You are responsible for all the information contained in this document, which summarizes the policies and contains the syllabus for the Fall, 2011 Law & Economics course.

**Contact Information**

<table>
<thead>
<tr>
<th></th>
<th>Prof. Clay</th>
<th>Prof. Oh</th>
</tr>
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<tbody>
<tr>
<td><strong>Office Hours:</strong></td>
<td>By Appointment</td>
<td>By Appointment</td>
</tr>
<tr>
<td><strong>Office Location:</strong></td>
<td>2116C Hamburg Hall</td>
<td>Law 323</td>
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<td>268.4197</td>
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<tr>
<td><strong>Administrative Assistant:</strong></td>
<td>Natalia Pascal</td>
<td>Melissa Shimko, Room 314, <a href="mailto:npascal@andrew.cmu.edu">npascal@andrew.cmu.edu</a>, 624.1655, <a href="mailto:mss72@pitt.edu">mss72@pitt.edu</a></td>
</tr>
<tr>
<td><strong>Teaching Assistant:</strong></td>
<td>TBA</td>
<td></td>
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</table>

You are strongly encouraged to contact Professor Clay or Oh with any comments, concerns, problems, or questions concerning this course. You are welcome to contact Professor Clay or Oh to schedule a meeting except when another course in which you are enrolled is scheduled to meet.

**Course Information**

This course will provide a broad overview of the scholarly field known as “Law and Economics.” We will introduce principles of positive and normative microeconomics to explore the extent to which they can explain the workings of the legal system and to examine the effect of legal rules on behavior to correct market failures. We will discuss the economic function of contracts and, when contracts fail or are not feasible, the role of legal remedies to resolve disputes; we also will discuss the choice between encouraging private parties to initiate legal actions to correct externalities and governmental actors, such as regulatory authorities. Covered topics include the Coase Theorem; the choice between property, liability, and inalienability rules; comparative liability rules (e.g., negligence versus strict liability); contractual damages; criminal liability; family law; game theory; and legal decision theory (e.g., risk, uncertainty). No prior acquaintance with economics, mathematics, or psychology is necessary.

This course has three objectives. First, you will learn how to engage critically academic papers within the fields of economics and law. Second, you will acquire the skills to analyze and assess the role that incentives embedded within laws can play in reaching socially desirable outcomes. Third, you will develop the ability to formulate and draft a substantial research paper that advances a normative thesis within the area of Law and Economics.

Law & Economics is a twelve-credit course for Heinz and a three-credit course for Pitt Law. There are two concurrent, but separate formats for this course, which will meet together; the lecture and seminar formats. The course meets on Tuesdays in Hamburg Hall 1003 of Carnegie Mellon University from 10:30-11:45 am; and on Thursdays in Room G20 of the University of Pittsburgh School of Law, 3900 Forbes Avenue, from 10:30–11:45 am.
Course Policies

I. **Class Attendance.** Class attendance is mandatory. If you miss three or more classes, you may be dropped from the course. *The decision whether to grant an excuse is discretionary; excuses may be granted for only matters such as a family emergency, personal illness, or religious observance. Absences are not recorded if an official class is not conducted. You are responsible for obtaining assignments, handouts, and notes for any missed classes.*

II. **Grading.**

A. **Lecture.** Your grade is based on three components:
1. **Exams (65%).** There are three noncumulative midterms. Students can drop the lowest grade of the three exams.

2. **Homework (20%).** The homework will consist of numerical problems and essay/analysis questions, and is due in class on the date indicated. Students are permitted to work on the homework in groups of up to three. Although you will learn more if you do the homework by yourself, if you choose to work as a group, only one copy of the homework needs to be submitted.

3. **Class Participation (15%).** Class participation is based on your participation in the physical classroom. You cannot get an “A” in class participation unless you are present for at least 22 of the 26 class sessions. (Students sometimes get less than 50% of the class participation part of the grade by attending 16 or fewer of the class sessions.) Attending at least 22 of the 26 class sessions is not sufficient for you to receive an ‘A’; however. You must also actively participate in the discussion, which will typically revolve around the required readings. If you have done the readings, you should have insights to offer into the topic. (If English is not your first language, remember that your cross-cultural perspective is an asset that you bring to this class. Please share any insights you might have from your home country.)

B. **Seminar.** Your grade is based entirely on a research paper. The research paper must be in the nature of a scholarly article that advances an *argument* supported by independent research. The research paper must be typed on 8½” x 11” white paper with 1” margins on the top, bottom, and sides. All text must be in Times New Roman font, with main text being in 12 point and footnote text being in 10 point; condensed or expanded spacing is prohibited. All citations must conform with *THE CHICAGO MANUAL OF STYLE* (16th ed. 2010) (CMU Heinz) or *THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION* (19th ed. 2010) (Pitt Law).

There are separate deadlines depending on whether you intend to write just a research paper for the seminar or one in fulfillment of the writing requirement.

1. **Seminar.** By September 30 you must meet with Professor Clay/Oh to discuss and then submit an abstract of a proposed thesis that does not exceed 250 words, along with a tentative list of 5 sources outside of the course materials that you intend to use. By October 28 you must submit a draft that does not exceed 10 pages. The final research paper, which must be between 10 and 15 pages (including footnotes) is due on **Friday, December 9, at 5:00 pm**.
2. **Writing Requirement.** By September 30 you must meet with Professor Oh to discuss and then submit an abstract of a proposed thesis that does not exceed 250 words, along with a tentative list of 5 sources outside of the course materials that you intend to use. By October 28 you must submit a first draft that does not exceed 10 pages. By November 25 you must submit a second draft that does not exceed 15 pages. The final research paper, which must be between 15 and 25 pages (including footnotes), is due on **Friday, December 9, at 5:00 pm.**

Each preliminary draft constitutes 25% of the overall grade for the course. Failure to meet a deadline results in a 25% deduction on the first day, and then 5% each day thereafter.

III. **Academic Integrity.** You are expected to comply with your respective University’s policies concerning academic integrity.

A. **Carnegie Mellon.** The Policy on Cheating and Plagiarism (“CMU Policy”) can be accessed online at [http://www.cmu.edu/policies/documents/Cheating.html](http://www.cmu.edu/policies/documents/Cheating.html), which includes:
   1. Plagiarism
   2. Submission of work that is not the student’s own for papers, assignments or exams.
   8. Collaboration in the preparation of an assignment. Unless specifically permitted or required by the instructor, collaboration will usually be viewed by the university as cheating. Each student, therefore, is responsible for understanding the policies of the department offering any course as they refer to the amount of help and collaboration in preparation of assignments.
   9. Submission of the same work for credit in two courses without obtaining the permission of the instructors beforehand.

B. **University of Pittsburgh.** The University of Pittsburgh’s Student Code of Conduct (“Code”), can be accessed online at [www.pitt.edu/~osaweb/usjs/code.html](http://www.pitt.edu/~osaweb/usjs/code.html). You also are expected to comply with the University of Pittsburgh’s Guidelines on Academic Integrity (“Guidelines”). Moreover, you are expected to comply with the University of Pittsburgh School of Law’s Policy on Written Work for Credit (“Pitt Policy”), as set forth in the Student Handbook:

At the University of Pittsburgh School of Law, seminar and independent study papers as well as other written work for credit, must be based upon original scholarship (research and writing) by the student submitting the written work. Accordingly, students must fully disclose to any faculty member supervising written work the extent to which all, or any portion, of written work being submitted for credit has been based upon scholarship done in another course, seminar or project for credit, either at the University of Pittsburgh or any other institution of high learning.

Students also are required to disclose to a supervising faculty member whether scholarship has been based in whole or in part upon scholarship performed by the student outside of a college or university setting, such as in an externship (paid or unpaid), volunteer work, or summer, part time or full time employment.
And you are expected to comply with the Standards of Academic Integrity ("Standards"), as set forth in the Student Handbook. Notably, the Standards provide:

Students have an obligation to exhibit honesty, and to respect the ethical standards of the legal profession in carrying out their academic assignments. Without limiting the application of this principle, a student may be found to have violated this obligation if he or she:

* * *
3. Receives assistance during an academic evaluation from another person in a manner not authorized by the instructor;
    * * *
7. Practices any form of deceit in an academic evaluation proceeding;
    * * *
9. Depends on the aid of others in a manner expressly prohibited by the instructor, in the research, preparation, creation, writing, performing or publication of work to be submitted for academic credit or evaluation;
    * * *
11. Presents as one’s own, for academic evaluation, the ideas, representations or words of another person or person without customary and proper acknowledgment of sources . . .

The only extra-seminar assistance you are permitted to utilize in connection with the research paper is from the University of Pittsburgh School of Law’s Legal Writing Center (624.9313). Please contact either Professor Clay or Oh immediately if you have any concerns, problems, or questions concerning potential violations of the CMU Policy, Code, Guidelines, Pitt Policy, or Standards.

C. Special Accommodations. No later than the fourth week of the term, students with disabilities who require special classroom modifications should follow the procedures outlined by Carnegie Mellon University, [http://www.cmu.edu/hr/eos/disability/students/index.html](http://www.cmu.edu/hr/eos/disability/students/index.html), or schedule an appointment [648.7890 (voice) or 383.7355 (TTY)] with the University of Pittsburgh Office of Disability Resources and Services (DRS), located in 216 William Pitt Union.

D. Smoking. Smoking is prohibited in all Carnegie Mellon University and University of Pittsburgh buildings. Smoking is also prohibited outside the front entrance to Heinz and the Law School, except where designated. Signs point to the designated smoking area.
Course Syllabus

This syllabus is tentative. For any number of reasons, there may be changes made throughout the semester and modifications will be announced in class. Assignments use the following abbreviations:

**DF:** DAVID D. FRIEDMAN, LAW’S ORDER: WHAT ECONOMICS HAS TO DO WITH LAW AND WHY IT MATTERS (2000).

**HO:** HANDOUTS

**SUPP:** LAW & ECONOMICS SUPPLEMENT

DF is available at the Carnegie Mellon University Bookstore, 5032 Forbes Avenue; University of Pittsburgh Book Center, 4000 Fifth Avenue; and (free) on-line at: [http://www.daviddfriedman.com/laws_order/](http://www.daviddfriedman.com/laws_order/). All of the HO and the SUPP are available on TWEN. Always bring to class DF and any Required Readings.

1. **COURSE INTRODUCTION [8.30]**

   **Required Reading**

   **DF:** Introduction (“What I Am Doing”); Chapter 1 (“What Does Economics Have to Do with Law?”)

   **HO:** The Origins of Law & Economics; Richard A. Posner

   **Recommended Reading**


2. **FUNDAMENTALS OF LEGAL/MICROECONOMIC ANALYSIS [9.1]**

   **Required Reading**

   **DF:** Chapter 2 (“Efficiency and All That”); Intermezzo (“The American Legal System in Brief”)

   **HO:** Efficiency, Pareto, and Kaldor-Hicks; The Nature of Law

3. **FUNDAMENTALS OF ECONOMIC ANALYSIS OF LAW [9.6]**

   **Required Reading**

   **DF:** Chapter 6 (“Of Burning Houses and Exploding Coke Bottles”), Chapter 7 (“Coin Flips and Car Crashes: Ex Post versus Ex Ante”)

   **HO:** Ex Ante/Ex Post

**Recommended Reading**


4. **THE COASE THEOREM & A VIEW OF THE CATHEDRAL [9.8]**

**Required Reading**

**DF:** Chapter 3 (“What’s Wrong with the World, Part 1”),
Chapter 4 (“What’s Wrong with the World, Part 2”)

**HO:** The Coase Theorem; Property and Liability Rules


**Recommended Reading**


5. **REAL PROPERTY I (FUNDAMENTALS) [9.13]**

**Required Reading**

**DF:** Chapter 5 (“Defining and Enforcing Rights: Property, Liability, and Spaghetti”)

**HO:** *Moore v. Regents of the University of Calif.*, 793 P.2d 479 (Cal. 1990).


**Recommended Reading**


6. **REAL PROPERTY II (EXTERNALITIES & NORMS) [9.15]**

**Required Reading**

**DF:** Chapter 10 (“Mine, Thine, and Ours: The Economics of Property Law”)


**Recommended Reading**


7. **Intellectual Property [9.20]**

**Required Reading**

<table>
<thead>
<tr>
<th>DF:</th>
<th>Chapter 11 (“Clouds and Barbed Wire”)</th>
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<tr>
<td>HO:</td>
<td>Public and Private Goods</td>
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**Recommended Reading**


8. **Contracts I (Fundamentals) [9.22]**

**Required Reading**

<table>
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<tr>
<th>DF:</th>
<th>Chapter 12 (“The Economics of Contract”)</th>
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**Recommended Reading**


9. **Contracts II (Efficient Breach & Unconscionability) [9.27]**

**Required Reading**


**Recommended Reading**

10. **Midterm 1 / How to Write a Research Paper [9.29]**

11. **Torts I (Fundamentals) [10.4 & 6]**

   **Required Reading**

   DF: Chapter 14 (“Tort Law”)

   HO: *Palsgraf v. Long Island Railway Co.*, 162 N.E. 99 (N.Y. 1928);


   **Recommended Reading**


12. **Torts II (Liability) [10.11]**

   **Required Reading**

   HO: *United States v. Carroll Towing Co.*, 159 F.2d 169 (2d Cir. 1947); Tort Rules


13. **Criminal Law [10.13]**

   **Required Reading**

   DF: Chapter 15 (“Criminal Law”);
   Chapter 18 (“The Crime/Tort Puzzle”)


   **Recommended Reading**

   SUPP: Gary S. Becker, *Crime and Punishment: An Economic Approach*, 76 J. POL. ECON. 169 (1968);

14. **Sanctions (Monetary v. Nonmonetary) [10.18]**

   **Required Reading**

Recommended Reading


15. FAMILY LAW [10.25]

Required Reading

DF: Chapter 13 (“Marriage, Sex, and Babies”)


Recommended Reading


16. GAME THEORY AND THE LAW [10.27]

Required Reading

DF: Chapter 8 (“Bargains, Bluffs, and Other Really Hard Stuff”)


17. LEGAL PROCESS I (COURTS) [11.1]

Required Reading


Recommended Reading


18. LEGAL PROCESS I (SUITS) [11.3]

Required Reading


Recommended Reading

19. MIDTERM 2/PRESENTATION OF ABSTRACTS [11.3]

20. LEGAL PROCESS II (SETTLEMENTS) [11.8]

Required Reading


Recommended Reading


21. BEHAVIORAL LAW & ECONOMICS I (DECISIONMAKING UNDER UNCERTAINTY) [11.10]

Required Reading


Recommended Reading


22. BEHAVIORAL LAW & ECONOMICS II (ANTI-ANTI-PATERNALISM & ANTI-DISCRIM.) [11.15]

Required Reading


Recommended Reading


23. **INTERNATIONAL LAW [11.17]**

Required Reading


No Lectures Thanksgiving Week

24. **ECONOMICS, EMPIRICS, & HISTORY [11.29]**

Required Reading

DF: Chapter 19 (“Is the Common Law Efficient?”)

HO: Path Dependency


Recommended Reading


25. **TBA [12.1]**

26. **MIDTERM 3 [12.6]**

27. **CONCLUSION [12.8]**