

AG Balderas a failure at protecting consumers

BY ROB TREINEN, KAREN J. MEYERS, RICHARD N. FEFERMAN, SUSAN WARREN, NICHOLAS MATTISON, DAVID HUMPHREYS, DAVID C. KRAMER AND JOSHUA BRADLEY
NEW MEXICO CONSUMER PROTECTION ATTORNEYS

The public needs to know the truth about Attorney General Hector Balderas. In his Aug. 15 guest column, Balderas uses distortions to distract from his record on consumer protection. The truth is Balderas has failed to protect New Mexico consumers.

We know. We are consumer protection attorneys — a small group in New Mexico — interested in seeing consumers receive robust protection. The attorney general by law has a mandate to secure this protection.



AG Hector Balderas

We have spent decades fighting for consumers, most of us starting in Legal Aid, continuing as private attorneys or in government. We fight for consumers through litigation, volunteer our time to educate consumers and advocate for fair laws that protect consumers.

Balderas started dismantling consumer protection as a priority as soon as he took office. Two examples show how Balderas has been bad for consumers.

Under the prior attorney general, the state obtained a judgment against Fastbucks, a predatory lender, which ultimately resulted in a \$32 million award for consumers. Balderas has squandered this

result. When Fastbucks appealed the judgment, Balderas agreed the company could pay a pittance into a fund held by his office rather than post the amount of the judgment in a bond, which is what the law requires unless other arrangements are made. In other words, Balderas agreed that the bond, which would have protected consumers and assured payment on the judgment if the appeal was unsuccessful, which it was, did not need to be paid by the company. Fastbucks then changed its name and organized a new company to protect itself. As a result, nothing has been paid to those New Mexicans who were cheated. Also, Balderas has not initiated any new enforcement actions against other predatory lenders.

A second example involves the Vivint Solar settlement that has lately been in the news. To his credit, Balderas identified Vivint Solar, a door-to-door seller of solar systems, as a business that New Mexicans needed protection from. But Balderas hired California attorneys to handle the litigation. The resulting settlement is a sell-out. In exchange for vague promises to change some of its practices, Vivint Solar paid just \$1.95 million. Of this amount, \$708,000 went to the attorneys and the rest to the attorney general. As part of the settlement agreed to by Balderas, nothing has been paid to the New Mexicans who suffered because of the predatory practices.

Adding insult to injury, Balderas allowed a protective order to be entered to hide key company documents from the public. Hiding these documents obstructs consumers from finishing the job that Balderas abandoned, which is getting a fair remedy.

Balderas suggests his hands were tied, stating state law prevented him from making public any investigative documents. The truth is the protective order also hid documents that came out in the litigation, after the initial investigation, which are not necessarily protected from disclosure. Balderas also fails to mention the attorney general did not oppose the protective order, effectively telling the judge it was okay for him to sign it. About the same time, Vivint Solar did not oppose, and Balderas approved, the motion filed by the out-of-state attorneys to be paid \$708,000. Consumers got nothing. Balderas failed to protect them again.