

P E N N S Y L V A N I A
OFFICE OF ATTORNEY GENERAL

**BUREAU OF
CONSUMER PROTECTION**

Jim Wise

Deputy Attorney General

www.attorneygeneral.gov





BUREAU OF CONSUMER PROTECTION

Functions

Mediate



Investigate



Litigate





BUREAU OF CONSUMER PROTECTION

Powers and Duties

To investigate commercial and trade practices in the distribution, financing and furnishing of ***goods and services*** to or for the use of consumers in order to determine if such practices are detrimental to the public interest...





BUREAU OF CONSUMER PROTECTION

UNFAIR TRADE PRACTICES & CONSUMER PROTECTION LAW (CPL)

■ Purpose of Law

- Protect public from fraud and unfair or deceptive business practices
- Underlying foundation of CPL is fraud prevention, and it must be liberally construed to effect that purpose.





BUREAU OF CONSUMER PROTECTION

UNFAIR TRADE PRACTICES & CONSUMER PROTECTION LAW



- Defines “unfair methods of competition” and “unfair or deceptive acts or practices”



BUREAU OF CONSUMER PROTECTION

“DECEPTIVE” OR “UNFAIR”

- (ii) – Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services;
- (v) – Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he does not have;
- (xxi) - Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.



BUREAU OF CONSUMER PROTECTION

“DECEPTIVE” OR “UNFAIR”

- An act or practice is deceptive or unfair if it has the capacity or tendency to deceive, regardless of whether actual deception is shown.





BUREAU OF CONSUMER PROTECTION

UNFAIR TRADE PRACTICES & CONSUMER PROTECTION LAW

- Injunctive Relief – ability to permanently enjoin an individual or business from engaging in deceptive or unfair conduct
- Costs & Restitution – the court may order costs and restitution as appropriate
- §201-8 – Civil Penalties – can assess \$1,000 for each violation or where the consumer is 60 or older a \$3,000 penalty is permissible for each violation



BUREAU OF CONSUMER PROTECTION

UNFAIR TRADE PRACTICES & CONSUMER PROTECTION LAW



- Assurance of Voluntary Compliance – parties may negotiate an AVC with the Attorney General. It may include a stipulation for voluntary payment of restitution to consumers
 - Written agreement



BUREAU OF CONSUMER PROTECTION

Tips for Mediating Complaint

- Don't hesitate
- Be specific
 - Identify salesperson, dates, model no., etc.
- Provide copies of relevant documentation
 - Contract
 - Letters
 - Receipt
 - Photographs



BUREAU OF CONSUMER PROTECTION

Federal Collection Law

■ Fair Debt Collection Practices Act

- Fair Debt Collection Practices Act of 1977, Pub. L. No. 95-109 (codified at 15 U.S.C. § 1692a–p (2006))
- Debt: any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or services which are the subject of the transaction are **primarily for personal, family, or household purposes**, whether or not such obligation has been reduced to judgement.



BUREAU OF CONSUMER PROTECTION

PA Debt Collection Law

- Fair Credit Extension Uniformity Act
 - 73 P.S. § 2270.4 (2007)
- (a) BY DEBT COLLECTORS.-- It shall constitute an unfair or deceptive debt collection act or practice under this act if a debt collector violates any of the provisions of the Fair Debt Collection Practices Act (Public Law 95-109, 15 U.S.C. § 1692 et seq.).



BUREAU OF CONSUMER PROTECTION

PA Debt Collection Law

- Fair Credit Extension Uniformity Act
 - 73 P.S. § 2270 (2007)
- (b) BY CREDITORS.-- With respect to debt collection activities of creditors in this Commonwealth, it shall constitute an unfair or deceptive debt collection act or practice under this act if a **creditor** violates any of the following provisions...



BUREAU OF CONSUMER PROTECTION

Fair Credit Extension Uniformity Act

- Areas of Concern:
 - Location Information
 - Communication with a Consumer
 - Harassing or abusive collection practices
 - False or misleading representations
 - Unfair or unconscionable means



BUREAU OF CONSUMER PROTECTION

Application of CPL to Debt Collection

- What if the debt falls *outside* FDCPA and FCEUA provisions?
 - Are practices deceptive or unfair?



BUREAU OF CONSUMER PROTECTION

Application to Attorneys?

■ FCEUA

■ “Debt collector” includes:

- An attorney, whenever such attorney attempts to collect a debt, as herein defined, **except** in connection with the filing or service of pleadings or discovery or the prosecution of a lawsuit to reduce a debt to judgment. 73 P.S. § 2270.3.

■ FDCPA

- No attorney exemption...yet



BUREAU OF CONSUMER PROTECTION

H.R. 5082 - Practice of Law Technical Clarification Act of 2018

- Proposed FDCPA amendment to exempt lawyers/firms from definition of “debt collector” to the extent that—
- (i) such firm or attorney is engaged in litigation activities in connection with a legal action in a court of law to collect a debt on behalf of a client, including—
 - (I) serving, filing, or conveying formal legal pleadings, discovery requests, or other documents pursuant to the applicable statute or rules of civil procedure;
 - (II) communicating in, or at the direction of, a court of law (including in depositions or settlement conferences) or in the enforcement of a judgment; or
 - (III) any other activities engaged in as part of the practice of law, under the laws of a State in which the attorney is licensed, that relate to the legal action; and
- (ii) such legal action is served on the defendant debtor, or service is attempted, in accordance with the applicable statute or rules of civil procedure

P E N N S Y L V A N I A
OFFICE OF ATTORNEY GENERAL

**BUREAU OF
CONSUMER PROTECTION**

Jim Wise

Deputy Attorney General

www.attorneygeneral.gov

