

***Moving the Metal: The Auto Finance Podcast*****Hosts: Brooke Conkle and Chris Capurso****Aired: 3/17/26****Auto Finance Year in Review, Part 1: From FTC CARS Rule Collapse to a State-Led Patchwork****Brooke Conkle (00:10):**

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 (00:19):**

And I'm Chris Capurso, of counsel in Troutman Pepper Locke's Consumer Financial Services Practice Group.

**Brooke Conkle (00:24):**

Today we'll be discussing part one of the Auto Finance Year in Review, from the CARS rule collapse to a state-led patchwork. 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](https://www.troutmanfinancialservices.com) and [ConsumerFinancialServicesLawMonitor.com](https://www.consumerfinancialserviceslawmonitor.com). And also, we have a bevy of other podcasts that you might find interesting. We have [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 focused exclusively on the payments industry. All of these insightful shows are available on your favorite podcast platform, so check them 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. We'd love to hear from you. Alternatively, please feel free to reach out to us directly. Our contact information can easily be found on the firm's website, [troutman.com](https://www.troutman.com). If you enjoy reading our blogs or listening to our podcasts, please also check out our Financial Services mobile app. To download, simply go to your [iOS](#) or [Android](#) app store and search for Troutman Pepper Locke. Not only does our app have all of our blog content and podcast episodes in one handy place, it also has a listing of all of our firm's financially focused attorneys. So check it out and see what you think. For today, as I mentioned, we'll be discussing part one of the Auto Finance Year in Review, from the CARS rule collapse to a state-led patchwork. And Chris, we're starting here with Act 1, the fall of the FTC CARS rule. Chris, lead us off with the headline. What happened here?

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**Chris Capurso (02:09):**

Yeah, and this is very appropriate because I believe this is how we began 2025 in podcast world, was discussing the requiems. And obviously, there were two rules that we were mourning, quotes all around that, but one of them was the FTC CARS rule. And if we all remember, who could forget, the FTC CARS rule was a long process, not the correct process, as I'll discuss, but a long process coming up with a rule for dealers related to advertisements, price disclosures, record retention, you name it, it had it, defining all sorts of different unfair and deceptive acts or practices. And that rule was originally introduced several years ago. We finally got a final rule, and almost immediately upon it becoming a final rule, it was challenged in the Fifth Circuit by NADA and TADA. And over the course of 2024, we were kind of waiting on pins and needles trying to figure out what's gonna happen with this. We heard oral argument in October and then waiting with bated breath to see what would happen. And lo and behold, at the beginning of 2025, we get the answer that the CARS rule must be vacated.

**Chris Capurso (03:25):**

And it was vacated, as I sort of teased, on procedural grounds, the fact that the FTC did not follow the procedure that it should have. It had argued that it should be following a Dodd-Frank procedure. Instead, it should have been following an FTC Act procedure that would have required an advanced notice of proposed rulemaking. They didn't do that. Tried to argue that no one's aggrieved, there's no substantial harm to the process, there was still a process. The court says, sure, there was a process. It wasn't the correct one, and folks could be aggrieved by that process not being what it was supposed to be. So we get the fall of the CARS rule, and it obviously had a little bit of time earlier there in the year where the administration could have appealed that ruling. In between, we had this little thing called an inauguration. We had a change of administrations. So the ultimate result was not surprising that the current administration, Trump 2.0 as we call it, did not appeal that ruling. So we have the CARS rule vacated. It is dead. But that is the CARS rule, the FTC CARS rule. But the spirit of CARS, as it were, lives on. Brooke, which state could possibly have carried on the legacy of the CARS rule?

**Brooke Conkle (04:39):**

That's right. Which state possibly? You know, I don't think we were done high-fiving before California entered stage left and immediately acted to fill the void left by the FTC. California stepped into that vacuum with its own statute, creatively named the California CARS Act. Different origin, but similar spirit. Lots of focus on misrepresentations, add-ons, and consumer protections in auto sales. And this rule, even though it's dealer-focused, auto finance companies and servicers are still gonna feel the downstream effects in a very real way. And Chris, we talked last year about the playbook that former Director Chopra left for state regulators, and this, frankly, was a page out of that book. The key features with the California CARS Act are, one, prohibitions on misrepresentations. The CARS Act bans misrepresentations about key aspects of a vehicle sale; costs, financing terms, and the benefits of add-ons. And Chris, I feel like a chorus here, but those are many of the same points that we talked about with the FTC CARS rule. Here we have them in the California CARS Act. And for dealers, that means that F&I conversations really are under a microscope. For finance companies buying the contracts that are the result of those conversations, it raises questions about what representations are being

made at the point of sale and how that could potentially play into a UDAP theory or an assignee liability theory.

**Brooke Conkle (05:56):**

Number two, disclosure requirements. The California CARS Act requires clear, conspicuous disclosures. All the C-words. Think total price and that add-ons are voluntary, so you're not sliding the service contract or GAP into paperwork as if it's mandatory. There are clear and conspicuous disclosures that permit a consumer to say no at any point in the transaction. Third, a ban on valueless add-ons. And again, Chris, we had this debate with the FTC CARS rule, what is a valueless add-on? How do we determine when something doesn't have a value? Does it benefit a consumer? Does it not? Who is the judge? From the finance company side, it raises questions of monitoring dealer products. Do you adjust your dealer agreements or your product approval process to avoid financing add-ons that might be challenged as valueless? And who defines valueless? We're all kind of waiting with bated breath. Number four, a three-day right to cancel certain used vehicle sales. There's a right to cancel for sales under \$50,000. That's a significant threshold here. \$50,000 is a lot of money. So if you're a lender purchasing these contracts, there's time that you have to build in for the possibility that a deal can unwind in the first few days. It impacts the timing of funding, how to book a receivable, and the process for returning contracts or handling early cancellations.

**Brooke Conkle (07:42):**

And then lastly, one of the big sort of requirements that we talked about in the CARS rule that really was one of those silent requirements that really could have significant implications, and that's record retention. Dealers must retain records for two years to show compliance in California. It's shorter than the seven years proposed in the CARS Act as it was originally drafted, but it still means that dealers need better documentation. And lenders doing dealer oversight will have the option to request those records. But as we all know, that option could be tough to exercise in certain instances. The California CARS Act takes effect on October 1, 2026. So the clock is ticking, and tough to believe, Chris, that's in a short six months away. So 2025 and 2026 really are the implementation years. We have a little bit of runway to get compliance regimes in place before that October 1st deadline. And we have the looming question: Are any other states gonna copy this? If they do, are we gonna see a true patchwork with multiple CARS Acts with different details? One element in California, another element in a different state, and that creates a real headache for a nationwide compliance regime. Chris, tell us about a state just north of California that had a new law too.

**Chris Capurso (09:05):**

Yeah, and I think you're leaving out one vital question is: Will other states come up with different acronyms for CARS? Are we gonna get new creative ways to throw some words into the CARS framework?

**Brooke Conkle (09:17):**

That's right. How about the VEHICLE Act? Can we find a fun acronym that would give us VEHICLE?

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**Chris Capurso (09:23):**

Right. Yeah, like we need something that makes the Hall of Fame like CAN-SPAM. Like we need just a phenomenal acronym. CARS is good, but we need a little creativity if we're getting this on a 50-state basis. There's gotta be some benefit.

**Brooke Conkle (09:37):**

That's right.

**Chris Capurso (09:38):**

Yeah. So obviously CARS Act proliferation is a big deal, but we can't forget just the... I don't wanna say general run-of-the-mill changes, but the changes to financing laws. Obviously, last year we had a lot to talk about with the New Hampshire law that everybody knows and loves, our favorite law that became effective before it was passed. But we've got some changes in Oregon this year that became effective January 1st of 2026. And those changes, which we did have a podcast about, did several things. And it's one of those laws where it creates a disclosure about consumer rights, and that disclosure kind of defines the changes and the operational items that you have to keep track of. So essentially, the law changed the finalization timeline for financings... To finalize, specifically RICs and leases. It was originally 14 days in Oregon, now it is 10 days. The big new addition is that buyers have a right to void the transaction if there is not agreement to purchase the RIC or lease agreement on the exact negotiated terms within that 10-calendar-day timeline. There needs to be a notice of voided contracts. The dealers must notify the consumers within two days and return all items of value received by the dealer. And that leads to another point, which is what does the dealer have to do to return all items of value? How does that work when, say, the trade-in vehicle is already gone from the dealer's inventory? Or just what happens depending on the time that that voiding occurs? The updates to the statute spell all that out, what the responsibilities are of the dealer. And as I mentioned, all of this is placed in a model disclosure form that needs to be given to consumers. And much like its neighbor to the south, California, with some of their disclosures, it is a disclosure that is multilingual.

**Chris Capurso (11:36):**

Thankfully, the AG has created forms, so you don't have to go out there and try to translate these things. And as always, this is the kind of sales pitch to always follow your model forms. We cannot stress this enough, especially when they're in a foreign language. Just follow the model forms, please. There is no lower-hanging fruit on earth. But that's a peek at some of the non-CARS Rule, CARS law type laws that you could see out of legislatures. And we said this on a previous podcast, this is the legislative season. 'Tis the season for new legislation coming out. So obviously, we're keeping an eye on things. We'll see when this podcast is released if this is still a going concern. But we recently blogged about Colorado coming up with their own interesting right-to-cure provisions and also a cancellation provision. So you've got states doing things even if it's not necessarily a CARS Act, CARS law copy. States are specifically looking at auto and auto finance and trying to come up with legislative solutions, especially in the wake of maybe the CFPB and the FTC not doing as much in this current administration as they had in the administrations past. So we've talked about the CARS Rule and its progeny, and we've

talked about a separate law in Oregon and just this idea of different state laws. Brooke, with all that in mind, what do we do now?

**Brooke Conkle (12:55):**

Yeah. And Chris, I think as we mentioned, our arms were still sore from all of the high fives from having the CARS Rule invalidated, only to have the states pop up kind of like CARS Rule whack-a-mole. And you start really to see the theme of our Year in Review. We have state-driven regulation. That's the story for auto finance. And for lenders and servicers, the practical takeaway is that national programs are harder to maintain on a truly uniform basis. The need for state-specific overlays for disclosures, add-ons, cancellation rights, contract funding practices, all of that is going to be more and more a state-specific regime. So this is the time, really, to revisit dealer agreements, your onboarding and oversight programs, and choice of law or venue clauses to account for the new state rules.

**Chris Capurso (13:51):**

Great. And with that, we'll wrap it up for today's podcast. Thank you to our audience for tuning in. 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](https://www.ConsumerFinancialServicesLawMonitor.com) and the [TroutmanFinancialServices.com](https://www.TroutmanFinancialServices.com) blogs. And while you're at it, why don't you head on over to [troutman.com](https://www.troutman.com) and sign up for our Consumer Financial Services mailing list so you can stay abreast of current issues with our 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 will be releasing every two weeks in 2026. They'll be generally on the second and fourth Tuesdays of each month. And be on the lookout specifically for part two of our Year in Review series. Much in the spirit of *Wicked* and *Harry Potter* part seven, we are splitting what could have been one podcast into two. So be on the lookout for part two. If it makes you feel better, we are not in the search for more money like those movies were, so it's just for more content, which is what everybody craves. 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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