



---

# CONSUMER TRANSACTIONS

THIRD EDITION

*by*

MICHAEL M. GREENFIELD

Walter D. Coles Professor of Law  
Washington University

NEW YORK, NEW YORK

**FOUNDATION PRESS**

1999

COPYRIGHT © 1983, 1991 FOUNDATION PRESS  
COPYRIGHT © 1999 By FOUNDATION PRESS  
11 Penn Plaza, Tenth Floor  
New York, NY 10001  
Phone (212) 760-8700  
Fax (212) 760-8705

All rights reserved  
Printed in the United States of America

**ISBN 1-56662-467-3**



TEXT IS PRINTED ON 10% POST  
CONSUMER RECYCLED PAPER



---

## UNIVERSITY CASEBOOK SERIES

### EDITORIAL BOARD

**DAVID L. SHAPIRO**

DIRECTING EDITOR

Professor of Law, Harvard University

**ROBERT C. CLARK**

Dean of the School of Law, Harvard University

**DANIEL A. FARBER**

Professor of Law, University of Minnesota

**OWEN M. FISS**

Professor of Law, Yale Law School

**GERALD GUNTHER**

Professor of Law, Stanford University

**THOMAS H. JACKSON**

President, University of Rochester

**HERMA HILL KAY**

Dean of the School of Law, University of California, Berkeley

**SAUL LEVMORE**

Professor of Law, University of Chicago

**ROBERT L. RABIN**

Professor of Law, Stanford University

**CAROL M. ROSE**

Professor of Law, Yale Law School

---

*TO MY PARENTS*

*ROSE WALNER GREENFIELD*

*SIDNEY I. GREENFIELD*

---

## PREFACE

This book is designed for use in a two-, three-, or four-hour course or seminar on the law of consumer transactions. Consumer law has grown dramatically in the last three decades, and this growth, along with the conceptual challenge of the subject matter and students' interest in it, has led to the establishment at most law schools of separate courses on consumer law. The principal pedagogic justification for this separate treatment, however, may be that the study of consumer transactions requires the student to grasp and bring to bear on any given problem the substantive law of several traditionally discrete subjects. While the law of contracts is the backbone of consumer law, the law of torts also plays an important role. Indeed, the first topic in this book is misrepresentation, and tort law also is central to products liability (Chapter 7) and debt collection (Chapter 11). In addition, the book also presents materials on agency, administrative law, civil procedure, constitutional law, insurance, and remedies. It thus aims to counteract the tendency to pigeonhole the law into discrete substantive categories. And since much of the law of consumer transactions is statutory, it also aims to encourage development of the skills of statutory analysis.

The organization of the book is transactional. It first examines problems in the formation of consumer transactions, then moves to the substance of the deal, and concludes with remedies. At each stage of the transaction, the first inquiry is whether any intervention on behalf of consumers is warranted. To determine if intervention is warranted, one must identify both the benefits and the costs of any contemplated reform, especially whether the contemplated reform will remedy the problem and whether it will have unintended consequences. If intervention is warranted, one must determine whether it should consist of regulating the parties, regulating the subject matter of the transaction, or regulating the transaction itself, i.e. the bargaining process and the substantive terms of the resulting bargain.

The development of a body of consumer law distinct from commercial law embodies a belief that intervention is warranted. This development has been in the direction of "protecting" the consumer, i.e. conferring on consumers assorted rights and remedies that are not conferred on commercial entities. I believe that the general thrust of this development is desirable, but I am not so sure about many of the specifics. This belief and this uncertainty pervade the book.

In the course of editing the judicial opinions and other materials, I have omitted numerous citations and footnotes without any notation of the omis-

sions. The footnotes that remain bear their original numbers, and superimposed letters indicate footnotes that I have added to the opinions. I have corrected obvious typographical errors in reprinted materials without using the conventional “sic.” Finally, because the law of consumer transactions is so largely statutory, a supplement containing various federal and state statutes accompanies the book. When the book refers to a statute that does not appear in the book, it is in the supplement.

MICHAEL M. GREENFIELD

St. Louis, Missouri  
December, 1998

---

## ACKNOWLEDGMENTS

Of the many people who have helped me during the preparation of the three editions of this book, I would like to single out two of my deans for special thanks. Edward T. Foote provided important personal and institutional support during my work on the first edition, and Dorsey D. Ellis has been a mainstay during my work on the second and third. Biggest thanks of all go to my wife, Claire, and my children, Scott and Danya, for their unwavering support and love.



# TABLE OF CASES

Principal cases are in bold type. Non-principal cases are in roman type. References are to Pages.

- Ackerley v. Credit Bureau of Sheridan, Inc., 257  
Aetna Finance Co. v. Brown, 615  
Aguchak v. Montgomery Ward Co., Inc., 661, 663, 664  
Alexander v. Certified Master Builder Corp., 721  
Allen v. Anderson, 125  
Allen v. Beneficial Finance Co. of Gary, Inc., 211  
Allied-Bruce Terminix Companies, Inc. v. Dobson, 789  
Allred v. Demuth, 32  
All-State Industries of North Carolina, Inc. v. F.T.C., 82, 86, 156  
Alyeska Pipeline Service Co. v. Wilderness Society, 740  
American Airlines, Inc. v. Wolens, 172  
American Family Publishers, In re, 582  
American Financial Services Ass'n v. F.T.C., 489  
American Home Imp., Inc. v. MacIver, 468  
Amoco Oil Co., United States v., 279, 289  
A & M Produce Co. v. FMC Corp., 456  
AMREP Corp. v. F.T.C., 98, 99  
Anderson v. United Finance Co., 279  
Anthony v. Community Loan & Inv. Corp., 523, 524, 525, 537, 538  
Armstrong v. Edelson, 719  
Arnson v. General Motors Corp., 688  
Arthur Murray Studio of Washington, Inc. v. F. T. C., 86  
**Austin v. BankAmerica Service Corp., 239, 241, 242, 250, 252**  
Avila v. Rubin, 821
- Bank of America v. Lallana, 647  
Bank One Milwaukee, N.A. v. Harris, 558  
Barber v. Kimbrell's, Inc., 211  
Barker v. Lull Engineering Co., Inc., 303  
Barker v. Retail Credit Co., 227  
Barquis v. Merchants Collection Ass'n, 660, 662  
Barr, United States v., 652  
Barrett Carpet Mills, Inc. v. Consumer Product Safety Commission, 99  
Bartus v. Riccardi, 729  
Bates v. State Bar of Arizona, 100  
Baxter v. Ford Motor Co., 294  
Beal v. General Motors Corp., 332  
Belshaw v. Credit Bureau of Prescott, 234
- Beneficial Corp. v. F.T.C., 101  
Beneficial Finance Co. of Waterloo v. Lamos, 581  
**Benion v. Bank One, Dayton, N.A., 196, 202**  
**Berg v. Stromme, 311, 317, 318**  
**Best v. United States Nat. Bank of Oregon, 504, 509, 510**  
Besta v. Beneficial Loan Co. of Iowa, 430  
Biederman's of Springfield, Inc. v. Wright, 581  
Big Three Motors, Inc. v. Rutherford, 633  
Blaine v. J.E. Jones Const. Co., 36, 45  
Blankenship v. Better Business Bureau, 721  
Block v. Ford Motor Credit Co., 699  
Blum v. Stenson, 754  
BMW of North America, Inc. v. Gore, 784  
Bond v. Dentzer, 649  
Boothe v. TRW Credit Data, 257  
Bott v. Holiday Universal, Inc., 103  
Bown v. Longo, 134  
B. P. Oil Corp. v. Mabe, 691  
Bradler v. Craig, 719  
Bramlett v. Adamson Ford, Inc., 41, 46, 699  
**Branch, In re, 424, 429, 430**  
Brand Jewelers, Inc., United States v., 652  
Bristol-Myers Co., In re, 84  
Broadstreets Inc. v. Parlin, 671  
**Brooks v. Midas-International Corp., 810, 815, 820**  
Brookshire v. Longhorn Chevrolet Co., 615  
Brothers v. First Leasing, 262  
**Browder v. Hanley Dawson Cadillac Co., 543, 547, 549**  
Brown v. C.I.L., Inc., 456  
Brown v. Hall, 320  
Bruntaeger v. Zeller, 785  
Bryant v. TRW, Inc., 257  
Buchanan v. Brentwood Federal Sav. and Loan Ass'n, 549  
Burton v. Public Finance Corp. of Akron No. 3, 211
- Campbell v. Booth, 32  
Cardet Intern., Inc., People ex rel. Scott v., 124  
Carlson v. Coca-Cola Co., 103  
Carlson v. General Motors Corp., 344  
Carnival Cruise Lines, Inc. v. Shute, 664  
Carpenter v. Suffolk Franklin Sav. Bank, 549

- Carper v. Kanawha Banking & Trust Co.**, 379, **380**, 390, 391, 430  
 Carroll v. Exxon Co., 274  
 Cartt v. Superior Court In and For Lo, 820  
 Casella v. Equifax Credit Information Services, 257  
 Chair King, Inc. v. Houston Cellular Corp., 111  
**Charles of the Ritz Distributors Corporation v. Federal Trade Commission**, **52**, 55, 58, 60, 72, 100, 596  
 Charmley v. Alaska Municipal Emp. Federal Credit Union, 720  
**Cherry v. Amoco Oil Co.**, 261, 279, **282**, 288  
**Cheshire Mortg. Service, Inc. v. Montes**, **456**, 502, 513, 738  
 Chevron Oil Co. v. Sutton, 688, 693  
 Chrysler Corp. v. Texas Motor Vehicle Com'n, 788  
 Chrysler Corp., In re, 58  
 Citicorp Credit Services, In re, 722  
 City Bank & Trust Co. of Shreveport v. Hardage Corp., 671  
 Clark v. International Harvester Co., 332  
 Clement v. American Honda Finance Corp., 824  
 Cline v. Prowler Industries of Maryland, Inc., 308  
 Clomon v. Jackson, 597  
 Coe v. Esau, 688  
 Coleman v. Fiore Bros., Inc., 766  
 Coleman, People v., 399  
 Collins v. Retail Credit Co., 259  
 Combs v. Bakker, 182  
**Commonwealth v. \_\_\_\_\_ (see opposing party)**  
 Congoleum Industries, Inc. v. Consumer Product Safety Commission, 99  
 Connor v. Great Western Sav. & Loan, 719  
 Consumers Union of United States, Inc. v. Federal Reserve Bd., 185  
 Consumers Union of United States, Inc. v. F. T. C., 52  
 Cooga-Mooga, In re, 721  
**County of (see name of county)**  
 Cowen v. Bank United of Texas, FSB, 188  
 Credit Union One of Kansas v. Stamm, 504  
 Crittendon v. State Oil Co., 690  
 Cronin v. J. B. E. Olson Corp., 303  
 Cullen v. BMW of North America, Inc., 531 F.Supp. 555, pp. 692, 694  
 Cullen v. BMW of North America, Inc., 490 F.Supp. 249, p. 689  
**Culpepper v. Inland Mortg. Corp.**, **413**  
 Cushman v. Trans Union Corp., 257  
 Cutler Corp. v. Latshaw, 650  
 Dane, County of v. Norman, 270  
**Davey v. Brownson**, **47**, 49  
**Davis v. Hinton**, **420**, 422, 429  
**Deavers v. Standridge**, **615**, 617  
 Dechow v. Sko-Fed Credit, 423  
**DeCotis, Commonwealth v.**, **479**, 483, 489  
 DeLay First Nat. Bank & Trust Co. v. Jacobson Appliance Co., 631  
 Denley v. Peoples Bank of Indianola, 423  
 Dennis v. Sears, Roebuck & Co., 431  
 D. H. Overmyer Co. Inc., of Ohio v. Frick Co., 650  
 Dick v. Attorney General, 126, 128  
 Dickson, In re, 525, 543, 547  
 Doctor's Associates, Inc. v. Casarotto, 789, 796  
 Doroszka v. Lavine, 782  
 Dover v. Stanley, 180  
**Drexel v. Union Prescription Centers, Inc.**, **679**, 686, 688, 693  
 Driscoll v. Household Credit Services, 600  
 Duval v. Midwest Auto City, Inc., 754  
 Earl v. Beaulieu, 755  
 Easton v. Strassburger, 46, 721  
**Edelman v. Lee Optical Co., Inc.**, **807**, 810, 815  
 Edmisten, State ex rel. v. J. C. Penney Co., Inc., 583  
 Egan v. Mutual of Omaha Ins. Co., 782  
 Eisen v. Carlisle and Jacquelin, 820  
 Emery v. American General Finance, Inc., 182, 430  
 Encyclopaedia Britannica, Inc. v. F. T. C., 514  
 Ensminger v. Terminix Intern. Co., 722  
 Equifax, In re, 96 F.T.C. 1045, p. 255  
 Equifax, In re, 96 F.T.C. 844, p. 254  
**Equitable Life Assur. Soc. of United States v. Scali**, **399**, 408, 519  
 Eure v. Jefferson Nat. Bank, 281  
 Evans v. Jeff D., 766  
 Exposition Press, Inc. v. F. T. C., 60  
 Fairman v. Schaumberg Toyota, Inc., 182  
 Fargo Women's Health Organization, Inc. v. FM Women's Help and Caring Connection, 181  
 Farmers State Bank of Parkston v. Otten, 643  
 F. D. Rich Co., Inc. v. United States for Use of Indus. Lumber Co., Inc., 739  
 Federal Trade Commission v. Bunte Bros., 51  
 Federal Trade Commission v. Raladam Co., 51  
 Feldman v. Al Prueitt & Sons, Inc., 124  
 Fennell v. G. A. C. Finance Corp. of Baltimore No. 3, 579  
 Fenwick v. Kay Am. Jeep, Inc., 371 A.2d 13, p. 151  
**Fenwick v. Kay Am. Jeep, Inc.**, 344 A.2d 785, pp. **145**, 150, 151, 152  
 Fields v. Mitch Crawford's Holiday Motors Co., 111  
 Fields v. Yarborough Ford, Inc., 140  
 Firestone Tire & Rubber Co., In re, 98  
 First Nat. Bank of East Islip v. Brower, 671  
 First Nat. Bank of Fairbanks v. Enzler, 643  
 Fischl v. General Motors Acceptance Corp., 274, 277

- Fite v. Retail Credit Co., 233, 241  
 Fitzgerald v. Chicago Title & Trust Co., 20 Ill.Dec. 581, pp. 550, 720  
 Fitzgerald v. Chicago Title & Trust Co., 5 Ill.Dec. 94, p. 484  
 Flagg Bros., Inc. v. Brooks, 622  
 Fleet Mortgage Corp., United States v., 279  
**Fontaine v. Industrial Nat. Bank of Rhode Island, 606**, 609, 610, 611  
 Ford Motor Co. v. F. T. C., 644  
 Ford Motor Co. v. Mayes, 348, 504  
 Ford Motor Co. v. Reid, 331  
**Ford Motor Co., In re, 639, 641, 804**  
 Ford Motor Credit Co. v. Byrd, 618  
 Ford Motor Credit Co. v. Milhollin, 188, 537  
**Ford Motor Credit Co. v. Morgan, 708**, 710  
 Founders Life Assur. Co. of Florida v. Poe, 559  
 Franklin State Bank v. Parker, 631, 632  
**Freeman v. B & B Associates, 759**, 766  
 F.T.C. v. Amy Travel Service, Inc., 103, 722  
 F.T.C. v. Figgie Intern., Inc., 103  
 F.T.C. v. Gem Merchandising Corp., 103  
 F.T.C. v. Klesner, 58  
 F. T. C. v. Southwest Sunsites, Inc., 103  
 F. T. C. v. Standard Oil Co. of California, 60  
 Fuentes v. Shevin, 622  
  
 Gammon v. GC Services Ltd. Partnership, 598  
 Gary v. W.T. Grant, 537  
 General Electric Credit Corp., United States v., 279  
 Geneva Industries, Inc. v. Copeland Const. Corp., 661  
 Gizzi v. Texaco, Inc., 689, 690, 691  
 Glaire v. La Lanne-Paris Health Spa, Inc., 191  
 Glubo, People v., 181  
**Golt v. Phillips, 141**, 145, 151, 152  
 Gouldman-Taber Pontiac, Inc. v. Zerbst, 580  
 Grant v. General Elec. Credit Corp., 614  
 Green v. United States, 181  
**Greenman v. Yuba Power Products, Inc., 295**, 299, 306, 350  
 Greenway v. Information Dynamics, Ltd., 524 F.2d 1145, p. 232  
**Greenway v. Information Dynamics, Ltd., 399 F.Supp. 1092**, pp. 227, **228**, 237  
 Greenwood Trust Co. v. Commonwealth of Mass., 379  
 Grolier, Inc., In re, 722  
 Gryc v. Dayton-Hudson Corp., 362  
 Guernsey v. Rich Plan of the Midwest, 103  
 Guggenheimer v. Ginzburg, 151  
 Guimond v. Trans Union Credit Information Co., 257  
 Gustafsson, Commonwealth v., 483  
  
 Haas v. Pittsburgh Nat. Bank, 431, 434  
 Hale v. Ford Motor Credit Co., 610  
**Halpert v. Rosenthal, 24**, 28, 32, 47, 299, 720  
  
 Hanberry v. Hearst Corp., 721  
 Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co., 154  
**Harris v. Beneficial Finance Co. of Jacksonville, 772**  
 Hawley v. Professional Credit Bureau, Inc., 579  
 Heater v. F. T. C., 102, 797, 798  
 Hebron v. American Isuzu Motors, Inc., 310  
 Heintz v. Jenkins, 599  
 Helfinstine v. Martin, 604  
 Henderson v. Benson-Hartman Motors, Inc., 345  
 Henningsen v. Bloomfield Motors, Inc., 294  
 Henry v. Forbes, 235  
 Henson v. CSC Credit Services, 256  
 Henson, United States v., 105  
 Hibschan Pontiac, Inc. v. Batchelor, 362 N.E.2d 845, p. 780  
**Hibschan Pontiac, Inc. v. Batchelor, 340 N.E.2d 377**, pp. **775**, 780, 782  
 Higgins v. J.C. Penney, Inc., 275, 277  
 Hilder v. St. Peter, 780  
 Hinchliffe v. American Motors Corp., 192 Conn. 252, p. 772  
 Hinchliffe v. American Motors Corp., 184 Conn. 607, pp. 140, 771  
 Hinds v. Paul's Auto Werkstatt, Inc., 348  
 Hogg v. Ruffner, 389  
 Holiday Magic, Inc., In re, 797  
 Hollingsworth v. American Finance Corp., 693  
 Holloway v. Bristol-Myers Corp., 103, 796  
 Holt v. Boyle Bros., Inc., 579  
 Household Sewing Machine Co., In re, 82, 86  
 Housh v. Peth, 581  
**Hoven v. Kelble, 367**, 375, 377  
 Huntington Mortgage Co., United States v., 279  
  
**Imperial Discount Corp. v. Aiken, 623**, 624  
 Inksetter, In re, 483  
**In re (see name of party)**  
 I.N.S. v. Chadha, 346  
 Integra Bank/Pittsburgh v. Freeman, 281  
**International Harvester Co., In re, 60**, 72, 73, 84, 100, 145, 349, **490** 495, 596  
 International Science & Technology Institute, Inc. v. Inacom Communications, Inc., 111  
 Iowa Mut. Ins. Co. v. Parr, 672  
**Iron and Glass Bank v. Franz, 702**  
  
 Jacobs v. Yamaha Motor Corp., 348  
 Jacobsen v. Whitely, 23  
 Jacob Siegel Co. v. Federal Trade Commission, 100  
 Janes v. First Federal Sav. and Loan Ass'n of Berwyn, 547, 551, 720  
 J. C. Penney Co., State v., 431  
 J. C. Penney Co., Inc., State ex rel. Edmisten v., 583  
 Jenkins v. Union Corp., 722

- Jennings v. Globe Life & Acc. Ins. Co. of Oklahoma, 555  
**Jeter v. Credit Bureau, Inc., 589**, 596, 597  
 Jim Walter Homes, Inc. v. Schuenemann, 615  
 J.M. v. Shell Oil Co., 688  
 Johnson v. Davis, 45  
 Johnson v. Georgia Highway Exp., Inc., 753, 754  
 Johnson v. Healy, 47  
 Johnson v. Sears, Roebuck & Co., 377  
**Jones v. Abriani, 333, 724**, 729, 730, **778**, 780  
 Jones v. General Motors Acceptance Corp., 621  
**Jones v. Rath Packing Co., 164**, 171  
 Jones v. Star Credit Corp., 469, 470, 471, 513, 782  
**Jones v. West Side Buick Auto Co., 7**, 12, 13, 14, 15, 104, 774  
 Judo, Inc. v. Bialo (Peet), 652
- Katharine Gibbs School (Inc.) v. F.T.C., 178  
**Kellerman v. MCI Telecommunications Corp., 173**, 178  
 Kennedy v. City of Sawyer, 305  
 Kenty v. Bank One, Columbus, N.A., 182  
 Kidwell, State ex rel. v. Master Distributors, Inc., 152, 722  
 King v. Towns, 12, 13, 14, 24, 513, 774  
 Kink v. Combs, 781  
 Kirchner, In re, 57  
 Knapp v. Potamkin Motors Corp., 153  
 Knight v. International Harvester Credit Corp., 719  
**Knipp v. Weinbaum, 318**, 346  
 Koenig v. Milwaukee Blood Center, Inc., 376  
 Koerner v. Oberly, 781  
**Koropoulos v. Credit Bureau, Inc., 242**, 250, 251, 255, 271  
 Koscot Interplanetary, Inc., State ex rel. Sanborn v., 124  
 Kusters v. Seven-Up Co., 679  
 Kuchta v. Allied Builders Corp., 693  
**Kugler v. Romain, 798**, 803, 804
- Lankford v. Rogers Ford Sales, 332  
 La Throp v. Bell Federal Sav. & Loan Ass'n, 549  
 Latino v. Ford Motor Co., 349  
 Leardi v. Brown, 502  
 Lemelledo v. Beneficial Management Corp. of America, 128  
 Leombruno v. Julian, 783  
**Leon A. Tashof, In re, 73**  
 LeVick v. Skaggs Companies, Inc., 796  
**Levine v. Parks Chevrolet, Inc., 109**, 111  
 Lewis v. ACB Business Services, Inc., 586, 587  
 Liggins v. May Co., 582  
 Limbrecht, State ex rel. Turner v., 150, 152  
 Local Finance Corp. v. Commissioner, 553  
 Logsdon v. Fifth Third Bank of Toledo, 561  
 London Realty Co. v. Riordan, 409  
 Lou Leventhal Auto Co., Inc. v. Munns, 782
- Lucas v. Continental Cas. Co., 551, 558  
 Lugar v. Edmondson Oil Co., Inc., 622
- Mace v. Van Ru Credit Corp., 821  
 MacPherson v. Buick Motor Co., 294  
 Mandel, United States v., 182  
 Marine Midland Bank v. Burley, 524, 525  
**Markham v. Colonial Mortg. Service Co., Associates, Inc., 264**, 269  
 Marquette Nat. Bank of Minneapolis v. First of Omaha Service Corp., 379  
**Martorano v. Capital Finance Corporation, 405**, 408, 409  
 Maryland v. Cottman Transmissions Systems, Inc., 679  
 Mason v. Service Loan & Finance Co., 520  
 Master Distributors, Inc., State ex rel. Kidwell v., 152, 722  
**Mayfield v. Vanguard Sav. & Loan Ass'n, 733**, 737, 738  
 McClellan v. Kansas City, 377  
 McDonnell-Douglas Corp. v. Green, 288  
 McFadden v. Elma Country Club, 269, 270  
 McGee v. International Life Ins. Co., 661  
 McPhee v. Chilton Corp., 252  
 McPherson v. Commerce Bank, 280  
 Metowski v. Traid Corp., 815  
 Midwest Service Bureau of Topeka, Inc., State ex rel. Miller v., 582  
 Miele v. Sid Bailey, Inc., 600  
 Milbourn, State ex rel. Webster v., 348  
 Milbourne, In re, 430  
 Miller v. Credit Bureau, Inc., 252  
 Miller, State ex rel. v. Midwest Service Bureau of Topeka, Inc., 582  
 Millstone v. O'Hanlon Reports, Inc., 254, 257  
 Milt Ferguson Motor Co. v. Zeretzke, 348  
 Mims v. Dixie Finance Corp., 525  
 Minjac Corp., People v., 181  
 Mirabal v. General Motors Acceptance Corp., 757, 758  
 Mitchell v. Ford Motor Credit Co., 633  
 Mitchell v. W. T. Grant Co., 622  
 Mobile Housing, Inc. v. Stone, 310, 311  
 Mobil Oil Corp. v. Bransford, 689  
 Montgomery Ward & Co., In re, 219  
 Montgomery Ward & Co., United States v., 279, 289  
 Monumental Properties, Inc., Commonwealth v., 123  
 Moore v. Goodyear Tire and Rubber Co., 647  
 Morales v. Trans World Airlines, Inc., 172  
 Moran v. Holman, 632  
 Morosani v. First Nat. Bank of Atlanta, 182  
 Morris v. Mack's Used Cars, 338, 348  
 Morrow v. L.A. Goldschmidt Associates, Inc., 96 Ill.Dec. 939, p. 780  
 Morrow v. L.A. Goldschmidt Associates, Inc., 82 Ill.Dec. 152, p. 780  
 Morrow v. New Moon Homes, Inc., 306, 308  
 Mosby v. Goff, 609  
 Mother & Unborn Baby Care of North Texas, Inc. v. State, 722

- Motor Vehicle Mfrs. Ass'n of United States, Inc. v. Abrams, 788  
 Motor Vehicle Mfrs. Ass'n of United States, Inc. v. O'Neill, 338  
 Mourning v. Family Publications Service, Inc., 185  
**Murray v. Holiday Rambler, Inc., 322**, 331, 332, 333, 334, 336, 730
- National Bank of Commerce of Seattle v. Thomsen, 390, 392, 430  
 National Commission On Egg Nutrition v. F. T. C., 100  
 National Financial Services, Inc., United States v., 600  
 National Petroleum Refiners Ass'n v. F. T. C., 52  
 Nelson v. Schanzer, 722  
 Nevada Nat. Bank v. Huff, 609  
 Neveroski v. Blair, 123  
**New Finance, Limited v. Ellis, 666**, 669  
**Newmark v. Gimbel's Inc., 363**, 366, 375  
 Newsome v. Prudential Ins. Co. of America, 558  
**New York v. Financial Services Network, USA, 113**  
 New York v. Thurcon Props., Ltd., 722  
 Nichols v. Arthur Murray, Inc., 687, 693  
 Nobility Homes of Texas, Inc. v. Shivers, 308  
 Northern Trust Co., United States v., 279  
 North Georgia Finishing, Inc. v. Di-Chem, Inc., 622  
 Nosoma Systems, Inc., In re, 582
- O'Banner v. McDonald's Corp., 693  
 Obde v. Schlemeyer, 32, 49  
 O'Connor v. Lamb, 410, 411  
 O'Hare Intern. Bank v. Hampton, 661  
**Ollerman v. O'Rourke Co., Inc., 32**, 36, 40, 45, 72, 183, 299  
 O'Quinn v. Diners Club, Inc., 280  
 Orkin Exterminating Co., In re, 496, 500, 504  
 Orlando v. Finance One of West Virginia, Inc., 504  
 Osmond v. Spence, 651  
 Overland Bond & Inv. Corp. v. Howard, 320
- Palmer v. Wilson, 738  
 Pan Am. World Airways, Inc. v. United States, 87  
 Parker v. Arthur Murray, Inc., 19, 20, 24, 152  
**Parker v. George Thompson Ford, Inc., 815**, 820, 821  
 Parton v. Mark Pirtle Oldsmobile-Cadillac-Isuzu, Inc., 318  
 Pease v. Taylor, 430  
 Peller v. Retail Credit Co., 505 F.2d 733, p. 241  
 Peller v. Retail Credit Co., 359 F.Supp. 1235, p. 241  
 Pelster v. Ray, 105  
 Pennington v. Singleton, 125, 774
- Pennsylvania v. Delaware Valley Citizens' Council for Clean Air, 754  
**People v. \_\_\_\_\_ (see opposing party)**  
**People ex rel. v. \_\_\_\_\_ (see opposing party and relator)**  
**Peoples Finance & Thrift Co. of Salt Lake City v. Blomquist, 665**, 669  
**Perdue v. Crocker Nat. Bank, 471**, 476, 477, 478, 489, 509, 510  
 Perino v. Mercury Finance Co. of Illinois, 420  
 Perrin v. Pioneer Nat. Title Ins. Co., 550, 720  
 Petersen v. Philco Finance Corp., 397, 424  
 Peterson v. Sinclair Refining Co., 375  
 Petrillo v. Bachenberg, 722  
 P.F. Collier & Son Corp. v. F.T.C., 722  
 Pfizer, Inc., In re, 84  
 Phipps v. General Motors Corp., 308  
 Pinner v. Schmidt, 251, 255  
 Plant v. Blazer Financial Services, Inc. of Georgia, 820  
 Poole v. Bates, 542  
**Postow v. Oriental Bldg. Ass'n, 743**, 753, 758  
 Powers v. Sims and Levin Realtors, 211  
 Process Gas Consumers Group v. Consumer Energy Council of America, 346  
**Public Finance Corp. v. Davis, 565**, 572, 574, 578, 581, 585, 645  
 Pumphrey v. Quillen, 135 N.E.2d 328, pp. 28, 299, 720  
 Pumphrey v. Quillen, 141 N.E.2d 675, pp. 29, 31  
 Purity Supreme, Inc. v. Attorney General, 153
- Quiller v. Barclays American/Credit, Inc., 764 F.2d 1400, p. 614  
 Quiller v. Barclays American/Credit, Inc., 727 F.2d 1067, p. 449
- Rachbach v. Cogswell, 738  
 Ralph Williams' North West Chrysler Plymouth, Inc., State v., 803  
 Ramirez v. Autosport, 333  
 Ramson v. Layne, 721  
 Randy Knitwear, Inc. v. American Cyanamid Co., 308  
 Razor v. Retail Credit Co., 257  
 Ratner v. Chemical Bank New York Trust Co., 820  
 Raymond v. Riegel Textile Corp., 362  
 Realmuto v. Straub Motors, Inc., 366  
 Removatron International Corp., In re, 85  
 Reynolds v. Skelly Oil Co., 689  
 Rice v. Snarlin, Inc., 796  
 Robinson v. Jefferson Credit Corp., 647  
**Robinson v. Rebsamen Ford, Inc., 541**, 542  
 Rodrigues v. R. H. Macy & Co., Inc., 259  
**Rollins, Inc. v. Foster, 790**  
 Rothschild v. Federal Trade Commission, 582  
 Rotolo v. Stewart, 375  
 Royal Business Machines, Inc. v. Lorraine Corp., 21

- Russow v. Bobola, 32  
 Rutyna v. Collection Accounts Terminal, Inc., 587
- Saab-Scania of America, Inc., In re, 349  
 Sanborn, State ex rel. v. Koscot Interplane-tary, Inc., 124  
 Sanders v. Francis, 152  
 Santor v. A & M Karagheusian, Inc., 306, 309  
 Saylor v. Handley Motor Co., 12, 13, 14  
 Schauman v. Solmica Midwest, Inc., 389  
**Schubach v. Household Finance Corp., 658, 659, 660, 664**  
 Scott, People ex rel. v. Cardet Intern., Inc., 124  
**Scott v. Western Intern. Surplus Sales, Inc., 767, 772**  
**Searle v. Exley Exp., Inc., 120, 123, 124, 125**  
 Seely v. White Motor Co., 306  
 Sellinger v. Freeway Mobile Home Sales, Inc., 155, 796  
 Serrano v. Priest, 740  
 Shaw, State v., 182  
 Shields v. Bobby Murray Chevrolet, Inc., 634  
 Shuman v. Standard Oil Co. of California, 279, 281  
 Silverman v. Eastrich Multiple Investor Fund, L.P., 281  
 Singleton v. International Dairy Queen, Inc., 688  
 Smeyres v. General Motors Corp., 217  
 Smiley v. Citibank (South Dakota), N.A., 379  
 Smith v. Chapman, 211  
 Sniadach v. Family Finance Corp. of Bay View, 621, 649  
 Snyder v. First Federal Sav. and Loan Ass'n of Rapid City, 719  
 Southards v. Central Plains Ins. Co., 558  
 South Branch Valley Nat. Bank v. Williams, 519, 551, 556  
 Speigle v. Chrysler Credit Corp., 610  
 Spiegel, Inc. v. F.T.C., 655, 657, 658, 659, 660, 664  
 Standard Oil Co., In re, 98  
 Stanley v. R. S. Evans Motors of Jacksonville, Inc., 524  
 Star Credit Corp. v. Ingram, 782  
**State v. \_\_\_\_\_ (see opposing party)**  
 State by Lefkowitz v. ITM, Inc., 156  
**State ex rel. v. \_\_\_\_\_ (see opposing party and relator)**  
 Stepniewski v. Gagnon, 181  
 Stevenson v. Employers Mut. Ass'n, 253  
 Stewart v. Credit Bureau, Inc., 250, 251  
 Stewart v. Remco Enterprises, Inc., 209, 210  
 Story v. J. M. Fields, Inc., 581  
 Strawn v. Canuso, 39  
 Suburban State Bank v. Squires, 559  
 Sullivan v. United Dealers Corp., 699  
 Summey v. Ford Motor Credit Co., 103  
 Sunderhaus v. Perel & Lowenstein, 21, 22, 24  
 Sun Oil Co., In re, 98  
 Superior Court of Los Angel, People v., 804  
 Superwood Corp. v. Siempelkamp Corp., 308  
 Svendsen v. Smith's Moving & Trucking Co., 622  
 Swarb v. Lennox, 650  
 Swartz v. General Motors Corp., 350  
 Swinton v. Whitinsville Sav. Bank, 32  
 Swoager v. Credit Bureau of Greater St. Petersburg, Fla., 255  
 Szajna v. General Motors Corp., 344  
 Szeftczek v. Hillsborough Beacon, 111
- Taber v. Hutson, 781  
 Tashof v. F. T. C., 82, 83, 84  
 Taylor v. Alfama, 20  
 Testo v. Russ Dunmire Oldsmobile, Inc., 151, 333  
 Thompson v. San Antonio Retail Merchants Ass'n, 251  
 Thompson Medical Co., In re, 56  
 Timperley v. Chase Collection Service, 581  
 Tolbert v. First Nat. Bank of Oregon, 510  
 Trans World Accounts, Inc. v. F. T. C., 582  
 Travelers Health Ass'n v. Commonwealth of Va. ex rel. State Corp. Com'n, 661  
**Tri-County Federal Sav. and Loan Ass'n of Waldorf v. Lyle, 393, 396, 430**  
 Trogun v. Fruchtman, 368  
 Truck Center of Tulsa, Inc. v. Autrey, 633  
 Tureen v. Equifax, Inc., 227  
 Turner, State ex rel. v. Limbrecht, 150, 152  
**Tusa v. Omaha Auto. Auction Inc., 106, 110**
- Unico v. Owen, 697, 699  
 United Companies Mortg. and Inv. of Hammond, Inc. v. McGee's Estate, 559  
**United States v. \_\_\_\_\_ (see opposing party)**  
 United States Oil and Gas Corp., In re, 722  
 Universal C. I. T. Credit Corp. v. Shepler, 611  
 Universal Credit Acceptance Corp., In re, 102  
 Urdang v. Muse, 613  
**USLIFE Credit Corp. v. F. T. C., 535, 537, 538**  
**USLIFE Credit Corp., In re, 525, 526**
- Valley Datsun v. Martinez, 20  
 Valley Vista Condominium Owners Ass'n v. Gates Eng'r Co., 348  
 VanBooven v. Smull, 32  
 Varela v. Wells Fargo Bank, 620  
**Vargas v. Allied Finance Co., 656, 659**  
 Vasquez v. Superior Court of San Joa, 809, 810, 815  
 Ventura v. Ford Motor Corp., 339, 341  
 Vernon Fire & Cas. Ins. Co. v. Sharp, 780  
 Virginia State Bd. of Pharmacy v. Virginia Citizens Consumer Council, Inc., 100  
 Vogelsang v. Credit Life Ins. Co., 558  
**Vokes v. Arthur Murray, Inc., 16, 19, 20, 22, 161, 164**

- Voneye v. Turner, 575,** 578, 579, 580, 581, 585
- Walker v. Sheldon, 783
- Walsh v. Ford Motor Co., 343
- Ward Laboratories, Inc. v. Federal Trade Com'n, 98
- Warehouse Home Furnishing Distributors, Inc. v. Whitson, 562
- Warner-Lambert Co. v. F. T. C., 86,** 98, 99, 100, 797
- Washburn v. Vandiver, 180
- Watkins v. Valley Fidelity Bank & Trust Co., 558
- Web Press Services Corp. v. New London Motors, Inc., 20
- Webster, State ex rel. v. Milbourn, 348
- Weigel v. Ron Tonkin Chevrolet Co., 134,** 767
- Weitzel v. Barnes, 129**
- Wellenkamp v. Bank of America, 613
- Whigham v. Beneficial Finance Co. of Fayetteville, Inc., 819, 820
- Williams v. Benson, 44, 45
- Williams v. First Federal Sav. and Loan Ass'n of Rochester, 288
- Williams v. Illinois State Scholarship Com'n, 663, 664
- Williams v. ITT Financial Services, 719
- Williams v. Public Finance Corp., 435
- Williams v. Rank & Son Buick, Inc., 22, 24, 152
- Williams v. Walker-Thomas Furniture Co., 452,** 455, 456, 465, 489, 511
- Wilmington Trust Co. v. Conner, 624,** 631, 632, 633
- Winkle v. Grand Nat. Bank, 520
- Winkle Chevy-Olds-Pontiac, Inc. v. Condon, 780
- Wiseman, United States v., 652
- Wolf v. Toyota Motor Sales, USA, Inc., 824
- Wolverton v. Stanwood, 125
- Wood v. Holiday Inns, Inc., 236, 693
- Wright v. Finance Service of Norwalk, Inc., 600
- W.S. Badcock Corp. v. Myers, 562
- Yazzie v. Reynolds, 191
- Young v. Joyce, 124
- Zabriskie Chevrolet, Inc. v. Smith, 334
- Zauderer v. Office of Disciplinary Counsel of Supreme Court of Ohio, 101
- Zeeman v. Black, 154
- Ziegler v. Houghton-Mifflin Co., 661

# CONSUMER TRANSACTIONS

\*



---

## SUMMARY OF CONTENTS

	Page
PREFACE-----	v
ACKNOWLEDGMENTS-----	vii
TABLE OF CASES-----	xix
TABLE OF STATUTES-----	xxvii
TABLE OF FEDERAL RULES AND REGULATIONS-----	xxxix
INTRODUCTION-----	1
A. Freedom of Contract and Government Intervention-----	1
B. Types of Consumer Credit Transactions-----	3

### PART I. PROBLEMS IN FORMATION

CHAPTER 1. DECEPTION—THE RESPONSE OF THE COMMON LAW-----	6
CHAPTER 2. DECEPTION—LEGISLATIVE SOLUTIONS AT THE FEDERAL LEVEL: THE FEDERAL TRADE COMMISSION ACT-----	51
A. Introduction-----	51
B. The Meaning of “Deceptive Acts or Practices”-----	52
C. Remedies Under the FTC Act-----	85
D. Topical Statutes-----	103
(1) Odometer Fraud-----	103
(2) Telemarketing-----	111
CHAPTER 3. DECEPTION—LEGISLATIVE SOLUTIONS AT THE STATE LEVEL---	120
A. Comprehensive Statutes-----	120
B. Topical Statutes-----	155
(1) Referral Sales-----	156
(2) Regulation of a Trade or Industry-----	157
C. Preemption-----	164
D. Criminal Sanctions-----	180
CHAPTER 4. THE NEED FOR INFORMATION-----	183
A. Introduction to the Truth-in-Lending Act-----	183
B. Scope of the Truth-in-Lending Act-----	188
C. Timing of the Disclosure-----	190
D. Content of the Disclosure-----	190
(1) Closed-end Credit-----	191
(2) Open-end Credit-----	195
(3) Leases-----	203
(4) Rent-to-Own-----	208
(5) Clarity-----	210
E. Advertising Credit Terms-----	213
F. Enforcement of the Truth-in-Lending Act-----	216