

CONSUMER PROTECTION PAPER TOPICS FALL 2002

The following list of paper topics is intended to give a little help to those who do not have any idea what they might be interested in writing about. This list is not meant to be exclusive. There are potentially scores of other fantastic topics, so do not reject any idea you have just because it is not on the list. Some of those on the list may not be suitable for a paper; they occurred to me because in most instances there has been recent case law or legislative activity.

Once you have picked a possible topic, do some preliminary reading in the cases and journals to determine if your topic is viable. Then come talk to me.

And remember, if you can't find a topic, you can take the exam instead, so you can't lose.

1. Fair Credit Reporting Act — analysis and critique of 1996 Amendments.
2. Consumer class actions. Are current limits in statutes necessary? Sufficient? Analysis of conflicts among consumer lawyers representing different groups of consumers. Defendant companies now shop around for the most amenable consumer lawyer with whom to enter into a class settlement. “Settlement class actions” raise troubling issues. See *Amchem Products v. Windsor*, 117 S. Ct. 2231 (1997). See also the casebook, pages 806-824. One approach to writing on class actions is to critique the proposals before Congress to restrict class actions.
3. Forced place insurance. See *Travis, Wesley & Smith v. Boulevard Bank*, 880 F. Supp. 1226 (N. D. Ill. 1995).
4. Commercial free speech. See *Lorillard Tobacco Co. v. Reilly*, 121 S. Ct. 2402 (2001), in which the Supreme Court struck down certain provisions of a state's regulations imposing restrictions on the advertising of tobacco products on First Amendment grounds, but upheld a restriction on the manner in which such products could be sold. See *44 Liquormart, Inc. v. Rhode Island*, 116 S. Ct. 1495, 134 L. Ed. 2d 711 (1996), in which the Supreme Court struck down a state law prohibiting the advertising of alcoholic beverage prices, except on signs inside of stores in order to encourage temperance. Is this an example of a Supreme Court increasingly using the free speech guarantee in the Constitution as a vehicle to promote the interests of business? See *Thompson v. Western States Medical Center*, 122 S. Ct. 1497 (2002) in which the Supreme Court struck down on First Amendment grounds a provision of a federal law that prohibited advertising and promotion of certain drugs. See David Savage, “The Shifting Sands of Free Speech,” *Am. B. Assoc. J.* 42 (Dec. 1996).

5. Sales on the Internet. Issues include: What constitutes offer and acceptance? How and when must the seller disclose the terms of the sale? Should there be special rules for shrinkwrap and clickwrap software licenses. See Uniform Computer Information Transactions Act (in *Selected Commercial Statutes*); Hill v. Gateway 2000, 105 F.3d 1147 (7th Cir. 1997). See also topics discussed in Supplementary Materials including application of FTC Act to online sales.
6. Privacy- bank records, payment systems, the Internet, electronic signatures. How far should government go to protect consumer privacy? Analyze the Gramm-Leach-Bliley Financial Modernization Act of 1999 and agency regulations issued pursuant to that Act. Should a federal law be enacted extending privacy protection to consumers of all services, not just the financial services covered by Gramm-Leach?
7. Lemon law (Georgia's law compared to other states; pre-emption issues when state lemon laws clash with Magnuson-Moss)
8. Alternative Dispute Resolution of consumer cases (do consumers lose more than they gain, i.e., legal protections, publicity, precedent)? See the casebook at pages 786-96. See the cases in the Supplementary Materials including a U.S. Supreme Court case. See also the summary of consumer arbitration cases on Professor Budnitz' Web site.
9. Americans with Disabilities Act (the effect of this legislation on financial institutions' facilities (ATMs) and practices; relationship to Equal Credit Opportunity Act). For example, several class actions have been brought by blind consumers against banks' ATMs.
10. Federal Trade Commission. Possible issues include: rulemaking v. litigation; historical review and analysis of the FTC's differing focus and definitions of unfair and deceptive practices; endorsements and testimonials; analysis of FTC's treatment of selected industries; FTC's privacy and Internet fraud initiatives.
11. Comparison of various states' Unfair and Deceptive Acts and Practices statutes (e.g., compare Georgia Fair Business Practices Act and Texas' UDAP law).
12. Review and analysis of actions of state attorneys general.
13. Comparison of how various states treat selected industries, e.g., auto repair, consumer lending, rent-to-own, lemon laws, pawn shops - especially car title pawns.
14. Consumer laws related to home ownership (HMDA, RESPA, HOEP, home improvement fraud, residential mortgage fraud).

15. Lifeline banking-government and private initiatives to ensure consumers have access to low cost financial services.
16. Consumer law regarding payment systems (checks, credit cards, electronic funds transfer, ATMs, stored value cards, Internet transactions).
17. Telemarketing scams, new federal statute and FTC rules, need for state law. See the casebook at pages 111-13. Georgia has enacted several laws dealing with telemarketing.
18. Personal property leases (the newly issued Consumer Leasing Act, UCC Article 2A, Reg. M. and state consumer statutes).
19. How the Fair Debt Collection Practices Act affects the legal representation of creditors.
20. Consumer protection issues in the Uniform Computer Information Transactions Act which governs the sale and licensing of software. The Act is in *Selected Commercial Statutes*.
21. Predatory lending- FRB Chairman Alan Greenspan and Congress are studying how to encourage lenders to extend credit to the low income community while discouraging those lenders from taking unfair advantage of those consumers through excessive charges and harsh terms. North Carolina and Georgia recently enacted statutes to deal with this problem.
22. Pay day loans- Short term loans for small amounts which are due soon after the loan is made and for which the lender charges huge rates of interest. Are they a boon for consumers which should be encouraged, or a bust which should be outlawed or tightly regulated?
23. Racial steering and mortgage redlining on bank Web sites. See 74 USLW 1168 (2000).
24. Many paper topics are suggested by the casebook. Examples:
 - A. Odometer fraud (p. 103)
 - B. Credit insurance (Chapter 10)
 - C. Enforcement of the security interest (Chapter 12). Critique 1999 revisions of

Article 9 of the UCC.

- D. Creditor devices to facilitate collection (Chapter 13).
- E. Efficacy of state licensing and registration requirements. See casebook, p. 377, note 5.
- F. Inconvenient forums. See the casebook at pages 653-64.

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