



Johnson DeLuca Kurisky & Gould P.C.
TRIALS AND TRANSACTIONS

AUTO DEALER BEST PRACTICES AND COMMON RED FLAGS:

AN OUNCE OF PREVENTION IS BETTER THAN
A GALLON OF PAIN

DISCLAIMER

This presentation and the accompanying materials do not constitute legal advice.

No attorney/client relationship is formed by these materials. You should consult your attorney regarding any legal matters that you may encounter.

Who We Are

JDKG Attorneys practice in the following areas:

Appeals

Auto Dealerships

Bankruptcy and Creditor's Rights

Common Carrier and Transportation

Mergers and Acquisitions

Insurance Coverage

Labor and Employment

Oil & Gas/Energy

Succession Planning

Arbitration

Banking

Commercial Litigation

Corporate Transactions

Environmental Litigation

Insurance Defense

Land Use

Real Estate

Trusts & Estates

George A. Kurisky, Jr.



George Kurisky is a shareholder in Johnson DeLuca Kurisky & Gould, P.C. He is a legal and business problem solver and a corporate trained transactional attorney. This background and experience gives him a solid foundation to proactively identify business issues and problems, as well as eliminate risks, on behalf of his clients.

George's representation focuses on business clients, locally, regionally, nationally and internationally. George's areas of concentration include corporate transactions, mergers and acquisitions, labor/employment, creditors' rights, restructuring, bankruptcy and workouts. George has successfully defended his clients in hundreds of litigation, administrative, and arbitration matters.

George has successfully completed multiple mergers, acquisitions and disposition of micro-cap to large-cap businesses, protecting his clients' rights across a broad spectrum of concerns. This representation includes negotiation of agreements with consumer and floor plan lenders, consumer litigation, and compliance with the various administrative agencies. George currently represents both top publicly traded and closely held businesses, with a specialization in automobile dealer representation nationwide.

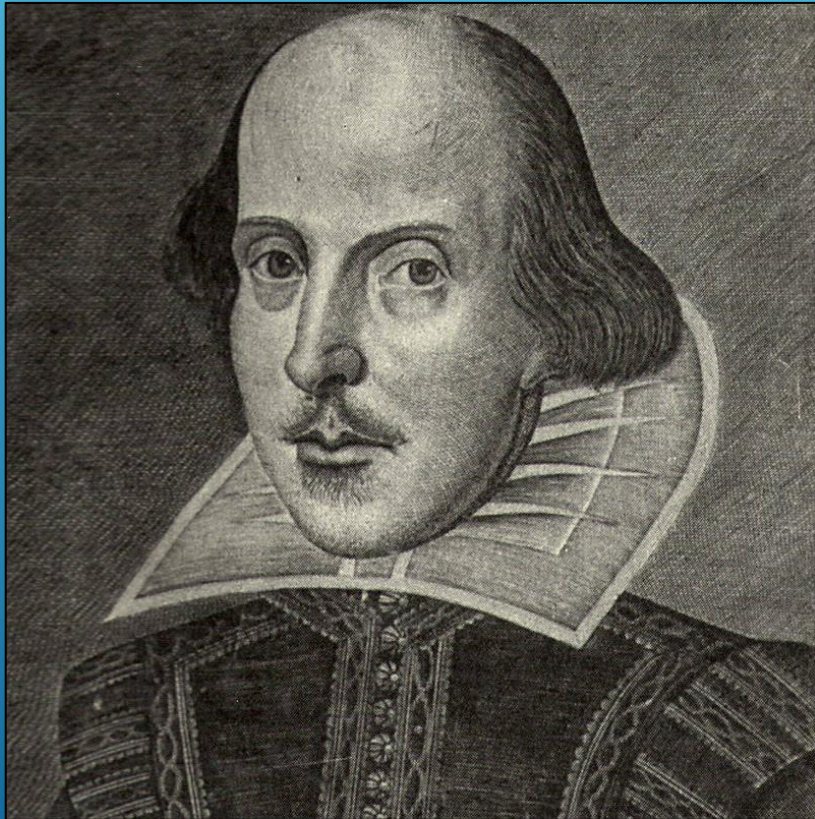
George's commercial litigation practice includes a variety of clients and matters. These matters include corporate governance and shareholder disputes, labor and employment issues, land use, breach of contract, creditors' rights, employment, real estate, and consumer defense matters.

As a community leader, volunteer, and activist, George is involved in a myriad of civic, community, nonprofit, religious, and business-related groups and activities. He serves on the boards of numerous nonprofits, chambers of commerce, civic groups, benevolent societies, community associations, and educational foundations.

George's active involvement has earned him the well-deserved reputation as a problem solver for both business clients and outside groups. He is a highly visible resource throughout the community, with an ability to make the right connections to get time and cost efficient work done for clients. His focus is on obtaining the appropriate cost-effective resources, whether they are inside or outside of the firm, to achieve a timely and positive result.

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PRESENTATION ROLES



Speaker's role:

We will attempt to identify best practices and common red flags encountered while operating an automotive dealership.

Participants' role:

You should help out. Feel free to identify concerns and to ask questions.

Introduction

- Maintaining legal compliance is essential for automotive dealerships to avoid penalties, license suspensions, and costly lawsuits.
- Complex regulatory frameworks govern dealer operations that can result in expensive continuing fines for unresolved violations.
- Auto dealerships in 2026 are faced with increasingly sophisticated fraud schemes from dishonest and ill-intentioned prospective purchasers and scammers.
- This presentation focuses on critical compliance areas that protect your dealership's financial interests, reputation, and ability to legally operate. We will also provide an overview of several of the most common – and dangerous – methods of consumer fraud affecting auto dealerships today.

RECORD KEEPING



RECORD KEEPING

DEALERS MUST MAINTAIN COMPLETE RECORDS OF ALL VEHICLE PURCHASES AND SALES FOR 48 MONTHS, WITH THE MOST RECENT 13 MONTHS READILY AVAILABLE ON-SITE FOR INSPECTION BY TXDMV REPRESENTATIVES

REQUIRED RECORDS INCLUDE:
TITLES (OR COPIES),
SALES CONTRACTS,
ODOMETER STATEMENTS,
TAX FORMS

CONSIGNMENT SALES:
A WRITTEN CONSIGNMENT AGREEMENT SHOULD INCLUDE: VEHICLE DESCRIPTION, VIN, AGREED UPON PRICE, AND TIMEFRAME FOR THE CONSIGNMENT

RECORDS MAY BE MAINTAINED ELECTRONICALLY SO LONG AS THEY CAN BE IMMEDIATELY PRINTED FOR INSPECTION DURING BUSINESS HOURS.

Wholesale Transactions :

Records Must Include:

- Purchase Documentation
- Bill of Sale
- Auction Receipts
- Complete Texas Motor Vehicle Sales Tax Resale Certificates
- Copies of both sides of reassigned titles



CONSIGNMENT SALES

For consignment vehicles, dealers must maintain:

- **A written consignment agreement or power of attorney**
- **A copy of the vehicle title**
- **All standard retail sales documentation once the sale is completed**



FOR OUT-OF-STATE SALES:

In addition to the other sales records, you must also maintain a properly completed Texas Motor Vehicle Sales Tax Exemption Certificate (Form 14-312) to document the exemption from Texas sales tax.

14-312
(Rev. 12-09/3)

Texas Motor Vehicle Sales Tax Exemption Certificate — for Vehicles Taken Out of State

Name of purchaser			
Address (Street & number, P.O. Box or route number)			Phone (Area code and number)
City, state and ZIP Code			
I, the purchaser named above, claim an exemption from payment of motor vehicle sales tax for the purchase of the motor vehicle described below:			
Vehicle identification number	Make of vehicle	Year model	State or country where vehicle will be used/registered
Seller			
Street address			
City, state and ZIP Code			
I claim this exemption because the vehicle is to be transported outside this state, prior to any use in this state other than the transportation of the vehicle out of state, for use exclusively outside this state. I understand that, if I register the vehicle in Texas, the exemption I am claiming will be presumed invalid.			
By signing below, I hereby authorize the Comptroller to provide a copy of this certificate to the state or country in which the vehicle will be titled, registered and used. I understand that I will be liable for payment of motor vehicle sales or use taxes that may become due if I fail to comply with the provisions of the Texas Tax Code, Chapter 152, <i>Taxes on Sale, Rental, and Use of Motor Vehicles</i> .			
I understand that it is a criminal offense to give a Texas Motor Vehicle Sales Tax Exemption Certificate to the seller for a motor vehicle that I know, at the time of purchase, will be used in a manner other than that expressed in this certificate and that the offense is a felony punishable by imprisonment for not more than 10 nor fewer than 2 years, or a fine of not more than \$10,000, or both.			
Purchaser sign here		Title	Date

NOTE: THIS CERTIFICATE DOES NOT REQUIRE A TAXPAYER NUMBER TO BE VALID.

This certificate should be furnished to, and retained by, the seller. The seller must also send a copy to

Texas Comptroller of Public Accounts
Business Activity Research Team
P.O. Box 13003
Austin, Texas 78711-3003

You have certain rights under Chapters 552 and 559, Government Code, to review, request and correct information we have on file about you. Contact us at the address listed on this form.



ADVERTISING RECORDS REQUIREMENTS

**ALL ADVERTISING MATERIALS MUST BE
MAINTAINED FOR DEPARTMENT REVIEW
(TxDMV) INCLUDING COPIES OF PRINT ADS,
ONLINE LISTINGS, RADIO AND TELEVISION
SCRIPTS, AND DIRECT MAIL PIECES.**



The TxDMV has authority to inspect dealer records during normal business hours without prior notice, and failure to provide requested records can result in administrative penalties or license actions.

If TxDMV requests records by certified mail, dealers must respond within 15 days or face potential civil penalties, license suspension, or revocation..

Electronic records systems must be capable of producing legible hard copies of all required documents during an inspection.

THE SALES PROCESS



THE SALES PROCESS

Used vehicle dealers must display the FTC-required Buyer's Guide ("As-Is" sticker) on every used vehicle.

BUYERS GUIDE			
IMPORTANT: Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form.			
Chevrolet	1 Ton Ext Cab P U	1988	1GCEC19R1WR111164
Vehicle Make	Model	Year	Vin Number
11164			
Dealer Stock Number			
WARRANTIES FOR THIS VEHICLE:			
☒ AS IS - NO WARRANTY YOU WILL PAY ALL COSTS FOR ANY REPAIRS. The dealer assumes no responsibility for any repairs regardless of any oral statements about the vehicle.			
☐ WARRANTY ☐ FULL ☐ LIMITED WARRANTY. The dealer will pay _____% of the labor and _____% of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty document for a full explanation of warranty coverage, exclusions, and the dealer's repair obligations. Under state law, "implied warranties" may give you even more rights.			

Franchised dealers must display the Monroney sticker on all **new** vehicles.

[illegible]

THE SALES PROCESS

- The "As-Is" Buyer's Guide must be prominently displayed with both sides visible, and a copy must be provided to the customer at the time of sale with any negotiated changes in warranty coverage noted on the form.
- The Buyer's Guide becomes part of the sales contract and overrides any contrary provisions in the contract, making proper completion critical for legal protection.
- ALL material facts about a vehicle's condition must be disclosed under the Deceptive Trade Practices Act, **regardless of the dollar amount of damage or repairs.**
- Weather-damaged vehicles, including those with flood or hail damage, must be disclosed to buyers **regardless of dollar amount of damage.**

NO LEGAL THRESHOLD EXISTS BELOW WHICH DISCLOSURE IS NOT REQUIRED!

TITLE TRANSFER

- Dealers must transfer title within **30 days** of sale.
- Dealers are responsible for proper completion of all title documents, collecting applicable sales tax, and submitting paperwork to the county tax office.
- Effective July 1, 2025, Texas dealers must issue metal license plates at the time of sale and electronically process title/registration transactions. The buyer must keep the Buyer's Receipt in the vehicle until registration is complete and the windshield sticker is affixed.
- Dealers handling a trade-in vehicle with an outstanding lien must pay off the lien within **25 days** once they have the vehicle and the proper paperwork to pay the lien.
- The Dealer should obtain a release of lien letter to avoid liability for continued payments.

TEXAS CERTIFICATE OF TITLE

TEXAS DEPARTMENT OF MOTOR VEHICLES

VEHICLE IDENTIFICATION NUMBER: [REDACTED] YEAR MODEL: **2015** MAKE OF VEHICLE: **FORD** BODY STYLE: **PK**

TITLE DOCUMENT NUMBER: [REDACTED] DATE TITLE ISSUED: **04/20/2024**

MODEL: [REDACTED] MPG, CAPACITY IN GALLONS: [REDACTED] WEIGHT: [REDACTED] LICENSE NUMBER: **4600**

PREVIOUS OWNER: [REDACTED] OWNER: [REDACTED]

REMARKS: **ACTUAL MILEAGE**

DATE OF LIEN: [REDACTED] 1ST LIEN HOLDER: [REDACTED] 1ST LIEN RELEASED: [REDACTED] DATE: [REDACTED]

DATE OF LIEN: [REDACTED] 2ND LIEN HOLDER: [REDACTED] 2ND LIEN RELEASED: [REDACTED] DATE: [REDACTED]

DATE OF LIEN: [REDACTED] 3RD LIEN HOLDER: [REDACTED] 3RD LIEN RELEASED: [REDACTED] DATE: [REDACTED]

IT IS HEREBY CERTIFIED THAT THE PERSON HEREIN NAMED IS THE OWNER OF THE VEHICLE DESCRIBED ABOVE WHICH IS SUBJECT TO THE ABOVE LIENS.

RIGHTS OF SURVIVORSHIP AGREEMENT
WE, THE MARRIED PERSONS WHOSE SIGNATURES APPEAR HEREIN, HEREBY AGREE THAT THE OWNERSHIP OF THE VEHICLE DESCRIBED ON THIS CERTIFICATE OF TITLE SHALL FROM THIS DAY FORWARD BE HELD JOINTLY AND IN THE EVENT OF DEATH OF ANY OF THE PERSONS NAMED IN THIS AGREEMENT, THE OWNERSHIP OF THE VEHICLE SHALL VEST IN THE SURVIVOR(S).

FORM 30-C REV. 05/2016 DO NOT ACCEPT TITLE SHOWING ERASURE, ALTERATION, OR MITIGATION.

ADVERTISING REQUIREMENTS



- Dealer advertising is regulated by TxDMV under 43 Tex. Admin. Code Ch. 215, the FTC under the FTC Act, and, where finance or lease terms are advertised, the CFPB through Regulation Z (TILA) and Regulation M. The Texas Attorney General may also pursue violations independently under the DTPA.
- All advertising must be truthful and non-deceptive, with specific disclosure requirements for finance terms, lease payments, and Internet advertising.
- Payment advertising must include total down payment amount, number of payments, and APR if a rate is mentioned.
- Dealer advertisements must clearly identify the dealership name as shown on the license or registered DBA name.
- Statements such as "everybody financed," "no credit rejected," or similar claims are prohibited unless they are strictly true and the dealer can substantiate them.
- All vehicles advertised must be available at the advertised price, with no hidden fees or add-ons that increase the advertised price.
- Internet advertising on third-party platforms must still comply with all TxDMV advertising rules.

Today's Chevrolet Hotter than Texas chili.

Camaro Z28. "Hot." A three-letter word that's synonymous with Z28 in the vernacular of the enthusiast.

What's so hot about Z28? Everything. Styling. Performance. Comfort.

Powered by a track-proven small-block V8*, Z28 delivers throaty bursts of power when you need it. And the optional High Output Package gives Z28 even hotter credentials.

It goes around corners, too. Thanks to a refined torque-arm rear suspension and new, precise front geometry with special upper and lower control arms, Z28 has recorded a lateral acceleration figure of .85g on the GM Proving Grounds.

Simmering shape. Z28 looks as quick as it goes. Sleek, curving lines and a 62-degree raked windshield help provide a low drag coefficient of .339. And Z28's deep front air dam helps reduce nose lift, while aiding steering response.

Take it to your next cookout. So if you've got a taste for something hot, get a Z28. You'll find it's *hotter* than Texas chili.

Today's Chevrolet. Bringing you the cars and trucks you want and need. That's what Taking Charge is all about.

*Some Chevrolets are equipped with engines produced by other GM divisions, subsidiaries, or affiliated companies worldwide. See your dealer for details.



Let's get it together... buckle up.

OFFICIAL U.S.
CARS AND TRUCKS
OF THE XIV
OLYMPIC WINTER
GAMES

Sarajevo '84
© 1987 GM Corp. Buckle up!

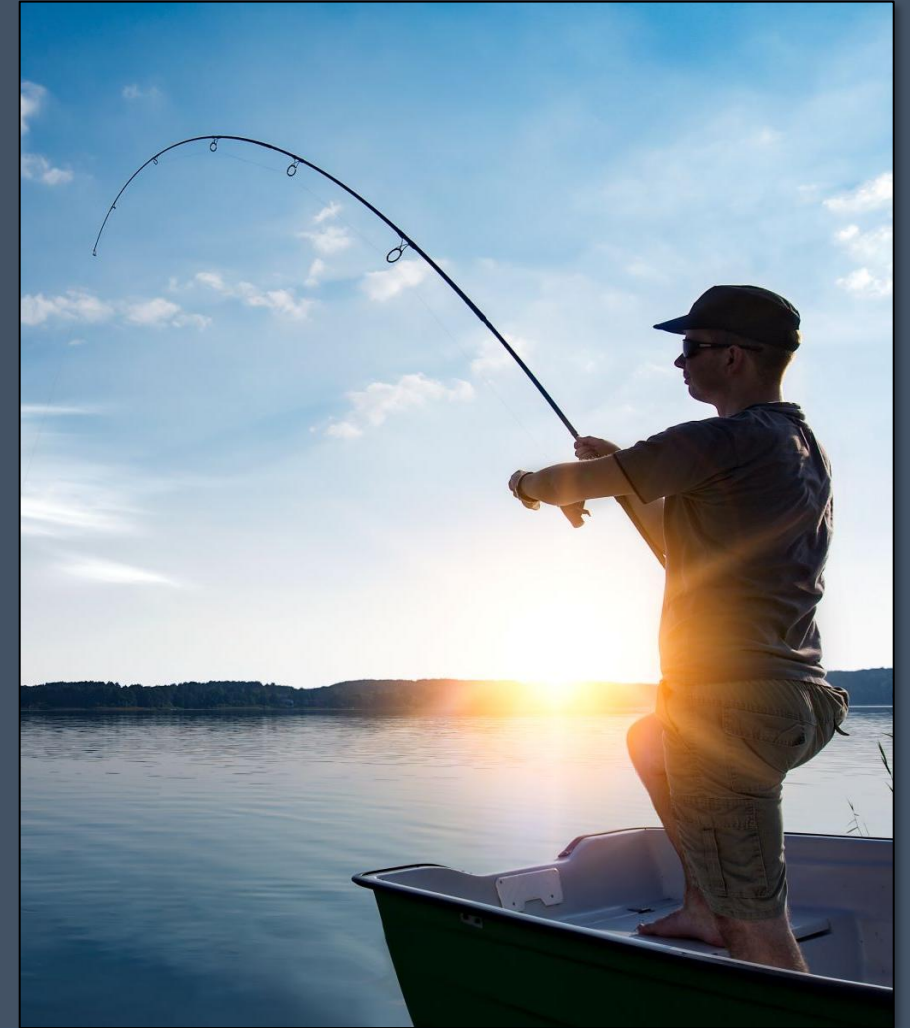


ADVERTISING: COMMON MISTAKES AND VIOLATIONS TO AVOID



BAIT ADVERTISING

- Bait advertising occurs when a dealer has no intention of selling at the advertised price or terms, or advertises vehicles that aren't actually available for purchase.
- Price misrepresentations include failing to include dealer fees in advertised prices or advertising a discount from a price at which a vehicle was never offered.
- Sales and savings claims require specific documentation to substantiate the claimed savings.
- Failing to honor advertised prices can result in both civil penalties and DTPA liability.





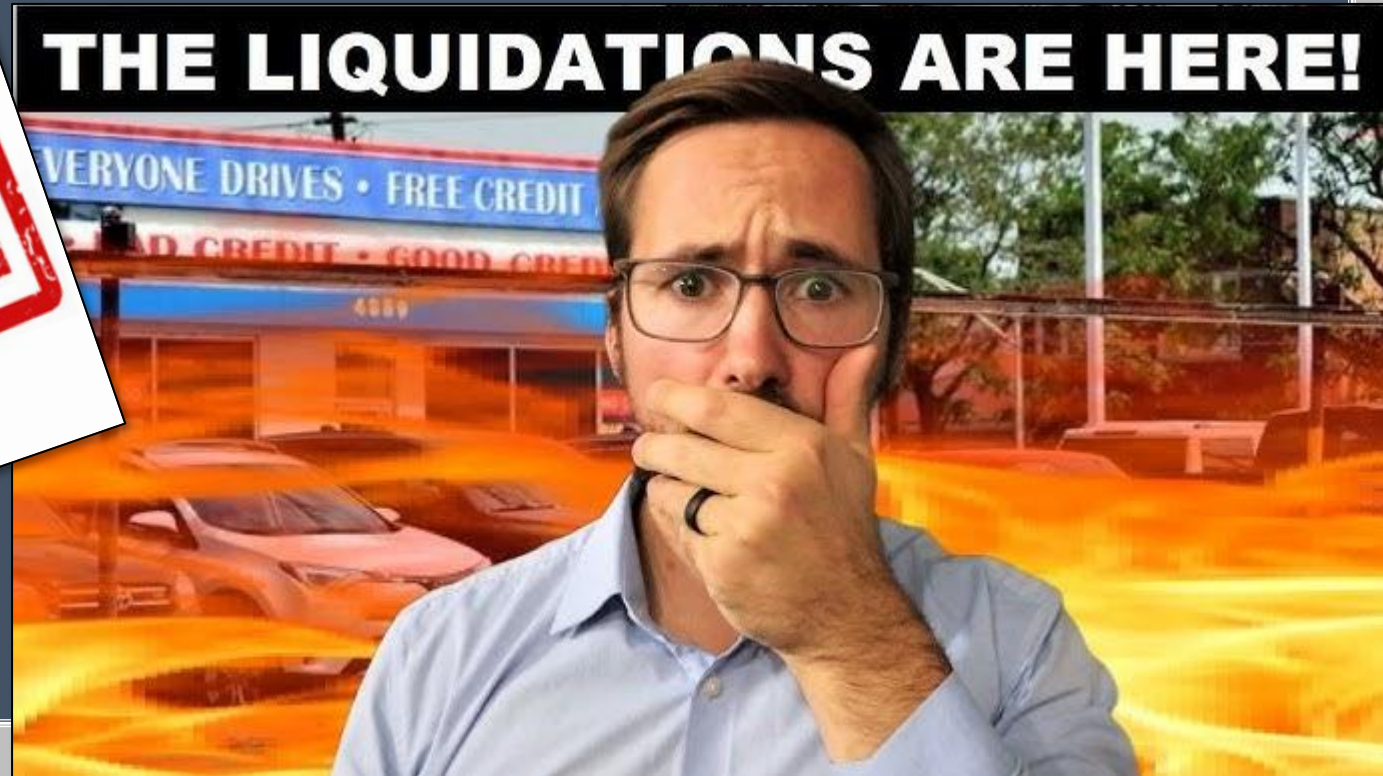
"Lowest Price" and Other Superlative Price Claims

Under TxDMV rules, claims representing a "lowest price," "best price," "best deal," or any similar superlative are prohibited in dealer advertising — regardless of whether the dealer has substantiation for the claim.

The only permissible variation is a "meet or beat" guarantee, which is allowed provided the advertisement clearly and conspicuously discloses the conditions and requirements a customer must satisfy in order to receive the offer or guarantee.

"Liquidation"

Advertising a sale as "liquidation," "bankruptcy," or similar terms is prohibited unless the dealer is actually going out of business under those specific conditions.



"Factory Rebates"

Advertising "factory rebates" as part of dealer discounts is prohibited, as is combining different rebates not available to all customers into one large "available rebate" amount.



FTC CARS RULE — VACATED

- The FTC issued the Combating Auto Retail Scams (CARS) Rule in January 2024, targeting bait-and-switch tactics, hidden fees, and unauthorized add-on charges. It was challenged immediately by NADA and the Texas Automobile Dealers Association.
- On January 27, 2025, the Fifth Circuit vacated the CARS Rule 2–1, holding the FTC violated its own procedural requirements by failing to issue an Advance Notice of Proposed Rulemaking. The rule never took effect and has no force or effect.
- Dealers have no CARS Rule compliance obligations. However, the FTC and state attorneys general are expected to pursue aggressive enforcement of existing UDAP standards against the same practices the CARS Rule targeted. The vacatur does not eliminate dealer exposure for deceptive advertising, hidden fees, or unauthorized add-ons.

TITLE AND DISCLOSURE VIOLATIONS

1. Odometer tampering is a federal offense that can result in prison time, substantial fines, and dealer license revocation.
2. Failure to disclose salvage, flood, or rebuilt status is a violation of both state law and the DTPA, regardless of dollar amounts involved.
3. Forging title documents is a felony offense in Texas that will almost certainly result in criminal prosecution and loss of dealer license.
4. “Title-jumping” (failing to assign a title to the dealership before selling to a customer) is illegal and prevents proper tracking of vehicle ownership.
5. Not clearly disclosing when a vehicle has been previously leased, used as a rental, or used as a demonstration vehicle.
6. Failing to disclose **known** mechanical defects or issues that would affect a buyer's decision to purchase the vehicle.
7. Selling a vehicle with an open safety recall without proper disclosure to the consumer.



OPERATIONAL VIOLATIONS

1. “Curbstoning” (selling away from licensed premises) is prohibited and specifically targeted by enforcement (TxDMV).
2. Acting as a broker (arranging sales for a fee without transferring title to yourself) is illegal without a specific license.
3. Wholesale dealers cannot sell to retail customers and must maintain separate physical locations from retail dealers.
4. Misuse of dealer plates on unauthorized vehicles or by unauthorized persons can trigger significant penalties.
5. Employing unlicensed salespersons or allowing unauthorized individuals to conduct sales on behalf of the dealership.
6. Operating without required liability insurance or letting your bond lapse during the license period.
7. Engaging in fraudulent or deceptive practices when filing Vehicle Inventory Tax statements.
8. Not maintaining proper business hours as required for your license type or operating from an unlicensed location. This includes adhering to “Blue Laws” – automotive dealerships in Texas may not operate on both days of the weekend and must close on either Saturday or Sunday.
9. Improper issuance, transfer, or disposal of metal plates.
10. Improper procedures when completing a transaction with a Power of Attorney. There are specific procedures that should be followed in these situations, and they must be strictly adhered to (more on this later).

PRACTICAL COMPLIANCE STRATEGIES



If only you knew the power of compliance!

PRACTICAL COMPLIANCE STRATEGIES

- 
- An illustration of a hand in a blue suit sleeve pointing to a checklist on a clipboard. The clipboard has a silver clip at the top and the word 'COMPLIANCE' written on it. The checklist has several items, some with blue checkmarks and some with empty boxes. The background is a teal and grey pattern.
1. Regular staff training on regulatory requirements should be documented and updated as rules change. Creating compliance checklists for each stage of a sales transaction helps ensure all required disclosures are made and documents properly completed. Internal periodic audits of records, plates, and advertising can identify problems before they become violations.
 2. Implement a formal complaint resolution process for addressing customer concerns before they escalate to regulatory complaints.
 3. Designate a compliance officer within your dealership responsible for staying current on regulatory changes and conducting internal compliance reviews.
 4. Create standardized forms and templates that meet all legal requirements for consignment agreements, disclosure statements, and buyer's guides.
 5. Institute mandatory review procedures for all advertising materials before publication to ensure compliance with advertising rules.
 6. Subscribe to email updates from the DMV for notifications about rule changes and enforcement priorities.
 7. Join regional and state dealer associations that provide ongoing education and compliance updates.
 8. Consider retaining legal counsel familiar with motor vehicle regulations for regular compliance reviews and immediate assistance when issues arise.

DATA SECURITY

FTC SAFEGUARDS RULE



FTC SAFEGUARDS RULE — DEALER OBLIGATIONS

1. Dealers that arrange or facilitate financing are classified as “financial institutions” under the Gramm-Leach-Bliley Act (GLBA) and must comply with the FTC Safeguards Rule.
2. Dealers must develop, implement, and maintain a comprehensive written information security program to protect customer nonpublic personal information (NPI), including social security numbers, credit applications, and driver’s license data.
3. Required safeguards include: encryption of customer data, multi-factor authentication, continuous systems monitoring, regular penetration testing, access controls, vendor management, employee training, and a written incident response plan.
4. A designated “qualified individual” must oversee the information security program and report to dealership leadership at least annually.
5. Since May 2024, dealers must notify the FTC within 30 days of a security breach or unauthorized access to customer information (at least 500 consumers affected).
6. Civil penalties can reach \$53,088 per violation (inflation-adjusted annually), with each day of a continuing violation constituting a separate violation. The FTC issued dealer-specific Safeguards Rule guidance in June 2025 addressing OEM relationships, third-party vendor access, and consumer data handling.

RED FLAGS



IDENTITY FRAUD

Industry fraud exposure has reached a record \$10.4 billion in 2026, up from \$9.2 billion in 2025 and nearly five times the level measured in 2010, according to Point Predictive's 2026 Auto Lending Fraud Trends Report. A February 2026 Experian survey released at NADA Show found that nearly 90% of dealers are concerned about fraud, 70% believe fraudulent transactions are rising, and dealers report an average of four fraudulent deals completed before detection, with per-transaction losses typically ranging from \$10,000 to more than \$20,000.

The most common form of identity theft today is “**synthetic identity fraud**.” This is a form of fraud that combines real and fake identifying information to create a “new” false identity. The two main forms of synthetic identity theft are:

1. **Identity compilation.** Sometimes called "Frankenstein fraud," this is a form of identity theft in which a fraudster uses real information (often a real SSN) alongside fake information to fabricate a false identity.
2. **Identity manipulation.** This is a form of synthetic ID fraud in which the details of a true identity are altered to create a false one. This form of fraud tends to be easier to detect than identity compilation, but is also easier to execute by a potential fraudster.

To minimize potential exposure, verify that the address and other information on the driver's license is valid. Scan all driver's licenses and include a copy of the driver's license in every transaction.

Keeping good records can help minimize potential exposure and maximize the potential for recovery.

IDENTITY FRAUD – POWER OF ATTORNEY

Power of Attorney transactions for vehicles in Texas have strict procedural requirements:

1. You must use Form VTR-271-A, also called the “Brown POA.” It may be obtained from the Texas DMV’s forms library.
2. The vehicle owner must sign the form in front of a notary, who will verify their identity and notarize the document.
3. The assigned agent must present the original form (copies are NOT acceptable) and valid identification to complete the transaction.

IDENTITY FRAUD – POWER OF ATTORNEY (CONT.)

When faced with a power of attorney transaction, especially for an out-of-state transaction, the dealership should:

1. Verify that the form provided is the original, not a copy, and verify that the notary that authorized the document is legitimate – if possible, verify the notary with the state. Many states, including Texas, maintain an online notary registry with the Secretary of State.
2. Verify that the address for the vehicle owner's address is valid (you can use a maps service like Google Maps) and not fictional or located at an unexpected location (such as a dock or warehouse).
3. The assigned agent acting on behalf of the vehicle owner must also present valid, original identification. Verify the agent's identification; do not accept copies. If you are presented with an out of state ID (red flag), search online for examples of how to identify valid ID from that state.

SOVEREIGN CITIZENS

Certain customers may characterize themselves as “sovereign citizens.” This derives from the unfounded belief that they do not have to adhere to federal, state, or local laws if they claim “personal sovereignty.” Under the guise of a “sovereign citizen,” the customer may attempt to obfuscate transactions or interactions with often-fictional legalese and jargon.

Common “red flag” jargon used by sovereign citizens includes:

- i. Signing their name as a “representative” for a “corporate entity” that is their given name, but printed in all capital letters (or similar variations): “John Smith as representative/agent for JOHN SMITH”
- ii. Adding legal-sounding disclaimers to documents during the execution process:
 1. “The person John Smith accepts no liability for this transaction.”
 2. “All liability is assumed by the entity JOHN SMITH, and John Smith the person is not a party to the transaction.”
- iii. Some sovereign citizens will claim to be under the jurisdiction of “Admiralty law,” either verbally or in writing.
- iv. They frequently use the term “strawman” to refer to the fictional business entity mentioned above (e.g. “I am the sovereign person John Smith. JOHN SMITH is my strawman created by the United States government.”).





SOVEREIGN CITIZENS



If you suspect someone is a sovereign citizen, ask them their name (as you would do in any normal greeting). Instead of simply responding with their name, they may offer additional verbiage:

1. “I am the person identified by John Smith”
2. “I am the free man whose strawman is called John Smith”

If they are looking at a vehicle and request a test drive, ensure their driver’s license is legitimate and valid. Sovereign citizens often have invalid or fabricated IDs or licenses with claims like “Citizen of the Land.”

When completing the paperwork for a transaction, ensure that they do not add additional language to the documents. They must sign their name, and ONLY their name, in the designated spaces. If they make an attempt to alter the document, add language, or sign as the “agent” or “representative” for someone or something else, inform them that you cannot accept modifications to the document, and that the person entering the transaction must be the one that signs, not an agent.

Considering the above, it is still best to avoid transacting with a sovereign citizen. The entire purpose of their pseudo-legal behavior is to avoid accountability for their contracts and transactions.

If you suspect someone is a sovereign citizen, you must be cautious when engaging in a transaction. **It is best practice not to deliver the vehicle until funding has been secured**, even if they view it as an inconvenience. Be wary of a spot delivery in a sovereign citizen transaction.

Artificial Paydown Fraud



- Borrowers use bad checks to pay down the loan on their vehicle, hoping to sell or trade-in the vehicle for profit before the check bounces.
- The intention is to deceive both the bank and the dealer into believing the loan has been satisfied and to release the lien against the car.
- This type of fraud has become increasingly common over the last five years.

Avoiding Artificial Paydown Fraud

- It is best practice not to deliver the vehicle until funding has been secured, even if the customer views it as an inconvenience.
- Obtain a **written** payoff quote from the lender.
- If the payoff quote contains language similar to: *“The payoff amount does not include any fees that may accrue or any payments that may be returned”* or other verbiage disclaiming the lender’s liability for the quoted amount*, do not complete the transaction until you can verify that the payoff amount is accurate and there are no pending transactions counted against the balance.

* Lenders are aware of this scam, so disclaimers like these have become increasingly common.



Elements of Section 348.408:

- The holder of
- a retail installment contract
- who gives the retail buyer or the buyer's designee outstanding balance information relating to the contract
- is bound by that information and shall honor that information for a reasonable time.

RETAIL INSTALLMENT CONTRACT AND SECURITY AGREEMENT		Seller	Buyer
No. _____	Date _____	"We," "us," and "our" mean the Seller above, its successors and assigns.	"You" and "your" mean each Buyer above, and guarantor, jointly and individually.
SALE: You agree to purchase from us, on a time basis, subject to the terms and conditions of this contract and security agreement (Contract), the Motor Vehicle (Vehicle) and services described below. The Vehicle is sold in its present condition, together with the usual accessories and attachments.			
Description of Year _____	Model _____	VIN _____	Other: _____
Purchased _____	Model _____	Use: ☐ New ☐ Used	
Description of Trade-in: _____			
SECURITY: To secure your payment and performance under the terms of this Contract, you give us a security interest in the Vehicle, all accessories, attachments, components, and equipment placed in or on the Vehicle, together called Property, and proceeds of the Property. Our interest will not extend to consumer goods unless you acquire rights to them within 10 days after we enter into this Contract, or they are installed in or affixed to the Vehicle. You also agree to us and give us a security interest in the following collateral security proceeds and premium refunds of any insurance and service contracts purchased with this Contract.			
PROMISE TO PAY AND PAYMENT TERMS: You promise to pay us the principal amount of \$ _____ plus finance charges according to the unpaid balance at the rate of _____ % per year from today's date until paid in full. Finance charges accrue on a _____ day basis. You agree to pay this Contract according to the payment schedule and late charge provisions shown in the TRUTH IN LENDING DISCLOSURES. You also agree to pay any additional amounts according to the terms and conditions of this Contract.			
☐ MINIMUM FINANCE CHARGE: You agree to pay a minimum finance charge of \$ _____ if you pay this Contract in full before we have earned that much in finance charges.			
DOWN PAYMENT: You also agree to pay, or apply to the Cash Price, on or before today's date, any cash, rebate and net trade-in value described in the ITEMIZATION OF AMOUNT FINANCED. ☐ You agree to make deferred payments as part of the cash down payment as reflected in your Payment Schedule.			
TRUTH IN LENDING DISCLOSURES			
ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost you.	AMOUNT FINANCED The amount of credit provided to you or on your behalf.	TOTAL OF PAYMENTS The amount you will have paid when you have made all scheduled payments.
% \$ _____	\$ _____	\$ _____	\$ _____
Payment Schedule: Your payment schedule will be _____ Number of Payments _____ Amount of Payments _____ When Payments Are Due _____			
Security: You are giving a security interest in the Motor Vehicle purchased. ☐ Late Charge: If a payment is more than _____ days late, you will be charged _____.			
Prepayment: If you pay off this Contract early, you ☐ may ☐ will not have to pay a Minimum Finance Charge. Contract Provisions: You can see the terms of this Contract for any additional information about nonpayment, default, any required repossession before the scheduled date, and prepayment refunds and penalties.			
CREDIT INSURANCE: Credit life, credit disability (accident and health), and any other insurance coverage quoted below, are not required to obtain credit and we will not provide them unless you sign and agree to pay the additional premium. If you want such insurance, we will obtain it for you (if you qualify for coverage). We are quoting below ONLY the coverages you have chosen to purchase.		ITEMIZATION OF AMOUNT FINANCED	
Credit Life: Insured _____ ☐ Single ☐ Joint Prem. \$ _____ Term _____ Credit Disability: Insured _____ ☐ Single ☐ Joint Prem. \$ _____ Term _____		Vehicle Price (incl. sales tax of \$ _____) \$ _____ Service Contract, Paid to: \$ _____ Documentary Preparation Fee \$ _____ Cash Price \$ _____	
Your signature below means you want (only) the insurance coverage(s) quoted above. If none are quoted, you have declined any coverages we offered.		a. Total Cash/Rebate Down \$ _____ b. Trade-in Allowance \$ _____ Trade-in Description _____ c. Less: Amount owing \$ _____ Paid to: _____ d. Net Trade-in (b, minus c.) \$ _____ e. Net Cash/Trade-in (a, plus d.) \$ _____	
PROPERTY INSURANCE: You must insure the Property securing this Contract. You may purchase or provide the insurance through any insurance company reasonably acceptable to us. The collision coverage deductible may not exceed \$ _____, if you get insurance from or through us you will pay \$ _____ of coverage.		Down Payment (a; declare as \$0 if negative) \$ _____ Amount to Finance (e, if e is negative) \$ _____ Paid to Public Officials - Filing Fees \$ _____ Insurance Premiums \$ _____ To: \$ _____ To: \$ _____ Total Other Charges/Amounts Pd. to Others \$ _____ Less: Prepaid Finance Charges \$ _____ Amount Financed \$ _____	
This premium is calculated as follows: ☐ \$ _____ Deductible, Collision Coverage \$ _____ ☐ \$ _____ Deductible, Comprehensive Cov. \$ _____ ☐ Fire-Theft and Combined Additional Coverage \$ _____ ☐ \$ _____		"We may retain or receive a portion of this amount." Warning: The insurance afforded hereunder does not cover liability for injury to persons or damage to property of others unless so indicated hereon.	
☐ SERVICE CONTRACT: You agree to purchase an optional Service Contract to cover _____. _____ This Service Contract will be in effect for _____.		Notice to buyer. Do not sign this contract in blank. You are entitled to 1 true copy of the contract you sign without charge. Keep it to protect your legal rights. BY SIGNING BELOW BUYER AGREES TO THE TERMS ON PAGES 1 AND 2 OF THIS CONTRACT. Buyer: _____ Signature _____ Date _____ Signature _____ Date _____	
ASSIGNMENT: This Contract and Security Agreement is assigned to _____. The Assignee, phone _____, This assignment is made ☐ under the terms of a separate agreement. ☐ under the terms of the ASSIGNMENT BY SELLER on page 2. ☐ This assignment is made with recourse. Seller: By _____ Date _____		BUYER ACKNOWLEDGES DELIVERY OF A COPY OF THIS RETAIL INSTALLMENT CONTRACT AND SECURITY AGREEMENT. X _____ X _____ Seller: By _____	

Payoff Quotes — Your Legal Protection

- Under Texas Finance Code § 348.408, a lender that provides a payoff quote is bound by that quote and must honor it for a reasonable time. The statute is the legal foundation for every trade-in transaction: dealers must be able to rely on payoff quotes to complete purchases and trade-ins in a single day.
- Lender disclaimers do not change this. The statute makes no mention of disclaimers, and allowing boilerplate language to override a quoted payoff amount would render § 348.408 unenforceable in virtually every transaction. A disclaimer is a red flag to verify the payoff — it is not a shield that protects the lender from its statutory obligation.
- Best practice: always obtain payoff quotes in writing, document the date and source, and verify any quote accompanied by a disclaimer before proceeding.

Tex. Fin. Code § 348.409 — Remedy for Violation

- If a lender violates § 348.408 — for example, by attempting to collect more than the quoted payoff amount after a transaction is complete — the dealer or buyer's designee has a statutory remedy under § 348.409.
- **A violating lender is liable for:**
 - Three times the difference between the amount tendered and the amount the lender attempted to collect;
 - Interest;
 - Reasonable attorney's fees; and
 - Costs.
- If a lender attempts to claw back or inflate a payoff after closing, call counsel. The treble damages provision gives dealers meaningful leverage.

POTENTIALLY DISCRIMINATORY ACTIONS



Potentially Discriminatory Actions

Many actions can be perceived as “discriminatory” if the customer is a member of a “protected class.” This is true even if the actions appear neutral on their face. These flash points include, but are not limited to, the following:



- i. Charges for add-ons that a customer did not explicitly agree to buy;
- ii. Stating that an add-on or other charge is required to secure financing;
- iii. Discrepancy between the purchase price or monthly payment price that was told to the customer vs. what appears in the documents;
- iv. Pushing a customer through signing a document without making the whole document readily available for their review; and
- v. Discouraging a customer from applying for financing.

Potentially Discriminatory Actions

Why are those actions problematic?

- The Equal Credit Opportunity Act (ECOA) and its implementing regulation, Regulation B, prohibit discriminating against credit applicants on the basis of race, color, religion, national origin, gender, marital status, age, sexual orientation, and other protected characteristics.
- In April 2026, the CFPB issued a final rule amending Regulation B that eliminates disparate impact liability under ECOA. Under the current framework, liability attaches to **intentional disparate treatment** — that is, treating similarly situated customers differently because of a protected characteristic.



Potentially Discriminatory Actions

Why are those actions problematic?

- The practical consequence for dealers is straightforward: if a customer who is a member of a protected class receives different pricing, different terms, or is discouraged from applying for financing compared to similarly situated customers, and there is no documented legitimate business reason for the difference, the dealer faces exposure under ECOA.
- **Note:** The CFPB's rule change applies at the federal level. State attorneys general and state fair lending statutes may impose independent obligations. Dealers operating in multiple states should consult counsel regarding state-specific requirements.

Potentially Discriminatory Actions

Best Practices to Avoid Potential Issues

- Don't mention or discuss any of the protected categories of identity: **race, color, religion, national origin, gender, marital status, age, sexual orientation.**
- Do not discourage a potential customer from seeking credit on a discriminatory basis. The simplest way to avoid violating this provision is to ask neutral questions rather than make statements with explicit or implicit judgment.
 - “Do you want to apply for financing?” instead of “I don't think you should apply for financing.” While the latter statement is not improper on its face, in a broader context it could be construed as an improper discouragement if the potential customer is a member of a protected class.
 - When discussing a transaction with a customer, it may be perceived as discriminatory to ask about their job, income, or other factors that could contribute towards creditworthiness. Do not discuss those topics.
- It is best to avoid charges for add-ons that a customer did not explicitly agree to buy. Evidence that the price of a transaction was inflated due to multiple add-on charges can potentially be viewed as improper and discriminatory.



Potentially Discriminatory Actions

Best Practices to Avoid Potential Issues

Some methods to avoid charge-related issues include:

1. Provide a summary page with all add-on charges and amounts clearly stated. Have the customer sign the page (or initial in a blank next to each add-on that is accepted) with an acknowledgment that they are purchasing the listed add-ons for the stated prices.
2. While executing the documents, provide access to the entire document. Moving from signature blank to signature blank opens the door to a presumption there are hidden terms and fees.
3. Never promise to achieve a specific monthly payment amount when searching for financing. You can ask them about their payment goals, but make no promises about the outcome.
4. Do not condition financing on the customer's purchase of a specific add-on.
5. The customer should be aware of everything they are purchasing. The dealership needs documentation the customer was made aware of the purchase terms. This can be achieved by having the customer sign and acknowledge the list of fees and charges.

Potentially Discriminatory Actions

What to do if there is an issue?

- In the event a customer complains that they were denied financing, given unfavorable terms, or forced to purchase unwanted add-ons because they are a member of a protected class, the dealership is required to show that the denial, and other terms were based on a **legitimate nondiscriminatory reason**.
- Some examples of non-discriminatory conditions include:
 - The customer's inability to satisfy a monthly payment constraint at the pre-determined amount;
 - The customer's access to a more favorable offer of credit from another creditor;
 - A promotional offer that the dealer extends to all customers on the same terms;
 - Documented inventory reduction considerations that are related to specific vehicles; and
 - The fact that a particular transaction is eligible for a subvented (reduced as a form of financial assistance) interest rate from a manufacturer, finance source, or other non-affiliated third party.
- The dealership should **maintain up-to-date contracts with its lending partners**. If the dealership has not recently performed an audit of the terms of those agreements, it is prudent to do so.
- Under the current federal framework, lender statistical monitoring programs focused on disparate impact are less central than before. However, dealers should expect that any discrimination complaint will be evaluated against their transaction records for evidence of inconsistent treatment of similarly situated customers. Maintaining consistent, documented processes across all transactions remains the most effective protection.



CONCLUSION



Conclusion

- The most effective legal protection strategy is preventive compliance through regular training, systematic processes, and staying informed about regulatory changes.
- Understanding and following Texas dealer laws not only shields your dealership from penalties and license actions but also builds customer trust through ethical business practices.
- Investing in compliance is far less costly than addressing violations after they occur.
- Likewise, good record-keeping practices, frequently reinforced training, and consistent procedures for interacting with potential customers can help minimize the risk of falling victim to fraud.

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