Podcast: *Moving the Metal: The Auto Finance Podcast*
Episode: *New Year, New Surprises? 2026 Resolutions for Dealers and Auto Finance Companies*
Hosts: Brooke Conkle and Chris Capurso
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Brooke Conkle (00:09):
Welcome to *Moving the Metal*, the premier legally-focused podcast for the auto finance industry. I'm Brooke Conkle, a partner in Troutman Pepper Locke's Consumer Financial Services practice group.

Chris Capurso (00:20):
I'm Chris Capurso, an associate in Troutman Pepper Locke's Consumer Financial Services practice group.

Brooke Conkle (00:24):
Today we'll be discussing our 2026 New Year's resolutions for dealers and auto finance. But before we jump in, let me remind you to please visit and subscribe to our blogs. We have two great ones that may be of interest to you, TroutmanFinancialServices.com and ConsumerFinancialServicesLawMonitor.com. And also we have a bevy of other podcasts that you might find interesting. *The Consumer Finance Podcast*, which as you might guess is all things consumer finance related, *The Crypto Exchange* devoted to trends, challenges, and legal issues in Bitcoin, blockchain, FinTech and RegTech, *FCRA Focus*, a podcast dedicated to all things credit reporting. And finally, *Payments Pros*, a great podcast focus exclusively on the payments industry. All of these insightful shows are available on your favorite podcast platform, so check 'em out. And speaking of those platforms, if you like what you hear, please leave us a review and let us know how we're doing.

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Chris Capurso (02:04):
That's right.

Brooke Conkle (02:05):
So Chris, what is your top resolution for 2026 for auto finance?

Chris Capurso (02:10):
So before getting into my top resolution, I just want to relay that I saw a very funny meme this morning talking about New Year's resolutions, which was, it was kind of like the gym resolution where everyone always says you're probably not going to make it through the first 15 days of whatever gym resolution you had. And it was somebody, it was January 1st, somebody getting down into the plank position, January 2nd, really getting in there January 3rd, kind of lying on the side. Then January 4th with a blanket over them in the same position. So that's all to say we don't want it to be like that. We don't want you to be thinking about the things we're about to say for a week in January and be like, nah, this is not New Year, new me. We're just going to forget about these types of things. These are things that should be on the radar for 2026.

And I should say we're going to have a year in review podcast to discuss a lot of the things that have happened in the last year and discuss what's going to be coming down the pike and what you should be thinking about. But this is sort of a teaser for that and the things to think about as you're going into 2026, the new year, new me, those types of things. And I think at the top of that is state law compliance. Obviously with the change of administration last year we were saying 2025, get ready for state enforcement, get ready for the regulators to pick up the slack from whatever happens to the CFPB and FTC. Now, we couldn't have possibly guessed what was going to happen to the CFPB. The FTC is still pretty active itself though, not as much in auto over the last year.

But state regulators, while they've been active somewhat, it hasn't been kind of the crazy push that we were expecting. But where there has been a lot is in the legislatures in the states, lots of laws that relate to auto finance out there. Obviously the big one in the room is the California cars rule. We've talked about it. Is that going to be the one that leads to 50? Are we going to have a bunch of different state cars rules? And then is it a case of maybe the federal one wasn't too bad if we're going to have 50 state variations on it? Obviously that's the big one. But we've also got the bills that we've talked about in the past, the Connecticut Senate Bill 1357, which related to auto renewal laws. So if you're in the service contract gap waiver game, that's something that you have to be considering.

Oregon House Bill 31 78, that requires a new disclosure in Ricks low hanging fruit, the model disclosure that you have to put in with your Ricks and your deal jackets, and again, something to be considering. And then of course, there's always junk fee rules. Obviously we had the California one, but now we have a Massachusetts one, and that's another one where it's are we going to be looking at 50 states of different junk fee rules with different applicabilities and different things to comply with as far as price disclosures, things like that. Even then we were talking about laws that have come out in the last year. You can't forget about the things that already exist. We talked last year in

depth about New Hampshire's updated retail installment sales act for motor vehicles, but there's obviously a ton of other laws that apply in the auto finance space. We talk about the specter of regulators. There's also the specter of private litigation and that has not gone away. And you don't want to be having consistent systematic violations of already existing laws, maybe the ones that aren't completely out of your radar because they've been around for a while. This is all to say state law compliance is something that should absolutely be, it should already be. It should have been your resolution for 2025 and 2024 and 2023, but it should be something you should be paying particularly close attention to in 2026.

Brooke Conkle (05:51):
Yeah, and what's interesting is, Chris, your resolution deals with the state level and my resolution is going to deal with the federal level. And just as you mentioned, we're not seeing a ton going on at the federal level. The CFPB considerably quieter than the previous four years and regulators had been uncharacteristically active such as the FTC. The FCC, they're pretty quiet too. So for dealers and auto finance companies, what federal regulators should you keep your eye on? It's the Fed. And as of this taping, the Fed just cut interest rates for the third time in 2025. And so those decreasing interest rates may continue in 2026. So our big sort of resolution is going to watch those rates to see if they continue to drop. And for auto finance companies, what we could see if those rates continue to drop are potential refinancing. And Chris, we have talked about that average length of a retail installment sales contract just continues to get longer and longer and longer.

And for those consumers who entered into a retail installment sales contract in 20 21, 20 22, 20 23, where rates may have been higher than those consumers would've liked, we really do have an option that those customers may be looking to refinance their deals. As we mentioned with those retail installment sales contract terms being longer and longer, there's still, even here we are four or five years after those initial contracts, there's still probably going to be at least a year left on those deals. And so we may see more and more consumers looking to refinance their auto loans with auto finance companies. And so what does that mean? Well, it means there's more paperwork and just as you mentioned, Chris, paperwork can create compliance problems. So making sure that you have all of your ducks in a row when it comes to that paperwork for refinancing, that's going to be one of our things to look out for in 2026. But as Chris mentioned more about that in the new year. Chris, what's another one of your resolutions?

Chris Capurso (08:07):
I think another one that kind of tails off of both of the ones we've talked about so far is this idea of disclosure and clear and conspicuous disclosure. And I mean, this isn't the legal term, but early and often disclosure, you want to be disclosing any kind of price terms, any kind of material information in compliance with the law. And also obviously there are some laws like the junk fee law that we talked about in the first resolution

where there are very specific parameters around it. But then there's also just general state and federal laws against unfair deceptive acts or practices or deceptive trade practices or unfair business practices, all those types of things that are, as I like to call it a little bit more squishy. And it's when you see it type standard, obviously that's a little bit harder to comply with. And the best way to comply with it is just to be upfront as our mentor, Alan Wheatfield, always love to say, disclosure is the magic elixir.

If you have it out there, there's an argument that you told folks about whatever the material term is. So you always want to be careful with your disclosures, especially related to fees, as I mentioned, junk fee laws. But regulators are always looking at fees. You also want to be paying attention to your advertisements. This isn't just a contract issue. If your advertisements have certain price terms in them or certain material terms about somebody getting a discount based on certain conditions or anything like that, you want to make sure the advertisements have those material terms and conditions in there so that consumers know what they're getting from that advertisement. You don't want to be accused of having a deceptive advertisement. And all of that ties together to basically say you want to have clear disclosure of any kind of fees, conditions, anything like that in both your contracts and advertisements going forward. And we'll see what happens with the regulators themselves going into the future. Obviously in litigation, these things are not kind of on an ebb and flow. This is something that people continually sue about, but fees in general are and have been a bipartisan issue. We always used to joke that with the FTCs original junk fee rule and the one that they finally passed, there was some bipartisan approval of it because people don't like fees that they don't expect. So this is something to definitely watch out for in 2026 and beyond.

Brooke Conkle (10:23):
Chris, mine next resolution is probably one of the biggest buzzwords that we have seen in the law in the past probably 18 months or so, and it's AI. I don't know that we've seen ACLEA newsletter, a trade magazine that has not had some discussion of AI and its impact on the legal industry, on auto finance, on society at large. It's not going away, frankly. So for 2026, watch out for ai. How is it being used or is it being used in deal making? We know it cannot be used to make credit decisions, but what we are seeing is consumers and customers using AI really after the transaction. So specifically in credit reporting disputes, we are seeing more and more consumers using AI to generate or to sort of supplement their credit reporting disputes. It can make it extremely tough for a furnisher to be able to adequately respond to a credit reporting dispute when that dispute has been generated by AI.

And then secondly, the use of AI in litigation. We are all hearing sort of the horror stories of attorneys who are citing hallucinated cases in briefs using AI to draft pleadings, to draft briefs that are being filed with the court that have case citations that do not exist. You read those articles and you just go, oh, oh gosh. But what we are seeing that isn't necessarily gaining as many headlines is pro se plaintiffs using ai. And that can be to draft correspondence to dealers or auto finance companies using it to create fake law

offices. So we have seen instances where pro se plaintiffs are generating their own law firm to legitimize their correspondence to auto finance companies. And then lastly, we're seeing AI with pro se plaintiffs either using AI to draft complaints themselves or to draft oppositions or responses to say motions to dismiss motions for summary judgment. And that can be extremely difficult. It's really tough defending a case that's being brought by a pro se plaintiff. You don't want to kind of go overboard, and yet when somebody uses ai, you have to point it out to the court. So all of that to say, AI currently a, we've called it a buzzword. It is something that continues to sort of move the needle for dealers, for auto finance companies and also in the litigation space. Chris, what's your next resolution?

Chris Capurso (13:09):
Well, I would just piggyback on that one and say, you should also be careful of AI use in your own operations, and we could have a whole podcast about it, but Brooke had mentioned the lawyers who just willy-nilly have the sites from AI that don't exist. That same thing could happen. For example, if you have a chat bot that's responding to a consumer and says something that is not true or says you have a service that you don't have. All those types of things treat. I mean, this is a very chat bot specific comment, but treat it like it's a human and have oversight. You got to oversee whatever kind of AI processes you have. Again, we could have a whole podcast on it, but just, it's not just what's coming in the door to you. You got to be careful of what's going out as well.

The final resolution that I would think of, and this is one of those ever present ones, but just make sure your consumer complaint procedures are up to snuff. We're stressed. The world is an interesting place. There's a lot going on and people can get upset. And what better way to take it out than in a complaint on the phone or on the keyboard about some kind of payment that didn't get applied right or any kind of issue that could happen with any kind of transaction. And these things happen, of course, nobody is perfect. There can be issues anywhere. The best way to deal with it is to have a fully fledged consumer complaint process that gets at the heart of whatever the consumer's looking for, has a good resolution process. And at the backend is able to analyze those complaints that have come in those resolutions and try to determine is this a systemic thing?

Is this a one-off? Because again, not everything can be perfect, but what you can do and what you can control is making sure that the response is the best thing for your consumers and making sure that the process is easy and that you're learning from that process. Because we always say consumer complaints are valuable. It gives you an insight into your business that you might not have internally. There may be some kind of issue that a consumer highlights that you're like, oh my gosh, this is something we have to address and you can learn from it. You can change your processes and make them more compliant and avoid those complaints going forward. So it's always there, this kind of specter of making sure that your consumer complaint process is up to stuff. And I think Brooke would say it's better to get the complaint than the litigation complaint.

You'd rather have it from the consumer in the CFPB portal or from a better business bureau than receiving it in the mail and having to deal with it in the legal system. So it's always there, but it's always something to consider or the consumer complaint process. And with that, we'll wrap it up for today's podcast and the years podcasts in 2025. Thank you to our audience for tuning in not only today, but all year. This is the first full year of *Moving the Metal*, so thank you so much for hopping in with us for the ride all puns intended, and we're looking forward to 2026. But in the meantime, don't forget to check out our blogs where you can subscribe to the entire blog or just the specific content you find most helpful. That's the ConsumerFinancialServicesLawMonitor.com and the TroutmanFinancialServices.com blogs.

And while you're at it, why don't you head on over to troutman.com and sign up for our Consumer Financial Services mailing list so you can stay abreast of current issues, whether insightful alerts and advisories, and receive invitations to our industry insider webinars. And of course, please mark your calendars for this podcast *Moving the Metal*, which we'll be releasing every two weeks in 2026. That will be generally on the second and fourth Tuesdays of each month. And as always, if you have any questions or if we can help in any way, please reach out to us. Until next time.

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