

Hudson Cook October 2018 Update

November 1, 2018 |

In the News

Michael Benoit

Partner Michael Benoit's monthly article in Auto Finance News addressed the changes since the Bureau of Consumer Financial Protection (BCFP) announced in December 2016 that it would be turning its attention from disparate impact claims in auto finance. More recently, Congress invalidated the BCFP's fair lending guidance for the auto industry, and it announced plans to revisit its position on disparate impact claims under the Equal Credit Opportunity Act.

Justin Hosie

Justin Hosie, a Partner in the firm's Tennessee office, was quoted in two publications, Credit Union Journal and Law360, on the Consumer Financial Protection Bureau's (CFPB) planned rollback of the payday lending rule. Justin told the Credit Union Journal that the payment provisions, which state that a covered lender cannot make more than two unsuccessful attempts to debit a payment from a consumer's checking account, would place limits only on payday lenders, create an unfair playing field and run counter to established norms for processing paper checks dating back to the 1300s.

Patty Covington and Erica Kramer

Auto Finance News published an article written by Partner Patty Covington and Associate Erica Kramer on the issues affecting the auto finance industry's compliance in response to the Department of Defense's (DOD) amended interpretive rule to the Military Lending Act (MLA). Patty and Erica discuss the challenges dealers and auto finance companies face in complying with the Interpretive Rule's FAQ #2.

Patty was also quoted in an Auto Finance News article regarding the Florida state attorney general's investigation of Marlin Financial, and whether this case could be a sign of increased enforcement by state attorneys general as the CFPB has cooled enforcement under Acting Director Mick Mulvaney.

Tom Hudson

In his monthly article in Auto Dealer Today, Tom Hudson discussed three recent dealer

arbitration case studies. The cases involved the following issues: multiple transactions with the same buyers; conflicting arbitration clauses used in the documents for the same sale; and the use of arbitration clauses - and the conclusions by arbitrators - in connection with selling and financing a vehicle.

Lucy Morris

Partner Lucy Morris, a former CFPB deputy enforcement director, commented for Bloomberg Law on the CFPB's current enforcement actions as compared to the third quarter of 2017. She noted that CFPB enforcement actions announced this year "largely, if not entirely, resolved investigations or examinations opened under Cordray's leadership."

On the Road

On October 15, Partner Kate Fisher testified before the New Jersey Senate Committee on Commerce on behalf of the Commercial Finance Coalition in opposition to S2262, a bill that would require certain disclosures on small business loans. Kate testified that the Commercial Finance Coalition supports efforts to make business financing more transparent, but they see an issue with the proposed amendment that would define a merchant cash advance as a loan. The full testimony recording can be replayed on the New Jersey Legislature website.

Hudson Cook attorneys Hurshell Brown, Allen Denson, Justin Hosie, Becki Kuehn, Curtis Linscott and Blake Sims all spoke at the Financial Service Centers of America (FiSCA) Annual Conference & Expo: Money Trends in Alternative Financial Services in Las Vegas. FiSCA's Executive Director, Ed D'Alessio, is Of Counsel to the firm.

Catherine Brennan presented, "Legal Updates - State of the Union on California Legislation," at deBanked Connect: San Diego.

The firm sponsored Lend360 in Chicago, an annual event that focuses exclusively on the unique needs of online lending providers. Partners Catherine Brennan, Allen Denson, Robert Gage and Blake Sims presented sessions the conference.

The firm also sponsored the National Association of Professional Background Screeners' (NAPBS) annual conference in Baltimore, hosting a Maryland-themed coffee break. Partners Becki Kuehn and Jennifer Sarvadi presented at the conference.

Other speaking engagements in October included:

NABD Buy Here, Pay Here - Subprime Conference
Tom Hudson

National Association of Federally-Insured Credit Unions (NAFCU) Regulatory Compliance Seminar
Webb McArthur

American Bar Association (ABA) National Institute on Consumer Financial Services Basics

[Andrea Cottrell](#), [Becki Kuehn](#), [Jean Noonan](#)

Consumer Bankers Association (CBA) Fair and Responsible Banking Committee
[Jean Noonan](#)

Auto Finance Summit
[Robert Gage](#)

Hudson Cook Webinars

[Small Dollar](#) Updates, Presented on October 30
[Allen Denson](#), [Justin Hosie](#), [Becki Kuehn](#), [Blake Sims](#), [Dailey Wilson](#)

Upcoming: November 14 at 2:00 pm Eastern - [Register Now](#)
Navigating the Compliance Risks of Settling Consumer Accounts
[Anastasia Caton](#), [Lisa DeLessio](#), [Becki Kuehn](#)

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