

CONSUMER LAW FOR GEN Z LAW STUDENTS

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Whether they are consumers, representing consumers, or advising clients dealing with consumers, law school graduates will inevitably confront numerous consumer law issues. Moreover, most students entering law school are members of Generation Z and face a new wave of consumer laws arising from the 2007–2009 recession and the rapid growth of new technologies. Clickwrap agreements, email spoofing, cybercrimes, cryptocurrencies, fintech, identity theft, online disparagement, data privacy, artificial intelligence, robocalling, and autonomous vehicles are among the evolving topics in modern consumer law. Despite the growth in consumer law concerns, many law students have limited access to consumer law options, with almost 40% of law schools not offering any consumer law courses and less than 30% hosting consumer law clinics. Even where classes are taught, they are often not available annually.

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Given the increasing importance of consumer law issues for Gen Z law students, this Article proposes a plan to develop and enhance consumer law options. As context for the plan and the current state of consumer law opportunities in law school, I briefly describe the history of consumer law and consumer education in the United States. The plan's first stage suggests that professors explicitly identify consumer law connections in first-year courses, where consumer law topics regularly arise in property disputes, contract agreements, misrepresentations about products, manufacturing defects, and interstate sales. This Article provides traditional and contemporary examples of consumer law topics for professors to use in first-year courses. Providing students with a taste of consumer law issues early in their law school careers will make them more likely to demand additional consumer law options. Accordingly, this Article shows how law schools can satisfy this demand with upper-division classes, clinics, and externships. In addition, this Article recommends actions that students can take to promote consumer law at their schools. With a background in consumer law, students will be better prepared for issues they encounter personally and professionally, have more significant employment opportunities, and be able to participate in legislative and regulatory reform efforts. As a result, students, their prospective clients, and the broader community will benefit.

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INTRODUCTION

Although most law students have absolutely no practical experience in many of the law school courses they take, every law student is a consumer. Every law student is a buyer of goods, a user of credit, a participant in payment systems. Many law students are tenants in a landlord-tenant arrangement.¹

Gene A. Marsh

In the fictional movie *The Paper Chase*, Professor Kingsfield tells his first-year contracts students that they enter law school with a “skull full of mush and leave thinking like a lawyer.”² In reality, no law student has a brain of mush; however, all law students enter law school as consumers, and after they graduate, they will likely face consumer law issues both personally and professionally.

Consumer law issues have become ubiquitous in the post-millennium world, encompassing traditional concerns like debt collection, landlord–tenant disputes, unsafe consumer products, and newer issues related to technological advances, including online services, self-driving cars, drones, virtual currencies, artificial intelligence, and fintech. However, despite the pervasiveness of consumer law concerns, law students often have limited consumer law opportunities during law school.³

1. Gene A. Marsh, *Ethical Responsibility in Teaching Consumer Protection*, 10 J. CONSUMER & COM. L. 23, 23 (2006).

2. THE PAPER CHASE (Twentieth Century-Fox Film Corp. 1973).

3. See, e.g., Brian Leiter, *So Which Areas of Law Deserve More Attention in the Legal Academy?*, BRIAN LEITER’S L. SCH. REPS. (Apr. 18, 2013), <http://leiterlawschool.typepad.com/leiter/2013/04/so-which-areas-of-law-deserve-more-attention-in-the-legal-academy.html> [<https://perma.cc/XF8W-PZ7J>].

The vast majority of students entering law school are members of Generation Z.⁴ Generation Z has also been referred to by other names, including post-Millennials,⁵ Centennials,⁶ and iGeneration or iGen;⁷ however, modern dictionaries and Google search data reflect that the most popular name is Generation Z, or Gen Z.⁸ Gen Z consists of individuals born between 1995 and 2010.⁹ Growing up dependent on smartphones and smart devices, Gen Z is the “most technology influenced and most technology smart generation.”¹⁰ They “are the first generation for whom Internet access has been constantly available, right there in their hands.”¹¹

The growth in technology has, in turn, created legal questions.¹² For example, online purchases are now a regular part of everyday shopping, and such

4. See generally COREY SEEMILLER & MEGHAN GRACE, GENERATION Z GOES TO COLLEGE (2016) (reporting on studies about Gen Z members entering college); Laura P. Graham, *Generation Z Goes to Law School: Teaching and Reaching Law Students in the Post-Millennial Generation*, 41 U. ARK. LITTLE ROCK L. REV. 29 (2018) (reporting on how to address Gen Z members attending law school); Max Feo, *Breaking the Age Barrier: The Average Age of Law Students and Its Implications*, TRUTH ABOUT EDUC., <https://milern.com/7-age-issues-for-law-school/> [<https://perma.cc/WC2T-662Z>] (last visited Oct. 13, 2023) (“According to LSAC and ABA data, the average law school age range for law students is 22-24. Some other sources cite law school average range at 22-30, with the average age of law students – graduates at about 26 years old.”).

5. Michael Dimock, *Defining Generations: Where Millennials End and Generations Z Begins*, PEW RSCH. CTR. (Jan. 17, 2019), <https://www.pewresearch.org/fact-tank/2019/01/17/where-millennials-end-and-generation-z-begins/> [<https://perma.cc/M4MA-JJCG>].

6. Natalie Nider, Opinion, *The Centennial Generation*, DAILY AM. (Apr. 19, 2017 10:34 PM), <https://www.dailyamerican.com/story/news/opinion/columns/2017/04/20/h-e-centennial-generatio/44072847/> [<https://perma.cc/V452-Z8L3>].

7. See generally JEAN M. TWENGE, iGEN: WHY TODAY’S SUPER-CONNECTED KIDS ARE GROWING UP LESS REBELLIOUS, MORE TOLERANT, LESS HAPPY—AND COMPLETELY UNPREPARED FOR ADULTHOOD (2017) (suggesting use of iGen given commercialization of the Internet in 1995 and the impact of the iPhone on the generation); Dimock, *supra* note 5. For a discussion of other alternative names for Generation Z see Graham, *supra* note 4, at 36 n.55. Like Professor Graham’s nomenclature choice for her article, I have decided to use Generation or Gen Z throughout this Article. *Id.*

8. Dimock, *supra* note 5.

9. Graham, *supra* note 4, at 37 nn.56–57 (using 1995 and 2010 as the start and end dates for Gen Z but also recognizing that other sources may use slightly different years); Dimock, *supra* note 5 (adopting 1997 as the beginning birth-year for Generation Z but recognizing that other sources may have an earlier start date).

10. Nider, *supra* note 6.

11. TWENGE, *supra* note 7, at 2.

12. See, e.g., *Innovation Raises Novel Legal Issues for Tech General Counsels*, AM. BAR ASS’N (Aug. 10, 2019), <https://www.americanbar.org/news/abanews/aba-news-archives/2019/08/innovation-raises-novel-legal-issues-for-tech-general-counsels/> [<https://perma.cc/HNH5-RP3F>] (discussing, for example, the impact of facial recognition technology on the legal industry).

purchases often involve online contracts¹³ and questions about jurisdiction.¹⁴ Robocalls and texts have become common sources for interactions between businesses and consumers about products, purchases, and debt collection.¹⁵ Such communication forms have led to new legal issues and regulations.¹⁶ Furthermore, consumers are turning to online currencies, and legal questions have arisen about regulating such alternative currencies.¹⁷

Similarly, the development of autonomous vehicles has created new questions about liability.¹⁸ Moreover, technological advances have created numerous other legal issues for consumers, including concerns about privacy, identity theft, data security, and scams designed to take advantage of those unfamiliar with such technologies.¹⁹ The growing impact of artificial intelligence on these issues and others has heightened consumer concerns.²⁰

As Gen Z members, many entering law students and their families have also experienced the consumer law problems generated by the Great Recession of 2007–2009.²¹ The Great Recession led to significant changes in the consumer law landscape, including the creation of a federal consumer protection agency.²²

As a result, entering law students will personally confront traditional and novel consumer law issues arising from modern technologies and the aftermath of the Great Recession. Moreover, as lawyers, they are likely to face multiple consumer law issues as they represent consumers or businesses that deal with consumers.²³

13. See, e.g., *Problems with Online Shopping*, FINDLAW (last reviewed Jan. 3, 2024), <https://consumer.findlaw.com/consumer-transactions/problems-with-online-shopping.html> [<https://perma.cc/U3CZ-8UMA>].

14. See *infra* note 319 and accompanying text.

15. See Jason C. Miller, *Regulating Robocalls: Are Automated Calls the Sound of, or a Threat to, Democracy?*, 16 MICH. TELECOMM. & TECH. L. REV. 213, 216 (2009) (“[Robocalls] have become a frequently used tool in political campaigns—80% of the Iowa caucus voters had received a robocall before the 2008 caucuses.”). According to the FTC’s report on the National Call Registry for the year October 2022 to September 2023, the number of complaints about robocalls were approximately 60% more than the number of complaints made about live callers. *Do Not Call Complaints*, FED. TRADE COMM’N (Nov. 1, 2023), <https://public.tableau.com/app/profile/federal.trade.commission/viz/DoNotCallComplaints/Maps> [<https://perma.cc/Z6ZR-2TMG>].

16. See *infra* note 209 and accompanying text.

17. See, e.g., Julie Andersen Hill, *Virtual Currencies and Federal Law*, 18 J. CONSUMER & COM. L. 65, 66 (2014).

18. See *infra* note 304 and accompanying text.

19. Corey Smith & Kimberly Smith, *Hot Practice: Consumer Law Protects All Americans Through Many Specialty Areas*, STUDENT LAW., Apr. 2009, at 10.

20. Simon Fonrdrie-Teitler & Amritha Jayanti, *Consumers Are Voicing Concerns About AI*, FED. TRADE COMM’N (Oct. 3, 2023), <https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2023/10/consumers-are-voicing-concerns-about-ai> [<https://perma.cc/9FZM-EQJD>].

21. See *infra* notes 224–28 and accompanying text.

22. See *infra* notes 229–44 and accompanying text.

23. See *Innovation Raises Novel Legal Issues for Tech General Counsels*, *supra* note 12.

Despite the post-millennial expansion of consumer law issues, many law schools have yet to offer consumer law classes, with nearly 40% of accredited law schools failing to provide consumer law classes and less than 30% hosting consumer clinics.²⁴ Even in schools that offer courses, they are often limited-enrollment electives that are not available yearly.²⁵

Based on the broad nature of consumer law topics that law students are likely to face personally and professionally, all students should at least have a taste of consumer law issues in law school. Accordingly, this Article presents a plan for developing consumer law in law schools, beginning with introducing consumer law topics into first-year classes.

To illustrate the limited options available to Gen Z students, Part I reviews current curricular and clinical consumer offerings at accredited law schools. Part II provides the historical context for the current state of consumer law education in law school. It describes the evolution of consumer law and consumer education in the United States during the twentieth century. Not surprisingly, the development of consumer law issues and consumer education have dramatically impacted the ebb and flow of consumer law opportunities available in law school.

Building on the historical foundation, Part III explains why law schools should make consumer law options available. With post-millennium technological advances and changes to the regulatory environment, new consumer law issues and forums have developed and will continue to develop.²⁶ Developing an understanding of consumer law will not only help students as they personally face these issues but will allow them to help their clients recognize and confront such issues. Moreover, a background in consumer law will give students an advantage in the employment marketplace over students without consumer law training.

Part IV presents the first stage of developing consumer law interest in law school: introducing consumer law to first-year students. Recognizing that schools are reluctant to add another required course to the established first-year curriculum, this Article advocates that law schools expressly introduce consumer law topics into current first-year classes. Part IV describes how professors can identify and incorporate consumer law topics in first-year classes by discussing traditional and contemporary matters.²⁷

Many first-year classes address consumer law topics but often do not expressly disclose to students that they are learning consumer law issues. For example, students may examine consumer real estate transactions and landlord-tenant residential disputes in property,²⁸ products-liability claims in torts,²⁹ personal

24. See *infra* Part I. Estimate is based on website reviews in 2020 and 2022 of course and clinical offerings at accredited U.S. law schools as well as requests for information to update data. A copy of the results of the review is available from the Author [hereinafter LAW SCHOOL WEBSITE REVIEW].

25. LAW SCHOOL WEBSITE REVIEW, *supra* note 24.

26. See *Innovation Raises Novel Legal Issues for Tech General Counsels*, *supra* note 12.

27. See *infra* Part IV.

28. See *infra* notes 322–24 and accompanying text.

29. See *infra* notes 289–91 and accompanying text.

services and the sale of consumer goods in contracts,³⁰ jurisdictional concerns arising from the sale of consumer goods in civil procedure,³¹ commercial speech issues arising from the advertising of consumer services in constitutional law,³² and criminal liability of corporations for sale of dangerous consumer products in criminal law.³³

Moreover, many current consumer issues can be analyzed by analogy to traditional examples in first-year classes. For example, clickwrap contracts can illustrate concerns under contract law,³⁴ liability for autonomous vehicle accidents can be examined under traditional tort law concepts,³⁵ and online sales in states by manufacturers with no physical presence in those states can exemplify jurisdictional concepts in civil procedure.³⁶

If schools formally acknowledge and incorporate consumer law topics into the first-year curriculum, then students will be more likely to appreciate the importance of consumer law issues and will want to continue pursuing these topics as they advance through law school and begin employment. By providing students with a taste of consumer law in the first year, law schools can further enrich the appetite for consumer law matters.

Part V describes how law schools can build on the demand for consumer law coverage with upper-division classes and other consumer law options, including clinics, externships, internships, and advocacy opportunities. It describes resources for schools interested in developing and enhancing consumer law options. It also encourages students to form consumer law chapters and work with other schools to expand opportunities at their own schools.³⁷ Law students equipped with knowledge of consumer law will be better prepared for the continual evolution of consumer law issues.

I. WHAT'S ON THE TABLE: CONSUMER LAW OFFERINGS IN LAW SCHOOL

While every law student is a consumer, many law schools fail to provide students with adequate opportunities to learn about consumer law. A 2013 Condorcet Internet Voting survey by Brian Leiter found that consumer law topped the list of legal areas requiring more focus in the legal academy.³⁸

30. See *infra* note 272 and accompanying text.

31. See *infra* notes 309–12 and accompanying text.

32. See *infra* note 347 and accompanying text.

33. See *infra* notes 329–38 and accompanying text.

34. See *infra* note 286 and accompanying text.

35. See *infra* note 304 and accompanying text.

36. See *infra* note 319 and accompanying text.

37. See *infra* Section V.C.

38. Leiter, *supra* note 3. Condorcet voting allows for a ranking of choices rather than selecting just one choice. For more information about Condorcet voting, see *Condorcet Internet Voting Service*, <http://civs.cs.cornell.edu/> [<https://perma.cc/8GZX-DCBZ>] (last visited Oct. 13, 2023). A 2021 survey of over 600 law professors also supports the proposition that consumer law should play a greater role in the law school curriculum. See Eric Martínez

Subsequent reports have provided information about curricular opportunities for consumer law in law school. For example, in 2014, Professor Jeff Sovern reviewed the websites of ABA-accredited law schools and found that less than one-third of the ABA-accredited law schools offered a course on consumer law.³⁹ He noted that only 62 schools had offered a clinic or class in consumer law.⁴⁰ By 2019, the number had increased to 121 schools; however, even with the increased offerings, more than 40% of law schools still did not have a consumer law class or clinic.⁴¹ Similarly, a 2019–2020 survey of ABA-accredited law schools reported that only 12% of the 185 responding schools reported a clinic with a consumer law focus.⁴²

For this Article, my research assistants updated the review of curricular offerings and clinics on law school websites in 2020 and 2022⁴³ for law schools approved by the ABA.⁴⁴ The following chart graphically depicts consumer law classes and clinics at these schools:⁴⁵

& Kevin Tobia, *What Do Law Professors Believe About Law and the Legal Academy?*, 112 GEO. L.J. 111, 140, 174 (2023).

39. See Alvin C. Harrell, *Teaching Consumer Law, Part Seven: Teaching Consumer Law in a Virtual World*, 18 J. CONSUMER & COM. L. 34, 36 (2014) (reporting that only 55 of 174 law schools had a consumer law class). For information about the initial review and school listings, see Jeff Sovern, *Which Law Schools are Teaching Consumer Law This Year?*, CONSUMER L. & POL'Y BLOG (Apr. 2, 2014), <https://clpblog.citizen.org/which-law-schools-are-teaching-consumer-law-this-year/> [<https://perma.cc/M8S2-RAV5>].

40. Jeff Sovern, *2019 List of Schools Teaching Consumer Law*, CONSUMER L. & POL'Y BLOG (Mar. 20, 2019), <https://clpblog.citizen.org/2019-list-of-schools-teaching-consumer-law/> [<https://perma.cc/BM22-93D8>].

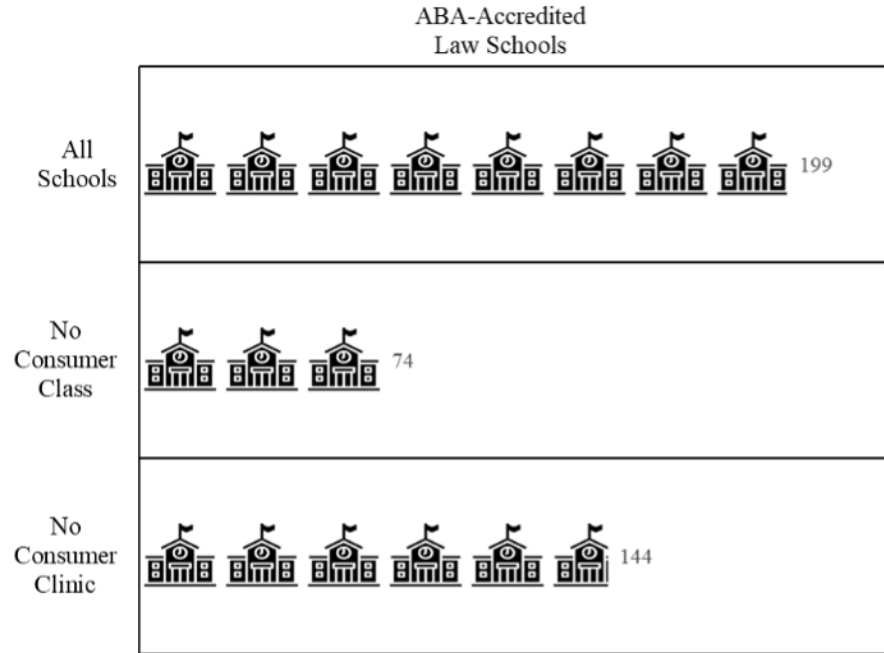
41. Jeff Sovern, *Still Another Update to the List of Schools Teaching Consumer Law*, CONSUMER L. & POL'Y BLOG (Apr. 4, 2019), <https://clpblog.citizen.org/still-another-update-to-the-list-of-schools-teaching-consumer-law/> [<https://perma.cc/Z8XM-Y93U>].

42. ROBERT R. KUEHN ET AL., 2019-20 SURVEY OF APPLIED LEGAL EDUCATION, CTR. FOR THE STUDY OF APPLIED LEGAL EDUC. 7 (2020), https://uploads-ssl.webflow.com/5d8cde48c96867b8ea8c6720/628457f6d9c25cc6c1457af4_Report%20on%202019-20%20CSALE%20Survey.Rev.5.2022.pdf [<https://perma.cc/459N-MPCE>] (the 185 responding schools represented a response rate of ninety-five percent of accredited law schools).

43. LAW SCHOOL WEBSITE REVIEW, *supra* note 24.

44. The American Bar Association provides details about ABA approved law schools on its website. *ABA-Approved Law Schools*, https://www.americanbar.org/groups/legal_education/resources/aba_approved_law_schools/ [<https://perma.cc/KYZ2-6S9T>] (last visited Oct. 13, 2023). At the time of the review, the ABA had approved 199 law schools – as of 2023, the number of ABA-approved law schools had dropped to 197. *Id.* The ABA provides an archive reflecting the history of law school approvals. *ABA-Approved Law Schools Archive*, https://www.americanbar.org/groups/legal_education/resources/aba_approved_law_schools/archive/ [<https://perma.cc/7VEE-SHWQ>] (last visited Oct. 13, 2023).

45. The schoolhouse image used in the chart is from Flaticon.com. *Access 9.2M+ Vector Icons & Stickers*, <https://www.flaticon.com/> [<https://perma.cc/XX9X-KU7F>] (last visited Oct. 13, 2023).



Courses with “consumer,” “deceptive trade practice,” “poverty law,” or similar words in their titles were counted as “consumer law” classes. In contrast, courses in general bankruptcy law, payment systems, and secured transactions that may address some consumer law issues but are not focused solely on consumer law were not counted. The 2022 review found some new consumer law classes that were not listed in the 2020 review, as well as some consumer law classes that were in the 2020 review but not in the 2022 review. Given that a consumer law class may not be offered every year, this compilation determined that a school had a consumer law class if it had a class listed in either 2020 or 2022.

As the chart reflects, more than 37% of law schools did not have a “consumer law” class.⁴⁶ Given the decision to count schools with consumer law classes in either 2020 or 2022, this number may overestimate the number of schools offering a consumer law class if the school abandoned its class after 2020.⁴⁷

The review also examined law school clinics. The review counted a clinic as a “consumer law clinic” if the clinic focused on consumer law, community development, economic justice, bankruptcy law, housing law, or elder law. As the chart shows, more than 72% of law schools did not have a “consumer law clinic.”⁴⁸

46. LAW SCHOOL WEBSITE REVIEW, *supra* note 24.

47. Moreover, in 12 schools, the only consumer law class was a consumer bankruptcy class. If these schools are counted as not having a consumer law class, then more than 43% of law schools do not have a consumer law class. *Id.*

48. *Id.*

II. CONSUMER LAW BEFORE THE INTERNET AGE

The first step in discussing how to incorporate consumer law into the law school menu is to understand the ingredients that comprise consumer law in the United States and the role of consumer law in education. Consumer law covers a wide-ranging set of issues involving disputes that consumers may have with a panoply of actors, including merchants, pawnshops, property owners, lenders, banks, mortgage companies, debt collectors, service providers, manufacturers, credit repair companies, delivery companies, insurers, warranty companies, and advertisers.⁴⁹ It has evolved from a *caveat emptor* (buyer beware) basis to common-law tort rules to the current system involving federal and state statutes and regulations.⁵⁰

As background to the current role of consumer law in law schools, this Part provides a brief history of consumer law and education in the twentieth century, followed by a description of the development of consumer law in law schools in the United States before the millennium.

A. *Brief History of Consumer Law and Education in America Before the Millennium*

Consumer law issues have been present since biblical times;⁵¹ however, this Section briefly explains the development of consumer law in America. Before the Civil War, markets and the source of products were highly localized, with buyers and sellers generally knowing each other.⁵² Reputational concerns motivated sellers so that “there was little need for any but the most fundamental regulation of the seller-consumer relationship.”⁵³ Following the Civil War, large-scale production of items, often in remote locations, changed the relationship between buyers and

49. A review of the table of contents of consumer law books reflects the broad nature of consumer law. *See, e.g.*, DEE PRIDGEN, JEFF SOVERN & CHRISTOPHER L. PETERSON, CONSUMER LAW: CASES AND MATERIALS xxiii–xxxix (5th ed. 2020); DOUGLAS J. WHALEY, PROBLEMS AND MATERIALS IN CONSUMER LAW xi–xix (8th ed. 2017). For more information about topic coverage in consumer courses, see generally reports of responses to surveys by Jeff Sovern in 2008, 2010 and 2018. Jeff Sovern, *The Content of Consumer Law Classes*, 12 J. TEX. CONSUMER L. 48 (2008) [hereinafter Sovern, 2008 Survey]; Jeff Sovern, *The Content of Consumer Law Classes II*, 14 J. CONSUMER & COM. L. 16 (2010) [hereinafter Sovern, 2010 Survey]; Jeff Sovern, *The Content of Consumer Law Classes III*, 22 J. CONSUMER & COM. L. 2 (2018) [hereinafter Sovern, 2018 Survey].

50. DEE PRIDGEN & RICHARD M. ALDERMAN, 1 CONSUMER PROTECTION & THE LAW 2–5 (2009–2010 ed.).

51. *See, e.g.*, ROBERT N. MAYER, THE CONSUMER MOVEMENT: GUARDIANS OF THE MARKETPLACE 11 (1989) (referencing biblical restrictions against “adulterated food and false weights and measures”); Paul B. Rasor, *Biblical Roots of Modern Consumer Credit Law*, 10 J.L. RELIGION 157 (1993) (describing the impact of biblical law on modern consumer credit protection); Jeff Sovern, *The Bible and the Consumer Financial Protection Bureau*, CASETEXT.COM (June 24, 2011), <https://casetext.com/analysis/the-bible-and-the-consumer-financial-protection-bureau> [<https://perma.cc/LPN7-2CYX>] (identifying some biblical references to consumer protection issues).

52. LAURENCE P. FELDMAN, CONSUMER PROTECTION: PROBLEMS AND PROSPECTS 3 (2d ed. 1980).

53. *Id.*

suppliers of goods and eventually led to demand for greater consumer protections.⁵⁴ At the same time, the Morrill Act of 1862⁵⁵ created a foundation for consumer education by establishing “the land grant college system, which gave land to the states for a new kind of education in which agriculture, engineering, and other applied sciences were to be taught.”⁵⁶

Three significant periods of consumer protection activities, commonly called waves or eras, marked the “consumer movement” in the United States during the twentieth century.⁵⁷ The following Subsections will address the evolution of consumer law and consumer education during each of the three waves.

1. *The First Wave*

a. Consumer Law Developments

The first era of consumer protection began in the early 1900s.⁵⁸ Nineteenth-century consumers had little protection and generally had to fend for themselves in a buyer-beware market.⁵⁹ The existing trade laws focused on “ensuring orderly commerce rather than on protecting consumers specifically.”⁶⁰ Dramatic growth in industry, nationwide markets, and the urbanization of America led to the demand for consumer reforms at the beginning of the twentieth century.⁶¹

In 1899, Jane Addams and Josephine Lowell formed the National Consumer League and obtained reforms on several fronts with Florence Kelley’s help.⁶² The reform efforts focused on improving working conditions and developing

54. *Id.* at 3–4.

55. Morrill Act, 37 Cong. Ch. 130, 12 Stat. 503 (1862) (codified as amended at 7 U.S.C. §§ 301–09).

56. Rosella Bannister, *Consumer Education* in ENCYCLOPEDIA OF THE CONSUMER MOVEMENT 140 (Stephen Brobeck ed. 1997). For more information about the land grant college system, see generally Michael T. Olexa et. al., *Limitations to Statewide Reach of Land Grant Universities - Florida as a Cautionary Tale*, 25 DRAKE J. AGRIC. L. 323 (2020).

57. Stephen Brobeck & Robert J. Hobbs, *The Consumer Movement*, in ROBERT J. HOBBS & STEPHEN GARDNER, *THE PRACTICE OF CONSUMER LAW: SEEKING ECONOMIC JUSTICE* 5–12 (2d ed. 2006); Robert O. Hermann & Robert N. Meyer, *U.S. Consumer Movement: History and Dynamics* in ENCYCLOPEDIA OF THE CONSUMER MOVEMENT 584–93 (Stephen Brobeck ed. 1997). A detailed description of the consumer movement is beyond the scope of this Article. For more detailed information, see generally LUCY BLACK CREIGHTON, *PRETENDERS TO THE THRONE: THE CONSUMER MOVEMENT IN THE UNITED STATES* (1976); MAYER, *supra* note 51.

58. Hermann & Meyer, *supra* note 57, at 585; Brobeck & Hobbs, *supra* note 57, at 6.

59. Brobeck & Hobbs, *supra* note 57, at 6; MAYER, *supra* note 51, at 11–12.

60. Brobeck & Hobbs, *supra* note 57, at 6.

61. *Id.*; Hermann & Meyer, *supra* note 57, at 585.

62. *History*, NAT’L CONSUMER LEAGUE, <https://nclnet.org/about-ncl/about-us/history/> [https://perma.cc/84DJ-RJRG] (last visited Oct. 13, 2023); Erma B. Angevine, *National Consumers League*, in ENCYCLOPEDIA OF THE CONSUMER MOVEMENT 394 (Stephen Brobeck ed., 1997). The influential role that women have played in the consumer movement is beyond the scope of this Article. For more information, see generally Landon R.Y. Storrs, *Left-Feminism, the Consumer Movement, and Red Scare Politics in the United States, 1935–1960*, 18 J. WOMEN’S HIST. 40 (2006); Martha Chamallas, *The Disappearing Consumer, Cognitive*

food and drug safety legislation.⁶³ Congressional investigations and news reports revealed issues concerning the dangers of food additives and unregulated drug production.⁶⁴ Additionally, Upton Sinclair's depiction of the meat packing industry in *The Jungle*⁶⁵ sparked public demand for meat inspection and food and drug legislation.⁶⁶ The 1906 passage of the Food and Drug Act and the Meat Safety Inspection Act would be the "zenith of the first period of consumer protection."⁶⁷

Subsequent efforts focused on bolstering the enforcement of antitrust provisions by creating the Federal Trade Commission ("FTC") in 1914.⁶⁸ The reform efforts sought to protect the marketplace and ensure competition.⁶⁹ Some commentators credit the first wave of the consumer movement with creating a consumer consciousness as individuals became aware of "their interests as consumers distinguished from their interests as workers or property owners."⁷⁰

b. Consumer Education

Consumer education in the first wave built on this idea of consumer consciousness, as it marked the beginning of helping individuals become better-informed consumers in the face of the increasing complexity of products associated with industrialization.⁷¹ The transition from an agricultural society, where people relied on what they produced, to an industrial society, where people relied more on what others produced, and the claims made about industrial products created a need for a more informed public.⁷² Consumers faced a barrage of new product information via newspaper, magazine, and radio reports.⁷³

Bias and Tort Law, 6 ROGER WILLIAMS U. L. REV. 9, 14–15, 20–21 (2000); Allis Rosenberg Wolfe, *Women, Consumerism, and the National Consumers' League in the Progressive Era, 1900–1923*, 16 LAB. HIST. 378 (1975).

63. *History*, *supra* note 62; Brobeck & Hobbs, *supra* note 57, at 6–7; FELDMAN, *supra* note 52, at 3–7; Angevine, *supra* note 62, at 394–95.

64. FELDMAN, *supra* note 52, at 4–7.

65. *See generally* UPTON SINCLAIR, *THE JUNGLE* (1906).

66. MAYER, *supra* note 51, at 17–18 (describing how Sinclair's "descriptions ignited public outrage and provided for the final push for the passage of landmark consumer legislation—the Meat Inspection and Pure Food and Drug acts of 1906"); FELDMAN, *supra* note 52, at 5–7 (describing how the decisive tip to the legislative scales was "apparently being provided by the muckraking activities of Upton Sinclair"); *Part I: The 1906 Food and Drugs Act and Its Enforcement*, U.S. FOOD & DRUG ADMIN., <https://www.fda.gov/about-fda/changes-science-law-and-regulatory-authorities/part-i-1906-food-and-drugs-act-and-its-enforcement> [https://perma.cc/V394-HKL5] (last visited Oct. 13, 2023) (same).

67. FELDMAN, *supra* note 52, at 6.

68. MAYER, *supra* note 51, at 16. The Federal Trade Commission provides detail about its history on its website. *See Our History*, FED. TRADE COMM'N, <https://www.ftc.gov/about-ftc/our-history> [https://perma.cc/U7QZ-2G5K] (last visited Oct. 13, 2023).

69. Herbert J. Rotfeld, *A Pessimist's Simplistic Historical Perspective on the Fourth Wave of Consumer Protection*, 44 J. CONSUMER AFFS. 423, 424 (2010).

70. Hermann & Meyer, *supra* note 57, at 586.

71. Rotfeld, *supra* note 69, at 424.

72. CREIGHTON, *supra* note 57, at 15–16.

73. *Id.* at 16.

Consumer education initially developed as part of domestic science offerings and subsequently became part of home economics programs.⁷⁴ The goals of these programs included helping consumers “obtain and process information about product quality and use.”⁷⁵ The American Home Economics Association originated in 1909 and sought to make consumer education a part of the curriculum for school-age children.⁷⁶ In 1917, the United States recognized the importance of home economics by enacting the Smith-Hughes Act, formerly known as the National Vocational Act,⁷⁷ to provide federal funds to vocational programs that adopted home economics training.⁷⁸

The 1920s saw the development of scholarly interest in the content and elements of consumer education as consumer education took a role in college textbooks, beginning with the 1924 publication of Henry Harap’s *The Education of the Consumer*.⁷⁹ Harap’s text “proposed a comprehensive curriculum for consumer education”⁸⁰ and has been described as “probably more responsible for arousing interest in consumer education than any other single event.”⁸¹

Mounting concerns about the World War and the growing economy of the 1920s eventually quelled the first era of the consumer movement.⁸² High wages and the ability to purchase a wide variety of products reduced calls for reforms and created a situation, as one commentator described, in which “[p]rosperity blunted discontent.”⁸³

2. *The Second Wave*

a. Consumer Law Developments

The next stage of consumer law reforms occurred after the Great Depression.⁸⁴ The 1920s saw the development of new products aimed at providing

74. L. GAYLE ROYER & NANCY ELLEN NOLF, *EDUCATION OF THE CONSUMER: A REVIEW OF HISTORICAL DEVELOPMENTS* 7 (1980). Although related to consumer education, the development of economic education is beyond the scope of this Article. For more information about economic education, see *id.* at 4–5.

75. *Id.* at 7.

76. *Id.* at 9.

77. Smith-Hughes National Vocational Education Act of 1917. Pub. L. No. 64–347, Ch. 114, 39 Stat. 929 (repealed by Balanced Budget Act of 1997, Pub. L. 105–33, § 6201, 111 Stat. 251, 653).

78. ROYER & NOLF, *supra* note 74, at 10. See generally Lia Epperson, *Bringing the Market to Students: School Choice and Vocational Education in the Twenty-First Century*, 87 NOTRE DAME L. REV. 1861 (2012) (discussing the development of vocational education after the passage of the Smith-Hughes Act).

79. Hermann & Meyer, *supra* note 57, at 587; HENRY HARAP, *THE EDUCATION OF THE CONSUMER* (1924); Bannister, *supra* note 56, at 140–41 (listing subsequent consumer education textbooks published from 1939 to 1959).

80. Hermann & Meyer, *supra* note 57, at 587.

81. ROYER & NOLF, *supra* note 74, at 11.

82. MAYER, *supra* note 51, at 18; FELDMAN, *supra* note 52, at 6 (stating “[t]he onset of World War I, with its prosperity and distractions, ushered in a quiescent period of consumer protection”).

83. CREIGHTON, *supra* note 57, at 21.

84. Brobeck & Hobbs, *supra* note 57, at 7–8.

convenience to consumers and addressing the needs created by adding electricity to American homes.⁸⁵ Product complexity created concerns about the new products and potentially false claims made about such products.⁸⁶

Just as Upton Sinclair's *The Jungle* spurred on the first wave of consumer protection, F.J. Schlink's and Stuart Chase's *Your Money's Worth*⁸⁷ became a predictor of the consumer protection issues that arose in the second wave. Published in 1927, *Your Money's Worth* addressed concerns about advertising claims.⁸⁸ The book became a bestseller, exposing fraud and misrepresentations in the food, pharmaceutical, vehicle, cosmetics, and appliance industries.⁸⁹

The popularity of *Your Money's Worth* led to demands for increased consumer product testing.⁹⁰ With the Great Depression, millions of consumers faced unemployment and low-paying jobs.⁹¹ Consumers on limited budgets were concerned about the quality and reliability of products they could purchase.⁹² Facing aggressive sales tactics and claims, they wanted more information about products.⁹³ As a result, consumer testing groups became popular, and criticism of advertising arose.⁹⁴

In 1936, Consumers Union, a nonprofit organization, formed and published *Consumers Union Reports*, with stories focused on rating consumer products.⁹⁵ Consumers Union also investigated working conditions and engaged in political activities supporting workers.⁹⁶ During its first year, the circulation of *Consumers Union Reports* grew from 4,000 to over 37,000 subscribers.⁹⁷ By 1939, *Consumers Union Reports* had more than 85,000 subscribers.⁹⁸ In 1942, the publication changed its name to *Consumer Reports* to reflect that its audience extended beyond union members.⁹⁹ Robert Mayer has characterized the creation of the Consumers Union as "one of the key events in the second era of consumerism in the United States."¹⁰⁰

85. MAYER, *supra* note 51, at 19. The percentage of American homes with electricity rose from 8% in 1907 to over 53% by 1925. *Id.*

86. Brobeck & Hobbs, *supra* note 57, at 7–8; Rotfeld, *supra* note 69, at 424.

87. F.J. SCHLINK & STUART CHASE, *YOUR MONEY'S WORTH* (1927).

88. FELDMAN, *supra* note 52, at 7.

89. *Id.*; Thomas Derdak, *Consumers Union*, ENCYCLOPEDIA.COM, <https://www.encyclopedia.com/books/politics-and-business-magazines/consumers-union> [<https://perma.cc/VN2X-DVM4>] (last visited Oct. 13, 2023).

90. MAYER, *supra* note 51, at 22.

91. Brobeck & Hobbs, *supra* note 57, at 7.

92. FELDMAN, *supra* note 52, at 7.

93. MAYER, *supra* note 51, at 19–20.

94. Brobeck & Hobbs, *supra* note 57, at 7–8.

95. Derdak, *supra* note 89.

96. MAYER, *supra* note 51, at 22.

97. Derdak, *supra* note 89.

98. *Id.*

99. *Id.* For more information about *Consumer Reports*, see *About Us*, <http://www.consumerreports.org/cro/about-us/index.htm> [<https://perma.cc/T7BK-J3TQ>] (last visited Oct. 13, 2023).

100. MAYER, *supra* note 51, at 22.

The change in the political climate from the limited government intervention during the prosperity of the 1920s to the “growing government intervention of the New Deal” led to legislation aimed at protecting struggling consumers.¹⁰¹ For example, President Franklin Roosevelt created a consumer advisory board and proposed efforts to address misleading advertising and bolster consumer protections concerning food and drugs.¹⁰² Just as public reaction to the problems in the meatpacking industry led to legislation during the first wave of the consumer protection movement, public concerns following the deaths of over 90 individuals after taking Elixir Sulfanilamide in 1937 led to legislation in 1938.¹⁰³ The 1938 Food, Drug, and Cosmetic Act¹⁰⁴ extended the Food and Drug Administration’s (“FDA”) authority to cover cosmetic and therapeutic devices, allow for FDA seizure of items considered adulterated or misbranded, establish quality standards for goods, and require FDA approval for new drugs.¹⁰⁵

Additional legislation in 1938 extended the FTC’s jurisdiction to allow regulation of “unfair and deceptive acts or practice in commerce.”¹⁰⁶ This authority allowed the FTC to address various business practices that impacted consumers, including deceptive advertising.¹⁰⁷

b. Consumer Education

The impact of the Great Depression and New Deal reform efforts generated increased interest in consumer education during the second era of the consumer movement.¹⁰⁸ Several organizations formed to promote consumer education programs.¹⁰⁹ Most notably, a grant from the Sloan Foundation to Stephens College, a women’s college in Missouri, helped establish the first college consumer education program in the mid-1930s.¹¹⁰ The Stephens College Institute for Consumer Education held annual conferences and programs focused on developing the quantity and quality of consumer education offerings at primary and secondary school, college, and community levels.¹¹¹ Other organizations, including the Consumer Education Association, which had over 700 teachers as members, focused on developing consumer education.¹¹²

101. FELDMAN, *supra* note 52, at 8.

102. *Id.*

103. *Id.* at 8–9.

104. Federal Food, Drug, and Cosmetic Act, 75 Cong. Ch. 675, 52 Stat. 104 (1938) (codified as amended at 21 U.S.C. §§ 301 et seq.).

105. FELDMAN, *supra* note 52, at 8.

106. Wheeler-Lea Act, 75 Cong. Ch. 49, 52 Stat. 111, 111–12 (1938) (codified as amended at 15 U.S.C. § 45); FELDMAN, *supra* note 52, at 9; MAYER, *supra* note 51, at 25 (describing how the Wheeler Lea-Amendment “empowered the FTC to regulate deceptive practices in addition to unfair ones”).

107. FELDMAN, *supra* note 52, at 9.

108. ROYER & NOLF, *supra* note 74, at 15; Charles C. Chandler, *Consumer Education: Past and Present*, 65 SOC. STUD. 146, 146 (1973).

109. CREIGHTON, *supra* note 57, at 75.

110. *Id.*; Bannister, *supra* note 56, at 141.

111. CREIGHTON, *supra* note 57, at 75–76.

112. *Id.* at 76.

Educators developed consumer education classes for elementary and secondary school students.¹¹³ Consumer education expanded at the high school level; according to 1941 estimates, “5 to 10 percent of American high schools were offering special courses in consumer economics and . . . many more schools were providing consumer-education material in business, social studies, and home economics courses.”¹¹⁴

Just as the distractions created by World War I helped mark the end of the first era of the consumer law movement, World War II signaled the end of the momentum for the second wave of consumer law protections.¹¹⁵ During the war, survival measures, including “resource conservation, adjustment to scarcities and rationing, and . . . fighting inflation,” outweighed consumer education efforts.¹¹⁶ Consumers Union lost one-third of its members due to reduced interest in product information during wartime scarcity and a congressional investigation into potential communist influences in the organization.¹¹⁷

Similarly, the growth in business following World War II precipitated a substantial reduction in consumer education offerings as conflicts arose between “the consumer’s interest and the viewpoint of business.”¹¹⁸ Critics characterized consumer education classes as “antiadvertising, antibusiness and pro-frugality.”¹¹⁹ With the prosperity following World War II, individuals focused more on spending, and interest in consumer education classes dwindled.¹²⁰ Some commentators suggested that consumer education classes “often became a dumping ground for low-motivated, low achieving students,” which had a role in “negatively influencing consumer education as a legitimate academic subject.”¹²¹ Additionally, following the Russian space efforts in the 1950s, criticism that schools should focus on more traditional academic classes hampered consumer education efforts.¹²²

3. *The Third Wave*

a. **Consumer Law Developments**

The third wave of the consumer movement began in the 1960s,¹²³ ushering in the modern era of consumer protection law.¹²⁴ It led to legislation and regulation

113. Chandler, *supra* note 108, at 146.

114. CREIGHTON, *supra* note 57, at 76.

115. FELDMAN, *supra* note 52, at 9; MAYER, *supra* note 51, at 25; Brobeck & Hobbs, *supra* note 57, at 8–9.

116. Hermann & Meyer, *supra* note 57, at 589.

117. *Id.*

118. CREIGHTON, *supra* note 57, at 76.

119. Bannister, *supra* note 56, at 141.

120. *Id.*

121. *Id.*

122. CREIGHTON, *supra* note 57, at 78; Hermann & Meyer, *supra* note 57, at 589; Chandler, *supra* note 108, at 147.

123. MAYER, *supra* note 51, at 25; Brobeck & Hobbs, *supra* note 57, at 8–9; FELDMAN, *supra* note 52, at 9.

124. DEE PRIDGEN, CONSUMER PROTECTION LAW IN A NUTSHELL 3–4 (5th ed. 2020) (describing how “[c]onsumer law emerged as a separate area of law in the 1960s and 1970s”);

relating to product safety, deceptive trade practices, consumer credit, debt collection, warranties, and consumer remedies.¹²⁵ During the ten years from 1966 to 1975, new federal consumer protection laws matched the number enacted in the prior 60 years.¹²⁶

John F. Kennedy's 1962 address to Congress, labeled the Consumer Message, is generally referred to as the start of the third wave of the consumer movement.¹²⁷ Kennedy's speech called for a "Consumer Bill of Rights: the right to safety; the right to be informed; the right to choose; and the right to be heard in government decision-making."¹²⁸ As drug safety concerns occurred in the first two waves of the consumer movement, concerns over congenital disabilities from thalidomide helped prompt the passage of new and stronger drug testing laws in 1962.¹²⁹ The legislation significantly promoted consumer protection, applying to new drugs and "retroactively to all drugs which had been marketed since 1938."¹³⁰

Similarly, Ralph Nader's investigations and actions spurred the demand for consumer protection in the 1960s and 1970s.¹³¹ Nader's first major crusade was against the automobile industry as he unveiled the design defects in the Chevrolet Corvair.¹³² The investigation impacted the role of consumer protection in more than just the motor vehicle industry—it also spread to other industries involved in consumer goods and services.¹³³

Nader's efforts at securing motor vehicle legislation created a model for seeking consumer protection law.¹³⁴ Subsequent actions by Nader and his "Raiders" are credited with legislation and regulation designed to foster automobile safety, protect against dangerous products, and create product and banking disclosures.¹³⁵

Mark E. Budnitz, *The Development of Consumer Protection Law, the Institutionalization of Consumerism, and Future Prospects and Perils*, 26 GA. ST. U. L. REV. 1147, 1149–51 (2010) (discussing birth of consumer law as a discipline in the 1960s).

125. 3 WEST'S ENCYCLOPEDIA OF AMERICAN LAW 148–51 (Jeffrey Lehman & Shielle Phelps eds., 2d ed. 2005).

126. FELDMAN, *supra* note 52, at 18–19.

127. MAYER, *supra* note 51, at 26–27; Brobeck & Hobbs, *supra* note 57, at 9. Brobeck and Hobbs, relying on the work of Arthur Schlesinger, describe that Kennedy's 1960 campaign may be a more accurate reference for the beginning of the third era. *Id.* Lucy Black Creighton identifies Kennedy as "[t]he first president to give his specific support and sympathy to the consumer's cause." CREIGHTON, *supra* note 57, at 42.

128. Brobeck & Hobbs, *supra* note 57, at 9.

129. MAYER, *supra* note 51, at 27; FELDMAN, *supra* note 52, at 9–10.

130. FELDMAN, *supra* note 52, at 10.

131. *Id.* at 10–11. For a more detailed discussion of the impact of Ralph Nader on the consumer movement, see CREIGHTON, *supra* note 57, at 51–68.

132. Chamallas, *supra* note 62, at 11–12. For Ralph Nader's account of the investigation, see generally RALPH NADER, UNSAFE AT ANY SPEED (1965).

133. MAYER, *supra* note 51, at 28; Chamallas, *supra* note 62, at 12.

134. Brobeck & Hobbs, *supra* note 57, at 10.

135. MAYER, *supra* note 51, at 28–29; Chamallas, *supra* note 62, at 18–19; *see also* Brobeck & Hobbs, *supra* note 57, at 10

In 1972, Congress established the Consumer Product Safety Commission (“CPSC”).¹³⁶ The CPSC was designed in part “(1) to protect the public against unreasonable risks of injury associated with consumer products; (2) to assist consumers in evaluating the comparative safety of consumer products”; and “(3) to develop uniform safety standards for consumer products.”¹³⁷ The CPSC recruited consumers to assist in drafting standards and had the power to seek criminal sanctions against businesses.¹³⁸ In 1975, the Magnuson-Moss Warranty Act was enacted to protect consumers from deceptive warranties.¹³⁹

Similarly, consumer laws relating to the financial services industry developed during the third wave.¹⁴⁰ In 1968, Congress enacted the Consumer Credit Protection Act (“CCPA”), described as “[t]he workhorse of modern consumer protection law.”¹⁴¹ Title I of the CCPA included the Truth in Lending Act (“TILA”), “the first federal law designed to protect consumers shopping for credit.”¹⁴² TILA addressed, among other things, required disclosures for lenders.¹⁴³

Subsequent additions to the CCPA created consumer protection requirements relating to credit reporting, credit cards, and debt collection.¹⁴⁴ For

136. Brobeck & Hobbs, *supra* note 57, at 11; Chamallas, *supra* note 62, at 19.

137. Consumer Product Safety Act, Pub. L. 92-573, § 2(b), 86 Stat. 1207, 1208 (1972) (codified at 15 U.S.C. § 2051(b)). A detailed discussion of the CPSC is beyond the scope of this Article. For more information, see generally Joseph A. Page, *Consumer Involvement and the Consumer Product Safety Act*, 2 HOFSTRA L. REV. 605 (1974).

138. CREIGHTON, *supra* note 57, at 38–39.

139. Brobeck & Hobbs, *supra* note 57, at 11; see Magnuson-Moss Warranty Act, Pub. L. No. 93-657, 88 Stat. 2183 (1974) (codified as amended at 15 U.S.C. §§ 2301–12.) For more information about the Magnuson-Moss Warranty Act, see generally Robert C. Denicola, *The Magnuson-Moss Warranty Act: Making Consumer Product Warranty a Federal Case*, 44 FORDHAM L. REV. 273 (1975).

140. Budnitz, *supra* note 124, at 1149 (explaining that prior to 1968 consumers had no federal causes of action and only limited state claims for abuses by the financial services industry).

141. GENE A. MARSH, CONSUMER PROTECTION LAW IN A NUTSHELL 6 (2d ed. 1999); Consumer Credit Protection Act, Pub. L. No. 90-321, 82 Stat. 146 (1968) (codified as amended at 15 U.S.C. §§ 1601–1693r). A detailed discussion of the CCPA is beyond the scope of this Article. For more information, see generally Margaret Mikyung Lee, CONG. RSCH. SERV., RL30889, THE CONSUMER CREDIT PROTECTION ACT: AN OVERVIEW OF ITS MAJOR COMPONENTS (2009).

142. Budnitz, *supra* note 124, at 1154; see Truth in Lending Act, Pub. L. No. 90-321, tit. 1, 82 Stat. 146, 146 (1968) (codified as amended at 15 U.S.C. §§ 1601–1665e). A detailed discussion of TILA is beyond the scope of this Article. For more information see generally Christopher L. Peterson, *Truth, Understanding, and High-Cost Consumer Credit: The Historical Context of the Truth in Lending Act*, 55 FLA. L. REV. 807 (2003).

143. Dee Pridgen, *Putting Some Teeth in TILA: From Disclosure to Substantive Regulation in the Mortgage Reform and Anti-Predatory Lending Act of 2010*, 24 LOY. CONSUMER L. REV. 615, 616–21 (2012).

144. PRIDGEN, *supra* note 124, at 168; Paola Bergauer, *A History of Consumer Rights and Improvements*, LEXINGTON L. (Nov. 11, 2021), <https://www.lexingtonlaw.com/blog/credit-repair/history-consumer-rights-improvements.html> [https://perma.cc/LJ4S-4G2L] (tracing evolution of consumer law legislation).

example, in 1970, the Fair Credit Reporting Act¹⁴⁵ was enacted to address issues of accuracy and fairness in credit reporting.¹⁴⁶ In 1974, the Equal Credit Opportunity Act (“ECOA”)¹⁴⁷ and the Fair Credit Billing Act (“FCBA”)¹⁴⁸ provided additional protections for those seeking and securing credit. The ECOA prohibited discrimination “with respect to any aspect of a credit transaction on the basis of race, color, religion, national origin, sex or marital status, or age.”¹⁴⁹ The FCBA established provisions to address billing disputes.¹⁵⁰ In 1977, the Fair Debt Collections Practices Act (“FDCPA”)¹⁵¹ was enacted “to eliminate abusive debt collection practices by debt collectors, to” ensure “that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.”¹⁵²

State consumer protection law accompanied the development of federal legislation during the third wave of the consumer movement.¹⁵³ States created consumer protection offices and enacted consumer legislation.¹⁵⁴ For example, states adopted “UDAP statutes” to regulate “unfair and deceptive acts and

145. Fair Credit Reporting Act of 1970, Pub. L. No. 91-508, tit. VI, § 601, 84 Stat. 1127 (codified as amended at 15 U.S.C. §§ 1681–1681t).

146. *See id.* at Pub. L. No. 91-508, tit. V, § 602, 84 Stat. 1127, 1128 (codified at 15 U.S.C. § 1681(a)). For a more detailed discussion of the FCRA, see G. Allan Van Fleet, *Judicial Construction of the Fair Credit Reporting Act: Scope and Civil Liability*, 76 COLUM. L. REV. 458 (1976).

147. Equal Credit Opportunity Act of 1974, Pub. L. No. 93-495, tit. V, 88 Stat. 1500 (codified as amended at 15 U.S.C. §§ 1691–1691f). For a more detailed analysis of the ECOA, see generally Gail R. Rezenstein, *A Fresh Look at the Equal Credit Opportunity Act*, 14 AKRON L. REV. 215 (1980).

148. Fair Credit Billing Act, Pub. L. No. 93-495, tit. III, 88 Stat. 1500 (1974) (codified as amended at 15 U.S.C. §§ 1666–1666j). For more information about the FCBA, see generally 47 C.J.S. *Interest & Usury* § 550 (2022).

149. Amendments to the Equal Credit Opportunity Act, Pub. L. No. 94-239, § 2(a)(1), 90 Stat. 251, 251 (1976) (codified at 15 U.S.C. § 1691(a)(1)).

150. PRIDGEN, *supra* note 124, at 415–18.

151. Fair Debt Collection Practices Act, Pub. L. No. 95-109, 91 Stat. 874 (1977) (codified as amended at 15 U.S.C. §§ 1692–1692p).

152. *Id.* at Pub. L. No. 95-109, § 802(e), 91 Stat. 874, 874 (codified at § 1692(e)).

153. CREIGHTON, *supra* note 57, at 45–49.

154. *Id.* Creighton indicates that “[b]y 1973, all states had at least one consumer office or division . . . and, by 1975, only Alabama and Georgia were without ‘broad consumer protection statutes.’” *Id.* at 46 (quoting Am. Council on Consumer Interests, *Newsletter* (Sept. 1975)). For a current directory of state offices, see *State Consumer Protection Offices*, USAGov, <https://www.usa.gov/state-consumer> [<https://perma.cc/GAM3-C7QD>] (last visited Oct. 13, 2023).

practices.”¹⁵⁵ Additionally, many states adopted debt collection laws following federal enactment of the FDCPA.¹⁵⁶

b. Consumer Education

President Kennedy’s identification of consumer rights not only marked the beginning of the third wave in the consumer movement but also contributed to a resurgence in consumer education that provided a foundation for subsequent presidents to build on.¹⁵⁷ For example, President Lyndon Johnson’s Great Society plan included a request for government to promote consumer education.¹⁵⁸ President Richard Nixon recognized consumer education as “an integral part of consumer protection” that should start in “childhood and [continue] on.”¹⁵⁹ He sought measures to (1) “promote the establishment of consumer education as a national education concern”; (2) “provide technical assistance in the development of programs”; (3) “encourage teacher training in consumer education”; and (4) “solicit the use of all school and public libraries as consumer information centers.”¹⁶⁰ Building on President Kennedy’s list of four consumer rights, in 1975 President Gerald Ford added the right to consumer education and expressed his desire that consumer education “become an integral part of regular school instruction, community services and educational programs for people out of school.”¹⁶¹

Congress also supported presidential efforts by providing federal funds for consumer education via the Office of Education, authorizing the appointment of a Director of Consumer Education, and creating the Office of Consumer Education to help develop curricular materials and provide grants for consumer education programs.¹⁶²

In 1967, Illinois became the first state to require consumer education for students.¹⁶³ Subsequently, New York Lincoln High School’s consumer education program helped spur consumer education in high schools nationwide.¹⁶⁴

Near the end of the 1970s, consumer protection laws began to wane. Concerns about the growing role of the government in everyday life led to political changes that contributed to a reduction in consumer protection legislation and

155. PRIDGEN, *supra* note 124, at 5. The National Consumer Law Center maintains an online treatise addressing the state UDAP statutes. *Unfair and Deceptive Acts and Practices*, NAT’L CONSUMER L. CTR., <https://library.nclc.org/book/unfair-and-deceptive-acts-and-practices> [<https://perma.cc/3RS2-VEKV>] (last visited Oct. 13, 2023).

156. Robert L. Geltzer & Lois Woocher, *Debt Collection Regulation: Its Development and Direction for the 1980s*, 37 BUS. L. 1401, 1402 (1982).

157. Bannister, *supra* note 56, at 141–42.

158. *Id.* at 142.

159. *Id.*

160. *Id.* at 141; *see also* Richard Nixon, President of the U.S., Special Message to the Congress on Consumer Protection (Feb. 24, 1971), <https://www.presidency.ucsb.edu/documents/special-message-the-congress-consumer-protection> [<https://perma.cc/PFS5-B9S5>].

161. Bannister, *supra* note 56, at 141.

162. CREIGHTON, *supra* note 57, at 77–78.

163. ROYER & NOLF, *supra* note 74, at 31.

164. *Id.* at 32.

regulation.¹⁶⁵ The 1978 defeat of a legislative proposal to create a Consumer Protection Agency has been characterized as the “turning point” for the third wave of consumer protection.¹⁶⁶

The election of President Reagan in 1980 was followed by an era of deregulation, with the Administration “cutting agency appropriations and appointing agency heads with a narrower view of their agency’s mission.”¹⁶⁷ In particular, budget reductions, congressional control, and a narrower view of deceptive acts limited actions by the FTC.¹⁶⁸ Moreover, the “Reagan administration eliminated most grants and contracts to consumer groups.”¹⁶⁹ As a result, legal service lawyers lacked funding to pursue most consumer actions.¹⁷⁰

The deregulation efforts continued for several decades and substantially negatively impacted consumer protection. As one commentator has noted, “consumer protections were deregulated and much that was accomplished in the prior waves of consumerism were negated [I]n many instances, the consumer protection clock seemed to turn back to the earliest years of the Industrial Revolution.”¹⁷¹

B. The Rise and Fall of Consumer Law in the Law School Curriculum in the Twentieth Century

Although references to the need for consumer education date back to Thomas Jefferson’s call for understanding the household economy,¹⁷² and consumer education courses were developed for college and precollege levels during the first two waves of the consumer movement, consumer law classes in law schools did not begin until the third wave of the consumer movement.¹⁷³

As the third wave began, law schools played a minimal role in developing consumer lawyers.¹⁷⁴ The civil rights movement and President Johnson’s declaration of war on poverty in the 1960s helped spur demand for consumer law

165. MAYER, *supra* note 51, at 30; Budnitz, *supra* note 124, at 1165 (identifying how the “political climate shifted and there were several developments that severely obstructed the expansion of consumer protection law”); *see also* PRIDGEN, *supra* note 124, at 6–7 (acknowledging the lack of new federal legislation but identifying some amendments to existing federal laws and the development of state laws to protect car buyers).

166. FELDMAN, *supra* note 52, at 19. For more information about the failure to create a federal consumer protection agency during the 1970s, see Lizabeth Cohen, *Colston E. Warne Lecture: Is It Time for Another Round of Consumer Protection? The Lessons of Twentieth-Century U.S. History*, 44 J. CONSUMER AFFS. 234, 239–41 (2010).

167. Brobeck & Hobbs, *supra* note 57, at 12.

168. Budnitz, *supra* note 124, at 1167.

169. Brobeck & Hobbs, *supra* note 57, at 12.

170. Budnitz, *supra* note 124, at 1167–68 (stating that the funding cuts “forc[ed] those legal services lawyers still employed to handle only emergency cases”).

171. Rotfeld, *supra* note 69, at 427.

172. Bannister, *supra* note 56, at 140.

173. *See* Chamallas, *supra* note 62, at 10–11.

174. Budnitz, *supra* note 124, at 1188.

reform and legal assistance for low-income individuals.¹⁷⁵ With federal funding, legal services offices became the primary source for consumer lawyers.¹⁷⁶

Before 1968, consumer law classes in law school were rare.¹⁷⁷ In 1969, when the TILA became effective, Boston College Law School successfully applied for federal funds to establish the National Consumer Law Center (“NCLC”).¹⁷⁸ The NCLC initially focused on helping low-income families and consumers.¹⁷⁹ Currently, the NCLC provides “policy analysis and advocacy; consumer law and energy publications; litigation; expert witness services, and training and advice for advocates.”¹⁸⁰

Professor Mark Budnitz has identified Homer Kripke’s *Consumer Credit: Text-Cases-Materials*, published in 1970, as one of the earliest law casebooks devoted to consumer issues.¹⁸¹ With the renewed development of federal and state legislative and regulatory consumer actions, more law professors began writing consumer law textbooks and teaching consumer law in the 1970s.¹⁸² Near the decade’s end, two-thirds of law schools had consumer law classes.¹⁸³ At the same time, products liability classes addressed the growing concerns related to product design and defects; however, the courses focused on the actions of the manufacturers as opposed to the protection of consumers.¹⁸⁴

Just as regulation generated interest in consumer law legislation and the development of related scholarship and courses in the legal academy, a reduction in the role of consumer law in law schools accompanied subsequent deregulation and the end of the third era of the consumer movement beginning in the 1980s.¹⁸⁵ Legal

175. *Id.* at 1151–52.

176. *Id.* at 1183–88.

177. *Id.* at 1149 (noting that “[l]aw schools offered few, if any, courses devoted to consumer law”).

178. *Id.* at 1153.

179. *History*, NAT’L CONSUMER L. CTR., <https://www.nclc.org/about-us/history/> [<https://perma.cc/8WW6-TA8E>] (last visited Oct. 13, 2023).

180. *Mission*, NAT’L CONSUMER L. CTR., <https://www.nclc.org/about-us/mission/> [<https://perma.cc/SX4A-V8U7>] (last visited Oct. 13, 2023).

181. Budnitz, *supra* note 124, at 1149 n.5.

182. Alvin C. Harrell, *Teaching Consumer Law: Part Three*, 10 J. CONSUMER & COM. L. 46, 47 (2007) (describing information reported by Professor Dee Pridgen at the 2006 Teaching Consumer Law conference); John C. Weistart, *The Law School Curriculum: The Process of Reform*, 1987 DUKE L. J. 317, 319 (noting demand for consumer protection classes in the early 1970s).

183. Harrell, *supra* note 182, at 47.

184. Chamallas, *supra* note 62, at 12–13; Anita Bernstein, *Whatever Happened to Law and Economics?*, 64 MD. L. REV. 303, 324–25 (2005).

185. Chamallas, *supra* note 62, at 22. While consumer law classes in law schools decreased in the 1980s, the 1980s would see the development of law and economics courses in the law school curriculum. *Id.* at 10 n.5 (quoting ROBERT COOTER & THOMAS ULEN, *LAW AND ECONOMICS*, preface (1988) for the proposition that by 1988 law and economics was a “part of the standard curriculum in leading law schools”). For more information about the development of law and economics movement, see generally Herbert Hovenkamp, *The First Great Law & Economics Movement*, 42 STAN. L. REV. 993 (1990); Richard A. Posner, *The Law and Economics Movement*, 77 AM. ECON. REV. 1 (1987).

scholarship during the last two decades of the twentieth century focused on the “growth and profitability of business and rarely [took] account of the position of organized consumer groups.”¹⁸⁶ Near the beginning of the millennium, reports reflected that fewer than half of law schools had consumer law classes.¹⁸⁷ As Professor Martha Chamallas has described, by 2000 the role of the consumer law class in the law school curriculum was significantly reduced, and “if [consumer protection] [wa]s taught at all, it [wa]s marginalized, perhaps taught by an adjunct professor.”¹⁸⁸ Moreover, often the adjunct teaching consumer law received only limited support.¹⁸⁹

As further evidence of the limited coverage of consumer law issues, Professor Chamallas reported that the 2000 American Association of Law Schools (“AALS”) directory included only 49 full-time faculty members who taught consumer law in its 186 accredited law schools, and only 3 professors taught consumer law at the top 21 *U.S. News and World Report*-ranked schools.¹⁹⁰ Although schools had products liability and antitrust courses in 2000, the classes focused on regulation of companies, rather than impact on consumers.¹⁹¹

III. WHY GEN Z STUDENTS NEED CONSUMER LAW EDUCATION

Changes in consumer law following the beginning of the twenty-first century have fueled the need for increased consumer law opportunities for law students. This Part briefly describes those changes and how they support the call to include consumer law in the curricular options available in law school.

A. Consumer Law Issues in the Internet Age

Deregulation efforts that began in the 1980s and marked the end of the third wave of the consumer movement continued until the end of the millennium.¹⁹² However, as the new century began, problems in the mortgage and credit card industries and the expansion of online services and related technologies led to a resurgence of consumer law and regulation. This resurgence has been classified as the fourth wave or era of consumerism.¹⁹³

186. Chamallas, *supra* note 62, at 22.

187. Alvin C. Harrell, *Teaching Consumer Law*, 6 J. TEX. CONSUMER L. 50, 53–54 (2003).

188. Chamallas, *supra* note 62, at 22. Professor Chamallas attributes the reduction in consumer law the law school curriculum to “(1) the historical origins of the course; (2) the association of consumers with less dominant social groups, particularly women; and (3) the dormant state of the consumer movement.” *Id.* at 9–10.

189. Alvin C. Harrell, *Teaching Consumer Law: Part Two*, 8 J. TEX. CONSUMER L. 2, 9 (2004).

190. Chamallas, *supra* note 62, at 22, 22 n.65 (first citing ASS’N OF AM. L. SCHS., *The AALS Directory of Law Teachers 1999–2000*, at 1096–97, 1238–39 (1999); and then citing U.S. NEWS & WORLD REP., Mar. 31, 2000).

191. *Id.* at 22 n.66.

192. *Id.* at 19.

193. See, e.g., Robert N. Mayer, *The US Consumer Movement: A New Era Amid Old Challenges*, 46 J. CONSUMER AFFS. 171, 186–87 (2012); Cohen, *supra* note 166, at 235.

1. Impact of Technological Advances on Consumer Law

Although the history of the world wide web dates back to 1989, reliance on the Internet to conduct traditional consumer activities such as shopping or banking did not gain widespread adoption in the United States until the turn of the century.¹⁹⁴ A 1995 report showed that “[f]ew [Americans] see online activities as essential to them, and no single feature, with the exception of E-mail, is used with any regularity.”¹⁹⁵ Although the first web purchase, a pizza from Pizza Hut, dates back to 1994,¹⁹⁶ the 1995 report found that “[c]onsumers have yet to begin purchasing goods and services online.”¹⁹⁷

The new century saw substantial growth in online services, driven by new technologies that created a consumer cyber marketplace.¹⁹⁸ By 2000, 40 million Americans had made an online purchase; by 2005, 25 million had made an online sale, and by 2012, global e-commerce sales exceeded \$1 trillion.¹⁹⁹ Additionally, by 2013, more than half of American adults used online banking services.²⁰⁰

The widespread adoption of innovative technologies following the millennium created a demand for new consumer laws. For example, federal laws were passed to address unsolicited email and privacy concerns.²⁰¹ “At least 35 states and the District of Columbia introduced or considered almost 200 consumer privacy bills in 2022.”²⁰²

Concerns about data security led to legislation and regulation designed to thwart hackers and the release of confidential data.²⁰³ The FTC has sought to address

194. *World Wide Web Timeline*, PEW RSCH. CTR. (Mar. 11, 2014), <https://www.pewresearch.org/internet/2014/03/11/world-wide-web-timeline/> [<https://perma.cc/2ZAL-UNLC>].

195. *Americans Going Online . . . Explosive Growth, Uncertain Destinations*, PEW RSCH. CTR. (Oct. 16, 1995), <https://www.people-press.org/1995/10/16/americans-going-online-explosive-growth-uncertain-destinations/> [<https://perma.cc/WAT5-LAKH>].

196. *World Wide Web Timeline*, *supra* note 194.

197. *Americans Going Online . . . Explosive Growth, Uncertain Destinations*, *supra* note 195.

198. Mark E. Budnitz, *The Restatement of the Law of Consumer Contracts: The American Law Institute’s Impossible Dream*, 32 LOY. CONSUMER L. REV. 369, 376–78 (2020).

199. *World Wide Web Timeline*, *supra* note 194.

200. *Id.*

201. PRIDGEN, *supra* note 124, at 7–8 (describing the passage of the CAN-SPAM Act, the Children’s Online Privacy Protection Act, and the Gramm-Leach-Bliley Act).

202. NAT’L CONF. OF STATE LEGISLATURES, 2022 CONSUMER PRIVACY LEGISLATION (June 10, 2022), <https://www.ncsl.org/about-state-legislatures/2022-consumer-privacy-legislation> [<https://perma.cc/BNM3-JVXD>].

203. See, e.g., Katie Branson, *Federal Consumer Data Privacy Legislation in the 116th Congress*, EDUCAUSE REVIEW (May 13, 2019), <https://er.educause.edu/blogs/2019/5/federal-consumer-data-privacy-legislation-in-the-116th-congress> [<https://perma.cc/E2PS-K9YY>]; Katie Branson, *Senate Commerce Committee Holds Hearing on Consumer Data Privacy*, EDUCAUSE REVIEW (Oct. 22, 2018), <https://er.educause.edu/blogs/2018/10/senate-commerce-committee-holds-hearing-on-consumer-data-privacy> [<https://perma.cc/68TQ-N5CT>]; see also Lesley Fair, *FTC Consumer Protection Year in Review Offers 2020 Vision for Your Business*, FTC (Jan. 8, 2020), <https://www.ftc.gov/business-guidance/blog/2020/01/ftc->

the problem of “dark patterns,” where businesses use website and app design techniques to “trick or manipulate consumers into buying products or services or giving up their privacy.”²⁰⁴ Dark pattern design elements include those that induce false beliefs (such as false testimonials, comparisons, and news stories); those that hide material information (such as key terms or fees not visible unless consumers scroll through multiple pages of online information); those that lead to unauthorized charges (such as difficult to cancel recurring subscription charges); and those that trick consumers into releasing private information (such as cell phone and location data).²⁰⁵

Similarly, the development of financial technology companies, or “fintechs,” in providing financial services and online currency alternatives has led to questions about the applicability of traditional laws as well as statutory and regulatory reforms.²⁰⁶ Just as the complexity of new products created a need for consumer protections beginning in the second wave, the complexities in investment products created the need for new consumer protections after the millennium.²⁰⁷ Moreover, federal regulators are now examining the impact of artificial intelligence technology on consumer transactions.²⁰⁸

The use of online communication services has also led to novel issues in debt collection and credit reporting. For example, the growth of the debt-buying industry, aided by electronic databases that collect data and allow the transfer of accounts, often for pennies on the dollar, has expanded the growth of the debt-collection industry from purchased debt amounts of \$6 billion in 1993 to over \$110

consumer-protection-year-review-offers-2020-vision-your-business [https://perma.cc/A7C5-4DNT]; Lesley Fair, *FTC’s \$5 Billion Facebook Settlement: Record-Breaking and History-Making*, FTC (July 24, 2019, 8:52 AM), https://www.ftc.gov/news-events/blogs/business-blog/2019/07/ftcs-5-billion-facebook-settlement-record-breaking-history [https://perma.cc/JMQ5-544E]; Lesley Fair, *Commission Issues Opinion in Cambridge Analytica Case*, FTC (Dec. 6, 2019), https://www.ftc.gov/business-guidance/blog/2019/12/commission-issues-opinion-cambridge-analytica-case [https://perma.cc/NCX8-626Q].

204. *FTC Report Shows Rise in Sophisticated Dark Patterns Designed to Trick and Trap Consumers*, FED. TRADE COMM’N (Sept. 15, 2022), https://www.ftc.gov/news-events/news/press-releases/2022/09/ftc-report-shows-rise-sophisticated-dark-patterns-design-trick-trap-consumers [https://perma.cc/SL2S-WWU3].

205. FED. TRADE COMM’N, BRINGING DARK PATTERNS TO LIGHT 4–16 (2022), https://www.ftc.gov/system/files/ftc_gov/pdf/P214800%20Dark%20Patterns%20Report%2009.14.2022%20-%20FINAL.pdf [https://perma.cc/EC5R-XNBP].

206. See RICHARD CORDRAY, WATCHDOG: HOW PROTECTING CONSUMERS CAN SAVE OUR FAMILIES, OUR ECONOMY, AND OUR DEMOCRACY 156–59 (2020); William Magnuson, *Regulating Fintech*, 71 VAND. L. REV. 1167, 1187–98 (2018); Hill, *supra* note 17, at 69. See generally WILLIAM MAGNUSON, BLOCKCHAIN DEMOCRACY (2020) (providing a detailed discussion of the development of blockchain and bitcoin).

207. See Rotfeld, *supra* note 69, at 428–29.

208. Cora Lewis, *Regulators Take Aim at Rapidly Developing AI Technology to Protect Consumers and Workers*, PBS (May 26, 2023, 6:46 PM), https://www.pbs.org/newshour/politics/regulators-take-aim-at-rapidly-developing-ai-technology-to-protect-consumers-and-workers [https://perma.cc/2ER4-AZPM].

billion in 2005.²⁰⁹ Debt buyers now regularly use email and texts for collection, prompting new regulations to address new communication techniques.²¹⁰

Similar to the efforts of legislation and regulation to address consumer concerns arising from new technologies, the judicial system has confronted consumer law issues based on modern technologies, including concerns over smartphone applications²¹¹ and robocalling.²¹²

2. Impact of Financial Crisis on Consumer Law

Just as technological changes led to new consumer laws, abuses stemming from the financial crisis in the first decade of the millennium also led to demands for new consumer laws. Concerns about the growth of consumer debt and troubles in the mortgage industry accompanied the financial crisis.²¹³

Consumer debt expanded dramatically at the end of the twentieth century as consumers used credit and debit cards at record levels.²¹⁴ From 1970 to 1998, the percentage of people with credit or bank cards grew from 51% to 73%, and for those with credit or bank cards, the percentage who retained a balance after payment increased from 22% to 42%.²¹⁵ Reports reflect that outstanding revolving consumer credit (primarily credit card debt) grew from approximately \$5 billion in 1970 to over \$700 billion in 2000.²¹⁶ By 2007, revolving consumer credit debt was more than \$1 trillion.²¹⁷

209. Rick Jurgens & Robert J. Hobbs, *The Debt Machine: How the Collection Industry Hounds Consumers and Overwhelms Courts*, at 18 (2010), <https://www.nclc.org/wp-content/uploads/2022/09/debt-machine.pdf> [<https://perma.cc/FTV9-4BHX>]. See generally FED. TRADE COMM’N, *THE STRUCTURE AND PRACTICES OF THE DEBT BUYING INDUSTRY* 12–13 (2013), [perma.cc/2BFX-GYFW] (discussing practices of debt buyers); Neil L. Sobol, *Protecting Consumer from Zombie-Debt Collectors*, 44 N.M. L. REV. 327, 333–38 (discussing the growth of the debt-buying industry).

210. See Debt Collection Practices (Regulation F), 85 Fed. Reg. 76734 (Nov. 30, 2020) (codified at 12 C.F.R. pt. 1006). See also Emily Schmidt, *Why is a Debt Collector Texting Me? The Modernization of Debt Collection Practices*, 91 U. CIN. L. REV. 253, 261–69 (2022) (discussing Regulation F’s impact on modern communication technologies).

211. See, e.g., *Apple Inc. v. Pepper*, 139 S. Ct. 1514 (2019) (addressing whether consumers who purchased applications from Apple’s App Store could sue Apple for alleged monopolization).

212. See, e.g., *Barr v. Am. Ass’n of Pol. Consultants*, 140 S. Ct. 2335 (2020) (addressing the Telephone Consumer Protection Act’s exemptions to robocall restrictions for collection of debts owned or backed by federal government).

213. Adam J. Levitin, *The Law of the Middle Class: Consumer Finance in the Law School Curriculum*, 31 LOY. CONSUMER L. REV. 393, 399 (2019).

214. *Id.*; Tamara Draut & Javier Silva, *Borrowing to Make Ends Meet: The Growth of Credit Card Debt in the ‘90s*, DEMOS NETWORK FOR IDEAS & ACTION, at 9 (2003), https://www.demos.org/sites/default/files/publications/borrowing_to_make_ends_meet.pdf [<https://perma.cc/H8ZJ-FGBH>].

215. Thomas A. Durkin, *Credit Cards: Use and Consumer Attitudes, 1970–2000*, Table 1, FED. RSRV. BULL. 623, 625 tbl.1 (Sept. 2000).

216. *Historical Data for Consumer Credit Outstanding (Levels)*, BD. OF GOVERNORS OF THE FED. RSRV. SYS., https://www.federalreserve.gov/releases/g19/HIST/cc_hist_r_levels.html [<https://perma.cc/JDZ2-3XW6>].

217. *Id.*

Reports of abuses by the credit card industry led to enactment of the Credit Card Accountability Responsibility Act of 2009 (“CARD Act”)²¹⁸ with overwhelming bipartisan support.²¹⁹ Among its purposes, the CARD Act sought “to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan.”²²⁰ The goal was to “help protect consumers by prohibiting various unfair, misleading and deceptive practices in the credit card market.”²²¹ The CARD Act established restrictions on fees and interest rates.²²² The CARD Act also required card issuers to consider the ability to pay before establishing accounts or increasing credit limits and set restrictions on issuing cards to individuals under the age of 21.²²³

Accompanying the concerns in the credit card industry, the mortgage crisis and its related impact on the economy in 2007–2009 led to what commentators have labeled the Great Recession.²²⁴ The Great Recession created a new demand “to address widespread failures in consumer protection and the rapid growth in irresponsible lending.”²²⁵ In response, Congress enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) in 2010.²²⁶ The long title of the Dodd-Frank Act reflected concerns about protecting consumers by including the following purposes: “[t]o promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ‘too big to fail,’ to protect the American taxpayer by ending bailouts, [and] to protect consumers from abusive financial services practices.”²²⁷ In particular, the Act included the Mortgage Reform and Anti-Predatory Lending Act establishing new disclosure and consumer “ability to repay” requirements for lenders.²²⁸

218. Credit Card Accountability Responsibility and Disclosure Act of 2009, Pub. L. No. 111–24, 123 Stat. 1734 (2009) (codified in scattered sections of 15 U.S.C.).

219. Oren Bar-Gill & Ryan Bubb, *Credit Card Pricing: The CARD Act and Beyond*, 97 CORNELL L. REV. 967, 969 (2012).

220. Credit Card Accountability Responsibility and Disclosure Act of 2009, Pub. L. No. 111–24, 123 Stat. 1734, 1734 (2009).

221. Mary Beth Matthews, *The Credit CARD Act of 2009—What is It, and What Does It Do?*, 2010 ARK. L. NOTES 65, 65 (2010).

222. Bar-Gill & Bubb, *supra* note 219, at 969; Jeanette N. Bennett, *The CARD Act: Has It Made a Difference?*, 19 INSIDE THE VAULT 1, 1–3 (Spring 2014).

223. Matthews, *supra* note 221, at 71–72.

224. Mayer, *supra* note 193, at 185. A detailed discussion of the Great Recession is beyond the scope of this Article. For more information, see generally KATHLEEN C. ENGEL & PATRICIA A. MCCOY, *THE SUBPRIME VIRUS: RECKLESS CREDIT, REGULATORY FAILURE, AND NEXT STEPS* (2016).

225. CONSUMER FIN. PROT. BUREAU, SEMI-ANNUAL REPORT OF THE CONSUMER FINANCIAL PROTECTION BUREAU: OCTOBER 1–MARCH 31, 2017, at 8 (2017), https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201706_cfpb_Semi-Annual-Report.pdf [<https://perma.cc/L4EE-JBAH>].

226. Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010).

227. *Id.*

228. PRIDGEN, *supra* note 124, at 8–9; *see* Mortgage Reform and Anti-Predatory Lending Act, Pub. L. No. 111-203, tit. XIV, 124 Stat. 2136 (2010). For a more detailed

A significant reform of the Dodd-Frank Act was to consolidate the consumer protection divisions of federal agencies into a newly formed agency, the Consumer Financial Protection Bureau (“CFPB”).²²⁹ While the failure to create a similar agency in the 1970s helped mark the beginning of the end of the third wave,²³⁰ approval of the CFPB in 2010 signified a new stage of consumer activism.²³¹

The CFPB was the “first federal agency specifically mandated to protect American consumers in the financial marketplace.”²³² The CFPB has the authority to regulate, coordinate, investigate, and enforce claims.²³³ The CFPB has more extensive authority and jurisdiction than the FTC to address abusive, unfair, and deceptive practices that consumers may face.²³⁴ Additionally, the Act provides the CFPB with broad rulemaking authority.²³⁵

Under the Obama Administration, the CFPB, which began operating in July 2011, exercised these powers by taking an active role in consumer protection.²³⁶ Its broad accomplishments include the implementation of market studies, enforcement actions, consumer education, and regulations.²³⁷ A significant accomplishment of the CFPB was the creation of a consumer complaint database

discussion of the development of this Act, see generally Susan Block-Lieb & Edward J. Janger, *Reforming Regulation in the Markets for Home Loans*, 38 FORDHAM URB. L.J. 681 (2011).

229. See, e.g., Mayer, *supra* note 193, at 187; Dee Pridgen, *Sea Changes in Consumer Financial Protection: Stronger Agency and Stronger Laws*, 13 WYO. L. REV. 405, 409 (2013). A full discussion of the creation of the CFPB is beyond the scope of this Article. For more detailed information, see CORDRAY, *supra* note 206, at 29–54; Leonard J. Kennedy et al., *The Consumer Financial Protection Bureau: Financial Regulation for the Twenty-First Century*, 97 CORNELL L. REV. 1141, 1142–49 (2012).

230. FELDMAN, *supra* note 52, at 19.

231. See Cohen, *supra* note 166, at 234; Mayer, *supra* note 193, at 186–87; see also Pridgen, *supra* note 229, at 405–06 (identifying the creation of the CFPB as a “sea change” in consumer financial protection).

232. CONSUMER FIN. PROT. BUREAU, CONSUMER RESPONSE ANNUAL REPORT: JULY 21–DECEMBER 31, 2011, at 2 (2012), http://files.consumerfinance.gov/f/201204_cfpb_ConsumerResponseAnnualReport.pdf [<https://perma.cc/P8M3-G3AN>].

233. Pridgen, *supra* note 229, at 409–16.

234. Jean Braucher, *Form and Substance in Consumer Financial Protection*, 7 BROOK. J. CORP. FIN. & COM. L. 107, 117–18 (2012); Chi Chi Wu, *Use Powers Federal Trade Commission Lacked*, N.Y. TIMES (July 21, 2013, 7:16 PM), <https://www.nytimes.com/roomfordebate/2013/07/21/consumer-finance-agencys-new-clout/use-powers-federal-tradecomm-ission-lacked/> [<https://perma.cc/92J9-PCQ6>].

235. Pridgen, *supra* note 229, at 414–15.

236. See generally Kelly Thompson Cochran, *The CFPB at Five Years: Beyond the Numbers*, 21 N. C. BANKING INST. 55 (2017) (describing activities of CFPB during its first five years); Donald C. Lampe & Ryan J. Richardson, *The Consumer Financial Protection Bureau at Five: A Survey of the Bureau’s Activities*, 21 N.C. BANKING INST. 85 (2017) (same). For an empirical analysis of the CFPB’s enforcement actions during its first four years of operation, see generally Christopher L. Peterson, *Consumer Financial Protection Bureau Law Enforcement: An Empirical Review*, 90 TUL. L. REV. 1057 (2016).

237. Cochran, *supra* note 236, at 58–59.

that allows for tracking complaints and sets up a mechanism for consumers and businesses to address complaints.²³⁸

Although the CFPB had reduced activities during the Trump Administration and has faced numerous challenges regarding its formation and structure, the Agency has continued to address consumer financial protection concerns.²³⁹ Just as the development of Social Security during the New Deal and the second wave of the consumer movement sought to help seniors survive after the Great Depression, the CFPB sought to help consumers face the new challenges of the post-Great Recession financial marketplace.²⁴⁰ During its first ten years of operation, CFPB efforts have created relief for more than 183 million consumers or consumer accounts, returning approximately \$14.4 billion in relief and \$1.7 billion in civil penalties against offenders.²⁴¹ By July 2021, the CFPB had processed more than 3 million complaints.²⁴² Additionally, the CFPB has promulgated significant regulations addressing access to credit, auto loans, credit reporting, debt collection, identity theft, and payday loans.²⁴³

Just as legislative and regulatory reforms addressed consumer issues arising from the mortgage crisis and the development of the CFPB, the judiciary also confronted these concerns.²⁴⁴

B. Adding Consumer Law to the Post-Millennium Law School Curriculum

The fourth wave of the consumer movement has created a need to include consumer law education for Gen Z students, who will likely face consumer law issues personally and professionally.

238. *Consumer Complaint Database*, CONSUMER FIN. PROT. BUREAU <https://www.consumerfinance.gov/data-research/consumer-complaints/> [<https://perma.cc/CQR8-QAXM>] (last visited Oct. 13, 2023).

239. A detailed discussion of the CFPB challenges is beyond the scope of this Article. For more information, see CORDRAY, *supra* note 206, at 36–54, 179–216. For some recent cases addressing constitutional concerns, see *infra* note 349. The CFPB also issues monthly, semi-annual, annual, and topic-specific reports detailing its operations. *Reports*, CONSUMER FIN. PROT. BUREAU, <https://www.consumerfinance.gov/data-research/research-reports/> [<https://perma.cc/KLG2-3MNJ>] (last visited Oct. 13, 2023).

240. CORDRAY, *supra* note 206, at 219.

241. David Uejio, *Celebrating 10 Years of Consumer Protection*, CONSUMER FIN. PROT. BUREAU (July 21, 2021), <https://www.consumerfinance.gov/about-us/blog/celebrating-10-years-consumer-protection/> [<https://perma.cc/5B9Q-LMGS>].

242. *Id.*

243. *See Final Rules*, CONSUMER FIN. PROT. BUREAU, <https://www.consumerfinance.gov/rules-policy/final-rules/> [<https://perma.cc/H3MT-PGMM>] (last visited Oct. 13, 2023) (providing a searchable list of final rules issued by the CFPB).

244. *See generally, e.g.*, Seila L. LLC v. Consumer Fin. Prot. Bureau, 140 S. Ct. 2183 (2020) (addressing separation of powers issues and the CFPB); Digit. Realty Tr., Inc. v. Somers, 583 U.S. 149 (2018) (addressing anti-retaliation provision of Dodd-Frank Wall Street Reform and Consumer Protection Act); Henson v. Santander Consumer USA, 582 U.S. 79 (2017) (addressing whether debt buyers are debt collectors under the federal Fair Debt Collection Practices Act).

1. Law Students and Lawyers as Consumers

Gen Z members have grown up in an internet-based world and are subject to the associated consumer law changes discussed in the prior Section. For example, students or their families were likely subject to the personal data breaches stemming from credit reporting companies, such as Equifax, that impacted 145.5 million Americans.²⁴⁵

Consumer reports to the FTC have exploded during the twentieth century, from 325,519 claims in 2001 to over 5 million in 2022.²⁴⁶ Identity theft represents the top complaint, with over 1.4 million reports filed in 2021.²⁴⁷ A review of fraud loss complaints by age group reflects that the younger age groups have a higher percentage of reporting losses.²⁴⁸ For example, 43% of the 20–29 age group (which includes many of the students in or entering law school) reported fraud loss; this is a higher percentage than any older age group reporting losses.²⁴⁹ Online shopping fraud, typically resulting from social media advertisements, was the primary type of fraud experienced by younger adults.²⁵⁰

Moreover, Gen Z students will be involved with modern technology subject to new consumer law changes—including autonomous vehicles and virtual currencies. Complaints about cryptocurrencies have been growing in every state, with claims relating primarily to fraud, theft, and account hacking.²⁵¹ Reports reflect that younger adults are especially vulnerable to cryptocurrency scams.²⁵²

New law students have or are likely to expect personal dealings with credit card debt, student loans, and mortgage transactions.²⁵³ Reports indicate that approximately one-third of Americans, representing over 70 million individuals with a credit file, have received debt collection inquiries.²⁵⁴ In 2019–2020, Gen Z experienced a debt growth rate higher than any other generation, with average

245. Stacy Cowley, *2.5 Million More People Potentially Exposed in Equifax Breach*, N.Y. TIMES (Oct. 2, 2017), <https://www.nytimes.com/2017/10/02/business/equifax-breach.html> [<https://perma.cc/8ZJH-3CUG>].

246. FED. TRADE COMM’N, CONSUMER SENTINEL NETWORK 2022 DATA BOOK 6 (2023), https://www.ftc.gov/system/files/ftc_gov/pdf/CSN-Data-Book-2022.pdf [<https://perma.cc/WKH3-ADME>].

247. *Id.* at 4, 9.

248. FED. TRADE COMM’N, WHO EXPERIENCES SCAMS? A STORY FOR ALL AGES 1 (2022), https://www.ftc.gov/system/files/ftc_gov/pdf/age-spotlight.pdf [<https://perma.cc/R7AR-F3MP>].

249. FED. TRADE COMM’N, *supra* note 246, at 13.

250. FED. TRADE COMM’N, *supra* note 248.

251. CONSUMER FIN. PROT. BUREAU, COMPLAINT BULLETIN: AN ANALYSIS OF CONSUMER COMPLAINTS RELATED TO CRYPTO-ASSETS 12 (2022), https://files.consumerfinance.gov/f/documents/cfpb_complaint-bulletin_crypto-assets_2022-11.pdf [<https://perma.cc/TB3A-XA2W>].

252. FED. TRADE COMM’N, *supra* note 248.

253. Levitin, *supra* note 213, at 402.

254. CONSUMER FIN. PROT. BUREAU, FAIR DEBT COLLECTION PRACTICES ACT: CFPB ANNUAL REPORT 2022, at 8 (2022), https://files.consumerfinance.gov/f/documents/cfpb_fdcpa_annual-report-congress_04-2022.pdf [<https://perma.cc/5SRE-6QAE>] (reporting on a 2016 Survey).

balances increasing by more than 67%.²⁵⁵ A 2019 survey found that 73% of college students will have debt obligations when they graduate.²⁵⁶

As a result, as Professor Gene Marsh describes, “[y]ou don’t have to go too far in the course on consumer protection before you’ll come across a subject that invites broad participation in class discussion based on personal experience.”²⁵⁷

2. *The Role of Consumer Law in Legal Practice*

As lawyers, many law school graduates will represent consumers who face consumer law issues or businesses dealing with consumer law topics. The impact of consumer law changes also expands to criminal law issues, as prosecutors and defense counsel may address consumer law concerns in cases involving cybercrimes, identity theft, and privacy issues.

Providing law students with opportunities to address the newly expanded consumer laws affords students the ability to market their skills to law firms and businesses.²⁵⁸ The development of consumer laws and regulations has created a significant workplace demand for lawyers with knowledge about regulatory compliance issues.²⁵⁹ Consumer law attorneys can receive competitive salaries in both private and public sector positions.²⁶⁰ Moreover, students who aspire to be legislators or judges will benefit from understanding the consumer law topics arising in the new wave of consumerism.²⁶¹

By providing law students with practical knowledge in these areas, law schools can increase the marketability of their graduates, which in turn can make attending law school more attractive to potential new students.²⁶² Similarly, law school offerings in consumer law can appeal to law school applicants interested in helping others. While law students have traditionally indicated that helping others is

255. Nicolas Vega, *Here’s the Average Amount of Debt Gen Zers Have*, CNBC (Oct. 22, 2021, 11:43 AM), <https://www.cnbc.com/2021/10/22/how-much-debt-gen-z-has-on-average.html> [<https://perma.cc/CE2S-7SEW>].

256. Brittany Hunter, *Dear Gen Z: Learn from Millennial Mistakes and Say No to Student Loan Debt*, FEE (Feb. 4, 2020), <https://fee.org/articles/dear-gen-z-learn-from-millennial-mistakes-and-say-no-to-student-loan-debt> [<https://perma.cc/959F-GLVM>].

257. Marsh, *supra* note 1, at 23.

258. See Levitin, *supra* note 213, at 402–03.

259. *Id.* (discussing competitive edge that consumer finance course would give law students in regulatory compliance issues).

260. Rory Van Loo, *The Public Stakes of Consumer Law: The Environment, the Economy, Health, Disinformation, and Beyond*, 107 MINN. L. REV. 2039, 2095 (2023).

261. For a general discussion of the emerging issues, see *supra* Section III.A.

262. See R. Michael Cassidy, *Reforming the Law School Curriculum from the Top Down*, 64 J. LEGAL EDUC. 428, 429–30 (2015) (stating that law schools need curricular reform to help attract students and promote their graduates); *Kaplan Test Prep Survey: Law Schools Cut Their Incoming Classes and Increase “Practice Ready” Curricula*, KAPLAN TEST PREP (Oct. 1, 2013), <https://www.kaptest.com/blog/press/2013/10/01/kaplan-test-prep-survey-law-schools-cut-their-incoming-classes-and-increase-practice-ready-curricula/> [<https://perma.cc/GD59-33LT>] (reporting that “78% of law school admissions officers [from 127 ABA accredited schools] think that ‘the U.S. legal education system needs to undergo significant changes to better prepare future attorneys for the changing employment landscape and legal profession’”).

a common reason for entering law school, reports reflect that “making a difference for others” is especially true for Gen Z members.²⁶³

IV. APPETIZER: PROVIDING A TASTE OF CONSUMER LAW IN THE FIRST YEAR

Assuming law schools agree with the proposal to increase their students’ exposure to consumer law, the next question is how best to do it. One option would require all law students to take a consumer law class or clinic. Given the status of curriculum reform, adding required classes is not likely to gain traction because schools are trying to provide more options rather than restricting choices.²⁶⁴

As a result, instead of requiring new classes, I advocate incorporating consumer law issues into existing required classes and suggest that this is best accomplished during the first year. While law schools are moving away from required classes for second- and third-year students, most schools typically have a required curriculum for all first-year students.²⁶⁵ As such, the first-year curriculum offers an opportunity to present consumer law topics to all entering students. As described in the prior Part, law students likely have a personal and potential professional interest in consumer law issues. By introducing consumer law topics in first-year classes, law schools can build on the enthusiasm and interest of their entering students. Reports reflect that interest in helping others diminishes after the first year.²⁶⁶ Moreover, as most entering law students do not have a clear idea of what type of law they will ultimately practice,²⁶⁷ sampling consumer law issues in the first year offers students a perspective on potential career interests.

Many first-year courses already address some consumer law subjects but may not label them as such for students. I propose that law professors should identify these topics as consumer law issues and point out that students will encounter many of them both personally and, if they represent consumers or consumer-facing businesses, professionally. Professors can explicitly address consumer-law topics or use hypotheticals and case law with fact scenarios that involve consumers. Using

263. See Tiffany D. Atkins, *#ForTheCulture: Generation Z and the Future of Legal Education*, 26 MICH. J. RACE & L. 115, 133 (2020). Generation Z has also been characterized as “more tolerant, social-justice minded, and ethnically diverse than any previous generation.” *Id.* at 120.

264. A detailed discussion of law school curriculum reform is beyond the scope of this Article. For more information, see generally ABA SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, A SURVEY OF LAW SCHOOL CURRICULA: 2002–2010 (Catherine L. Carpenter ed., 2012); Weistart, *supra* note 182, at 317.

265. See ABA SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, *supra* note 264, at 55.

266. See Nantiya Ruan, *Experiential Learning in the First-Year Curriculum: The Public-Interest Partnership*, 8 LEGAL COMM’N & RHETORIC 191, 198 (2011); Deborah Maranville, *Infusing Passion and Context into the Traditional Law Curriculum Through Experiential Learning*, 51 J. LEGAL EDUC. 51, 53 (2001).

267. Joshua Craven, *Do I Need Know What Type of Law I Want to Practice Prior to Law School?*, LAWSCHOOLI (Dec. 21, 2020), <https://lawschooli.com/pick-area-of-law-before-starting-law-school/> [<https://perma.cc/288L-5DDT>].

real-life examples of consumer law issues in first-year classes can increase student interest and participation.²⁶⁸

The following are some non-exhaustive examples of how first-year classes can explicitly address consumer law topics. The options include examples from traditionally covered cases and suggestions for incorporating contemporary consumer scenarios. Professors can use these or related examples to offer first-year law students a taste of consumer law issues.

A. Contract Law

Given the prevalence of contracts traditionally involved in consumer connections with businesses and other consumers, contract law classes provide numerous opportunities to present consumer law matters to first-year students.

Incorporating consumer law topics into the first-year contracts classes is not new. Professor Chamallas recognized that, during the 1970s, consumer law became part of first-year classes as contract law professors included major consumer law cases in their assigned readings, including *Williams v. Walker-Thomas Furniture*,²⁶⁹ which addresses adhesion contracts and unconscionability in consumer loans.²⁷⁰ Current contract law classes also commonly address unconscionability and warranty claims by consumers.²⁷¹ Similarly, many first-year contract textbooks have case law examples and exercises involving consumer contracts for personal services and the sale of goods.²⁷²

Hawkins v. McGee,²⁷³ made famous by the fictional contract law Professor Kingsfield in the movie *The Paper Chase*,²⁷⁴ addresses concepts of contractual damages; the defendant, a doctor, allegedly guaranteed a patient that his skin graft surgery would be successful, but the surgery failed to produce the expected results.²⁷⁵

Case law and hypotheticals regarding whether the terms listed in advertisements directed at consumers bind businesses can illustrate the concepts of offer, assent, and unilateral mistake.²⁷⁶ For example, the classic English common

268. Marsh, *supra* note 1, at 23.

269. 350 F.2d 445 (D.C. Cir. 1965).

270. Chamallas, *supra* note 62, at 11. Modern contract textbooks also address unconscionability and adhesion contracts that consumers can face. *See, e.g.*, FRANKLIN G. SNYDER & MARK EDWIN BURGE, *AMERICAN CONTRACT LAW FOR A GLOBAL AGE* 57–65 (2017); CHARLES CALLEROS & STEPHEN A. GERST, *CONTRACTS: CASES, TEXT, AND PROBLEMS* 37 (2d ed. 2020); DAVID G. EPSTEIN ET AL., *CONTRACTS: MAKING AND DOING DEALS* 474–87 (6th ed. 2022).

271. Sovern, 2008 Survey, *supra* note 49, at 49; *see, e.g.*, CALLEROS & GERST, *supra* note 270, at 367–84, 457–61; EPSTEIN ET AL., *supra* note 270, at 474–87, 615–64.

272. *See, e.g.*, RANDY E. BARNETT & NATHAN B. OMAN, *CONTRACTS: CASES AND DOCTRINE* 172–98 (6th ed. 2017) (referencing a specific section entitled “Contracts for Personal Services”).

273. 146 A. 641 (N.H. 1929).

274. *THE PAPER CHASE*, *supra* note 2.

275. *Hawkins*, 146 A. at 643; *see* EPSTEIN ET AL., *supra* note 270, at 853–59 (discussing *Hawkins*).

276. *See* CALLEROS & GERST, *supra* note 270, at 37–50.

law case *Carlill v. Carbolic Smoke Ball Co.*,²⁷⁷ included in many textbooks, addresses notions of acceptance by performance.²⁷⁸ Carbolic Smoke Ball advertised that it would pay a £100 reward to anyone who contracted influenza after purchasing and using its smoke balls. After using the Company's products, Carlill sought to recover the reward when she developed influenza.²⁷⁹

Similarly, many contract law textbooks include *Leonard v. PepsiCo, Inc.*²⁸⁰ to address whether a television commercial purporting to provide a Harrier Jet for 7 million Pepsi points was an offer to consumers.²⁸¹ Contract professors could also use the case to illustrate statute of fraud issues, as the judge found that the lack of a writing reflecting the alleged contract provided a basis for granting summary judgment to PepsiCo.²⁸² To help increase interest in this case, professors can have students watch Pepsi, *Where's My Jet?*, a recent Netflix documentary series about the case.²⁸³

Consumer law issues in more contemporary matters can also emphasize traditional contract law concepts. *Augstein v. Leslie*²⁸⁴ provides a modern version of *Carbolic*, where Augstein sought to recover a \$20,000 reward that Leslie offered in a YouTube video for the return of a stolen laptop computer.²⁸⁵ Additionally, professors can use clickwrap and shrink-wrap contracts to demonstrate consumer concerns under contract law.²⁸⁶ Similarly, COVID liability waivers that some colleges requested of their students can be examples in addressing waiver concepts.²⁸⁷

Having addressed these consumer-involved matters, professors can promote further interest in consumer law topics by stating that many of the concerns that arose under common law are now subject to federal and state consumer

277. [1893] 1 QB 256.

278. See, e.g., CALLEROS & GERST, *supra* note 270, at 58–61.

279. [1893] 1 QB at 256–57.

280. 88 F. Supp. 2d 116 (S.D.N.Y. 1999).

281. *Id.* at 122–30; see, e.g., SNYDER & BURGE, *supra* note 270, at 57–65 (discussing *Leonard*); CALLEROS & GERST, *supra* note 270, at 37.

282. 88 F. Supp. 2d. at 131.

283. See Amanda Richards, *The 'Pepsi, Where's My Jet?' Trailer Will Fly You Back to the '90s—No Fighter Jet Required*, NETFLIX.COM (Nov. 16, 2022), <https://www.netflix.com/tudum/articles/pepsi-where-s-my-jet-release-date-cast-news> [<https://perma.cc/K3MX-332S>].

284. No. 11 Civ. 7512(HB), 2012 WL 4928914 (S.D.N.Y. Oct. 17, 2012).

285. *Id.* at *1. See SNYDER & BURGE, *supra* note 270, at 49–54.

286. See BARNETT & OMAN, *supra* note 272, at 358 (excerpting Florencia Marotta-Wurgler, *Some Realities of Online Contracting*, 19 SUP. CT. ECON. REV. 11, 21 (2011), which states that clickwrap contracts “have the most pro-seller terms of all [electronic contracts]”); see also Robert L. Oakley, *Fairness in Electronic Contracting: Minimum Standards for Non-Negotiated Contracts*, 42 HOUS. L. REV. 1041, 1051 (2005) (discussing the ubiquitous nature and concerns of clickwrap contracts in modern consumer decision making).

287. Heidi Li Feldman, Opinion, *Your College May Ask You to Sign a Waiver for Harm Inflicted by COVID-19. Don't Do It*, L.A. TIMES (June 25, 2020, 11:16 AM), <https://www.latimes.com/opinion/story/2020-06-25/op-ed-covid-colleges-fall-waivers> [<https://perma.cc/KX27-M9Z6>].

protection provisions directed at unfair, deceptive trade practices and that these can be studied in more detail in specialized classes or clinics.²⁸⁸

B. Torts

Tort law cases also feature numerous consumer law-related issues, both traditionally and through post-millennium concerns. For example, products liability matters often involve problems with consumer goods and services.²⁸⁹ *Escola v. Coca-Cola Bottling Co.*,²⁹⁰ included in many textbooks as one of the seminal cases in products liability law, deals with injuries arising from an exploding glass bottle.²⁹¹ Additionally, claims for negligence,²⁹² fraud and misrepresentation,²⁹³ and appropriation of identity or likeness arise in consumer matters.²⁹⁴

*MacPherson v. Buick Motor Co.*²⁹⁵ is a landmark negligence case that addresses whether Buick was liable to a consumer for injuries when a vehicle's wheels collapsed. Buick claimed that it was not the company that made the wheels.²⁹⁶ The court found that privity of contract was unnecessary and that Buick owed a duty of care as a manufacturer to inspect the vehicle before sale.²⁹⁷ Similarly, strict liability cases often involve consumer products like the power tool in *Greenman v. Yuba Power Products, Inc.*²⁹⁸

Often, consumer-related tort cases are hot topics. For example, in the 1990s a jury found McDonald's liable for compensatory and punitive damages of nearly \$3 million to an 80-year-old woman who received third-degree burns from coffee spilled on her lap.²⁹⁹ Although the judge reduced the damages to \$640,000,³⁰⁰ and

288. Many contracts law textbooks reference federal and state statutes designed to protect consumers. *See, e.g.*, CALLEROS & GERST, *supra* note 270, at 46; EPSTEIN ET AL., *supra* note 270, at 977–78.

289. *See generally* PROSSER ET AL., TORTS: CASES AND MATERIALS 819 (14th ed. 2020) (products liability chapter); ALEX B. LONG & TERI DOBBINS BAXTER, TORTS: A MODERN APPROACH 485 (2020) (same); AARON D. TWERSKI ET AL., TORTS: CASES AND MATERIALS 629 (4th ed. 2017) (same); JAMES UNDERWOOD, TORT LAW: PRINCIPLES IN PRACTICE 739 (2d ed. 2018) (same); RUSSELL L. WEAVER ET AL., TORTS: CASES, PROBLEMS, AND EXERCISES 759 (6th ed. 2022) (same).

290. 150 P.2d 436 (Cal. 1944).

291. *Id.* at 437–38; *see, e.g.*, LONG & BAXTER, *supra* note 289, at 495–98 (discussing *Escola*); WEAVER ET AL., *supra* note 289, at 770–74 (same).

292. *See generally* WEAVER ET AL., *supra* note 289, at 105 (negligence chapter).

293. *See generally* PROSSER ET AL., *supra* note 289, at 1171 (misrepresentation chapter); LONG & BAXTER, *supra* note 289, at 657 (same); WEAVER ET AL., *supra* note 289, at 999 (same).

294. *See generally* WEAVER ET AL., *supra* note 289, at 916–21.

295. 111 N.E. 1050 (N.Y. 1916).

296. *Id.* at 1051; *see, e.g.*, PROSSER ET AL., *supra* note 289, at 460–63 (discussing *MacPherson*); WEAVER ET AL., *supra* note 289, at 767–70 (same); LONG & BAXTER, *supra* note 289, at 488–91 (same).

297. *MacPherson*, 111 N.E. at 1055.

298. 377 P.2d 897 (Cal. 1963); *see, e.g.*, PROSSER ET AL., *supra* note 289, at 834–37 (discussing *Greenman*).

299. *Liebeck v. McDonald's Rests., P.T.S., Inc.*, CV-93-02419, 1995 WL 360309, at *1 (N.M. Dist. Aug. 18, 1994), *vacated*, 1994 WL 16777704 (N.M. Dist. Nov. 28, 1994).

300. *Id.*

the parties later settled for an amount reported to be under \$500,000, many sources claimed the lawsuit was an example of frivolous litigation and used it to support calls for tort reform.³⁰¹ A 2011 documentary, *Hot Coffee*, helped dispel misconceptions about the case.³⁰² Torts professors could also use PepsiCo's commercial advertisement purporting to give a Harrier Jet for 7 million Pepsi points to discuss fraud and misrepresentation.³⁰³

Torts professors wanting to incorporate post-millennium issues that arise in the consumer context also have a variety of potential scenarios. Examples include self-driving cars,³⁰⁴ drones,³⁰⁵ and breaches of data security.³⁰⁶ Recent discussions about the liability of businesses for negligently inflicting consumers with the coronavirus may also illustrate tort concepts to Gen Z students.³⁰⁷ Similarly, traditional notions of vicarious liability in tort can be addressed in contemporary scenarios, including the liability of ride-sharing service providers, like Uber, for torts committed against consumers by their drivers.³⁰⁸

C. Civil Procedure

Many traditional cases discussed in civil procedure classes arise in the consumer context. For example, a commonly studied case involving personal

301. Allison Torres Burtka, *Liebeck v. McDonald's: The Hot Coffee Case*, AM. MUSEUM TORT L., <https://www.tortmuseum.org/liebeck-v-mcdonalds/> [<https://perma.cc/Z2QM-UG98>] (last visited Jan. 8, 2024).

302. *Id.*; HOT COFFEE (Home Box Office 2011). For a recent study of the lasting impact of the case on questions of frivolity, see generally Kaitlyn Filip & Kat Albrecht, *Liebeck v. Frivolity: The Contemporary Influence of an Iconic Case*, 4 CORP. & BUS. L. J. 42 (2023).

303. Leonard v. PepsiCo, Inc., 88 F. Supp. 2d 116, 132 (S.D.N.Y. 1999) (denying fraud claim).

304. See, e.g., Stephani R. Johnson, *Autonomous Vehicles and Emerging Tort Implications*, NAT'L L. REV. (Apr. 11, 2019), <https://www.natlawreview.com/article/autonomous-vehicles-and-emerging-tort-implications> [<https://perma.cc/244E-MQ8G>] (discussing novel issues of liability under traditional tort law concepts); Jack Karsten & Darrell M. West, *The State of Self-Driving Car Laws Across the U.S.*, BROOKINGS (May 1, 2018), <https://www.brookings.edu/blog/techtank/2018/05/01/the-state-of-self-driving-car-laws-across-the-u-s/> [<https://perma.cc/8HVG-VSE7>] (discussing the ways various states have approached liability issues in the autonomous vehicle tort context).

305. See generally Benjamin D. Mathews, Comment, *Potential Tort Liability for Personal Use of Drone Aircraft*, 46 ST. MARY'S L. J. 573 (2015) (discussing potential tort claims).

306. See generally Vincent R. Johnson, *Data Security and Tort Liability*, 11 J. INTERNET L. 22 (2008) (discussing potential tort claims); Vincent R. Johnson, *Cybersecurity, Identity Theft, and the Limits of Tort Liability*, 57 S.C. L. REV. 255 (2005) (same).

307. See, e.g., Jeff Sovern, *How Can Businesses Demand Laws Preventing Liability for Negligently Infecting Consumers with COVID When So Many Carelessly Don't Require Employees to Wear Masks?*, CASETEXT (June 25, 2020), <https://casetext.com/analysis/how-can-businesses-demand-laws-preventing-liability-for-negligently-infecting-consumers-with-covid-when-so-many-carelessly-dont-require-employees-to-wear-masks> [<https://perma.cc/68TC-L8VU>].

308. See, e.g., Doe v. Uber Techs., Inc., 551 F. Supp. 3d 341 (S.D.N.Y. 2021). See generally PROSSER ET AL., *supra* note 289, at 751 (vicarious liability chapter); WEAVER ET AL., *supra* note 289, at 629 (same).

jurisdiction is *World-Wide Volkswagen Corp. v. Woodson*.³⁰⁹ The underlying action was a products liability matter filed in Oklahoma state court for injuries that occurred in an Oklahoma automobile accident against defendants that included a New York retailer and wholesaler that did not do business in Oklahoma.³¹⁰ Similarly, the Supreme Court has addressed minimum contacts based on a stream of commerce concept arising from a motorcycle accident related to a defective tube valve manufactured by a Japanese corporation.³¹¹ For a more recent case discussing jurisdictional issues involved in a products liability suit arising from a car accident, classes can address *Ford Motor Co. v. Montana Eighth Judicial District Court*.³¹² Civil procedure classes often discuss notice issues using *Mullane v. Central Hanover Bank & Trust Co.*³¹³ *Mullane* examined whether notice to estate beneficiaries by newspaper publication met due process requirements.³¹⁴

Like contracts and torts professors, civil procedure professors can use *Leonard v. Pepsico*³¹⁵ to illustrate relevant concepts in their classes. The federal case ultimately awarded Pepsico summary judgment and involved more than “three years of jurisdictional and procedural wrangling.”³¹⁶ Other procedural matters included concepts of declaratory judgment, removal, transfer, and personal jurisdiction.³¹⁷ Professors can also examine class actions that involve consumer law matters.³¹⁸

Post-millennial consumer scenarios also present opportunities to discuss procedural matters. For example, students can study personal jurisdiction concepts

309. 444 U.S. 286 (1980); *see, e.g.*, BARBARA ALLEN BABCOCK ET AL., CIVIL PROCEDURE: CASES AND PROBLEMS 120–28 (7th ed. 2021) (discussing *World-Wide Volkswagen*); LINDA J. SILBERMAN ET AL., CIVIL PROCEDURE: THEORY AND PRACTICE 116–27 (6th ed. 2022) (same); JOSEPH W. GLANNON ET AL., CIVIL PROCEDURE: A COURSEBOOK 184–200 (4th ed. 2021) (same); STEPHEN N. SUBRIN ET AL., CIVIL PROCEDURE: DOCTRINE, PRACTICE, AND CONTEXT 699–710 (6th ed. 2020) (same).

310. *World-Wide Volkswagen*, 444 U.S. at 289–91.

311. *Asahi Metal Indus. Co. v. Superior Ct. of Cal.*, 480 U.S. 102, 105–69 (1987); *see, e.g.*, GLANNON ET AL., *supra* note 309 at 218–27 (discussing *Asahi*); SILBERMAN ET AL., *supra* note 309, at 127–37 (same).

312. 592 U.S. 351 (2021).

313. 339 U.S. 306 (1950); *see, e.g.*, GLANNON ET AL., *supra* note 309, at 331–38 (discussing *Mullane*); CHRISTOPHER B. MUELLER, TWENTY-FIRST CENTURY CIVIL PROCEDURE 261–69 (3d ed. 2022) (same); SUBRIN ET AL., *supra* note 309, at 846–52 (same); JACK H. FRIEDENTHAL ET AL., CIVIL PROCEDURE: CASES AND MATERIALS 237–51 (13th ed. 2022) (same).

314. *Mullane*, 339 U.S. at 313–14.

315. 88 F. Supp. 2d 116 (S.D.N.Y. 1999).

316. *Id.* at 121–22.

317. *Id.* at 121.

318. Consumer Action maintains a listing of notable class actions involving consumers. *Class Action Database*, CONSUMER ACTION <https://www.consumer-action.org/lawsuits/by-status/open> [<https://perma.cc/C899-HYLN>] (last visited Feb. 3, 2023). Civil procedure textbooks also address class actions. *See, e.g.*, GLANNON ET AL., *supra* note 309, at 165 (discussing class actions); STEPHEN N. SUBRIN ET AL., *supra* note 309, at 1063 (same); FRIEDENTHAL ET AL., *supra* note 313, at 799 (same).

related to online sales of consumer goods or services.³¹⁹ Electronic filing, e-discovery, and service issues also arise in the consumer context.³²⁰ Similarly, class action consumer matters involving post-millennial issues include concerns about releasing private information held by retailers, credit-reporting bureaus, and social media providers.³²¹

D. Property Law

Property Law classes offer a variety of topics related to consumer matters, many of which students or their families may have experienced. For example, classes may examine traditional landlord–tenant residential disputes in property, including claims about occupancy, repairs, rent, security deposits, and rights to quiet enjoyment and habitable premises.³²² Additionally, by studying consumer real estate transactions, property law classes can discuss issues that arise for consumers based on purchase and sale agreements, deeds, financing documents, and foreclosure issues.³²³ Concerns may include disclosure requirements and protections from fraudulent, false, or misleading statements.³²⁴ Similarly, property professors can discuss consumer issues that serve as the basis for fair housing laws, including notions of discrimination, disparate treatment, segregation, and fair lending.³²⁵

Property classes can address contemporary consumer concerns such as the reforms arising from the mortgage crisis of the Great Recession.³²⁶ Professors can use the proliferation of drones to discuss questions of ownership of air space

319. See, e.g., GLANNON ET AL., *supra* note 309, at 239 (containing a section entitled “Back to the Future: Does the Internet Pose a Future: Does the Internet Pose a New Challenge for Personal Jurisdiction Doctrine”); MUELLER, *supra* note 313, at 219 (containing a subsection entitled “Brave New World: Jurisdiction and the Internet”); *Zippo Mfg. Co. v. Zippo Dot Com, Inc.*, 952 F. Supp. 1119, 1124–26 (W.D. Pa. 1997) (applying a sliding scale analysis in an Internet-specific personal jurisdiction issue, which quite famously became known as the “Zippo test”).

320. See, e.g., MUELLER, *supra* note 313, at 269, 800 (3d ed. 2022) (containing subsections entitled “Service in the Digital Age” and “E-Discovery”).

321. See generally 3 E-COMMERCE AND INTERNET LAW, CLASS ACTION LITIGATION § 26.15, Westlaw (database updated Apr. 2020) (discussing data-privacy related putative class action suits). See, e.g., *In re Target Corp. Customer Data Sec. Breach Litig.*, 855 F.3d 913 (8th Cir. 2017); *In re Equifax, Inc. Customer Data Sec. Breach Litig.*, 289 F. Supp. 3d 1322 (U.S. Jud. Pan. Mult. Lit. 2017) (consolidating putative class action matters); *Patel v. Facebook, Inc.*, 932 F.3d 1264 (9th Cir. 2019) (addressing class certification questions).

322. See, e.g., JOSEPH WILLIAM SINGER ET AL., PROPERTY LAW: RULES, POLICIES, AND PRACTICES 831 (8th ed. 2022) (referencing a chapter entitled “Leaseholds”); BARLOW BURKE & JOSEPH SNOE, EXAMPLES & EXPLANATIONS: PROPERTY 261 (6th ed. 2019) (referencing a chapter entitled “The Landlord and Tenant Relationship”).

323. See, e.g., SINGER ET AL., *supra* note 322, at 921 (referencing a chapter entitled “Real Estate Transactions”).

324. See, e.g., Pridgen, *supra* note 143, at 621.

325. See, e.g., THOMAS W. MERRILL ET AL., PROPERTY: PRINCIPLES AND POLICIES 393–415 (4th ed. 2022) (addressing antidiscrimination laws, including the fair housing laws); SINGER ET AL., *supra* note 322, at 1027–1119 (discussing Fair Housing Law).

326. See, e.g., SINGER ET AL., *supra* note 322, at 967–96 (addressing regulation, foreclosure and consumer protection issues); MERRILL ET AL., *supra* note 325, at 831–46 (addressing mortgages and the financial crisis of 2007–08).

rights.³²⁷ Students can also address how traditional property law concepts apply to current services like Airbnb.³²⁸

E. Criminal Law

Criminal law classes can also discuss scenarios involving consumer matters. For example, corporate and vicarious liability cases for criminal actions often arise in the consumer context.³²⁹ In 1978, a grand jury in Elkhart County, Indiana indicted Ford Motor Co. on three counts of reckless homicide following an accident that killed three teenagers when the fuel tank of their Ford Pinto exploded after being struck from behind by another vehicle.³³⁰ The case was the first in which a court recognized that a corporation could be criminally responsible for faulty product design.³³¹ Subsequently, in *State v. Christy Pontiac-GMC, Inc.*,³³² the Minnesota Supreme Court addressed whether a corporation could be convicted of theft and forgery when a corporate representative forged signatures and backdated documents to secure rebates related to sales of vehicles to consumers.³³³ The case discussed whether crimes requiring specific intent could apply to a corporation.³³⁴

Similarly, the Supreme Court in 1974 in *United States v. Park*³³⁵ dealt with the standard of criminal liability for a corporate manager under the Federal Food Drug and Cosmetic Act for allowing rodent contamination of food shipments.³³⁶ And in 2015, Stewart Parnell, the president of the Peanut Corporation of America,

327. See, e.g., MERRILL ET AL., *supra* note 325, at 16 (citing Troy A. Rule, *Airspace in the Age of Drones*, 95 B.U. L. REV. 155 (2015)); Jay Mark Hendrix, *Do You Own the Airspace Above Your Property?*, LANDSEARCH (July 15, 2019), <https://www.landsearch.com/blog/property-air-rights> [<https://perma.cc/93Z2-7WS7>].

328. See, e.g., Chad Marzen et al., *The New Sharing Economy: The Role of Property, Tort, and Contract Law for Managing the Airbnb Model*, 13 N.Y.U. J. L. & BUS. 295, 301–16 (2017); MERRILL ET AL., *supra* note 325, at 415 (raising questions about the application of housing discrimination laws for Airbnb).

329. Many criminal law casebooks address corporate and vicarious criminal liability issues. See, e.g., JOSHUA DRESSLER & STEPHEN P. GARVEY, *CRIMINAL LAW: CASES AND MATERIALS* 943–63 (9th ed. 2022); WAYNE R. LAFAVE, *MODERN CRIMINAL LAW: CASES, COMMENTS AND QUESTIONS* 887–923 (6th ed. 2017).

330. The grand jury indictments of Ford Motor Co. for three counts of reckless homicide are available at *State v. Ford Motor Co.*, No. 5324 (Ind. Super. Ct., filed Sept. 13, 1978).

331. Paul J. Becker et al., *State of Indiana v. Ford Motor Company Revisited*, 26 AM. J. CRIM. JUST. 181, 182 (2002) (describing the importance of the case's recognition of potential criminal liability of a corporation, even though the jury ultimately found the corporation not guilty). For a more detailed discussion of the case, see generally Glenn A. Clark, Note, *Corporate Homicide: A New Assault on Corporate Decision-making*, 54 NOTRE DAME L. REV. 911 (1979).

332. 354 N.W.2d 17 (Minn. 1984).

333. *Id.* at 17–18.

334. *Id.* at 18–19; see DRESSLER & GARVEY, *supra* note 329, at 949–63 (discussing *Christy Pontiac-GM* and corporate liability for criminal actions).

335. 421 U.S. 658 (1975).

336. *Id.* at 673; see LAFAVE, *supra* note 329, at 913–19 (discussing *Park*); RUSSELL L. WEAVER ET AL., *CRIMINAL LAW: A CONTEMPORARY APPROACH* 192–99 (4th ed. 2021) (same).

received a record-setting 28-year prison sentence for his role in the release of tainted food, resulting in over 22,000 salmonella poisonings and 9 deaths.³³⁷ Many criminal law textbooks also address corporations' vicarious liability for selling alcohol to minors.³³⁸

Criminal law classes can also use contemporary concerns to illustrate criminal law concepts that arise in the consumer arena. For example, classes can address cybercrimes³³⁹ relating to identity theft,³⁴⁰ cryptocurrencies,³⁴¹ or cyberstalking.³⁴²

F. Constitutional Law

Many schools require constitutional law classes during the first year.³⁴³ Cases traditionally reviewed in constitutional law classes often arise in the consumer law context. For example, *Fuentes v. Shevin*³⁴⁴ addresses due process concerns under the Fourteenth Amendment arising from the repossession of consumer household items.³⁴⁵ Many traditional Commerce Clause³⁴⁶ and dormant Commerce Clause

337. *Former Peanut Company President Receives Largest Criminal Sentence in Food Safety Case; Two Others also Sentenced for Their Roles in Salmonella-Tainted Peanut Product Outbreak*, U.S. DEP'T OF JUST. (Sept. 21, 2015), <https://www.justice.gov/opa/pr/former-peanut-company-president-receives-largest-criminal-sentence-food-safety-case-two> [<https://perma.cc/L4SF-GDP9>].

338. *See, e.g.*, LAFAVE, *supra* note 329, at 909; WEAVER ET AL., *supra* note 336, at 200–08.

339. *See, e.g.*, Fernando M. Pinguelo & Bradford W. Muller, *Virtual Crimes, Real Damages: A Primer on Cybercrimes in the United States and Efforts to Combat Cybercriminals*, 16 VA. J. L. & TECH. 116 (2011).

340. *See, e.g.*, Jennifer Lynch, *Identity Theft in Cyberspace: Crime Control Methods and Their Effectiveness in Combating Phishing Attacks*, 20 BERKELEY TECH. L. J. 259 (2005); Amy Howe, *Justices Will Review Scope of Identity Theft in Case Involving Medicaid Fraud*, SCOTUSBLOG (Nov. 10, 2022, 4:13 PM), <https://www.scotusblog.com/2022/11/justices-will-review-scope-of-identity-theft-in-case-involving-medicaid-fraud/> [<https://perma.cc/S897-438E>].

341. *See, e.g.*, Nathan J. Hochman, *Policing the Wild West of Cryptocurrency*, 41 L.A. LAW. 14 (Nov. 2018); Kim Grauer et al., *The 2022 Crypto Crime Report*, CHAINALYSIS (2022), <https://go.chainalysis.com/rs/503-FAP-074/images/Crypto-Crime-Report-2022.pdf> [<https://perma.cc/NL5P-YVNM>].

342. *See generally, e.g.*, Eugene Volokh, *One-to-One Speech vs. One-to-Many Speech, Criminal Harassment Laws, and “Cyberstalking”*, 107 NW. U.L. REV. 731 (2013); Cassie Cox, Comment, *Protecting Victims of Cyberstalking, Cyberharassment, and Online Impersonation through Prosecutions and Effective Laws*, 54 JURIMETRICS J. 277 (2014).

343. ABA SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, *supra* note 264, at 51 (reporting that in 2010, 67% of law schools had Constitutional Law as a required first-year class).

344. 407 U.S. 67 (1972).

345. *Id.* at 69–72. *Fuentes* is a traditional case discussed in Constitutional Law classes. *See, e.g.*, Chamallas, *supra* note 62, at 11; JONATHAN D. VARAT ET AL., CONSTITUTIONAL LAW, CASES AND MATERIALS 1099 (16th ed. 2021).

346. U.S. CONST. art. I, § 8, cl. 3.

cases involve regulating the sale of consumer goods and services.³⁴⁷ Similarly, consumer goods and services often provide the factual background for advertising or commercial speech cases.³⁴⁸

Post-millennium constitutional law cases arising in the consumer law context include constitutional concerns related to the creation of the CFPB,³⁴⁹ the adoption of the individual mandate under the Affordable Care Act,³⁵⁰ the application of the Commerce Clause to online retailers,³⁵¹ restrictions on the use of robocalling,³⁵² the search of autonomous vehicles,³⁵³ and Article III standing problems based on the concreteness requirement for individuals seeking relief for credit reporting inaccuracies.³⁵⁴

347. See generally, e.g., *Hammer v. Dagenhart*, 247 U.S. 251 (1918) (involving transportation across state lines of good produced in factories that employed children); *Wickard v. Filburn*, 317 U.S. 111 (1942) (involving a fee imposed on a farmer for exceeding a quota on wheat); *Gonzalez v. Raich*, 545 U.S. 1 (2005) (involving prohibition on local cultivation and use of marijuana for medical purposes); *Dean Milk Co. v. Madison*, 340 U.S. 349 (1951) (involving city ordinance placing limits on sale of pasteurized milk not done at an approved plant within five miles of the city); NOAH R. FELDMAN & KATHLEEN M. SULLIVAN, *CONSTITUTIONAL LAW* 115–92, 223–73 (21st ed. 2022) (discussing the development and limitations of Commerce Power and addressing limits on state regulation under the Dormant Commerce Clause).

348. See, e.g., *Va. State Bd. of Pharmacy v. Va. Citizens Consumer Council, Inc.*, 425 U.S. 748 (1976) (advertising of pricing of prescription drugs); *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n of N.Y.*, 447 U.S. 557 (1980) (advertising of utility services); *Rubin v. Coors Brewing Co.* 514 U.S. 476 (1995) (prohibition of beer labels from displaying alcohol content); *44 Liquormart, Inc. v. Rhode Island*, 517 U.S. 484 (1996) (advertising of price of alcoholic beverages); GREGORY E. MAGGS & PETER J. SMITH, *CONSTITUTIONAL LAW: A CONTEMPORARY APPROACH* 1133–43 (5th ed. 2021) (discussing commercial speech); VARAT ET AL., *supra* note 345, at 1412–46 (same).

349. Amy Howe, *Court Divided Over Funding Mechanism for Consumer Watchdog*, SCOTUSBLOG (Oct. 3, 2023, 5:33 PM), <https://www.scotusblog.com/2023/10/court-divided-over-funding-mechanism-for-consumer-watchdog/> [<https://perma.cc/K8NJ-TJAV>] (discussing October 2023 Supreme Court hearing concerning whether the funding for the CFPB violates the Constitution's Appropriations Clause); *Seila Law LLC v. Consumer Fin. Protection Bureau*, 140 S. Ct. 2183 (2020) (concerning separation of powers issues). See, e.g., MAGGS & SMITH, *supra* note 348, at 530–44 (discussing *Selia Law*); VARAT ET AL., *supra* note 345, at 405–15 (same).

350. *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 567 U.S. 519 (2012); see, e.g., MAGGS & SMITH, *supra* note 348, at 192–204 (discussing *Nat'l Fed'n*).

351. See generally *South Dakota v. Wayfair, Inc.*, 585 U.S. 162 (2018); see, e.g., VARAT ET AL., *supra* note 345, at 272–80 (discussing *Wayfair*).

352. *Barr v. Am. Ass'n of Pol. Consultants, Inc.*, 140 S. Ct. 2335 (2020); Justin (Gus) Hurwitz, *Telemarketing, Technology, and the Regulation of Private Speech: First Amendment Lessons from the FCC's TCPA Rules*, 84 BROOK. L. REV. 1, 4–6 (2018).

353. Adam Banner, *Are Driverless Car Searches Constitutional?*, ABAJ. (June 13, 2022, 8:35 AM), <https://www.abajournal.com/columns/article/are-driverless-car-searches-constitutional> [<https://perma.cc/3RMU-STCB>].

354. *TransUnion LLC v. Ramirez*, 594 U.S. 413, 417–23 (2021); see, e.g., FELDMAN & SULLIVAN, *supra* note 347, at 50–51 (discussing *Ramirez*).

G. Legislation & Regulation

Although the idea of introducing legislation, statutory interpretation, and administrative regulations in the first year of law school has been around for more than 50 years,³⁵⁵ the first time multiple schools required an independent first-year course addressing legislative and regulatory topics was in the 1990s.³⁵⁶ A recent review found that 55 ABA-accredited law schools “require their students to take a Leg Reg course or a course on legislation, statutory interpretation, or administrative law.”³⁵⁷ In most of these schools, the class is required in the first year. Another 19 schools offer a “Leg Reg” (or a course on legislation and/or statutory interpretation) or Administrative Law as a first-year elective.³⁵⁸

Legislation and regulation classes offer numerous opportunities to discuss consumer law statutes, regulations, and agencies that address consumer-related matters. For example, professors often use *FDA v. Brown & Williamson Tobacco Corp.*³⁵⁹ to discuss the authority of the FDA to regulate tobacco companies.³⁶⁰

A common case in many legislation and regulation textbooks involves the Supreme Court’s assessment of whether the National Highway Traffic Safety Administration acted arbitrarily and capriciously in revoking the passive restraint requirement for vehicles made after September 1982.³⁶¹ The case provides a detailed discussion of the development, amendment, and rescission of the requirement, known as Standard 208, through a multi-year rulemaking process spanning from 1967 to 1981.³⁶²

355. E. Hunter Taylor, Jr., *Wealth, Poverty and Social Change: A Suggestion for a Balanced Curriculum*, 22 J. LEG. EDUC. 227, 235 (1969).

356. James J. Brudney, *Legislation and Regulation in the Core Curriculum: A Virtue or a Necessity?*, 65 J. LEGAL EDUC. 3, 4 (2015). For a more detailed discussion of the development and use of Legislation & Regulation in law schools, see *id.* at 3–6. See generally, e.g., Abbe R. Gluck, *The Ripple Effect of “Leg-Reg” on the Study of Legislation & Administrative Law in the Law School Curriculum*, 65 J. LEGAL EDUC. 121 (2015); John F. Manning & Matthew Stephenson, *Legislation & Regulation and Reform of the First Year*, 65 J. LEGAL EDUC. 45 (2015).

357. Ben Bratman, *The Latest Data on Legislation & Regulation and Administrative Law Course Requirements at US Law Schools*, A PLACE TO DISCUSS BEST PRACS. FOR LEGAL EDUC. (July 9, 2021), <https://bestpracticeslegaled.com/2021/07/09/the-latest-data-on-legislation-regulation-and-administrative-law-course-requirements-at-us-law-schools/> [https://perma.cc/BKE3-D384].

358. *Id.* (containing a link to a Google document identifying required and elective classes and the semester that they are taught).

359. 529 U.S. 120 (2000).

360. See, e.g., LINDA D. JELLUM, *THE LEGISLATIVE PROCESS, STATUTORY INTERPRETATION, AND ADMINISTRATIVE AGENCIES* 585–94 (2d ed. 2021) (discussing *Brown & Williamson*); JOHN F. MANNING & MATTHEW C. STEPHENSON, *LEGISLATION AND REGULATION, CASES AND MATERIALS* 1177–1200 (4th ed. 2021) (same).

361. *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 34 (1983); see, e.g., JELLUM, *supra* note 360, at 831–35 (discussing *State Farm*); MANNING & STEPHENSON, *supra* note 360, at 1026–78 (same); PETER J. SMITH, *LEGISLATION AND REGULATION: A CONTEMPORARY APPROACH* 595–606 (1st ed. 2021) (same).

362. *Motor Vehicle Mfrs. Ass’n*, 463 U.S. at 33–40.

Throughout their textbook *The Regulatory State*,³⁶³ Professors Bressman, Rubin, and Stack use the development of Standard 208 to illustrate the legislative and regulatory process. For example, they describe the history and development of the auto safety legislation creating the National Traffic and Motor Vehicle Safety Act of 1966.³⁶⁴ They include the Statute and excerpts of a legislative report to discuss the components of a statute and its legislative history.³⁶⁵ Their textbook illustrates the rulemaking process with a case study of the development of Standard 208 from 1967 through 1989.³⁶⁶ Following the case study, the authors explain how agencies implement statutes to allow discussion of rulemaking, statutory analysis, and adjudication.³⁶⁷

Professors can point to other consumer-related statutes to address topics in their legislation and regulation classes. Federal examples include the statutes discussed in the consumer history section of this Article.³⁶⁸ Additionally, classes can discuss consumer law issues arising from state law statutory and regulatory sources.³⁶⁹

Similarly, professors can use contemporary consumer law cases to teach statutory analysis. For example, in *Facebook, Inc. v. Duguid*,³⁷⁰ the Supreme Court relied on various traditional statutory interpretation tools to find that Facebook's text notification system did not qualify as an automatic telephone dialing system as defined under the Telephone Consumer Protection Act.³⁷¹ In reaching its decision and refuting counterarguments, the Court examined the ordinary and technical meanings of the text; the statutory definition; dictionary definitions; grammar rules; legislative purpose; and several canons of construction, including the "series-qualifier" canon and the rule of last antecedent.³⁷²

In discussing agency law, classes can use consumer-related agencies as examples of the role agencies play in the governmental system via rulemaking, enforcement, and adjudication. Consumer-related agencies at the federal level

363. LISA S. BRESSMAN ET AL., *THE REGULATORY STATE* (3d ed. 2019).

364. *Id.* at 76–106.

365. *Id.*

366. *Id.* at 359–433.

367. *Id.* at 435–643.

368. *See supra* Part II.

369. *See, e.g., Unfair Deceptive Acts & Practices, supra* note 155 (online treatise addressing state unfair deceptive acts and practices).

370. 592 U.S. 395 (2021).

371. *Id.* at 1169–73.

372. *Id.*

include the FDA,³⁷³ FTC,³⁷⁴ CFPB,³⁷⁵ and the CPSC.³⁷⁶ Additionally, classes can examine state and municipal-level agencies involved in the consumer arena.³⁷⁷

H. Legal Writing

ABA Standard 303(a)(2) requires that law schools provide students with “one writing experience in the first year.”³⁷⁸ First-year writing courses focus on developing legal analysis, research, and writing skills.³⁷⁹ Given that entering law students are consumers, effective methods for teaching these skills can incorporate consumer scenarios familiar to students.³⁸⁰ For professors who want to build on information covered in other first-year classes, various consumer law topics are available, as discussed in the previous Subsections. Moreover, for professors who want to expand into other areas, more advanced consumer law topics can also be the subject of writing and research projects.

Most first-year writing programs involve objective and persuasive writing.³⁸¹ A typical objective writing assignment involves drafting a memorandum applying legal analysis to a client’s scenario and providing a predictive answer.³⁸² Other forms of objective writing may involve drafting emails and client letters.³⁸³ Potential objective assignments involving common consumer law issues include writing memoranda that discuss whether repeated calls or texts to collect a debt constitute violations of federal or state law or whether claims by sales representatives about the quality of consumer goods are deceptive trade practices.³⁸⁴

373. U.S. FOOD & DRUG ADMIN., <https://www.fda.gov/> [https://perma.cc/PAC4-LSX4] (last visited Oct. 13, 2023).

374. FED. TRADE COMM’N, <https://www.ftc.gov/> [https://perma.cc/274X-WPSU] (last visited Oct. 13, 2023).

375. CONSUMER FIN. PROT. BUREAU, <https://www.consumerfinance.gov/> [https://perma.cc/Y9PH-4GXX] (last visited Oct. 13, 2023).

376. CONSUMER PROD. SAFETY COMM’N, <https://www.cpsc.gov/> [https://perma.cc/B7LB-Z7C3] (last visited Oct. 13, 2023).

377. See, e.g., *State Consumer Protection Offices*, *supra* note 154.

378. ABA SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2022–2023, at 18 (2022), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2022-2023/2022-2023-standards-and-rules-of-procedure.pdf [https://perma.cc/ZZ2G-6H9L].

379. See generally J. LYN ENTRIKIN ET AL., ABA SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, LEGAL WRITING SOURCEBOOK 189–224 (3d ed. 2020) (discussing pedagogical methods in teaching first-year legal writing courses).

380. For a related discussion about incorporating social justice issues in first-year legal writing, see Sha-Shana Crichton, *Incorporating Social Justice into the 1L Legal Writing Course: A Tool for Empowering Students of Color and of Historically Marginalized Groups and Improving Learning*, 24 MICH. J. RACE & L. 251, 286–97 (2019).

381. ENTRIKIN ET AL., *supra* note 379, at 85.

382. *Id.*

383. *Id.* at 86.

384. For an example of a role-playing exercise involving the Fair Debt Collection Practices Act, see Konrad S. Lee & Matthew I. Thue, *Teaching the Fair Debt Collection Practices Act to Legal and Ethical Environment of Business Undergraduate Students*

In persuasive writing, students advocate for a position or a party.³⁸⁵ Typical assignments include a trial or appellate brief. Examples of consumer-related pleadings could include a summary judgment motion regarding whether an attorney qualifies as a debt collector under the federal FDCPA or an appellate brief addressing whether a disclaimer in a consumer contract was sufficient to overcome implied warranties. Legal writing professors can also use demand letters to teach persuasion.³⁸⁶ For consumer law matters, professors could ask students to draft demand letters related to consumer issues they are familiar with, including requesting repairs or refunding a security deposit from a residential landlord, or complaining about defective products or services.

For transactional drafting assignments, professors can have students draft or review contractual provisions involving consumer topics, including those associated with online contracts, financing, or leasing agreements.

Another advantage to consumer law topics is that they frequently involve current events that may interest students. For example, many consumer-related law issues arose during the COVID-19 pandemic, providing real-world examples for students. For example, soon after the declaration of the public health emergency, reports of fraudulent claims about cures and financial assistance arose, and the COVID-19 Consumer Protection Act was enacted to prevent deceptive claims about diagnosis and treatment.³⁸⁷ Similarly, in February 2021 Texas had problems with its power grid, prompting Governor Abbott to declare a disaster; concerns were raised about whether alleged price gouging by businesses created a cause of action under the Texas Deceptive Trade Practices Act.³⁸⁸

Legal writing programs can also collaborate with consumer organizations to offer students opportunities to develop their writing, research, communication, and advocacy skills by working on consumer law projects based on actual cases.³⁸⁹

Through a Role-Play Experiential Learning Exercise, 34 J. LEGAL STUD. EDUC. 207, 207 (2007).

385. ENTRIKIN ET AL., *supra* note 379, at 85–86.

386. Ann Ching & Alyssa Dragnich, *Using Demand Letters to Teach Persuasion and Professionalism*, 34 THE SECOND DRAFT 1, 1 (2021); ALEXA Z. CHEW & KATIE ROSE GUEST PRYAL, THE COMPLETE LEGAL WRITER 149–58 (2d ed. 2020).

387. Lesley Fair, *Consumer Protection During COVID-19: What We've Learned So Far*, NAT'L ASS'N OF ATT'YS GEN. (Aug. 31, 2021), <https://www.naag.org/attorney-general-journal/consumer-protection-during-covid-19-what-weve-learned-so-far/> [<https://perma.cc/C2AH-HSB2>]; COVID-19 Consumer Protection Act of the 2021 Consolidated Appropriations Act, Pub. L. No. 116-260 (2021).

388. TEX. BUS. & COM. CODE ANN. § 17.46(b)(27) (describing circumstances when taking advantage of a disaster declaration is considered an unlawful deceptive trade practice); *see* David Barer, *Number of Winter Storm Price Gouging Complaints Nears 2,000*, KXAN (Mar. 25, 2021, 5:44 PM), <https://www.kxan.com/investigations/number-of-winter-storm-price-gouging-complaints-nears-2000/> [<https://perma.cc/UVZ4-QPVH>].

389. *See generally* Ruan, *supra* note 266, at 204–14 (describing a program that has first-year legal writing students provide research and written work product to help nonprofit organizations).

V. COMPLETING THE MEAL: OPPORTUNITIES BEYOND THE FIRST YEAR

Having tasted an appetizer of consumer law issues during their first year, students are more likely to be interested in and demand upper-division opportunities in consumer law. Law schools can provide students with advanced consumer law offerings, including upper-division courses, clinics, externships, and advocacy options to satisfy these demands. This Part briefly describes these offerings and some resources to help law schools develop their programs. It will also describe a program that allows students to promote consumer law at their schools.

A. *Entree: Upper Division Classes*

Upper-division classes include basic and specialized consumer law courses. The review of consumer law classes conducted for this Article found that 90 schools had a basic consumer law or protection class.³⁹⁰ Basic consumer law classes can contain a variety of topics, ranging “from odometer fraud and lemon laws to sales warranties, telemarketing, and credit cost disclosure.”³⁹¹ Professor Sovern’s surveys conducted in 2008, 2010, and 2018 also reflect the wide range of topics that consumer law professors have addressed, including common law fraud, debt collection, credit reporting, warranty claims, credit and debit card issues, spam, and fintech.³⁹²

In addition to basic consumer law classes, schools can develop more specialized consumer classes. The review of consumer law opportunities found that 53 schools had specialty courses in consumer law.³⁹³ These classes included courses

390. LAW SCHOOL WEBSITE REVIEW, *supra* note 24.

391. Levitin, *supra* note 213, at 396; *see supra* note 49 and accompanying text.

392. 2008 Survey, *supra* note 49, at 48–50; 2010 Survey, *supra* note 49, at 17–21; 2018 Survey, *supra* note 49, at 5.

393. LAW SCHOOL WEBSITE REVIEW, *supra* note 24.

on elder law,³⁹⁴ housing law,³⁹⁵ poverty law,³⁹⁶ data privacy,³⁹⁷ internet law,³⁹⁸ and consumer finance.³⁹⁹

At least eight schools offer a consumer finance class.⁴⁰⁰ Professor Adam Levitin advocates the need for a consumer finance class based on post-millennium consumer law changes and the CFPB's development.⁴⁰¹ He argues that, just as the establishment of the Securities Exchange Commission in 1934 made the study of securities law a regular part of the law school curriculum, the creation of the CFPB has created a demand for studying consumer finance issues in law school.⁴⁰² While a traditional consumer law class may focus on consumer protection and "broad themes such as fairness, deception, disclosure, and dispute rights," the consumer

394. See, e.g., *Elder Law Courses*, STETSON L., <https://www.stetson.edu/law/academics/elder/home/elder-law-courses.php> [<https://perma.cc/33DB-ZRMU>] (last visited Oct. 13, 2023) (offers numerous elder law courses that discuss consumer issues affecting the elderly and has established an Elder Consumer Protection Program); *Course Descriptions: Law (LAW)*, NE. UNIV., <https://catalog.northeastern.edu/course-descriptions/law/> [<https://perma.cc/4WDJ-EVMH>] (last visited Oct. 13, 2023) (Elder Law course focuses in part on "consumer fraud targeted at older consumers").

395. See, e.g., *Course Schedules and Descriptions: Academic Year 21-22*, W. NEW ENG. UNIV. SCH. OF L., <https://www1.wne.edu/law/registrar/doc/Course%20Schedules/2021-22%20Consolidated%20Course%20Listing.pdf> [<https://perma.cc/6UK8-64UF>] (last visited Oct. 13, 2023) (Landlord & Tenant course discusses "consumer remedies"); *Berkeley Law Course Catalog*, BERKELEY L., https://www.law.berkeley.edu/php-programs/courses/course_catalog.php [<https://perma.cc/9AC6-RSCL>] (last visited Oct. 13, 2023) (Housing Litigation and Policy course examines unlawful treatment of tenants).

396. See, e.g., *Berkeley Law Course Catalog*, BERKELEY L., https://www.law.berkeley.edu/php-programs/courses/course_catalog.php [<https://perma.cc/Q6WW-DDDC>] (last visited Oct. 13, 2023) (Poverty Law and Policy course); *Course Descriptions*, UNIV. OF N.D. SCH. OF L., <https://law.und.edu/academics/courses.html#d54e86-2> [<https://perma.cc/ZX7S-XMDE>] (last visited Oct. 13, 2023) (Poverty Law course).

397. See, e.g., *JD Courses (List by Course Name)*, SETON HALL L., <https://law.shu.edu/students/curriculum/course/jd-courses.cfm> [<https://perma.cc/EC7M-AWFA>] (last visited Oct. 13, 2023) (Consumer Data Privacy Law course); *College of Law*, STETSON UNIV., <https://catalog.stetson.edu/law/#coursestext> [<https://perma.cc/9X8A-QZ6Z>] (last visited Oct. 13, 2023) (offers courses in International Data Privacy Under the New GDPR; Intl Consumer & Data Privacy Law; and Privacy, Data, and Economics).

398. See, e.g., *Upper-Division Courses (by subject area)*, UNIV. OF TENN., KNOXVILLE COLL. OF L., <https://law.utk.edu/admissions/degree-programs/courses/two-year-course-list/> [<https://perma.cc/D2QN-EHWC>] (last visited Oct. 13, 2023) (offers Internet & Information Privacy Law Seminar with a consumer aspect); *Course Catalog*, SEATTLE UNIV. SCH. OF L., <https://law.seattleu.edu/academics/degree-programs/jd/curriculum/upper-level-course-descriptions/> [<https://perma.cc/FG2U-3Y4X>] (last visited Oct. 13, 2023) (Internet Law and Digital Commerce course).

399. See, e.g., *University Catalog*, B.C., <https://www.bc.edu/bc-web/academics/sites/university-catalog/courses/law.html> [<https://perma.cc/VHQ5-PJMH>] (last visited Oct. 13, 2023) (offers Consumer Financial Protection Seminar); *Consumer Financial Protection*, UCLA L., <https://law.ucla.edu/academics/curriculum/consumer-financial-protection> [<https://perma.cc/666E-A469>] (last visited Oct. 13, 2023) (Consumer Financial Protection course).

400. LAW SCHOOL WEBSITE REVIEW, *supra* note 24.

401. Levitin, *supra* note 213, at 399–403.

402. *Id.* at 402.

finance class allows for an in-depth study of financial markets, transactions products, and the impact of the regulatory structure on such items.⁴⁰³ Professor Levitin's *Consumer Finance: Markets and Regulation* is an excellent text for those interested in developing a consumer finance class or adopting consumer finance issues into broader consumer law classes.⁴⁰⁴

In addition to, or as alternatives to, consumer courses taught by full-time faculty, law schools can also use adjunct professors.⁴⁰⁵ Adjuncts can provide practical and timely advice about consumer issues. Using alumni as adjuncts can further increase interest in consumer law, as current students will see role models in the field. Also, adjuncts can help promote student careers by hiring students or providing references for students.

Online delivery of consumer courses is another option for law schools. For example, BARBRI Legal Ed partners offer law schools a variety of online classes to expand their course offerings, including a consumer law course, where students receive instruction from law professors at accredited ABA law schools who serve as visiting or adjunct faculty.⁴⁰⁶

Similarly, the biennial international Teaching Consumer Law Conference, held in Santa Fe, New Mexico, offers opportunities for full-time and adjunct professors to learn about pedagogical techniques and provides updates on "current and cutting-edge substantive issues in consumer law."⁴⁰⁷

Governmental agencies also offer consumer law resources for professors. For example, the CFPB maintains a Consumer Education and External Affairs Division.⁴⁰⁸ The agency provides materials for educators to help consumers with financial planning.⁴⁰⁹ Similarly, many state consumer protection agencies offer online resources.⁴¹⁰

403. *Id.* at 396.

404. *See generally*, ADAM J. LEVITIN, CONSUMER FINANCE: MARKETS AND REGULATIONS (2d ed. 2022).

405. Another option is for adjuncts and full-time professors to work together in advanced course. *See generally* Cassidy, *supra* note 262 (encouraging use of adjuncts to work with full-time professors in third-year capstone courses).

406. 2024 *Subjects*, BARBRI LEGAL ED, <https://legaled.barbri.com/subjects/> [<https://perma.cc/KXQ2-6LWZ>] (last visited Feb. 13, 2024).

407. *See, e.g., Teaching Consumer Law-In the New Normal*, CTR. FOR CONSUMER L., <http://www.peopleslawyer.net/2022Teaching/savethedate.asp> [<https://perma.cc/TR8B-K3U6>] (describing the May 2022 conference).

408. *Bureau Structure*, CONSUMER FIN. PROT. BUREAU, <https://www.consumerfinance.gov/about-us/the-bureau/bureau-structure/> [<https://perma.cc/B6TW-K9D6>] (last visited Oct. 13, 2023).

409. *Enhance the Ways You Advocate for Others with Our Research and Materials*, CONSUMER FIN. PROT. BUREAU, <https://www.consumerfinance.gov/consumer-tools/educator-tools/> [<https://perma.cc/LU4M-XB2H>] (last visited Oct. 13, 2023).

410. *See, e.g., Consumer Education*, N.Y. STATE, <https://dos.ny.gov/consumer-education> [<https://perma.cc/X3CW-W6LR>] (last visited Oct. 13, 2023) (providing information about consumer issues and opportunities for outreach presentations). For a current directory of state offices, see *State Consumer Protection Offices*, *supra* note 154.

Guest speakers are another resource professors can use in their consumer law classes. Speakers can provide information about employment opportunities, current events, advocacy issues, and experiences they have had in consumer-related transactions and litigation. Speakers can include law firm attorneys, in-house counsel, consumers, agency personnel, legislators, and members of consumer advocacy groups. Videoconferencing has dramatically increased the use of outside speakers in the classroom setting.⁴¹¹

B. Dessert: Experiential Opportunities for Students

In addition to courses, schools can offer consumer law through a broad range of experiential opportunities, many of which may satisfy the ABA's Standard 304 requirement for experiential learning in law school.⁴¹² Options include clinics, internships, externships, and advocacy programs.

The review of law schools found that only about 28% have consumer law clinics.⁴¹³ The focus of these clinics varies. For example, some clinics address basic consumer law issues,⁴¹⁴ while others provide more specialized programs. Some examples of specialized clinics include clinics that focus on consumer bankruptcy,⁴¹⁵ landlord-tenant disputes,⁴¹⁶ housing law,⁴¹⁷ and elder law.⁴¹⁸

411. Sarah McGrath, *Remote Learning Opens Door to More Guest Lecturers*, BROWN DAILY HERALD (June 8, 2021, 10:02 PM), <https://www.browndailyherald.com/article/2021/06/remote-learning-opens-door-to-more-guest-lecturers> [<https://perma.cc/R3H4-28EP>].

412. ABA SECTION LEGAL EDUC. & ADMISSIONS TO BAR, *supra* note 378, at 20–21.

413. LAW SCHOOL WEBSITE REVIEW, *supra* note 24.

414. *See, e.g., Economic and Consumer Justice Clinic*, UNIV. VA. SCH. L., <https://www.law.virginia.edu/clinics/economic-and-consumer-justice-clinic> [<https://perma.cc/c7FRC-7UJP>] (last visited Oct. 13, 2023) (Economic and Consumer Justice Clinic provides students with “hands-on experience working with clients who have problems that are covered by various consumer protection laws”); *Consumer Protection Clinic*, HARV. L. SCH., <https://hls.harvard.edu/clinics/in-house-clinics/consumer-protection-clinic/> [<https://perma.cc/9JTV-S2GM>] (last visited Oct. 13, 2023) (“[S]tudents represent low-income people in cases related to predatory lending and other consumer matters, including bankruptcy and debt collection defense.”).

415. *See, e.g., Consumer Bankruptcy Clinic*, LOYOLA L. SCH., <https://www.lls.edu/academics/experientiallearning/clinics/consumerbankruptcyclinic/> [<https://perma.cc/LC88-2RKA>] (last visited Oct. 13, 2023); *Bankruptcy Litigation Clinic*, UNIV. ST. THOMAS, <https://www.stthomas.edu/ipc/clinic/bankruptcylitigationclinic/> [<https://perma.cc/4X6L-97LQ>] (last visited Oct. 13, 2023).

416. *See, e.g., Preserving Housing Rights in Times of Crisis*, LOYOLA L. SCH., <https://www.lls.edu/academics/experientiallearning/clinics/preservinghousingrightsintimesoferisis/> (last visited Oct. 13, 2023) [<https://perma.cc/37ZS-4H3K>] (describing Shriver Landlord-Tenant Clinic).

417. *See, e.g., Housing Advocacy and Litigation Clinic*, UNIV. D.C. DAVID A. CLARKE SCH. L., <https://law.udc.edu/housingclinic/> [<https://perma.cc/C4VP-3RGE>] (last visited Oct. 13, 2023); *Housing Law Clinic – 7246*, MINN. L., <https://law.umn.edu/course/7246/housing-law-clinic> [<https://perma.cc/L5TP-6VEY>] (last visited Oct. 13, 2023).

418. *See, e.g., Elder Law Courses*, STETSON L., <https://www.stetson.edu/law/acad>

Professor Judith Fox has addressed how community-based lawyering concepts in consumer clinics developed in response to concerns arising from the 2008 foreclosure crisis.⁴¹⁹

Clinics participate in consumer law issues through counseling, litigation, research for advocacy groups, and legislative and regulatory efforts.⁴²⁰ For example, University of Minnesota's Consumer Protection Clinic students have successfully litigated matters involving predatory mortgage loans, debt collection, and deceptive computer pricing.⁴²¹ They have also drafted payday legislation and testified before Minnesota state committees.⁴²² Similarly, students from Berkeley Law working with the Consumer Justice Clinic at the East Bay Community Law Center helped draft and secure passage of the Fair Debt Buying Practices Act in California to help consumers with issues related to collection abuses by debt buyers.⁴²³

Consumer clinics can collaborate with professors in first-year courses on developing consumer topics, examples, and assignments. Such interactions afford opportunities for clinics to promote their programs to first-year students. For example, clinic students can make presentations in first-year classes to demonstrate how their efforts impact consumer law matters. Similarly, clinical and legal writing programs can coordinate projects to provide real-world examples for first-year students.⁴²⁴

The Clinical Legal Association offers resources to help clinics, including a handbook, videos, and conferences for new clinicians.⁴²⁵ In 2017, the directors of

emics/elder/home/elder-law-courses.php [https://perma.cc/M8EC-JAEC] (last visited Oct. 13, 2023) (offers Elder Law Clinic); *Courses By Title*, WM. & MARY, <https://law2.wm.edu/academics/programs/jd/electives/courses/bytitle/?mapstat=1> [https://perma.cc/SG3N-4CXV] (last visited Oct. 13, 2023) (offers Elder & Disability Law Clinic); *Consumer Justice for the Elderly: Litigation Clinic*, ST. JOHN'S UNIV. SCH. L. <https://www.stjohns.edu/law/about/places/consumer-justice-elderly-litigation-clinic> [https://perma.cc/GCN6-XPVA] (last visited Oct. 13, 2023).

419. Judith Fox, *Consumer Law Clinics: Community-Based Lawyering - A Social Justice Response to the Financial Crisis*, 20 GEO. J. ON POVERTY L. & POL'Y 517, 521–27 (2013) (discussing clinics at University of Wisconsin, Notre Dame, Harvard, and University of California-Irvine).

420. See generally Ted Mermin, *The Not-Quite-Accidental Genius of EBCLC's Consumer Justice Clinic: Lessons for Legal Services Providers*, 106 CAL. L. REV. 547, 548–49 (2018) (describing the activities of the East Bay Community Law Center).

421. *Consumer Protection Clinic—7030*, MINN. L., <https://law.umn.edu/course/7030/consumer-protection-clinic> [https://perma.cc/EG4L-5K8X] (last visited Oct. 13, 2023).

422. *Id.*

423. Mermin, *supra* note 420, at 550–52.

424. See, e.g., Michael A. Millemann & Steven D. Schwinn, *Teaching Legal Research and Writing with Actual Legal Work: Extending Clinical Education into the First Year*, 12 CLINICAL L. REV. 441, 443 (2006) (advocating collaboration among clinicians and legal writing professors); Sarah O'Rourke Schrup, *The Clinical Divide: Overcoming Barriers to Collaboration Between Clinics and Legal Writing Programs*, 14 CLINICAL L. REV. 301 (2007) (addressing measures to increase collaboration clinicians and legal writing professors).

425. *Events & Resources for New Clinicians*, CLINICAL LEGAL EDUC. ASS'N, <https://www.cleaweb.org/new-clinicians/> [https://perma.cc/9BVL-LVT5] (last visited Oct. 13, 2023).

consumer law clinics at law schools had their first conference.⁴²⁶ Similar to the biennial Teaching Consumer Law Conference, the now biennial Law School Consumer Conference provides opportunities for clinicians to learn from each other and “foster community across the nation’s consumer law clinics.”⁴²⁷

Students can also develop their interests in consumer law through internship and externship programs.⁴²⁸ Schools can use alumni in law firms or businesses to help mentor students in consumer law projects. Such programs benefit law schools, their students, and participating firms.

Governmental agencies also offer consumer law opportunities for students. For example, students can apply for an eight-to-ten-week paid Steiger Fellowship “to work in the consumer protection departments of state and territorial Offices of Attorneys General and other consumer protection agencies, as well as the National Association of Attorneys General and the Attorney General’s Office of the District of Columbia.”⁴²⁹ Since its inception in 2004, law students have received over 535 Steiger fellowships.⁴³⁰ The FTC and CFPB provide opportunities for law students at the federal level. The FTC offers law students a summer clerkship program with the Bureau of Consumer Protection,⁴³¹ while the CFPB has a two-year Honors Attorney Program for law students and recent graduates.⁴³²

Students also have consumer law options at nonprofit organizations. For example, the National Consumer Law Center provides student internships that allow opportunities to work on advocacy and legislative projects.⁴³³ Additionally, grant programs may help facilitate consumer law opportunities for law students. For example, the nonprofit group Oregon Consumer Justice (“OCJ”) administers a \$162 million fund representing the remainder from a jury verdict of over \$400 million

426. Mermin, *supra* note 420, at 554.

427. 2022 *Law School Consumer Clinic Conference*, UC BERKELEY, <https://consumerlaw.berkeley.edu/projects-and-programs/conferences-and-convenings/law-school-consumer-clinic-conference/2022-law> [<https://perma.cc/F9WL-5SUB>] (last visited Oct. 13, 2023) (describing the 2022 conference); Mermin, *supra* note 420, at 554 (describing the development of the conference).

428. See Ilana Kowarski, *What Consumer Protection Lawyers Do and How to Become One*, U.S. NEWS & WORLD REP. (Sept. 14, 2022, 3:53 PM), <https://www.usnews.com/education/best-graduate-schools/articles/what-consumer-protection-lawyers-do-and-how-to-become-one> [<https://perma.cc/YHC9-CKR4>]; see, e.g., *Internships*, DRAKE UNIV., <https://www.drake.edu/law/students/academics/intern/> [<https://perma.cc/7F5S-XHHJ>] (last visited Oct. 13, 2023) (describing internship program with Iowa Attorney General’s Office).

429. *Janet D. Steiger Fellowship Project*, ABA (Oct. 3, 2023), https://www.Americanbar.org/groups/antitrust_law/about/awards-fellowships/steiger-fellowship/ [<https://perma.cc/GG73-KKFS>].

430. *Id.*

431. *BCP Summer Law Clerk Program*, FED. TRADE COMM’N, <https://www.ftc.gov/about-ftc/bureaus-offices/bureau-consumer-protection/summer-law-clerk-program> [<https://perma.cc/BC2C-FWVJ>] (last visited Oct. 13, 2023).

432. *Students and Graduates*, CONSUMER FIN. PROT. BUREAU, <https://www.consumerfinance.gov/about-us/careers/students-and-graduates/> [<https://perma.cc/GL9C-AF92>] (last visited Oct. 13, 2023).

433. See, e.g., *Legal Internships*, NAT’L CONSUMER L. CTR., <https://www.nclc.org/internships/> [<https://perma.cc/PXL5-YD64>] (last visited Oct. 13, 2023).

after distribution to the class members in a consumer class action.⁴³⁴ OCJ has established a grant program open to faculty and graduate students at the University of Oregon, including law faculty and students involved in consumer research.⁴³⁵

Students can also receive recognition for their involvement in consumer law programs. For example, professional organizations have created writing competitions for student articles on consumer law issues.⁴³⁶ Similarly, Loyola University Chicago offers law students a Competition and Consumer Protection Law certificate for completing coursework, practical experience, and extracurricular activities.⁴³⁷

C. Self-Service: Students Take Charge With CLASS

In addition to schools promoting consumer law, students can develop consumer law opportunities at their schools by becoming members of the Consumer Law Advocates, Scholars, & Students (“CLASS”) Network.⁴³⁸ The Berkeley Center for Consumer Law & Economic Justice, Berkeley Law Consumer Advocacy & Protection Society, and the National Association of Consumer Advocates (“NACA”) developed the CLASS Network,⁴³⁹ which seeks to create consumer law opportunities for students through independent student-run chapters and provides resources to create chapters, including a start-up guide and sample constitutions.⁴⁴⁰ The CLASS Network offers assistance with consumer law classes, clinics, and employment and advocacy opportunities.⁴⁴¹

As of October 16, 2023, the CLASS Network reports at least 30 participating law schools having student consumer law organizations or consumer

434. Mermin, *supra* note 420, at 554.

435. *Consumer Protection Research Grant*, UNIV. OF OR., <https://law.uoregon.edu/consumer-protection-research-grant> [<https://perma.cc/BM9W-JTK8>] (last visited Oct. 13, 2023).

436. See, e.g., *Annual Writing Competition*, AM. COLL. OF CONSUMER FIN. SERVS. LAWS., <http://accfsl.org/writing-competition/> [<https://perma.cc/8G7W-MKGJ>] (last visited Oct. 13, 2023); *2024 Harvey Safenstein Consumer Protection Committee Student Essay Contest*, ABA, https://www.americanbar.org/groups/antitrust_law/about/awards-fellowships/consumer-protection-essay-contest/ [<https://perma.cc/F3T5-LZ8N>] (last visited Oct. 13, 2023).

437. *Competition and Consumer Protection Law*, LOYOLA UNIV. CHI. SCH. L., <https://www.luc.edu/law/academics/areasofstudy/specializations/competitionandconsumerprotectionlaw/> [<https://perma.cc/SVX4-G95Y>] (last visited Oct. 13, 2023).

438. *Consumer Law Advocates, Scholars, & Students (Class Network)*, UC BERKELEY, <https://consumerlaw.berkeley.edu/projects-and-programs/consumer-law-advocates-scholars-students-class-network> [<https://perma.cc/H6JM-H2AD>] (last visited Oct. 13, 2023).

439. *Id.*

440. *Chapter Start-Up Resources*, UC BERKELEY, <https://consumerlaw.berkeley.edu/projects-and-programs/consumer-law-advocates-students-scholars-class-network/resources/chapter-start> [<https://perma.cc/4U5E-YFHJ>] (last visited Oct. 13, 2023).

441. *Resources*, UC BERKELEY, <https://consumerlaw.berkeley.edu/projects-and-programs/consumer-law-advocates-students-scholars-class-network/about> [<https://perma.cc/C69N-CGYG>] (last visited Feb. 13, 2024).

law clinics.⁴⁴² The CLASS Network holds monthly meetings that include discussions about chapter activities, presentations on hot topics in consumer law, and opportunities for students to work with consumer law organizations.⁴⁴³ It also promotes “consumer rights and economic justice” by helping with “speakers, mentorship, clinics and other activities in law schools.”⁴⁴⁴

As part of its efforts, the CLASS Network has established a repository of consumer law syllabuses, including examples from general consumer protection courses and more specialized courses such as Consumer Class Actions.⁴⁴⁵ NACA has also offered training programs for individuals interested in teaching consumer law classes.⁴⁴⁶

Members of the CLASS Network have successfully litigated on behalf of consumers, provided research for consumer groups, drafted comments to proposed regulations, and helped draft and secure passage of consumer protection statutes.⁴⁴⁷ For example, Duke University, a CLASS Network member, has established the Economic Justice Project that provides consumer law services for low-income locals, research for consumer organizations, and events to inform students about consumer issues and employment opportunities.⁴⁴⁸ The Project has provided research assistance on landlord–tenant matters to Legal Services of New Jersey and in response to requests for consumer research submitted to CLASS.⁴⁴⁹

Similarly, the student-run Consumer Advocacy and Protection Society at Utah’s S.J. Quinney College of Law has hosted consumer law programs and worked to help with consumer-related litigation and advocacy, including efforts to extend

442. Email from David Nahmais, CLASS Network Dir., to Neil L. Sobol, Professor of L., Tex. A&M Univ. Sch. of L. (Oct. 16, 2023, 12:33 PM CST) (on file with author).

443. NAT’L ASS’N CONSUMER ADVOCES. & UC BERKELEY CTR. FOR CONSUMER L. & ECON. JUST., CONSUMER LAW ADVOCATES, STUDENTS, AND SCHOLARS, UC BERKELEY 1, 1–4, https://consumerlaw.berkeley.edu/sites/default/files/class_network_start-up_guide_5.6.21.pdf [<https://perma.cc/CVK4-8GVR>] (last visited Feb. 8, 2024).

444. *About*, UC BERKELEY, <https://consumerlaw.berkeley.edu/projects-and-programs/consumer-law-advocates-scholars-students-class-network/about> [<https://perma.cc/R3KQ-5MMR>] (last visited Oct. 13, 2023).

445. *Syllabus Repository*, UC BERKELEY, <https://consumerlaw.berkeley.edu/projects-and-programs/consumer-law-advocates-scholars-students-class-network/resources/syllabus> [<https://perma.cc/P4K2-HTZT>] (last visited Oct. 13, 2023).

446. *You Should Teach a Consumer Law Course*, NAT’L ASS’N CONSUMER ADVOCES., <https://www.consumeradvocates.org/events/online-training-courses/you-should-teach-a-consumer-law-course/> [<https://perma.cc/VJ2F-8E4H>] (last visited Oct. 13, 2023).

447. NAT’L ASS’N CONSUMER ADVOCES. & UC BERKELEY CTR. FOR CONSUMER L. & ECON. JUST., *supra* note 443.

448. *Student Pro Bono Groups*, DUKE L., <https://law.duke.edu/publicinterest/studentled/> [<https://perma.cc/J9DQ-N7P2>] (last visited Oct. 13, 2023).

449. Email from Lucas Mears, Legal Servs. Dir., Duke Econ. Just. & Consumer Rts. Project to Neil L. Sobol, Professor of L., Tex. A&M Univ. Sch. of L. (Jan. 28, 2023, 10:02 AM CST) (on file with author).

the COVID-19 rental eviction moratorium and “support a regulatory reform against deceptive surprise billing tactics.”⁴⁵⁰

Likewise, another CLASS Network member, the student-run Consumer Advocacy and Financial Regulation Organization at Michigan Law School, provides research, submits regulatory comments, and hosts speakers on financial reform and consumer protection matters.⁴⁵¹ For example, the group hosted a presentation from Public Counsel, “a legal aid firm that has a focus on consumer rights and economic justice.”⁴⁵²

CONCLUSION

Offering consumer law opportunities to students can benefit law schools, their students, and society. As consumers, many law students enter law school with an appetite for matters that are the subject of consumer law. Law schools should accommodate students’ desires by explicitly introducing them to consumer law topics during their first year. After first-year students have tasted consumer law, law schools can offer more advanced courses and experiential opportunities. Armed with training in consumer law, students will be able to address personal and professional concerns. They will have the edge over their peers who did not have such training, making them more attractive to potential employers. Moreover, as illustrated by students’ efforts in securing the passage of consumer protection legislation, student advocates can have a lasting impact on society.

450. *Consumer Advocacy and Protection Society*, UNIV. UTAH, <https://getinvolved.utah.edu/organization/consumer-advocacy-and-protection-society> [https://perma.cc/SN5M-FJYT] (last visited Oct. 13, 2023).

451. *Consumer Advocacy and Financial Regulation Organization Constitution*, UNIV. MICH. https://www.consumeradvocates.org/wp-content/uploads/2021/12/CAFRO_Constitution_2020.pdf [https://perma.cc/4PD4-24NX] (last visited Feb. 8, 2024).

452. *CAFRO Public Counsel Event*, MICH. L., <https://web.law.umich.edu/Kiosk/eventdetails.aspx?EventKey=57114:0:20230221T120000&StartDateTime=02/21/2023> [https://perma.cc/ZFG5-5W9Q] (last visited Oct. 13, 2023).