Question 1

- Overview
- Federal Pre-emption?
- Other federal authority that controls?
- "Fraud" seems extreme - 9 elements
- Is practice "Unfair"?
- Standard under Intl. Harvester
  - (1) Harm to consumers
  - (2) Violation of public policy
  - (3) Unscrupulous/Unethical
- Harm to consumers
  - (1) Substantial (like fuel geysering)?
  - (2) Does risk exceed benefit?
  - (3) can consumer avoid the harm?
- Requirements for Class Action
  - (1) Numerosity
  - (2) Common Qs of Law / Fact
  - (3) Typicality - diff. phones / reliance
  - (4) representativeness (hard to say)
  - (5) common Qs predominate
- Federal Class Action reform (Removal)?
- Punitive damages—standard?
- Evidence of conduct deserving punishment?
- Reimbursement Remedy—authority?
- Attorney fees—available via UDAP / LCSPA
- Can we restrain fee award?

Question 2

- Pro: Return $$ to consumers
- Rebates reward savvy; exploit gullible
- Chas. of the Ritz vs. IH / Cliffdale
- Fewer deceptive rebate offers
- Con: Customers may actually lose
- Like Fairmont Ford
- Enforcement incr. cost to consumer
- Would Notice requirement suffice?
- Are autos same as soda pop?
- Reducing consumer choice

Question 3

- Overview
- Application of FDCPA
  - (1) Is Hutton a debt collector?
  - Do they regularly collect debts?
- Violations of FDCPA
  - (a) Failure to provide notice
  - Opportunity to dispute debt
  - (b) deceptive or improper threats?
  - Threat of legal action (actually filed)
  - (c) unfair practices
  - Use of Letterhead
- Remedies
  - Under FDCPA
  - Actual Damages (P&S)
  - Up to $1000
  - Attorney Fees
- Class Action?
  - Requirements for certification
- Other Remedies
  - UDAP / LCSPA
- LCSPA
- Would FCRA apply?