

Department of Economics
University of Toronto at Mississauga
ECO320 – The Economic Analysis of Law
Fall 2006/Winter 2007

Instructor:

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Kaneff Centre

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Office Hours:

Tues. 2:00 - 5:00 PM

Course Objectives:

This course examines the economic basis for the law. The topics covered include economic analysis of property rights, liability rules, contract law, law and financial markets, and bankruptcy law. The appropriate economic measures of damages in tort and contract cases will be discussed. Other topics include criminal law, intellectual property law and family law, and the choice between regulation and common law

Course Materials:

Suggested:

R. Posner, *Economic Analysis of Law*, 5th ed. (Aspen Publishers, 1998)

R. Cooter and T. Ulen, *Law and Economics*, *Law and Economics*, 4th edn, Addison-Wesley Longman, 2004

Other References:

Steven D. Levitt and Stephen J. Dubner, *Freakonomics: A Rogue Economist Explores the Hidden Side of Everything*
HarperCollins, 2005

Deweese, D. Duff, M. Trebilcock, *Exploring the Domain of Accident Law: Taking the Facts Seriously*, Oxford U. Press, 1996

Polinsky, A.M, *An Introduction to Law and Economics*, 3rd edn., 2003,
Aspen Publishers.

Katz, Avery W. *Foundations of the Economic Approach to Law*,
Oxford, 1998.

Shavell, S., *Foundations of Economic Analysis of Law*, 2004,
Belknap Press of Harvard University Press

Course Website:

<http://www.utm.utoronto.ca/%7Ew3eco320/>

Prerequisites:

Prerequisites are strictly checked and enforced and must be completed before taking a course. By taking this course you acknowledge that you will be removed from the course at anytime if you do not meet all requirements set by the Department Economics. For further information you can consult the Undergraduate Academic Handbook which is found in the Economics Department Office, Kaneff Center Room 121. It can also be found in the 2005-2006 Courses Calendar which is available from the Registrars Office.

Due Dates and Grade Allocation:

Term Test 1 (November 7, 2006)	20%
Term Test 2 (March 13, 2007)	20%
Term Paper (April 3, 2007)	25%
Final Exam	35%

No papers after April 3, 2006 will be accepted other than pursuant to Faculty rules applicable to late term work. Please note. One make-up test will be scheduled per term available only to students who have submitted medical grounds on the medical absence form prescribed by the Economics Department.

Announcements:

Please make it a habit of checking the Economics Department website for current announcements regarding courses (i.e. class cancellations). The website is as follows:

<http://www.utm.utoronto.ca/academic/eco/announcement.htm>

Teaching Assistants:

Teaching assistant hours and email information will be posted on the economics website at

<http://www.utm.utoronto.ca/academic/eco/TARoom.htm>

Academic Misconduct:

Students should note that copying, plagiarizing, or other forms of academic misconduct will not be tolerated. Any student caught engaging in such activities will be subject to academic discipline ranging from a mark of zero on the assignment, test or examination to dismissal from the university as outlined in the academic handbook. Any student abetting or otherwise assisting in such misconduct will also be subject to academic penalties.

Students agree that by taking this course all required papers may be subject to submission for textual similarity review to Turnitin.com for the detection of plagiarism. All submitted papers will be included as source documents in the Turnitin.com reference database solely for the purpose of detecting plagiarism of such papers. The terms that apply to the University's use of the Turnitin.com service are described on the Turnitin.com web site.

Course Outline:

September 12, 2006

INTRODUCTION

Posner - Chapter 1, 2, 8
Cooter - Chapters 1, 3:I, III

September 19, 2006

MICROECONOMIC REVIEW: Background

Posner - Chapter 4: 4.1 - 4.4, 4.13
Cooter - Chapter 2:VII, IX, X; 6: I

H. Neary and R. A. Winter, "Output Shares in Bilateral Agency Contracts" (1995), 66 J. of Ec. Theory 609-614

September 27, 2006

PROPERTY: Title and Rights

Posner - Chapter 3: 3.1, 3.2, 3.5, 3.10, 3.11

Cooter - Chapter 4:I - III, Appendix, 5:I:A, II

Demsetz, Harold "Toward A Theory of Property Rights", (1967) 57 Am. Econ. Rev. Papers & Proceedings

Lueck, Dean, "The Rule of First Possession and the Design of the Law", (1995) 38 J. L. and Ec. 393

McKie v. K.V.P. Co. (1948), [1948] O.R. 398, [1948] 3 D.L.R. 201 (H.C.)

October 3, 2006

CONTRACTS: Formation, Offer and Acceptance

Cooter - Chapter 6: II

S. Shavell, "The Design of Contracts and Remedies for Breach," *QJE* (1984) pp. 121-148

October 10, 2006

PROPERTY AND CONTRACT RIGHTS: Theorem of Coase:

Posner - Chapter 3: 3.8, 3.9, 3.12

Cooter - Chapter 4:IV, V: 5:IV

Coase, Ronald, "The Problem of Social Cost", (1960) 3 J. of Law and Ec. 1 – 44

Deweese, D.N. "The Efficiency of the Common Law: Sulphur Dioxide Emissions in Sudbury", U. of Toronto Law Journal 42, 1992, pp. 1-21.

October 17, 2006

PROPERTY AND CONTRACT RIGHTS: Terms, Conditions and Disclosure

Posner - Chapter 4: 4.5 - 4.7

Cooter - Chapter 7: II, III

Aivazian, V., Trebilcock, M., Penny, M., "The Law Of Contract Modification", (1984) 22 Osgoode L. J. 173

Kronman, A., "Mistake, Disclosure, Information and the Law of Contracts", (1978) 7 Journal of Legal Studies 1

October 24, 2006

PROPERTY AND CONTRACT RIGHTS: Remedies and Renegotiation

Posner - Chapter 4: 4.8 - 4.12

Cooter - Chapter 7: I

*Hadley v. Baxendale, 9 Exch. 341, 156 Eng. Rep. 145 (1854)

Calabresi, Guido and Melamed, Douglas, "Property Rules, Liability Rules and Inalienability: One View of the Cathedral", 65 Harv. L. Rev. 1089 (1972)

S. Shavell, "Acquisition and Disclosure of Information Prior to Sale", Rand J. of Econ. 25, (1994) pp. 20-36.

Lucian Bebchuk and Steven Shavell, 1999, "Reconsidering Contractual Liability and the Incentive to Reveal Information" Stanford L. Rev. 51, 1615-1627.

October 31, 2006

PROPERTY RIGHTS: Exceptions and Limitations

Cooter - Chapter 5:III

Aivazian, V. A. and Callen, J. L., 2003, The core, transaction costs, and the Coase theorem. Constitutional Political Economy, 14, 287-299.

Versaeval, Bruno, The Hierarchical Firm Resolves Empty Cores: A Coasean Model and Two Examples. Centre for Research into Industry, Enterprise, Finance and the Firm, June, 2006. <http://www.em-lyon.com/france/faculte/professeurs/alpha/versaevel/firm-coase-core-2006.pdf>

November 7, 2006

TERM TEST I

November 14, 2006

CORPORATIONS - ORGANIZATION, MONOPOLY AND ANTITRUST

Posner - Chapters 9 and 10
Posner - Chapter 14: 14.1 - 14.3

Jensen, M. C. and Meckling, W. H., "Theory of the Firm: Managerial Behaviour, Agency Costs and Ownership Behaviour", (1976) 3 J. of Fin. Econ. 305

November 21, 2005

CORPORATIONS - INSIDER TRADING

Posner - Chapter 14: 14.7 - 14.14

Carlton, D. W. & Fischel, D.R., "The Regulation Of Insider Training", (1983) 35 Stan. L. Rev. 857

November 28, 2006

CORPORATIONS - SECURED AND UNSECURED FINANCING, BANKRUPTCY

Posner - Chapter 14: 14.4 - 14.6

Myers, S., "Determinants of Corporate Borrowing", (1977) 5 J. of Fin. Econ. 147

December 5, 2006

CORPORATIONS - FINANCIAL MARKETS

Posner - Chapter 15

LaPorta et al. "Law and Finance", (1998) 108 J. of Pol. Econ. 1113

SECOND TERM

January 9, 2007

TORT LAW

Posner - Chapter 6: 6.1, 6:15 - 6.17

Cooter - Chapters 8:I, 9:I

Demsetz, Harold, "When Does the Rule of Liability Matter?", (1972) 1 J. of Leg. Stud. 13

Cooter, R. "Unity in Tort, Contract and Property", (1985) 73 Cal. L. Rev. 1

L. Kaplow, "Private Versus Social Costs in Bringing Suit", J. Leg. Stud. 15:2, June 1986, pp. 371-383.

January 16, 2007

TORT LAW – Defences and Remedies

Posner - Chapter 6: 6.2 - 6.14

Cooter - Chapter 3:IV, 8:II, 9:II

Rea, S.A. "Economic Analysis of Fault and No-Fault Liability Systems," Report to the Ontario Task Force on Insurance, April 1986, pp. 1-25, 46-49.

January 23, 2007

TORT LAW - Employer and Employee Liability

Posner - Chapters 11, 26

Cooter - Chapter 9:III

Deweese, D.N. "Economic Incentives for Controlling Industrial Disease: The Asbestos Case," JLSud. 15 (1986) pp. 289-293, 297, 300, 309-315.

January 30, 2007

INTELLECTUAL PROPERTY LAW: Public Goods

Posner - Chapter 3: 3.3, 3.4, 3.13

Cooter - Chapter 4: VI - VI, 5:I:B-C; 5:V - VI

Gordon, Wendy, "Asymmetric Market Failure and Prisoner's Dilemma in Intellectual Property," 17 *University of Dayton Law Review* 853(1992)

February 6, 2007

INTELLECTUAL PROPERTY LAW: Rights and Remedies

Cooter - Chapter 5:I:D

Gordon, Wendy, Copyright As Tort Law's Mirror Image: 'Harms', 'Benefits', and the Uses and Limits of Analogy," 34 *McGeorge Law Review* 533 (2003)

Litman, Jessica, "The Demonization of Piracy", Tenth Conference on Computers, Freedom and Privacy, Toronto, Canada, April 6, 2000
<http://www-personal.umich.edu/%7Ejdlitman/papers/demon.pdf>

February 13, 2007

CRIMINAL LAW: Public Bads and Punishments

Posner - Chapters 7, 28

Cooter - Chapters 11, 12: II, III, V

Becker, Gary, "Crime and Punishment: An Economic Approach", (1968) 76 *Journal of Pol. Econ.* 169

K. Avio and C.S. Clark, "The Supply of Property Offences in Ontario: Evidence on the Deterrent Effect of Punishment", *CJE*, February 1978, pp. 1-19.

David A. Anderson, "The Aggregate Burden of Crime" *JLE*. 42:2, 1999, pp. 611-642.

February 20, 2007

READING WEEK

February 27, 2007

CRIMINAL LAW: Plea Bargaining

Roberts, Joanne and Mongrain, Steeve, "Plea Bargaining with Budgetary Constraints"
<http://papers.ssrn.com/sol3/RefUsedIn.cfm?abid=658481>

March 6, 2007

FAMILY LAW: Marriage And Divorce

Posner - Chapter 5

Margaret F. Brinig, "Unhappy Contracts: The Case of Divorce", 1 Review of Law and Economics 241 (2005)

V. Barham and R. A. Devlin "Child-support policies and the well-being of children: income versus wealth-based measures" Canadian Public Policy, Vol. 29(3) September 2003, 351-365.

Margaret F. Brinig, In Search of Prince Charming, 4 Journal of Gender, Race & Justice 321 (2001)

Margaret F. Brinig and Douglas W. Allen, "These Boots Are Made for Walking": Why Women File for Divorce?, 2 American Law and Economics Review 141 (2000)

March 13, 2007

TERM TEST II

March 20, 2007

ADMINISTRATIVE LAW

Posner - Chapters 12, 13, 22

Gillian K. Hadfield, "The Price of Law: How the Market for Lawyers Distorts the Justice System", Oct, 1999; Mich. L. Rev. 99:4, Feb. 2000.

March 27, 2007

LAWYERS AND COURTS

D. Dewees, J.R.S. Pritchard and M.J. Trebilcock, "An Economic Analysis of Cost and Fee Rules for Class Actions". J.L.Stud., 10(Jan. '81) 155-185.

M.L. Schwartz and D.J.B. Mitchell, "An Economic Analysis of the Contingent Fee in Personal-Injury Litigation", Stanford L. Rev., 22 (1970), pp. 1125-1148

April 3, 2007

LAWYERS AND COURTS (Continued)

Posner - Chapters 19, 20, 21

Cooter - Chapter 10

Lucien Bebchuk and Howard Chang, 1999, "The Effect of Offer-of-Settlement Rules on the Terms of Settlement", *JLStud.* 28:2, 489-513

S. Shavell, "The Fundamental Divergence Between Private and Social Incentives to Use the Judicial System," *JLStud* 1997, pp. 575-613.

April 10, 2007

REVIEW