

ECONOMICS 126 ECONOMICS & LAW

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COURSE DESCRIPTION

The purpose of the course is to explore the economic ramifications of various legal rules, doctrines, precedents, alternatives, etc. We will concentrate on the common law areas of property, contract, tort (accident law). The analysis will be microeconomic and at a level accessible to any student who has taken a course in basic microeconomics).

I am not a lawyer and this will not be a course in law per se. That is, I do not intend to provide you with a catalogue of legal rules and precedent, such as might be done in a business law course. Rather we shall examine selected legal rules in the light of economic analysis: What, if anything, is their economic impact? Do they have an economic rationale? How do they affect the market environment (wealth, prices, costs, competition, risk allocation, etc.)? How can they be expected to alter the behavior of economic decision makers?

REQUIRED READING MATERIALS

There are two texts for the course: *Cases and Materials on Law and Economics* by David W. Barnes and Lynn A. Stout, a case book written primarily for use in law schools, and a paperback, *Law's Order*, by David Friedman of Santa Clara's law school. There is also a package available from the campus bookstore which contains some supplementary cases not included in the Barnes & Stout book, a packet of overhead masters--so you won't have to copy the overheads I use in class--and a list of all cases listed on the course outline arranged for convenient note taking.

Chapter-by-chapter reading assignments from these texts are given on the attached course outline. You are responsible for all of the material in the chapters that are assigned. The cases listed following each major section on the course outline are the ones that I plan to discuss in class. **I expect you to have read those cases before the class in which we discuss them, as indicated by the date shown.** *The important thing about the cases is not the facts involved, but rather the significance of the economic issues that they raise or illustrate. The cases just give us an interesting, concrete story as a framework in which to discuss the economic issues.*

EXAMS

Grading will be based on your performance on three exams, two midterms, one focusing on the introductory material and economics of property law, one on the economics of contract law, and a final concentrating on the economics of tort law. While not fully cumulative, the final will also contain some general questions on themes that have recurred throughout the course. Each exam will consist of short-answer questions and problems that require you to apply and use the concepts developed in the texts and lectures. Sample questions from recent exams are linked to my web page as are sample questions on *Law's Order*. Projected dates of the two midterms are noted on the course outline below. The final is scheduled by the University.

DO NOT THINK YOU CAN MISS AN EXAM WITHOUT A PRIOR, APPROVED (BY ME) EXCUSE. If you do, there will be no make-up; I will simply give you a zero on the exam.

ACADEMIC INTEGRITY

I expect you to do your own work on exams. I can assure you that I will carefully monitor the class during exams and severely punish anyone caught with a suspiciously wandering eye. You may not leave the room during an exam, so take care of any bathroom needs beforehand.

CLASS ATTENDANCE

I do not take role and I will not penalize you for missing a class now and then. However, if I observe a pattern of repeated or continued absence, I will simply withdraw you from the course.

DISABILITIES RESOURCES

To request academic accommodations for a disability, students must contact Disabilities Resources located on the second floor of Benson. Phone numbers are (408) 554-4111; TTY (408)554-5445. Students must register and provide documentation of a disability to Disabilities Resources prior to receiving academic accommodations.

COURSE OUTLINE AND READING ASSIGNMENTS

- I. Introductory material (**Barnes & Stout**, Ch. 1; **Friedman**, Intermezzo & Ch. 1, 2)
 - A. An overview of economic analysis of law
 - B. Review of economic concepts: Value, exchange, efficiency, and transactions costs

Week of 1/9: *Cidis v. White*
 Ross v. Wilson
 U.S. v. Causby

- II. Economic analysis of property law and the law of nuisance (**Barnes & Stout**, Ch. 2; **Friedman**, Ch. 3-5, 8, 10, 11)
 - A. The benefits and costs of defining and enforcing property rights
 - B. Conflicting property rights as economic externalities
 - C. The Coase theorem and the exchange of property rights
 - D. Trespass, necessity, and eminent domain
 - E. Intellectual property (patents, copyright, trade secrets, etc.)

Discussion cases and readings for property law:

Week of 1/16: *Orchard View Farms v. Martin Marietta Aluminum*
Bryant v. Lefevre
Sturges v. Bridgeman
Fountainebleau Hotel Corp. v. Forty-Five Twenty-Five, Inc.
Walgreen v. Sara Creek Property Company (packet)
Boomer v. Atlantic Cement Co.
Spur Industries v. Del E. Webb Development Co.

Week of 1/23: *Ploof v. Putnam*
Vincent v. Lake Erie Transport Co.
Poletown Neighborhood Council v. City of Detroit (packet)
Kelo v. City of New London Connecticut (packet)
Pennsylvania Coal v. Mahon (packet)
Lucas v. South Carolina Coastal Council (packet)
Miller v. Shoene (packet)

Tues 1/30: *Feist Publications v. Rural Telephone Service Co.* (packet)
Campbell v. Acuff-Rose Music (packet)

*** First Midterm Thursday, 2/1***

- III. Economic analysis of contract law (**Barnes & Stout**, Ch. 4, **Friedman**, Ch. 6, 12)
 - A. The economic functions of the law of contracts
 - B. Formation defenses: economic issues regarding the existence of contracts
 - 1. Consideration
 - 2. Capacity, duress, and unconscionability
 - 3. Contracts based on incomplete or mistaken information
 - C. Performance excuses and risk allocation
 - 1. Economically preventable losses
 - 2. Principles of insurance
 - D. Remedies for breach of contract
 - 1. Principles of contract damages
 - 2. Limitations on damages

3. Other remedies: specific performance, liquidated damages and penalties

Discussion cases for contract law:

- Week of 2/6: *Rexite Casting Co. v. Midwest Mower Corp*
Stelmack v. Glen Alden Coal Co.
Mills v. Wyman
Allegheny College v. National Chautauqua Bank (packet)
Ricketts v. Scothorn
Hamer v. Sidway (packet)
Williams v. Walker-Thomas Furniture Company (I & II)
Jones v. Star Credit Corp. (packet)
Alaska Packers v. Domenico (packet)
Post v. Jones (packet)
Harris v. Tyson
Wilkin v. 1st Source Bank
Sherwood v. Walker (packet)
- Week of 2/13: *Canadian Industrial Alcohol Co. v. Dunbar Molasses Co.*
Transatlantic Financing Corporation v. United States
Redgrave v. Boston Symphony Orchestra
Neri v. Retail Marine Corporation
Deitsch v. Music Company
Security Stove & Mfg. Co. v. American Ry. Express Co.
- Week of 2/20: *Hadley v. Baxendale*
Florida East Coast Railway Co. v. Beaver Street Fisheries, Inc.
Campbell Soup Co. v. Wentz
Sedmack v. Charlie=s Chevrolet (packet)
Peeveyhouse v. Garland Coal & Mining Company
Eastern S.S. Lines, Inc. v. United States
Lake River Corporation v. Carborundum Company

*** **Second Midterm, Tuesday 2/28*****

- IV. Economic analysis of tort law (**Barnes & Stout**, Ch. 3, **Friedman**, Ch. 7, 9, 14)
 - A. Liability and the internalization of accident costs
 - B. Negligence liability
 - C. Defences to negligence liability
 1. Contributory negligence
 2. Assumption of risk
 3. Comparative Negligence
 - D. Strict liability
 1. The economic rationale for strict liability

2. Defenses to strict liability
- E. Determining tort damages
1. Estimating lost earnings
 2. Valuing a human life
 3. Punitive damages

Discussion cases for tort law:

Thurs 3/1: *Winn Dixie Stores, Inc. v. Benton*
Drake v. Lerner Shops of Colorado, Inc.
Schomaker v. Havey
United States v. Carroll Towing Co.
McCarty v. Pheasant Run, Inc.
Davis v. Consolidated Rail Corporation

Week of 3/5: *Butterfield v. Forrester*
Davies v. Mann (packet)
Levi v. Southwest Louisiana Electric Membership Cooperative
Ordway v. Superior Court
Kelly v. Checker White Cab
Scott v. Alpha Beta Company
Golden v. McCurry
Galena and Chicago Union Railroad Company v. Jacobs

Week of 3/12: *The T. J. Hooper (packet)*
Helling v. Carey (packet)
Escola v. Coca Cola Bottling Co.
Greenman v. Yuba Power Products, Inc.
Daniell v. Ford Motor Co.
Cryts v. Ford Motor Company
Anheuser-Busch, Inc. v. Starley
Sturm, Ruger & Co. v. Day
BMW of North America v. Gore (packet)

***** Final Exam, as scheduled by the University*****