Law & Economics (Fall 2015; 4 credits; TuTh 10:30-12:20)
Prof. Steve Calandrillo
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Office Hours (Room 419): TuTh 12:30 - 1:20, and by appointment (email stevecal@uw.edu)

Course Description & Objectives:
Q: Does a Negligence or Strict-Liability standard provide better incentives from the standpoint of Tort law?
Q: Should Exxon be liable for punitive damages stemming from the Valdez oil spill?
Q: Why do we need property rights?
Q: Should we replace patent laws with a government reward system?
Q: What is the optimal remedy for breach of contract?
Q: Should we deter “bad” behavior with monetary or criminal sanctions?
Q: Can anti-discrimination and minimum wage laws increase business productivity?
Q: Should tobacco companies be held liable for smokers’ healthcare costs?
Q: Should society prohibit the sale of human organs?

These are some of the questions that this course will address as it introduces students to the economic analysis of law. This approach confronts challenges by identifying how to best design legal rules in order to maximize overall social welfare. In doing so, we will ask:

1) How do legal rules affect the behavior of individuals and of organizations?
2) How do legal rules compare to each other, in terms of promoting overall social welfare?

We will examine applications of Law & Economics to: torts, property, contract and criminal law; intellectual property, tobacco litigation, employment law, human organ sales, and U.S. regulatory design.

All students are welcome (an economics background is NOT necessary for success in this class).

Required Course Materials:
1. Steven Shavell, Foundations of Economic Analysis of Law, available at UW Bookstore
2. Course Reader, available online at the UW course website

Syllabus: I have broken down the course into 7 parts:
   Part I - Tort Law and the Problem of Accidents
   Part II - Property Rights
   Part III - Contract Law
   Part IV - Litigation and the Legal Process
   Part V - Criminal Law & Law Enforcement
   Part VI - Welfare Economics, Morality and the Law
   Part VII - Public Law & Economics
We will not cover every page of the textbook in class; the final exam will emphasize those subjects that we do cover during class session.

Grading – Option of In-Class Exam OR Short Paper:
Students will have the option of taking a 3 hour, open-book final exam at the conclusion of the quarter, OR writing a short paper (approx. 10-15 pages) in response to a question that I will hand out on the last day of class. However, students will be permitted to choose the paper option only if they have attended at least 80% of the class sessions (i.e., you can miss no more than 3 classes). Otherwise, you must take the final exam. You should also note that this short paper does not satisfy the law school’s advanced writing requirement.

Your grade for this course will generally equal your grade on the paper or final examination. However, your participation in class can affect your course grade if your exam/paper grade is on the borderline between two grades. Please note though that participation quality counts for much more than quantity (i.e., don’t feel pressure to raise your hand out of fear that I am simply counting the number of times you speak; in fact, that might work against you).

With that, I welcome you to Law & Economics! I hope you will enjoy taking this course as much as I will love teaching it.
I. TORT LAW AND THE PROBLEM OF ACCIDENTS
   A. The Economic Approach to the Analysis of Law (Chapter 1)
      1. Models
      2. Descriptive Analysis
      3. Normative Analysis: focus on Social Welfare
   B. Accidents: Level of Care (Chapter 8)
      1. Unilateral Accidents
      2. Bilateral Accidents
      3. Least Cost Avoider
   C. Accidents: Level of Activity (Chapter 8)
      1. Unilateral Accidents
      2. Bilateral Accidents
      3. Comments on Strict Liability
   D. Product Liability (Chapter 9)
      1. Victims are Strangers
      2. Victims are Customers
   E. Extensions of the Analysis of Deterrence (Chapter 10)
      1. Judgment Proof Problem
      2. Punitive Damages: Liability in Excess of Losses – X: Exxon Valdez Oil Spill
      3. Contingent Valuation
   F. Risk and Insurance (Chapter 11)
      1. Risk Aversion
      2. Insurance
      3. Can Insurers Observe Care?
      4. Liability Systems Without Insurance
      5. Liability Systems With Insurance
      6. Non-Pecuniary Losses & Insurance
      7. Awards Optimal for Deterrence vs. for Compensation
      8. Injurers Inability to Pay & Insurance
   G. Administrative Costs (Chapter 12)
      1. Is Strict Liability or Negligence a better rule for reducing Administrative Costs?

II. PROPERTY RIGHTS
   A. Definition of Property Rights (Chapter 2)
      1. Possessory Rights
      2. Transfer of Possessory Rights
   B. Justification for Property Rights (Chapter 2)
      1. Socially Optimal Amount of Work
      2. Incentives to Maintain and Improve Durable Things
      3. Incentives to Transfer Things
      4. Avoidance of Dispute and of Efforts to Take or Protect Things
C. Emergence of Property Rights (Chapter 2)
   1. When and why do property rights emerge?
   2. Fur Trade Among Native Americans
   3. Resources in the Sea (fish, oil, sea-bed mining)

D. Acquisition and Transfer of Property (Chapter 4)
   1. Sale of Property/Verifying Legitimacy of Sale
      • Registration System
      • Bona Fide Purchase Rule
      • Original Owner Rule
   2. Adverse Possession

E. Conflicts in the Use of Property: Externalities (Chapter 5)
   1. Externalities Defined
   2. Externalities are Reciprocal
   3. Socially Optimal if Externalities Figured into Cost-Benefit Analysis
      • no bargaining costs
      • vs. bargaining costs/problems prevent bargaining
   5. Resolution of Externalities Through Legal Rules

F. Property and the State (Chapter 6)
   1. Justification for Public Provision of Property
   2. Problems with State Provision of Property

G. Property Rights in Information (Chapter 7)
   1. Information of Repeat Value
   2. Incentives to Create vs. Incentives to Distribute Information
      • Optimal Level of Use of Information
      • Optimal Level of Information Development

III. CONTRACT LAW
A. Basic Contract Theory (Chapter 13)
   1. Complete vs. Incomplete Contracts
   2. Justifications for Contracts
      • If No Enforceable Contracts, Simultaneous Transaction Required

B. Remedies for Breach (Chapter 13)
   1. Expectation Damages (optimal)
   2. Reliance Damages
   3. Specific Performance
   4. Liquidated Damages

C. Contract Formation (Chapter 14)
1. Mutual Assent
2. Fraud
3. Mistake
4. Duty to Disclose Information
5. Duress

D. Production Contracts (Chapter 15)
   1. Should be Performance only if Value > Cost
   2. Expectation Measure Optimal

IV. LITIGATION AND THE LEGAL PROCESS
   A. Basic Theory of Litigation (Chapter 17)
      1. Private vs. Social Incentive to Sue
      2. “Loser-Pays” System (England)
      3. Settlement vs. Trial

V. LAW ENFORCEMENT & CRIMINAL LAW
   A. Deterrence with Monetary Sanctions (Chapter 20)
      1. Costless to Impose
      2. Optimal Mix of Probability & Magnitude of Sanctions
   B. Deterrence with Non-Monetary Sanctions (Chapter 21)
      1. Non-Monetary Sanctions are Costly to Impose
      2. Optimal Mix of Monetary and Non-monetary sanctions
   C. Extensions of the Theory of Deterrence (Chapter 22)
      1. Self-Reporting of Violations
      2. General vs. Specific Enforcement of Law
   D. Other Functions of Sanctions (Chapter 23)
      1. Incapacitation
      2. Rehabilitation
      3. Retribution
   E. Criminal Law (Chapter 24)
      1. Why is Criminal Law Necessary?
      2. Criminal Sanctions
      3. Intent is Punished
      4. Attempt is Punished
      5. Causation
      6. Ignorance or Mistake
      7. Entrapment Not Punished
      8. Duress
      9. Necessity
      10. No Settlement Permitted

VI. Welfare Economics, Morality & the Law (Chapter 28)
   A. Income Distributional Equity
      1. Distribution Matters: Marginal Utility of $1 for poor vs. wealthy person
      2. Using Legal Rules vs. Taxes to Achieve Distributional Goals
VII. Public Law & Economics

A. Employment Anti-Discrimination Laws (Chapter 30)
   1. Statutory Scheme (Title VII)
   2. Deadweight Loss vs. Distributional Effects
   3. Testing for Discrimination – Statistical Analysis in Title VII Cases

B. Minimum Wage Laws (Chapter 31)
   1. Raising Prices Above Market Clearing Levels
   2. Fair Labor Standards Act
   3. Empirical Evidence: Does the Minimum Wage Reduce Employment?

C. Tobacco Litigation (Chapter 32)
   1. Smoking Externalities & the “Death-Credit” Argument:
      Should states receive compensation for smokers’ healthcare costs?

D. Responsible Regulation (Chapter 33)
      • Infeasibility of a No-Risk Society
      • Systematic Misperception of Risk; Risk vs. Risk Analysis
      • Valuing Life and Other Non-monetary Benefits

E. Human Organ Sales (Chapter 36; Ch. 34 & 35 omitted)
   1. KING 5 TV, Robert Mak, LifeSharers Video/Interview
   3. National Organ Transplantation Act
   4. Deadweight Loss vs. Distributional Effects
   5. Alternative Incentives to Spur Organ Donation: LifeSharers and more
Law & Economics Fall 2015 (4 cr.; TuTh) Reading Assignment List*
(“Ch.” Refers to Shavell textbook; “Reader” refers to the Course Reader)

<table>
<thead>
<tr>
<th>Class Day/Date</th>
<th>Assignment to read Before that Class Session</th>
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<tbody>
<tr>
<td>1. Tu 9/29</td>
<td>Preface; Ch. 1; Ch. 8 (omit §§ 2.10; 4-4.6); Reader Problems 1-3 for Ch. 8</td>
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<tr>
<td>2. Th 10/1</td>
<td>Finish Ch. 8 Problems; Ch. 9 (omit §§ 2.4-2.10); Reader Problems for Ch. 9</td>
</tr>
<tr>
<td>3. Tu 10/6</td>
<td>Ch. 10 (read only §§ 1-4 and §§ 9 - 9.4, 9.7); Reader Problems for Ch. 10; Ch. 11; Reader Problems 1-3 for Ch. 11</td>
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<tr>
<td>4. Th 10/8</td>
<td>Finish Ch. 11 Problems; Ch. 12 (only § 1); Reader Problems for Ch. 12; Ch. 2; Reader Problems for Ch. 2</td>
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<tr>
<td>5. Tu 10/13</td>
<td>Ch. 4 (read only §§ 1-2, 4-7, 10); Reader Problems for Ch. 4; omit Ch. 3</td>
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<tr>
<td>6. Th 10/15</td>
<td>Ch. 5 (omit § 6); Reader Problems for Ch. 5; Ch. 6 (omit § 1.12); Reader Problems for Ch. 6</td>
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<tr>
<td>7. Tu 10/20</td>
<td><strong>Eminent Domain Economics</strong> (in Reader); Ch. 7 (read only §§ 1.1-1.17); Reader Problems for Ch. 7</td>
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<tr>
<td>8. Th 10/22</td>
<td><em>An Economic Analysis of I.P. Rights</em> (in Reader); Ch. 13 (omit §§ 5, 6.3, 8, 9.4, 10)</td>
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<tr>
<td>9. Tu 10/27</td>
<td>Ch. 14 (omit §§ 1, last ¶ of 6.2, 6.3); Ch. 15 (omit §§ 2.7, 3.4-3.6, 4); Reader Problems for Ch. 15</td>
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<tr>
<td>10. Th 10/29</td>
<td>Finish Problems for Ch. 15; Ch. 17 (read only §§ 1-2); Reader Problem 1 for Ch. 17; omit Ch. 16</td>
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<tr>
<td>11. Tu 11/3</td>
<td>Finish Ch. 17 (omit §§ 3.3-3.4); Reader Problems for Ch. 17; omit Ch. 18 &amp; 19; Ch. 20 (omit § 1; read only § 2-2.3); Reader Problem 2 for Ch. 20</td>
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<tr>
<td>12. Th 11/5</td>
<td>Finish Ch. 20 (but omit § 2.6, 3); Reader Problems for Ch. 20; Ch. 21; Reader Problems 1 and 6 for Ch. 21</td>
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<tr>
<td>13. Tu 11/10</td>
<td>Reader Problems 4, 8, 9, 11 for Ch. 21; Ch. 22 (read only §§ 4, 5); Reader Problems for Ch. 22; Ch. 23; Reader Problems for Ch. 23</td>
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<td>14. Th 11/12</td>
<td>Ch. 24; Reader Problems for Ch. 24</td>
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<td>15. Tu 11/17</td>
<td>Ch. 28; Reader Problems for Ch. 28; omit Ch. 25-27 &amp; 29; Reader Ch. 30</td>
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<td>16. Th 11/19</td>
<td>Reader Ch. 31, 32</td>
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<td>17. Tu 11/24</td>
<td>Reader Ch. 33</td>
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<tr>
<td>18. <strong>Th 11/26</strong></td>
<td><strong>No class; Thanksgiving Holiday</strong></td>
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<tr>
<td>19. Tu 12/1</td>
<td>Reader Ch. 36 (omit Ch. 34; 35)</td>
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<tr>
<td>20. Th 12/3</td>
<td>Make-up Class (if necessary)</td>
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*Fine Print Legal Disclaimer: Assignments for each date are estimates only, and subject to change on short notice.*

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