# **Index**

# ABUSE OF CONSUMER

Lemon laws, § 15:7

# **ACTUAL DAMAGES**

Private Remedies (this index)

# **ADJUDICATION**

Unfair and deceptive practices, Federal Trade Commission (FTC), environmental advertising, § 11:46

# ADVERTISING AND ADVERTISEMENTS

Unfair and Deceptive Practices, Federal Trade Commission (FTC) (this index)

Uniform Commercial Code and Magnuson-Moss Warranty Act, § 14:13

# AGENCY ENFORCEMENT

Generally, §§ 7:1 to 7:31

Air travel advertisements, National Association of Attorneys General, § 7:31

Amount and type of restitution, § 7:16

Assurances of compliance, § 7:12 Authority, express or implied, restitution, § 7:14

Authority of attorney general, § 7:6

Binding versus interpretive rules, § 7:24

Civil investigative standards, § 7:2 Civil penalties, §§ 7:17 to 7:22

Compliance, voluntary assurances of, § 7:12

Criminal penalties, § 7:17, 7:22

# AGENCY ENFORCEMENT

—Cont'd

Criteria for determining penalties, § 7:20

Definiteness of demand, § 7:4
Delegation of legislative power,
§ 7:25

Emergency rulemaking, § 7:27 Entitlement to share in restitution, § 7:15

Federal preemption, § 7:30, 7:31 First amendment defense, § 7:29 First violation versus violation of outstanding order, § 7:18

Governmental enforcement authority, **App 7A** 

Hearing, respondent's right to, § 7:7

Injunctions, §§ 7:8 to 7:11
Investigative powers, §§ 7:2 to 7:7

Judicial review, § 7:7, 7:26 Local enforcement, § 7:28 Mootness, injunctions, § 7:9 Multiplying penalties, § 7:19 National Association of Attorneys General, § 7:31

Nature and extent of jurisdiction, injunctions, § 7:11

Penalties, civil and criminal, §§ 7:17 to 7:22

Public interest standard, injunctions, § 7:10

"Reason to believe standard," § 7:3

Relevance of information requested, § 7:5

Respondent's right to judicial review, § 7:7

# AGENCY ENFORCEMENT —Cont'd

Restitution, §§ 7:13 to 7:16 Substantive rulemaking power, §§ 7:23 to 7:27

#### **AGENTS**

State acts, § 4:38, 4:41

#### AIR TRAVEL ADVERTISING

Agency enforcement, National Association of Attorneys General, § 7:31

# **APPEALS**

FTC remedies, First Amendment and commercial speech, §§ 12:40 to 12:43

#### **APPELLATE FEES**

Private remedies, § 6:24

# **ARBITRATION**

Prerequisites to statutory actions, clauses, § 5:22
Private remedies, § 6:35

Uniform Commercial Code and Magnuson-Moss Warranty Act, § 14:18

# **ARTICLE 2 OF UCC**

Overview. **Uniform Commercial Code and Magnuson-Moss Warranty Act** (this index)

# ASSIGNEES

State acts, § 4:38, 4:42

# ATTORNEY FEES

Lemon laws, § 15:18
Private remedies, §§ 6:17 to 6:27
Uniform Commercial Code and
Magnuson-Moss Warranty
Act, § 14:21

#### **AUTHORITY**

Agency enforcement, express or implied, restitution, § 7:14

# **AUTOMOBILES**

Lemon laws. **Lemon Laws** (this index)

New cars, lemon laws. **Lemon** Laws (this index)

Used cars. Used Cars (this index)

# **AVERAGE CONSUMER**

Unfair and deceptive practices, Federal Trade Commission (FTC), § 10:6

# **BAIT AND SWITCH**

Unfair and deceptive practices
Federal Trade Commission
(FTC), § 11:36, 11:37
grocery specials, unavailability,
§ 11:37
junk fees, § 11:38
motor vehicle pricing, § 11:38
state, advertising, § 3:14

# BANS AND DISCLOSURES

FTC Remedies (this index)

# BENEFIT OF THE BARGAIN

Private remedies, § 6:4

#### **BIBLIOGRAPHY**

Lemon laws, **App 15C**Unfair and deceptive practices, state acts, **App 3C** 

# **BROADCASTERS**

State acts, § **4:37** 

# BUILDERS

Homes, § 18:13

#### BURDEN OF PROOF

Remedies, Federal Trade Commission (FTC), corrective advertising, § 12:36

#### **BUSINESS LITIGATION**

State acts, § 4:3, 4:4

#### **BUYER'S GUIDE**

Used cars, § 16:4

Index-2

#### **BUYER'S REMEDIES**

Homes, § 18:24

#### **CANSPAM ACT**

FTC enforcement, new frontiers, § 13:17

#### CARS

Lemon laws. **Lemon Laws** (this index)

New cars, lemon laws. **Lemon Laws** (this index)

Used cars. Used Cars (this index)

#### CEASE AND DESIST ORDERS

Federal Trade Commission (FTC) remedies, §§ 12:2 to 12:6, 12:26

#### **CELEBRITY ENDORSEMENTS**

Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:23

# CHILDREN'S ONLINE PRIVACY

FTC enforcement, new frontiers, § 13:19

#### **CIGARETTES**

Unfair and Deceptive Practices, Federal Trade Commission (FTC) (this index)

# CITATIONS

Lemon laws, **App 15A**Motor homes, **App 17A** 

# CIVIL INVESTIGATIVE STANDARDS

Agency enforcement, § 7:2

# **CIVIL PENALTIES**

Agency enforcement, §§ 7:17 to 7:22

FTC remedies, §§ 12:25 to 12:31

#### **CLASS ACTIONS**

Private remedies, §§ 6:28 to 6:35

# CLIMATE CHANGE AND ENERGY ISSUES

Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:47

#### COERCION

Unfair and deceptive practices, Federal Trade Commission (FTC), §§ 9:8 to 9:11

Unfair and deceptive practices, state, § 3:19

# **COMBINED WARRANTIES**

Homes, § 18:11

# COMMERCIALITY REQUIREMENT

Homes, § 18:14

#### COMMISSION DISCRETION

Unfair and deceptive practices, Federal Trade Commission (FTC), § 9:2

# **COMMONALITY**

Private remedies, class actions, § 6:30

#### COMMON LAW ACTIONS

Consumer contracts
acceptance of terms, § 2:9
deception, defenses, § 2:10
unconscionability, defenses,
§ 2:10

Culpability of seller, § 2:4
Elements of common law fraud,
§ 2:2

Innocent misrepresentation, § 2:7 Limitations, § 2:8

Misrepresentation, § 2:3, 2:6, 2:7 Negligent misrepresentation, § 2:6 Non-disclosure, misrepresentation

by, § 2:3

Puffery, § 2:5

Reliance, justifiable of buyer, § 2:5

Remedies, § 2:8

# COMMON LAW ACTIONS —Cont'd

Scienter, § 2:4

State of mind of seller, § 2:4

# **COMPARATIVE ADVERTISING**

Unfair and deceptive practices, Federal Trade Commission (FTC), §§ 11:28 to 11:30

# **COMPENSATORY DAMAGES**

Private remedies, §§ 6:3 to 6:7

#### **COMPLIANCE**

Agency enforcement, voluntary assurances, § 7:12

# CONCURRENT REMEDIES

Lemon laws, § 15:19

#### **CONDOMINIUMS**

Homes, consumer product warranties, § 18:26

#### CONSENT ORDER

FTC remedies, § 12:24

# CONSEQUENTIAL DAMAGES

Private remedies, § 6:7

#### **CONSUMER CONTRACTS**

Acceptance of terms, § 2:9
Deception, defenses, § 2:10
Unconscionability, defenses, § 2:10

# CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Jurisdiction, § 8:11

# CONSUMER PRODUCT WARRANTIES

Generally, § 1:6

**Homes** (this index)

Mobile homes. **Mobile Homes** (this index)

New cars, lemon laws. **Lemon Laws** (this index)

# **CONSUMER PRODUCT**

WARRANTIES—Cont'd

Uniform Commercial Code and Magnuson-Moss Warranty Act (this index)

Used cars. Used Cars (this index)

#### **CONSUMER REDRESS**

Early Commission efforts, § 12:20 FTC remedies, §§ 12:19 to 12:24 Individual liability, § 12:23 Presentation of issues, § 12:19 Section 5 consent order, § 12:24 Section 13(b), § 12:22 Section 19, § 12:21

#### **CONSUMER TESTIMONIALS**

Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:24

# **CONTRACT CLAUSES**

Prerequisites to statutory actions, §§ 5:21 to 5:23

Unfair and deceptive practices, Federal Trade Commission (FTC), §§ 9:17 to 9:20

# **CONTRACT DISPUTES**

Prerequisites to statutory actions, not in the public interest, § 5:6

#### CORPORATE OFFICERS

State acts, § 4:38, 4:39

# **CORRECTIVE ADVERTISING**

FTC remedies, §§ 12:32 to 12:37

# **COURT COSTS**

Private remedies, §§ 6:17 to 6:27

#### **CREDIT**

State acts, § 4:22, 4:23

#### CRIMINAL PENALTIES

Agency enforcement, § 7:17, 7:22

#### **CULPABILITY OF SELLER**

Common law actions, § 2:4

#### **CURE CLAIMS**

Unfair and deceptive practices, Federal Trade Commission (FTC), advertising substantiation, § 11:7

#### **DAMAGES**

Lemon laws, § 15:18
Private remedies, § 6:16
Private Remedies (this index)

#### **DEBT COLLECTION**

State acts, § 4:24, 4:25

# DECEPTIVE EARNINGS CLAIMS

Internet economy, FTC enforcement, new frontiers, 13:16

#### **DECEPTIVE PRACTICES**

Deceptive earnings claims. **Deceptive earnings claims** (this index)

Deceptive pricing. **Deceptive pricing** (this index)

FTC law violations. Unfair and Deceptive Practices, Federal Trade Commission (FTC) (this index)

State law violations. **Unfair and Deceptive Practices, State**(this index)

#### DECEPTIVE PRICING

Conclusion, unfair and deceptive practices, Federal Trade Commission (FTC), §§ 11:39

# DEFECTS AND DEFECTIVE PRODUCTS

Homes, covered defects, §§ 18:7 to 18:10

Unfair and deceptive practices, state, § 3:21

#### **DEFENSES**

Unfair and deceptive practices, Federal Trade Commission (FTC), puffing, § 10:7

#### DESIGNATION

Uniform Commercial Code and Magnuson-Moss Warranty Act, § 14:10

#### **DIETARY SUPPLEMENTS**

Unfair and deceptive practices, Federal Trade Commission (FTC), advertising substantiation, deceptive practices, § 11:7

# **DISCLAIMERS**

Homes, § 18:21

Uniform Commercial Code and Magnuson-Moss Warranty Act, § 14:16

#### DISCLOSURES

FTC Remedies (this index)

Unfair and deceptive practices, duty to disclose standard, § 3:11

Uniform Commercial Code and Magnuson-Moss Warranty Act (this index)

Used cars, § 16:11

# DISCOUNTS

Unfair and Deceptive Practices, Federal Trade Commission (FTC) (this index)

# DISPUTE RESOLUTION AND ARBITRATION

Uniform Commercial Code and Magnuson-Moss Warranty Act, § 14:18

#### DISSENTING OPINION

FTC remedies, no private right of action, § 12:47

# DO-NOT-CALL REGISTRY

FTC enforcement, new frontiers, § 13:6

#### DO NOT CALL RULE

Generally, § 13:7, 13:8

#### **DOUBLE MEANINGS**

Unfair and deceptive practices, Federal Trade Commission (FTC), § 10:10, 10:13

#### **DURESS**

Unfair and deceptive practices, state, § 3:19

#### **EMERGENCY RULEMAKING**

Agency enforcement, § 7:27

#### **EMOTIONAL APPEAL**

Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:19

# EMPLOYER-EMPLOYEE RELATIONSHIP

State acts, § 4:14

# ENVIRONMENTAL ADVERTISING

Unfair and deceptive practices, Federal Trade Commission (FTC), §§ 11:44 to 11:47

#### **EVIDENCE**

Unfair and deceptive practices, Federal Trade Commission (FTC), interpreting advertising, § 10:23, 10:24

# E-WARRANTY ACT

Generally, § 14:3

# **EXCISION OF TRADE NAMES**

FTC remedies, § 12:33

# **EXEMPT INDUSTRIES**

Historical background and jurisdiction of Federal Trade Commission (FTC), §§ 8:7 to 8:10

# **EXEMPTIONS**

State acts, App 4A

# EXHAUSTION OF ADMINISTRATIVE REMEDIES

Prerequisites to statutory actions, §§ 5:13 to 5:15

#### EXPERT ENDORSEMENTS

Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:26

#### EXPERT WITNESS COSTS

Private remedies, § 6:24

#### EXTRINSIC EVIDENCE

Unfair and deceptive practices, Federal Trade Commission (FTC), interpreting advertising, § 10:23, 10:24

# FDA REGULATIONS

Unfair and deceptive practices, Federal Trade Commission (FTC), tobacco advertising, § 11:42

# FEDERAL JURISDICTION LIMITS

Uniform Commercial Code and Magnuson-Moss Warranty Act. § 14:22

# FEDERAL ODOMETER ACT

Used cars, § 16:9

# FEDERAL PREEMPTION

Agency enforcement, § 7:30, 7:31

#### FEDERAL STANDARDS

Lemon laws, § 15:14

Manufactured Housing Construction and Safety Standards Act, § 17:8

# FEDERAL TRADE COMMISSION (FTC)

IMPROVEMENTS ACT OF 1980

FTC remedies, § 12:12

#### FEDERAL TRADE

**COMMISSION (FTC) LAW** 

FTC Enforcement, New

**Frontiers** (this index)

**FTC Remedies** (this index)

# FEDERAL TRADE

COMMISSION (FTC) LAW —Cont'd

Historical Background and Jurisdiction of Federal Trade Commission (this index)

Unfair and Deceptive Practices, Federal Trade Commission (this index)

#### **FEES**

Junk fees. Junk fees (this index)

# FINANCIAL PRIVACY

Gramm-Leach-Bliley Act, FTC enforcement, new frontiers, § 13:20

#### FIRST AMENDMENT

Agency enforcement, defense, § 7:29

# FIRST AMENDMENT AND COMMERCIAL SPEECH

FTC remedies, §§ 12:39 to 12:43

# FOOD AND DRUG ADMINISTRATION (FDA), EXEMPTIONS

Historical background and jurisdiction of Federal Trade Commission (FTC), § 8:10

# FOOD AND NUTRITION CLAIMS

Unfair and deceptive practices, Federal Trade Commission (FTC), advertising substantiation, § 11:11

# **FOREIGN ORIGIN**

Unfair and deceptive practices, Federal Trade Commission (FTC), omission of information, § 10:17

#### **FRAUD**

FTC enforcement, new frontiers, §§ 13:2 to 13:4

#### **FREE OFFERS**

Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:34

# FRIVOLOUS SUIT

Private remedies, attorney fees and court costs, § 6:22

# FTC ENFORCEMENT, NEW FRONTIERS

Generally, §§ 13:1 to 13:24 CANSPAM Act, § 13:17

Children's online privacy, § 13:19

Deceptive earnings claims, internet economy, **13:16** 

Do-not-call registry, § 13:6

Do Not Call rule, § 13:7, 13:8

Financial privacy, Gramm-Leach-Bliley Act, § 13:20

Fraud, telemarketing, §§ 13:2 to 13:4

Gramm-Leach-Bliley Act, consumer financial privacy, § 13:20

Identity theft, § 13:22

Impersonation fraud, § 13:21

International enforcement and U.S.SAFE WEB Act of 2006, § 13:24

Internet enforcement, § 13:14, 13:19

Internet-related consumer scams, 13:15

Mail merchandise rule, § 13:9

Misrepresentation, § 13:21

"900" number regulations,

§§ 13:10 to 13:13

Online information privacy, § 13:18

Online privacy, 13:19

Pretexting, § 13:21

Privacy

children's online privacy, § 13:19

#### FTC ENFORCEMENT, NEW FTC REMEDIES—Cont'd FRONTIERS—Cont'd Bans and disclosures Privacy—Cont'd advertising, corrective, financial privacy, Gramm-§§ 12:32 to 12:37 Leach-Bliley Act, § 13:20 burden of proof, corrective online information privacy, advertising, § 12:36 § 13:18 corrective advertising, §§ 12:32 to 12:37 online privacy, 13:19 excision of trade names, Privacy framework, § 13:23 § 12:33 Security breach, § 13:22 injunctions, Section 13(b), Spam e-mail, § 13:17 § 12:38 Spyware, § 13:21 judicial approval, corrective Telemarketing advertising, § 12:35 cases, § 13:11 trade names, §§ 12:32 to 12:37 Do Not Call rule, § 13:7, 13:8 trends, corrective advertising, federal legislation, § 13:12 § 12:37 1991 Telephone Consumer Burden of proof, corrective Protection Act, § 13:4 advertising, § 12:36 Cease and desist orders, §§ 12:2 1994 Telemarketing Act, § 13:4 to 12:6, 12:26 rulemaking and enforcement Civil penalties, §§ 12:25 to 12:31 Conclusion, no private right of cases, §§ 13:5 to 13:9 action, § 12:49 fraud, §§ 13:2 to 13:4 Consent order, § 12:24 internet, § 13:9 Corrective advertising, §§ 12:32 mail merchandise rule, § 13:9 to 12:37 "900" number regulations, Court application, cease and desist §§ 13:10 to 13:13 orders, § 12:4 1994 Telemarketing Act, FTC Criteria for setting penalty, Seccases prior to, § 13:3 tion 5(1), § **12:28** rulemaking, 13:13 Disclosures. Bans and disclosures, rulemaking and enforcement above cases, §§ 13:5 to 13:9 Dissenting opinion, no private telephone order merchandise right of action, § 12:47 rule, § 13:9 Early cases, no private right of Telephone order merchandise rule, action, § 12:45 § 13:9 Early commission efforts, consumer redress, § 12:20 FTC REMEDIES Excision of trade names, § 12:33 Generally, §§ 12:1 to 12:49 Federal Trade Commission (FTC) Advertising, corrective, §§ 12:32 Improvements Act of 1980 to 12:37 and legislative veto, § 12:12 Appeals, First Amendment and First Amendment and commercial commercial speech, §§ 12:40 speech, §§ 12:39 to 12:43 to 12:43 Individual liability, § 12:23

# FTC REMEDIES—Cont'd Industry-wide rulemaking, §§ 12:8 to 12:14 Injunctions authority, generally, § 12:16, 12:17 bans and disclosures, § 12:38 consumer redress, § 12:22 Section 13(b), § 12:38 Judicial approval, corrective advertising, § 12:35 Judicial review cease and desist orders, § 12:3 industry-wide rulemaking, § 12:11 Jury trial, right to, Section 5(1), § 12:29 Magnuson-Moss rulemaking, § 12:10 Majority view, no private right of action, § 12:46 Multiplying violations, Section 5(1), § **12:27** Pre-Magnusson-Moss rulemaking, § 12:9 Private action to enforce telemarketing rules, § 12:48 Private right of action, no, §§ 12:44 to 12:49 Proceeding by case or rule, § 12:7 Product coverage, cease and desist orders, § 12:5 "Proper showing" for injunctions, § 12:17 Redress, §§ 12:19 to 12:24 Rulemaking 1981-90, § 12:13 Rulemaking 1990-2021, § 12:14 Rulemaking 2021 to present, § 12:15

Scope of conduct prohibited, cease

and desist orders, § 12:6 Scope of relief non-monetary

available in Section 13(b)

proceedings, injunctions,

§ 12:18

# FTC REMEDIES—Cont'd

Section 5(1) civil penalties, §§ 12:26 to 12:29

Section 5(m)(1)(A) rule violations, § 12:30

Section 5(m)(1)(B) violation of orders issued against third parties, § 12:31

Section 19 actions, consumer redress, § 12:21

Supreme Court cases, First Amendment and commercial speech, § 12:40

Telemarketing, no private right of action, § 12:48

Third parties, Section 5(m)(1)(B) violation of orders issued against, § 12:31

Trade names, §§ 12:32 to 12:37 Trends, corrective advertising, § 12:37

#### **FULL WARRANTIES**

Uniform Commercial Code and Magnuson-Moss Warranty Act, § 14:15

# **GIFT CARDS**

Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:35

# GOVERNMENTAL ENFORCEMENT AUTHORITY

Agency enforcement, App 7A

#### **GRAMM-LEACH-BLILEY ACT**

FTC enforcement, new frontiers, consumer financial privacy, § 13:20

# **GROCERY SPECIALS**

Unfair and deceptive practices, Federal Trade Commission (FTC), unavailability, bait and switch, § 11:37

#### **GROUNDLESS SUIT**

Private remedies, attorney fees and court costs, § 6:22

#### **HABITABILITY**

Homes, § 18:9

#### **HALF-TRUTH**

Unfair and deceptive practices, Federal Trade Commission (FTC), § 10:10, 10:12

#### HEALTH AND SAFETY CLAIMS

Unfair and deceptive practices, Federal Trade Commission (FTC), advertising substantiation, § 11:10

#### **HEALTH RISKS**

Unfair and deceptive practices, Federal Trade Commission (FTC), omission of information, § 10:18

#### **HEARING**

Agency enforcement, respondent's right, § 7:7

# HISTORICAL BACKGROUND AND JURISDICTION OF FEDERAL TRADE COMMISSION (FTC)

Generally, § 1:5
Drugs, exemptions, § 8:10
Exempt industries, §§ 8:7 to 8:10
Food and Drug Administration
(FDA), exemptions, § 8:10
Insurance industry, exemptions, § 8:8

Interstate commerce requirement, § 8:4 et seq.

Jurisdiction, concurrent with Consumer Financial Protection Bureau, § 8:11

Nonprofit trade associations, exemptions, § 8:9

Public interest requirement, § 8:3 Statutory underpinnings, § 8:2

# **HOMES**

Generally, §§ 18:1 to 18:26 Builders, § 18:13 Buyer's remedies, § 18:24 Combined warranties, § 18:11 Commerciality requirement, § 18:14 Condominiums, § 18:26

Construction contracts, § 18:4
Defects covered, §§ 18:7 to 18:10
Defenses, §§ 18:20 to 18:23
Disclaimers, § 18:21
Habitability, § 18:9
Implied warranties, § 18:6, 18:19
Implied warranty of habitability, state- by-state listing, App 18A

Latent defects, § 18:8
Legal theory, § 18:3
Lenders, § 18:16
Mobile Homes (this index)
Negligence of subsequent buyers,
§ 18:18

Notice, lack of, § 18:22
Products liability, § 18:5
Public policy, § 18:2
Remedies, § 18:24
Sellers, § 18:15
Special statutes, § 18:25
Statute of limitations, § 18:23
Subsequent buyers
generally, §§ 18:17 to 18:19
implied warranty, § 18:19
negligence, § 18:18
state-by-state listing, App 18B
treatment, state-by-state listing,

Treatment of subsequent buyers, state-by-state listing, App 18B

Warrantors, § 18:12 et seq. Workmanlike construction, § 18:10

App 18B

#### **IDENTITY THEFT**

FTC enforcement, new frontiers, § 13:22

#### IMPERSONATION FRAUD

FTC enforcement, new frontiers, § 13:21

# IMPLIED WARRANTY OF HABITABILITY

Homes, § 18:6, 18:19 State- by-state listing, App 18A

# INDUSTRY SELF-REGULATION

Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:29

# INDUSTRY-WIDE RULEMAKING

FTC remedies, §§ 12:8 to 12:14

#### **INFOMERCIALS**

Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:21

# INFORMAL DISPUTE RESOLUTION

Lemon laws, §§ 15:13 to 15:15 Uniform Commercial Code and Magnuson-Moss Warranty Act, § 14:18

#### **INJUNCTIONS**

Agency enforcement, §§ 7:8 to 7:11

FTC Remedies (this index)

Private remedies, § 6:9

# INNOCENT MISREPRESENTATION

Common law actions, § 2:7

#### **INNUENDO**

Unfair and deceptive practices, Federal Trade Commission (FTC), § 10:10, 10:12

#### INSURANCE INDUSTRY

Historical background and jurisdiction of Federal Trade Commission (FTC), exemptions, § 8:8

#### **INSURANCE PRACTICES**

State acts, § 4:28, 4:29

#### INTENTIONAL VIOLATION

Private remedies, multiple damages, § 6:13

# INTERNATIONAL ENFORCEMENT

FTC enforcement, U.S.SAFE WEB Act of 2006, § 13:24

#### **INTERNET**

FTC enforcement, § 13:9
Internet economy, deceptive earnings claims, 13:16
Internet-related consumer scams,
FTC enforcement, § 13:15

Merchandise rule, § 13:9 Online consumer transactions, § 13:14

Online information privacy, § 13:18

Online privacy, 13:19

Unfair and deceptive practices, Federal Trade Commission (FTC), internet abuses, § 9:21

#### INTERNET ECONOMY

Deceptive earnings claims, FTC enforcement, new frontiers, 13:16

# INTERSTATE COMMERCE REQUIREMENT

Historical background and jurisdiction of Federal Trade Commission (FTC), § 8:4 et seq.

# **INVESTIGATIVE POWERS**

Agency enforcement, §§ 7:2 to 7:7

#### **INVESTMENT RISKS**

Unfair and deceptive practices, Federal Trade Commission (FTC), omission of information, § 10:19

#### **INVESTMENTS**

State acts, § 4:26, 4:27

# JUDICIAL REVIEW

Agency enforcement, § 7:7, 7:26

#### JUNK FEES

Unfair and deceptive practices, Federal Trade Commission (FTC), bait and switch, § 11:38

# **JURISDICTION**

Consumer Financial Protection Bureau (CFPB), § 8:11

Federal Trade Commission (FTC). **Historical Background and Jurisdiction of Federal Trade Commission (FTC)**(this index)

# LANDLORD-TENANT RELATIONSHIPS

State acts, §§ 4:16 to 4:20

# LATENT DEFECTS

Homes, § 18:8

# **LEASES**

Uniform Commercial Code and Magnuson-Moss Warranty Act, § 14:8

# LEGAL SERVICES CLIENTS

Private remedies, attorneys fees and court costs, § 6:20

#### LEMON LAWS

Generally, §§ 15:1 to 15:19 Abuse of consumer, § 15:7 Attorney fees, § 15:18 Bibliography, App 15C Citations, App 15A Concurrent remedies, § 15:19

# LEMON LAWS—Cont'd

Damages, § 15:18

Federal standards, informal dispute resolution, § 15:14

Informal dispute resolution, §§ 15:13 to 15:15

Notice and opportunity to repair, § 15:12

Opportunity to repair, § 15:12

Provisions, App 15B

Purchasers, § 15:8

Refund, § 15:17

Remedies, §§ 15:16 to 15:19

Repair

failure to, § 15:9

notice and opportunity to, § 15:12

opportunity to, § 15:12

Replacement, § 15:17

Retroactive application, § 15:11

State programs, informal dispute resolution, § 15:15

Statute of limitations, § 15:10

Substantial impairment, § 15:6

Time periods, failure to repair, § 15:9

8 15:9

Vehicles, generally, § 15:4 Warranty violations, § 15:5

#### **LENDERS**

Homes, § 18:16

#### **LIMITATIONS**

Common law actions, § 2:8

# LIMITED WARRANTIES

Uniform Commercial Code and Magnuson-Moss Warranty Act, § 14:15

# LOCAL ENFORCEMENT

Agency enforcement, § 7:28

# **LOTTERY CASES**

Unfair and deceptive practices, Federal Trade Commission (FTC), § 9:9

#### "MADE IN THE U.S.A."

Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:48

# **MAGAZINES**

State acts, § 4:37

# MAGNUSON-MOSS WARRANTY ACT

FTC remedies

Magnuson-Moss rulemaking, § 12:10

pre-Magnusson-Moss rulemaking, § 12:9

Online retailers, § 14:3

Uniform Commercial Code and Magnuson-Moss Warranty Act (this index)

# MAIL MERCHANDISE RULE

FTC enforcement, new frontiers, § 13:9

# **MAJORITY VIEW**

FTC remedies, no private right of action, § 12:46

# MANAGEABILITY

Private remedies, class actions, § 6:31

# MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS ACT

Generally, § 17:8

# MARKETING GUIDES

Unfair and deceptive practices, Federal Trade Commission (FTC), environmental advertising, § 11:45

# MATERIALITY AND MATERIAL INFORMATION

Unfair and deceptive practices, Federal Trade Commission (FTC), §§ 9:12 to 9:15; 10:7, 10:8

#### MEDICAL PROCEDURES

Unfair and deceptive practices, Federal Trade Commission (FTC), advertising substantiation, § 11:8

#### **MENTAL ANGUISH**

Private remedies, § 6:5, 6:6

#### **MERCHANTS**

State acts, §§ 4:5 to 4:7

# MINIMUM DAMAGES

Private remedies, § 6:10, 6:11

#### MISREPRESENTATION

Common law actions, § 2:3, 2:6, 2:7
FTC enforcement, new frontiers,

§ 13:21

#### **MOBILE HOMES**

State acts, §§ 4:16 to 4:20

#### **MODEL ACTS**

State unfair and deceptive practices statutes, § 2:12

#### MOOTNESS

Agency enforcement, injunctions, § 7:9

# **MOTOR HOMES**

Generally, §§ 17:1 to 17:8

Citations, App 17A

Form, express or implied, § 17:2 Manufactured Housing Construc-

tion and Safety Standards Act, § 17:8

Notice, § 17:6

Notice, § 17.0

Remedies, § 17:7

Repair, site of, § 17:6

Scope, § 17:3

Subsequent purchasers, § 17:5

Time limits, § 17:6

Warrantors, § 17:4

Warranty laws, **App 17A, App 17B** 

#### MOTOR VEHICLE PRICING

Unfair and deceptive practices, Federal Trade Commission (FTC), bait and switch, § 11:38

#### MOTOR VEHICLES

Lemon laws. **Lemon Laws** (this index)

Mobile homes. **Mobile Homes** (this index)

Motor vehicle pricing. **Motor vehicle pricing** (this index)

New cars, lemon laws. **Lemon** Laws (this index)

Used cars. Used Cars (this index)

# **MULTIPLE DAMAGES**

Private remedies, § 6:10, 6:12 to 6:15

# **MULTIPLYING PENALTIES**

Agency enforcement, § 7:19

# NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Agency enforcement, § 7:31

# "NATIVE" ADVERTISEMENTS

Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:21

#### NEGLIGENCE STANDARD

Unfair and deceptive practices, state, § 3:11

# **NEGLIGENCE THEORY**

Homes, subsequent buyers, § 18:18

# NEGLIGENT MISREPRESENTATION

Common law actions, § 2:6

# **NET IMPRESSION**

Unfair and deceptive practices, Federal Trade Commission (FTC), § 10:10, 10:11

# **NEWSPAPERS**

State acts, § 4:37

# 1991 TELEPHONE CONSUMER PROTECTION ACT

Generally, § 13:4

# 1994 TELEMARKETING ACT

Generally, § 13:4

#### NON-DISCLOSURE

Common law actions, misrepresentation by, § 2:3

# NONPROFIT TRADE ASSOCIATIONS

Historical background and jurisdiction of Federal Trade Commission (FTC), exemptions, § 8:9

#### NOTICE

Homes, lack of notice, § 18:22 Lemon laws, opportunity to repair, § 15:12

Motor homes, § 17:6

Prerequisites to statutory actions, provisions, §§ 5:2 to 5:4

# **NUTRITION CLAIMS**

Unfair and deceptive practices, Federal Trade Commission (FTC), advertising substantiation, § 11:11

# **ODOMETERS**

Used cars, Federal Odometer Act, § 16:9

# OMISSION OF INFORMATION AND MATERIAL FACTS

Unfair and deceptive practices
Federal Trade Commission
(FTC), §§ 10:14 to 10:20
state, §§ 3:8 to 3:11

# ONLINE INFORMATION PRIVACY

FTC enforcement, § 13:18

#### ONLINE PRIVACY

FTC enforcement, 13:19

# **ONLINE RETAILERS**

E-Warranty Act, § 14:3 Magnuson-Moss Warranty Act, § 14:3

#### OPPORTUNITY TO REPAIR

Lemon laws, § 15:12

# ORGANIZATIONAL ENDORSEMENTS

Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:26

#### **OUT-OF-STATE SELLERS**

State acts, § **4:38** 

# OUT-OF-STATE SELLERS OR CUSTOMERS

State acts, § 4:43

#### **OVER-THE-COUNTER DRUGS**

Unfair and deceptive practices, Federal Trade Commission (FTC), advertising substantiation, § 11:7

#### **PARTIES**

Uniform Commercial Code and Magnuson-Moss Warranty Act, § 14:6

#### **PENALTIES**

Agency enforcement, civil and criminal, §§ 7:17 to 7:22

# PERFORMANCE CLAIMS

Unfair and deceptive practices, Federal Trade Commission (FTC), advertising substantiation, § 11:13

#### PHYSICAL INJURIES

State acts, § 4:13

# PHYSICAL PAIN AND SUFFERING

Private remedies, § 6:6

#### **PICTORIAL**

# MISREPRESENTATIONS

Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:17

# POLICY STATEMENT

Unfair and deceptive practices,
Federal Trade Commission
(FTC), §§ 9:5 to 9:7
advertising substantiation, App
11A
deception, App 10A
unfairness, App 9A

# **POLITICAL ACTIVITIES**

State acts, § **4:10** 

# PREREQUISITES TO CLASS ACTIONS

Private remedies, §§ 6:29 to 6:31

# PREREQUISITES TO STATUTORY ACTIONS

Generally, §§ 5:1 to 5:23
Adequate notice, § 5:3
Arbitration clauses, § 5:22
Ascertainable loss found, § 5:10
Ascertainable loss not found,
§ 5:10

Ascertainable loss to plaintiff, § 5:9, 5:10

Contract clauses, **5:20**, § **5:21** Contract disputes not in the public interest, § **5:6** 

Exhaustion of administrative remedies, §§ 5:13 to 5:15

Notice provisions, §§ 5:2 to 5:4

Private actions, **App 5A** 

Public interest requirement, §§ 5:5 to 5:8

Repetition, potential for, § 5:8 Retroactivity, §§ 5:16 to 5:20

Statute of limitations, §§ 5:16 to 5:20

Statutory notice, § 5:4

Timing issues, §§ 5:16 to 5:20

# PREREQUISITES TO STATUTORY ACTIONS

-Cont'd

Tolling of limitations period, § 5:18

Violations of other statutes or regulations, § 5:7

Waiver of right to sue, § 5:23

#### PRE-SALE AVAILABILITY

Uniform Commercial Code and Magnuson-Moss Warranty Act, § 14:12

#### **PRETEXTING**

FTC enforcement, new frontiers, § 13:21

# PREVAILING CONSUMER PLAINTIFFS

Private remedies, award of fees, §§ 6:18 to 6:20

#### PREVAILING DEFENDANT

Private remedies, award of fees, §§ 6:21 to 6:23

#### **PRICING**

Deceptive pricing (this index)
Unfair and deceptive practices,
Federal Trade Commission
(FTC), § 9:14, 11:31 to 11:38
Unfair and Deceptive Practices,
State (this index)

#### **PRINCIPALS**

State acts, § 4:38, 4:40

#### PRIVACY FRAMEWORK

FTC enforcement, new frontiers, § 13:23

#### PRIVATE ACTIONS

FTC remedies, no private right of action, §§ 12:44 to 12:49
Prerequisites to statutory actions, App 5A
Private remedies, § 6:2

# PRIVATE ACTIONS—Cont'd

Uniform Commercial Code and Magnuson-Moss Warranty Act, § 14:19, 14:21

# PRIVATE REMEDIES

Generally, §§ 6:1 to 6:35, App 6A Abuse of class action, § 6:34 Actual damages

generally, §§ 6:3 to 6:7 necessity of proving, attorney fees and court costs, § 6:19

Amount of fee award, § 6:25
Appellate fees, § 6:24
Arbitration and class actions, § 6:35

Attorney fees, §§ 6:17 to 6:27 Benefit of the bargain, § 6:4 Class actions, §§ 6:28 to 6:35 Commonality, class actions, § 6:30

Compensatory damages, §§ 6:3 to 6:7

Consequential damages, § 6:7 Court costs, §§ 6:17 to 6:27 Damages. Actual damages, above Expert witness costs, § 6:24 Formula for calculating reasonable

fees, §§ 6:25 to 6:27
Frivolous suit, attorney fees and court costs, § 6:22

Groundless suit, attorney fees and court costs, § 6:22

Injunctions, § 6:9

Intentional violation, multiple damages, § 6:13

Legal services clients, attorneys fees and court costs, § 6:20

Manageability, class actions, § 6:31

Mental anguish, § 6:5, 6:6 Minimum damages, § 6:10, 6:11 Multiple damages, § 6:10, 6:12 to 6:15

Physical pain and suffering, § 6:6

Index-16

# PRIVATE REMEDIES—Cont'd

Prerequisites to class actions, §§ 6:29 to 6:31

Prevailing consumer plaintiffs, award of fees, §§ 6:18 to 6:20

Prevailing defendant, award of fees, §§ 6:21 to 6:23

Private rights of action, § 6:2

Punitive damages, § 6:16

Recovery of multiple damages in addition to other relief, § 6:15

Representation of class, ability of individual plaintiff, § 6:32

Rescission, § 6:8

Restitution, § 6:8

Safeguards against abuse of class action, § 6:34

Settlement, effect on fee award amount, § 6:27

Standing, § 6:3

State attorney general, fees available from, § 6:23

State attorney general class actions, § 6:33

State enforcement agencies, attorneys fees and court costs, § 6:20

Unreasonable refusal to settle. multiple damages, § 6:14

#### **PRIVITY**

Uniform Commercial Code and Magnuson-Moss Warranty Act, § 14:6

#### PRODUCT PLACEMENT

Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:20

#### PRODUCTS LIABILITY

Homes, § 18:5

#### **PROFESSIONAL ACTIVITIES**

State acts, §§ 4:34 to 4:36

# PROGRAM LENGTH ADVERTISEMENTS

Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:21

#### PSYCHOLOGICAL APPEAL

Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:19

# **PUBLIC INTEREST** REQUIREMENT

Historical background and jurisdiction of Federal Trade Commission (FTC), § 8:3

Prerequisites to statutory actions, §§ 5:5 to 5:8

# PUBLIC INTEREST STANDARD

Agency enforcement, injunctions, § 7:10

# PUBLIC POLICY

Homes, § 18:2

# **PUBLIC UTILITIES**

State acts, § 4:30, 4:31

# **PUFFERY**

Common law actions, § 2:5

#### **PUFFERY AND PUFFING**

Unfair and Deceptive Practices, **Federal Trade Commission** (FTC) (this index)

#### **PUNITIVE DAMAGES**

Private remedies, § 6:16

#### PYRAMID SCHEMES

Unfair and deceptive practices, state, § 3:15

#### REAL PROPERTY

State acts, §§ 4:16 to 4:20

# REASONABLE CONSUMER

Unfair and deceptive practices, Federal Trade Commission (FTC), §§ 10:4 to 10:6

# "REASON TO BELIEVE STANDARD"

Agency enforcement, § 7:3

# **RECKLESS PROMISES**

Unfair and deceptive practices, state, § 3:20

#### **REFUND**

Lemon laws, § 15:17

# **REGULATED INDUSTRIES**

State acts, §§ 4:21 to 4:33

#### REGULATION

Uniform Commercial Code and Magnuson-Moss Warranty Act, § 14:14

#### **RELIANCE**

Common law actions, justifiable of buyer, § 2:5
Unfair and deceptive practices, state, §§ 3:3 to 3:7

# REMEDIES

Common law actions, § 2:8
FTC Remedies (this index)
Homes, § 18:24
Lemon laws, §§ 15:16 to 15:19
Motor homes, § 17:7
Private Remedies (this index)
Used cars, § 16:13

#### REPAIR

Lemon Laws (this index)
Motor homes, notice and site of repair, § 17:6

#### REPLACEMENT

Lemon laws, § 15:17

# REPRESENTATION OF CLASS

Private remedies, ability of individual plaintiff, § 6:32

# REPROCESSED GOODS

Unfair and deceptive practices, Federal Trade Commission

# REPROCESSED GOODS

-Cont'd

(FTC), omission of information, § 10:15

# RESCISSION

Private remedies, § 6:8

#### RESTITUTION

Agency enforcement, §§ 7:13 to 7:16
Private remedies, § 6:8

# RESTORE ONLINE SHOPPERS' CONFIDENCE ACT (ROSCA)

Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:35

# RETROACTIVITY

Lemon laws, § 15:11
Prerequisites to statutory actions, §§ 5:16 to 5:20

# **SAFETY CLAIMS**

Unfair and deceptive practices, Federal Trade Commission (FTC), advertising substantiation, § 11:10

# **SAFETY RISKS**

Unfair and Deceptive Practices, Federal Trade Commission (FTC) (this index)

#### **SCIENTER**

Common law actions, § 2:4

# **SECURITIES**

State acts, § 4:26, 4:27

#### SECURITY BREACH

FTC enforcement, new frontiers, § 13:22

# **SELLERS**

Homes, § 18:15

Index-18

#### **SETTLEMENT**

Private remedies, effect on fee award amount, § 6:27

#### **SHAREHOLDERS**

State acts, § 4:38, 4:39

#### SOCIAL MEDIA INFLUENCERS

Unfair and deceptive practices, § 11:25

#### **SPAM E-MAIL**

FTC enforcement, new frontiers, § 13:17

#### **SPYWARE**

FTC enforcement, new frontiers, § 13:21

#### STATE ACTS

Generally, §§ 1:4; 4:1 to 4:43
Agents, § 4:38, 4:41
Assignees, § 4:38, 4:42
Broadcasters, § 4:37
Business litigation, § 4:3, 4:4
Completed transaction, § 4:15
Corporate officers, § 4:38, 4:39
Credit, § 4:22, 4:23
Debt collection, § 4:24, 4:25
Employer-employee relationship, § 4:14

Exemptions, App 4A

Insurance practices, § 4:28, 4:29

Investments, § 4:26, 4:27

Landlord-tenant relationships,

§§ 4:16 to 4:20

Limitation to "consumer" transactions, §§ 4:3 to 4:15

Magazines, § 4:37

"Merchandise," § 4:12

Merchants, §§ 4:5 to 4:7

Mobile homes, §§ 4:16 to 4:20

Nature of transaction or injury, § 4:9

Newspapers, § 4:37

Out-of-state sellers or customers, § 4:43

#### STATE ACTS—Cont'd

Parties' direct involvement in transaction, § 4:8

Physical injuries, § 4:13

Political activities, § 4:10

Principals, § 4:38, 4:40

Professional activities, §§ 4:34 to 4:36

Public utilities, § 4:30, 4:31

Real property, §§ 4:16 to 4:20

Regulated industries, §§ 4:21 to 4:33

Securities, § 4:26, 4:27

Shareholders, § 4:38, 4:39

Statutory limitations, App 4A

"Trade or commerce." § 4:11

# STATE ATTORNEY GENERAL

Private remedies class actions, § 6:33

fees available, § 6:23

# STATE ENFORCEMENT AGENCIES

Private remedies, attorneys fees and court costs, § 6:20

#### STATE LAWS

Agency Enforcement (this index)
Common Law Actions (this index)

Lemon laws. **Lemon Laws** (this index)

# **Prerequisites to Statutory**

**Actions** (this index)

**Private Remedies** (this index)

State Acts (this index)

# Unfair and Deceptive Practices,

**State** (this index)

Uniform Commercial Code and Magnuson-Moss Warranty Act, § 14:23

# **STATE PROGRAMS**

Lemon laws, § 15:15

# STATUTE OF LIMITATIONS

Homes, § 18:23 Lemon laws, § 15:10

Prerequisites to statutory actions, §§ 5:16 to 5:20

# SUBLIMINAL ADVERTISING

Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:20

# SUBSEQUENT BUYERS

Homes, §§ 18:17 to 18:19 Implied warranty, § 18:19 Motor homes, § 17:5 Negligence theory, § 18:18

# SUBSTANTIAL IMPAIRMENT

Lemon laws, § 15:6

#### SUBSTANTIVE REGULATION

Uniform Commercial Code and Magnuson-Moss Warranty Act, § 14:14

# **SURVEYS AND TESTS**

Unfair and deceptive practices, Federal Trade Commission (FTC), claims based on, advertising substantiation, § 11:12

#### **TAMPERING**

Used cars, § 16:10

# TELEPHONE ORDER MERCHANDISE RULE

FTC enforcement, new frontiers, § 13:9

#### TELEVISION MOCK-UPS

Unfair and deceptive practices, Federal Trade Commission (FTC), § 11:18

# TESTIMONIALS AND ENDORSEMENTS

Unfair and deceptive practices, Federal Trade Commission (FTC), §§ 11:22 to 11:27

#### TOBACCO ADVERTISING

Unfair and deceptive practices, Federal Trade Commission (FTC), §§ 11:40 to 11:43

# TOLLING OF LIMITATIONS PERIOD

Prerequisites to statutory actions, § 5:18

# TRIPARTITE CIGARETTE RULE TEST

Unfair and deceptive practices, Federal Trade Commission (FTC), § 9:4

#### **TYING**

Uniform Commercial Code and Magnuson-Moss Warranty Act, § 14:17

#### UNFAIR ADVANTAGE

Unfair and deceptive practices, state, § 3:19

# UNFAIR AND DECEPTIVE PRACTICES, FEDERAL TRADE COMMISSION (FTC)

Generally, §§ 9:1 to 9:22; 10:1 to 10:25; 11:1 to 11:48

Adjudication, environmental advertising, § 11:46

Advertising and advertisements comparative advertising, § 11:28

environmental advertising, §§ 11:44 to 11:47

interpreting, §§ 10:21 to 10:24 "native" advertisements, § 11:21

product placement, § 11:20 program length advertisements, § 11:21

subliminal advertising, § 11:20 substantiation, §§ 11:2 to 11:15, App 11A

UNFAIR AND DECEPTIVE PRACTICES, FEDERAL TRADE COMMISSION (FTC)—Cont'd	UNFAIR AND DECEPTIVE PRACTICES, FEDERAL TRADE COMMISSION (FTC)—Cont'd
Advertising and advertisements	Deceptive practices—Cont'd
—Cont'd	advertising and advertisements
tobacco advertising, §§ 11:40 to	—Cont'd
11:43	"native" advertisements,
unsubstantiated claims, § 9:16	§ 11:21
Average consumer, protecting, § 10:6	policy statement on advertising substantiation, <b>App</b>
Bait and switch, § 11:36, 11:37	11A
Breach of contract, § 9:18	product placement, § 11:20
Burden of proof, shifting, advertis-	program length advertise-
ing substantiation, § 11:4	ments, § 11:21
Capacity to deceive, § 10:3	subliminal advertising,
Cases, comparative advertising,	§ 11:20
§ 11:30	substantiation, §§ 11:2 to
Celebrity endorsements, § 11:23	11:15, App 11A
Cigarettes	tobacco advertising, §§ 11:40
advertising, § 11:41	to 11:43
rule test, § 9:4	average consumer, protecting, <b>§ 10:6</b>
Climate change and energy issues, environmental advertising,	bait and switch, § 11:36, 11:37
§ 11:47	burden of proof, shifting,
Coercive sales technique, §§ 9:8	advertising substantiation,
to 9:11	§ 11:4
Commission discretion, § 9:2	capacity to deceive, § 10:3
Comparative advertising, §§ 11:28 to 11:30	cases, comparative advertising, § 11:30
Consumer testimonials, § 11:24	celebrity endorsements, § 11:23
Contract clauses, §§ 9:17 to 9:20	cigarette advertising cases,
Cure claims, advertising	§ 11:41
substantiation, § 11:7	comparative advertising,
Deceptive practices	§§ 11:28 to 11:30
generally, §§ 10:1 to 10:25	consumer testimonials, § 11:24
adjudication, environmental advertising, § 11:46	cure claims, advertising substantiation, § 11:7
advertising and advertisements	defense of puffing, § 10:7, 10:9
comparative advertising, § 11:28	dietary supplements, advertising substantiation, § 11:7
environmental advertising, §§ 11:44 to 11:47	discounts from former price, § 11:33
interpreting, §§ 10:21 to 10:24	discounts from "list" or prevail-

post-claim evidence, advertising

substantiation, § 11:15

#### UNFAIR AND DECEPTIVE UNFAIR AND DECEPTIVE PRACTICES, FEDERAL PRACTICES, FEDERAL TRADE COMMISSION TRADE COMMISSION (FTC)—Cont'd (FTC)—Cont'd Deceptive practices—Cont'd Deceptive practices—Cont'd double meanings, § 10:10, legal basis, advertising 10:13 substantiation, § 11:5 legal requirements, omission of early cases, § 10:5 information, § 10:20 emotional appeal, § 11:19 "Made in the U.S.A.," § 11:48 environmental advertising, marketing guides for §§ 11:44 to 11:47 environmental advertising, evidence, interpreting advertis-§ 11:45 ing, § 10:23, 10:24 materiality, § 10:7, 10:8 expert endorsements, § 11:26 medical procedures, § 11:8 extrinsic evidence, interpreting "native" advertisements, advertising, § 10:23, 10:24 § 11:21 FDA regulations, tobacco nature of product, omission of advertising, § 11:42 information, § 10:16 food and nutrition claims, net impression, § 10:10, 10:11 advertising substantiation, nonverbal deception, §§ 11:16 § 11:11 to 11:21 foreign origin, omission of nutrition claims, advertising information, § 10:17 substantiation, § 11:11 fraud, § 10:25 omission of information, free offers, § 11:34 §§ 10:14 to 10:20 organizational endorsements, grocery specials, unavailability, bait and switch, § 11:37 § 11:26 origin, purpose and effect, half-truth, § 10:10, 10:12 advertising substantiation, health and safety claims, § 11:3 advertising substantiation, over-the-counter drugs, § 11:10 advertising substantiation, health risks, omission of infor-§ 11:7 mation, § 10:18 performance claims, advertising ignorant, protection of the, substantiation, § 11:13 §§ 10:4 to 10:6 pictorial misrepresentations, industry self-regulation, § 11:29 § 11:17 infomercials, § 11:21 policy statement on advertising innuendo, § 10:10, 10:12 substantiation, App 11A intent of seller, irrelevancy of, policy statement on deception, § 10:2 App 10A investment risks, omission of policy statement on unfairness, information, § 10:19 App 9A

judicial deference, interpreting

advertising, § 10:22

#### UNFAIR AND DECEPTIVE UNFAIR AND DECEPTIVE PRACTICES, FEDERAL PRACTICES, FEDERAL TRADE COMMISSION TRADE COMMISSION (FTC)—Cont'd (FTC)—Cont'd Deceptive practices—Cont'd Deceptive practices—Cont'd prevailing price, discount from, used goods, omission of infor-§ 11:32 mation, § 10:15 pricing, §§ 11:31 to 11:38 visual deception, §§ 11:16 to 11:21 product placement, § 11:20 weight loss claims, advertising program length advertisements, substantiation, § 11:9 § 11:21 Deceptive pricing psychological appeal, § 11:19 conclusion, §§ 11:39 puffing Defense of puffing, § 10:7, 10:9 advertising substantiation, Dietary supplements, advertising § 11:14 substantiation, deceptive defense, § 10:7, 10:9 practices, § 11:7 reasonable basis defined, Discounts advertising substantiation, from former price, § 11:33 § 11:6 "list" or prevailing price, reasonable consumer, §§ 10:4 § 11:32 to 10:6 prevailing price, § 11:32 reprocessed goods, omission of Double meanings, § 10:10, 10:13 information, § 10:15 Early cases, § 10:5 safety claims, advertising substantiation, § 11:10 Efficacy, withholding material information, § 9:13 safety risks, omission of information, § 10:18 Emotional appeal, § 11:19 social media influencers, Environmental advertising, §§ 11:44 to 11:47 § 11:25 sources, interpreting advertis-Evidence, interpreting advertising, ing, § 10:24 § 10:23, 10:24 state action, tobacco advertis-Expert endorsements, § 11:26 ing, § 11:43 Extrinsic evidence, interpreting subliminal advertising, § 11:20 advertising, § 10:23, 10:24 surveys and tests, claims based FDA regulations, tobacco advertison, advertising substantiaing, § 11:42 tion, § 11:12 Food and nutrition claims, television mock-ups, § 11:18 advertising substantiation, tendency to deceive, § 10:3 § 11:11 Foreign origin, omission of infortestimonials and endorsements, mation, § 10:17 §§ 11:22 to 11:27 Free offers, § 11:34 tobacco advertising, §§ 11:40 to Gift cards, § 11:35 11:43 trend, interpreting advertising, Grocery specials, unavailability, § 10:23 bait and switch, § 11:37

# UNFAIR AND DECEPTIVE PRACTICES, FEDERAL TRADE COMMISSION (FTC)—Cont'd Half-truth, § 10:10, 10:12 Health and safety claims, advertising substantiation, § 11:10 Health risks, omission of information, § 10:18 High pressure methods, § 9:10 Ignorant, protection of the, §§ 10:4 to 10:6 Industry self-regulation, § 11:29 Infomercials, § 11:21 Innuendo, § 10:10, 10:12 Intent of seller, irrelevancy of, § 10:2 Internet abuses, § 9:21 Investment risks, omission of information, § 10:19 Judicial deference, interpreting advertising, § 10:22 Junk fees, bait and switch, § 11:38 Legal basis, advertising substantiation, § 11:5 Legal requirements, omission of information, § 10:20 Lottery cases, § 9:9 "Made in the U.S.A.," § 11:48 Marketing guides for environmental advertising, § 11:45 Market place morality, § 9:3 Material information, withholding, §§ 9:12 to 9:15 Materiality, § 10:7, 10:8 Medical procedures, advertising substantiation, § 11:8 Motor vehicle pricing, bait and switch, § 11:38 "Native" advertisements, § 11:21 Negative options, § 11:35 Net impression, § 10:10, 10:11 Unfairness policy statement, § 9:5 Non-contractual practices, § 9:19

UNFAIR AND DECEPTIVE PRACTICES, FEDERAL TRADE COMMISSION (FTC)—Cont'd Nonverbal deception, §§ 11:16 to 11:21 Nutrition claims, advertising substantiation, § 11:11 Omission of information, §§ 10:14 to 10:20 Organizational endorsements, § 11:26 Over-the-counter drugs, advertising substantiation, § 11:7 Performance claims, advertising substantiation, § 11:13 Pictorial misrepresentations, § 11:17 Policy statement on deception, App 10A Policy statement on unfairness, App 9A Policy statements, §§ 9:5 to 9:7 Post-claim evidence, advertising substantiation, § 11:15 Postpurchase practices, § 9:17 Prevailing price, discount from, § 11:32 Pricing, §§ 9:14; 11:30 to 11:38 Product placement, § 11:20 Program length advertisements, § 11:21 Psychological appeal, § 11:19 **Puffing** advertising substantiation, § 11:14 defense, § 10:7, 10:9 Reasonable basis defined, advertising substantiation, § 11:6

Reasonable consumer, §§ 10:4 to

Reprocessed goods, omission of

information, § 10:15

10:6

UNFAIR AND DECEPTIVE PRACTICES, FEDERAL TRADE COMMISSION (FTC)—Cont'd	UNFAIR AND DECEPTIVE PRACTICES, FEDERAL TRADE COMMISSION (FTC)—Cont'd
Restore Online Shoppers'	Unfair practices—Cont'd
Confidence Act (ROSCA),	high pressure methods, § 9:10
§ 11:35	lottery cases, § 9:9
Safety claims, advertising	market place morality, § 9:3
substantiation, § 11:10	material information, withhold-
Safety risks	ing, §§ 9:12 to 9:15
omission of information, § 10:18	unfairness policy statement, § 9:5
withholding material information, § 9:15	non-contractual practices, § 9:19
Social media influencers, § 11:25	policy statement, §§ 9:5 to 9:7
State action, tobacco advertising,	Postpurchase practices, § 9:17
§ 11:43	price, withholding material
Subliminal advertising, § 11:20	information, § 9:14
Surveys and tests, claims based	safety risks, withholding mate-
on, advertising substantiation, <b>§ 11:12</b>	rial information, § 9:15
Television mock-ups, § 11:18	tripartite cigarette rule test,
Tendency to deceive, § 10:3	§ 9:4
Testimonials and endorsements,	vulnerable consumers, § 9:11
§§ 11:22 to 11:27	Used goods, omission of information, § 10:15
Theft of information, § 9:21	Visual deception, §§ 11:16 to
Tobacco advertising, §§ 11:40 to	11:21
11:43	Vulnerable consumers, § 9:11
Trend, interpreting advertising, § 10:23	Weight loss claims, advertising substantiation, § 11:9
Tripartite cigarette rule test, § 9:4	UNFAIR AND DECEPTIVE
Unfair practices	PRACTICES, STATE
generally, §§ 9:1 to 9:22	Generally, §§ 3:1 to 3:28
advertising claims, unsubstanti- ated, § 9:16	Actual knowledge or intent standard, § 3:10
breach of contract, § 9:18	Actual reliance, § 3:7
cigarette rule test, § 9:4	Bait and switch advertising, § 3:14
coercive sales technique, §§ 9:8	Bibliography, state acts, App 3C
to 9:11	Coercion, § 3:19
commission discretion, § 9:2	Consumer protection statutes, App
contract clauses, §§ 9:17 to	3A, App 3B
9:20	Deceptive practices
criteria, generally, §§ 9:3 to 9:7	actual knowledge or intent stan-
efficacy, withholding material	dard, § 3:10
information, § 9:13	actual reliance, § 3:7

#### UNFAIR AND DECEPTIVE UNFAIR AND DECEPTIVE PRACTICES, STATE PRACTICES, STATE —Cont'd -Cont'd Deceptive practices—Cont'd Origins of Acts, § 2:11 bait and switch advertising, Pricing § 3:14 deceptive, § 3:13 duty to disclose standard, § 3:11 unconscionably high, § 3:17 intent standard, § 3:10 Puffery defense, § 3:6 intent to deceive, § 3:2 Pyramid schemes, § 3:15 justifiable reliance not required, Reasonable consumer standard, § 3:4 § 3:6 justifiable reliance required, Reckless promises, § 3:20 § 3:5 Reliance, §§ 3:3 to 3:7 materiality, § 3:7 States guided but not bound by materiality, omission of material FTC, § 3:26 fact, § 3:9 Statutory provisions, FTC, § 3:24 negligence standard, § 3:11 Unconscionable practices. Unfair omission of material facts. practices, below §§ 3:8 to 3:15 Unfair advantage, § 3:19 pricing, deceptive, § 3:13 Unfair and Deceptive Practices puffery defense, § 3:6 Acts, model acts, § 2:12 pyramid schemes, § 3:15 Unfair practices reasonable consumer standard. generally, §§ 3:16 to 3:22 § 3:6 coercion, § 3:19 reliance, §§ 3:3 to 3:7 defective products, § 3:21 specific deceptive practices, duress, § 3:19 §§ 3:12 to 3:15 miscellaneous misconduct, Defective products, § 3:21 § 3:22 Duress, § 3:19 prices, unconscionably high, Duty to disclose standard, § 3:11 § 3:17 Federal Trade Commission (FTC) reckless promises, § 3:20 jurisprudence as interpretive unfair advantage, § 3:19 source, §§ 3:23 to 3:26 venue, distant, § 3:18 Intent standard, § 3:10 warranty, poor performance, Intent to deceive, § 3:2 § 3:21 Judicial deference to FTC, § 3:25 Venue, distant, § 3:18 Justifiable reliance not required, Violation of regulations, 3:27, § 3:4 § 3:27 Warranty, poor performance, Justifiable reliance required, § 3:5 § 3:21 Materiality, § 3:7 Model acts for state UDAP UNIFORM COMMERCIAL statutes, § 2:12 **CODE AND** MAGNUSON-MOSS Negligence standard, § 3:11 Omission of material facts, §§ 3:8 WARRANTY ACT to 3:15 Generally, §§ 14:1 to 14:23

UNIFORM COMMERCIAL CODE AND MAGNUSON-MOSS WARRANTY ACT—Cont'd Advertising, § 14:13 Arbitration, § 14:18 Article 2 (UCC) overview, § 14:1 Attorney fees, § 14:21	UNREASONABLE REFUSAL TO SETTLE Private remedies, multiple damages, § 6:14  USED CARS Generally, §§ 16:1 to 16:13 Buyers guide, § 16:4
Claims and relief, § 14:20 Consumer product, § 14:5 Designation, § 14:10 Disclaimers, § 14:16 Disclosure provisions, § 14:9 terms and conditions, § 14:11	Consumer actions, § 16:6 Disclosures, § 16:11 Enforcement by Federal Trade Commission (FTC), § 16:7 Federal Odometer Act, § 16:9 Federal Trade Commission (FTC), § 16:2, 16:7
Dispute resolution/arbitration, § 14:18  Federal jurisdiction limits, § 14:22  Full warranty, § 14:15  Informal dispute resolution/ arbitration, § 14:18  Leases, § 14:8  Legislative history, § 14:3	History, § 16:3 Odometers, Federal Odometer Act, § 16:9 Persons liable, § 16:12 Prohibitions, § 16:5 Remedies, § 16:13 State statutes and regulations, § 16:8 Tampering, § 16:10
Limited warranty, § 14:15  Magnuson-Moss Warranty Act, introduction, § 14:2  Overview of UCC Article 2, § 14:1  Parties, § 14:6  Pre-sale availability, § 14:12	USED GOODS Cars. Used Cars (this index) Unfair and deceptive practices, Federal Trade Commission (FTC), omission of information, § 10:15
Private actions, § 14:19, 14:21 Privity, § 14:6 Rationale, § 14:3 Regulation, § 14:14 Scope, § 14:4 State laws, § 14:23 Substantive regulation, § 14:14 Tying, provisions against, § 14:17 UCC Article 2 overview, § 14:1 Warranty full, § 14:15 limited, § 14:15 written, § 14:7	U.S.SAFE WEB ACT OF 2006  FTC enforcement, new frontiers, § 13:24  VENUE  Unfair and deceptive practices, state, distant, § 3:18  VISUAL DECEPTION  Unfair and deceptive practices, Federal Trade Commission (FTC), §§ 11:16 to 11:21  VULNERABLE CONSUMERS  Unfair and deceptive practices, Federal Trade Commission
Written warranty, § 14:7	(FTC), § 9:11

# Consumer Protection and the Law

# WAIVER OF RIGHT TO SUE

Prerequisites to statutory actions, § 5:23

# WARRANTORS

Homes, § 18:12 et seq. Motor homes, § 17:4

#### WARRANTY

Common law actions. Common Law Actions (this index)
Lemon laws, warranty violations,
§ 15:5

Magnuson-Moss Warranty Act.

Uniform Commercial Code
and Magnuson-Moss War-

# WARRANTY—Cont'd

ranty Act (this index)
Motor homes, App 17A, App 17B

# WEIGHT LOSS CLAIMS

Unfair and deceptive practices, Federal Trade Commission (FTC), advertising substantiation, § 11:9

# WORKMANLIKE CONSTRUCTION

Homes, § 18:10

# WRITTEN WARRANTY

Uniform Commercial Code and Magnuson-Moss Warranty Act, § 14:7