

Economics 499
Undergraduate Seminar in Economics: Law & Economics

Instructor: Professor John Garen
Office: 335C Business & Economics
Hours: 12:30 – 1:30 T, Th
Phone: 257-3581
e-mail: jgaren@uky.edu

Fall 2002
9:30-10:45 T, Th
BE 214

Website: <http://gatton.uky.edu/Faculty/garen/index.html>

Background

This course studies selected topics in the area of law and economics. While the field of law, and the economic analysis of it, is quite broad, we focus on the central areas of common law – property, contracts, and torts. We will discuss the economic effects of various laws and seek to discover legal rules that promote economic efficiency. Thus, the course has both positive and normative foci.

Text

The text for the course is:

Robert Cooter and Thomas Ulen, *Law and Economics*, Addison-Wesley, 3rd edition, 2000.

Text website: <http://www.cooter-ulen.com>

Course Structure and Requirements

The first part of the course will focus on covering the material from the text. Classes will consist of lectures and class discussions. Student participation is expected. The latter part of the course will be devoted to student presentations of term papers. Grades will be determined by examinations and quizzes, class participation, a term paper, and a presentation of your paper to the class.

The percentage breakdown for each is:

Exam #1 (review material)	10%
Exam #2 (property)	15%
Exam #3 (contracts)	15%
Exam #4 (torts)	15%
Quizzes	5%
Class participation	10%
Term paper	15%
Class presentation	15%

Term papers are to be a description, discussion, and an *economic* analysis of a case, case law, or a legal doctrine. They should be related to the topics of the course. Topics must be discussed with and approved by the instructor in advance. Ideas for paper topics are listed below. Papers should be approximately 15 pages in length.

Course Outline and Readings

<u>Dates</u>	<u>Topics</u>	<u>Readings</u>
8/28 - 8/31	Introduction	Ch. 1
9/1 - 9/7	An Introduction to Law; A Review of Economics	Chs. 2, 3
Tues., 9/10	Exam #1	--
9/11 - 9/14	Economics of Property Law	Ch. 4
9/15 - 9/21	Economics of Property Law cont'd; Topics in the Economics of Property Law	Chs. 4, 5
9/22 - 9/28	Topics in the Economics of Property Law cont'd	Ch. 5
9/29 - 10/2	Topics in the Economics of Property Law cont'd	Ch. 5
Thurs., 10/3	Exam #2	--
10/6 - 10/12	An Economic Theory of Contract	Ch. 6
10/13 - 10/19	An Economic Theory of Contract cont'd; Topics in the Economics of Contract Law	Chs. 6, 7
10/20 - 10/26	Topics in the Economics of Contract Law cont'd	Ch. 7
10/27 - 10/30	Topics in the Economics of Contract Law cont'd	Ch. 7
Thurs., 10/31	Exam #3	--
11/3 - 11/9	The Economics of Tort Law	Ch. 8
11/10 - 11/16	The Economics of Tort Law cont'd; Topics in the Economics of Tort Law	Chs. 8, 9
11/17 - 11/23	Topics in the Economics of Tort Law cont'd	Ch. 9
Tues., 11/26	Exam #4	--
12/1 - 12/7	student presentations	--
12/8 - 12/14	student presentations	--

Possible Topics and Readings for Term Papers/Presentations

Below are a number of possible topics for papers/presentations. I also have listed a few readings for most topics. They are suggestive, not exhaustive. They come mostly from a quick search of two of the best known law and economic journals: *Journal of Law and Economics* and *Journal of Legal Studies*. Other sources of readings/topics are the textbook website (<http://www.cooter-ulen.com>), the law and economics section of the Social Sciences Research Network (<http://www.SSRN.com>), and <http://lawecon.lp.findlaw.com/>.

1. The development of property rights

Demsetz, Harold, "Toward a Theory of Property Rights," *American Economic Review*, 1967.

2. Property and contracts in developing and transition economies

Rapaczynski, Andrzej, "The Roles of the State and the Market in Establishing Property Rights," *Journal of Economic Perspectives*, 10(2), Spring 1996, p. 87.

Bragunisky, Serguey, "Enforcement of Property Rights During the Russian Transition: Problems and Some Approaches to a New Liberal Solution," *Journal of Legal Studies*, 28(2), June 1999, p. 515.

Gwartney, J.; Lawson, R.; and Block, W., *Economic Freedom of the World: 1975 – 1995*, The Fraser Institute, 1996.

Anderson, Terry and Lueck, Dean, "Land Tenure and Agricultural Productivity on Indian Reservations," *Journal of Law and Economics*, 35(2), Oct. 1992, p. 427.

3. The efficiency of the common law

Rubin, Paul, "Why Is the Common Law Efficient?," *Journal of Legal Studies*, 6(1), January 1977, p. 51.

4. The role of the legal system in redistribution of income

Kaplow, Louis and Shavell, Steven, "Why the Legal System Is Less Efficient Than the Income Tax in Redistributing Income," *Journal of Legal Studies*, 23(2), June 1994, p. 667.

Also, see the exchange in the *Journal of Legal Studies*, June 2000.

5. Cell phones and rights to the electromagnetic spectrum

Coase, Ronald, "The Federal Communications Commission," *Journal of Law and Economics*, 2(2), Oct. 1959.

Journal of Law and Economics, 41(2), pt. 2, Oct. 1998 conference papers.

6. Satellites and rights to orbital space

Wihlborg, Clas and Wijkman, Per, "Outer Space Resources in Efficient and Equitable Use: New Frontiers for Old Principles," *Journal of Law and Economics*, 24(1), April 1981, p. 23.

7. New technologies

Lichtman, Douglas, "Property Rights in Emerging Platform Technologies," *Journal of Legal Studies*, 29(2), June 2000, p. 615.

Macey, Jonathan and O'Hara, Maureen, "Regulating Exchanges and Alternative Trading Systems: A Law and Economics Perspective," *Journal of Legal Studies*, 28(1), Jan. 1999, p. 17.

8. Intellectual property rights

Dam, Kenneth, "Some Economic Considerations in the Intellectual Property Protection of Software," *Journal of Legal Studies*, 24(2), June 1995, p. 321.

Dam, Kenneth, "The Economic Underpinnings of Patent Law," *Journal of Legal Studies*, 23(1), Jan. 1994, p. 247.

Landes, William and Posner, Richard, "An Economic Analysis of Copyright Law," *Journal of Legal Studies*, 18(2), June 1989, p. 325.

Landes, William and Posner, Richard, "Trademark Law: An Economic Perspective," *Journal of Law and Economics*, 30(2), Oct. 1987, p. 265.

Carlton, Dennis and Gertner, Robert, "Intellectual Property, Antitrust, and Strategic Behavior," NEBR Working Paper 8976, June 2002.

9. The common law and the environment

Yandle, Bruce, *Common Sense and Common Law for the Environment*, New York: Rowan & Littlefield, 1997, Ch. 4.

10. Internalizing Externalities

Pashigian, B. Peter and Gould, Eric, "Internalizing Externalities: The Pricing of Space in Shopping Malls," *Journal of Law and Economics*, 41(1), April 1998, p. 115.

11. Fugitive Property

Dharmapala, Dhammika and Pitchford, Rohan, "An Economic Analysis of 'Riding to Hounds': Pierson V. Post Revisited," *Journal of Law, Economics, and Organization*, 18(1), April 2002, pp 39.

12. The development of rights to common property resources

13. AIDS drugs, patents, and pricing

14. Issues in contract law

Posner, Eric, "Contract Law in the Welfare State: A Defense of the Unconscionability Doctrine, Usury Laws, and Related Limitations on the Freedom to Contract," *Journal of Legal Studies*, 24(2), June 1995, p. 283.

Rubin, Paul and Shedd, Peter, "Human Capital and Covenants Not to Compete," *Journal of Legal Studies*, 10(1), Jan. 1981, p. 93.

15. Vaccines and liability law

Manning, Richard, "Changing Rules in Tort Law and the Market for Childhood Vaccines," *Journal of Law and Economics*, 37(1), April 1994, p. 247.

16. HMOs and liability.

Danzon, Patricia, "Tort Liability: A Minefield for Managed Care?," *Journal of Legal Studies*, 26(2), pt. 2, June 1997, p. 491.

17. No-fault insurance

Landes, Elisabeth, "Insurance, Liability, and Accidents: A Theoretical and Empirical Investigation of the Effect of No-Fault Accidents," *Journal of Law and Economics*, 25(1), April 1982, p. 49.

18. Penalties for corporate crime

Fischel, Daniel and Sykes, Alan, "Corporate Crime," *Journal of Legal Studies*, 25(2), June 1996, p. 319.

Arlen, Jennifer, "The Potentially Perverse Effects of Corporate Criminal Liability," *Journal of Legal Studies*, 23(2), June 1994, p. 832.

19. Compensation of plaintiff lawyers in tort lawsuits.

Hughes, James and Snyder, Edward, "Litigation and Settlement under the English and American Rules: Theory and Evidence," *Journal of Law and Economics*, 38(1), April 1995, p. 225.

20. Aspects of corporate law, e.g., fiduciary duty, business judgment rule

21. Aspect of the common law of employment, e.g., contract at-will, employee liability

22. franchising law

23. smoking ordinances

24. water and ocean rights

25. "partial takings" and compensation

26. Disclosure in contracts

27. Issues in damages