

UNIVERSITY OF TEXAS - ARLINGTON
LAW & ECONOMICS
ECON 3305 - 001
Spring 2018

Semester Start Date: Tuesday, January 16, 2018
Last Day of Classes: Friday, May 4, 2018
Last Class Meeting: Wednesday, May 2, 2018
Mid-term Exam: Wednesday, March 7, 2018 (in class)
Spring Break: March 12 - 17, 2018
Final Exam: Monday, May 7, 2018, 8:15 - 10:45 p.m.
UTA Office: COBA 241, docsteen@exchange.uta.edu
Class Meetings: COBA 241, Mondays and Wednesdays from 8:30 to 9:50 p.m.
Brief Description: A review of the origins and economic effects of law and legal institutions, including property, contracts, and torts.
Prerequisite: Econ 2306.

Instructor: **Charles H. Steen, J.D., Ph.D.**

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Welcome to Law & Economics. While you are only beginning the study of Law & Economics, there is nothing I have learned that you can't. The main differences between us are: (1) I went to school a lot longer; and (2) I have been in the Courts, at all levels, for twenty years. You will learn more in this course about the application of economics to law than you can now imagine, maybe more than you want. This course will help all of you understand the world a little more clearly. For some, this course will become the lens through which you see the world forevermore.

The Objectives of Studying of Law & Economics. Pretty much everyone understands that we live in "a nation of laws". What is less-well understood is that the law's *raison d'être* -- indeed, the legitimacy of law -- is that it must serve well our general pursuit of human happiness.

The gravamen of economics similarly is the maximization of human happiness, although we call it "utility". Economics is in many respects the better-ordered and more logical discipline, which makes it rather easier to grasp, and to be certain about it. Law does not advance mathematically, however. Rather, it is built up slowly, case-by-case-by-case, over the centuries, indeed over millennia.

Thus, we have two disciplines, two ways of thinking, two literatures, two histories, each of which evolved within our cultural heritage, and which share a common purpose: the pursuit of human happiness. Viewed in this way it would be troubling to find that these two ways of thinking come out in different places (*e.g.*, different equilibria). As you learn to connect the cases, the law's "dots"

if you will, the picture that emerges is, perhaps not remarkably at all, pretty much “what economists have been saying for years”. In that sense, as you will observe more than once in this course: The law is indeed a beautiful thing.

One seemingly major difference between economic and legal analysis derives from the very different contexts which frame their inquiries. Economics is, on the whole, dedicated to considering thick impersonal markets, with lots of actors, lots of information, and typically lots of symmetries. The law, in contrast, is concerned with “cases and controversies” (disputes to be resolved in adversarial proceedings). Litigants, however, turn out basically to be economic actors for whom there is no suitably “thick” market, or for whom markets somehow failed to meet their honest needs.

During this course you will see that litigation, the actual adversarial process of the law, actually serves as a rough “second best” solution to markets, that at every point it is geared to cause litigants to “price” their prospects “efficiently” and to seek their own near-market resolutions (settle their cases). Toward that end you will receive a “crash course” in procedural law within our larger scope. This, frankly, is valuable stuff because the likelihood that you will be in or next to civil litigation during your lifetime is really rather high. Understanding the process will help you make good decisions if and when it happens.

You will also learn to evaluate and understand cases and controversies more generally. You will learn that regardless of the many strange labels applied by the law to nominally different situations there actually are very large themes, economic themes, that unquestionably connect them.

You also will learn that it is okay to inform your economic mind with knowledge from the law. For example, economists can readily explain why “lying, cheating, and stealing”, if these become accepted cultural customs, will lead a society to poverty and unhappiness. At the end of this course, however, you should find yourself unafraid to tell another economist, “Efficiency is all well and good, but the bottom of it is that stealing is just plain wrong, and that’s why it’s against the law.” These, as you will see, are but two sides of the same human coin.

Text:

There is one textbook for this course:

Legal Environment of Business, Roger E. Meiners, et al., South-Western College Publishing; 12th edition; ISBN-13: 978-1-285-42822-2.

There will also be two supplemental sources:

(1) a class website - <http://www.docsteen.com/LawEconSpring2015/> where you will find specialized materials. (This URL is strictly case sensitive.) These mainly will be assigned as we get to them. The last section is entitled “Famous Cases”. We will reach these cases near the end of the semester. That said, it is a very good idea to read them a few times in advance, starting early in the semester. At first you probably will not see the economics involved. Do not worry. Just get familiar and comfortable with the “story” and give some thought to what the Court was doing.

(2) an article, R. Coase, The Problem of Social Cost, 3 J. Law & Econ. 1 (1960) (available on-line from many sources, just run a search for it). We will reach this article after the midterm exam, but it is worth a couple of reads before then, as it will take some time to sink in. This is where the “upper level thinking” begins in earnest.

Attendance: There will be two lectures each week. These will not parrot the text book. The material we cover in lecture will be in addition to the text book. So, I simply can not overstate the importance of attending lectures.

Study Groups: Economics and law are not easy, and learning the intersection of both is tough going until you start to “get it”. Accordingly, I strongly encourage each of you to form or join a study group of three to five students, and to meet at least once each week for an hour.

Examinations: The course will be graded based on 300 total points. There will be one **mid-term examination**, for 100 points, in class, on **Wednesday, March 7, 2018**, plus the **final examination**, for 200 points, in our regular classroom, on **Monday, May 7, 2018**, 8:15 - 10:45 p.m. The final will cover the entire course, with emphasis on the material covered after the mid-term.

There will be no make up for the mid-term examination. If you do not take the mid-term, for whatever reason, you may take the final exam for your whole course grade, although there will be an automatic penalty of 15 points for taking this route, making a perfect final exam worth 285 points. The only way to avoid this penalty is to have an acceptable excuse. Acceptable excuses are very rare. Examples are: (1) a death in your immediate family; (2) a University sponsored athletic excursion; or (3) a serious, documented illness.¹

¹**Take Notice:** Travel for Spring break, Fall break, or Thanksgiving is *not* an acceptable excuse. Every semester I get a long face from at least one student to the effect, “I already purchased my plane ticket.” The time to make your decision about whether to start your break in conflict with the midterm exam is now. If you want to leave and miss the mid-term, that is up to you. But be advised that this is *not* an excuse that will avoid the 15 point penalty.

Course grades will be scaled (“curved”). The scale will be determined, and letter grades assigned, the day after the final exam. Thus, mid-term results will be given as numeric scores -- “x” points out of 100 -- and will not have letter grades assigned to them. I will, however, also tell you the class mean for the mid-term so you will have a sense of where you performed relative to the full class.

Exam Preparation: As stated above, I will not be teaching directly from the book. You will, however, be responsible for, and tested on, all of the textbook material assigned below. Prof. Meiners’s book is abundantly accessible to you at your preset level of prerequisite studies. That is a simple fact, and there simply is not time enough for me to hold your hand through it. I will be delighted to answer your questions from the book, but basically you are on your own to learn it thoroughly. At the end of the course you will understand how it all ties together. There are good reasons for this method. The book is foundational, it covers all the basics. But that is as far as it will take you. From there, I will require you to engage in some pretty serious upper-level thinking, and there really is no book for this. Moreover, the lecture material builds step-by-step until we get to the last segment, which is the most interesting and important segment, where you will be equipped to start actually thinking on your own about this stuff.

You can think about matching the course material to the exams, as follow: (1) The mid-term will be tightly tied to the first half of the textbook material, for 100 points; (2) Half of the final exam similarly will be tightly tied to the second half of the textbook material, for another 100 points; and (3) The third 100 points will be drawn from lecture material, and will cover the entire lecture part of the course.

More About the Mid-Term and Final Exam: In certain respects the mid-term is “easy”. By this I mean I will tell you what to expect and how to prepare. No surprises. There will be a lot to learn for the mid-term, but you will not have to “over learn” for it. In a sense, at the mid-term I need to stop and make sure everyone has done the reading and worked through the on-line exercises *thoroughly* before we go to the next stages. One consequence of this, however, is that mid-term scores tend to be very high across the full class. So, you should not become lazy, overconfident, or complacent just because you score well on the mid-term. If you score well, say 90% or better, you should think of yourself as being one of many “in the pack” as we round the first turns. The real challenges grade-wise will come as we round the final turns and head into the home stretch. Indeed, the last third of the material is where your preparation up to that point will be put to work and your upper-level thinking will begin. Similarly, the most difficult parts of the final exam will test your upper-level thinking. It is fair, therefore, to think of everything you learn during the first two thirds of the material as preparation for the final third. On the final exam it will be the third segment of the lectures material that distinguishes the rock stars from the cover bands.

The “B” Mean Policy: It is a policy of the Economics Department that final grades for each section

must conform to a “B” mean. Accordingly, after all scores are in from all exams, I will fit them under a curve with “B” at the mean.

Toto, I don’t think we’re in Kansas anymore.”: Some students attend college believing they should be spoon fed course material from the texts, and then tested on their retention, like high school and community college. At this stage, however, meaning university, it really is time for you to start taking personal responsibility for the assigned reading material, and from there to begin learning to think on your own. So, in this class you sometimes will feel like the lecture materials depart from the text and take you on a rather scenic tour of the economic world around you, and of the world you can expect when you graduate. Here are a few guideposts to help you keep your bearings.

First, you certainly can “pass” this course without attending a single lecture, and simply learning all the text material stone-cold. But, if you’ve always been the smartest kid in your class, you might well be surprised at this level to realize that many students share that experience, and that you will actually have to apply yourself if you plan on making an “A”. Indeed, there is basically a zero chance that you can earn any form of “A” in this course unless, in addition to gaining a thorough knowledge of the text materials, you also attend the lectures, pay attention, become engaged in the subject matters, participate in class discussions, and study three hours for every hour of class time.

Second, when it comes to what expect on the exams basically there will be no surprises. I will always tell you pretty much exactly what will be on the exams. The midterm exam, for example, will draw heavily from the online quizzes that accompany the text, as will the first half of the final exam. I will give you directions to find the online quizzes during our first meeting.

Third, as we approach the final exam I will tell you as we go through the materials about the kinds of questions to expect on the exam. I can assure you even now that much of this stuff is not susceptible to simple memorization, especially at the last minute. To gain command of this part of the material even the brightest student will need to become immersed in it, and spend some very focussed time thinking about it. This upper level thinking part of the course is where the “best and brightest” get to excel.

Taken together, if all you want is to “pass” this course you probably can do so from the text alone. On the other hand, if you want more from the course -- a higher grade, a deeper understanding, or both -- you will need to start working early, attend the lectures, participate, pay attention, and put some real work into it.

Fourth, in the past some students have commented that the course could use more graded activities than just two exams. These students apparently feel they need more exogenous structure (hand holding) imposed on them to assure they stay on track. While I understand this, I don’t accept it, for

several reasons. As a threshold matter, the text and its accompanying online resources provide a huge amount of material you can use as practice tests, and I encourage you to do so. In reality, therefore, there simply is no shortage of outside work you can do to assure all the structure you need or want. Further, as adults in college you are now at a point where you need to start taking personal responsibility for your education, and ultimately for your own success. In short, this isn't high school anymore.

Fifth, economics and law lend themselves readily to policy implications, so you will hear about that in lecture. This is not to say, however, that politics enters the mix. It emphatically does not. You will, however, encounter discussions, sometimes lively ones, about economic policy implications that might well challenge your political beliefs, or the beliefs of others, whatever they might be. The object is to equip you better to understand the consequences -- the "opportunity costs" -- of embracing one policy choice over another as measured against the yardstick of economic knowledge. For example, suppose our lessons suggest that a free market would lead us to some point we can call "A" having certain identifiable qualities. Suppose, in contrast, that a popular viewpoint urges that "B" would be better than "A". The tools of Law & Economic can often help students understand that by employing political devices to obtain "B" we actually are likely to get "C" instead, and that "C" turns out to be less desirable than "A" even to those who wanted "B" in the first instance. That is not politics. It is, rather, critical thinking. Finally, Law & Economics ultimately is about people and their pursuit of happiness, as they define and perceive happiness for themselves, accumulated through their human interactions, set in a world where nothing is infinite, and where nothing comes without some cost or consequence. In turn, social policies, even the best-intentioned ones, from any source, can become subject to objective economic scrutiny and comparison. At every step we will keep a sharp lookout to avoid being drawn into the woes of unintended consequences.

Sixth, economics is a *science*. Among other things (*i.e.*, adherence to logic, and eternal vigilance against partial thinking), this requires us always to be fearless in our observations. Whenever "pesky facts" threaten wishful thinking, we will stand with observable facts. Some students like this about economics. Others surely do not.

Enrollment: Although lecture attendance is not enforced, enrollment is mandatory.

Office Hours: Typically I am available immediately after class for as long as it takes to address all questions, comments, and concerns.

My Law Practice: I am a trial lawyer. Among other things, this means I sometimes have to be in Court without much notice. I have scheduled my trials and hearings so as not to interfere with our lecture time. That said, if something comes up I will give you as much notice as I possibly can.

Closing Thoughts: I hope you enjoy this course, and that you derive life-long insights from it. If you apply yourself, and spend the time it takes, you will leave this course with new intellectual tools that will serve you well.

Course Reading & Lecture Outline

Tentative Lecture/Topic Schedule (course content):

<u>Week Starting:</u>		<u>Reading:</u>	
January	15	Chapter 1	Today's Business Environment: Law & Ethics
January	22	Chapter 2	The Court Systems
January	29	Chapter 3	Trials and Resolving Disputes
February	5	Chapter 4	The Constitution: Focus on Application to Business
February	12	Chapter 6	Elements of Torts
February	19	Chapter 7	Business Torts and Product Liability
February	26	Chapter 8	Real and Personal Property
March	5	<u>Midterm Exam Wednesday, March 7, 2018 (in class)</u>	
March	12	Spring Break March 12-17, 2018	
March	19	Chapter 10	Contracts
March	26	Chapter 12	Business Organizations
April	2	Chapter 17	The Regulatory Process
April	9	Chapter 18	Securities Regulation
April	16	Chapter 19	Consumer Protection
April	23	Chapter 20	Antitrust Law
April	30	Chapter 21	Environmental Law, Closing Material, and Exam Review
		Last Class Meeting: Wednesday, May 2, 2018	
May	7	<u>Final Exam, Monday, May 7, 2018, 8:15 - 10:45 p.m.</u>	

Legal note: Students are prohibited from selling notes for this course to any person or commercial firm (or being paid to take notes) without the express, written permission of Charles H. Steen. Copyright 2004-2018, as to this syllabus and all lectures.

Other Matters (required by the University):

Drop Policy: Students may drop or swap (adding and dropping a class concurrently) classes through self-service in MyMav from the beginning of the registration period through the late registration period. After the late registration period, students must see their academic advisor to drop a class or withdraw. Undeclared students must see an advisor in the University Advising Center. Drops can continue through a point two-thirds of the way through the term or session. It is the student's responsibility to officially withdraw if they do not plan to attend after registering. Students will not be automatically dropped for non-attendance. Repayment of certain types of financial aid administered through the University may be required as the result of dropping classes or withdrawing. For more information, contact the Office of Financial Aid and Scholarships (<http://wweb.uta.edu/ses/fao>).

Americans with Disabilities Act: The University of Texas at Arlington is on record as being committed to both the spirit and letter of all federal equal opportunity legislation, including the Americans with Disabilities Act (ADA). All instructors at UT Arlington are required by law to provide "reasonable accommodations" to students with disabilities, so as not to discriminate on the basis of that disability. Any student requiring an accommodation for this course must provide the instructor with official documentation in the form of a letter certified by the staff in the Office for Students with Disabilities, University Hall 102. Only those students who have officially documented a need for an accommodation will have their request honored. Information regarding diagnostic criteria and policies for obtaining disability-based academic accommodations can be found at www.uta.edu/disability or by calling the Office for Students with Disabilities at (817) 272-3364.

Academic Integrity: At UT Arlington, academic dishonesty is completely unacceptable and will not be tolerated in any form, including (but not limited to) "cheating, plagiarism, collusion, the submission for credit of any work or materials that are attributable in whole or in part to another person, taking an examination for another person, any act designed to give unfair advantage to a student or the attempt to commit such acts" (UT System Regents' Rule 50101, §2.2). Suspected violations of academic integrity standards will be referred to the Office of Student Conduct. Violators will be disciplined in accordance with University policy, which may result in the student's suspension or expulsion from the University.

Student Support Services: UT Arlington provides a variety of resources and programs designed to help students develop academic skills, deal with personal situations, and better understand concepts and information related to their courses. Resources include tutoring, major-based learning centers, developmental education, advising and mentoring, personal counseling, and federally funded programs. For individualized referrals, students may contact the Maverick Resource Hotline by calling 817-272-6107, sending a message to resources@uta.edu, or visiting www.uta.edu/resources.

Electronic Communication: UT Arlington has adopted MavMail as its official means to communicate with students about important deadlines and events, as well as to transact university-related business regarding financial aid, tuition, grades, graduation, etc. All students are assigned a MavMail account and are responsible for checking the inbox regularly. There is no additional charge to students for using this account, which remains active even after graduation. Information about activating and using MavMail is available at:
<http://www.uta.edu/oit/cs/email/mavmail.php>.

Student Feedback Survey: At the end of each term, students enrolled in classes categorized as lecture, seminar, or laboratory will be asked to complete an online Student Feedback Survey (SFS) about the course and how it was taught. Instructions on how to access the SFS system will be sent directly to students through MavMail approximately 10 days before the end of the term. UT Arlington's effort to solicit, gather, tabulate, and publish student feedback data is required by state law; student participation in the SFS program is voluntary.

Final Review Week: A period of five class days prior to the first day of final examinations in the long sessions shall be designated as Final Review Week. The purpose of this week is to allow students sufficient time to prepare for final examinations. During this week, there shall be no scheduled activities such as required field trips or performances; and no instructor shall assign any themes, research problems or exercises of similar scope that have a completion date during or following this week unless specified in the class syllabus. During Final Review Week, an instructor shall not give any examinations constituting 10% or more of the final grade, except makeup tests and laboratory examinations. In addition, no instructor shall give any portion of the final examination during Final Review Week. During this week, classes are held as scheduled. In addition, instructors are not required to limit content to topics that have been previously covered; they may introduce new concepts as appropriate.