

Master in Legal Sciences	
Course: <i>Advanced Tort Law</i>	Trimester: 1
	Number of Credits: 3
	Language: English
Professor: Pablo SALVADOR CODERCH	
Office hours by appointment only Email: pablo.salvador@upf.edu	

Course Description
This course focuses on Spanish Products Liability and Products Safety. EU and US materials will be considered, too.

Prerequisites
An undergraduate course on Tort Law is strongly recommended.

Methodology
Class discussion will be based on the analysis of selected materials. Students should be ready to comment on the materials from comparative and law and economics approaches.

Syllabus
<ol style="list-style-type: none">1. Statutes on Product Liability of the European Union (Directive 85/374 amended by the Directive 1999/34) and of some European Union State Members (Germany, United Kingdom, France, Italy and Spain)2. Statutes on Product Safety of the European Union (Directive 2001/95) and of some European State Members (Germany and Spain)3. Case Law of the European Court of Justice on products liability (1997-2009)4. Some Regulatory Agencies on Product Liability and Safety (European Commission's Directorate-General for Health and Consumer Protection -DG SANCO-) and some other national Agencies (Germany, United Kingdom, France, Italy and Spain)5. Concept of product6. Concept of defective product<ol style="list-style-type: none">6.1. Manufacturing defect6.2. Design defect6.3. Failure to warn7. Concept of safe product8. Recalls and withdrawals9. Introduction to RAPEX (Rapid Alert System for non-food consumer products)10. Potential defendants<ol style="list-style-type: none">10.1. Manufacturer of a finished product10.2. Manufacturer of a raw material10.3. Manufacturer of a component part10.4. Importer10.5. Dealer

10.6. Insurer
11. Potential Plaintiffs
11.1. Consumers
11.2. Bystanders
11.3. Workers
11.4. Companies
12. Joint and Several Liability
13. Contribution or Reimbursement
14. Comparative Negligence
15. Defenses
15.1. Manufacturer did not distribute the product
15.2. According to the circumstances, it is likely that the defect did not exist at the time of distribution
15.3. The product was not manufactured for sale or any other form of distribution
15.4. Compliance with mandatory regulations
15.5. State of the Art Defense
16. Harms covered (death or bodily injury and damage to private property) and not covered (pain and suffering and economic loss) by the Directive 85/374 .
17. Statute of Limitations (Section 10 Directive 85/374) and Statute of Repose (Section 11 Directive 85/374)
18. Products Liability and Barriers to Entry
19. Law Applicable to Products Liability: Regulation (EC) No 864/2007 (Rome II)
20. Alternative Dispute Resolution
20.1. Arbitration
20.2. Mediation
20.3. Out of Court Settlement

Grading

Grading will be based on a multiple choice test and a take-home exam.

The multiple choice test will consist of 25 multiple choice questions dealing with a number of topics included in the syllabus.

The take-home exam will consist of essay-questions. Students will be required to answer them using the "IRAC" method: Issue-Rule-Analysis-Conclusion.

Additionally, class participation will be taken into account.

Literature and other materials

Some general references are the following ones:

- Rodrigo BERCOVITZ RODRÍGUEZ-CANO (Dir.), *Comentario del Texto Refundido de la Ley General para la Defensa de los Consumidores y Usuarios y otras Leyes*, Thomson-Aranzadi, Cizur-Menor (Navarra), 2009.
- Mark A., GEISTFELD, "Products Liability", Michael FAURE (Ed.), *Encyclopedia of Law and Economics*, 2nd. ed., Vol. 1: Tort Law and Economics, Edward Elgar, Cheltenham (UK) - Northampton (MA), 2009. On-line version

available at <http://papers.ssrn.com>.

- James A. HENDERSON, Jr. and Aaron D. TWERSKI, *Products Liability: Problems and Process*, 6th ed., Wolters Kluwer – Aspen, New York, 2008.
- Hans Josef KULLMANN, *Produkthaftungsgesetz. Gesetz über die Haftung für fehlerhafte Produkte (ProdHaftG). Kommentar*, 5. Auflage, Erich Schmidt Verlag GmbH & Co., Berlin, 2006.
- A. Mitchell POLINSKY and Steven SHAVELL, "The Uneasy Case for Product Liability", *123 Harv. L. Rev. 1437 (2010)*. Available at <http://www.harvardlawreview.org/index.php>.
- Mathias REINMANN, "Liability for Defective Products at the Beginning of the Twenty-First Century", *51 The American Journal of Comparative Law 751*.

[Excerpted at James A. HENDERSON, Jr. and Aaron D. TWERSKI, *Products Liability: Problems and Process*, 6th ed., Wolters Kluwer (Aspen), New York, 2008, 725]

- Pablo SALVADOR CODERCH y Fernando GÓMEZ POMAR (Coord.), *Tratado de Responsabilidad Civil del Fabricante*, Thomson-Civitas, Cizur Menor (Navarra), 2008.

[See also the 2009 Supplement: Pablo SALVADOR CODERCH, Fernando GÓMEZ POMAR y Sonia RAMOS GONZÁLEZ (Coord.), *Apéndice 2009 al Tratado de Responsabilidad Civil del Fabricante*, Thomson-Civitas, Cizur Menor (Navarra), 2010.]

- Gerhard WAGNER, "Kommentar zum Produkthaftungsgesetz", in Mathias HABERSACK (Redakteur), *Münchener Kommentar zum Bürgerlichen Gesetzbuch, Band 5 – Schuldrecht • Besonderer Teil III*, 5. Auflage, C.H. Beck, München, 2009, 2659-2778.
- TortsProf Blog, Products Liability:
<http://lawprofessors.typepad.com/tortsprof/>