Class Meetings
Mondays & Wednesdays, 10:30 – noon, Room JMHH F65
Office Hours
Wednesdays, 3:00 – 5:00. Or email to arrange a meeting. Or feel free to stop by any time Tues. or Thurs. afternoon.

Course Description
This course provides an introduction to the economic analysis of law and legal institutions. Our goal is to develop intuitions about the ways law simultaneously shapes and responds to private behavioral incentives. In the first half of the course, we will survey the application of key economic concepts to basic features of the Anglo-American common law of property, contract, and tort. In the second half of the course, we will use the tools developed in our survey to focus in depth on antitrust policy in conventional as well as network industries. [Prerequisite: Econ 001]

Required Texts
2. Course pack [available from study.net]

Exams and Grading
Grading will be based on professionalism (10%), the results of midterm (25%) and final (40%) exams, and the quality of (group) presentations on antitrust topics to be determined (25%).
Class Format and Policies

This course will involve a combination of lecture, discussion, and “Socratic” questioning. “Cold calling” will be a regular feature of class. Therefore, students are expected to read the assigned materials carefully and to be ready to discuss them critically.

Three notable policies:

1. Electronic devices. Electronic devices will not be permitted in class. Shopping, texting, and gaming negatively affect group dynamics. If an emergency requires that you have connectivity, confer with me before class.

2. Unfinished readings. It is not always feasible to complete readings before class. If you cannot finish an assignment, please let me know by email at least an hour before class, and I will not call you (max four times during the semester). Please do not pretend to have read what you haven’t.

3. Regrading. All grades are final. Complaints about grades will result in a one-step grade reduction for the course.

More generally, students are expected to behave professionally. Shirking and whining are especially discouraged. A secondary goal of this course is to develop social intuitions about how to create a strong reputation within a business organization. Teaser: everyone likes someone who is courteous, punctual, engaged, and positive; everyone dislikes the opposite.

Informal Get-Togethers

Let’s get coffee or lunch!

Readings

Tentative reading assignments are listed below. If there is a change, I will let you know in class and post the updated assignment on Canvas. All readings can be found either in one of the assigned texts or on the course’s Canvas site.

1. 1.11.17 — reading judicial opinions; legal rules as price determinants

Readings  Kerr, How to Read a Legal Opinion

Talley v. Mathis

Posner, §§ 1.1, 1.2
2. 1.18.17 — property rights
Readings Rose, Possession as the Origin of Property
Demsetz, Toward a Theory of Property Rights
Posner, §§ 2.1, 2.2, 2.3, 3.1

3. 1.23.17 — getting property
Readings Ghen v. Rich
Haslem v. Lockwood
South Staffordshire Water Co. v. Sharman

4. 1.25.17 — property and the injunction: information and monopoly
Readings Armory v. Delamirie
Ploof v. Putnam

5. 1.30.17 — property and externalities: a basis for regulation?
Readings Coase, The Problem of Social Cost

6. 2.1.17 — contract remedies: efficient breach and opportunism
Readings Acme Mills Elevator Co. v. Johnson
Hadley v. Baxendale

7. 2.6.17 — incomplete contracts: default rules
Readings Posner, §§ 4.10 – 4.14
Taylor v. Caldwell
Ayres & Gertner, Filling Gaps in Incomplete Contracts
Posner, § 4.16

8. 2.8.17 — the mailbox rule: coin-flipping and arbitrary rules
Readings Caldwell v. Cline
9. **2.13.17** — comparative and contributory negligence: taking precautions

*Readings*

- *United States v. Carroll Towing*
- *Indiana Harbor Belt Ry. Co. v. American Cyanamid*
- Posner, §§ 6.1, 6.2, 6.5

10. **2.15.17** — detecting and penalizing torts

*Readings*

- Polinsky & Shavell, *Punitive Damages* (pp. 870–903)

11. **2.20.17** — causation puzzles

*Readings*

- *Summers v Tice*
- *Brauer v. New York Central*
- Posner, §§ 6.1, 6.7

12. **2.22.17** — nuisance

*Readings*

- Calabresi & Melamed, *One View of the Cathedral*

13. **2.27.17** — critiques of the economic analysis of law

*Readings*

- Dworkin, *Is Wealth a Value?*

14. **3.1.17** — midterm exam

15. **3.13.17** — theory of monopoly and advent of american antitrust legislation

*Readings*

- Posner, § 9.1
  - Sherman Act (1890), §§ 1, 2
  - Federal Trade Commission Act (1914), §§ 1, 5(a)(1), 5(a)(2)
  - Clayton Act (1914), §§ 4, 6

16. **3.15.17** — per se rules and the rule of reason

*Readings*

- *Board of Trade of Chicago v. United States*
- *United States v. Trenton Potteries*
17. 3.20.17 — cartel formation and maintenance

Readings The Informant (movie, 2009)

“Predicting Cartels” (pp. 1–17)

Stigler, The Theory of Economic Regulation

18. 3.22.17 — horizontal agreements: market definition and market power

Readings NCAA v. University of Oklahoma

O’Bannon v. NCAA

19. 3.27.17 — detour: vertical arrangements

Readings Dr. Miles Medical v. John D. Park & Sons

Continental T.V. v. GTE Sylvania

Posner, § 10.4

20. 3.29.17 — mergers to monopoly

Readings Sherman Act, § 1; Clayton Act, § 7

FTC v. Staples (1997)

FTC v. Staples (2016)

Posner, § 10.5

21. 4.3.17 — monopolization: substitution, durable goods, potential competition

Readings Sherman Act, § 2

United States v. Alcoa

Posner, §§ 9.6, 10.8

22. 4.5.17 — leveraging monopoly: tying

Readings Sherman Act, § 2

Jefferson Parish Hospital District v. Hyde

Eastman Kodak v. Image Technical Services

Posner, § 10.10
23. 4.10.17 — natural monopolies: theory and history

Readings

New State Ice v. Liebmann

Smyth v. Ames

Posner, §§ 10.11, 13.1

24. 4.12.17 — network industries in the new economy

Readings

Priest, Rethinking Antitrust Law in an Age of Network Industries

25. 4.17.17 — group presentations

Readings

none

26. 4.19.17 — group presentations

Readings

none

27. 4.24.17 — group presentations

Readings

none

28. 4.26.17 — review

Readings

none / all

FINAL EXAM

May 8, noon – 2p