

Law and Economics

Class: Tuesdays and Thursdays, 3rd and 4th periods, MAT (Matherly Hall) 3
Office Hours: Wednesdays 1:30 pm – 3:30 pm. For other times, please make an appointment.
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Prerequisites: ECO 2023, MAC 2233, and ECO 3101 (or ECP 3703). You must obtain permission of the instructor at the end of the first class if you lack any of these classes. Microeconomic theory is essential for the class.

Description: This course will study the interactions between law and economics, primarily focusing on the economic rationale for legal rules. We will also study the evolution of legal rules. The primary topics will be the laws of torts, contracts, and property. Other topics include intellectual property, adaptations of law to new types of property, deterrence of crime, consumer protection, and efficiency versus fairness.

Requirements:

- 1) **Midterm exam** (30 % of final grade) **Thursday October 10**
(What's covered on this exam will be announced no later than Thursday October 3.)
- 2) **Final Exam** (40 % of final grade) 5:30 pm **Tuesday December 10** (This is the registrar's scheduled time.)
- 3) **Research paper** (30 % of final grade)
This is an 8-12 page (double-spaced) paper. I prefer that you identify your own topic, but I am happy to consult with you about it. I will distribute a list of ideas to inspire you in finding a topic. You must inform me of your choice of topic in writing by the beginning of class on **Tuesday October 22**. I will comment on your choice by 30 October (earlier if you turn in your topic earlier). The assignment is due **Wednesday December 4** at 5:00 pm.
- 4) **Class participation** (This may raise your grade, but will not lower it.)
Attendance at all class sessions is expected. This grade is based not simply on attendance, but on the quality of your participation in discussions. For some articles and cases, I will announce that you are to read the material in advance. Several problem sets will be posted on the Canvas website for class discussion (dates announced in advance).

I distribute copies of the slides used in class by posting after each session. To facilitate student discussion, DO NOT use your laptop computer during class time unless permission is granted that day. Failure to comply with this policy will affect your grade for class participation (and I am not obliged to warn you again).

Text: Miceli, *The Economic Approach to Law*, 3rd edition, Stanford, 2017

All readings on the syllabus other than the textbook will be posted on the Canvas website directly, or a link will be available. For almost all court cases, a Google search with the name of the case will bring up a variety of websites with the full case or an edited version (and sometimes a Wikipedia summary of the case). You may find these alternatives to the version I post useful (although read at least one version of the case, and do not simply rely on the Wikipedia summary—which may have a very different focus).

Syllabus

(tentative schedule, some readings may be added,
number of class sessions for each section is approximate)

1. Introduction (3 sessions)

What is “Law and Economics”? What questions will we answer?

The Legal System

Brief Review of Welfare Economics

Readings:

Miceli, ch. 1

Holmes, “The Path of the Law,” *Harvard Law Review* 10: 991-1009 (1897)

2. Some Initial Social Questions to Ponder (1 session)

Readings:

Blair and Kaserman, “The Economics and Ethics of Alternative Cadaveric Organ Procurement Policies,” *Yale Journal on Regulation*, 8: 403-452 (Summer 1991)

Slonim, Wang, and Garbarino, “The Market for Blood,” *Journal of Economic Perspectives*, Spring 2014

*Simon Rippon, “Imposing Options on People in Poverty: the Harm of a Live Donor Organ market,” *Journal of Medical Ethics* (2012)

3. Tort Law (4-5 sessions)

Readings:

- Miceli, ch. 2 and 3
- U.S. v. Carroll Towing (1947)
- Palsgraf v. LIRR (1927)
- MacPherson v. Buick (1916)
- Escola v. Coca-Cola Bottling Co. of Fresno (1944)
- Greenman v. Yuba Power Products (1962)
- *Brown, "Toward an Economic Theory of Liability," *Journal of Legal Studies*, 2: 323-349 (1973)

4. Contract Law (4-5 sessions)

Readings:

- Miceli, ch. 4 and 5
- Hamer v. Sidway (1891)
- Krell v. Henry (1903)
- Peevyhouse v. Garland Coal & Mining Company (1963)
- *Kronman, "Mistake, Disclosure, and Information," *J. Legal Studies* 7: 1-34 (1978)

Review for Midterm Exam (1 session)

Midterm Exam

5. Property Law (5 sessions)

Readings:

- Miceli, ch. 6 and 7
- Coase, "The Problem of Social Cost," *Journal of Law and Economics* 3: 1-44 (1960)
- Ploof v. Putnam (1908)
- Vincent v. Lake Erie Transport Co. (1910)
- Boomer v. Atlantic Cement Co. (1970)
- Spur Industries v. Del E. Webb Development Co. (1972)
- Kelo v. City of New London (2004)
- *Calabresi and Melemed, "Property Rules, Liability Rules and Inalienability: One View of the Cathedral," *Harvard Law Review* 85: 1089-1128 (1972)

6. Intellectual Property (2-3 sessions)

Readings:

- Miceli, ch. 6.5
- Moore v. Regents of California (1990)
- *G.S. Rasmussen & Associates Inc. v. Kalitta Flying Service (1992)

7. Detering Crime (2-3 sessions)

Readings:

Miceli, ch. 8

8. Dispute Resolution and Remedies (2-3 sessions)

Readings:

Miceli, ch 9

BMW of North America Inc. v. Gore (1996)

*Rubin, "Why is the Common Law Efficient?" *Journal of Legal Studies* 6: 51-63 (1977)

*Priest, "The Common Law Process and the Selection of Efficient Rules,"
Journal of Legal Studies, 6: 65-82 (1977)

Review for Exam (1 session)

Exceptions

Tuesday 26 November (No class)

Thursday 5 December (Reading Day—review, if necessary)

Optional readings are marked with an asterisk (*). These are readings that flesh out models presented in class.