

UNIVERSITY OF SOUTH CAROLINA
SCHOOL OF LAW

CONSUMER LAW - LAWS 618
FALL 2024

PROFESSOR DAVE MAXFIELD

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SYLLABUS

CLASS CREDIT HOURS:

This course accounts for 3 credit hours. Class meets on Mondays and Wednesdays, 9:10 am – 10:30 am in **Room 131**

COURSE DESCRIPTION:

Consumer Law has come nearly full circle in the last 50 years. We've moved from the practical and legal philosophy of *caveat emptor*, or "buyer beware," to the introduction in the 1960's of federal and state statutory protections for consumers and returning lately to a climate where contractual waivers of those very same statutory protections, the introduction of forced arbitration clauses, and less regulation are packaged as "pro-business reforms." We've also seen, as recently as 2008, numerous new protections (and an agency, the CFPB) that came under attack almost immediately after its inception. Finally, there's also an emerging trend in the federal system to require showing of actual harm even where violations of federal statutes are clear-cut.

This course is designed to introduce you to the law governing consumer protection, including the most important and useful federal laws, state statutes, and common-law remedies. **I have 3 big goals for you in this class:**

1. For you to learn the statutes, cases, and remedies related to consumer protection, as well as the history of consumer law in the United States.
2. For you to have the skills necessary to spot consumer law issues, and research and solve consumer law problems for clients.
3. For you to be able to **protect yourself**, as you move into the world of car-buying, credit scores, and mortgages.

COURSE METHODOLOGY:

Classes include these parts (which may or may not proceed in this order):

- Lecture, presentation, or media relating to topics from assigned reading*
- Class discussion of problems, cases or statutes assigned from last class

- Student and/or guest presentations
- Overview of next week's topic & reading to be assigned.

*I will assign problems, statutes, cases, books and/or articles (see Appendix A). You are required to read the assigned materials before next class and come prepared to discuss, so you will generally read about a new topic before getting the main lecture or presentation on that topic.

GRADES - SUMMARY

1. Class Participation - 30% of your final grade.
2. 18-page Paper – 40%.
3. Presentation to Class on Topic of Paper – 20%
4. 4 in-class, 10-Question, multiple-choice Quizzes –2.5% apiece.

GRADE ELEMENTS - THE DETAILS:

1. CLASS PARTICIPATION

- **PREPARATION:** Students must read assigned materials and attempt assigned problems. Those who do not prepare for classes will most likely be unable to follow class discussion.
- **ACTIVE PARTICIPATION:** The teaching method for this course assumes that students learn properly when they read critically and participate actively in classroom activities. Students will be assigned readings for each class and from time-to-time students will be selected to provide an overview of a case or to provide the answer to an assigned problem. Questions, comments, and dialogue are encouraged throughout each class. (And hey, obviously, if you don't show up, you can't much participate now, can you? So, show up.)
- **ATTENDANCE:** Class attendance is expected and required. Please note that the discretionary grade reduction for excessive absenteeism will be enforced. Attendance will be taken each class.

2. 18 Page Paper

Students are required to complete an 18-page (24 point spacing) written work during the semester. If you go a page or two over, that's fine (but keep it to that). This paper is 40% of your grade. It could be a "Position Paper" wherein you take and defend a position, setting forth an argument, reaction and response, or a Report or general discussion of a consumer law issue that appeals to you. If you have questions about whether your proposed topic is acceptable, email me or talk to me outside of class. If you have another idea for a paper that you think is outside of the above parameters, I'm open to discussion.

Note that your paper must appear to all School of Law directives regarding the use of Artificial Intelligence and all other honor code rules.

The topic(s) you choose may relate to those we've discussed in class but can also be a consumer law issue we have not covered (again, see me if you have questions). You can also use cases and other source materials from class.

Remember that at the end of the semester, you will need to present on the topic of this paper to the class for 20% of your grade. So, pick a topic that lends itself well to a presentation.

- Standards for grading papers. I care about:

- Logic and persuasiveness
- That your positions are supported by OBJECTIVE, PROVABLE FACT, and references.
- The quality of your references
- The quality of writing (grammar, punctuation, attention to detail, style)
- That you've stayed within +/- 1 page of 18 parameter.

- I do not care about what position you take (if you take one) as long as you argue it persuasively and defend it.

The technical / formatting requirements for papers are as follows:

4. Total page count (including footnotes)
5. 24 point spacing
6. 12-point font throughout (including footnotes)
7. Citations in Bluebook format
8. Standard Word document margins of 1 inch
9. Submit as a PDF

The position papers may be turned in at any time throughout the semester; however, the last date and time to turn them in is **November 4, 2022** at **5:00pm**. PDF Copies should be emailed to me at dave@consumerlawsc.com

3. PRESENTATION:

During the last week two weeks of class, you will make an individual presentation on the topic of their paper. This presentation represents 20% of your grade. You will have approximately fifteen (15) minutes for online presentation followed by a short question and answer period after each presentation. The format of the presentation is within each student's discretion, although some prior students have elected to include PowerPoint or Prezi as part of their presentation. **Innovation and creativity in presentations is most welcome and likely to be rewarded.** Your presentation will be made either on November 7, 10, 14, 17, or (if needed) 21st.

4. QUIZZES.

Five times during this semester (almost always on a Thursday), I will give you a 10-question multiple choice quiz. Each one will count for 3% of your grade. Each quiz will cover the big concepts in consumer law that I want you to leave this class retaining.

CONSULTATION:

Feel free to approach me after class with any concerns. I have no formal office hours, but you can

email me anytime at dave@consumerlawsc.com, or reach me by phone at 803-509-6800 or (better on my cell at 803-466-3127, but text first, so I know who you are).

COURSE MATERIALS:

- Halpern, Jake, *Bad Paper: Inside the Secret World of Debt Collectors*, 2015 – required

Class Readings. See, **Assignments, below**. (All else can be found in Westlaw or online elsewhere). I will likely add cases as the semester progress, with advance notice to you, that are significant to the areas we study; such assignments will generally be made at the end of class, to be read for the next class. Please read the items on Appendix A for each week before the class meets.

Note that Syllabus may be revised based on availability of guest speakers, etc.

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- 2024 Fall Consumer Law Syllabus, V1 -- Assignments
 - **WEEK 0: August 20 (Tuesday): COURSE INTRODUCTION**
 - PRE-CLASS READING:
 - HALPERN, JAKE, BAD PAPER: INSIDE THE SECRET WORLD OF DEBT COLLECTORS, 2015
 - **WEEK 1, August 26 & 28: DEBT COLLECTION**
 - PRE-CLASS READING:
 - HALPERN, JAKE, BAD PAPER: INSIDE THE SECRET WORLD OF DEBT COLLECTORS, 2015
 - FAIR DEBT COLLECTION PRACTICES ACT (FDCPA)
 - SOUTH CAROLINA CODE 37-5-108
 - HENSON VS. SANTANDER CONSUMER, USA 582 U. S. ____ (2017)
 - ROTIKISKE V. KLEMM, 589 U.S. ____ (2019)
 - GUEST SPEAKER: PETER BARRY, ESQ., CONSUMER RIGHTS LAWYER, MINNEAPOLIS, MINN
 - GUEST SPEAKER: CHAD ECHOLS, ESQ., DEFENSE ATTORNEY, ROCK HILL, SC

- **WEEK 2, September 2 (no class, Labor Day), and Sept. 4th: STANDARDS FOR RENTAL HOUSING**
 - PRE-CLASS READING:
 - SOUTH CAROLINA RESIDENTIAL LANDLORD AND TENANT ACT 27-40-10, ET. SEQ.
 - WATSON V. SELLERS, 299 S. C. 426, 385 S. E. 2D 369 (CT. APP. 1989).
 - ROBINSON V. CODE, 384 S.C. 582 682 S.E.2D 495 (CT. APP. 2009)
 - WRIGHT V. PRG REAL ESTATE MGT, INC., 426 S.C. 202 826 S.E.2d 285 (2019)
 - NEDROW V. PRUITT, 336 S.C. 668, 521 S.E.2d 755 (S.C. Court of Appeals September 13, 1999).

- **WEEK 3: Sept. 9th & 11th : TRUTH IN LENDING AND OTHER LENDING LAWS**
 - 9/4 – NO CLASS
 - 9/6
 - PRE-CLASS READING: TBA AND TILA Regulation Z
 - **QUIZ 1 – DEBT COLLECTION & LANDLORD TENANT LAW**
 - INTEREST, LENDING & TRUTH IN LENDING ACT

- **WEEK 4: September 16th & 18th: SUBPRIME LENDING & INTRO TO MORTGAGE LENDING**
- - PRE-CLASS READING: TBA
 - GUEST SPEAKER: SUE BERKOWITZ, ESQ., SC APPLESEED LEGAL JUSTICE CENTER.
 - WATCH MOVIE – HOUSE OF CARDS

- **WEEK 5, September 23rd & 25th MORTGAGE LENDING PART 2, MORTGAGE “SERVICING” AND A HISTORY LESSON**
 - PRE-CLASS READING:

- Mincey v. World Savings Bank, 614 F. Supp. 2d 610 (DSC 2008)
- Boone v. Quicken Loans 803 SE2d 707 (SC 2017)
- Section 6, RESPA

- DOCUMENTARY: THE COLOR OF LAW

○ **WEEK 6: September 30th & October 2nd : Credit Reporting & The FCRA**

- PRE-CLASS READING:
 - FAIR CREDIT REPORTING ACT (FCRA)
 - EQUAL CREDIT OPPORTUNITY ACT (ECOA)
 - SLOANE V. EQUIFAX INFORMATION SERVICES, 510 F.3D 495 (4TH CIR. 2007)
 - JOHNSON V. MBNA AMERICA BANK, NA 357 F.3D 426 (4TH CIR. 2004)
 - TRANS UNION VS. RAMIREZ (US SUPREME COURT, 2021)
 - RAMIREZ VS. TRANS UNION (US SUPREME COURT, 2021)
- Guest Speaker: Ian Lyngklip, Esquire, Detroit, Michigan (FCRA)

○ **WEEK 7, October 7th & 9th: (Split Week)**

▪ **Monday: CREDIT CARDS, ELECTRONIC FUND TRANSFERS, PAYMENT SYSTEMS, BILLING DISPUTES:**

- QUIZ 2: TILA, Mortgage Lending & Credit Reporting
- PRE-CLASS READING:
 - FAIR CREDIT BILLING ACT (FCBA)
 - ELECTRONIC FUNDS TRANSFER ACT (EFTA)
 - AMERICAN EXPRESS CO. V. KOERNER, 452 U.S. 233 (1981)
 - GRAY V. AMERICAN EXPRESS CO., 743 F.2D 10; (D.C. 1984)

▪ **Wednesday: State and Federal Warranty Law**

- PRE-CLASS READING:
 - MAGNUSON MOSS WARRANTY ACT

- SOAPER V. HOPE INDUSTRIES, INC., 309 S.C. 438 (S.C., 1992)
 - SIMPSON V. MSA OF MYRTLE BEACH, INC., 373 S.C. 14 (S.C., 2007)
 - SC LEMON LAW S.C. CODE 56-28-10, ET. SEQ.
- **WEEK 8, October 14th & 16th : FRAUD, ELDER EXPLOITATION & UNFAIR TRADE PRACTICES**
- PRE-CLASS READING:
 - SC UNFAIR TRADE PRACTICES ACT, S.C. CODE 39-5-10, ET. SEQ.
 - NOACK ENTERPRISES, INC. V. COUNTRY CORNER INTERIORS OF HILTON HEAD ISLAND, 290 S.C. 475 (S.C., 1986)
 - INMAN V. KEN HYATT CHRYSLER PLYMOUTH, INC., 363 S.E.2D 691 (S.C. 1988)
 - BESSINGER V. FOOD LION, INC., 305 F. Supp. 2d 574 (D.S.C. 2003)
 - WRIGHT V. CRAFT, 372 S.C. 1, 640 S.E.2d 486 (Ct. App. 2006)
 - MOSELEY V. ALL THINGS POSSIBLE, INC., 395 S.C. 492 (S.C., 2011)
- **WEEK 9: October 21ST & 23RD: VEHICLE SALES (BRINGING TOGETHER WHAT YOU HAVE LEARNED)**
- Quiz 3 – Warranty, Credit Cards / EFTA, Fraud & Unfair Trade Practices
 - PRE-CLASS READING:
 - BREWER V. STOKES KIA, ISUZU, SUBARU, INC., 364 S.C. 444, 613 S.E.2D 802 (2005)
 - WRIGHT V. CRAFT, 372 S.C. 1, 640 S.E.2D 486 (CT. APP. 2006)
 - HENDERSON V. SUMMERVILLE FORD-MERCURY INC., 748 S.E.2D 221 (2013)
 - GUEST SPEAKER: C. STEVEN MOSKOS, ESQUIRE, CHARLESTON, SC
- **WEEK 10, October 28TH & 30TH: TELEPHONES: ROBOCALLS & SPOOFED CALLS**
- PRE-CLASS READING:
 - TELEPHONE CONSUMER PROTECTION ACT (TCPA)

- S.C. TELEPHONE PRIVACY PROTECTION ACT, S.C. CODE 37-21-10, ET. SEQ.
- REYES VS. LINCOLN AUTOMOTIVE (2ND CIR. 2017)
- Facebook, Inc. v. Duguid, 141 S. Ct. 193 - Supreme Court 2020
- GUEST SPEAKER/Professor - Anthony Paronich, Esq.
- **Quiz 4: Vehicle Sales & Robocalls**
- **WEEK 11, Nov. 4th & November 6th: ARBITRATION & WAIVER**
 - PRE-CLASS READING:
 - FEDERAL ARBITRATION ACT (FAA) 9 U.S.C. §§ 1, et. Seq.
 - AT&T MOBILITY V. CONCEPCION, 563 U.S. 333 (2011)
 - Henry Schein v. Archer and White Sales, 139 S. Ct. 524 (2019)
 - *ASSIGNMENT OF PRESENTATION GROUPS (BE READY TO DESIGNATE WHICH POSITION PAPER YOU INTEND TO PRESENT).
- ***ALL POSITION PAPERS DUE BY 5:00 PM ON NOVEMBER 8th:**
- **WEEK 12 November 11th & 13th: -- PRESENTATIONS**
 - **Student Presentations (YOUR DAY TO BE ASSIGNED)**
- **WEEK 13 NOVEMBER 18th & 20th: STUDENT PRESENTATIONS**
 - **STUDENT PRESENTATIONS**
 - **OUTRO, LAST DAY OF CLASS**
 - **Awards Day?**

