TOP DOG PRESENTS
THE WASHINGTON STATE
CONSUMER PROTECTION
AND
IMMIGRATION SERVICES
FRAUD PREVENTION ACTS
Using Consumer Protection law to help immigration clients

CONSUMER PROTECTION ACT  R.C.W. 18.86.020
No use of unfair or deceptive acts or practices in the conduct of trade or commerce.

EVEN LAWYERS?
Yes, but CPA only covers the "entrepreneurial aspects of the practice of law".
Short v. Demopolis, 103 Wash 2d. 52 (1984)
- Misleading statements in the formation of the representation contract
- Failure to perform on the contract
  BUT NOT
Injury caused by a mistake in professional judgment.
CPA CLAIMS CAN BE BASED ON “INJURY”
Financial loss is not necessary.

Can somebody kiss it and make it better?

THE CONSUMER PROTECTION ACT
MUST BE LIBERALLY CONSTRUED

Top Dog always likes a liberal application.

LIBERAL CONSTRUCTION
“INJURY” can be
- loss of time.
- minimal financial loss, like cost of postage
- loss of business income (e.g. because of notario)

BUT NOT
physical injury
emotional distress
losses caused by bad professional judgment
BUT WAIT, THERE’S MORE!

- The injurious conduct must have the “capacity to deceive a substantial portion of the public”
- But plaintiffs don’t have to prove intent to deceive
- So no need to prove fraud
- Also, no need to prove Plaintiff actually fell for the scam, as long as Plaintiff was “injured”
- Plus, some statutory violations (like ISFPA) are *per se* CPA violations.

IF YOU WIN A CPA CLAIM

- You get all actual damages
- Plus treble damages, at the court’s discretion
- Plus costs (including costs of discovery)
- And you are *entitled* to reasonable attorney fees

*See e.g. Meyer v. Sto Industries, Inc., 156 Wash.2d 677 (2006)*

Actual Damages: $4.27
Treble Damages: $12.81
Attorney Fee: $90,125.00

R.C.W. 19.86.120
Four year statute of limitations for CPA and ISFPA

Top Dog can’t remember back that far!
INJUNCTIONS
R.C.W. 19.86.0905

- You can request an injunction in your complaint:
- If you do, you have to (get to) serve the Attorney General

IMMIGRATION SERVICES FRAUD PREVENTION ACT
R.C.W. 19.154
Since 2011, if nonlawyers* take compensation

* Except BIA accredited representatives!

Lawyers and BIA Accredited Representatives are not restricted by ISFPA

Top Dog is opening a pub!
In the Materials

- Consumer Protection Act, selected provisions
- Immigration Services Fraud Prevention Act
- Sample CPA/ISFPA Complaint
- Application for WA-AILA loan for ISFPA Complaint filing fee and service of process

ISFPA VIOLATION IS A GROSS MISDEMEANOR
R.C.W. 19.154

Top Dog doesn’t think horizontal stripes are flattering.
**2011 Morton Memorandum**

“Prosecutorial Discretion: Certain Victims, Witnesses and Plaintiffs”

- To avoid deterring the reporting of crimes ICE should “exercise all appropriate discretion on a case-by-case basis when making detention and enforcement decisions.”

- Particular attention to
  - **victims** of serious crimes;
  - **witnesses** involved in pending criminal investigations or prosecutions;
  - **plaintiffs** in non-frivolous lawsuits regarding civil rights or liberties violations

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**Potential Intersections**

U Visa Qualifying Crimes and IFSPA Violations

- Perjury
- Obstruction of justice
- Witness tampering
- Extortion
- Blackmail
When all else fails, Top Dog studies the map.

U Visa Certifier

- **Certifying agency** means a Federal, State, or local law enforcement agency, prosecutor, judge, or other authority, that has responsibility for the investigation or prosecution of a qualifying crime or criminal activity. This definition includes agencies that have criminal investigative jurisdiction in their respective areas of expertise. 8 CFR § 214.14(a)(2).

- **Certifying official** means: (i) The head of the certifying agency, or any person(s) in a supervisory role who has been specifically designated by the head of the certifying agency to issue U nonimmigrant status certifications on behalf of that agency; or (ii) A Federal, State, or local judge. 8 CFR § 214.14(a)(3).

Additional U Visa Requirements

Victims of Perjury, Obstruction of Justice, & Witness Tampering

- direct and proximate harm;

- reasonable grounds showing that the crimes were committed in principal part, as a means:
  - To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring to justice the perpetrator for other criminal activity; or
  - To further the perpetrator’s abuse or exploitation of or undue control over the petitioner through manipulation of the legal system.

8 CFR 214.14(a)(14)(i)
In the Materials

- Morton Memorandum “Prosecutorial Discretion: Certain Victims, Witnesses and Plaintiffs” 6/17/11
- Unpublished AAO Decisions relating to U Visas and ISFPA-related criminal activity