

2009

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Francesco Parisi

Bluebook Citation

Francesco Parisi, *Multidisciplinary Perspectives in Legal Education*, 6 U. St. Thomas L.J. 347 (2009).

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ESSAY

MULTIDISCIPLINARY PERSPECTIVES IN LEGAL EDUCATION

FRANCESCO PARISI*

I. INTRODUCTION

In recent decades, United States legal scholars have regarded the law and social sciences movement, and the law and economics movement in particular, as a way to bring the scientific method into the study of law.¹ European legal scholars, in contrast, have long thought of the legal method as a science in itself.² This contrast between the continental view and the common law approach is related to the continental European recognition of a self-contained scientific approach within legal analysis that distinguishes it from the common law tendency to borrow from other disciplines outside the legal system to bring some scientific methodology to law.³

In seventeenth and eighteenth century Europe, scholars adhering to the so-called “rational jurisprudence approach” developed the idea of creating a deductive method in legal analysis.⁴ This method sought to state legal rules with the same clarity and level of generality of mathematical theorems, creating coherent principles that were self-consistent and finding a logical structure and methodology from within the legal system.⁵ The scientific

* Oppenheimer Wolff and Donnelly Professor of Law and Co-Director of the Institute for Law and Economics at the University of Minnesota Law School and Professor of Economics at the University of Bologna, Department of Economics. I would like to thank Theresa Stadheim and the editors of the *University of St. Thomas Law Journal* for their valuable research assistance.

1. Nuno Garoupa & Thomas S. Ulen, *The Market for Legal Innovation: Law and Economics in Europe and the United States*, 59 ALA. L. REV. 1555, 1562 (2008); see also Thomas S. Ulen, *A Nobel Prize in Legal Science: Theory, Empirical Work, and the Scientific Method in the Study of Law*, 2002 U. ILL. L. REV. 875 (2002) (discussing how the scientific method has come into more widespread use in United States legal scholarship).

2. Kristoffel Grechenig & Martin Gelter, *The Transatlantic Divergence in Legal Thought: American Law and Economics vs. German Doctrinalism*, 31 HASTINGS INT'L & COMP. L. REV. 295 (2008) for a comparison of the reception of law and economics in the United States versus the reception in German-speaking countries. The authors believe this idea can be extended to all of Europe due to common roots and similar historical factors.

3. *Id.* at 298.

4. John Witte, Jr., *From Homer to Hegel: Ideas of Law and Culture in the West*, 89 MICH. L. REV. 1618, 1622 (1991).

5. *Id.*

method of these scholars did not borrow from social sciences or other disciplines. Rather, it attempted to emulate these disciplines, gaining autonomy and independent status from them or, in some cases, even helping to set up the overarching inquiries in these areas of study.⁶ The common law approach differs greatly because there is no systematic approach. Law-making is case-based and inductive. The prevalent way to bring some scientific rigor into a common law legal system has therefore been to borrow from other fields, encouraging lawyers, judges, and law students to integrate knowledge gained in other fields.⁷

During the last few decades, some U.S. law schools have restructured—or at least expanded—their curriculum to encourage this approach,⁸ and Professor Ulen's paper sets forth ideas on ways to integrate interdisciplinary coursework into the legal curriculum. In particular, he examines the importance of law and economics and other interdisciplinary innovations in legal scholarship. He then broadens his perspective and lays out a novel theme for legal education. In Part II of this essay, I will remark on Professor Ulen's paper as it relates to the need for multidisciplinary legal curricula and my recommendations for other ways in which we can enhance multidisciplinary legal education. In Part III, I will then provide some commentary on Professor Ulen's views on the study of law and economics. In my conclusion, I will summarize and join Professor Ulen in advocating for a greater emphasis on multidisciplinary legal education.

II. REFORMULATING THE CURRICULUM FOR A MULTIDISCIPLINARY LEGAL EDUCATION

Professor Ulen makes several interesting points, some of which relate to structuring the legal curriculum in ways that better serve to educate students about the practice of law.⁹ His paper begins by asserting that the first-year legal curriculum has been stale for the last one hundred years, teaching the same courses and using the same methodology—the Socratic and case-based methods—in spite of the fact that the practice of law has drastically changed.¹⁰ The proportion of legal issues governed by cases as opposed to regulations has changed dramatically. Nevertheless, we still give an exclu-

6. *Id.*

7. Thomas S. Ulen, *The Impending Train Wreck in Current Legal Education: How We Might Teach Law as the Scientific Study of Social Governance*, 6 U. ST. THOMAS L.J. 302 (2009).

8. Some examples are Yale Law School Forum on Multidisciplinary Legal Research, Yale Law School, <http://www.law.yale.edu/intellectuallife/MLRForum.htm> (last visited May 21, 2009); the University of Minnesota's Perspectives curriculum, which unites different areas of study with legal study, Course Guide, University of Minnesota Law, <http://www.law.umn.edu/current/courseguide.html#s8> (last visited May 21, 2009); and Harvard Law School, which encourages students to take coursework in other departments of the university, Courses and Academic Programs, Harvard Law School, <http://www.law.harvard.edu/academics/> (last visited May 21, 2009).

9. Ulen, *supra* note 7.

10. *Id.* at 303.

sive emphasis to case-based methodology during the first-year, even though the balance has tilted quite sensibly in the opposite direction during the last several decades. In several law schools, during their second and third years, many students still complete their legal studies with no multidisciplinary coursework and little exposure to statute-based coursework.¹¹ We may be shortchanging our students if we continue using these outdated methods.

Professor Ulen points out that recently, several law schools have been restructuring the first-year curriculum.¹² Henry G. Manne was a pioneer in developing plans for a comprehensive reform to the law school curriculum centered on the idea of multidisciplinary legal education. His Law and Economics Center, which over the years moved from the University of Miami to Emory and George Mason, provides a leading example of law school curricular reform. In 1971, the Law and Economics Center offered the first Economics Institute for Law Professors, an “intensive course in microeconomic theory taught by distinguished economists to a class of 25 law professors.”¹³ The early versions of the course did not relate economics directly to the law.¹⁴ This course has been a great success. To date, close to 600 law professors (mostly American and Canadian) have completed the course.¹⁵ Many of them have become recognized scholars in Law and Economics.¹⁶ In 1976, a separate but similar course was designed for federal judges¹⁷ and achieved similar success. Based on these experiences, several law schools began offering courses in quantitative methods for lawyers in which professors highlight the need for students to use this material to do many things in law, such as calculating damages and arguing antitrust points.¹⁸

11. For example, none of the law schools in Minnesota require any statute-based courses for graduation. The University of Minnesota requires only Professional Responsibility and Constitutional Law II to be taken in the second year of studies, and it requires only that third-year students fulfill a writing requirement through moot court, journal membership, or a seminar; The Curriculum, University of Minnesota Law, <http://www.law.umn.edu/current/curriculum.html> (last visited May 21, 2009). William Mitchell likewise does not require statute-based coursework; Your First and Second Years of Law School, William Mitchell College of Law, <http://www.wmitchell.edu/curriculum/curriculum/Mitchell-law-school-JD.asp> (last visited May 21, 2009). Hamline does require a Perspectives course but no statute-based coursework; The JD (Juris Doctor) Program, Hamline University School of Law, <http://law.hamline.edu/node/1204> (last visited May 21, 2009). St. Thomas has more upper-level requirements, but still no statute-based requirements; Upper Level Curriculum, University of St. Thomas School of Law, <http://www.stthomas.edu/law/academics/Upper.html> (last visited May 21, 2009).

12. See Ulen, *supra* note 7, at 303.

13. HENRY G. MANNE, *AN INTELLECTUAL HISTORY OF THE GEORGE MASON UNIVERSITY SCHOOL OF LAW 12* (1993), available at <http://www.law.gmu.edu/about/history>.

14. *Id.*

15. *Id.*

16. *Id.*

17. *Id.* at 15.

18. *Id.* at 13.

The plan found its most mature incarnation when Henry Manne was dean at George Mason Law School during the 1980s and 1990s.¹⁹ During those years, George Mason Law School led the competition in developing a comprehensive curriculum centered on law and economics, which later led to the development of six joint-degree programs in law and economics in collaboration with the University's Department of Economics.²⁰ George Mason developed its curriculum around the idea that specialization was the way to succeed in academia.²¹ Economic analysis became the methodological specialization embraced by the George Mason faculty that proved to be quite an important ingredient for George Mason's success.²² Since the 1980s, George Mason Law School has required all first-year students to take a course in analytical methods for law.²³ During the 1990s, Economic Foundations became the biggest first-year course, with four units in the first semester and three units in the second semester.²⁴ It brought tools from decision theory, economics, and other quantitative methods into the analysis of law.²⁵ Thanks to its specialization, this program acquired international recognition in the field comparable to that of more established ivy-league institutions, becoming recognized as a leading center of research in law and economics, constitutional political economy, and public choice theory.²⁶ George Mason developed a distinguished record in the field of law and economics—it is the academic home of three out of the ten scholars who have been recognized as “founding fathers” of law and economics (Palgrave in 1998), as well as two Nobel Prize economists (James M. Buchanan in 1986 and Vernon L. Smith in 2002).²⁷ This is quite a remarkable record for a young institution of its sort.

Over the years, other more established institutions—among which Northwestern University Law School probably represents the most success-

19. MANNE, *supra* note 13, at 19.

20. LLM & Joint Degrees, George Mason University School of Law, <http://www.law.gmu.edu/academics/llm> (last visited May 21, 2009).

21. MANNE, *supra* note 13.

22. *Id.*

23. JD Curriculum, Fall 2007 and Later, George Mason University School of Law, <http://www.law.gmu.edu/academics/degrees/jd/curriculum/2007fall> (last visited May 21, 2009).

24. *Id.*

25. *See* Course Descriptions, George Mason University School of Law, <http://www.law.gmu.edu/academics/courses> (last visited May 21, 2009).

26. Two of the founding fathers of public choice theory, James M. Buchanan and Gordon Tullock, are currently on the faculty at George Mason Law. *See also* The James Buchanan Center for Political Economy, About the James M. Buchanan Center, <http://www.gmu.edu/jbc/about.html> (last visited May 21, 2009).

27. James Buchanan has for many years taught at George Mason University and after his recent retirement continued to serve as Advisory Director of the James Buchanan Center for Political Economy at George Mason Law. The James Buchanan Center for Political Economy, Who Are We?, <http://www.gmu.edu/jbc/> (last visited May 24, 2009). Vernon Smith taught at George Mason University, where he held a joint appointment at the Law School and Department of Economics from 2000 through 2008.

ful example—followed a similar approach because they also came to realize the importance and the marketing appeal of providing students with a multidisciplinary legal education.²⁸ These specialized programs ensure that law graduates can demonstrate depth as well as breadth in their education, preparing them for the new challenges of academic and legal careers. Northwestern Law School currently ranks highest in terms of interdisciplinary faculty²⁹ and maintains a solid record in terms of faculty scholarship in empirical legal studies and economic analysis.³⁰ Several other leading institutions have taken steps to integrate the findings and methodologies of the social sciences into their curriculum.³¹ In many situations, specialized degrees (LLM and JM degrees in Law & Economics, as well as specialized Ph.D. degrees in law and economics, such as the recent Vanderbilt example)³² have become the natural outgrowth of the faculty research interest in the field of law and economics and related disciplines.³³ These degree programs happily complement the strength of the faculty in these fields of research, providing students with an opportunity to acquire a multidisciplinary perspective on the law.³⁴

On a more local note, the University of St. Thomas School of Law's neighboring school, the University of Minnesota Law School³⁵—a school that many would regard as ideologically progressive but somewhat conservative in terms of legal methodology—has been reforming its first-year

28. At Northwestern Law, every first-year student must take a course on interdisciplinary perspectives in the law. First Year Curriculum, Northwestern Law, <http://www.law.northwestern.edu/academics/11plan.html> (last visited May 21, 2009). Worthy of mention is also the emphasis on interdisciplinary legal education traditionally placed by the University of Southern California Law School and in recent years, the attention to empirical legal studies at Cornell Law School.

29. This ranking is obtained by measuring the percentage of faculty members with Ph.D.-training in social sciences.

30. Northwestern Law, Faculty Research & Achievement, <http://www.law.northwestern.edu/faculty/> (last visited Apr. 21, 2009).

31. One example is Columbia Law, which has developed a curriculum in Law and Social Sciences; Law and Social Sciences, Columbia Law School, http://www.law.columbia.edu/llm_jsd/grad_studies/courses/social_sciences (last visited May 21, 2009).

32. Vanderbilt recently added a Ph.D. degree program in Law and Economics; Ph.D. Program in Law & Economics, Vanderbilt Law & Economics, <http://law.vanderbilt.edu/academics/academic-programs/phd-program-in-law—economics/index.aspx> (last visited May 21, 2009).

33. Many schools offer joint JD/Ph.D. degrees or joint JD/MA degrees. Examples are Stanford University, Joint Degree Programs, SLS Home, http://www.law.stanford.edu/program/degrees/joint/#joint_degrees (last visited May 21, 2009); University of Chicago, Joint Degrees, The University of Chicago, The Law School, <http://www.law.uchicago.edu/prospective/joint.html> (last visited May 21, 2009); and Yale, Joint Degree, Yale Law School, <http://www.law.yale.edu/academics/jointdegrees.asp> (last visited May 21, 2009).

34. Harvard Law School has also been experimenting with major changes in their first-year curriculum. There is no lack of attempts in the development of a more multidisciplinary approach to legal education. Harvard Law School, Programs of Study, <http://www.law.harvard.edu/academics/degrees/jd/pos/index.html> (last visited May 18, 2009).

35. The present author has been affiliated with the University of Minnesota Law School since 2006.

curriculum. One of the centerpieces of the curriculum reform at the University of Minnesota is to bring different perspectives to the first-year curriculum, including a course titled "Perspectives in Law." This course, offered in first-year and upper-year sections, is team-taught by faculty who approach the law from three different disciplinary perspectives. The disciplines presented vary from year to year. In 2009, the disciplinary perspectives covered in the course will include legal history, law and economics, and critical theory. In 2010, two new teachers will rotate into the team, adding a law and society and a feminist jurisprudence perspective to the course. During the course, each faculty member introduces students to a different methodological approach and applies his or her methodology to legal issues drawn from the first-year curriculum. The topics presented also vary from year to year. In 2009, for example, topics have ranged from the boundaries of the market to attribution of responsibility in the law, while in 2010 they aim to expand the focus to procedural and constitutional issues. The purpose of the course is to help students appreciate the complexity of the law through the study of legal rules from competing and complementary perspectives and to help students better understand the connections between legal theory and legal rulemaking. Students complete each of the three sections of the course by tackling a practical problem.

Professor Ulen mentions in his paper the importance of lawyers who are familiar with more than just the legal issues in their clients' cases. He suggests that lawyers should become somewhat versed in other academic disciplines, which can be accomplished in a number of ways.³⁶ One idea is to allow specializations. Many schools offer students the opportunity to specialize in one or more areas of the law through concentrations or specialized tracks.³⁷ Many law schools allow students to do this by taking graduate and undergraduate courses in the affiliated departments, not just in the law schools. Law schools should capitalize on such cross-campus opportunities. If students know what area of law they are interested in, faculty can encourage them to choose a graduate-level course in a relevant area (finance, for example, for students who know they will be practicing in mergers and acquisitions).

One could argue, however, that a multidisciplinary approach may not be necessary for all students, so perhaps no firm requirement should be instituted. For example, a student who plans to practice patent law after graduation likely already has extensive coursework in mathematics and science to help him provide the best services for his client. Tax lawyers likely already have some coursework in accounting or math. Students enter law school with undergraduate degrees in a variety of disciplines. Some may

36. Professor Ulen discusses a number of ways to accomplish this goal in his paper. See Ulen, *supra* note 7.

37. Some schools have taken the specialization idea further than other American law schools. MANNE, *supra* note 13, at 19.

enter an area of law based on their undergraduate majors, and as such, they already have a background sufficient to help them counsel their clients.

In addition, as Professor Ulen states, the field of law needs problem solvers, not necessarily pit bull lawyers who want to take every matter into litigation.³⁸ This brings us back to what Professor Ulen said about the emphasis in legal education on the study of appellate cases.³⁹ Trying to understand the law by looking at cases is like trying to understand what marriage is about by studying divorce cases. While divorce may be the tip of the iceberg, it is not a representative description of marriage. First, many relationships are not disputed; they do not lead to dispute, and that is what more lawyers should care about.⁴⁰ Lawyers who want to work as corporate counsel need to be attentive to that portion of cases. They should not want to bring every case to litigation; rather, they should want their clients' cases to work out just as much as we want marriages to succeed rather than dissolve. Second, of the cases that end up in a dispute, few end up litigated.⁴¹ If we only examine cases, we only study a biased sample of disputes. We need to understand the selection mechanism of cases to have an idea of what we are looking at and what we are missing in the analysis. The irony is that there is a strong emphasis on litigated cases within case law and very little attention to the rest of the world—i.e., cases that are not disputed in the first place and cases that are disputed and settled out of court. If these types of cases are not represented in the sample of analyzed cases, we essentially end up with a very biased picture of reality that ignores the fact that lawyers must not only know how to litigate, but also how to prevent litigation.

Professor Ulen thinks it is important for students to understand something about law and economics, especially as it might apply to the first-year curriculum.⁴² Law and economics scholars, for example, made breakthroughs in contract law and in property law. Students would benefit from coursework in this area, or at least in the scientific methods used in law and economics, because it provides them with another tool of legal inquiry. This benefit is another reason why the addition of law and economics theory into legal coursework would better serve law students. It gives students a per-

38. In his paper, Professor Ulen describes a situation in which litigation only occurs when communication has broken down or one of the parties is a newcomer not aware of the social norms. Ulen, *supra* note 7, at 311. He argues that a lawyer with multidisciplinary training might be better able to counsel clients to avoid litigation because he understands client needs. *Id.*

39. *See id.* at n.104.

40. *Id.*

41. Only about three percent of disputes ever get litigated. Stephen Lee, *Litigation Statistics*, <http://newsaic.com/mwcivil.html> (last visited May 24, 2009). Law schools are responding by preparing students in Alternative Dispute Resolution and Client Counseling. One example is Columbia Law; Alternative Dispute Resolution, Columbia Law School, http://www.law.columbia.edu/center_program/adr (last visited May 21, 2009).

42. Thomas S. Ulen, *A Crowded House: Socioeconomics (and Other) Additions to the Law School and Law and Economics Curricula*, 41 *SAN DIEGO L. REV.* 35, 40 (2004).

spective on how things should work and how they often do work in real life, rather than just studying appellate decisions.

Contracts offer one prime example. When the economist studies contracts, he strives to design incentives in such a way that the contracts will be self-enforcing. Economists do not want to rely on legal mechanisms for enforcement—their goal is to structure contracts in such a way that parties will do what is expected without need of external enforcement. Those instruments are as important—maybe more important—than the instrument we provide to students, which is how to use legal remedies to enforce contracts. By the time you get to legal remedies for contract enforcement, it is too late. You have failed at your objective. These institutional tools are not currently offered to law students, and economics is one of the fields that provide very valuable tools that complement the tools offered in the current curriculum of law schools.

III. THE ROLE OF ECONOMIC ANALYSIS IN THE STUDY OF LAW

There have been three main approaches to economic analysis, and two of them are in a way parallel to the dichotomy between the Socratic method/case-based legislation and legislation subject to interpretation through the deductive method. The Chicago approach articulated by the Chicago School in Law and Economics⁴³ can be viewed as the economic version of the inductive case-based method used in the Anglo-American system of legal education, while the Yale normative school⁴⁴ can be viewed as the economic version of the deductive legislative design/regulatory design approach used in the continental European law schools.

The Chicago positive approach to law and economics is built around a testable positive claim, commonly referred to as the “efficiency of the common law” hypothesis.⁴⁵ Under this approach, some mechanisms in case selection and in the decision process in courts create a natural selection of better rules so that over time, the common law system has produced and improved legal rules in the same way that nature, through natural selection, improves on species.⁴⁶ This testable hypothesis has played a significant role in the Chicago approach—much of the work of the Chicago school in the 1970s and 1980s involved taking interesting problems that were solved by common law and doing an economic analysis on them to find that the common law was able to generate a rule exactly identical to what a group of economists would have decided. This result happened even though judges had no training in economics and the litigants had no incentive to create efficient rules.

43. Francesco Parisi, *Positive, Normative and Functional Schools in Law and Economics*, 18 EUR. J.L. & ECON. 259 (2004).

44. *Id.*

45. *Id.*

46. *Id.*

According to the common law hypothesis, first articulated by Ronald Coase⁴⁷ and later extended by scholars such as Paul Rubin, George Priest and Richard Posner,⁴⁸ common law rules attempt to allocate resources in either a Pareto or Kaldor-Hicks efficient manner. According to these scholars, efficiency is the predominant factor in shaping the common law.⁴⁹ Posner, in several of his writings, contends that efficiency is a justifiable criterion for judicial decision-making because considerations of “justice” introduce unacceptable ambiguity into the judicial process.⁵⁰ However, the Chicago scholars acknowledge that while economic perspectives are crucial for a positive analysis of the efficiency of legal rules, economists have a limited role in providing normative prescriptions for social change or legal reform.⁵¹

Once we move away from the common law process and examine the legislative mechanism as a way to produce law, trust in the efficiency of the common law hypothesis must be set aside and we need to rely on something else to support the idea that legislation may evolve towards efficiency. This is where the tension arises between the Virginia and Yale schools. The Virginia school is the public choice oriented school that tried to identify failures in politics in the same way that conventional economists identify market failures.⁵² The Yale school has built an enviable group of law and economics scholars who share much of the economic methodology of the other schools but push it to formulate normative propositions on what the law ought to be like, recognizing that efficiency could never be the only and ultimate end of a legal system.⁵³

The third approach, the so-called functional approach to law and economics, which synthesizes the positive and normative approaches (and for which I generally cite my former teacher Robert Cooter), shows the difficulty in evaluating the efficiency of a rule by itself.⁵⁴ There are so many side effects created by legal intervention that escape the analysis of even the best economist. As Robert Cooter often tells his students as a methodological disclaimer at the beginning of his law and economics seminar, even if we asked the best team of economists whether the price of potatoes is efficient today, they could not answer because there is so much information

47. Ronald H. Coase, *The Problem of Social Cost*, 3 J.L. & ECON. 1 (1960).

48. Paul H. Rubin, *Why is the Common Law Efficient?*, 6 J. LEGAL STUD. 51 (1977); George L. Priest, *The Common Law Process and the Selection of Efficient Rules*, 6 J. LEGAL STUD. 65 (1977); Richard A. Posner, *What do Judges Maximize? (The Same Thing Everybody Else Does)*, 3 SUP. CT. ECON. REV. 1 (1994).

49. Parisi, *supra* note 43.

50. *Id.*

51. *Id.*

52. Richard A. Posner & Francesco Parisi, *Scuole e Tendenze nella Analisi Economica del Diritto*, 147 BIBLIOTECA DELLA LIBERTÀ 3, 3–20 (1998).

53. See Ejan Mackaay, *History of Law and Economics*, 1 ENCYCLOPEDIA L. & ECON. 65 (2000).

54. Parisi, *supra* note 43.

that they would need to have to make that determination. Economists would answer the question by looking at the process that generated the price. If that process is a healthy market mechanism, if it is a competitive market, and if there are no market failures, then we could trust that the price of potatoes is efficient. This potato metaphor is used to explain the efficiency of law. The functional approach to law focuses not so much on the mechanics of specific legal rules, but rather on the production of legal rules. If the process that generates the legal rules is a healthy process, then we can trust that the result will be efficient as well. Put differently, the focus is on the production of legal rules as opposed to the substance of specific legal rules.

The efficiency of the common law hypothesis starts to show its own shortcomings when viewed through the lens of functional economic analysis. The efficiency of the common law hypothesis initially attracted the attention of many economic scholars; everybody seemed to agree on this hypothesis. However, if you asked them to elaborate on why they believed that common law was efficient, they had very different answers. There are two ways to group these various explanations: those on the demand-side⁵⁵ and those on the supply-side.⁵⁶ Demand-side explanations assert that common law generates efficient rules because litigants ask for efficient precedents.⁵⁷ It is in their own interest to have efficient rules in place. There is money left on the table if a case is decided with an inefficient rule, and therefore, litigants will continue litigating cases subject to inefficient rules.⁵⁸ In the event that neither litigant is interested in setting a precedent (or, according to some scholars, when the costs imposed by the inefficient rule are not large enough to warrant going to court), the rule in question will remain in force whether it is efficient or not and the parties will settle out of court.⁵⁹

In contrast to those on the demand-side are supply-side scholars, such as Posner, who believe that judges have their own incentives.⁶⁰ Judges may wish to be famous or they may like leisure time and know therefore that if they decide cases efficiently, the rate of litigation will go down.⁶¹ These mixed incentives of reputation, fame, promotion, and even laziness, push judges to create efficient precedents.⁶²

55. Rubin, Priest, and Klein have all written on this subject. See Priest, *supra* note 48; Rubin, *supra* note 48; George L. Priest & Benjamin Klein, *The Selection of Disputes for Litigation*, 13 J. LEGAL STUD. 1 (1984).

56. Posner, *supra* note 48.

57. Vincy Fon & Francesco Parisi, *Litigation and the Evolution of Legal Remedies: A Dynamic Model*, 116 PUBLIC CHOICE 419, 419 (2003).

58. *Id.*

59. Rubin, *supra* note 48, at 56; Priest, *supra* note 48, at 65–75.

60. See Posner, *supra* note 48.

61. *Id.*

62. *Id.*

Interestingly, the demand-side and the supply-side explanations both agree that the common law leads to efficiency.⁶³ The irony is that every sensible economist knows that the equilibrium is not given by demand or supply independently—demand and supply must be combined. What happens if you put demand and supply together? Recent work has demonstrated that by doing so, the natural selection of efficient rules may not occur after all because there is some adverse selection—the selection of cases brought to litigation is neither a random nor a representative sample of all disputes.⁶⁴ Plaintiffs bring a case to court if the expected net return from the case is positive. The net expected value of the case depends, of course, on the merits of the case. It also depends, however, on the ideological propensity of the judge. Since plaintiffs have full control over whether to bring a case to court, a plaintiff will not do so unless factors balance out for him or her. The combined presence of differences in judges' ideology and a plaintiff's case selection generates a monotonic upward trend in the evolution of legal rules and remedies.⁶⁵

IV. CONCLUSION

Professor Ulen sets forth some very interesting ideas. He recognizes that there is something missing in what law students receive from their legal education and that adding coursework in the scientific method or in law and economics might be a good way to fill this gap. I agree that this addition would be helpful for many students. Many of the concepts they learn in their first-year contracts and property courses would be better understood from a law and economics perspective, or might even be overturned completely. Professor Ulen also calls for a multidisciplinary approach to legal education. In my estimation, this may not be necessary for all students who already have attained undergraduate degrees in varying fields and will practice law in areas utilizing those fields. A prime example is patent law, which already fundamentally requires a background in the sciences in order for a lawyer to be effective as a practitioner. Nonetheless, many students could benefit from a more multidisciplinary approach to their legal education. As Professor Ulen has stated, the study of law has not changed to adapt to the realities of legal practice. Adding multidisciplinary coursework, scientific method coursework, and practical training would go a long way in ensuring that we provide the legal profession with new lawyers prepared to look at their clients' needs from all angles.

63. See Fon & Parisi, *supra* note 57.

64. *Id.*

65. *Id.*