Law, Economics and Psychology

Professor Oren Bar-Gill

Spring 2017

Readings
Reading assignments are listed below.
Readings that are not available online (through the electronic resources that Harvard subscribes to) can be found in the Course Materials section of the course website (on Canvas); otherwise, they will be placed on reserve at the library.
Optional Reading: The syllabus includes optional readings from STEVEN SHAVELL, FOUNDATIONS OF ECONOMIC ANALYSIS OF LAW (Harvard University Press, 2004). Several copies of the book have been placed on reserve at the law school library.

Attendance and Participation
Class participation and attendance are required. You may be called on to discuss the reading materials or the issues covered in class. Voluntary participation in class discussion is encouraged.

Office Hours
My office is located in Griswold Hall, Room 310. Office hours are Monday 2:15-3:45. You are always welcome to e-mail me (bargill@law.harvard.edu) with any questions, concerns and comments you have regarding class, or to schedule an appointment outside office hours. Questions related to the material covered in class should be posted on the Discussions section of the course website (on Canvas). I will monitor the Discussions and respond to your questions.

Examination
The final exam is a three-hour in-class test.

Accessibility
Harvard Law School is dedicated to facilitating equal access for students with disabilities and to cultivating a campus culture that is sensitive and responsive to the needs of students. To request an accommodation for a disability during the course, students are welcome to reach out to Accessibility Services in the Dean of Students Office at accessibility@law.harvard.edu or at 617-495-1880. You may also visit the office in WCC 3039. Additional information, including how to register for accommodations can be found at http://hls.harvard.edu/dept/dos/accessibility/.
1. Introduction [Class #1 (1/28) and Class #2 (1/29)]


2. Law Enforcement [Class #3 (2/4) and Class #4 (2/5)]

Traditional Law and Economics

1) Optional Reading: STEVEN SHAVELL, FOUNDATIONS OF ECONOMIC ANALYSIS OF LAW, pp. 479-489 (Ch. 20, Sections 2.1-2.5) (Harvard University Press, 2004).

Behavioral Law and Economics


3. Litigation and Settlement [Class #5 (2/11), Class #6 (2/12), Class #7 (2/18) and Class #8 (2/19)]

A. Adjudication

2) People v. Collins, 68 Cal.2d 319, 438 P.2d 33 (1968) [No need to read the Appendix].

B. Settlement Negotiations

Traditional Law and Economics

1) Optional Reading: STEVEN SHAVELL, FOUNDATIONS OF ECONOMIC ANALYSIS OF LAW, pp. 401-407 (Ch. 17, Sections 3.1-3.2) (Harvard University Press, 2004).
Behavioral Law and Economics


4. Property [Class #9 (2/25) and Class #10 (2/26)]

Traditional Law and Economics

1) Optional Reading: STEVEN SHAVELL, FOUNDATIONS OF ECONOMIC ANALYSIS OF LAW, pp. 77-92, 101-109 (Ch. 5, Sections 1-4, 6) (Harvard University Press, 2004).

Behavioral Law and Economics


5. Contracts [Class #11 (3/3), Class #12 (3/4), Class #13 (3/10), Class #14 (3/11) and Class #15 (3/24)]

Traditional Law and Economics

1) Optional Reading: STEVEN SHAVELL, FOUNDATIONS OF ECONOMIC ANALYSIS OF LAW, pp. 291-324, 338-355, 362-367 (Ch. 13; Ch. 15, Sections 1, 2, 4) (Harvard University Press, 2004).

Behavioral Law and Economics


5) Oren Bar-Gill, SEDUCTION BY CONTRACT (Oxford University Press, 2012) [Ch. I (not including the Appendix), Introduction to Ch. 2, Introduction to Ch. 3, and Introduction to Ch. 4]


8) Alaska Packers v. Domenico, 117 F. 99 (9th Cir. 1902).

9) Lingenfelder v. Wainwright Brewery Co., 15 S.W. 844 (Mo. 1891).


6. Torts [Class #16 (3/25), Class #17 (3/31), Class #18 (4/1) and Class #19 (4/7)]

A. Liability

Traditional Law and Economics

1) Optional Reading: STEVEN SHAVELL, FOUNDATIONS OF ECONOMIC ANALYSIS OF LAW, pp. 177-182 (Ch. 8, Section 1), pp. 212-217 (Ch. 9, Sections 2.1 – 2.3) (Harvard University Press, 2004).

Behavioral Law and Economics


B. Damages

Pain and Suffering Damages

1) After Class: Edward McCaffery, Daniel Kahneman, and Matthew Spitzer, “Framing the Jury: Cognitive Perspectives on Pain and Suffering Awards,” 81

Punitive Damages – Traditional Law and Economics

2) Optional Reading: Steven Shavell, Foundations of Economic Analysis of Law, pp. 243-244 (Ch. 10, Sections 9.1-9.3) (Harvard University Press, 2004).

Punitive Damages – Behavioral Law and Economics

3) BMW v. Gore, 517 US 559 (1996) [Read the majority opinion, pp. 562-587, and Justice Breyer's concurrence, pp. 587-598. Take a look also at the Appendix to Justice Ginsburg's dissent.]

7. Privacy and Big Data [Class #20 (4/8)]


8. Antidiscrimination and Affirmative Action [Class #21 (4/14)]

Traditional Law and Economics


Behavioral Law and Economics


9. Redistribution [Class #22 (4/15)]

Traditional Law and Economics

1) Optional Reading: Steven Shavell, Foundations of Economic Analysis of Law, pp. 647-660 (Ch. 28) (Harvard University Press, 2004).
Behavioral Law and Economics


10. Regulation [Class #23 (4/21) and Class #24 (4/22)]

A. Cost Benefit Analysis vs. Well-Being Analysis

Traditional Law and Economics


Behavioral Law and Economics


B. Nudge


2) Michael S. Barr, Sendhil Mullainathan and Eldar Shafir, “The Case for Behaviorally Informed Regulation,” in David Moss and John Cisternino (eds.), New Perspectives on Regulation (Cambridge, MA; The Tobin Project, 2009) [Introduction, Sec. II, Sec. III.1 and Sec. III.2].


4) Oren Bar-Gill and Omri Ben-Sahar, “Optimal Defaults in Consumer Markets,” Journal of Legal Studies (2016) [Sec. 1 (Introduction) and Sec. 2]

11. Conclusion + Review [Class #24 (4/22)]
