MEET YOUR CLIENTS

CONSUMER PROTECTION
FALL 2002

I. Introduction

One of the themes of this course is the difficulty of formulating legal standards and rules because of the diversity of consumers, sellers, and creditors. Audrey Vokes is a vulnerable, elderly widow. Vokes v. Arthur Murray. P. 16. Ryland Parker is a 37-year-old college-educated bachelor. Parker v. Arthur Murray . P.19. The women in Charles of the Ritz, p.52, were most likely middle class, since they had discretionary income during World War II to buy skin creme. The court found, however, that they had been "conditioned" by the media. The consumers in In Re Leon A. Tashof, p.73, are low income, inner city African-Americans. Sellers range from Tashof, an individual store owner, to major international industrial companies such as International Harvester, p.60, automobile dealers, and drug companies. P.84 Creditors range from the corner store to giants such as Household Finance, mortgage companies, banks, etc.

One of the goals of the course is to equip you with *some* of the tools you will need when you represent parties such as these in consumer protection cases. As the semester proceeds, we will deal with certain of these clients in relation to the topics we are studying. Facts may change and clients may be added as we confront new situations and problems.

II. Dewey, Cheatham & Howe

Dewey, Cheatham & Howe (DCH) represents the industry. Their clients illustrate the broad range of industry participants.

One client is Ron Ellison who owns The Friendly Stores. These actually are several separately incorporated businesses all under one roof. One is Friendly Finance, which offers small loans. A second is Friendly Cash, which offers check cashing services. A third is Friendly Furniture Rentals, which operates a rent-to-own operation. A fourth is Friendly Furniture & Appliance which sells used and new goods. A fifth is Friendly Pawn Shop. Ron has retained DCH, not only to represent him in his lawsuits, but also to advise him concerning what new businesses he should consider starting, and what new fees and charges he can lawfully add to his transactions. Ron needs to dream up new ways of increasing his profits because his store is in the low-income neighborhood south of Turner Field. His costs are high: Insurance is exorbitant. Many of his customers fail to pay on time and he must employ a debt collection agency, and occasionally DCH, to encourage them to pay. Sometime he needs to hire a "repo man." Because of his business location, high operating costs, and lack of credit history, he has been unable to raise or borrow enough money. Therefore, he is undercapitalized. Nevertheless, he is

determined to remain in the community because it is where he grew up and he believes he can contribute to its welfare by providing jobs and services in a neighborhood which lacks both.

The firm also represents Associated Consumer Services, Inc. (ACS) which operates the same types of businesses as Ellison, except ACS' companies do business out of separate stores and under various names. ACS' stock is publicly traded (on NASDAQ), and it also has raised millions of dollars in business loans from major national financial institutions. In Atlanta, their banker is FirstBanc. (See below) ACS operates scores of stores throughout the country, including many stores in the Atlanta area. In Atlanta, it has stores in areas such as Buford Highway and Chamblee Tucker, where there are large numbers of recently arrived persons from Asia, Latin America, and Russia. DCH deals with three Atlanta-based ACS managers: Maria Sanchez, Joe Jin Lee, and Sid Sharansky. They need DCH's advice on how to charge as much as possible for their goods and services. Although their company has deep pockets, they are under constant pressure from the home office to increase profits in order to improve their position in the stock market and provide resources to possibly acquire competitors. In regard to their pawn shops, they are particularly interested in car title pawns in which consumers pawn the title to their automobiles. If they fail to pay the loan, ACS can seize their cars. Their loan company is interested in the "sub prime" market, people with poor credit ratings. They are affiliated with a credit insurance company, so are always looking for ways to get consumers to purchase various types of insurance in connection with their credit transactions.

DCH also represents Darlene the Dodge Dealer, a seller of new and used cars. Darlene needs advice on Georgia's Lemon Law. She assumes it is bad for her and is looking for ways to discourage consumers from resorting to it. She also operates an auto repair shop and wants to know what laws govern that business.

DCH represents FirstBanc. This is a traditional bank which wants to increase its consumer lending business, including online computer home banking services. DCH's principal contact at the bank is H. Cornball Wallace, III, the bank president, who is a prominent leader in the Atlanta community. At the present time, almost all of its lending is on the commercial side and consequently the bank is accustomed to dealing only with middle class persons somewhat sophisticated in financial transactions.

DCH's clients also include various trade associations which represent the consumer financial services business. These include the National Check Cashers Association, the National Rent-To-Own Association, the National Automotive Service Industry Association, and the National Pawn Shop Association. These groups occasionally retain DCH to prepare testimony in regard to proposed national and state statutes and regulations. They also retain DCH to draft amicus briefs in appellate litigation.

III. Class, Fee & Bono

Class, Fee & Bono (CFB) represents consumers. They are a small firm with limited resources. Bonnie Bono recently joined the firm after several years with a legal services program where she represented low income consumers. Cleo Class specializes in class actions, and Fred Fee is an expert on suing under statutes which authorize awarding attorney's fees to successful plaintiffs.

One of their clients is Ryland Ross. He is a 37-year-old married man who works as an assistant chef at a Denny's restaurant. He and his wife Pilar have trouble making ends meet because they got into the habit of making many credit card purchases while still trying to pay off large student loans. Unable to pay their bills, they filed for a Chapter 13 bankruptcy a few years ago. They recently bought a car. They initially went to FirstBanc for a loan to finance the car, but that bank turned them down. Ross believes it may have had something to do with a credit bureau report. They then went to ACS where they received a loan, but the terms seem awfully expensive. They bought the car from Darlene the Dodge Dealer. They claim the car is a lemon and want to know what to do. Pilar has had trouble establishing her own credit status independent of her husband's.

Another client is Sara Shelby who lives south of Turner Field and obtains many goods and services from Mr. Ellison's stores. She is on welfare, has fallen seriously behind on her payments, and claims a debt collector is harassing her. Her social situation and buying habits are remarkably like those of her sister, who was featured in an article in the Wall Street Journal. Please read that article which can be found in Westlaw at 1992 WL-WSJ 640378. (Francine Schwadel, "Doing Business in the Inner City-Poverty's Cost: Urban Consumer Pay More and Get Less, and Gap May Widen," Wall St. J. (July 12, 1992).

Finally, an old friend of Cleo Class, Gilbert Gates, called to complain about CompuServe. Gilbert is a Georgia Tech grad who is brilliant, but has trouble holding down a job. He wants to bring a class action. Gilbert bought a computer under a CompuServe promotion whereby persons who bought that computer and signed up for three years of Internet service with CompuServe would receive a $400 rebate. In order to receive the rebate, Gilbert was required to complete and mail in an application form. The form states that consumers should allow "8-10 weeks from rebate approval" to receive the rebate. Gilbert wants to sue because he had did not receive his rebate until 12 weeks after his rebate was approved. In addition, Gilbert set up a Web site "ConsumersComplainCompuServeRebate.com" which encouraged consumers to report their complaints. 430 people reported similar delays in receiving their rebates. Gilbert says this proves there is a basis for a class action. Bonnie Bono objects to the firm taking the case. She doesn't think Gilbert can show any meaningful injury, just the loss of whatever interest he could have earned on $400 for two weeks. She claims he was just looking for a way to make some money because he's been out of work so often. Cleo became angry at Bonnie's opposition and pointed out the firm was losing money representing too many pro bono clients such as Sara Shelby. Under Bonnie's questioning, however,

Cleo admitted that actually it was she who suggested the lawsuit to Gilbert after reading in the paper about a similar case which had been filed in Florida. Stone v. CompuServe, 2001 WL 1189999 (Fla.App.2001).

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