



C R A N F I L L S U M N E R & H A R T Z O G L L P

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APPLICABILITY OF PROFESSIONAL SERVICES EXEMPTIONS UNDER STATE CONSUMER PROTECTION STATUTES

I. History of Professional Services Exemptions

A number of state legislaturesⁱ and courtsⁱⁱ exclude professional services as beyond the reach of consumer protection statutes. The rationales vary from state to state, but the crux of it is that true professional services are not commercial in nature, and they therefore fall outside the purview of “trade and commerce”. Further, professionals employ specialized knowledge and skill in rendering their services, which is often not considered to be the proper subject of oversight for the court, but is better addressed by specific regulatory bodies with an intimate understanding of the profession. “Consumers” of professional services are protected by enforcement of regulations by these agencies or government bodies, and application of state consumer protection statutes to professionals therefore opens the possibility of inconsistent results and inconsistent application of rules and regulations.

Medical practitioners, clergy and attorneys are typically regarded as professionals without much debate. However there is growing support for exempting other “professional services” under the same rationale. Professional services exemptions are created either through legislative action or through rulings by state courts construing and applying consumer protection statutes. The statutes and decisions run the gamut from exempting no professionalsⁱⁱⁱ to specifically exempting the professional services of certified public accountants, architects, clergymen, professional engineers, lawyers, veterinarians, insurance companies, insurance producers, Christian Science practitioners, land surveyors, property line surveyors, chiropractors, optometrists, physical therapists, podiatrists, real estate brokers and salespeople and medical or dental practitioners.^{iv} Court opinions express varying rationales as to why certain exemptions are outside the reach of consumer protection laws. Due to the unsettled nature of professional services exemption case law, practitioners should seize this opportunity to hone in on favorable case law that will support extending professional services exemptions to professions that are not as clearly regarded as “professionals.”

II. Express Statutory Exemptions^v

A minority of the state consumer protection acts contain express statutory exemptions for professional services either through identification of specific, enumerated professions or by exempting “learned professions,” with no defining or explanatory language.

Statutes exempting specific, enumerated professions

Several state legislatures and the District of Columbia have drafted their consumer protection acts with professional services exemptions for specific, enumerated professions.^{vi} Maryland and Ohio have the broadest statutes, exempting nearly every profession that could be considered “learned.”^{vii} While Florida, Virginia and Wisconsin only exempt licensed real estate professionals.^{viii} In these states, it will be difficult to extend application of the professional services exemption to non-enumerated professions, because legislatures expressly declined to include them.^{ix}

Statutory exemptions with no defining or explanatory language

In North Carolina and Texas, the legislatures opted to exempt professional services rendered “by a member of a learned profession”^x and providing advice or professional skill,^{xi} respectively. Thus, it is left to the courts to construe the meaning of the statute and to apply the exemptions accordingly.

In addition to the practice of medicine, law^{xii}, and theology – professions the courts have traditionally considered “learned” – courts have expanded the learned profession exemption under this Act to include such professionals as architects,^{xiii} chemical dependency treatment facility operators,^{xiv} residential home inspectors^{xv} and a professional arborist.^{xvi} In other contexts, the North Carolina Court of Appeals defined “professional services” as “an act or service arising out of a vocation, calling, occupation, or employment involving specialized knowledge, labor, or skill, and the labor [or] skill involved is predominantly mental or intellectual, rather than physical or manual.”^{xvii}

By analogy, these “learned profession” exemptions should extend to other professionals such as engineers, appraisers, real estate agents, accountants and engineers, all professions the practice of which involves specialized knowledge and intellectual skills. Further, these professions are subject to the scrutiny of regulatory bodies and regulatory schemes including licensing, certifications, examination, continuing education, ethical codes, promulgation of standards and discipline, similar to that of attorneys, physicians and others to whom courts have extended the exemption.

III. Exemptions Created by Case Law^{xviii}

Exempting “professional services” regulated by other governmental bodies

A growing number of state courts have fashioned exemptions where professions are otherwise regulated by governmental bodies, based on the rationale that the regulation of professional services by a separate and developed specialized body of law on malpractice and other professional regulations obviates the need for consumer fraud acts to impose additional regulations, and attempted regulation by the courts via consumer protection acts may encroach on the authority of the regulatory body and lead to inconsistent enforcement and results.^{xix} In states such as New Hampshire, there is good occasion to push for extension of the exemption to professionals other than lawyers. The New Hampshire Supreme Court in *Rousseau v. Eshleman*^{xx}, exempted legal services from the reach of the act, stating that “disciplinary measures exercised [by the New Hampshire Supreme Court against attorneys] protect the public as effectively from deceptive or unfair actions in the marketplace as would double or treble damages under [the act].” The Court went on to say in dicta that based upon the same rationale, “[p]resumably, physicians would be considered exempt from the act . . .”^{xxi} By analogy, other regulated professionals should have the benefit of the same exemption, thereby reducing the chance of inconsistent results and overstepping between courts and regulatory agencies, and in the interest of judicial economy.

A few state consumer protection statutes expressly exempt conduct that is subject to regulation by regulatory boards. Some of those exemptions apply “only where the business is both regulated elsewhere *and* the unfair acts and practices are therein prohibited.”^{xxii} The rationale is that consumers are already protected by the authority and discipline imposed by regulatory boards. In these states, the exemption will simply apply where conduct of the profession is regulated elsewhere.

Professional services are not “trade or commerce”, except when professionals are engaging in “entrepreneurial” enterprise

A growing majority of jurisdictions have taken the position that some professional services may be governed by their consumer fraud acts. More often than not the courts draw a distinction between the commercial or entrepreneurial aspects of the profession and the “pure” practice of the profession, which relates to the actual competence of the professional and is therefore beyond the realm of “trade or

commerce.” While recognizing that claims which allege negligence or professional malpractice are exempt from their consumer protection laws, these states carve out an exception for the “entrepreneurial aspects” of the practice of the profession.^{xxiii}

For example, in Washington, courts have held that claims of professional negligence do not fall under the states’ consumer protection laws because the provision of professional services do not fit the definition of “trade or commerce.”^{xxiv} Citing the reasoning of the Washington Supreme Court, the Washington Court of Appeals in *Quimby v. Fine*,^{xxv} extended the exemption to medical professionals, saying: “[w]e see no basis to distinguish the legal practice from the medical practice. Therefore the [plaintiff’s medical] negligence claim paralleling legal negligence . . . is not under the Consumer Protection Act because it relates to the actual competence of the medical practitioner.” Washington Courts have gone on to extend this exemption to the professional services of a home appraiser, reasoning that like the “term ‘trade’ as used by [the act] only includes the entrepreneurial or commercial aspects of professional services, not the substantive quality of services provided.”^{xxvi} Accordingly, practitioners should utilize this case law and similar reasoning of other courts as a basis for extending application of the exemption to other professional services, such as engineering, architecture, veterinary practice and the like. Outside the context of the business aspects of these professions, there is no basis for distinguishing the provision of veterinary services, for example, from the provision of legal services. A challenge to the competence of a learned professional in the provision of his or her services is simply outside of the realm of consumer protection, and therefore, all learned professionals should be excluded from application of these acts.

ⁱ DC ST § 28-3903 (clergymen, lawyers, and Christian Science practitioners); Fla. Stat. Ann. § 501.201 to .213 (does not apply to an act or practice involving the sale, lease, rental, or appraisal of real estate by a person licensed, certified or registered); Kan. Stat. Ann. §§ 50-623 to -643 (licensed health care providers); MD Code, Commercial Law, § 13-104 (certified public accountant, architect, clergyman, professional engineer, lawyer, veterinarian, insurance company authorized to do business in the State, insurance producer licensed by the State); N.C. Gen Stat. §§ 75-1.1 to -38 (N.C. Gen Stat. § 75-1.1(b) states that “commerce” includes all business activities, however denominated, but does not include professional services rendered by a member of a learned profession.); Ohio Rev. Code Ann. §§ 1345.01 to .13 (certified public accountants, public accountants, attorneys, physicians, or dentists and veterinarians); Tex. Bus. & Com. Code Ann. §§ 17.41 to .63 (“Nothing in this subchapter shall apply to a claim for damages based on the rendering of a professional service, the essence of which is the providing of advice, judgment, opinion, or similar professional skill.” Id. at § 17.49c); Va. Code Ann. §§ 59.1-196 to -207 (providing that real estate licensees licensed under Chapter 21 of Title 54.1 are exempt); Wis. Stat. Ann. § 100.18 (exempting licensed real estate broker and salespersons without knowledge of falsity. *i.d.* at § 100.18(12)(b)).

ⁱⁱ See generally, *Preston v. Stoops*, 285 S.W.3d 606, 609 (Ark.2008) (“Oversight and control of the practice of law is under the exclusive authority of the judiciary.”); *Beverly hills concepts, Inc. v. Schatz & Schatz, Ribicoff & Kotkin*, 717 A.2d 724, 740 (Conn. 1998) (entrepreneurial aspects of the practice of law are covered by the CUTPA, claims of professional negligence do not fall under the CUTPA); *Suffield Development Associates Ltd. Partnership v. National Loan Investors, L.P.*, 802 A.2d 44 (Conn. 2002); *Haynes v. Yale-New Haven Hospital*, 243 Conn. 17, 34 (1997) (“Although physicians and other health care provider are subject to CUTPA, only the entrepreneurial or commercial aspects of the profession are covered by CUTPA.”); *Vanczak v Romani*, 2002 WL 31466438, 2 (Conn.Super.2002) (applying the exemption to accountants); *Dorn v. McTigue*, 157 F. Supp. 2d 37, 48 (D.D.C. 2001) (“To separate [consumer protection] claims from standard malpractice claim, [the] court distinguish[es] ‘conduct within [sic] the entrepreneurial, commercial, or business aspect of a physician’s practice’ from the ‘actual practice of medicine.’” (quoting *Nelson v. Ho*, 564 N.W.2d 482, 486 (Mich. Ct. app. 1997))); *Couffield v. Stark*, 893 A. 2.d 970(D.C. 2006); *Gadson v. Newman*, 807 F. Supp. 1412, 1417 (C.D. Ill. 1992) (“The medical and legal professions are afforded immunity from the Consumer Fraud Act primarily, because, unlike other commercial services, medical and legal bodies [sic] are regulated by government bodies.”); *Tkacz v. Weiner*, 858 N.E.2d 514 (Ill.App.1.Dist. 2006) (dentistry not subject to the Act); *Simmons v. Stephenson*, 84 S.W.3d 926, 927-28 (Ky.app.2002) (Claims of medical malpractice may not be brought under consumer protection statute because the actual practice of medicine does not affect trade or commerce and allegations did not relate to the entrepreneurial or business aspects of the doctor’s practice); *Tetrault v. Mahoney, Hawkes & Goldings*, 425 Mass. 456, 681 N.E.2d 1189, 1195 (1997) (attorneys were not engaged in “trade or commerce” subject to consumer protection act); *Darviris v Petros*, 442 Mass. 274, 278, 812 N.E.2d 1188, 1193 (Mass.2004) (“No less than a claim of legal malpractice, a claim for the negligent delivery of medical care, without more, does not qualify for redress under our consumer protection statute.”); *Comer Family Equity v. Thomas & Jensen P.C.*, No. 186676, 1997 Mich. App. LEXIS 2949, at *9 (Mich. Ct. App. Apr. 25, 1997) (“We adopt this Court’s holding in *Nelson* as our own, and apply it to the practice of law . . .” (citing *Nelson v. Ho*, 222 Mich. App. 74, 564 N.W.2d 482 (1997) (holding that claims alleging medical malpractice

were precluded from coverage under the state Consumer Protection Act)); *Rousseau v. Eshleman*, 519 A.2d 243, 245 (N.H. 1986) (“[A]bsent careful legislative consideration and a clearly expressed legislative intent” attorneys are exempt from the New Hampshire Consumer Protection Act.); *Averill v. Cox*, 761 A.2d 1083, 1089 (N.H. 2000) (“[D]isciplinary measures exercised [by the New Hampshire Supreme Court against attorneys] protect the public as effectively from deceptive or unfair actions in the marketplace as would double or treble damages under [the New Hampshire Consumer Protection] Act.”); *Macedo v. Dello Russo*, 840 A.2d 238, 242 (N.J. 2004). (applying the exemption to physicians, “learned professionals [are] beyond the reach of the Act so long as they are operating in their professional capacities.”); *Vort v. Hollander*, 607 A.2d 1339 N. J. Super. (1992)(Act held inapplicable to attorneys); *Finderne Management Co., Inc. v. Barrett*, 955 A.2d 940 (N.J.Super.App. 2008)(Insurance agent and accountant who acted as financial planners were not protected from suit under the Consumer Fraud Act (CFA) by the learned professionals exception; acts of financial planning went beyond profession as an accountant or insurance agent, and, although competing voluntary associations issued designations to those who sought to be called financial planners, no governmental board of agency regulated or set uniform minimum education or training criteria); *Plemmons v. Blue Chip Ins. Services, Inc.*, 904 A.2d 825 (N.J.Super.App. 2006)(Insurance brokers are semi-professionals who are excluded from liability under the Consumer Fraud Act (CFA) for the services they render within the scope of their professional licenses); *Estate of Hicks v. Urban East, Inc.*, 92 P.3d 88, 94-95 (Okla. 2004) (“[T]he provision of care and medical services by nursing homes is regulated under laws administered by the Oklahoma Department of Health . . . , and as such falls within the exemption to the Consumer Protection Act . . . § 754(2).”); *Gatten v. Merzi*, 579 A.2d 974, 976 (Pa. Super. Ct. 1990) (“[E]ven though the Act does not exclude services performed by physicians, it is clear that the Act is intended to prohibit unlawful practices relating to trade or commerce and of the type associated with business enterprises.”); *Beyers v. Richmond*, 594 Pa. 654, 668, 937 A.2d 1082, 1091 (Pa.2007)(concluding that application of the act to regulate the conduct of attorneys would be an impermissible encroachment upon the power of this Court and analogizing to the reasoning of the Court in *Gatten* in excluding application of the Act to physicians); *Constant v. Wyeth, Inc.*, 352 F. Supp. 2d 847, 853-54 (M.D. Tenn. 2003) (“[M]edical malpractice claims may not be recast as consumer protection act claims.”); *Proctor v. Chattanooga Orthopaedic Group, P.C.*, 270 S.W.3d 56 (Tenn.App.2008); *Kessler v. Loftus*, 994 F.Supp. 240, 242-43 (D.Vt.1997) (claim based upon lawyer’s professional judgment not actionable under consumer fraud act; commercial, entrepreneurial aspects of the practice of law include advertising, billing and collection practices, fee arrangements, and methods of obtaining, retaining and dismissing clients); *Ott v. Baker*, 53 Va. Cir. 113, 115 (Va.Cir.Ct.2000) (“It is clear that health care and abortions fall within the exclusion set forth in [the Virginia Consumer Protection Act], § 59.1-199.”); *Quimby v. Fine*, 724 P.2d 403, 406 (Wa. Ct. App. 1986)(“We see no basis to distinguish the legal practice from the medical practice. Therefore the [plaintiff’s medical] negligence claim paralleling legal negligence . . . is not under the Consumer Protection Act because it relates to the actual competence of the medical practitioner.”); *Wright v. Jeckle*, 16 P.3d 1268 (Wash.App.2001)(holding that the entrepreneurial aspects do not include a doctor’s skills in examining, diagnosing, treating, or caring for a patient); *Ramos v. Arnold*, 169 P.3d 482, 486 (Wash.App. Div. 1, 2007)(exempting the professional services of a home appraiser).
But see Franco v. Mediplex Construction, Inc., 1999 WL 185179 (Conn. Super.)(declining to extend the exemption to architects); *Pillock v. Panjabii*, 781 A.2d 518 (Conn. Super. 2000)(declining to extend the exemption to spinal biomechanics or kinesiology experts); *Menuskin v. Williams*, 940 F.Supp. 1199 (E.D.Tenn.1996), appeal dismissed 98 F.3d 1342, affirmed in part, reversed in part 145 F.3d 755 (holding that real estate professionals are not exempt).

ⁱⁱⁱ Alabama; Alaska; Arizona; California; Colorado; Hawaii; Idaho; Indiana; Iowa; Louisiana; Maine; Minnesota; Mississippi; Missouri; Montana; Nebraska; Nevada; New Mexico; New York; North Dakota; Oregon; Rhode Island; South Carolina; South Dakota; Utah; West Virginia; Wyoming

^{iv} MD Code, Commercial Law, § 13-104.

^v *Supra* note i.

^{vi} *Supra* note i.

^{vii} MD Code, Commercial Law, § 13-104 expressly exempts accountants, architects, clergymen, engineers, attorneys, veterinarians, insurance companies/ producers, Christian science practitioners, land surveyors, property land surveyors, chiropractors, optometrists, physical therapists, podiatrists, real estate brokers/ salespersons and medical or dental practitioners. Ohio Rev. Code Ann. § 1345.01(A) exempts accountants, attorneys, physicians, dentists, veterinarians and chiropractors.

^{viii} Fla. Stat. Ann. § 501.212 provides that [the act] “does not apply to . . . [a]n act or practice involving the sale, lease, rental, or appraisal of real estate by a person licensed”; Va. Code Ann. §59.1-199(F) provides that real estate licensees are exempt; Wis. Stat. Ann. § 100.18(12)(b) exempts licensed real estate brokers and salespersons “without knowledge of falsity.”

^{ix} It is noted that in some states with enumerated exemptions, the courts have created additional exemptions not enumerated in the statute. These exemptions are based on a different rationale than that set forth in the statute, for example in Illinois, attorneys and medical professionals are exempt because their conduct is regulated elsewhere. *See Gadson v. Newman*, 807 F.Supp. 1412, 1417 (C.D.Ill.1992) (“medical and legal professions are afforded immunity from the Consumer Fraud Act primarily, because, unlike other commercial services, medical and legal bodies are regulated by governmental bodies”); *Lyne v. Arthur Andersen & Co.*, 772 F.Supp. 1064, 1068 (N.D.Ill.1991) (legal profession not subject to consumer fraud act because of governmental regulation of the legal profession).

^x “[This section] does not include professional services rendered by a member of a learned profession.” N.C. Gen Stat. §§ 75-1.1 to -38; *Id.* at § 75-1.1(b).

^{xi} "Nothing in this subchapter shall apply to a claim for damages based on the rendering of a professional service, the essence of which is the providing of advice, judgment, opinion, or similar professional skill." Tex. Bus. & Com. Code Ann. § 17.49(c).

^{xii} Note that Tex. Bus. & Com.Code Ann. § 17.41, *et. seq.* expressly applies to lawyers but limits the acts under which they can be sued, excluding anything that can be characterized as advice, judgment, or opinion. See *Streber v. Hunter*, 221 F.3d 701 (5th Cir. Texas 2000), *rehearing and suggestion for rehearing en banc denied* 233 F.3d 576.

^{xiii} *RCDI Construction Inc. v. Spaceplan*, 148 F. Supp. 2d 607, 618 (W.D.N.C. 2001).

^{xiv} *Abram v. Charter Medical Corp. of Raleigh*, 398 S.E.2d 331 (N.C.App.1990).

^{xv} *Head v. U.S. Inspect DFW, Inc.*, 159 S.W.3d 731 (Tex. App. Fort Worth 2005).

^{xvi} *Tyler v. F.A. Bartlett Tree Expert Co.*, 2006 WL 2349418 (W.D. Tex. 2006).

^{xvii} *Taylor v. Vencor, Inc.*, 136 N.C. App. 528, 530, 525 S.E.2d 201, 203 (2000).

^{xviii} *Supra* note ii.

^{xix} See, e.g., *Gadson v. Newman*, 807 F.Supp. 1412, 1417 (C.D.Ill.1992) ("medical and legal professions are afforded immunity from the Consumer Fraud Act primarily, because, unlike other commercial services, medical and legal bodies are regulated by governmental bodies"); *Lyne v. Arthur Andersen & Co.*, 772 F.Supp. 1064, 1068 (N.D.Ill.1991) (legal profession not subject to consumer fraud act because of governmental regulation of the legal profession); *Rousseau v. Eshleman*, 128 N.H. 564, 519 A.2d 243, 245 (1986) (professional conduct committee of the Supreme Court is "a regulatory board acting under statutory (and constitutional) authority of this State").

^{xx} 519 A.2d 243, 245 (N.H. 1986).

^{xxi} *Id.* at 245.

^{xxii} *State v. O'Neill Investigations, Inc.*, 609 P.2d 520, 528 (Alaska 1980) (emphasis in original). A search to determine whether Alaska courts have ever extended this exemption to professional services revealed no published cases.

^{xxiii} See, e.g., *Beverly Hills Concepts, Inc. v. Schatz & Schatz, Ribicoff & Kotkin*, 717 A.2d 724, 740 (Conn. 1998) (entrepreneurial aspects of the practice of law are covered by the CUPTA, claims of professional negligence do not fall under the CUPTA); *Reed v. Allison & Perrone*, 376 So. 2d 1067, 1068 (La. Ct. App. 1979) (advertising of legal services is trade or commerce subject to the provisions of the UTPCPL); *Guenard v. Burke*, 443 N.E. 2d 892, 896 (Mass. 1982) (an attorney's use of contingency fee agreements rendered unlawful under state statute may constitute an "unfair or deceptive act or practice"); *Kessler v. Loftus*, 994 F. Supp. 240, 243 (D. Vt. 1997) (commercial, entrepreneurial aspects of the practice of law include advertising, billing and collection practices, fee arrangements, and methods of obtaining, retaining and dismissing clients); *Eriks v. Denver*, 824 P.2d 1207, 1214 (Wash. 1992) (legal services do not generally fall within the definition of "trade or commerce", except as those services relate to the "entrepreneurial aspects" of the practice of law); *Short v. Demopolis*, 691 P.2d 163 (Wash.Supr.1984); *Haynes v. Yale-New Haven Hospital*, 243 Conn. 17, 34 (1997)("Although physicians and other health care providers are subject to CUTPA, only the entrepreneurial or commercial aspects of the profession are covered, just as only the entrepreneurial aspects of the practice of law are covered."); *Ivey v. Indian Harbor Properties, Inc.*, 461 A.2d 1369 (Conn.Supr.1983); *Heslin v. Connecticut Law Clinic*, 461 A.2d 938 (Conn Supr.1983); *Matthews v. Berryman*, 637 P.2d 822 (Mont.Supr.1981).

^{xxiv} With regard to legal and medical professionals, Connecticut courts have consistently held that only the commercial and entrepreneurial aspects of the practice are subject to [the act]. See *Suffield Development Associates Ltd. Partnership v. National Loan Investors, L.P.*, 802 A.2d 44 (Conn. 2002); *Beverly Hills Concepts, Inc. v. Schatz & Schatz, Ribicoff & Kotkin*, 717 A.2d 724, 740 (Conn.1998); *Haynes v. Yale-New Haven Hospital*, 699 A.2d 964 (1997). Yet there seems to be an ongoing debate in Connecticut trial courts as to whether professionals other than doctors and lawyers are entitled to the same treatment under the act. Several trial courts have applied the exemption to accountants. See *Vanczak v. Romani*, 2002 WL 31466438, 2(Conn.Super.2002)("the same limited exemption from CUTPA that applies to the practices of law and medicine should apply to the practice of accounting that is, only claims arising out of the commercial or entrepreneurial aspects of accounting should fall under CUTPA."); *The Advest Group, Inc. v. Arthur Andersen, LLP*, 1998 WL 457697 (Conn.Super.)("it is logical to extend the reasoning in *Haynes* to accounting malpractice claims. Accounting, like law and medicine, is a learned profession that is not interchangeable with other commercial endeavors"). But Connecticut trial courts have declined to extend the exemption to architects. *Franco v. Mediplex Construction, Inc.*, 1999 WL 185179 (Conn. Super.) or spinal biomechanics or kinesiology experts. *Pollock v. Panjabii*, 781 A.2d 518 (Conn. Super. 2000); Wash. Rev. Code §§ 19.86.010 to 19.86.920. As to the professional services of attorneys and physicians, see *Quimby v. Fine*, 724 P.2d 403, 406 (Wa. Ct. App. 1986). "We see no basis to distinguish the legal practice from the medical practice. Therefore the [plaintiff's medical] negligence claim paralleling legal negligence . . . is not under the Consumer Protection Act because it relates to the actual competence of the medical practitioner." *Id.* at 180-181.(citing *Short v. Demopolous*, 691 P.2d 163 (Wash.Supr.1984)). See also *Wright v. Jeckle*, 16 P.3d 1268 (Wash.App.2001)(holding that the entrepreneurial aspects do not include a doctor's skills in examining, diagnosing, treating, or caring for a patient). The Washington Supreme Court has expressly held that Washington law does not allow claims against attorneys under the CPA, and specifically does not allow claims directed at an attorney's competency or strategy. *Short v. Demopolis*, 691 P.2d 163 (Wash.Supr.1984).; *Haberman v.*

Washington Public Power Supply System, 109 Wash.2d 107, 744 P.2d 1032 (1987); *Manteufel v. Safeco Ins. Co. of America*, 68 P.3d 1093, 1097 (Wash.App. Div. 2 2003). Washington Courts have extended this exemption to other professionals. See *Ramos v. Arnold*, 169 P.3d 482, 486 (Wash.App. Div. 1, 2007)(exempting the professional services of a home appraiser. "The term "trade" as used by the CPA only includes the entrepreneurial or commercial aspects of professional services, not the substantive quality of services provided. (citing *Haberman v. Washington Pub. Power Supply Sys.*, 109 Wash.2d 107, 169, 744 P.2d 1032 (1987))).

^{xxv} 724 P.2d 403, 406 (Wa. Ct. App. 1986)(citing *Short v. Demopolous*, 691 P.2d 163 (Wash.Supr.1984)).

^{xxvi} See *Ramos v. Arnold*, 169 P.3d 482, 486 (Wash.App. Div. 1, 2007)(citing *Haberman v. Washington Pub. Power Supply Sys.*, 109 Wash.2d 107, 169, 744 P.2d 1032 (1987)).