

Products Liability – Spring 2017
Professor Zanita Fenton

LAW153 A/R (3 cr.)
W, F 11:00am-12:20pm

Room F108

Products Liability is an *advanced* tort course that will give you the opportunity to explore the basics of torts more in-depth, in complex contexts. I assume that enrolled students have a basic understanding of torts and will be able to synthesize these basics in learning the complexities of Products Liability and other relevant areas of law.

Course Materials

The required text for this course is Products Liability: Problems and Process (8th ed.) (ISBN: 978-1-4548-7086-9) by James A. Henderson, Jr., Aaron D. Twerski, and Douglas A. Kysar. Other material may also be distributed.

Class Assignments

We will proceed through the course material in the order indicated at on the attached schedule. For better understanding, you should read each unit as a whole. Whether or not each part of a class' reading is specifically discussed in class, you are responsible for understanding all materials assigned.

Class Structure and Participation

Class attendance and participation is mandatory. Students will be called on randomly in each class. Participation on one day will not shield you from participation on the next. Thus, all students are expected to be prepared to field questions, especially those concerning basic doctrine and "black letter" applications. In addition, students should focus on understanding the broader theoretical implications and policy issues underlying the "black letter" applications. You should expect to field questions more than once during the semester.

You should view class participation as an important part of your learning experience. Class is your opportunity to experiment with the materials before you are evaluated on them. Volunteered answers in class are always welcome. Please note, participation does not mean your questions must always be dazzling or that your answers must be erudite; well-reasoned answers are required only on the written examinations. However, the choice of whether or for how long someone may speak in class is in my sole discretion.

If you miss class for any reason, you must discuss your absence with me. You must not miss more than three classes for any reason. Barring extenuating circumstances, refusal to comport with these requirements may be harmful to your final grade. I retain the option of lowering your grade by as much as a half grade (no more) for poor class attendance or participation. I also have the option of raising your grade by as much as a half grade (no more) for excellent participation. In extreme cases, you may be removed from the course.

Religious Holy Days

The University of Miami, although a secular institution, is determined to accommodate those

students who wish to observe religious holy days. Classes missed due to observances of religious holy days will count as excused absences *only if* you provide written notice of your intended absence(s) to me no later than the end of the first three meetings of our class.

Use of Personal Technology in the Classroom

You are best served during class period if you focus on class discussions and lectures. Furthermore, the classroom environment must support learning for all students; technological devices may be distracting to individuals in the class and thus undermine that goal. Accordingly, in addition to other professional conduct and the corresponding courtesies, please refrain from text messaging; instant messaging; e-mail use; use of cell phones (disable them in class); or any other communication devices. Also refrain from displaying wallpaper, screen savers, or other material on your laptop screen reasonably expected to offend or distract your classmates. It should also be understood that games (electronic or otherwise) are inappropriate for the classroom. I will sanction any student who interferes with the general learning environment in the class. Such sanctions may include, but are not limited to, the loss of the privilege to use a laptop in my class, individually or collectively.

Examinations and Grades

There will be a final examination at the end of the course. It will be composed substantially (if not exclusively) of essay questions.

Office of Disability Services

If you have a disability, or suspect that you may have a disability, the Law School encourages you to contact Iris Morera, Coordinator, Office of Disability Services for information about available opportunities, resources, and services. Her phone number is 305-284-9907, and her email address is imorera@law.miami.edu. You may also visit the Office of Disability Services website at www.law.miami.edu/disability-services.

Office Hours:

by appointment

You are encouraged to ask basic questions via e-mail.

I keep my own calendar. You should e-mail me to find a mutually available time to meet. The time immediately following class generally is available on an open basis.

Contact Information

Rm: G374.

Phone: (305) 284-4275

E-Mail: zfenton@law.miami.edu

Homepage: <http://faculty.law.miami.edu/zfenton/ProductsLiability.htm>

Syllabus — Products

Wed., Jan. 18	The Basics — Res Ipsa, Warranty, Restatements p.1-21
Fri., Jan. 20	Defects p. 22-33
Wed., Jan. 25	What is a Product? p. 33-52
Fri., Jan. 27	p. 419-428 (components); 458-459 (used products); 470-474 (food)
Wed., Feb. 1	Allocating Responsibility p. 52-83

The Third DCA is visiting campus on **Friday, February 3, 2017**. Oral arguments are from 9 to 12:30pm. To ensure your opportunity to attend, Products class is scheduled for **2-3:20**.

Fri., Feb. 3	Causation p. 85-109
Wed., Feb. 8	p. 109-122
Fri., Feb. 10	Defenses p. 123-154
Wed., Feb. 15	Design Defects/Generic Product Flaws Risk-Utility: Standards p.157-187.
Wed., Feb. 17	p.187-210
Fri., Feb. 22	Risk-Utility: Liability p. 210-234
Wed., Feb. 24	Consumer Expectations p.234-252
Fri., Mar. 1	Two-Prong p. 252-270
Wed., Mar. 3	More Design p. 270-294

Fri., Mar. 8 Warning Defects
p.309-322

Wed., Mar. 10 p. 322-343

Fri., Mar. 22 p. 343-365

March 13-17 Spring Break

Wed., Mar. 24 Causation issues for Warning Defects
p.365-377

Fri., Mar. 29 Prescription and Medical
p. 428-444

Wed., Mar. 31 p. 444-458

Fri., Apr. 5 Express Warranty
p. 391-404;

Fri., Apr. 7 Class Canceled

Wed., Apr. 12 p. 404-416

Fri., Apr 14 Recovery
p. 475-494

Wed., Apr. 19 p.494-505

Fri., Apr. 21 **Review** (last day of class)