

**PRODUCTS LIABILITY AND SAFETY LAW**

**Fall 2009**

**Room 321**

**8:45 a.m. – 9:40 a.m.**

**Instructor: Jonann Chiles**  
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The textbook for the course is Owen, Montgomery & Davis, Products Liability and Safety: Cases and Materials (2007) (5<sup>th</sup> ed.), as well as the text's accompanying statutory supplement. Assignments are subject to revision depending upon our progress in class. Several of the assigned topics may require more than the one class noted.

The objective of this class is for you to understand the basic theories of liability in what is commonly referred to as "products liability law" and for you to understand the common concepts of defectiveness. Throughout the course you will be given practice pointers and exercises which are intended to tie theory to practice. I would like for you to leave this course with the ability to think strategically when presented with a products liability fact scenario.

Please sign the attendance sheet at the beginning of every class. Any student who misses more than 6 classes will not be allowed to take the final examination and will receive an "F" for the course grade. I reserve the right to lower your final grade in the event you are consistently unprepared or ill-prepared for class.

The exam will be open-book and will consist of short essay and multiple choice questions. The final exam grade will be your course grade, subject to being lowered as discussed above.

UALR accommodates students with disabilities pursuant to state and federal law. Any student with a disability who needs accommodation should discuss his or her needs with me at the beginning of the course. Students with disabilities also may contact Associate Dean for Academic Affairs Felicia Epps at 324.9438, or the Disability Resource Center, 103 Donaghey Student Center at 569.3143.

**Class**                      **Topic**                                      **Assignment**

**Chapter 1: An Introduction to Products Liability and Safety Law**

1 & 2                      Overview,  
Product Safety Law &  
Products Liability Law

## **PART I: THEORIES OF MANUFACTURER LIABILITY**

### **Chapter 2: Negligence**

3	Privity Obstacle Manufacturing: Fabrication and Quality Control	41-59
4	Design, Marketing, Warnings, Instructions	59-75

### **Chapter 3: Tortious Misrepresentation**

5	Fraud, Negligent Misrepresentation, Strict Liability	76-91
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### **Chapter 4: Warranty**

6	Express and Implied Warranties	91-114
7	Privity and Contractual Limitations	115-138
8	Contractual Limitations	138-151

### **Chapter 5: Strict Liability in Tort**

9	Development and Rationales	152-185
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### **Chapter 17: Special Types of Products and Transactions**

10	Leases and Bailments Services	757-776
11	Used Products Real Estate	776-788

## **PART II: THE CONCEPT OF DEFECTIVENESS**

### **Chapter 6: Manufacturing Defects**

12	Defect Tests Proof: In General and through Experts	187-214
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### **Chapter 7: Design Defects**

13	Consumer Expectation Test Restatement (Second) Torts Sec.402A	226-241
14	Risk-Utility Test Restatement (3d) of Products Liability, Sec.2(b) Alternative Tests	64-65, 241-275
15	Proof: In General and through Experts	275-299

### **Chapter 8: Warning Defects**

16	In General	300-317
17	Warning Methods Delegation of Warning Obligation	317-340

### **Chapter 9: Regulating Defectiveness**

18	Direct Agency Regulation	350-370
19	Effect of Regulation on Private Litigation (This may take more than one class)	370-396

### **Chapter 10: Limiting Defectiveness: User Choice**

20	Obvious Dangers Inherent Dangers	397-429
21	Misuse	436-449

### **Chapter 11: Limiting Defectiveness: Passage of Time**

22	Deterioration, Disposal and Destruction State of the Art: Durable Products, Toxics	SKIM 450-459 460-491
23	Post-Sale Duties Statutory Repose	498-514

## **PART III: CAUSATION**

### **Chapter 12: Cause in Fact**

24	General Principles	515-528
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25 Sufficiency of the Evidence 528-546

**Chapter 13: Proximate Cause**

26 Duty and Foreseeability Limitations on Liability 547-556

27 Intervening Causes 556-578

**PART IV: DEFENSES AND DAMAGES**

**Chapter 14: Defenses Based on Plaintiff's Conduct**

28 Contributory Negligence and Comparative Fault 579-598

29 Assumption of the Risk, Misuse 598-616

**Chapter 15: Damages**

30 Compensatory 617-634

31 Punitive 644-681

**PART V: SPECIAL TYPES OF DEFENDANTS, PRODUCTS AND TRANSACTIONS**

**Chapter 16: Special Types of Defendants**

32 Retailers, Wholesalers, Distributors  
Component Part Manufacturers 683-697

33 Parent and Apparent Manufacturers, Endorsers  
Successor Corporations, Employers 711-722  
723-731

34 Allocating Responsibility 731-745

**PART VI: SPECIAL TYPES OF LITIGATION**

**Chapter 19: Special Issues in Toxic Substance and Mass Tort Litigation**

35	Nature of Toxic Substance Litigation	863-885
36	Causation	905-928
37	Causation, cont'd.	929-943