

**ECON 674: Economic Analysis of Law**  
**Spring 2018**  
**Syllabus**

**Class time:** Mondays, 6:45 – 9:30pm (15 minute break around 8pm). **Final exam is Nov. 21.**

**Class location:** 1400 16<sup>th</sup> St. NW, Suite 140, Washington, DC

**Instructor:** David Burk, [dburk@umd.edu](mailto:dburk@umd.edu)

**Office hours:** Immediately after class, and by appointment.

**Teaching Assistant:** Shanxiao “Shanny” Wang, [wangs@econ.umd.edu](mailto:wangs@econ.umd.edu)

**TA Office Hours:** Monday and Tuesday 5:15-6:45p

**Course Overview:** This course applies standard microeconomic theory and concepts to understand the law and the legal system. In particular, we will focus on the following areas of law: property, contracts, torts, crime, antitrust, and intellectual property. After taking the course, the student should have the ability to anticipate the consequences of legal decisions. Students will also improve their skills at applying microeconomic theories to policy and legal discussions, and communicating economic ideas to non-economists.

**Prerequisites:** ECON 641 and ECON 644 (ECON 644 can be taken concurrently).

**Grading:** Students’ grades will be a function of their performance in four areas: participation in class (7.5%), the online discussion forum (7.5%), a short midterm (15%), a final (30%), homework (20%), and a presentation (20%). For each category students will receive a score between on a scale of 0 to 100. I will curve the scores for each category that the average score is greater than or equal to an 80. The weighted average of those scores will determine the final letter grade, with the following cut-offs: 93 for A, 90 for A-, 80 for B+, 70 for B, 60 for B-, 50 for C+, 40 for C, 30 for C-, 20 for D+, 10 for a D, and F for anything below a 10.

There will be weekly online discussions which students are required to contribute to. Those discussions will typically deal with course reading. I will provide initial prompts for each week’s discussion and facilitate discussion to make sure it is instructive and worthwhile. The discussion will be open for at least two days, but will never be open on the day of class (i.e., Monday).

The homework will consist of four problem sets, each worth 5%. Students may work with others, but each should submit his or her own solutions.

For the presentation, students will present an assigned law and economics paper to the class. In the presentation, they will summarize and critique the paper, and prepare discussion questions for the class to discuss. They will prepare slides which they will discuss with me prior to the scheduled presentation. Each presentation and discussion should take 30 to 45 minutes. The presentations will begin in the third class meeting and we will do one or two per class.

**Textbook and Other Readings:** Robert Cooter and Thomas Ulen's *Law and Economics* is the textbook. Any recent edition should suffice. Students will be expected to read assigned articles and cases. There will be additional readings (mostly academic articles and legal cases) that are electronically available.

**Schedule: Topics, Readings, Due Dates, and Exam Dates**

Feb 26 (Class 1): Introduction, Economics Review, Overview of U.S. Legal System. Introduction to Property Law. Reading: Cooter & Ullen, chs. 1-3.

March 5 (Class 2): Theory of Property Law.

Readings: C&U Ch. 4. Coase, "The Problem of Social Cost," *J of Law & Econ* (1960); Demsetz, "Toward a Theory of Property Rights," *Am Econ Rev* (1967).

March 12 (Class 3): Applications of Property Law. **HW1 DUE.**

Readings: C&U, ch. 5; Besen and Raskind, "An Introduction to the Law and Economics of Intellectual Property," *J of Econ Perspectives* (1991); Landes and Posner, "An Economic Analysis of Copyright Law," *J of Legal Studies* (1989); *Kelo vs. New London.*

March 19 (Class 4): Theory of Tort Law.

Readings: C&U - ed. 5, ch. 8; C&U - ed. 6, ch. 6.

March 26 (Class 5): Theory of Tort Law. **HW2 DUE.**

Readings: C&U - ed. 5, ch. 9; C&U - ed. 6, ch. 7; Shavell, "Strict Liability versus Negligence," *J of Legal Studies* (1980); *BMW v. Gore.*

April 2 (Class 6): **MIDTERM EXAM** (first 90 minutes of class); Applications of Tort Law.

April 9 (Class 7): Theory of Contract Law

Reading: C&U - ed. 5, ch. 6; C&U - ed. 6, ch. 8; Ayres & Gertner, "Filling Gaps in Incomplete Contracts: An Economic Theory of Default Rules," *Yale L J* (1989-90).

April 16 (Class 8): Applications of Contracts. **HW3 DUE.**

Readings: C&U - ed. 7, ch. 9; C&U - ed. 6, ch. 9; *Williams v. Walker-Thomas Furniture.*

April 23 (Class 9): Litigation Theory & the Efficiency of the Common Law.

C&U, ch. 10; La Porta, Lopez-de-Silanes, Shleifer, "The Economic Consequences of Legal Origins," *J of Econ Lit* (2008); Rubin, "Why is the Common Law Efficient?," *J of Legal Studies* (1977).

April 30 (Class 10): Crime.

Readings: C&U - ed. 5, ch. 11-12; C&U - ed. 6, ch. 12-13; Becker, "Crime and Punishment: An Economic Approach," *J of Pol Econ* (1968); Posner, "An Economic Theory of the Criminal Law," *Col Law Rev* (1985).

May 7 (Class 11): Antitrust & Competition. **HW4 DUE.**

Readings: Friedman, ch. 16 of *Law's Order* ([link](#)), *Leegin vs. PSKS*; *Apple vs. Samsung.*

May 14 (Class 12): **FINAL EXAM.**

### **Course Objectives**

Our program has 7 general learning outcomes for students:

1. Ability to understand, evaluate and analyze economic data
2. Ability to understand and interpret statistical evidence from economic data
3. Ability to apply empirical evidence to assessing economic arguments
4. Ability to apply macroeconomic theories to policy discussions
5. Ability to apply microeconomic theories to policy discussions
6. Ability to communicate economic ideas to a broader audience
7. Ability to evaluate the effectiveness of policy programs using sound economic techniques

The learning outcomes that pertain to this course primarily are 5 and 6. Students will also get to develop outcomes 2 and 3 when we study certain applications.

**Course Website:** Copies of the course syllabus, your grades, and other relevant links and documents will be posted on the course's ELMS/Canvas website. You can access the site via [www.elms.umd.edu](http://www.elms.umd.edu). You will need to use your University of Maryland "directory ID" and password.

**Email:** Email is the primary means of communication outside the classroom, and I will use it to inform you of important announcements. Students are responsible for updating their current email address via <http://www.testudo.umd.edu/apps/saddr/> AND for paying attention to messages I send to the class via ELMS. Failure to check email, errors in forwarding email, and returned email due to "mailbox full" or "user unknown" will not excuse a student from missing announcements or deadlines. I will do my best to respond to email within 36 hours.

**Contact Hours:** Three credit courses at the University of Maryland require a minimum amount of contact between instructors and students. Our courses' 12 weekly 3-hour meetings only satisfy 80% of the university's contact requirement. The other 20% is satisfied by weekly mandatory and graded online contact. In principle, the contact hours requirement could be satisfied by scheduling 3 additional 150-minute meetings per term, or 6 additional 75-minute meetings, or 10 additional 45-minute meetings. But in practice the contact hours requirement is satisfied by the weekly online discussions. The weekly online discussions are a more flexible way to ensure that our program's courses in DC provide the same level of student-instructor contact as the traditional 15-week, face-to-face, version of the same course when it is taught on campus in College Park.

**Work Load:** Mastering the material covered in this course requires a significant amount of work outside of class. Students should expect to spend more time outside of class than in class – typically at least twice as much time. The courses in our DC program are 12-week courses that cover all the same material as a traditional semester-long 3-credit course (15 weeks). The compressed schedule makes it possible to complete our degree in just 15 months if you take 2 courses each term. But the compressed schedule also implies an accelerated pace with an average of 25% more work per week in a given course ( $15/12 = 1.25$ ). The normal full-time load in a master's program is 3 courses per semester, or 6 courses per year. The weekly work load when taking 2 of our courses per term is equivalent to the load from 2.5

"normal" 15-week courses - so  $2.5/3.0=83\%$  of a full-time load. Students who take 2 courses per quarter in our program complete 8 courses per year. So over the course of a year, taking 2 courses per quarter in our program is equivalent to 133% of a full-time load ( $8/6 = 1.33$ ).

**Academic Integrity:** The University of Maryland has a nationally recognized Code of Academic Integrity, administered by the Student Honor Council. This Code sets standards applicable to all undergraduate and graduate students, and you are responsible for upholding these standards as you complete assignments and take exams in this course. Please make yourself aware of the consequences of cheating, fabrication, facilitation, and plagiarism. For more information see [www.studenthonorcouncil.umd.edu](http://www.studenthonorcouncil.umd.edu).

**Student Conduct:** Students are expected to treat each other with respect. Disruptive behavior of any kind will not be tolerated. Students who are unable to show civility to one another or myself will be referred to the Office of Student Conduct. You are expected to adhere to the Code of Student Conduct.

**Excused Absences:** The University of Maryland's policy on excused absences is posted here: <http://www.president.umd.edu/administration/policies/section-v-student-affairs/v-100g>

Please note:

If you miss any class meetings for any reason, you are still responsible for all material covered during the meeting you missed. It is your responsibility – not the instructor's – to get yourself caught up in the course. Instructors routinely facilitate things by posting lecture notes, etc.

If you need to miss an exam or other graded course requirement because of illness, injury, or some other emergency: Follow doctor's orders and get documentation. Get in touch with the instructor as soon as you're able – preferably prior to missing the exam or deadline. Communicate with the instructor to make up the course requirement as soon as possible. You are entitled to recover before you make up the course requirement, but you are not entitled to extra days to study beyond the time the doctor's note says you're incapacitated. If you are incapacitated for more than a week or so beyond the end of the term, your grade in the course will be an "Incomplete". In such cases you must negotiate a plan with your instructor for completing the course requirements. Once you make up the course requirement the instructor will change your "I" to the appropriate letter grade.

**School Closings and Delays:** Information regarding official University closing and delays can be found on the campus website and the snow phone line: (301) 405-SNOW (405-7669). Since our program is an evening program in downtown Washington, DC, rather than a day program in College Park, we do not always cancel classes on the same days as the College Park campus. The program director will always announce cancellation information to the program as an announcement on the program's ELMS/Canvas site. This will generally be done by 1:00 p.m. on days when weather or other factors are an issue.

**UMD Counseling Center:** Sometimes students experience academic, personal and/or emotional distress. The UMD Counseling Center in Shoemaker Hall provides comprehensive support services that promote personal, social, and academic success. The cost of these services is covered by the fees you already paid when you registered for classes, and there is no additional charge if you use the services. Proactively explore the range of services available, including the Counseling Service, Accessibility and Disability Service, Learning Assistance Service, and the Testing Office, all described at <http://www.counseling.umd.edu/>

**Students with Disabilities:** The University of Maryland does not discriminate based on differences in age, race, ethnicity, sex, religion, disability, sexual orientation, class, political affiliation, or national origin. Reasonable accommodations will be arranged for students with documented disabilities.

Students who have an accommodations letter from the Accessibility and Disability Service (ADS) should meet with me during the first few weeks of the semester to discuss and plan for the implementation of your accommodations. If you require reasonable accommodations but have not yet registered with ADS, please contact the Accessibility and Disability Service at 301-314-7682 or adsfrontdesk@umd.edu.

**Academic Progress:** The graduate school requires that students maintain a GPA of at least 3.0. Students whose cumulative GPA falls below 3.0 will be placed on academic probation by the graduate school. Students on academic probation must ask the program's director to petition the graduate school if they want to remain in the program. The petition must include a plan for getting the student's GPA up to at least 3.0. Students who do not live up to their plan can have their enrollment in the program terminated without having earned the degree. Note: a grade of "B" corresponds to a GPA of 3.0. A grade of "B-" corresponds to a GPA of 2.7.

**Building Access:** The door to the building at 1400 16th Street is unlocked on weekdays until 7:00 p.m. Students who arrive after 7:00 p.m. or on weekends will find the door locked. The building's security guard is stationed at a desk just inside the door until 11:00 p.m. and will let you in. You can also call the phone on the security guard's desk by dialing (202) 328-5158. If the security guard is off duty or happens to be away from his or her desk when you arrive, you can go around to the other door at 1616 P Street and pick up the black phone to the right of that door. You will be connected to the company that handles security for our building. If you tell them you are with the University of Maryland, they should ask you for a password. When you tell them the password, they will be able to unlock the door for you. You can get the password from the program coordinator, the TA, or the program director. Please note: the building security staff are not able to buzz you in at the 1400 16th Street door. You have to go around to the 1616 P Street door to be buzzed in.