

2011/1/19

九十九學年度第二學期《法律經濟分析專題研究一、二、三、四》課程大綱

授課教師：簡資修

這學期的主題是契約法的經濟分析。教材將取自 Douglas G. Bair 所編的 *Economics of Contract Law* (2007) (目錄如附件)。學期前幾週，本人將講授編者為該論文集所寫的導論以及第一部份的三篇論文，後十週，修課同學將針對剩餘的十五篇論文，為書面及口頭報告。每位同學至少應報告兩篇論文，這部分成績將佔 60%。同學應參與非其報告論文的討論，此部分成績將佔 40%。

### Synopsis of “Economic Analysis of Law”

Teacher: Tze-Shiou Chien

The focus of this semester will be Economics of Contract Law. The materials will be selected from “Economics of Contract Law” (2007) (See the following attached contents) edited by Douglas G. Baird. For the beginning few weeks, the teacher will lecture on the introduction written by the editor and the papers included in the first part of this collection. For the remaining ten weeks, students will present their comments on at least two papers selected from the remaining parts of the collection. The grade will be based on the quality of these comments (60%) and class participation (40%).

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Published by  
Edward Elgar Publishing Limited  
Mansard House  
Montpelier Parade  
Chichester  
West Sussex  
PO19 1UD, UK

Edward Elgar Publishing, Inc.  
William Pratt House  
9 Dewey Court  
Northampton  
Massachusetts 01060  
USA

A catalogue record for this book is available from the British Library  
Library of Congress Control Number: 2006937370

ISBN: 978 1 84542 652 1

Printed and bound in Great Britain by MPG Books Ltd, Bodmin, Cornwall

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## PART I CONTRACTING

1. Charles J. Goetz and Robert E. Scott (1980), 'Enforcing Promises: An Examination of the Basis of Contract', *Yale Law Journal*, **89** (7), June, 1261–322 3
2. Oliver Hart and John Moore (1999), 'Foundations of Incomplete Contracts', *Review of Economic Studies*, **66** (1), Special Issue: Contracts, January, 115–38 65
3. Richard Craswell (1989), 'Contract Law, Default Rules, and the Philosophy of Promising', *Michigan Law Review*, **88** (3), December, 489–529 89
4. Eric A. Posner (2003), 'Economic Analysis of Contract Law After Three Decades: Success or Failure?', *Yale Law Journal*, **112** (4), January, 829–80 130
5. Anthony T. Kronman (1978), 'Mistake, Disclosure, Information, and the Law of Contracts', *Journal of Legal Studies*, **VII** (1), January, 1–34 182

## PART II EFFICIENT BREACH AND RENEGOTIATION

6. Steven Shavell (1980), 'Damage Measures for Breach of Contract', *Bell Journal of Economics*, **II** (2), Autumn, 466–90 219
7. William P. Rogerson (1984), 'Efficient Reliance and Damage Measures for Breach of Contract', *RAND Journal of Economics*, **15** (1), Spring, 39–53 244

## PART III EXPECTATION DAMAGES AND ITS ALTERNATIVES

8. Kathryn E. Spier and Michael D. Whinston (1995), 'On the Efficiency of Privately Stipulated Damages for Breach of Contract: Entry Barriers, Reliance, and Renegotiation', *RAND Journal of Economics*, **26** (2), Summer, 180–202 261
9. Alan Schwartz (1979), 'The Case for Specific Performance', *Yale Law Journal*, **89** (2), December, 271–306 284
10. Robert E. Scott and George G. Triantis (2004), 'Embedded Options and the Case Against Compensation in Contract Law', *Columbia Law Review*, **104**, 1428–91 320

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