**Economic Analysis of the Law**

**Economics 317(1), Spring 2021**

**Tuesdays and Thursdays, 11:00 A.M. – 12:15 P.M.**

**Classroom CPS 116, Office CPS 334C**

**Scott Wallace**

**Zoom Office Hours: T & Th, 2:00 – 3:00 PM**

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**About the Course.**

This course is an introduction to the fundamentals of law and economics. We will use microeconomic tools to examine the common law areas of torts, contracts, and property. The common law is the body of law that is the result of courts resolving legal disputes. Decisions by appellate courts create common law rules (precedents) that inform and constrain the decisions of lower courts in subsequent cases. We analyze how these precedents shape economic incentives and thus affect the behavior of individuals. In addition, the course uses economic logic to evaluate the efficacy of common law rules in achieving social goals.

This course presumes that students have completed a principles of microeconomics course (Econ 111) but no background knowledge of law. The primary reading for this course is:

* Thomas Miceli*, The Economic Approach to Law*, Second Edition, Stanford University Press (2008).

**Course Format and Delivery**

The course will be taught in a hybrid format that combines face-to-face sessions, text reading assignments and asynchronous lectures recorded on PowerPoint.  Graded assignments will consist of homework and take-home exams which will be administered online.  In addition, learning activities will include in-class exercises.

This class is basically organized using the "flipped classroom" concept.  Students will have the opportunity to meet in class (CPS 116) face-to-face once every week, either Tuesday or Thursday from 11:00 AM to 12:15 PM.  Given the capacity of CPS 116, students can choose to attend either on Tuesday or Thursday. These face-to-face meetings will comprise a brief review of course material and in-class exercises.  It is important to do the assigned course reading and watch assigned Recorded PowerPoint lectures BEFORE the class meeting.

You have the option to take this class on a purely on-line basis.   Class sessions largely consist of review of material and in-class exercises designed to provide additional practice for those who attend.  These in class exercises will be made available to you on Canvas.

All of the graded components, namely the homework and exams, are available and completed on-line.  In addition to assigned readings from the Miceli text, course content is provided in the Recorded PowerPoint lectures.

**Course Requirements.**

Your grade in the course will be based on class participation/attendance, homework, two midterm exams, and a final exam. The breakdown of your final grade will be as follows:

Homework 25% Periodically

First Exam 25% Friday, March 5th

Second Exam 25% Friday, April 16th

Final Exam 25% Friday, May 21

*Class Meetings and Online Option:* In our class meetings, we will be doing in-class exercises, reviewing content, and going over homework. The in-class exercises are designed to illustrate the important economic concepts and ideas introduced during the class lecture and in the textbook. You will face similar questions on your homework assignments and exams. While you are welcome to take the class on a purely online basis, I do recommend attending these in-class sessions; they will help you learn the material and improve your performance on exams. For those who choose the online option, I will make the in-class exercises available on Canvas after we go over them in class.

*Homework:* Homework will largely consist of analytical problem solving and short answer questions. These questions will provide valuable practice for exams. Homework will account for 25% of your final grade. In calculating your homework average, I will drop the lowest score. You will submit your homework answers online in Canvas. You can access a “hard copy” of each assignment on Canvas.  I recommend that you complete your homework assignment on a Word document and then cut-and-paste your answers when you submit in Canvas.

*Take-Home Exams:*  There will be three exams in this course; two mid-terms and one final.  Each exam will account for 25% of your final grade.  Exams will consist of problems and short essay questions designed to evaluate your understanding and application of the concepts developed in class.  I will make these exams available well in advance of their due dates in Canvas under the module, Take-Home Exams:  Hard Copies.    Like the homework assignments, you will submit your answers online on Canvas.

Your final grade will be based upon the calculation of your final average based upon the above weights.

A 92.5+

1. 90.0 – 92.4

B+ 87.5 – 89.9

B 82.5 – 87.4

B- 80.0 – 82.4

C+ 77.5 – 79.9

C 72.5 – 77.4

C- 70.0 – 72.4

D+ 65.0 – 69.9

D 60.0 - 64.9

F 59.9 and Below

**School of Business & Economics Mission Statement**

**Mission:**

The UW-Stevens Point School of Business and Economics creates career ready graduates and leaders through applied learning. We serve the businesses, economy, and people of the greater Central Wisconsin region. We specialize in preparing students for success by providing professional development experiences, access to employers, and in-demand skills.

**SBE Core Values:**

* **Talent development:** We supply the regional workforce by providing an applied business curriculum to current and new student populations.
* **Lifelong learning:** We teach students to pursue learning agility and ongoing mastery of in-demand skills.
* **Career preparation**: We cultivate professional development experiences for our students.
* **On the job experiences:** We extend student access to employers in Central Wisconsin and beyond.
* **Community outreach:** We educate students and the local community on current business and economic issues.
* **Regional partnerships:** We foster relationships with local business and community leaders to enrich the educational experience for students.
* **Continuous improvement:** We follow AACSB accreditation guidelines and cultivate resources to broaden and deepen our impact.

**Syllabus Statement:**

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| **SBE Mission:** | The UW-Stevens Point School of Business and Economics creates career ready graduates and leaders through applied learning. We serve the businesses, economy, and people of the greater Central Wisconsin region. We specialize in preparing students for success by providing professional development experiences, access to employers, and in-demand skills.  The SBE achieves its mission by valuing:   * Talent development * Lifelong learning * Career preparation * On the job experiences * Community outreach * Regional partnerships * Continuous improvement |
| **Accreditation Commitment:** | SBE is accredited by the Association to Advance Collegiate Schools of Business (AACSB), a designation earned by only 5 percent of world business schools. Accreditation instills a culture of continuously improving our programs through connections with local business leaders, alumni and the community. |

**Course Learning Objectives.**

The following “learning objectives” reflect what I consider to be the most important learning goals for students in completing this class.

* Students will be able to understand and apply important foundational economic concepts including Pareto efficiency, Kaldor-Hicks efficiency, externalities, and the Coase Theorem.
* Students will be able to apply microeconomic concepts and models in analyzing the impact of alternative legal rules on individual behavior
* Students will be able to critically analyze different areas of the common law (torts, contracts, and property) from an economic perspective.

**Course Outline and Reading Assignments.**

1. **Introduction to Law and Economics (Chapter One)**
2. What is Law and Economics?
   1. Introduction
   2. Positive and Normative Analysis
   3. Analyzing Legal Rules
3. Efficiency Concepts
   1. Pareto Efficiency
   2. Kaldor-Hicks Efficiency
4. The Coase Theorem and Externalities

a. Externalities and Market Failure

b. The Coase Theorem

1. The Coase Theorem and Resolving Legal Disputes
   1. Nuisance Cases: Entitlements and Remedies
   2. Applying the Coase Theorem: Examples
   3. Rules vs. Discretion
2. The Law in “Law & Economics”

a. The Common Law

b. Three Tier Court System

**II. Tort Law (Chapters Two & Three)**

*A. An Economic Model of Tort Law* (Chapter 2)

1. What is a Tort?

a. Economic Approach to Tort Law

b. The Social Function of Tort Law

c. Proving Causation

e. Introduction to Liability Rules

2. An Economic Model of Precaution: The Unilateral Care Model

a. Introduction

b. Actual Care Choice and Liability Rules.

d. Administrative Costs and Liability Rules

e. Court Errors and Liability Rules

3. An Economic Model of Precaution: The Bilateral Care Model

a. No Liability Rule and Strict Liability

b. Achieving Bilateral Responsibility

c. Negligence

4. The Hand Rule and the Reasonable-Person Standard

a. The Hand Rule

b. The Reasonable Person Standard

5. Contributory Negligence

a. Introduction

b. Negligence with Contributory Negligence

c. Strict Liability with Contributory Negligence

6. Further Topics

a. Sequential Care Choices

b. Comparative Negligence

7. Further Topics Continued

a. Punitive Damages

b. Statute of Limitations for Tort Suits

c. Intentional Torts

*B. Applying the Economic Model of Tort Law – Products Liability* (Chapter 3, pp. 58 -72)

1. A Brief History of Products Liability

a. No Liability (Caveat Emptor)

b. From No Liability to Negligence Standard

c. From Negligence to Strict Liability (Caveat Vendor)

d. Restatements

2. An Economic Model of Products Liability

a. Equilibrium Price and Output for a Safe Product

b. Equilibrium Price and Output for a Dangerous Product

c. Care Choices by Manufacturers and Consumers

3. Consumers’ Perceptions of Risk

a. Misperceptions of Risk

b. Supply and Demand under No Liability & Strict Liability Rules

**III. Contract Law (Chapters Four & Five)**

*A. Defining a Valid Contract* (Chapter 4)

1. Contracts and Efficient Exchange

a. Introduction

b. The Role of Contract Law

c. Competitive Market Paradigm

2. Elements of a Valid Contract

a. Introduction

b. Three Elements

c. Consideration

3. Reasons for Invalidating Contracts

a. Contract Law and Market Failure

b. Mental Incapacity or Incompetence

b. Coercion or Duress

4. Mutual and Unilateral Mistakes

a. Mutual Mistakes

b. Unilateral Mistakes

5. Mistake and Duty to Disclose Private Information

a. Introduction

b. Purely Distributive Information

c. Socially Valuable Information

6. Acquisition and Disclosure of Private Information

a. Casual vs Deliberate Acquisition of Information.

b. Disclosure of Unfavorable Information

7. Unconscionability

* + 1. Unconscionability Doctrine
    2. Burden of Proof
    3. Add-On Clauses
    4. Invoking Unconscionability: Trade-offs

*B. Remedies for Breach of Contract* (Chapter 5)

1. The Efficient Breach Model

a. Introduction

b. Efficient Remedies for Breach

2. Efficient Breach and Contractual Incompleteness

a. Uncertainty and Efficient Breach

b. Actual Breach

c. Incentive for Efficient Breach

3. Court Remedies for Breach of Contract Cases

* 1. Incentives to Breach under Expectation Damages
  2. Incentives to Breach under Reliance Damages
  3. Incentives to Breach under Zero Damages

4. Incentives for Efficient Reliance

a. Uncertainty and Efficient Reliance

b. Expectation Damages and Problem of Overreliance

c. Hadley v. Baxendale Rule

5. Mitigation of Damages

a. Duty to Mitigate Damages

b. The Common Law and Mitigation of Damages

6. Impossibility and Related Excuses

a. Excuses for Non-Performance: Overview

b. Efficient Risk Sharing: Prevention

c. Efficient Risk-Sharing: Insurance

7. Specific Performance

a. Introduction

b. Incentives under Specific Performance

c. Transaction Costs

8. Subjective Value and Specific Performance

a. Subjective Value

c. The Value of Consent

**IV. Property Law (Chapter Six)**

1. The Nature and Function of Property Rights
   1. Definition of Property Rights
   2. Property Rights and Incentives
   3. The Emergence of Property Rights
   4. The Enforcement of Property Rights
2. Fundamentals of the Economics of Property Law: The Coase Theorem
   1. The Assignment and Distribution of Property Rights
   2. Examples of the Coase Theorem
   3. The Role of Transaction Costs
   4. Loss Aversion and the Endowment Effect
3. Fundamentals of the Economics of Property Law: Enforcement Rules
   1. Property Rules and Liability Rules
   2. The Choice Between Property Rules and Liability Rules
   3. Trespass and Nuisance
   4. A Note on Inalienability of Property Rules

4. Fundamentals of the Economics of Property Law: The General Transaction

Structure

a. Framework for Transaction Structure

b. Extended Exercise

c. Four Combinations

5. Limited and Divided Ownership: Leasing

a. A Contract or Conveyance?

b. Mitigation in Leases

c. The Law of Waste

d. Sharecropping

6. Limited and Divided Ownership: Private v. Group Ownership

a. Introduction

b. Optimal Scale of Ownership

c. Public Goods