

Instructor: Frank Scott
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Goals of the Course

This course will survey the field of law and economics. We will discuss the importance of the legal system in facilitating market exchange. We will study the core areas of common law—property, contract, and tort. We will consider the sometimes-competing goals of equity and efficiency and their roles in the formulation of legal decisions. We will study the Coase theorem, and see how the presence of transactions costs, incomplete information, and risk aversion can influence the outcome of any particular legal decision.

Class Format

The class will be conducted in a semi-Socratic format. You will be given a reading assignment prior to each class meeting. Sometimes I will present material in a lecture format, but more often I will lead a class discussion by asking you pointed questions. I expect you to read each assignment before class and to be prepared to participate in class discussions. A portion of your grade will be determined by the quality of your contribution to our discussions.

Text

We will use Law and Economics 6th edition, by Robert Cooter and Thomas Ulen. It is available in hardback (new and used), paperback (new and used), and for rent. 5th editions are also available at a significantly cheaper price, and will be perfectly serviceable for this course.

Grading

You will be graded in a number of different ways. You will have two in-class exams and a research paper. Your contribution to class discussions will also be counted in your grade. The percentage breakdown is:

15-page research paper	50%
midterm exam	20%
final exam	20%
class participation	10%

Office Hours

My office is 223-Q in the Gatton Building. Since we are a fairly small group, instead of holding formal office hours, I will make myself generally available for drop-in visits during regular business hours Monday through Friday. Feel free to stop by unannounced, or make an appointment with me. If I am not able to meet with you immediately, we will set up a time that is convenient.

Course Outline and Reading Assignments

I.	Introduction:	Ch. 1
II.	Some Economics:	Ch. 2 and class notes
III.	Some Law:	Ch. 3
IV.	Property Law:	Chs. 4 and 5

Midterm Exam: Monday, October 19

V.	Contract Law:	Chs. 8 and 9
VI.	Tort Law:	Chs. 6 and 7
VII.	The Legal Process:	Ch. 10

Final Exam: Tuesday, December 15, 10:30 a.m.

Other Course Details:

Grading Scale:

Final letter grades in the course will be assigned according to performance on exams, the research paper, and participation in class. In determining your grade, I will follow the guidelines established by the UK publication *Student Rights and Responsibilities*:

- A: Represents an exceptionally high achievement as a result of aptitude, effort and intellectual initiative
- B: Represents a high achievement as a result of ability and effort
- C: Represents satisfactory achievement for undergraduates
- D: Represents unsatisfactory achievement for undergraduates and is the minimum grade for which credit is conferred
- E: Represents unsatisfactory performance and indicates failure in the course

Attendance:

Attendance is both highly encouraged and expected. Ten percent of your grade is determined by class participation, so I will monitor attendance and participation.

Make-up Exams:

There are explicit University-approved excuses for missing an exam, which entitles a student to take a make-up exam. You should notify me as soon as you know that you will have to miss an exam.

Academic Integrity:

Per university policy, students shall not plagiarize, cheat, or falsify or misuse academic records. Students are expected to adhere to University policy on cheating and plagiarism. Complete information can be found on page 173 of the University Senate Rules about what constitutes cheating and plagiarism.

Accommodations Due to Disability:

If you have a documented disability that requires academic accommodations, please see me as soon as possible during scheduled office hours. In order to receive accommodations in this course, you must provide me with a Letter of Accommodation from the Disability Resource Center (Room 2, Alumni Gym, 257-2754, email address jkarnes@email.uky.edu) for coordination of campus disability services available to students with disabilities.

Detailed Course Outline with additional (optional) readings

Monday, August 31: “Introduction,” Cooter and Ulen, Ch. 1

Additional outside readings:

- Example of intellectual property rights: can a color be owned?

<http://search.proquest.com/docview/398428787/5CF8552168004990PQ/75?accountid=11836>

- Example of torts: a famous case in the evolution of product liability rules.

http://scholar.google.com/scholar_case?case=1547126968260564389&hl=en&as_sdt=6&as_vis=1&oi=scholar

Wednesday, September 2: “Some law,” Cooter and Ulen, Ch. 3

Additional outside readings:

- Concise summaries of the Napoleonic Code:

http://en.wikipedia.org/wiki/Napoleonic_Code#

<http://www.britannica.com/EBchecked/topic/403196/Napoleonic-Code>

- and the full set of laws translated into English:

http://www.napoleon-series.org/research/government/c_code.html

- Concise summary of common law:

http://en.wikipedia.org/wiki/Common_law#Basic_principles_of_common_law

“Section 2: Basic principles of common law” provides a good supplement to the discussion of the common law contained in Ch. 3 of Cooter and Ulen.

- Expanded discussion of *Butterfield v. Forrester*:

<http://www.lawnix.com/cases/butterfield-forrester.html>

- If you’re thinking about going to law school, read this discussion of *Davies v. Mann* in the *Harvard Law Review* (1890):

<http://www.jstor.org/stable/1321906?seq=1>

Wednesday, September 9: “Some economics” Cooter and Ulen, Ch. 2

Additional outside readings on human rights, goals for society, and equity vs. efficiency:

- Declaration of Independence:

http://www.archives.gov/exhibits/charters/declaration_transcript.html

- U.S. Constitution:

http://www.archives.gov/exhibits/charters/constitution_transcript.html

- Bentham and Marx meet in the tropics:

<http://www.jstor.org/stable/10.1086/596752>

- United Nations Declaration of Human Rights:

<http://www.un.org/en/documents/udhr/>

- Wikipedia essay on the Communist Manifesto:

http://en.wikipedia.org/wiki/The_Communist_Manifesto

- Equity vs. efficiency, the great trade-off (see especially the leaky bucket experiment):

[http://www.aspeninstitute.org/sites/default/files/content/docs/OKUN_EQUALITY_AND_EFFICIENCY_\(AS_08\).PDF](http://www.aspeninstitute.org/sites/default/files/content/docs/OKUN_EQUALITY_AND_EFFICIENCY_(AS_08).PDF)

- John Rawls’ theory of justice explained in three minutes by a cartoon character:

<https://www.youtube.com/watch?v=hCJqNrQWykU>

or in 17 minutes by a U of Texas philosophy professor:

<https://www.youtube.com/watch?v=tPfbCJ9m3j8>

Monday, September 14: comparative economic systems

Additional resources on market economies, command economies, and economic development:

- Centralized vs. de-centralized decision-making: “China’s Winter of Discontent,” *WSJ*, 3/14/06.

<http://ezproxy.uky.edu/login?url=http://search.proquest.com/docview/398959819?accountid=11836>

- Milton Friedman: Story of the Pencil—how markets work to allocate resources,

<http://www.youtube.com/watch?v=4ERbC7JyCfU>

- Youtube: economic development in four minutes,

<http://www.youtube.com/watch?v=jbkSRLYSojo>

- CIA World Factbook, comparative economic systems

<https://www.cia.gov/library/publications/the-world-factbook/>

Wednesday, September 16: economic efficiency/Pareto optimality
Additional resources: None as good as attending class this day.

Monday, September 21: Pareto optimality and market economies
Additional resources: None as good as attending class this day.

Wednesday, September 23: Role of government in a market economy
Additional resources: None as good as attending class this day, but you might take a look at <https://www.youtube.com/watch?v=D23YY11cvzY> .
Too little government? <https://www.youtube.com/watch?v=ASWGIb6NoLA> .
Too much government? https://www.youtube.com/watch?v=d_Ku5UGhkyM

Monday, September 28: introduction to property law (C&U 70-81)
Additional resources: A world with no property rights: <https://www.youtube.com/watch?v=Gdv5EtZQ6jg>
Property rights and prosperity: <https://www.youtube.com/watch?v=gw-da3CFh5g>
A sample case: <http://academic.udayton.edu/Lawecon/Readings/Spur%20v%20Web.pdf>

Wednesday, September 30: public vs. private goods, externalities, the Coase Theorem (C&U 81-94, 102-106)
Additional resources: Private vs. public goods: <https://www.youtube.com/watch?v=rdCD1gJTQHg>
Coase theorem: explained: <http://www.youtube.com/watch?v=RIugTo0ivWI> ,
an application: <https://www.youtube.com/watch?v=0d5c0uRUbp8>
an early case: http://en.wikipedia.org/wiki/Sturges_v_Bridgman
a more recent, slightly different case: <http://www.apnewsarchive.com/1990/Lawsuits-Against-Ashland-Cause-Bitter-Split-in-Small-Town/id-81d19292c1e416a93bd56f1c1777a7f8>

Monday, October 5: what can be privately owned, public vs. private ownership, tragedy of the commons? (C&U 112-142)
Additional resources: Information goods: <http://www.weather.gov/> ,
<http://www.weatherwise.org/Archives/Back%20Issues/2013/January-February%202013/beyond-ews-full.html> , <http://www.skyviewweather.com/about-us/>
Trademarks, spotting fake Burberry: <http://www.youtube.com/watch?v=pDuc74A9uC8>
Tragedy of the commons: <https://www.youtube.com/watch?v=WYA1y405JW0> ,
<https://www.youtube.com/watch?v=3IdzaEiYx5o>
A scholarly discussion of a solution: <http://www.jstor.org/stable/725304>

Wednesday, October 7: how are property rights established and verified? (C&U 143-156)
Additional resources: Fox hunting: http://en.wikipedia.org/wiki/Pierson_v_Post
Wandering gas: <http://www.facstaff.bucknell.edu/kinnaman/Hammonds%20v.htm>
When to privatize open-access resources: <http://www.sagebrushsteppe.micahlauer.com/?p=389>
Land, barbed wire, cattle, and branding in the American West: <http://www.jstor.org/stable/725249>
Adverse possession: <https://www.youtube.com/watch?v=xoWbRdcKLIE>
A Homestead Act for Detroit? <http://www.detroitnews.com/story/news/local/detroit-city/2015/09/17/detroit-neighborhood-plea-want-squatters/32558019/>

Monday, October 12: what may owners do with their property? (C&U 156-166)
Illegal trespass? <https://h2o.law.harvard.edu/collages/870>
Inalienability? Wombs: http://www.thesurrogacysource.com/ip_fees.htm?type=Intended%20Parent
Votes: <http://www.nytimes.com/2004/08/29/us/where-prosecutors-say-votes-are-sold.html>
Unbundling property rights: http://studentorgs.law.unc.edu/documents/elp/2012/whilden_final.pdf
Deed restrictions (see p. 15-21): http://www.andoverforest.org/andoverforest/document_view.asp?id=5
And their enforcement: <http://bluegrasspolitics.bloginky.com/2012/02/01/house-panel-votes-down-lexington-playhouse-bill/>

Wednesday, October 14: what are remedies for violation of property rights? (C&U 166-185)
Smelly cattle again: <http://academic.udayton.edu/Lawecon/Readings/Spur%20v%20Web.pdf>

Dirt, smoke, and vibration: http://www.courts.state.ny.us/reporter/archives/boomer_atlantic.htm
Young Library and eminent domain: <http://www.aceweekly.com/1998/08/uk-is-the-800-pound-gorilla-where-will-it-sit-next/>
Public taking for private use? http://en.wikipedia.org/wiki/Kelo_v._City_of_New_London

Monday, October 19: midterm exam

Wednesday, October 21: introduction to contract law, bargain theory, contract remedies (C&U 276-291)
Unforeseen circumstances: “Ebola Rattles Commodities: Trading or Shipping Disruptions May Not Be Covered by Insurance, Contracts,” *WSJ* 10/18/14,
<http://ezproxy.uky.edu/login?url=http://search.proquest.com/docview/1613379915/F70AF55747D14C07PQ/85?accountid=11836>
Strict enforcement? http://en.wikipedia.org/wiki/Batsakis_v._Demotsis ;
Background for the contract between Batsakis and Demotsis:
<http://www.youtube.com/watch?v=c841W29ARoQ>
Is there consideration? http://www.gklaw.com/news.cfm?action=pub_detail&publication_id=359
Toy Yoda and other amusing stories: <http://www.law.unlv.edu/faculty/rowley/3NevLJ526.pdf>

Monday, October 26: economic interpretation of contracts (C&U 291-305)
Exchanging hostages: <http://en.wikipedia.org/wiki/Hostage> (read the first section on historical practices.)
Modern hostage exchanges: <http://www.reuters.com/article/2012/04/18/us-exxon-rosneft-idUSBRE83H0UE20120418>
Do you think that Exxon-Mobil learned anything from BP’s earlier experience doing business in Russia?
<http://www.theguardian.com/business/2008/jul/27/bp.oil>

Wednesday, October 28: formation defenses and performance excuses (C&U 341-342); incompetence, duress, necessity (C&U 342-349)
Incompetence? “The Gambler Who Blew \$127 million,” *WSJ* 12/5/09, p. A1, <http://ezproxy.uky.edu/login?url=http://search.proquest.com/docview/399079843/8CF747C4A6864AFEPQ/2?accountid=11836>
Necessity? <https://supreme.justia.com/cases/federal/us/60/150/case.html>
Duress? <https://www.youtube.com/watch?v=tXpx21Uf7hs>

Monday, November 2: impossibility, commercial impracticability, and frustration of purpose (C&U 349-353)
For a general summary: <http://www.west.net/~smith/imposbl.htm>
Impossibility: http://en.wikipedia.org/wiki/Taylor_v._Caldwell ; for another Taylor v. Caldwell, also see <http://www.flowrestling.org/coverage/251121-Southern-Scuffle/video/728343-165-Final-David-Taylor-Penn-State-vs-Tyler-Caldwell-Oklahoma-State#.VEW00Nh0zIU> (this one won’t be on the exam).
Commercial impracticability:
<http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=3077&context=wmlr>
Frustration of purpose: http://en.wikipedia.org/wiki/Krell_v._Henry

Wednesday, November 4: mistake, duty to disclose, fraud, unconscionability (C&U 353-372)
Mutual mistake: <http://www.youtube.com/watch?v=mqUusAfC7oc>
pregnant cows: <http://www.law.berkeley.edu/faculty/rubinfeld/LS145/sherwood.html> ; and set to song
<http://www.youtube.com/watch?v=pjjRBAQ7ET8>
ships: http://www.youtube.com/watch?v=Uj_skg-3yPw
Unilateral mistake: <http://islandia.law.yale.edu/ayers/mutual.htm>
Duty to disclose: http://www.leagle.com/decision/196050556Wn2d449_1437
Fraud: <http://education-portal.com/academy/lesson/contract-enforcement-mistake-misrepresentation-fraud.html>
Unconscionability: <http://law.justia.com/cases/federal/appellate-courts/F2/350/445/74380/>

Optional readings: remedies for contract failure (C&U 307-322)

Expectation damages: http://en.wikipedia.org/wiki/Expectation_damages and two relevant cases, http://en.wikipedia.org/wiki/Hadley_v_Baxendale and http://en.wikipedia.org/wiki/Peevyhouse_v_Garland_Coal_&_Mining_Co.

Restitution damages: <http://education-portal.com/academy/lesson/contract-breach-remedies-reliance-damages-restitution-injunctions.html#lesson> (watch the first five minutes or so)

The hairy hand case: <http://danfingerman.com/law/cases/Hawkins.html>

Monday, November 9: introduction to torts (C&U 187-199)

Common torts: <http://jec.unm.edu/education/online-training/torts-tutorial> , skim the examples.

Res ipsa loquitur: http://en.wikipedia.org/wiki/Escola_v_Coca-Cola_Bottling_Co.

Proximity? http://en.wikipedia.org/wiki/Palsgraf_v_Long_Island_Railroad_Co , or the Lego version <https://www.youtube.com/watch?v=mDEbTudkjhc>

Standard of care: http://en.wikipedia.org/wiki/Breach_of_duty_in_English_law

Wednesday, November 11: economic theory of tort liability, precaution under no liability and strict liability (C&U 199-227)

The Hand Rule: <http://nw18.american.edu/~dfagel/Cases/usVcarroltowing.pdf>

Inducing socially efficient behavior: <http://cyber.law.harvard.edu/bridge/LawEconomics/neg-liab.htm>

An application of the Hand Rule: <https://law.resource.org/pub/us/case/reporter/F2/683/683.F2d.1022.81-2197.html> (skim the first 16 paragraphs, start reading at paragraph 17)

Further discussion of efficient precaution:

http://www.leagle.com/decision/19872380826F2d1554_12152.xml/McCARTY%20v.%20PHEASANT%20RUN.%20INC.

Monday, November 16: product liability (C&U 251-253)

An early precedent: http://www.courts.state.ny.us/reporter/archives/macpherson_buick.htm

Strict liability: <http://scocal.stanford.edu/opinion/greenman-v-yuba-power-products-inc-27186>

Benefit-cost analysis? <http://www.youtube.com/watch?v=PAI5T8UecEY>

You'll shoot your eye out: <http://caselaw.findlaw.com/us-6th-circuit/1296628.html>

Wile Coyote v. Acme, Inc.: <https://www.youtube.com/watch?v=kM-91sthsaE> ;

<https://www.youtube.com/watch?v=dFdIx9tqOO>

opening arguments: <https://la.utexas.edu/users/jmciver/357L/WileECoyoteVACME.htm> and

<http://www.lectlaw.com/files/fun19.htm>

Research Memorandum Due Monday, November 16!

Wednesday, November 18: computing damages (C&U 253-261)

Some general principles: <http://en.wikipedia.org/wiki/Damages>

Need a personal injury lawyer? <http://www.alllaw.com/articles/nolo/personal-injury/types-of-compensation.html> (click on some of the specific topics listed at the bottom of the page.)

Punitive damages: http://en.wikipedia.org/wiki/BMW_of_North_America,_Inc._v._Gore

Hot coffee: http://en.wikipedia.org/wiki/Liebeck_v._McDonald%27s_Restaurants

Monday, November 30: medical malpractice (C&U 264-266)

Tort reform as a solution to what ails us? <http://www.pbs.org/newshour/rundown/could-malpractice-reform-save-the-us-health-care-system/>

A lengthier discussion: <http://medicaleconomics.modernmedicine.com/medical-economics/content/tags/alice-g-gosfield/who-benefits-tort-reform?page=full>

Wednesday, December 2, Monday, December 7, Wednesday, December 9: Research paper presentations.

Research Papers Due Wednesday, December 9!

ECO 499-002

Fall 2015

Research Paper Guidelines:

A significant part (50%) of your grade in ECO 499 this semester will come from your term research paper. I will not impose a specific format for this project to follow, because I want to allow room for you to exercise your own creativity. The choice of a topic is up to you. The only constraint is that you should pick something directly related to the material on the course outline. I will suggest possible topics as we move through the course, but you should start searching for something yourself right away.

You should aim for a report that has 15 pages of text (typed, double-spaced, 12 pt. font, normal margins) plus footnotes, a list of references, and any supporting figures, tables, or illustrations. The report should be prepared following all of the normal rules of professional writing that you have learned in college and before. That also means that you should write efficiently and be careful not to waste your reader's time with verbosity and fluff. You should also carefully cite every resource you use in performing your analysis and composing your report.

The quality of your project will be determined largely by the amount of effort you spend researching your topic. I expect that many of you will rely heavily on internet sources. Because the quality and veracity of information obtained from the internet are sometimes hard to ascertain, I require the following:

Make a copy of every resource that you use in your report. If you use something from a book or a lengthy journal article, copy the cover page and the relevant section that you relied upon. When you turn in your report, attach these copies of your references to your report. I will not grade any papers that do not contain an appendix with copies of all resources that you have relied upon.

I will return the entire package to you after I have graded your project.

As was stressed above, your choice of a topic is important. I will meet with each of you individually after the midterm exam to discuss your paper topic. On Monday, November 16, I will ask you to turn in a two-page outline which I will critique and return to you. We will reserve the last three class meetings for oral presentations. You should prepare a 10-12 minute presentation of your research topic, with or without supporting visual material (e.g. power point slides). The order of presentations will be determined by random draw on Monday, November 30. I expect perfect attendance by everyone on all three days! Your paper is due on Wednesday, December 9, the last class day of the semester.