An astonishing percentage of car sales involve fraud, deception, or unfair conduct. Automobile fraud is so prevalent for a number of reasons. The sheer amount of American car expenditures is enormous—hundreds of billions of dollars a year. In addition, both by necessity and by dealer ingenuity, car purchases are complex. The sale involves compliance with state titling and registration laws, and often involves trade-ins, financing, leasing, physical damage and liability insurance, credit insurance, service contracts, options, and other fees. This complexity provides ample opportunities for confusion and deception.

Dealer profits on sales of new cars are small: dealers make their profits from financing, insurance, service contracts, added charges and options, repairs, and the sale of used cars. In other words, there is enormous financial pressure to make profits on these items to offset the dealer’s inability to make significant profits from the sale of the new car itself.

A used car sale offers all the same opportunities for abuse as a new car sale, plus the buyer does not really know what he or she is buying. A used car’s history is easily misrepresented or kept hidden, and consumers often do not know a used car’s real value. Abuses involving used car sales are aggravated because used car buyers tend to have lower incomes and more marginal credit ratings than new car buyers, providing dealers with leverage to take greater advantage of this group of buyers.

Perhaps the most important factor involved in automobile fraud is a culture at many car dealers, wholesalers, and other segments of the industry in which taking unfair, predatory advantage of consumers is acceptable—in fact considered the standard way of doing business—and the rules of the game are “buyer beware.”

The fact that unfair and deceptive acts and practices (UDAP) statutes and other laws have abandoned the notion of buyer beware as a legal framework has not made an impact on the actual practices of these merchants. Commission structures, quotas, training, and supervision place relentless pressure on sales personnel and their supervisors to deceive and take advantage of consumers, and to do so in a very sophisticated and routinized manner.

This treatise provides advice on how to investigate, plead, litigate, and settle an automobile fraud claim. As described in § 1.2 [1], infra, this treatise focuses only on certain types of automobile fraud: when the dealer defrauds the consumer as to the nature of the vehicle itself or misleads the consumer in the transfer of ownership of a vehicle—so-called yo-yo sales and automobile brokerage scams.

Fraud as to financing or leasing, cancellation rights, warranty claims, and related topics are treated in other NCLC treatises, as set out in § 1.3 [2], infra. Section 1.4 [3], infra, provides an automobile litigation checklist, covering many different types of car-related litigation topics, with cross-references (links online) to the NCLC treatises where those topics are examined.

The number of consumers defrauded each year is in the millions. This book attempts to demonstrate that legal representation of such victims can provide adequate relief for the consumer and appropriate compensation for the attorney. It is relatively easy to investigate and prove automobile fraud. There are a number of viable legal claims to challenge this fraud, claims that offer statutory attorney fees, punitive damages, treble damages, cancellation of the sale, minimum damages, and other relief. In a number of instances, class actions may also be effective.

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