

DEPARTMENT OF ECONOMICS
COLLEGE OF ARTS & LETTERS
SAN DIEGO STATE UNIVERSITY

ECON 496: Law & Economics

Fall 2011

Professor: Joe Sabia
Office: 332 Nasatir Hall
Office Hours: TW: 1:00pm-2:30pm (or by appointment)
Class Time/Location: TTH 3:30-4:45pm P146
Email: jsabia@mail.sdsu.edu
Phone: 619-594-2407

Course Content

The focus of this course will be on how legal rules affect (i) implicit prices for consumer and firm behavior, (ii) the distribution of resources, and (iii) economic efficiency. Note that this is an economics course, not a law class. While students will obtain a background on the law surrounding property, contracts, torts, the judicial process, and crime, the content will focus on how legal rules impact consumers and producers, and whether these rules and regulations help generate an efficient use of economic resources.

Reading Material

The assigned textbook for the class is:

***Law and Economics*, by Robert Cooter and Thomas Ulen, Sixth Edition (U.S.: Pearson Education, Inc.) 2011.**

Other reading assignments may be given during the course of the semester, including academic journal articles, briefs of court cases, or newspaper columns. Lectures will assume familiarity with intermediate microeconomic concepts. You should consult microeconomics and textbooks for background material as necessary.

Note: The course syllabus is a general plan for the course; deviations announced to the class by the instructor may be necessary.

Academic Integrity

Students are obliged to follow Student Conduct Procedures from the Center for Student Rights and Responsibilities, available at the following website: <http://csrr.sdsu.edu>. In this course, unless specifically and explicitly instructed otherwise, all assignments should be done individually. Individually means without the assistance of classmates or anyone else; for clarification of problems, students should seek help from the instructor. While you may speak with classmates about problem set questions, you must write up your answers individually and

may not copy from classmates. Violations of academic integrity (plagiarism, cheating, etc.) will be vigorously pursued. Possible punishments include, but are not limited to, a zero for the assignment, an F for the course, and/or referral to the Center for Student Rights and Responsibilities for judicial proceedings.

Prelims, Problem Sets, and Point Allocations

There will be two prelims, a final, three problem sets, and a paper. The grading structure is as follows:

Assignment	Date	Points
Problem Set #1	September 29	150
Prelim #1	October 4	200
Problem Set #2	October 27	150
Prelim # 2	November 1	200
Paper Due	November 17	150
Problem Set #3	December 8	150
Final	December 13	200

Grades are assigned as follows (in terms of % of total points):

- | | |
|------------|------------|
| A >= 93% | C+ 77-79.9 |
| A- 90-92.9 | C 73-76.9 |
| B+ 87-89.9 | C- 70-72.9 |
| B 83-86.9 | D 65-69.9 |
| B- 80-82.9 | F < 65% |

Policy on Exams and Problem Sets

Permission to miss an examination and take a make-up will be granted only under the most extenuating circumstances. The majority of each exam will contain problem solving and/or short essays. There will be some multiple choice questions (approximately 25 percent of exam). These questions will be based on the reading assignments and may cover material not covered in class. If you believe that a question was graded incorrectly, you will be asked to submit a written document explaining the reason the grading is incorrect. If your rationale for a re-grade is deemed to be grossly incorrect by the instructor, you may have additional points deducted from your score. Late problem sets will not be accepted — they must be handed in at the start of class on their due dates.

Policy on Paper

The requirement for this paper is to analyze, from an economics perspective, a product liability or tort case of your choice. The paper is due in class on November 17. There are no exceptions to this deadline. Any late papers will receive a zero. We will discuss the requirements for the paper in class and there will be a handout detailing what is expected.

FERPA

The Federal Family Educational Rights and Privacy Act gives students privacy rights with regard to educational records. FERPA allows disclosure of directory information without a student's consent unless the student has advised the registrar in writing that he or she wishes to restrict access to this information. If you have requested that your directory information not be disclosed, please let me know, so I will not disclose your information to other persons.

Course Outline

<u>Class</u>	<u>Topics</u>
30 Aug-1 Sept	Syllabus, Review of Key Micro Principles
6-15 Sept	Property Law
20-27 Sept	Contract Law
29 Sept	Problem Set #1 Due
4 Oct	Prelim #1
6 Oct-25 Oct	Tort Law
27 Oct	Problem Set #2 Due
1 Nov	Prelim #2
3-15 Nov	Judicial Process
17 Nov-6 Dec	Crime
8 Dec	Problem Set #3 Due
15 Dec	Final Exam

Detailed Course Outline

I. Economic Theory of Property

- Efficiency Rationale for Private Property Rights
- Tragedy of the Commons
- Externalities
- Coase Theorem
 - o Legal rules of strict liability vs. Property rights to injurer
- Optimal Precaution
- Fugitive Property
 - o Rule of First Possession, Tied Ownership
- Intellectual Property Rights
 - o Patent Law
 - o Efficiency rationale for monopoly over inventions

- Optimal patent length and breadth
- Optimal regulation of pharmaceuticals
- Establishment and verification of property rights (title)
- Adverse Possession
- Estray Statutes
- Eminent Domain
- Effect of Government Taking on Private Investment
- Paradox of Compensation
- Property Law and Fertility (Ekert-Jaffe and Grossbard, 2008)

II. **Economic Theory of Contracts**

- Legally enforceable contracts
- Principal-Agent Problem (Introduction to Game Theory)
- Liability Rules
 - Perfect expectations damages
 - Sophisticated damages rules
- Inducing Optimal Reliance and Precaution
- Paradox of Compensation
- Rule of Hadley
- Formation Defenses and Performance Excuses
 - Incompetence
 - Duress
 - Duty to disclose
 - Fraud
- Mutual Mistake v. Unilateral Mistake
- Optimal fraud

III. **Economic Theory of Torts**

- Comparison of Tort v. Contract Law
- Breach of Duty
- Proximate Cause of Harm
- Practices of Court on Torts
 - Strict Liability
 - Negligence Rule
 - Contributory Negligence Rules
 - Punitive Damages
 - Liability w/out Damages
- Unilateral v. Bilateral Precaution
 - Optimal legal rules to induce efficient outcomes
- Hand Rule (Cost-benefit analysis)
- Products Liability
 - Consumer Product Safety Commission
 - FDA
 - Optimal regulation of industry
- Court Errors in Damages

- Enforcement Error
- Res ipsa loquitur (“the thing speaks for itself”)
- Assumption of Risk
- Duty to Warn
- Optimal Warning
- Optimal workplace regulations

V. Economic Theory of Legal Process

- Value of Legal Claim
- Filing Costs
- Incentives for Settlements
 - o Exchange of information
 - o Settlement bargaining
 - o Efficiency gains from settlement
- Principal-Agent Problem Applied to Lawyer-Client Relationship
 - o Asymmetric information
- Judicial Preference for Efficiency

VI. Economic Theory of Crime

- Elements of a Crime
- Comparison of Criminal v. Tort Law
- Becker’s Theory of Rational Crime
- Optimal Deterrence
- Optimal Punishment
- Decision-making when there is uncertainty in punishment
- Criminal Policy Analysis
 - o Death Penalty
 - o Parole
 - o Drug Legalization
 - o “Three Strikes and You’re Out” Regulations
 - Prison sentences v. fines
 - Rehabilitation v. Incapacitation v. Deterrence
 - Liquidity constraints for fine system
 - o Gun Control
 - o Drunk Driving
 - o Abortion and Crime