

NEW COURSE FORM

1. General Information.

- a. Submitted by the College of: Law Today's Date: March 17, 2010
- b. Department/Division: _____
- c. Contact person name: Douglas C. Michael Email: michaeld@uky.edu Phone: 71485
- d. Requested Effective Date: Semester following approval OR Specific Term/Year¹: _____

2. Designation and Description of Proposed Course.

- a. Prefix and Number: Law 914
- b. Full Title: Products Liability
- c. Transcript Title (if full title is more than 40 characters): _____
- d. To be Cross-Listed² with (Prefix and Number): _____
- e. Courses must be described by at least one of the meeting patterns below. Include number of actual contact hours³ for each meeting pattern type.
- | | | | | |
|----------------|-------------------------------|-------------------------------------|----------------|--------------------|
| 1-2 Lecture | _____ Laboratory ¹ | _____ Recitation | 1-2 Discussion | _____ Indep. Study |
| _____ Clinical | _____ Colloquium | _____ Practicum | _____ Research | _____ Residency |
| _____ Seminar | _____ Studio | _____ Other – Please explain: _____ | | |
- f. Identify a grading system: Letter (A, B, C, etc.) Pass/Fail
- g. Number of credits: 2-3
- h. Is this course repeatable for additional credit? YES NO
- If YES: Maximum number of credit hours: _____
- If YES: Will this course allow multiple registrations during the same semester? YES NO

- i. Course Description for Bulletin: This course will focus on the law of products liability. It will cover all the causes of action for products liability, negligence, strict liability and warranty, with detailed treatment of some or all of the following issues: design defects, failure to warn, hybrid transactions, federal preemption, comparative fault and assumption of risk, negligent marketing, causation, punitive damages, toxic tort and class action litigation.

- j. Prerequisites, if any: _____
- k. Will this course also be offered through Distance Learning? YES⁴ NO
- l. Supplementary teaching component, if any: Community-Based Experience Service Learning Both

3. Will this course be taught off campus? YES NO

¹ Courses are typically made effective for the semester following approval. No course will be made effective until all approvals are received.

² The chair of the cross-listing department must sign off on the Signature Routing Log.

³ In general, undergraduate courses are developed on the principle that one semester hour of credit represents one hour of classroom meeting per week for a semester, exclusive of any laboratory meeting. Laboratory meeting, generally, represents at least two hours per week for a semester for one credit hour. (from SR 5.2.1)

⁴ You must *also* submit the Distance Learning Form in order for the proposed course to be considered for DL delivery.

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4. Frequency of Course Offering.

a. Course will be offered (check all that apply): Fall Spring Summer

b. Will the course be offered every year? YES NO

If NO, explain: _____

5. Are facilities and personnel necessary for the proposed new course available? YES NO

If NO, explain: _____

6. What enrollment (per section per semester) may reasonably be expected? 20-40

7. Anticipated Student Demand.

a. Will this course serve students primarily within the degree program? YES NO

b. Will it be of interest to a significant number of students outside the degree pgm? YES NO

If YES, explain: _____

8. Check the category most applicable to this course:

Traditional – Offered in Corresponding Departments at Universities Elsewhere

Relatively New – Now Being Widely Established

Not Yet Found in Many (or Any) Other Universities

9. Course Relationship to Program(s).

a. Is this course part of a proposed new program? YES NO

If YES, name the proposed new program: _____

b. Will this course be a new requirement⁵ for ANY program? YES NO

If YES⁵, list affected programs: _____

10. Information to be Placed on Syllabus.

a. Is the course 400G or 500? YES NO

If YES, the *differentiation for undergraduate and graduate students must be included* in the information required in **10.b**. You must include: (i) identification of additional assignments by the graduate students; and/or (ii) establishment of different grading criteria in the course for graduate students. (See SR 3.1.4.)

b. The syllabus, including course description, student learning outcomes, and grading policies (and 400G-/500-level grading differentiation if applicable, from **10.a** above) are attached.

⁵ In order to change a program, a program change form must also be submitted.

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Signature Routing Log

General Information:


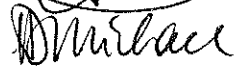
Course Prefix and Number: Law 914

Proposal Contact Person Name: Douglas C. Michael Phone: 71485 Email: michaeld@uky.edu

INSTRUCTIONS:

Identify the groups or individuals reviewing the proposal; note the date of approval; offer a contact person for each entry; and obtain signature of person authorized to report approval.

Internal College Approvals and Course Cross-listing Approvals:

Reviewing Group	Date Approved	Contact Person (name/phone/email)	Signature
Dean	March 17, 2010	David A. Brennen / 71678 / david.brennen@uky.edu	
Curriculum Committee	March 11, 2010	Douglas C. Michael / 71485 / michaeld@uky.edu	
		/ /	
		/ /	
		/ /	

External-to-College Approvals:

Council	Date Approved	Signature	Approval of Revision ⁶
Undergraduate Council	NA		
Graduate Council	NA		
Health Care Colleges Council	NA		
Senate Council Approval		University Senate Approval	

Comments:

The current title and description of Law 914 (Advanced Torts) will be replaced with the above content.

⁶ Councils use this space to indicate approval of revisions made subsequent to that council's approval, if deemed necessary by the revising council.

ADVANCED TORTS--LAW 914-001
SPRING 2010 SYLLABUS
PROFESSOR M. DAVIS

COVERAGE

Advanced Torts this semester will cover exclusively Products Liability, the study of civil liability for product-related harm. We will explore the three primary theories of liability: negligence, warranty, and strict liability, focusing on how to establish product defectiveness within each. We will also study some of the existing regulatory schemes intended to increase product safety. I also intend to cover toxic substances/mass tort litigation.

CLASS PREPARATION

You are expected to be prepared for class every day and to take part in the discussion. If you cannot come prepared, let me know in advance of the class for which you are not prepared. I will consider all "unprepared" or "pass" responses, including those provided in advance, in assigning your grade as explained below.

EVALUATION

You will be evaluated on the following basis:

Writing Assignments. Two (2) writing assignments will be worth a total of ninety (90) percent of your final grade. The first assignment will be worth thirty (30) percent and will be one of the following types of documents: opinion/case evaluation letter to a client; judicial opinion; memorandum of law to a judge/law partner. The second assignment will be worth sixty (60) percent of your final grade and will be to prepare a Motion for Summary Judgment and Memorandum in Support under Fed. R. Civ. P. 56.

The assignments will have an outside page limit, usually between 15 and 30 pages. No outside research will be required to complete each assignment. Each assignment will be graded, generally, on both the form of the document, including among other things, compliance with pleading requirements, clarity of language, correct grammar and spelling, conciseness, organization, correct citation form, and its substantive content. Additional explanation of individual assignment grading criteria will be provided later in the semester.

The assignment due dates will be announced during the semester. The first assignment will be due sometime before spring break. The second will be due sometime during the final exam period at the end of the semester. There is no final examination.

Late Assignments. All assignments must be handed in on time. If any assignment is not handed in by the assigned due date and time, you will receive an E on that assignment.

We will discuss the assignments thoroughly in class. Rough drafts are not required but many of you may choose to prepare one. I will read and critique one rough draft per assignment, not for a grade. I will assign dates by which rough drafts must be submitted.

Anonymity. The grading of the assignments will be anonymous. You will self-select an identification number for each assignment, give it to Ms. Elizabeth Skees, identify yourself by this number on your final assignments, and I will give the grades for each assignment to Ms. Skees.

Class Participation and Attendance. Class participation will be worth ten (10) percent of your grade. Active, quality participation in class discussion is expected and I will keep track of your participation. "Unprepared" or "Pass" as a response will be considered demonstrated lack of preparation and participation.

Attendance will be considered in evaluating the points awarded for class participation. Regular attendance at classes is required. Under the rules of the College of Law any student who misses eleven or more sessions in a three-hour course is to be excluded from the examination. Any student who misses eleven or more sessions in this course will receive no class participation. Over five (5) absences will reduce your class participation grade by one grade level. Any absence that is not excused under the University Student Code is treated as demonstrated lack of preparation and participation.

APPLICABILITY OF COLLEGE OF LAW HONOR CODE

The College of Law and University of Kentucky Honor Codes apply to all work in this course.

TEXT AND ADMINISTRATION

The textbook for the course is Owen, Montgomery, and Davis, *Products Liability and Safety: Cases and Materials* (5th ed. 2007) and the 2009 Case and Statutory Supplement. Because the grade in this course is based primarily on writing assignments, you may find a writing reference like Richard Wydick, *Plain English for Lawyers*, helpful.

I have established a TWEN web site for administration of the course. Please register as soon as possible.

OFFICE HOURS

My office is located in room 203 in the Dean's Suite on the second floor. The office phone number is 257-3198. Official "Office Hours" will be Tuesday and Thursday from 2 to 3 p.m. My e-mail address is mjdavis@uky.edu. Feel free to e-mail me with any questions.

ASSIGNMENTS

The following assignments will each take approximately one class period. Minor adjustments in these assignments may be made during the semester as necessary. Any statutory material, such as UCC or Restatement sections, referred to in the text can be found in full in the Case and Statutory Supplement. For each assignment below, refer to the Case and Statutory Supplement for additional material.

<u>Topic</u>	<u>Assignment</u>
1. Introduction	1-39
2. Theories of Manufacturer Liability	41-69
Negligence	
Manufacturing and Quality Control	
The Design Process	
3. The Marketing Process	69-76; 91-111
Warranty	
Express Warranty	
Implied Warranty of Merchantability and Fitness for Particular Purpose	
4. Parties and Privity	115-147
Contractual Limitations on Responsibility	
Disclaimers and Limitations	
5. Strict Liability - Development	152-185
6. The Concept of Defectiveness	
Manufacturing Defects	187-214
Proof - Expert Testimony	
7. Design Defects	
In General	226-256; 261-275
Tests of Defect	
8. Proof - Generally and Experts	275-299
9. Warning Defects	
In General and Tests	300-349
Methods and Delegation	
Prescription Drugs	
10. Regulating Defectiveness	
Direct Agency Regulations	350-383

11. Effect of Regulation on Litigation	384-396; <i>Wyeth v. Levine</i> , supplement
12. Limiting Defectiveness: User Choice Generic Risks: Product Category Liability Misuse	408-449
13. Limiting Defectiveness: Passage of Time State of the Art	460-491
14. Causation Cause-in-Fact Sufficiency of the Evidence Warnings and Reliance	515-546
15. Proximate Cause Duty and Foreseeability Limits Intervening Causes	547-578
16. Defenses Based on User Misconduct Comparative Fault Assumption of Risk and Misuse	579-616
17. Damages Compensatory and Emotional Distress Punitive Damages	617-634; 663-681
18. Contribution and Indemnity	731-756
19. Toxic Substances/Mass Tort Litigation Class Actions	863-928