

Law 285.4 (Mermin)  
Fall 2018  
Tue. 6:25 – 9:05 (Room 141)

## The Law of Consumer Protection

### Syllabus 1.0

(Syllabus is subject to change at any time without notice to consumer.)

#### Class 1 – August 21

**Introduction to Consumer Protection Law.** The Museum of Fraud.

*Build-your-own syllabus.*

#### Class 2 – August 28

**History of American Consumer Protection Law and The Reasonable Consumer.**

From the Revolutionary Era to Globalization and the modern age. *Printer's Ink* statutes, the FTC Act, and the development of the contemporary law of deceptive advertising. Exploration and application of standards for deceptive advertising, including a return visit to the Museum of Fraud (with laws in hand).

#### Class 3 – September 4

**The First Amendment and Consumer Protection I**

*Restrictions on Commercial Speech.* The First Amendment in the marketplace: history, definitions, standards, directions. A new *Lochner* Era?

Visit from Dean Rowan, head research librarian: resources for research projects

#### Class 4 – September 11

**The First Amendment and Consumer Protection II**

*Compelled commercial speech.* Disclosures and warnings. Government speech and its limits. Commercial speech and food, beverage and tobacco marketing.

Prompt for first paper distributed in class. Optional first paper rough draft due September 18 (feedback to be returned by Monday, September 24)

#### September 18 – NO CLASS

Class 5 – FRIDAY, Sept. 21, 1:25 – 4:05; meet at **Berkeley Honda**, 2777 Shattuck (at Ward)

**Auto Sales, Financing, and Repossession.**

*Site Visit.*

The law undergirding the purchase, financing and maintenance of the most expensive item of non-real property most people ever buy. An examination of an industry often considered curiously immune to consumer protection laws.

Class 6 – September 25

**Credit Cards and Debt Collection.**

*Spotlight – Legislation: How consumer protection laws are made.*

The problem: predatory credit card lending and a financial crisis. The solution: the CARD Act; state and federal Fair Debt Collection Practices Acts; and the riveting tale of California's SB233, the Fair Debt Buying Practices Act (brought to you by EBCLC/Berkeley Law).

**FIRST PAPER DUE (5:59 p.m. Friday, September 28)**

Class 7 – October 2

**Small-Dollar Lending: Payday Loans, CashCall, & the Truth in Lending Act. Not to mention FinTech.**

*Spotlight on (1) immigrant populations and (2) grassroots organizing.*

The question of credit-for-all; the CFPB payday rule; organizing and running a grassroots coalition; targeting particular populations; discrimination by algorithm.

**List of preliminary potential topics for second paper due today.**

Class 8 – October 9

**Student Loans and For-Profit Higher Education (Special guest: Suzanne Martindale)**

*Spotlight on: rulemaking by regulatory agencies.*

The second-largest debt market in the United States (after home mortgages), a source of daily headlines, and an issue that hits awfully close to home for law students. The Gainful Employment Rule, the Borrower Defense Rule, state and federal loan servicing laws, the Corinthian debacle, the Student Loan Borrower Bill of Rights.

**Second paper: A paragraph summarizing your basic topic idea is due in class today**

Class 9 – October 16

**The Home: Mortgages, Homeownership... and Rentals. (Special guests: EBCLC/HERA)**

*Spotlight on (1) racial justice and (2) the CFPB.*

The most basic and one of the most fraught commercial transactions in our lives – for shelter. Ownership: The Mortgage/Foreclosure Crisis, HOEPA/RESPA, CFPB rulemaking, Fair Housing Act, the Homeowner's Bill of Rights. And rental: security deposits, lease terms, Phil's Bill, Costa-Hawkins.

**Second paper: Informal outlines (any reasonable form you choose), including The Question Your Paper Will Answer, are due Sunday, Oct. 14, at 5:00 p.m.**

Class 10 – October 23

**Product Liability, the CLRA, and Class Actions. (Special guest: Elizabeth Cabraser)**

Professor Warren's exploding toaster was a metaphor – but what happens when an actual line of appliances actually catch fire, or moldy dry wall is making residents sick, or medical devices meant to heal instead leave patients incapacitated?

Second paper: Formal outlines (I., A., 1., a., i., etc....) due Sunday, October 21, at 5:00 p.m.

Class 11 – October 30

**Privacy, the Telephone Consumer Protection Act (TCPA), Data Breaches, Robocalls....**

*Spotlight on cy pres.*

The California Privacy Act, the new federal credit freeze law, the Equifax affair, this Term's *Frank v. Gaos* (US) case on *cy pres*....

Second paper: Early submission date for rough draft of second paper: Oct. 28, (encouraged, not required).

Class 12 – FRIDAY, November 2 (MAKEUP CLASS)

**Healthcare: Pharmaceuticals & Medical Devices, Hospitals, Health Insurance, Physician Licensing, and Healthcare Privacy.**

Second paper: Complete first draft due Sunday, Nov. 4, at 5:00 p.m. (except by special arrangement with The Mgmt.)

Class 13 – November 6

**Presentations of second papers.** (First full set.) (NOTE: Class may run late in order to give all a chance to present their research.)

Class 14 – November 13

**Presentation of second papers.** (Second full set.) (NOTE: Class may run late in order to give all a chance to present their research.) Evaluations.

No class Thanksgiving Week

RESEARCH PROJECTS DUE at 11:59 p.m. on Wednesday, November 28 or – by special arrangement with The Mgmt – Thursday, December 13.