

Consumer and Investor Protection

Department of Economics

Economics 490 - Spring 2025 – MSPE Students

Economics Elective Course (4 Credits)

Tuesday and Thursday

3:30 pm – 4:50 pm

David Kinley Hall – Room 209

Instructor: Martin K. Perry, Ph.D., J.D. (Call me Marty)
Email: mkperry@illinois.edu
Questions: By email
Office Hours: Room DKH 208 at 5:00 pm on Thursday
Appointments by arrangement: Office or by Zoom

Course Information: This is a three-credit elective course. The prerequisite is Intermediate Microeconomic Theory (Econ 302). This course contributes to the Economics Learning Outcomes of (i) Critical Thinking and (ii) Specialized Knowledge and Practical Application.

Readings: There is no required or recommended textbook. Instead, we will use readings that I have developed from statutes, legal cases, and other readings. I will email these readings to everyone as we prepare for each new section of the course.

Lecture Notes: I have written lecture notes for some of the sections of the course. I will email those lecture notes to everyone AFTER the lectures on each section.

Course Description: The topics are divided into ten sections listed below. The first section provides the Constitutional authority for the regulation of corporations by federal and state governments, and the limitations on that regulation derived from provisions in the Bill of Rights. The second section examines price regulation by federal and state agencies and discusses deregulation of the telecommunications and airline industries. The third section introduces Common Law fraud by sellers of goods and then discusses the modern regulation of false and misleading advertising by the Federal Trade Commission. The fourth section examines product liability for manufacturers, an important part of tort law. We examine the duty of manufacturers to provide products free of manufacturing or design defects that would harm consumers, and the duty of manufacturers to warn consumers about the unavoidable side effects of their products. The fifth and sixth sections then discuss the federal regulation of product safety by the National Highway Traffic Safety Administration (automobiles) and the Consumer Product Safety Administration. The course then shifts to investor protection. In the seventh section, we will discuss the Securities and Exchange Commission rules against false and misleading statements by corporations to their shareholders and investors in general. The eighth section illustrates various types of accounting fraud using famous cases from the Dotcom Bubble. In the ninth section, we will talk about liability for insider trading. The tenth section examines two recent cases of Ponzi Schemes that caused many investors to lose billions of dollars.

Grading: The maximum number of points for the course is 400. The Midterm Exam will be worth 100 points, and the Final Exam will be worth 200 points. Finally, there will be a required Research Paper worth 100 points.

Grading: Midterm and Final Exams (300 Points)

The following is a tentative schedule for the Midterm and Final Exams. The day and time for the Final Exam is set by the University. We can change the day for the Midterm based on where we are in the lectures.

Midterm Exam: Tuesday, March 4 - tentative date, In Class

(100 points) Sections 1-4

March 14 is the deadline for dropping the course without a W grade.

Final Exam: Wednesday, May 14, 8:00 AM – 11:00 AM

(200 points) CUMULATIVE, but heavy emphasis on Sections 5-10

The questions on both examinations will be multiple choice questions. The Midterm Exam will have 20 questions worth five points each, for a total of 100 points. The Final Exam will have 40 questions worth five points each, for a total of 200 points. During the class before the Midterm Exam, I will hold a review session. On the last day of class, I will hold a review session for the Final Exam.

Both examinations will be open book. You can use the Readings and Lecture Notes, your own notes, and any notes from your fellow students. If you decide to go totally paperless, you may also use your laptop during the exams. I will bring power strips for the exams. There will be NO extra credit assignments, either during the semester or after the Final Exam.

Grading: One Research Paper (100 Points)

In addition to the two exams, you will write one short Research Paper. The Paper should have a maximum length of 10 pages, using one-inch margins, 12 point font, and 1.5 line spacing. The references can be cited by listing their links. The paper will be due on Monday, May 19, after the Final Exam. This will enable some students to select a topic from the material on investor protection, but still give me time to read them before the grades have to be posted.

After consulting with me, you will be able to choose a topic for your paper from the topics in the course. The topic of the paper will be a legal case or complaint about a corporation over their products or statements. You can NOT write your paper about a case that we discussed in class. Ideally, your paper should be based on a new case or complaint since the ones that we discussed in class. Alternatively, your paper may be based on a policy issue from the course material. Later in the course, I will provide lists of cases and policy issues that can be topics for your paper. You can also find cases from the webpages of the federal agencies that we discuss in class. And there will surely be some new cases arise in the business news.

Topics on Consumer Protection

Section 1: Introduction Constitutional Limits on the Regulation of Corporations

U.S. Constitution – Selected Provisions
United States Federal Courts
Delaware Incorporation Law – Selected Provisions
Smyth v. Ames (1898)
 Due Process and State Regulation of Prices
West Coast Hotel Co. v. Parrish (1937)
 Due Process and State Regulation of Labor Contracts
U.S. v. Carolene Products (1938)
 Rational Basis Test and Federal Regulation under Commerce Clause
Virginia State Board v. Council (1976)
 First Amendment Protection for Corporate Commercial Speech

Section 2: Price Regulation Rate of Return Regulation Telecommunications and Airlines

Rate of Return Regulation

Smyth v. Ames (1897)
 Calculating the Fair Value of Property
FPC v. Hope Natural Gas (1944)
 Rate of Return on Original Cost of Property

Telecommunications Deregulation

MCI Communications v. AT&T (1983)
 Competition in Long Distance Services
U.S. v. AT&T (1982)
 Breakup of the Bell System in 1984
National Cable Assn. v. Brand X (2005)
 Information Services under the Telecommunications Act of 1996

Airline Deregulation (Google Gerald N. Cook)

A Review of History, Structure, and Competition in the U.S. Airline Industry
 Journal of Aviation/Aerospace Education and Research, Fall 1996 (Vol. 7, No. 1)
 Gerald N. Cook, Embry-Riddle Aeronautical University
Airline Networks: A Comparison of Hub-and-Spoke and Point-to-Point Systems
 Journal of Aviation/Aerospace Education and Research, Winter 2008 (Vol. 17, No. 2)
 Gerald N. Cook and Jeremy Goodwin, Embry-Riddle Aeronautical University
American Airlines v. Wolens (1995)
 Revisions of Frequent Flyer Programs

Section 3: False Advertising
Common Law Fraud and Caveat Emptor
FTC False and Misleading Advertising

Common Law Fraud – Legal Formulations

Uniform Commercial Code: Contract Warranties and Remedies

Laidlaw & Co. v. Organ (US Supreme Court, 1817)

Caveat Emptor – Buyer Beware

Barnard v. Kellogg & Co. (US Supreme Court, 1869)

Custom Among Merchants and Caveat Emptor

Johnson v. Davis (Florida Supreme Court, 1985)

Duty to Reveal Latent Defects in Home Sales

Federal Trade Commission Act (1914)

Federal Trade Commission Statement on Deception (1983)

Sterling Drug, Inc. v. FTC (US Ninth Circuit, 1984)

False and Misleading Claims about Aspirin Products

Kraft, Inc. v. FTC (US Seventh Circuit, 1992)

Misleading Claims about Cheese Products

Section 4: Product Liability
Negligence and Strict Liability
Duty to Warn
Class Action Mass Torts
Volkswagen Class Action

Negligence - Duty for Manufacturing Defects and Inspection of Components

MacPherson v. Buick Motor (NY Appellate Division, 1912)

MacPherson v. Buick Motor (NY Court of Appeals, 1916)

Negligence Standard for Manufacturing Defects

Strict Liability – New Duty for Manufacturing Defects

Suvada v. White Motor (Illinois, 1965)

Strict Liability Standard for Manufacturing Defects

Negligent Design – Automobile Safety Design

Larsen v. General Motors (MI, 1968)

Young v. Volkswagon (MD, 1974)

Negligence Standard for Design Defects

Duty to Warn - Side Effects of Medical Products

MacDonald v. Ortho Pharmaceutical (MA, 1985)

Duty to Warn about Known Risks

Vassallo v. Baxter Healthcare (MA, 1998)

Duty to Warn about Unknown Risks

Ideus v. Teva Pharmaceuticals USA, Inc. (2021)

Learned Intermediary

Consumer Class Action Lawsuits

Class Actions – Rule 23
Multidistrict Litigation
Volkswagen Class Action Transfer Order
Racketeer Influenced and Corrupt Organizations (RICO)
Mail and Wire Fraud

Volkswagen “Clean Diesel” Sales and Marketing Practices

Amended Consolidated Consumer Class Action Complaint (August 2, 2016)

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|---------------------|--------------------|--------------|
| Introduction: | Pages 1-6 | 16-21 |
| Factual History | Pages 134-204 | 149-219 |
| Class Certification | Pages 206, 212-215 | 221, 227-235 |
| Defendants | Pages 216-220 | 227-236 |
| RICO Claim | Pages 227-238 | 242-253 |
| Fraud Claim | Pages 241-243 | 256-258 |

Section 5: Automobile Safety

National Highway Traffic Safety Administration
Statutory Authority
Volkswagen “Clean Diesel” Marketing Settlement
False Advertising and Deception on Emissions
Takata Airbag Products Liability Settlement
Design Defect
Firestone Tires Engineering Analysis Report and Recall
Design Defect
California v. EPA (October 25, 2019)
Fuel Economy and Emission Standards

Section 6: Consumer Product Safety

Consumer Product Safety Commission

Statutory Authority

Regulation - Ban of Lead-Containing Paint

Product Bans

Regulation - Requirements for All Terrain Vehicles

Industry Standards

The Consumer Product Safety Act: A Legal Analysis (2018)

Congressional Research Service

In the Matter of Zen Magnets (October 26, 2017)

Small Rare Earth Magnet Sets

Read Sections I, II, V, and VI

Skim Section III on Evidence

Skip Section IV

Zen Magnets v. CPSC (Tenth Circuit, August 4, 2020)

Read Section I

Skip Sections II and III

Skim Section IV on the Commissioner Statements

Read Section V

Texas Association of Manufacturers v. CPSC (March 1, 2021)

Phthalates in the Plastics for Children Toys

Read Section I, pages 2-9

Section II, pages 17-19

Section III, pages 24-28

Section IV and V, pages 30-31

Topics on Investor Protection

Section 7: Corporate Statements

SEC Statutes and Regulations (1934 and Williams Act 1968)
False and Misleading Statements or Omissions
Basic, Inc. v. Levinson (U.S. Supreme Court, 1988)
Announcements about Merger Negotiations
Trump Casino Securities Litigation (Third Circuit, 1993)
Statements in the Prospectus for Bond Issue
Hewlett v. Hewlett-Packard (Delaware, 2002)
Statements in a Proxy Contest for Shareholder Merger Vote
Matrixx v. Siracusano (U.S. Supreme Court, 2011)
Announcements about Potential Product Defects
Hess v. Alibaba (Complaint, Southern District of New York, 2021)
Announcements in an Initial Public Offering for ANT Group

Section 8: Accounting Fraud

SEC Regulations (Staff Accounting Bulletin #104)
Revenue Recognition
In the Matter of The Coca-Cola Company (Complaint, 2005)
Channel Stuffing
SEC v. Worldcom Inc. (Complaint, 2002)
Capital Expensing
SEC v. Xerox Corporation (Complaint, 2002)
Allocation of Lease Revenue
SEC v. Enron (Ken Lay and Jeff Skilling)
Special Purpose Entities and Other Fraudulent Practices
Sarbanes-Oxley Act (2002)
New Auditing and Reporting Requirements

Section 9: Insider Trading

SEC Statutes and Regulations (1934 and Williams Act 1968)
SEC v. Texas Gulf Sulphur (Second Circuit Court of Appeals, 1968)
Dirks v. SEC (U.S. Supreme Court, 1983)
Salman v. United States (U.S. Supreme Court, 2016)
Liability for a Tippee for Breach of Fiduciary Duty
U.S. v. O'Hagan (U.S. Supreme Court, 1997)
Liability for Breach of Duty of Confidentiality
Litton v. Lehman Brothers (Second Circuit Court of Appeals, 1992)
Liability for Corporate Advisors
U.S. v. Raj Rajaratnam (2011)

Section 10: Ponzi Schemes

SEC v. Madoff (Complaint, 2008) – Investment Fund
SEC v. Bankman-Fried (Complaint, 2022) – Cryptocurrency

Academic Assistance

Students are encouraged to utilize the many resources we have throughout campus to assist with academics. We recommend that you seek them out starting early in the semester, not just in times of academic need, in order to develop good study habits and submit work which represents your full academic potential. Many resources are found on the Economics Website including details about the Economics Tutoring Center, Academic Advising, and other academic support options:

<https://economics.illinois.edu/academics/undergraduate-program/academic-student-support>

Academic Integrity

According to the Student Code, 'It is the responsibility of each student to refrain from infractions of academic integrity, from conduct that may lead to suspicion of such infractions, and from conduct that aids others in such infractions.' Please know that it is my responsibility as an instructor to uphold the academic integrity policy of the University, which can be found here: <https://studentcode.illinois.edu/article1/part4/1-401/>

Academic dishonesty may result in a failing grade. Every student is expected to review and abide by the Academic Integrity Policies. It is your responsibility to read this policy to avoid any misunderstanding. Do not hesitate to ask the instructor(s) if you are ever in doubt about what constitutes plagiarism, cheating, or any other breach of academic integrity.

Read the full Student Code at <https://studentcode.illinois.edu/>

Students with Disabilities

To obtain disability-related academic adjustments and/or auxiliary aids, students with disabilities must contact the course instructor and the Disability Resources and Educational Services (DRES) as soon as possible. To contact DRES you may visit 1207 S. Oak St., Champaign, call 333-4603 (V/TTY), or e-mail a message to disability@illinois.edu. DRES Website: www.disability.illinois.edu/

Community of Care

As members of the Illinois community, we each have a responsibility to express care and concern for one another. If you come across a classmate whose behavior concerns you, whether in regards to their well-being or yours, we encourage you to refer this behavior to the Student Assistance Center (217-333-0050 or <http://odos.illinois.edu/community-of-care/referral/>). Based on your report, the staff in the Student Assistance Center reaches out to students to make sure they have the support they need to be healthy and safe. Further, we understand the impact that struggles with mental health can have on your experience at Illinois. Significant stress, strained relationships, anxiety, excessive worry, alcohol/drug problems, a loss of motivation, or problems with eating and/or sleeping can all interfere with optimal academic performance. We encourage all students to reach out to talk with someone, and we want to make sure you are aware that you can access mental health support at the Counseling Center (<https://counselingcenter.illinois.edu/>) or McKinley Health Center (<https://mckinley.illinois.edu/>).

For mental health emergencies, you can call 911 or walk into the Counseling Center, no appointment needed.

Disruptive Behavior

Behavior that persistently or grossly interferes with classroom activities is considered

disruptive behavior and may be subject to disciplinary action. Such behavior inhibits other students' ability to learn and an instructor's ability to teach. A student responsible for disruptive behavior may be required to leave class pending discussion and resolution of the problem and may be reported to the Office for Student Conflict Resolution for disciplinary action.

Emergency Response Recommendations

Emergency response recommendations can be found at the following website: <http://police.illinois.edu/emergency-preparedness/>. I encourage you to review this website and the campus building floor plans website within the first 10 days of class. <http://police.illinois.edu/emergency-preparedness/building-emergency-actionplans/>.

Religious Observances

The Religious Observance Accommodation Request form is available at <https://odos.illinois.edu/community-of-care/resources/students/religious-observances/>. Submit the form to the instructor and to the Office of the Dean of Students (helpdean@illinois.edu) by the end of the second week of the course; in the case of exams or assignments scheduled after this period, students should submit the form to the instructor and to the Office of the Dean of Students as soon as possible.

Family Educational Rights and Privacy Act (FERPA)

Any student who has suppressed their directory information pursuant to Family Educational Rights and Privacy Act (FERPA) should self-identify to the instructor to ensure protection of the privacy of their attendance in this course. See <http://registrar.illinois.edu/ferpa> for more information on FERPA. Student information and records will not be released to anyone other than the student unless the student has provided written approval or as required by law.

Sexual Misconduct Reporting Obligation

The University of Illinois is committed to combating sexual misconduct. Faculty and staff members are required to report any instances of sexual misconduct to the University's Title IX and Disability Office. In turn, an individual with the Title IX and Disability Office will provide information about rights and options, including accommodations, support services, the campus disciplinary process, and law enforcement options. A list of the designated University employees who, as counselors, confidential advisors, and medical professionals, do not have this reporting responsibility and can maintain confidentiality, can be found here: <http://www.wecare.illinois.edu/resources/students/#confidential>. Other information about resources and reporting is available here: <http://wecare.illinois.edu/>.

Student Support

The Counseling Center is committed to providing a range of services intended to help students develop improved coping skills in order to address emotional, interpersonal, and academic concerns. Please visit their website to find valuable resources and services: <https://counselingcenter.illinois.edu/>.

Counseling Center Information: 217-333-3704

Location: Room 206, Student Services Building (610 East John Street, Champaign IL)

McKinley Mental Health Information: 217-333-2705

Location: 3rd Floor McKinley Health Center 1109 South Lincoln, Urbana, IL

Emergency Dean: The Emergency Dean may be reached at (217) 333-0050 and supports students who are experiencing an emergency situation after 5 pm, in which an immediate University response is needed and which cannot wait until the next business day. The

Emergency Dean is not a substitute for trained emergency personnel such as 911, Police or Fire. If you are experiencing a life threatening emergency, call 911. Please review the Emergency Dean procedures: <http://odos.illinois.edu/emergency/>

Academic Dates and Deadlines

Students should make note of important academic deadlines for making changes to their courses (add, drop, credit/no-credit, grade replacement, etc.).

<https://registrar.illinois.edu/academic-calendars>

Please check with your academic department regarding specific procedures and policies.