list of questions for you about the proposed warranty for the snowmobiles.

- a. Can it give a full one-year warranty on the engine and no warranty at all on the rest of the snowmobile?

ANS:

- b. If Mighty Motor Company gives no warranty but offers the consumer a written maintenance agreement, will that trigger Magnuson-Moss?

ANS:

- c. The company's dealerships will sell the snowmobiles and repair them when necessary, but the dealerships do not want to be liable in any way under the written warranty. Is this possible?

ANS:

- d. Mighty Motor Company wants to have complete control over its liability, so it would like to disclaim the implied warranties of merchantability and fitness for a particular purpose that would otherwise arise under the Uniform Commercial Code. Tell the company how to do this.

ANS:

- e. Mighty Motor Company doesn't like going to court, so it wants to arbitrate any disputes with consumers and make the arbitration binding on both parties. Can it set up its own arbitration panel (staffed by paid employees of Mighty Motors) and make the consumers bring all of their disputes to the panel for resolution?

ANS:

Question 3

5 Points = 20 points

Mr. and Mrs. Consumer went to the showroom of Giant Motors, where the salesman, Howard Glad, sold them a new 1999 automobile. Before he did so he told them that the car that they looked at on the lot was the same as the one they ordered, except that their car would be blue, not red. In answer to a question Mrs. Consumer asked, the salesman told her that the car would get at least 30 miles to the gallon in city driving. He also mentioned that Giant Motors had a complete service department and that if anything went wrong with the car, Giant Motors could fix it. All these statements were oral. The contract they signed contained none of these statements, but did have a merger clause stating that the contract contained all the essential terms of the agreement. It also disclaimed any warranties not contained therein.

- a. Decide whether the consumers can get in the evidence of their conversation with Mr. Glad.

ANS:

- b. Decide whether there was an express warranty created by the statement that the car delivered would be blue. What about the statement regarding mileage? The statement that the car was a "1999" model? The repair facilities?

ANS:

- c. If the Consumers had seen a TV advertisement for Giant Motors that had featured the car they bought and stated it was "wonderful" and "the best car on the road" and "maintenance free," would this ad create express warranties or would this merely be "puffing"?

ANS:

- d. Is it a defense to the car dealer that it did not intend to create any warranties in the sales pitch, nor did it use any formal words such as "warranty" or "guarantee"?

ANS:

Question 4

3.33 each = 20 points

Out of work, Bruce Wayne applied for a job with the Gotham City Detective Agency. The agency, without telling Wayne, secretly ordered the Big Eye Credit Bureau to conduct an in-depth investigation of Wayne by interviewing his friends and neighbors. One of them, John Joker, lied to the credit bureau and told them Wayne was a swinger. The agency then refused to hire Wayne and wouldn't tell him why. He investigated on his own and found out about the Big Eye report. When he went to the Big Eye office they refused even to talk to him. He went home and put on a disguise and then went back to Big Eye pretending to be a microchiropterist intent on hiring Bruce Wayne. For a fee they gave him a credit report on that individual.

Answer these questions:

- a. Did the agency or the bureau, or both, violate The Fair Credit Reporting Act?

ANS:

- b. May Wayne sue Joker?

ANS:

- c. Did the detective agency violate the Act when it refused to tell him why he was not hired? What is it required to tell him?

ANS:

- d. May the credit bureau charge him a fee for the credit report on himself?

ANS:

- e. What damages may he recover against the credit bureau? The detective agency?

ANS:

- f. Did Wayne himself violate the act?

ANS:

Question 5

5 points each = 15 points

- a. On her eighteenth birthday, Portia Moot was delighted to learn that her father planned to give her his two-year old automobile. If he does so, must he give her an odometer mileage statement? If he does not do so because he was unaware of this requirement, can she sue him for at least \$1,500?

ANS:

- b. Detroit Motor Company manufactures automobiles. Must it give odometer statements on each of them to the retailers to whom it sells the cars?

ANS:

- c. At an automobile show, John Visor sold his 1967 Mustang convertible to an eager buyer but failed to give an odometer mileage statement. Is he liable to suit? Use Massachusetts law and Federal where applicable.

ANS:

**CONSUMER LAW
PROFESSOR COPPOLA**

FINAL EXAM - FALL 2002

Please limit your answers to two sides of one page.

Question 1:

In the most terrible incident in the history of the city of Sleepy Falls, John Brown went berserk one night and murdered his wife and three small children, killing himself as the police stormed the residence. His parents inherited the house in which this had all occurred, and they moved into the house two months later. They were disturbed on the first night by the sound of screams - horrible screams - that were repeated every night thereafter as soon as the house became silent. Police were called, scientific experts were summoned, but no one seemed able to explain the phenomenon, except to note that nothing happened when trained observers were on the scene with their equipment. Eventually the whole thing was put down to "nerves" of the spooked individuals. John Brown's mother sold the house to Frank and Nancy Yuppie, to whom she said only that the house had once belonged to her son, now deceased. The Yuppies moved in with their own two children and were quite happy with the house until helpful neighbors told them all. Frank Yuppie calls you, his lawyer and cousin, for advice. Can he claim that Mrs. Brown tricked him when she failed to mention that the house came complete with ghosts? Is this a matter for the doctrine of caveat emptor ("let the buyer beware") or is there relief in the law of fraud?

Question 2:

In 1994, Jay Eastriver bought a 1989 used car. The car dealership, relying on the odometer statement given it by the auto auction where it had purchased the car, gave Eastriver an odometer statement stating that the car had only 49,016 miles on it. The car dealership convinced the court that it had no actual knowledge that the odometer was in error and that only an elaborate investigation would have revealed that the car had to have been driven more than 49,016 miles given its current condition. Is the car dealership nonetheless liable to Eastriver?

Question 3:

Happy Harold, the appliance dealer, was forever holding "sales" for his products, so much so that they were almost never sold for the routine price that was put on the tags attached to the items. Most of his sales were for mundane reasons, such as "Fourth of July" or "Christmas," but occasionally he would pretend to have sales for allegedly pressing

reasons, such as "Liquidation Sale," "Lost Our Lease - Everything Must Go," and "Fire Sale." Is there any harm in this practice? If so, what? If a customer purchases an item at such a sale and then discovers, for example, that Happy Harold did not in fact lose his lease, has a deceptive or unconscionable practice occurred? What remedies are available to the consumer who cannot prove any actual damages from the alleged deception?

Question 4:

Happy Harold's Appliance Store ran an advertisement in the newspaper touting the virtues of the "Uneeda Dishwasher," which was regularly sold at \$250, but was "a mere \$150 this week only!" Harold instructed his sales force to disparage the Uneeda Dishwasher if customers came in asking for it, telling them that studies by consumer groups showed that it was subject to sudden unexplained fires. The customers were then to be shown pricier dishwashers, guaranteed to be safe from fire hazard. If the customers persisted in examining the Uneeda, the sales persons were instructed to say that the store was sold out of them except for the one demonstrator on the floor. (In fact, the floor sample was the only Uneeda Dishwasher in the whole inventory.) May a consumer who buys one of the more expensive dishwashers prevail in a lawsuit charging Happy Harold with a deceptive practice?

Question 5:

Pursuant to the state statute on deceptive consumer sales practices, the Attorney General promulgated a rule requiring automobile repair establishments to give car owners the following rights:

- a. At the first contact between the parties, the repair shop was to give the consumer an estimate if the cost of repair would be more than \$25. This estimate could be given orally or in writing or could be waived in writing.
- b. If the actual repair would exceed the estimate by more than 10 percent over the estimate unless the consumer agreed (orally or in writing) to the increased charge.
- c. All parts removed from the vehicle had to be returned to the consumer.

On a day when everything else had gone awry, Portia Moot's two-year-old car began emitting smoke, and she had to stop it on the interstate and walk to a phone. She called Car Hospital, a repair shop near her home, and described the problem. They sent out a tow truck and towed the car to the shop. At the dealership, an employee gave Portia a written estimate of \$300 as the cost of repair of her vehicle. When she came to pick it up, they refused to let her have the car unless she paid \$450, which she did. This amount included a \$35 charge for towing.

A friend of Portia's is an automobile mechanic; he is willing to testify that anyone in the business would have known that the work Portia originally requested would cost at least \$400. She is now in your office asking what she can do. Advise her.