

# LAWRENCE G. WASDEN ATTORNEY GENERAL STATE OF IDAHO



## 2019 ANNUAL REPORT\*

### CONSUMER PROTECTION, COMPETITION, CHARITIES, TELEPHONE SOLICITATIONS, AND TOBACCO ENFORCEMENT



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*\*The Attorney General published fiscal year reports for FY 2016 through FY 2018, which ended June 30, 2018. With the transition from a fiscal year report to an annual report, data for July 1, 2018, through December 31, 2018, is excluded unless specifically stated otherwise.*

# Annual Highlights

## Consumer Complaints and Contacts

<i>Top Complaint Category</i>	<i>Motor Vehicles</i>	<i>All Contacts Received</i>	<i>13,847</i>
<i>All Complaints Filed</i>	<i>1,179</i>	<i>All Complaints Mediated</i>	<i>798</i>

## Accomplishments

- *Concluded **18 enforcement actions** concerning consumer protection issues ranging from education and health care to internet sales and telephone solicitations.*
- *Responded to over **12,500 telephone calls and emails** from the public.*
- *Continued defending **Idaho's tobacco Master Settlement Agreement (MSA)** payments.*

## Recovered Money and Payments Received

- *Recovered **\$3,109,199 in consumer restitution**—\$3.25 for each taxpayer dollar appropriated for consumer operations in 2019 (\$957,043). This is the **27<sup>th</sup> consecutive year** the Consumer Protection Division has recovered more for consumers and businesses than the Legislature appropriated to the Division.*
- *Recovered and deposited into the consumer protection account **\$12,996,762 in civil penalties, fees, and costs.***
- ***Transferred \$10,390,544** in unspent consumer protection account funds to the general fund. **Since 2000** the Consumer Protection Division has **transferred \$44,769,376** in unspent consumer protection account funds to the general fund.*
- ***Received \$21,014,363 in payments** pursuant to the MSA. Since the MSA was finalized in 1998, tobacco companies have paid \$499,383,864 to Idaho.*

# Laws Enforced

<b>Consumer Protection Statutes (Idaho Code)</b>	
<i>Idaho's unfair or deceptive acts or practices law, as well as protections and disclosures covering specific seller-purchaser transactions or consumer issues.</i>	
Idaho Consumer Protection Act	Title 48, chapter 6
Idaho Lemon Law	Title 48, chapter 9
Bad Faith Assertions of Patent Infringement	Title 48, chapter 17
Residential Solar Energy System Disclosure Act	Title 48, chapter 18
General Contractor Disclosure Law	§ 45-525
Consumer Foreclosure Protection Act	Title 45, chapter 16
Home Loan Modification Review Notice Law	§ 45-1506C
Credit Report Protection Act	Title 28, chapter 52
Loan Broker Law	Title 26, chapter 25
Security Breaches	Title 28, chapter 51
Pyramid Promotional Schemes	§ 18-3101
Service Repair Contracts & Legal Expense Plans	§§ 41-114A & 41-114B
<b>Competition (Idaho Code)</b>	
<i>Idaho's antitrust law.</i>	
Idaho Competition Act	Title 48, chapter 1
<b>Charitable Solicitations and Charitable Trust Assets (Idaho Code)</b>	
<i>Idaho's deceptive charitable contributions law and statutes to protect charitable trust assets.</i>	
Idaho Charitable Solicitation Act	Title 48, chapter 12
Idaho Nonprofit Hospital Sale or Conversion Act	Title 48, chapter 15
Prudent Management of Institutional Funds Act	Title 33, chapter 50
Supervision of Charitable Trust Assets	§ 67-1401(5)
Modification of Charitable Trusts	Title 68, chapter 12
<b>Telephone Solicitations (Idaho Code)</b>	
<i>Idaho's deceptive telephone solicitation and telephone solicitor registration statute, as well as its law governing 1-900 calls.</i>	
Idaho Telephone Solicitation Act	Title 48, chapter 10
Idaho Pay-Per-Telephone Call Act	Title 48, chapter 11
<b>Tobacco (Idaho Code)</b>	
<i>Idaho's Master Settlement Agreement Act and laws regulating the importation, distribution, sale, and use of tobacco and tobacco-related products.</i>	
Prevention of Minors' Access to Tobacco Act	Title 39, chapter 57
Idaho Tobacco Master Settlement Agreement Act	Title 39, chapter 79
Idaho Tobacco Master Settlement Agreement Complementary Act	Title 39, chapter 84
Reduced Cigarette Ignition Propensity Act	Title 39, chapter 89

# Enforcement Actions

## CONSUMER PROTECTION ACTIONS

Enforcement of Idaho's consumer laws protects and promotes a free and competitive marketplace and ensures a level playing field for all businesses. A marketplace unfettered by false, deceptive, and misleading practices and void of unreasonable restraints of trade yields the best allocation of Idaho's economic resources, the lowest prices, the highest quality, and the greatest innovative and material progress.

The Attorney General, acting on behalf of the state of Idaho and pursuant to his authority under the Idaho Consumer Protection Act, initiated and concluded a number of noteworthy enforcement actions in 2019. This section summarizes the office's consumer protection settlements and actions during the past year.

### GENERAL CONSUMER LAW MATTERS

#### **Robert Bosch GmbH and Robert Bosch LLC**

Finalized in **January 2019**, the Attorney General's settlement with German engineering company Robert Bosch GmbH and Robert Bosch LLC ("Bosch") concerned Bosch's implementation of emissions "defeat device" software in more than 600,000 Fiat Chrysler and Volkswagen vehicles. A multistate investigation revealed that Bosch assisted the motor vehicle companies in implementing the defeat devices and concealed its misconduct from regulators and the public. Bosch paid the state of Idaho just over \$1 million and, in conjunction with Fiat Chrysler Automobile, paid \$27.5 million in restitution to help eligible owners nationwide repair their vehicles.

#### **FCA US LLC, Fiat Chrysler Automobile N.V., V.M. Motori S.P.A., and V.M. North America, Inc.**

The Attorney General finalized a consent judgment with FCA US LLC, Fiat Chrysler Automobile N.V., V.M. Motori S.P.A., and V.M. North America, Inc. ("Fiat Chrysler Automobile"), in **February 2019**. The consent judgment resolved multistate allegations that Fiat Chrysler Automobile installed unlawful emissions "defeat device" software and undisclosed Auxiliary Emissions Control Devices in 2014-2016 Jeep Grand Cherokee and Ram 1500 diesels. Fiat Chrysler Automobile paid \$2 million to the state of Idaho and, in conjunction with Bosch, paid \$27.5 million in restitution to help eligible owners nationwide repair their vehicles.

## **Renaissance Consign, LLC, d/b/a Renaissance Furniture Consign, and Dale Robert Corson**

The Attorney General filed a consumer protection lawsuit against Renaissance Consign, LLC, d/b/a Renaissance Furniture Consign, and Dale Robert Corson in December 2018 alleging Dale Corson, the owner of Boise-based Renaissance Consign LLC, abandoned his consignment store and storage units full of customers' furniture and failed to pay customers for the furniture he previously sold. The parties reached a settlement agreement in **April 2019** permanently prohibiting Mr. Corson from owning or operating another consignment store in Idaho.

Under the settlement, Mr. Corson agreed to pay \$94,023.46 in consumer restitution to customers who, because of Mr. Corson's actions, lost money or their furniture. Mr. Corson also agreed to pay the Attorney General's Office \$1,200 in fees and expenses.

## **Hathaway Homes, LLC, and Paul J. Hathaway**

In response to complaints alleging Hathaway Homes, LLC, and its owner, Paul J. Hathaway, had accepted upfront payments for new and used manufactured homes that he failed to deliver or only partially delivered, the Attorney General opened an investigation into the company and Mr. Hathaway in early 2018. Hathaway Homes' customers reported hundreds of thousands of dollars in losses, alleging they paid Mr. Hathaway for new, unbuilt manufactured and modular homes that he never ordered from manufacturers.

The Attorney General filed a consumer protection lawsuit against Hathaway Homes and Mr. Hathaway in September 2018. Hathaway Homes, which was under a Chapter 7 bankruptcy trustee's control, did not appear in the case, and a default judgment was entered in early **April 2019**. The default judgment forever prohibits Hathaway Homes from doing business in Idaho except to the extent necessary to complete the bankruptcy matter.

Mr. Hathaway, who has since passed away, signed a consent judgment in late **March 2019**, resolving the lawsuit against him. The judgment prohibited Mr. Hathaway from (a) advertising or selling new or used manufactured homes to Idaho consumers or misrepresenting his authorization to do so; and (b) advertising or selling new or used manufactured homes from within Idaho, unless licensed and working under a state-licensed business entity.

## **Jordan Kevin Duran, individually and d/b/a Magnolia Craft Shop, Magnolia Bake Shop (f/k/a Mint N' Trendy), and 2<sup>nd</sup> Street Convenience Store; 1C Store LLC; and 2C Store LLC**

In **May 2019** the Attorney General reached an agreement with Jordan Kevin Duran, individually and d/b/a Magnolia Craft Shop, Magnolia Bake Shop (f/k/a Mint N' Trendy), and 2<sup>nd</sup> Street Convenience Store, 1C Store, LLC, and 2C Store, LLC, (collectively "Magnolia Craft

Shop”). The settlement resulted from an investigation into allegations that approximately 119,782 consumers paid hundreds of thousands of dollars to Magnolia Craft Shop, an internet dropshipper in Pocatello, for items it never delivered. The settlement prohibits Mr. Duran from operating another internet dropshipping business in Idaho.

### **Crazy Frog, LLC, Crazy Frog Pest Control, Inc., and Crazy Frog Twin Falls, LLC**

Located in Meridian, Idaho, Crazy Frog, LLC, Crazy Frog Pest Control, Inc., and Crazy Frog Twin Falls, LLC, (collectively “Crazy Frog Pest Control”) provide residential pest control services in Idaho, Florida, Texas, and Washington. Following the Attorney General’s investigation into allegations that the companies engaged in deceptive conduct between 2016 and 2019, the parties agreed to a settlement in **October 2019**. The settlement includes comprehensive injunctive terms to address the Attorney General’s concerns with Crazy Frog Pest Control’s advertising and sales practices.

## **HEALTH CARE**

### **Medical Device Business Services, Inc., fka Depuy Inc., Depuy Orthopedics, Inc., & Depuy Orthopaedics, Inc.; Depuy Product, Inc.; Depuy Synthes, Inc.; Depuy Synthes Sales, Inc.; and Johnson & Johnson**

In **April 2019**, the Attorney General entered into a consent judgment with Medical Device Business Services, Inc., Depuy Synthes, Inc., Depuy Synthes Sales, Inc., and Johnson & Johnson (collectively “Depuy”). The judgment ended a six-year multistate investigation into Depuy’s misrepresentation of how long patients could expect their metal-on-metal hip implants to last. Testing revealed two types of Depuy’s hip implants had shorter life expectancies than what was represented to patients. To help ensure similar issues do not occur in the future, DePuy agreed to change how it markets its hip implants. Johnson & Johnson paid the state of Idaho \$1.4 million to cover the costs of the investigation.

### **Johnson & Johnson and Ethicon, Inc.**

In **November 2019** the Attorney General finalized a consent judgment with Johnson & Johnson and its subsidiary Ethicon, Inc., concerning their marketing and sale of surgical mesh devices for the treatment of stress urinary incontinence and pelvic organ prolapse. The settlement resulted from a multistate investigation that found the companies misrepresented or failed to adequately disclose to consumers and doctors that their products could cause patients serious medical complications. Johnson & Johnson and Ethicon, Inc., must adhere to strict injunctive terms under the settlement. The companies also paid the state of Idaho \$1.6 million for their deceptive marketing and sales practices.



## EDUCATION

### Career Education Corporation

Concluding a five-year multistate investigation of Career Education Corporation, the Attorney General finalized a settlement with the company in **January 2019**. The settlement resulted in 388 Idaho students receiving approximately \$862,562 in student debt relief. The state also received a payment of \$75,000.

Career Education Corporation offers online courses through American InterContinental University and Colorado Technical University. The company made misleading statements about total attendance costs, credit transferability, program availability, and job placement rates. After finishing a course of study, some students could not obtain professional licenses or repay their student loans.

### Student CU Connect CUSO, LLC

The Attorney General's **June 2019** settlement with Student CU Connect CUSO, LLC, obtained \$1.86 million in debt relief for 215 former Idaho students of ITT Tech, a bankrupt for-profit college. Under the settlement, Student CU Connect agreed to forego collection of the outstanding loans and stopped doing business. Student CU Connect also had to update borrowers' credit files.

A multistate investigation of Student CU Connect revealed that ITT Tech offered students temporary credit upon enrollment to cover the gap in tuition between federal student aid and full tuition. Students had to repay the credit before the next academic year, but ITT Tech and Student CU Connect knew or should have known that most students could not repay the credit when it became due.

Students believed the temporary credit, like a federal loan, was due after graduation. When the credit became due, ITT Tech coerced students into accepting high interest loans from Student CU Connect. Neither ITT Tech nor Student CU Connect told students the actual cost of repayment for the credit until after the credit was converted to a loan.

## TELEPHONE SOLICITATION ACTIONS

### GENERAL ACTIVITIES

Recognizing the potential for abuse that is inherent in telephone sales, the Legislature enacted the Idaho Telephone Solicitation Act (ITSA), title 48, chapter 10, Idaho Code, in 1992. The ITSA safeguards the public against deceit and financial hardship, encourages competition and fair dealings among the telemarketing industry, and prohibits

telemarketers from using representations that have the tendency or capacity to mislead purchasers.

Idaho's Do Not Call law, which established the state's "no telephone solicitation contact list," predates the National Do Not Call Registry and subjects violators to civil penalties of up to \$5,000 per violation. When the National Do Not Call Registry was created in 2004, all Idaho numbers registered on the Idaho-only list were transferred to the National Registry. The Federal Trade Commission last reported the National Do Not Call Registry contained 1,234,970 active Idaho telephone numbers.

The Consumer Protection Division received 257 emails from consumers who reported receiving unwanted telephone calls. Almost all of the reported calls came from persons who are not "telephone solicitors" under the ITSA's definition. Such individuals include appointment setters, debt collectors, survey companies, charities, and persons engaged in criminal conduct (e.g., government imposter scams, illegal lotteries/sweepstakes, grandparent scams).

Because it manages the Do Not Call Registry, the Federal Trade Commission receives the bulk of consumers' telephone call complaints. In its most recent Do Not Call report, the Commission reported it had received 34,452 complaints from Idahoans regarding unwanted calls.<sup>1</sup> It is important to note that most of these complaints concern imposter scams, not deceptive telephone solicitations or Do No Call Registry violations.

Idahoans also continue to receive an increasing number of auto-dialed calls or robocalls. The robocall index YouMail reports that "255.6 million robocalls" were made into Idaho in 2019, which "equals about 197.8 calls per person affected."<sup>2</sup> The ITSA does not prohibit robocalls, but does require callers to make specific disclosures at the beginning of the call. The federal Telephone Robocall Abuse Criminal Enforcement and Deterrence Act was signed into law at the close of 2019. Over the next two years, the Federal Trade Commission will implement rules and work with telecommunication providers and other regulators to reduce the number of robocalls plaguing consumers' phones.

In addition to prohibiting telephone solicitors from calling numbers on the National Do Not Call Registry, the Idaho Telephone Solicitation Act requires telephone solicitors to register with the Attorney General's Consumer Protection Division before they begin soliciting in Idaho. In 2019, the Consumer Protection Division processed 29 telephone solicitor registrations. Fifteen telephone solicitors presently are registered to telephone solicit in Idaho.

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<sup>1</sup> Federal Trade Commission, National Do Not Call Registry Data Book FY 2019 (Nov. 2019).

<sup>2</sup> YouMail Robocall Index™, available at <https://robocallindex.com/history/time/idaho>.



## ENFORCEMENT ACTIONS

The number of telephone solicitors selling transportation compliance services continues to increase in Idaho. Generally, these private companies offer to help trucking companies—for a fee—comply with U.S. Department of Transportation regulations. In 2019 the Attorney General took action against three unregistered transportation compliance telemarketers.

### National Compliance Services, LLC

National Compliance Services, LLC, opened in April 2018 and sold transportation compliance services via telephone solicitations without first registering with the Consumer Protection Division. Consumers also alleged that National Compliance Services (a) misrepresented that it was affiliated with the Federal Motor Carrier Safety Administration and the U.S. Department of Transportation, and (b) failed to give consumers notice of their three-day right to cancel the transaction.

The Attorney General's **January 2019** consent judgment with National Compliance Services required the company to register with the Consumer Protection Division and refund consumers' payments if requested. A \$20,000 civil penalty was suspended along with \$1,500 in fees and costs.

In **July 2019** the Attorney General notified National Compliance Services that multiple consumers had filed complaints alleging National Compliance Services had engaged in deceptive sales offers. Based on National Compliance Services' subsequent violations of the January 2019 consent judgment, the Attorney General demanded the company pay the previously suspended \$31,500.

### Purcell Compliance Services LLC

In November 2018 the Attorney General filed a lawsuit against Purcell Compliance Services, LLC, alleging the company telephone solicited in Idaho between 2016 and 2018 without first registering with the Consumer Protection Division. Purcell Compliance Services agreed to sign a consent judgment in **July 2019**.

The injunctive terms of the settlement require Purcell Compliance Services to maintain its telemarketing registration, provide its solicitors with written scripts, and inform consumers verbally and in writing of their right to cancel a transaction. The company paid \$3,000 to reimburse the state, in part, for its investigative costs and agreed to cancel and refund customers' contracts on request.

### US Registration, Inc., and Travis Hopkins

In 2016 the Attorney General entered into a settlement with US Registration, Inc., requiring the company to register as a telephone solicitor. The company failed to do so and continued

to make deceptive representations to potential customers about its affiliation with the U.S. Department of Transportation.

The Attorney General sued US Registration and Mr. Hopkins in 2017 and reached an agreement prohibiting the company from telemarketing for five years and requiring Mr. Hopkins to telemarket only under the supervision of a registered telemarketer. Despite the new agreement, US Registration continued to operate under Mr. Hopkins' supervision.

The Attorney General reopened its 2017 action against Mr. Hopkins and US Registration in November 2018. The district court, finding that US Registration did violate the 2017 agreement, awarded the Attorney General a judgment against US Registration in **April 2019**. The judgment permanently dissolved US Registration's corporate status and voided all telephone solicitation contracts the company entered into since January 1, 2017.

In **December 2019**, the Attorney General and Mr. Hopkins entered into a consent judgment permanently prohibiting him from telemarketing in Idaho. Mr. Hopkins also paid the Attorney General a \$15,000 civil penalty.

## **CHARITABLE TRUST ACTIVITIES**

Oftentimes a charitable organization or a citizen contacts the Attorney General about an issue or dispute involving an organization's charitable trust assets or a charitable trust instrument (e.g., will or trust agreement). Because the Attorney General has a statutory and common law duty to protect Idaho's charitable trust assets, he reviews charitable trust issues and disputes and, when appropriate, intervenes on behalf of the state.

In 2019 the Attorney General's Office reviewed a number of matters involving charitable trust assets. Most he resolved informally through communications with representatives of the trusts. Other matters required more comprehensive inquiries into the charitable trusts, their backgrounds, and the circumstances surrounding any issues or disputes. The following summarizes one such instance.

### **In the Matter of the Estate of Wayne Stevenson, Decedent**

The Attorney General filed a notice of appearance in a probate matter involving the Wayne Stevenson estate in Kootenai County. Mr. Stevenson outlined provisions in his will and charitable trust instrument directing that his personal representative and trustee use funds from the estate to establish a cat rescue operation on Mr. Stevenson's property to house abandoned cats located in the County. An assessment of Mr. Stevenson's estate, however, revealed insufficient assets to establish or maintain the type of cat rescue that Mr. Stevenson described in his trust.

Dozens of cats were removed from Mr. Stevenson's property and relocated to the Spokane Animal Shelter. The personal representative and trustee then agreed to relinquish the estate's assets to the Spokane Animal Shelter because of the cost associated with caring for

the cats. If that occurred, however, the charitable trust assets would no longer serve their designated charitable purpose as Mr. Stevenson intended.

The parties entered into an agreement in **November 2019** that modifies Mr. Stevenson's charitable trust. To address the Attorney General's concerns, the parties included a provision in the agreement that ensures the charitable trust assets of Mr. Stevenson's estate are used to cover the costs related to housing Idaho's stray animals, primarily cats, at the Spokane Animal Shelter.

## **TOBACCO ENFORCEMENT**

The Attorney General enforces Idaho's Tobacco Master Settlement Agreement, Tobacco Master Settlement Agreement Complementary, Prevention of Minors' Access to Tobacco, and Reduced Cigarette Ignition Propensity Acts. Enforcement of these laws includes prosecuting violators and defending the laws against constitutional challenges in state and federal court actions.

Each year the tobacco industry makes a payment to the state to help it cover costs related to treating tobacco-related illnesses. In 2019 the tobacco industry paid \$21,014,363 to Idaho, which was deposited into the Millennium Fund. Since the MSA was entered into in 1998, Idaho has received payments totaling \$499,383,864.

Under Idaho's tobacco sales laws, the Attorney General maintains and administers a directory of tobacco manufacturers and brands (Idaho Directory) that are in compliance with Idaho law. At present, the Attorney General has certified 24 tobacco manufacturers and 126 tobacco brands. The Idaho Directory is available on the tobacco webpage of the Attorney General's website. In the past year, the Office of the Attorney General has received and reviewed 36 certifications from tobacco product manufacturers seeking to add or remove brand families to the Idaho Directory. In addition, in the past year the Attorney General has received and reviewed over 1,275 monthly and quarterly reports from Idaho permitted cigarette wholesalers and tobacco distributors detailing shipments and sales of cigarettes and roll-your-own tobacco in Idaho. Finally, 18 notices were disseminated regarding changes and updates to the Idaho Directory.

The Attorney General continues to litigate with the tobacco industry over the state's enforcement of certain Idaho tobacco laws. Tobacco companies who are parties to the state's Master Settlement Agreement have disputed the effectiveness of Idaho's enforcement of its Master Settlement Agreement Act (MSA Act) for certain specific years and as a result, are seeking to eliminate potentially tens of millions of dollars of Idaho's tobacco MSA payments used to fund Idaho public health endeavors.

The present dispute is now being litigated in an arbitration before a panel of three arbitrators. The dispute has required the Office of the Attorney General to commit significant resources to defend Idaho's payments. In the present dispute, discovery and pre-trial motion

practice commenced in 2016. An initial two-week multistate hearing was held in Chicago in 2017. Idaho's state-specific evidentiary hearing was held the first week of February 2018 in Washington D.C. A decision is not expected until later this year.

The anticipated 2020 decision will not end the tobacco companies' efforts to reduce or eliminate future Idaho MSA payments. Rather, the tobacco companies continue to advance new challenges to Idaho's receipt of its MSA payments, making further litigation with the tobacco companies inevitable.

## Security Breaches

Idaho law defines a security breach as "the illegal acquisition of unencrypted computerized data that materially compromises the security, confidentiality, or integrity of personal information for one or more persons maintained by an agency, individual or commercial entity." Personal information, which excludes publicly available information, means an Idaho consumer's name and the consumer's unencrypted Social Security number, driver's license number, or financial account and PIN/password.

An Idaho government agency that incurs a security breach must report the breach to the Attorney General. Commercial entities have no such obligation. The Attorney General, however, encourages businesses that experience a breach affecting Idaho citizens' private data to report the event to the Attorney General's Consumer Protection Division as soon as possible.

The Attorney General participates in a multistate working group with other state attorneys general to investigate large breaches. Acting pursuant to the Idaho Consumer Protection Act, title 48, chapter 6, Idaho Code, the Attorney General enters into multistate settlements involving large commercial entities whose security breaches have significantly impacted Idaho's consumers. In 2019 the Attorney General participated in three multistate security breach settlements affecting hundreds of thousands of Idahoans.

### Neiman Marcus Group LLC

In early **January 2019**, the Attorney General resolved a five-year multistate investigation of the 2013 data breach involving Neiman Marcus Group LLC. The data breach occurred when an unknown third party collected payment card data at 77 of the company's U.S. retail stores. Approximately 370,000 payment cards—204 of which were associated with Idaho consumers—were compromised in the breach. At least 9,200 of the compromised payment cards were later used fraudulently.

As part of the settlement, Neiman Marcus Group agreed to pay \$1.5 million to the participating states and implement policies to better protect its data. Idaho received \$17,312.

## **Premera Blue Cross**

The Attorney General joined a second multistate security breach settlement in **July 2019**. The settlement with Premera Blue Cross, the largest health insurance company in the Pacific Northwest, concerned the company's exposure of more than 270,000 Idahoans' health and other personal information. The company paid the state of Idaho \$240,000 and changed its data security controls and business practices to better protect consumers' personal health information.

## **Equifax Inc.**

A coalition of 50 attorneys general, including Idaho, reached a settlement with Equifax Inc. in **July 2019**, concluding an investigation of the credit reporting agency's 2017 data breach. The breach, which exposed sensitive consumer data affecting 56 percent of American adults, occurred because Equifax failed to patch a known critical vulnerability in its software.

Under the settlement, Equifax has strengthened its security practices by (a) minimizing its collection of sensitive data and the use of consumers' Social Security numbers; (b) performing regular security monitoring, logging and testing; and, among other requirements (c) employing improved access control and account management tools.

The settlement required Equifax to establish a \$425 million consumer restitution fund and to pay \$175 million to the states. Idaho received \$1,061,064.

## **UPDATES AND PENDING MATTERS**

### **State of Idaho v. Access Life's Adventures, LLC, et al.**

The Attorney General filed a consumer protection lawsuit against Access Life's Adventures, LLC, and its owners in July 2019, following a six-month investigation into allegations that consumers paid over \$190,000 to Defendants for guided vacation packages that Defendants failed to provide. The lawsuit, which is pending in Ada County District Court, alleges Defendants committed multiple violations of the Idaho Consumer Protection Act and the Idaho Rules of Consumer Protection and asks the Court to enjoin Defendants from selling guided vacation packages in Idaho. A four-day jury trial is scheduled to begin on November 16, 2020.

### **State of Idaho v. Purdue Pharma L.P., et al. / State of Idaho v. Mallinckrodt PLC, et al.**

In the summer of 2019, the Attorney General filed consumer protection lawsuits against the nation's largest opioid drug distributors and manufacturers, including Purdue Pharma, Johnson & Johnson, Janssen Pharmaceuticals, Inc., and Teva Pharmaceuticals USA Inc. The

Attorney General's lawsuit against Purdue Pharma also includes board members Richard and Teresa Sackler, as well as other members of the Sackler family, who participated in and profited from Purdue Pharma's alleged unlawful actions.

The complaints allege the pharmaceutical companies, beginning in the 1990s, engaged in sophisticated marketing campaigns to deceive doctors and the public about the safety and efficacy of opioids. The Attorney General contends the companies' deceptive conduct constitutes multiple violations of the Idaho Consumer Protection Act, as well as negligence and a public nuisance under Idaho law.

Purdue Pharma filed Chapter 11 bankruptcy in September 2019, and the Attorney General has appeared in the bankruptcy proceeding to protect Idaho's interests. The Attorney General's lawsuit against several other manufacturers and distributors is pending in Ada County District Court.

## **Generic Drugs Multistate Investigation and Litigation**

Idaho is part of two ongoing multistate antitrust lawsuits against numerous manufacturers of generic pharmaceuticals. The states' current lawsuits involve over 20 generic drug manufacturers, 19 current and former employees from several generic drug companies, and over 130 generic drugs. The lawsuits are part of a multidistrict litigation in the U.S. District Court for the Eastern District of Pennsylvania.

The states allege a number of specific illegal agreements among the defendants to fix prices and allocate customers for several generic drugs. The states further allege that these conspiracies were part of a much broader, overarching industry code of conduct that enabled the defendant manufacturers to divvy up the market for specific generic drugs in accordance with an established, agreed-upon understanding for assigning each competitor their share of the market.

Defendants allegedly coordinated their schemes through direct interaction with their competitors at industry trade shows, customer conferences, and other events, as well as through direct email, phone, and text message communications. The alleged anticompetitive conduct—including efforts to fix and maintain prices, allocate customers, and otherwise thwart competition—has resulted in artificially increased prices for generic drugs reimbursed by federal and state healthcare programs, such as Medicaid, and raised the coverage costs for employer-sponsored health plans and the out-of-pocket costs for consumers. The states allege that the conduct caused significant, harmful, and continuing effects in the country's healthcare system.

The states also are engaged in a related ongoing and wide-ranging antitrust investigation of the generic drug industry. The investigation extends far beyond the scope of the two lawsuits that the states have filed thus far.



# Consumer Education and Outreach

Public awareness and education remain the best defenses against consumer fraud. Providing Idaho's consumers with timely, accurate information about their rights under Idaho's consumer laws and warning consumers about pervasive scams encourages Idahoans to maintain their personal and financial vigilance. Educated consumers are better equipped to monitor and judge a business's practices, thereby promoting a more compliant and competitive marketplace.

The Attorney General provides consumer information through his website, social media, public service announcements, pamphlets and consumer tip sheets, consumer alerts, and public speaking engagements. Information and guidelines are available to companies operating in Idaho, and the Attorney General strives to continue his cooperative working relationship with Idaho's business community.

The Attorney General's educational and outreach efforts do not use tax dollars. Civil penalty payments and reimbursements for the Attorney General's fees and investigative costs are deposited into the consumer protection account. Funds from this account, pursuant to legislative appropriation, pay for the Attorney General's educational activities.

## COMMUNITY EDUCATION AND OUTREACH

Each year the Attorney General and the Consumer Protection Division's attorneys and consumer specialists give educational presentations to Idaho's consumers, businesses, organizations, and agencies. At outreach events, attendees learn about current scams, identity theft, financial fraud, nonprofit board service, and other consumer issues. This year the Consumer Protection Division participated in 20 outreach events in Southwest, South Central, and Northern Idaho. The graphic below identifies some of the **consumer education events** the office attended in 2019:

### Western Idaho

#### **Boise**

- Justice Alliance for Vulnerable Adults
- Smart Women Smart Money
- Military Saves Week
- Idaho Financial Literacy
- AARP's Frank Abignale Presentation

#### **Meridian**

- AARP Scam Jam

#### **Nampa**

- NNU Orientation Fair
- Nat'l Assoc. of Retired Federal Employees

#### **Caldwell**

- TVCRC Information Fair

### South Central Idaho

#### **Twin Falls**

- AARP Scam Jam
- Twin Falls High School Financial Fair
- Magic Valley College Fair

### Northern Idaho

#### **Lewiston**

- AARP Scam Jam

#### **Moscow**

- Senior Centers

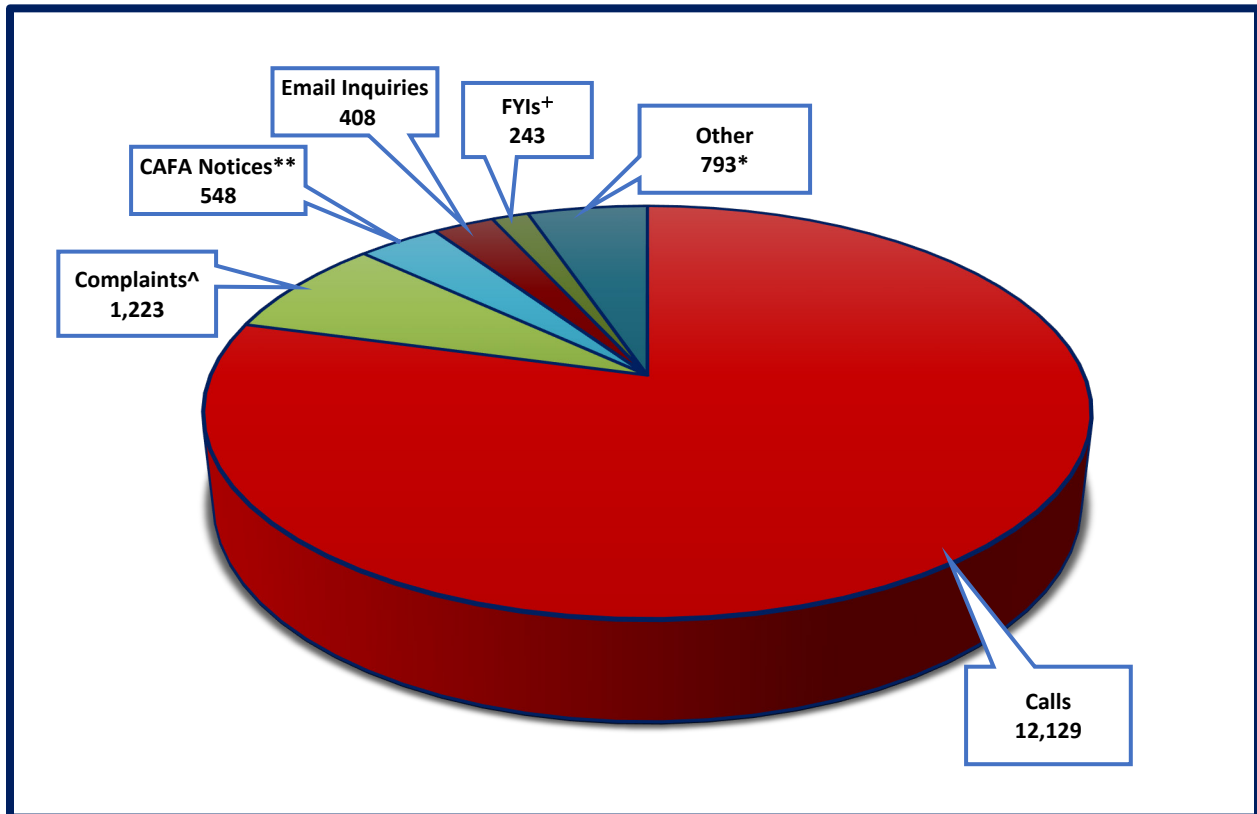
# Public Contacts

Each year, the Consumer Protection Division has thousands of contacts with the public, the media, other government agencies, and law enforcement. The Division logs each of these contacts so it can:

- identify patterns of law violations;
- evaluate areas where additional resources are required;
- account for the Division's annual budgetary expenditures; and
- report the data to the public each year.

In 2019 the Consumer Protection Division processed 13,847 contacts, including telephone calls, email inquiries, consumer complaints and FYIs, class action settlement notices, private foundation filings, and other contact types.

## 2019 Consumer Contacts



*\*Includes mediated and unmediated consumer complaints filed with the Consumer Protection Division.*

*\*\*Includes private federal class action settlement notices copied to the Attorney General pursuant to the 2005 Class Action Fairness Act.*

*+Includes informational reports regarding consumer and other issues provided to the Consumer Protection Division.*

*^Includes bankruptcy notices (46), charitable trust accountings (42), do-not-call emails & complaints (257), inquiries (2), IRS 990-PF filings (250), miscellaneous correspondence (61), public record requests (99), telephone solicitor registration applications (29), and unsolicited fax complaints (7).*

## **CONSUMER COMPLAINT DATA**

The Attorney General's Consumer Protection Division accepts written complaints from consumers who wish to report an alleged violation of a law the Attorney General enforces. In 2019 the Division received 1,179 consumer complaints.

### **Improved Online Complaint Submission Procedure**

On April 28, 2017, the Consumer Protection Division began accepting consumer complaints filed through the Attorney General's website. Consumers previously filed complaints only by mail, fax, and hand-delivery. The Attorney General has improved and expanded consumers' online filing experience, giving consumers the ability to upload supporting documents with their filed complaints. Now consumers can provide the Consumer Protection Division with instant access to documents, photographs, and other evidence relevant to consumers' complaints.

### **Complaint Review Procedure**

The Division's four consumer specialists process and review all incoming complaints. If a complaint is appropriate for the Division's informal dispute resolution program, the complaint is sent to the identified business with a request for a written response. The assigned consumer specialist reviews the business's response and determines what further action, if any, is appropriate. Most businesses understand the benefits of addressing their customers' concerns and voluntarily respond to complaints.

Not every complaint is appropriate for the Division's mediation process. Such complaints include those involving businesses licensed by government agencies or boards (e.g., the Idaho Department of Finance or Idaho State Bar) or complaints involving issues beyond the Division's scope of authority (e.g., criminal matters). When appropriate, the Division refers complaints to other agencies or organizations that may be able to assist the consumer.

The Division reviews every complaint it receives and categorizes each complaint into one of over 100 categories that best reflects the subject of the allegations. In some instances, a complaint is subcategorized into an even more specific topic, such as a type of good or service (e.g., household appliances or consignment services). By categorizing incoming complaints and analyzing trends, the Division can better determine where to focus its limited enforcement resources.

## Top 10 Complaint Categories

For comparison purposes each year, the Consumer Protection Division lists the top 10 categories in which it classified a majority of the year's complaints. The following table summarizes our 2019 complaint data compared to that of FY 2018.

TOP 10 COMPLAINT CATEGORIES			
RANK	COMPLAINT CATEGORY	2019 TOTAL	FY 2018 TOTAL
1	MOTOR VEHICLES	147	157
2	CONSTRUCTION & CONTRACTORS	86	69
3	LANDLORD & TENANT ISSUES	67	55
4	HEALTH CARE: DENTAL/OPTICAL/MEDICAL	42	71
(TIE)	CELLULAR TELEPHONES & SERVICES	42	34
5	INTERNET SALES: GENERAL	40	88
6	HOUSEHOLD APPLIANCES & FIXTURES SALES & SERVICES	38	NOT RANKED
7	LOANS & MORTGAGE LENDERS	32	25
8	RECREATIONAL VEHICLE SALES & SERVICES	30	NOT RANKED
9 (TIE)	CABLE & SATELLITE TV & RADIO SALES & SERVICES	29	49
	INTERNET SERVICE PROVIDERS	29	50
	SECURITY SYSTEM SALES & SERVICES	29	NOT RANKED
10	CONSIGNMENT SALES & SERVICES	28	NOT RANKED
	ALL OTHER COMPLAINT CATEGORIES	569	594
	TOTAL COMPLAINTS RECEIVED	1,179	1,223

## Comments about the Categories

### *Motor Vehicles*

The number one complaint category—motor vehicles—has remained the same since 2013. Complaints consistently involve consumers’ purchases of new and used cars, repair issues, and manufacturer defects.

### *Construction & Contractors*

Disputes involving the work of registered and unregistered contractors continue to concern Idaho consumers. The Consumer Protection Division attempts to mediate construction-related complaints and, when appropriate, refers complaints to the Idaho Contractors Board for its information. Consumers should file a complaint with the Consumer Protection Division if their disputes involve (a) a contractor engaging in unfair, misleading, or deceptive acts or practices, (b) a subcontractor filing a lien against the consumer’s property because the contractor failed to pay the subcontractor, or (c) a contractor failing to provide the written disclosures required under Idaho Code § 48-525.

### *Landlord & Tenant Issues*

The increase in landlord-tenant complaints reflects a strained housing market where tenants and property owners regularly express frustrations with property management companies. The Attorney General does not enforce Idaho’s landlord-tenant laws, but does mediate a tenant complaint if it alleges a deceptive business practice under the Idaho Consumer Protection Act. For the most part, however, such disputes are contractual as opposed to deceptive. To help tenants and landlords better understand their rights and obligations, the Attorney General publishes a landlord-tenant manual that the public may read or download on his website.

### *New Entries to the Top 10*

Four new categories breached the top 10 in 2019—(1) household appliances and fixtures, (2) recreational vehicle sales and services, (3) security system sales and services, and (4) consignment sales and services.

The first category—**household appliances and fixtures**—is extremely broad and includes advertising, sales, and services of items utilized within a home (toaster, dishwasher, etc.). It excludes electronics, furniture, and any fixtures associated with professional services, such as furnaces, plumbing, or roofs.

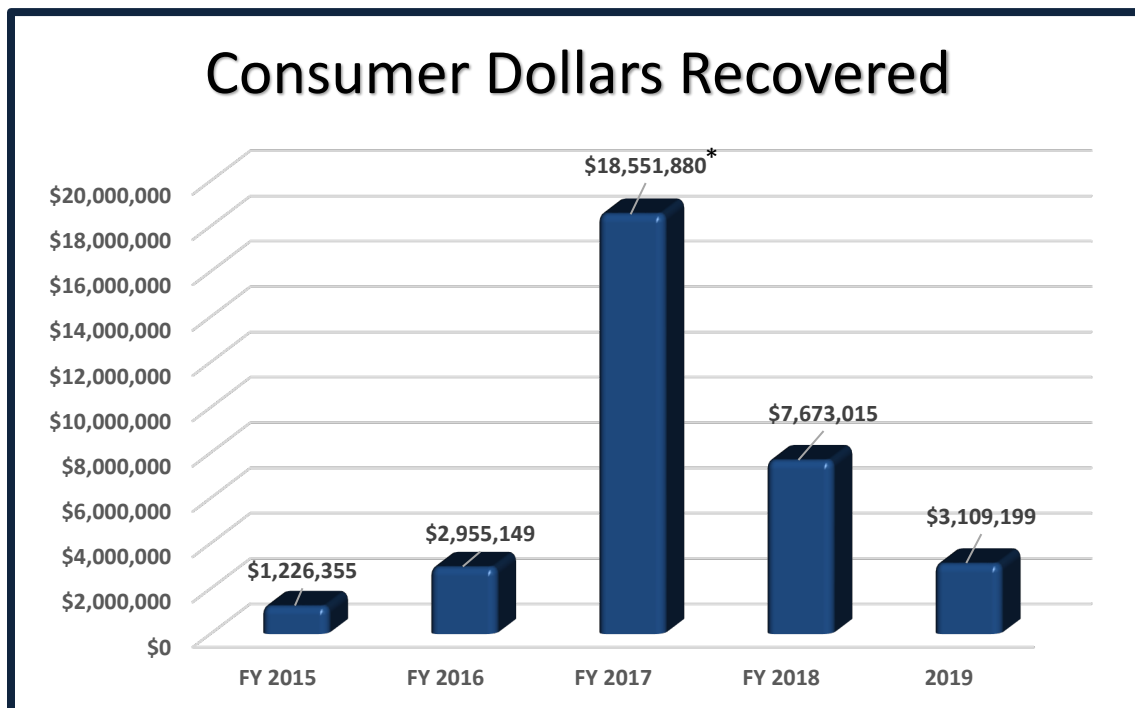
The second category concerns complaints regarding **recreational vehicle sales and services**. Consumers most often complain that the RVs they purchase spend more time in dealers’ repair shops than at vacation spots.

Third on the list is **security system sales and services**. Most security system sales are made through door-to-door sales, which consumers find annoying and intimidating. Vulnerable consumers find it difficult to say “no” or close the door on sellers who, despite the consumer’s obvious discomfort, persist on making a sale. It’s these hard-close sales tactics that lead to complaints.

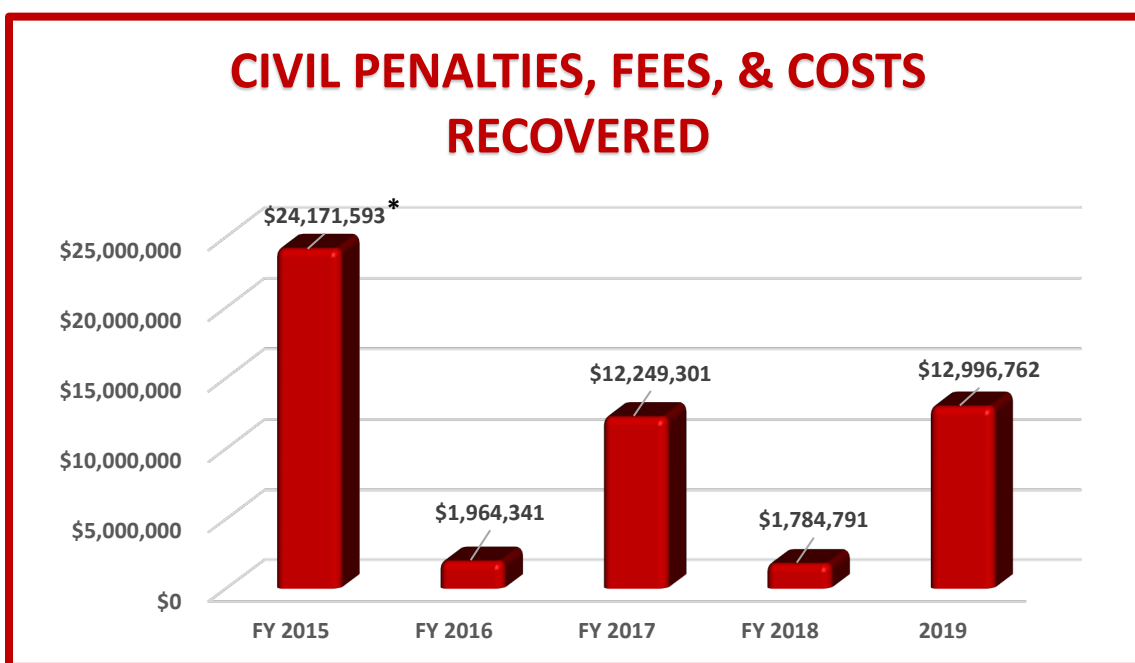
The final category—**consignment sales**—reached this year’s top ten because the Consumer Protection Division received 28 complaints against Boise consignment store Renaissance Consign, LLC, and its owner, Dale Corson. The “Enforcement Actions” section of this report includes a summary of the Attorney General’s lawsuit and settlement involving the store and Mr. Corson.



## FIVE-YEAR COMPARISON CHARTS: RECOVERED RESTITUTION, PENALTIES, & FEES



\* Idaho consumers received \$15,537,982 in restitution through the Attorney General's settlement with Volkswagen.



\* Idaho received \$21.5 million in civil penalties through its February 2015 settlement with Standard & Poor's Financial Service, LLC.

## CONSUMER PROTECTION NUMBERS: FIVE YEARS AT A GLANCE

ACTIVITY	2019	FY 2018	FY 2017	FY 2016	FY 2015
Complaints Received	1,179	1,223	792	791	869
All Consumer Contacts	13,847	13,036	13,650	12,861	11,754
Consumer Dollars Lost	\$900,753	\$2,860,225	\$1,909,914	\$2,106,951	\$1,833,043
Consumer Dollars Recovered	\$3,109,199	\$7,673,015	\$18,551,880*	\$2,955,149	\$1,226,355
Penalties & Costs Recovered	\$12,996,762	\$1,784,791	\$12,249,301	\$1,964,341	\$24,171,593^
Enforcement Actions	18	12	13	22	26
Registered Telemarketers	15	15	14	16	18
Numbers on DNC Registry	1,234,970	1,171,358	1,146,623	1,129,590	1,101,598

*\* This amount, which changed in FY 2018 from our FY 2017 reported number, includes the actual restitution amount (\$15,537,982) that Idaho consumers received as of June 30, 2017, from the Attorney General's settlement with Volkswagen.*

*^ This amount includes \$21.5 million in civil penalties from the Attorney General's February 2015 settlement with Standard & Poor's Financial Service.*

**For more information about this report, to file a consumer complaint, or to request a consumer education presentation, please:**

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<b>WRITE:</b>	Consumer Protection Division P.O. Box 83720 Boise, ID 83720-0010
<b>CALL:</b>	(208) 334-2424 (or) (800) 432-3545 (toll free in Idaho)
<b>EMAIL:</b>	<a href="mailto:consumer_protection@ag.idaho.gov">consumer_protection@ag.idaho.gov</a> <a href="http://www.ag.idaho.gov">www.ag.idaho.gov</a>

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STATE OF IDAHO

