**Econ 225 Economic Analysis of Law[[1]](#footnote-1)**

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| Spring 2021 | Online (meeting information in Moodle) |
| Jun He | Lecture: MW 2.50-4.10 pm (EST) |
| Email: jhe03@wesleyan.edu | Student hours: Thu 4.30-6.00 pm (EST) |

# Course Description

This course teaches how to understand the structure and evolution of the legal system from an economic perspective. Selected rules and institutional forms that are drawn from the common law of tort, contract, property, and crimes are studied. Students are expected to develop economic intuition by applying microeconomic theories to analyzing how laws handle disputes that mostly arise from imperfect information and moral hazard.

# Course Requirement

No prior knowledge of the law is required, but students are presumed to have training in fundamental microeconomics. Mastery of calculus, game theory, and industrial organization is preferred. The course will emphasize both content and methodology. Readings for the course are mainly from the textbook:

Thomas J. Miceli, *The Economic Approach to Law,* Stanford Univ. Press, 3rd Edition, 2017, ISBN-13: 978-1503600065

This is an undergraduate-level text aimed at economics majors with a solid background in intermediate microeconomics. For students who have an interest in exploring this subject further, supplemental author notes are available at <http://sup.org/economiclaw/>.

# Grades

The break-down of course grade is as follows:

 Class Attendance/Engagement: 10%+5%

Homework problems: 20%

Midterm exam\*2: 20%

 Final exam: 25%

# Class Participation

I plan to hold the class via [Zoom](https://wesleyan.zoom.us/j/96176395066?pwd=Q2ZmUzk2b1dFYUlwWC83QWNhSmU1UT09) (password 123456). I will normally arrive 5 minutes in advance and stay for 5 more minutes after class for questions. Students are required to attend the synchronistic meeting (absences will only be pardoned for legitimate reasons, which should be reported to the instructor promptly). Any student who attends class infrequently may be assessed a grade penalty for poor class participation. I also consider pertinent questions posed during the student hours or via emails as engagement. Students are encouraged to preview pertinent readings.

# Homework Assignments

Periodic homework problems will be assigned. I will post the assignments and announcements on Moodle (deadline will be EST time, please inform me of difficulty if you are in a different time zone). Collaboration on HW is encouraged, but students must submit their own copies of homework to the course Moodle in a pdf format. Any submission of typed documents should follow the APA format, double-space, font 12, with a 1-inch margin. Grammatic mistakes and unclarity in expression will cause a reduction in grades.

# Exams

Information about the midterm and final will be announced in class.

# Grade Options

Students have the option of Cr/U, but please be advised that if this course is for PBK (Phi Beta Kappa) or ODE (Omicron Delta Epsilon- Economic Honor Society), this course has to be letter-graded. The deadline for the Cr/U option is 5 pm, Mar 2nd. The withdrawal deadline for a full semester course is May 5th.

# Grading

The final letter grades will be dependent on the weighted sum of all your performances, including midterm, HM assignments, final exam grades. The conversion of grades will be given based on <https://www.wesleyan.edu/registrar/general_information/GPA_calculation.html>.

# Supplemental Resources

Supplemental materials (lecture outlines, lecture recordings, answer keys to assignments, supplemental reading materials) will be posted on Moodle.

***Student hour***: I will be standing by on [Zoom](https://wesleyan.zoom.us/j/5832430934) (different from the zoom for lecture meeting, this Zoom has no password) during the time of office hours. If that time does not work for you, you can email me to request individual online meetings. Appeals of grades, if any, cannot happen later than a week after the date when the grade was posted.

***Course Assistant***: Questions are suggested to be discussed with the course assistant first. The Office Hour of the course assistant, Jack Baum, is Tuesday, 7.30-8.30 pm EST on [Zoom](https://wesleyan.zoom.us/j/99358838752?pwd=TEdyWjh2WFljaVlKQ0dPUXdETXZwdz09) (Meeting ID: 993 5883 8752, Passcode: 697482). His email is jbaum@wesleyan.edu.

# Course Outline and Readings[[2]](#footnote-2)

1. Introduction

Text, Chapter 1

\*R. Coase (1960) "The Problem of Social Cost," Journal of Law and Economics 3: 1-44.

1. Tort Law
2. The Model of Precaution

Text, Chapter 2, pp. 15-32.

\*R. Cooter (1985) "Unity in Torts, Contracts, and Property: The Model of Precaution," California Law Review 73: 1-51.

J, Brown (1973) "Toward an Economic Theory of Liability," J. Legal Studies 2: 323-349.

1. Sequential Accidents and Activity Levels

Text, Chapter 2, pp. 32-45.

\*S. Shavell (1980) "Strict Liability versus Negligence," Journal of Legal Studies 9: 1-25.

S. Shavell (1983) "Torts in which Victim and Injurer Act Sequentially," Journal of Law and Economics 26: 589-612.

M. Grady (1988) "Common Law Control of Strategic Behavior: Railroad Sparks and the Farmer," Journal of Legal Studies 17: 15-42.

1. Products Liability

Text, Chapter 3, pp. 58-71.

\*W. Landes and R. Posner (1985) "A Positive Economic Theory of Products Liability," Journal of Legal Studies 14: 535-567.

1. Contract Law
2. Defining a Valid Contract

Text, Chapter 4.

\*R. Posner (1977), "Gratuitous Promises and the Law," Journal of Legal Studies 6: 411-426.

\* J. Hirshleifer (1971) "The Private and Social Value of Information and the Reward to Inventive Activity," American Economic Review 61: 561-574.

S. Shavell (1994) "Acquisition and Disclosure of Information Prior to Sale," Rand Journal of Economics 25: 20-36.

1. Remedies for Breach

Text, Chapter 4.

\*S. Shavell (1980) "Damage Measures for Breach of Contract," Bell Journal of Economics 11: 466-490.

R. Posner and A. Rosenfield (1977) "Impossibility and Related Doctrines in Contract Law: An Economic Analysis," Journal of Legal Studies 6: 83-118.

T. Miceli (2002) "'Over a Barrel': Contract Modification, Reliance, and Bankruptcy," International Review of Law and Economics 22: 41-51.

1. Property Law
2. Fundamentals

Text, Chapter 6.

\*Coase (1960) (review)

\*G. Calabresi and A. Melamed (1972) "Property Rules, Liability Rules, and Inalienability: One View of the Cathedral," Harvard Law Review 85: 1089-1128.

H. Demsetz (1967) "Toward a Theory of Property Rights," American Economic Review 57:347-359.

H. Demsetz (1972) "When Does the Rule of Liability Matter?" Journal of Legal Studies 1: 13~28.

1. Takings Law (Eminent Domain and Regulatory Takings)

Text, Chapter 7.

\*L. Blume, D. Rubinfeld, and P. Shapiro (1984) "The Taking of Land: When Should Compensation be Paid?" Quarterly Journal of Economics 99: 71-92.

\*T. Miceli and K. Segerson (1994) "Regulatory Takings: When Should Compensation be Paid?" Journal of Legal Studies 23: 749-776.

T. Miceli (2008) "Public Goods, Taxes, and Takings," International Review of Law and Economics 28: 287-293.

1. Economics of Crime

Text, Chapter 9.

\*G. Becker (1968) "Crime and Punishment: An Economic Approach," Journal of Political Economy 76: 169-217.

\*A. Polinsky and S. Shavell (2000) "The Economic Theory of Public Enforcement of Law," Journal of Economic Literature 38: 45-76.

Reinganum, J. (1988) "Plea Bargaining and Prosecutorial Discretion," American Economic Review 78: 713-728.

1. Dispute Resolution (if time permits)
2. Settlement versus Trial

Text, Chapter 8, pp. 226-250.

\*L. Bebchuk (1984) "Litigation and Settlement Under Imperfect Information," Rand Journal of Economics 15: 404-415.

Katz, A. (1990) "The Effect of Frivolous Litigation on the Settlement of Legal Disputes," Int 'I Review of Law and Economics 10: 3-27.

R. Cooter and D. ·Rubinfeld (1989) "Economic Analysis of Legal Disputes and Their Resolution," Journal of Economic Literature 27: 1067-1097.

1. The Efficiency of the Law

Text, Chapter 8, pp. 251-265.

\*T. Miceli (2010) "Legal Change and the Social Value of Lawsuits" International Review of Law and Economics 30: 203-208.

P. Rubin (1977) "Why is the Common Law Efficient?" Journal of Legal Studies 6: 51-63.

G. Priest (1977) "The Common Law Process and the Selection of Efficient Rules," Journal of Legal Studies 6:65-82.

Please note, the organization, content, and arrangement of this course, including the form of lectures, office hours, exams, homework assignments, and the writing project, are subject to changes, especially given the uncertainty due to the COVID 19 pandemic.

Students are strongly encouraged to actively communicate with me about any problems they have concerning this course. Questions, thoughts, and suggestions are always welcome. Any disputes about grades have to be submitted within a week of the announcement day of this grade.

# Covid-19 Code of Conduct

To protect your health and safety, the health and safety of instructors and staff, and the health and safety of your peers, all students must understand and adhere to the [Covid-19 Code of Conduct](https://www.wesleyan.edu/academics/reactivating/campus-life/code-of-conduct.html). Students are encouraged to review the code of conduct regularly to stay up to date on the current code.

# Time Commitment

While the exact time commitment for the class will vary individually and over the semester, I recommend that you budget approximately three out-of-class hours for every class hour to complete the reading, assignments, homework, and project. I have designed the class so that it should be feasible to satisfactorily complete the requirements with approximately twelve hours per week of time commitment. If you are spending more time than this on a regular basis, I encourage you to check in with me.

# Accommodation Statement

Wesleyan University is committed to ensuring that all qualified students with disabilities are afforded an equal opportunity to participate in, and benefit from, its programs and services. To receive accommodations, a student must have a disability as defined by the ADA. Since accommodations may require early planning and generally are not provided retroactively, please contact Accessibility Services as soon as possible.

If you have a disability or think that you might have a disability, please contact Accessibility Services to arrange an appointment to discuss your needs and the process for requesting accommodations. Accessibility Services is located in North College, rooms 021/218, or can be reached by email (accessibility@wesleyan.edu) or phone (860-685-2332).

# Religious Observances

Faculty make every effort to deal reasonably and fairly with all students who, because of religious obligations, have conflicts with scheduled exams, assignments, or required assignments/attendance. If this applies to you, please speak with me directly as soon as possible at the beginning of the term.

# Classroom Behavior

Students and faculty each have responsibility for maintaining an appropriate learning environment. Those who fail to adhere to such behavioral standards may be subject to discipline. Professional courtesy and sensitivity are especially important concerning individuals and topics dealing with differences of race, color, culture, religion, creed, politics, veteran’s status, sexual orientation, gender, gender identity and gender expression, age, ability, and nationality. Class rosters are provided to the instructor with the student's legal name. I will gladly honor your request to address you by an alternate name or gender pronoun. Please advise me of this preference early in the semester so that I may make appropriate changes to my records. For more information, see the policies on the student code.

# Discrimination and Harassment

Wesleyan University is committed to maintaining a positive learning, working, and living environment. Wesleyan will not tolerate acts of discrimination or harassment based upon Protected Classes or related retaliation against or by any employee or student. For purposes of this Wesleyan policy, "Protected Classes" refers to race, color, national origin, sex, pregnancy, age, disability, creed, religion, sexual orientation, gender identity, gender expression, veteran status, political affiliation, or political philosophy. Individuals who believe they have been discriminated against should contact the Office for Equity and Inclusion at 860-685-4771. The responsibility of the University Members has more information.

# Honor Code

All students of Wesleyan University are responsible for knowing and adhering to the Honor Code of this institution. Violations of this policy may include cheating, plagiarism, the aid of academic dishonesty, fabrication, lying, bribery, and threatening behavior. All incidents of academic misconduct shall be reported to the Honor Code Council – Office of Student Affairs. Students who are found to violate the academic integrity policy will be subject to both academic sanctions from the faculty member and non-academic sanctions (including but not limited to university probation, suspension, or expulsion). The Office of Student Affairs has more information.

1. This is a tentative syllabus. As the university provost suggested: “A syllabus need not spell out all such details, but should help students understand how and where to access the information and resources they will need in order to participate fully. A syllabus shall not be taken to preclude flexibility, adaptation, and adjustments, so long as such revisions are clearly communicated and do not introduce additional significant burdens on students. The syllabus shall offer a descriptive overview of the course, and orient students to appropriate details (such as scheduling, materials, assignment structure, expectations and evaluation criteria, policies, resources, etc.).” [↑](#footnote-ref-1)
2. Readings from the textbook supplemented with journal articles. Articles marked with a "\*" will be more pertinent to the content covered in class; the others are suggested. Pages are specific to the 3rd Edition and may differ for other versions. [↑](#footnote-ref-2)