

LAW 7564: LAW & ECONOMICS

SYLLABUS

Prof. Bell
Fall 2010

COURSE DESCRIPTION AND OBJECTIVES

This course offers an introduction to the study of law and economics. In addition to classroom discussions of the assigned readings—mostly theoretical and policy-oriented material, rather than cases or statutes—we will also engage in the sort of academic writing and commentary typical of advanced seminars. You will thus present a thesis to the class, discuss other students' works-in-progress, and write a paper offering an original law and economics analysis of an approved topic.

Our class will meet each Tuesday and Thursday from 10:15 until 11:30 a.m., in room LS. There are no prerequisites and you need not have training in economics to benefit from the course. The course is worth 3.0 credits.

GRADING

Ninety percent of your grade will come from the written work you prepare for the course, a scholarly paper. The remaining 10% of your course grade will come from class participation.

The scholarly paper, worth 90% of your course grade, should resemble a typical law review article in terms of tone and formatting. Its factual claims should thus have the backing of footnotes to recognized authorities and adhere to the citation style of THE BLUEBOOK. Together with Prof. Bell, you must settle on an approved topic, taking care to choose something both sufficiently narrow to handle in a single article and not already amply covered in the extant literature. Your paper should go beyond mere description to apply the methods of law and economics to critically evaluate some rule, regulation, or customary practice. No paper will satisfy the school's substantial writing requirement unless it totals at least 25 pages (double-spaced) and receives a grade of at least 2.0. You should aim to make your paper of publishable quality; I expect top grades will go to those papers ready for submission to a student-edited law review.

You will present a draft of your paper in-class. Your draft will receive written comments from an assigned student, and oral comments from other students and Prof. Bell. Your draft will not be graded. Note, though, that the more complete your draft paper, the more likely it will evoke helpful commentary.

Participation will count for 10% of your course grade. You can earn one participation point per class by signing a sheet indicating your readiness to discuss the assigned readings if I call on you. You might lose some or all of the points allowed for classroom discussion—even from classes not yet held—if you sign up to speak but demonstrate lack of preparation.

You will also earn class participation points for the written commentary you write on another student's draft paper. Your written commentary should take the form of a brief memorandum (2-3 pages double-spaced) that critically evaluates the first draft of another student's paper. Each commentary will be due on the date that the draft paper is presented in class. The draft paper will be due with you and Prof. Bell three days before, giving you that much time to complete your written comments. Your comments should not concern such trivialities as punctuation or spelling, but rather the substance of the thesis and analysis, offering criticisms, suggestions, questions, and (if well deserved) praise. Each commentator will briefly relate his or her thoughts following the presentation of the draft paper by its author, and then all in the class will take up the discussion.

I will assign class participation points to those written commentaries by ranking them in order and assigning the points accordingly. The best commentary will get as many points as there are students, the next best one fewer points, and so forth. Those points will combine with points from the sign-in sheets, as well as from any small, ungraded exercises that I may offer on an *ad hoc* basis, to establish your class participation grade.

DEADLINES

Initial Thesis: At the start of Class 10 (Sept. 23).

Approved Thesis: At the start of Class 14 (Oct. 12).

First Draft: Three days before the start of classes 22-27 (10:15 a.m. on Nov. 6, 8, 13, 15, 20, or 27).

Commentary: At the start of one of classes 22-27 (10:15 a.m. on Nov. 9, 11, 16, 18, 23, or 30).

Final Draft: On or before noon on Monday, Dec. 20.

Note: Each day that a student misses any deadline above, his or her course grade will drop by .1 grade points.

HOW TO CONTACT ME

I encourage you to contact me if you have questions or comments about what we discuss in class or about law school in general. You can usually find me in my office, room 438, each Tuesday and Thursday from 9:00 until 10 a.m., from 11:30 a.m. until 1 p.m., and from 2:30 until 3:00 p.m. Also, I will stay until after 5 on Tuesday. I welcome you to drop by and chat at those times or at other times by appointment. You can call me at 714/628-2503 or email me at <tbell@chapman.edu>. You can find course materials at both www.tomwbell.com/teaching.html and on Blackboard.

SCHEDULE AND READING ASSIGNMENTS

These readings come both from the required text, DAVID D. FRIEDMAN, *LAW'S ORDER* (2000), and from the suggested text, *LAW AND ECONOMICS ANTHOLOGY* (Anderson 1998, Kenneth G. Dau-Schmidt & Thomas S. Ulen, eds.). The second text is only suggested because you can find the cited papers in the library or via online research services. Only those portions of the papers that appear in the anthology will be assigned, however, so if you use the originals you might want to check the edited version to see which material you need to cover.

Please note that while I will make a good faith effort to follow this syllabus, I reserve the right to change it.

class #	reading	(pp.)
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I. Introduction and Overview

Classes 1 & 2:	FRIEDMAN, pp. 3-27; and Arthur Allen Leff, <i>Economic Analysis of Law: Some Realism about Nominalism</i> , 60 VA. L. REV. 451 (1974), in <i>LAW AND ECONOMICS ANTHOLOGY</i> , pp. 37-48.	(35)
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II. Inefficiency and its Cures

Classes 3-4:	FRIEDMAN, pp. 28-46; and Ronald H. Coase, <i>The Problem of Social Cost</i> , 3 J. L. & ECON. 1 (1960), in <i>LAW AND ECONOMICS ANTHOLOGY</i> , pp. 81-112.	(49)
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Class 5:	FRIEDMAN, pp. 57-61; Guido Calabresi & A. Douglas Melamed, <i>Property Rules, Liability Rules, and Inalienability: One View of the Cathedral</i> , 85 HARV. L. REV. 1089 (1971); and Susan Rose Ackerman, <i>Inalienability</i>	
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and the Theory of Property Rights, 85 COL. L. REV. 931 (1985), in LAW AND ECONOMICS ANTHOLOGY, pp. 193-204. (15)

Class 6: FRIEDMAN, pp. 62-83. (21)

Class 7: FRIEDMAN, pp. 84-111. (37)

III. Tangible Property

Class 8: FRIEDMAN, pp. 112-127; Garrett Hardin, *The Tragedy of the Commons*, 152 SCIENCE 1243 (1968); and Robert C. Ellickson, *Property in Land*, 102 YALE L. REV. 1315, in LAW AND ECONOMICS ANTHOLOGY, pp. 175-192. (32)

Class 9: Field trip to Economic Science Institute, hosted by Prof. Bart Wilson. Meet on first floor of Wilkinson Hall.

IV. Intellectual Property

Class 10: FRIEDMAN, pp. 128-144. (17)

NB: Initial theses due in class.

V. Contracts

Class 11: FRIEDMAN, pp. 145-162. (18)

Class 12: Anthony Kronman, *Mistake, Disclosure, Information, and the Law of Contract*, 7 J. LEGAL STUD. 1 (1978); and Richard Epstein, *Unconscionability: A Critical Reappraisal*, 18 J. L. & ECON. 293 (1975), in LAW AND ECONOMICS ANTHOLOGY, pp. 284-300. (17)

Class 13: FRIEDMAN, pp. 162-170. (8)

Class 14: Daniel Friedman, *The Efficient Breach Fallacy*, 18 J. LEGAL STUDIES 1 (1989); and Thomas S. Ulen, *The Efficiency of Specific Performance: Toward a Unified Theory of Contract Remedies*, 83 MICH. L. REV. 341 (1984), in LAW AND ECONOMICS ANTHOLOGY, pp. 328-347. (19)

NB: Approved theses due in class.

VI. Family Law

Class 15: FRIEDMAN, pp. 171-188. (17)

VII. Tort Law

Class 16: FRIEDMAN, pp. 189-205; and Gary T. Schwartz, *Reality in the Economic Analysis of Tort Law: Does Tort Law Really Deter?*, 42 UCLA L. REV. 377 (1994), in LAW AND ECONOMICS ANTHOLOGY, pp. 388-416. (46)

Class 17: FRIEDMAN, pp. 206-222; and Charles Fried, *The Value of Life*, 82 HARV. L. REV. 1415 (1969), in LAW AND ECONOMICS ANTHOLOGY, pp. 417-423. (23)

VIII. Criminal Law

Class 18: FRIEDMAN, pp. 223-243. (21)

Class 19: Richard A. Posner, *An Economic Theory of the Criminal Law*, 85 COL. L. REV. 1193 (1985), in LAW AND ECONOMICS ANTHOLOGY, pp. 453-467; and Jules L. Coleman, *Crime, Kickers, and Transaction Structures*, in NOMOS XXVII: CRIMINAL JUSTICE 313 (J. Pennock & J. Chapman, ed.s 1985), in LAW AND ECONOMICS ANTHOLOGY, pp. 477-482. (19)

Class 20: FRIEDMAN, pp. 263-296. (34)

IX. Antitrust

Class 21: FRIEDMAN, pp. 244-262. (19)

X. Student Presentations & Commentary

	<u>Presenter</u>	<u>Commentator</u> ¹
Class 22:	Waite Balta	Bell Chudleigh
Class 23:	Truong Myers	Reyngold Mohajer
Class 24:	Léon-Paul Fournier	Gapp Corrales
Class 25:	Chudleigh Corrales	Balta Fournier
Class 26:	Gapp Woods	Léon-Paul Waites
Class 27:	Mohajer Reyngold Waites	Myers Truong Woods

XI. Conclusion

Class 28: FRIEDMAN, pp. 297-318; George L. Priest, *The Common Law Process and the Selection of Efficient Rules*, 6 J. L. STUDIES 65 (1977), in LAW AND ECONOMICS ANTHOLOGY, pp. 512-519; and Gillian K. Hadfield, *Bias in the Evolution of Legal Rules*, 80 GEO. L. J. 583 (1992), in LAW AND ECONOMICS ANTHOLOGY, pp. 524-530. (26)

¹ Because he volunteered to present the first paper, Mr. Waites will comment on a paper of his choosing.