



## To avoid lawsuits, take anger out of the equation

**T**he story you are about to read is true. The names, places and brands have been changed to protect the dealership in question (and the author) from unpleasant meetings with plaintiffs' lawyers and attorneys general.



BY JAMES S. GANTHER, ESQ.

If the current state of telephone science could transmit the smell of nervous perspiration, this call would have needed Right Guard. The CFO of a large multi-state dealership group called me with panic in his voice.

"Jim," panted the CFO, "We've had a safeguards breach! What's going to happen? What should we do?"

I replied in the immortal words of Gene Autry: "Whoa! Steady, big fella! What exactly happened?"

"We got a call at our Chevy store in Oshkosh earlier this week," the CFO explained. "The customer had noticed a recurring unauthorized charge on her credit card statement, and she suspected identity theft. Since the only credit app she had filed in the past year was at our store when she financed a new van, she contacted us. So we got her permission to investigate.

"The suspicious charges were for shipments of a diet drug sold only through a TV infomercial. We contacted the company and asked where it was shipping the pills. Turns out they were going to the home address of the F&I manager who closed the customer about three months ago."

From 1,100 miles away, my mind's eye could see the CFO gulp hard.

"What should we do?" he concluded.

"Well, the first thing you need to do is refund the money the woman lost," I advised. "And saying 'the check is in the mail' won't do. I want you, Mr. CFO, and the general manager of the offending store, to personally drive the check to this woman's home and personally apologize.

"On the way to her home," I continued, "I want you to pick up the largest fruit basket known to man and a gift certificate to the fanciest restaurant in Oshkosh, Wis., so she can enjoy a nice dinner with her husband and think nice thoughts about your dealership. Finally, ask her if there is anything else you can do to make her happy.

"And then," I concluded with a flourish, "call the cops and have your F&I manager taken away in cuffs."

The next day, my phone rang again. After the opening pleasantries with the CFO, we cut to the chase.

"Did you drive out a refund check immediately?"

"Yes."

"Did you present her with a fruit basket?"

"No," said the CFO. "We bought her a big flower arrangement instead."

I had to admit, that was a better idea. But I live in Florida, and by law I am required to give grapefruit as a kiss-and-make-up gift.

"Did you give her a gift certificate to the fanciest restaurant in Oshkosh?" (Turns out that's a Taco Bell).

"Actually, we gave her an American Express gift card for \$250," the CFO told me.

These guys are good.

"OK. Did she seem happy and satisfied when you left?"

"You bet!"

This leads us to the moral of the story: Only angry people sue. There is, in fact, a lawsuit formula, and it goes like this:

### INJURY + ANGER = LAWSUIT

We all make mistakes, and in the car business, even innocent mistakes can quickly develop into lawsuits. The way to reduce the risk of lawsuits is to take anger out of the equation. When a customer comes in with a complaint, that customer is usually angry. A good defense strategy begins at that moment. Acknowledge responsibility (or at least the significance of the injury) and do whatever is necessary to make things right — with a smile.

Does this cost money? Sure it does. But almost all customer anger can be eliminated for less money than it costs to win a lawsuit, and far, far less than it costs to lose a lawsuit. And by eliminating anger, you both eliminate plaintiffs and create customers for life. ■

.....  
*Jim Ganther, Esq., is vice president and general counsel for Continental-National Services Corp. in Tampa, Fla. He is a frequent lecturer on legal issues affecting auto dealers and is co-author of the FTC Safeguards Rule Compliance Kit.*