

**Texas Southern University
Thurgood Marshall School of Law**

**Consumer Rights Syllabus
Fall 2019**

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COURSE DESCRIPTION

The course is designed to introduce students to the law governing consumer transactions. Primary focus will be placed on the law and practice of the Deceptive Trade Practices Act (DTPA), with particular emphasis on the causes of action, remedies, and defenses available under the Act. The course will also cover the law dealing with wrongful debt collection. The course will conclude with an examination of the insurance claims and defenses obtainable under the DTPA.

COURSE OBJECTIVES

The course objectives are as follows:

- To introduce students to the law governing consumer transactions.
- To assist students in learning how to read and analyze judicial decisions. In this regard, emphasis will be placed on how to analyze facts, identify legal issues, and synthesize legal materials.
- To assist students in learning how to analyze and interpret statutes. In this regard, attention will be drawn to the important canons of statutory interpretation.
- To strengthen students' critical analysis and problem-solving skills.
- To provide students with skills necessary to research and solve problems involving consumer transactions.

LEARNING OUTCOMES

At the conclusion of the course, students should be able to do the following:

- Evaluate the facts presented by a client to determine the key legal issues to be researched.
- Understand the basic legal framework governing consumer protection in Texas.
- Advise a consumer on the appropriate cause of action and remedies available in Texas.
- Identify and be able to draft key components of a consumer petition.

COURSE METHODOLOGY

The course will be taught using a modified Socratic method. The question and answer model will be supplemented with lectures and classroom activities.

The course will be primarily taught through case and statute analysis. Cases and statutory materials will be assigned for each class. Students are required to read the assigned materials and to be prepared to answer questions arising from them.

I will give lectures to highlight important principles of law, to provide a structure for class discussions, to summarize principles already taught, and to provide a map of crucial aspects of the course.

Students will be required to participate actively in class discussions. Class participation will account for 10% of the final grade.

My primary responsibility is to assist students in learning the course materials. I will assist students in finding the answers to their questions. It is important to bear in mind that a good lawyer is not necessarily one who has an encyclopedic knowledge of the law, but one who understands the fundamentals and methodology of the law, and who has the skills for researching legal problems and finding creative solutions to them.

REQUIREMENTS

The following are expected of students in this course:

- Class Preparation: Students MUST read assigned materials and attempt assigned problems.
- Active Participation: The teaching methodology for this course is based on the assumption that students learn best when they read critically and participate actively in classroom activities. Readings are assigned for each class. From time to time particular students may be selected to provide an overview of cases or to provide answers to assigned problems. Class participation will be graded based on class attendance, preparation for class, contributions to class discussions, and participation in class activities.

→ Professionalism: Students are required to conduct themselves professionally, both in relation to the professor and in relation to each other.

CLASS ATTENDANCE

Class attendance is mandatory. No student will be allowed into the class after the scheduled time for the commencement of the class. Any student who fails to be present at the commencement of class will be counted as absent for that class period. Additionally, any student found to be disruptive in class will be excused from class and counted as absent for that class period.

Please note that the grade reduction rule for excessive absences from classes will be enforced. Furthermore, class attendance will be taken into account in assessing the points for class participation.

Please read carefully the TMSL Students Rules and Regulations Handbook. Section 9 of the handbook provides, *inter alia*:

“Class attendance is required of all students. Excessive absence from classes may result in the following: (a) administrative withdrawal from the course; or (b) grade reduction of up to two letter grades in courses required to be taken in sequence (where a student may not be withdrawn from a class).”

ACCOMMODATIONS

If you require special accommodations, please fill out the necessary forms with the Dean's office. Your application and documentation will remain confidential. Your prompt attention will allow the law school to accommodate you, as soon as it has been made aware of your situation.

Please see: http://www.tsulaw.edu/student_affairs/docs/2011-2012AccommodationsHandbook.pdf

COMPUTER USE POLICY

Students are permitted to use their computers during class meetings. However, computers are to be used only for note taking. Other uses are prohibited. Each violation of this rule will lead to a reduction in the class participation points of the affected student.

EXAMINATION

There will be two examinations in this course, a mid-term and a final examination. Both examinations will be closed-book, essay examinations. No materials will be allowed inside the examination hall. Cell phones and similar electronic devices will not be allowed inside the examination hall.

The examinations will be designed to test knowledge of the basic principles of consumer law and ability to analyze and solve basic legal problems. Students are required to refer to relevant judicial decisions in answering the examination questions. Answers should contain a statement of the issues, the applicable rules, an application of the rules to the issues, and a conclusion. Points will be awarded for organization, clarity of presentation, knowledge of applicable rules, and analytical ability. Appendix II to this syllabus contains tips on writing essay examinations.

CUMULATIVE COURSE GRADE

The points for the professor's part of your final grade will be computed as follows:

Class Participation:	10%
Mid-Semester Examination:	30%
Final Examination:	60%

CONSULTATION

My formal office hours are as follows:

- Mondays and Wednesdays, and Fridays: 10 am – 11 am; 2:20 pm – 3: 30 pm; Fridays (10 am – 12 noon).
- I will also be available for consultation outside these hours by appointment.

COURSE MATERIALS

- Richard Alderman, Texas Consumer Law: Cases and Materials (2017-2018).

TSU BLACKBOARD

You are required to register for this course on the TSU Blackboard website (<http://texsu.blackboard.com>). Please ensure that you change the default email address from your student email address to your personal email address.

READING ASSIGNMENTS

A tentative list of reading assignments for the fall semester is annexed to this syllabus. Please note that the list is intended as a guide and is subject to modification at the discretion of the professor.

APPENDIX I

READING ASSIGNMENTS

DATE	TOPIC	TEXT PAGES
Aug. 19	INTRODUCTION	
Aug. 21	PROPER PLAINTIFF: CONSUMER SEEK OR ACQUIRE PURCHASE OR LEASE	6-25
Aug. 26	PROPER PLAINTIFF: CONSUMER: GOODS OR SERVICES BUSINESS CONSUMER	25-48
Aug. 28	STATUTORY EXEMPTIONS	48-62
Sept. 2	LABOR DAY	
Sept. 4	WHO MAY YOU SUE?	62-89
Sept. 9	THE LAUNDRY LIST	101-120
Sept. 11	REVIEW/ UNCONSCIONABILITY ASSIGNEE LIABILITY	120-133
Sept. 16	WARRANTIES: UNIFORM COMMERCIAL CODE	133-157
Sept. 18	COMMON LAW WARRANTIES: REAL ESTATE	158-166
Sept. 23	COMMON LAW WARRANTIES: SERVICES / ESTABLISHING A WARRANTY	166-217
Sept. 25	IN-CLASS WRITING EXERCISE	

Sept. 30	NOTICE / SETTLEMENT/DAMAGES	219-270
Oct. 2	TIE-IN STATUTES, ADDITIONAL DAMAGES, ATTORNEY'S FEES & CUMULATIVE RECOVERY	270-326
Oct. 7	STATUTORY DEFENSES	327-356
Oct. 9	COMMON LAW DEFENSES I	356-386
Oct. 14	COMMON LAW DEFENSES II / REVIEW	386-410
Oct. 16	MID-TERM EXAMINATION	
Oct. 21	WDC: STATUTORY REGULATION I	613-647
Oct. 23	WDC: STATUTORY REGULATION II	648-681
Oct. 28	WDC: PROHIBITED CONDUCT	690-742
Oct. 30	WDC: PENALTIES	747-773
Nov. 4	REVIEW	
Nov. 6	IN-CLASS WRITING EXERCISE	
Nov. 11	INSURANCE (Materials to be distributed in class)	
Nov. 13	INSURANCE	
Nov. 18	INSURANCE	
Nov. 20	REVIEW	
Nov. 25	REVIEW	

APPENDIX II

ESSAY EXAM WRITING TIPS

Reading the Question

1. Read the question a *minimum* of two times, preferably three times, before you begin your answer.
2. Read the instructions carefully. Pay attention to the weighting of the questions. Determine how much time you will spend on each question.
3. Pay attention to the call of the question.
 - a. The call determines the scope of your analysis. It may eliminate issues that would ordinarily have been raised by the facts.
 - b. Determine whether the question contains a statement of particular defenses/claims raised by one of the parties. If so, ensure that your answer addresses each of these.
4. Highlight key facts as you read the question. To ensure that you incorporate all the key facts in your analysis, cross out highlighted key facts as you write your answer.

Spotting Issues

1. Make a list of the key issues.
2. “*Question the question.*” Query the importance of key facts, dates, etc.
3. Determine which issues are decisive in resolving the problem.
4. Identify the rules governing each issue.
5. Address only the issues raised by the question. Do not write on an issue merely because you studied it in preparation for the exam.

Organizing / Outlining

1. Never begin an answer without writing an outline. An outline may be a list of the issues you intend to discuss, written in the order in which you propose to discuss them. To ensure that you address all the issues in your outline, cross out each item as it is addressed.
2. Organize your answer in a manner that would properly advance your argument. Appropriate sequencing of discussion is important. Emphasize the decisive issues.
3. It is inadvisable to begin your answer with a conclusion. Don’t box in yourself. Allow your analysis to lead you to a natural conclusion. Consider beginning your answer with a statement of the problem and the decisive issue(s).
4. Use headings/sub-heading, paragraphs, and *complete* sentences.
5. Do not use IRAC headings. You should instead group your discussion of issues into related paragraphs. For example, if the question is whether there was a contract between the parties,

you should discuss the offer in one paragraph, the acceptance in another, and the consideration in yet another.

Analyzing

1. Don't merely recite facts. The examiner already knows the facts. Facts are to be used in analyzing the issues raised by the question.
2. No lengthy preliminary, background discussions. Get to the point!
3. After stating an issue, you should *immediately* state the rules applicable to the particular issue and then use the relevant facts to analyze the stated rules.
4. The exam is not a test of what you memorized. You will receive little credit for merely regurgitating rules. You must use the facts to thoroughly analyze the rules.
5. Incorporate the key facts in your analysis of the rules. If you need to make a factual assumption to fully analyze a problem, explain why the assumption is necessary.
6. Anticipate and respond to defenses and counter-arguments. This goes to the thoroughness of your analysis.
7. Where relevant, draw the examiner's attention to the minority rule, as a point of distinction.
8. Don't make conclusory statements. Each conclusion must be fully supported.
9. State a conclusion on each of the issues raised by the question. End your answer with an answer to the call of the question.

Law Profs on What Makes a Good Law School Exam Answer (WSJ)

1. "A good law exam answer is evaluative. Too often, students walk through each answer as if all arguments are created equal. They don't tell me which arguments are strong and which are weak, which facts matter and which don't. ... Good lawyers don't just know the substantive law; they also have good legal judgment. The mistake students make is not to exercise their own legal judgment in answering a question."
2. "A good law answer ... tells me up front what the question really turns on—a choice between two applicable rules? Deciding what a particular word or phrase mean?"
3. "The point of the law school exam is not necessarily to test for right and wrong answers, but to see whether the student is utilizing critical reasoning skills to understand all the possible issues that the question presents."
4. "The good students... hone in on what is actually hard about the problem, and let their instincts drive the answer, with doctrine as their instrument. The very best law students are able to turn the problem around in their mind, almost like a computer rotating a complex shape, and explain how slightly different angles of view create different doctrinal consequences."
5. "A good law exam answer ... is like a poem. Every word is there for a reason. It makes creative arguments within a conventional form. It avoids needless sentimentality but it reflects an author who thinks and cares. I learn something from reading it."