

## ECONOMICS 126

# ECONOMICS & LAW

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*Fall, 2003*  
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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 Econ 012 or 014 or the equivalent (a second course in 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 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 *Law's Order*, a new text by David Friedman of Santa Clara's law school. There is also a package available from Copy Craft which contains some supplementary cases not included in the Barnes & Stout book, a packet of overhead masters—so you won't have to copy down 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. I will call names at random from the class roster to summarize the facts in each case we discuss in class. I would hope that the desire to avoid embarrassment in front of your peers would be sufficient motivation to do the assigned reading on time. However, I will also deduct points from the final curve (see below) for students who are not prepared. (I also reserve the right to give an unannounced pop quiz on the cases assigned for any given day.) As you can see, we will discuss three cases related to the introductory material at our second class meeting. *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.***

(You will notice that the discussion following each legal case in the Barnes & Stout text is punctuated with questions addressed to you, the reader. I have placed on hard-copy reserve a copy of the relevant sections of the authors' Teachers' Manual which provides suggested answers to those questions.)

## 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, adjusted where necessary for your preparedness in class. (If there are any pop quizzes on the case reading assignments, they would be included as well.) While not fully cumulative, the final may also contain general questions relating to the material on property and contracts as well as torts. Each exam will consist of essay 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 and are also available on ERES. I will distribute sample questions on *Law's Order* in class. Projected dates of the two midterms are noted on the course outline below. The final is scheduled as indicated in the schedule of classes.

**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 (e.g., taking every Friday off, missing a week of class without an excuse, etc.), I will simply withdraw you from the course.

## 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

Wed 9/24: *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:

- Fri 9/26: Friedman, Ch. 10; Barnes & Stout material on Tragedy of the Commons and the Prisoners' Dilemma (pp. 27-34) .
- Mon 9/29: Friedman, Ch. 3, 4  
*Orchard View Farms v. Martin Marietta Aluminum*  
*Bryant v. Lefevre*  
*Sturges v. Bridgeman*  
*Fountainebleau Hotel Corp. v. Forty-Five Twenty-Five, Inc.*
- Wed 10/1: Friedman, Ch. 5  
*Boomer v. Atlantic Cement Co.*  
*Spur Industries v. Del E. Webb Development Co.*  
*Walgreen v. Sara Creek Property Company* (packet)
- Mon 10/6: *Ploof v. Putnam*  
*Vincent v. Lake Erie Transport Co.*
- Wed 10/8: No class: student planning day
- Fri 10/10 *Poletown Neighborhood Council v. City of Detroit* (packet)  
*Pennsylvania Coal v. Mahon* (packet)  
*Lucas v. South Carolina Coastal Council* (packet)  
*Miller v. Shoene* (packet)
- Mon 10/13: Friedman, Ch. 11  
*Feist Publications v. Rural Telephone Service Co.* (packet)  
*Campbell v. Acuff-Rose Music* (packet)

\*\*\* **First Midterm Wed, 10/15** \*\*\*

- 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
  - 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:

- Fri 10/17: *Rexite Casting Co. v. Midwest Mower Corp*  
Mon 10/20: *Stelmack v. Glen Alden Coal Co.*  
*Mills v. Wyman*  
*Allegheny College v. National Chautauqua Bank* (packet)  
*Ricketts v. Scothorn*  
*Hamer v. Sidway* (packet)  
Wed 10/22 *Williams v. Walker-Thomas Furniture Company (I & II)*  
*Jones v. Star Credit Corp.* (packet)  
*Alaska Packers v. Domenico* (packet)  
*Post v. Jones* (packet)  
Fri 10/24 *Harris v. Tyson*  
*Wilkin v. 1st Source Bank*  
*Sherwood v. Walker* (packet)  
*Canadian Industrial Alcohol Co. v. Dunbar Molasses Co.*  
Mon 10/27 *Transatlantic Financing Corporation v. United States*  
Friedman, Ch. 6  
Wed 10/29: *Redgrave v. Boston Symphony Orchestra*  
Fri 10/31: *Neri v. Retail Marine Corporation*  
*Deitsch v. Music Company*  
*Security Stove & Mfg. Co. v. American Ry. Express Co.*  
Mon 11/3: *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*  
Wed 11/5: *Lake River Corporation v. Carborundum Company*

\*\*\* Second Midterm, Fri 11/7\*\*\*

- 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:

- Mon 11/10: *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*
- Fri 11/14: *Butterfield v. Forrester*  
*Davies v. Mann (packet)*  
*Levi v. Southwest Louisiana Electric Membership Cooperative*  
*Ordway v. Superior Court*  
*Kelly v. Checker White Cab*
- Wed 11/19: *Scott v. Alpha Beta Company*  
*Golden v. McCurry*  
*Galena and Chicago Union Railroad Company v. Jacobs*
- Fri 11/21: *The T. J. Hooper (packet)*  
*Helling v. Carey (packet)*
- Mon 12/1: *Escola v. Coca Cola Bottling Co.*  
*Greenman v. Yuba Power Products, Inc.*  
*Daniell v. Ford Motor Co.*  
*Cryts v. Ford Motor Company*
- Fri 12/5: Friedman, Ch. 9  
*Anheuser-Busch, Inc. v. Starley*  
*Sturm, Ruger & Co. v. Day*  
*BMW of North America v. Gore (packet)*

**\*\*\* Final Exam, Wed 12/10, 9:10 AM \*\*\***