CONSUMER PROTECTION
[the transition from Caveat Emptor to the Consumer Financial Protection Bureau]

SPRING 2014 SEMESTER SYLLABUS

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SCHEDULED CLASS TIME: Tuesdays, 5:30 pm – 7:20 pm.

COURSE GOALS AND SPECIFIC EDUCATIONAL OBJECTIVES: While the overarching principles of Consumer Protection are based in the Common Law of fraud and deceit (and therefore case driven), 21st Century Consumer Protection is statutory and regulatory in nature. So, we will spend more time analyzing statutes and regulations rather than reading cases. At the conclusion of this course, the student should have a working knowledge base sufficient to advise consumer, government agency and creditor clients in the complex world of consumer sales, purchases and credit transactions, without committing rookie errors and/or legal malpractice. Footnote 1. In this respect, this class may resemble a clinical law program, that actually allows you to get your hands dirty with real life problems.

TEXTS:
Selected Consumer Statutes, 2011 ed. Spanogle et al; Thomson West
[alternatively, you may choose to download and print statutes and regulations from available government websites]

DESCRIPTION OF TOPICS BY CLASS (14 classes):

Fraud and Deceptive Practices—Caveat Emptor

   a. Caveat Emptor—the painful history of consumer transactions

i. Humanity’s requirements.
ii. Intentional or active fraud
iii. The four elements of “innocent” fraud at common law
iv. Some old case law

b. Restatement 2nd of Torts
c. UDAP statutes—Alabama Deceptive Trade Practices Act, Alabama Code, 8-19-1
d. Section 5 of the Federal Trade Commission Act
e. FTC Regulations – Code of Federal Regulations, Title 16
   i. Guides and Trade Practices Rules, Subchapter B
   ii. Regulations Under Specific Acts of Congress, Subchapter C
   iii. Trade Regulation Rules, Subchapter D
      1. Door-to-Door
      2. Holder in Due Course

Product Quality and the Consumer

2. [January 14, 2014] Products Liability, Warranties, Disclaimer of Liability and Remedies
   a. Products Liability Theories and Causes of Action
   b. Magnuson-Moss Federal Warranty Act
c. Alabama Extended Manufacturers Liability Doctrine
d. UCC Article 2
e. The FTC Regulations of specific consumer products, CFR Title 16

Credit—the Fuel that Drives the American Economy—and Consumer as Debtor Protection

   a. Common Law, Usury
      i. Methodology of the earning of Finance Charge
   b. Alabama Consumer Credit Act, 5-19-1 et seq.
c. Alabama Interest & Usury, 8-8-1 et seq.
d. Alabama Small Loan Act, 5-18-1 et seq.
e. Alabama Deferred Presentment Services Act, 5-18A-1 et seq.
      i. Municipal Moratoria
      ii. Cash Mart, Inc. et al v. State Banking Department
   f. Alabama Pawnshop Act, 5-19A-1 et seq.
i. Title pledge in most states

g. Alabama Credit Card Act, 5-20-1 et seq.
h. Alabama Mortgage Broker Licensing Act, 5-25-1 et seq.
   i. Alabama Secure and Fair Enforcement for Mortgage Licensing Act of 2009, 5-26-1 et seq.

4. [January 28, 2013] Identity Theft, Privacy Issues
   a. Fair Credit Reporting Act
      i. Consumer reports
      ii. CRAs, Users and Furnishers Obligations
      iii. FCRA Adverse Action
      iv. Red Flags
      v. Risked Based Pricing
   b. Gramm-Leach-Bliley Financial Privacy
   c. Financial Privacy

   a. The FTC Trade Regulation Rules
      i. Holder in Due Course Doctrine
      ii. Credit Practices Rule
   b. ECOA
      i. Regulation B
   d. Military Lending – Service Members Civil Relief Act
   e. Credit Repair Organizations Act

6. [February 11, 2014] Collateral
   a. Personal Property Security
      i. Article 9A of the UCC
      ii. Possessory
      iii. Non-possessory
   b. Real Property Mortgages
      i. Alabama Code, 35-10-1 et seq.

7. [February 18, 2014] Credit Cost Disclosure
   a. Truth In Lending Act
      i. Open-end v. closed end lending
      ii. APR, FC, AF, TOP, TSP and more
   b. Truth in Leasing Act
   c. Electronic Funds Transfer Act
   d. Fair Credit Billing Act
   e. Advertising

   a. Truth In Lending Act
      i. Regulation Z treatment of mortgages
   b. Real Estate Settlement Procedures Act
      i. Regulation X
   c. Foreclosures
   d. Legislative Responses
      i. Historical
      ii. Current


   a. Cash v Conditional Sales v Leasing v Rent-to-Own v Pawn Shops
   b. Types of Lenders
   c. Going-out-of-Business Restrictions
   d. Alabama Unconscionable Pricing Act


11. [March 18, 2014] Debt Collection

   a. Debt Collection Remedies
      i. Garnishment-federal and state restrictions
      ii. Common Law Detinue
      iii. ARCP Rule 64
      iv. Article 9 Self Help Repossession
      v. The Role of Arbitration
   b. Debt Collection Limitations
      i. FDCPA
      ii. Credit Repair Organizations Act
      iii. Unfair, Deceptive and Abusive Acts and Practices
      iv. Mini-Code and Small Loan Act Rules and Regulations
      v. Telephone Consumer Protection Act

   Not Your Grandparents Consumer Protection

12. [April 1, 2014] Consumers in Cyberspace—Scams and Spam Prevention

   a. Electronic Disclosures
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i. FTC .com Disclosures (March, 2013)
b. Uniform Electronic Transactions Act, Alabama Code, 8-1A-1
c. Electronic Signatures in Global and National Commerce Act (“E-Sign”)
i. CAN-SPAM Rule, CFR Part 316
e. Telemarketing and Consumer Fraud and Abuse Prevention Act
   i. Telemarketing Sales Rule, CFR Part 310
f. Uniform Computer Information Transactions Act

   a. Consumer Financial Protection Bureau

14. [April 15, 2014] Semester Summary

ATTENDANCE: Roll will be taken at each class meeting. Your attendance is strongly encouraged. You cannot learn this subject matter from a book. Besides, the law evolves based upon the exchange of ideas “outside of the box;” and, what you or one of your classmates may offer could help repair this world. Class participation will be recognized by my making a 0.333 adjustment to your final examination grade for brilliant class participation.

FINAL EXAMINATION RULES: A two hour final exam will be required to test your knowledge of the principles of Consumer Law. You are free, and encouraged, to use the texts and any other materials you think will be helpful in responding to the questions. The questions will be based upon “real life” examples of Consumer Law problems presented to attorneys in the routine practice of law. Succinct answers, displaying critical thinking is a must.

GRADING PROCEDURE FOR EXAMINATION: The final examination will be graded based upon the Law School Faculty’s Grading Policy.

CODE OF ACADEMIC CONDUCT STATEMENT. All students in attendance at the University of Alabama are expected to be honorable and to observe standards of conduct appropriate to a community of scholars. The University expects from its students a higher standard of conduct than the minimum required to avoid discipline. Academic misconduct includes all acts of dishonesty in any academically related matter and any knowing or intentional help or attempt to help, or conspiracy to help, another student. The Academic Misconduct Disciplinary Policy will be followed in the event of academic misconduct.

DISABILITY ACCOMMODATION STATEMENT. Students with disabilities are encouraged to speak with the Associate Dean for Academic Services—Chad Tindol, Room 257 Law Center, ctindol@law.ua.edu. Thereafter, you are invited to schedule
appointments to see me during my office hours to discuss accommodations and other special needs.

CULTURAL DIVERSITY STATEMENT:

“A university is a place where the universality of the human experience manifests itself.”
–Albert Einstein

In keeping with the spirit of Einstein’s viewpoint, the Law School should be committed to providing an atmosphere of learning that is representative of a variety of perspectives. In this class, particularly, you will have the opportunity to express and experience cultural diversity as we focus on issues of socio-economics—what is right, and what is wrong with a capitalist system. Should the law protect “the least among us;” or should P.T. Barnum’s world of a sucker born daily prevail?

CLASSROOM DECORUM STATEMENT: If you need a statement that explains to you what classroom decorum entails, we are going to need a bigger boat. So, see the Code of Student Conduct if you have any doubt of what is expected of you.

PLAGIARISM: Ditto.