

**Seattle University**  
**Economics 4650: Law and Economics**

Winter 2020  
Tuesday & Thursday 1:30 – 3:45 p.m.  
Pigott 101  
Class begins: January 7

**Syllabus**

Dr. Brian Kelly  
405 Pigott Hall  
Office Hours: 12:00 – 1:00 Tuesday and Thursday  
4:00-5:00 Tuesday  
I am flexible with respect to appointments outside of office hours.

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*Finals week time slot: Thursday, March 19, 12:00 – 1:50*

Welcome to the economic analysis of law! This is an economics course, not a law course. We will be reviewing the modern applied field of the economic analysis of law with a critical eye. The goals are to bring you up to speed in this important and growing area of applied economics and to help you better understand the efficiency and distributional aspects of the legal system.

We will use economic tools to predict the effects of legal rules. This will be through a combination of economic reasoning (modeling based largely on rational behavior) and empirical work. We will engage in normative analysis, considering how, and whether, legal rules should be shaped to reflect efficiency and distributional concerns. And we will consider empirical work that tests the implications of our economic reasoning.

To a great extent, the field has been developed by jurists (lawyers and judges) and, not coincidentally, has many controversies. We will examine a number of these issues, discuss whether they in fact are issues or simply attempts at product differentiation by those who gain from disagreement, and examine the various possible substantive positions

Learning outcomes: You will be able to look at legal rules and identify the efficiency, distributional and behavioral implications and assess possible improvements to the rules. Also, you will have the basis to pursue more advanced work over much of the field of the economic analysis of the law, whether here at Seattle University, in public service, in the private sector, or in further study. And you will have an important framework for organizing further education or knowledge concerning the law itself.

## Course Format

Class time will be a combination of lecture, discussion, and “disputations” presented by student teams. The lectures will include background talks on economics and on law, leading to the main lecture topics of the economic analysis of law. Discussion will spring from lecture and perhaps from short in-class exercises. The disputations are described below under “Grading”. Lectures will not cover all aspects of the readings, reflecting the fact that this is an upper division course in which a great deal of responsibility is left with the student.

## Readings

There are two books, both free on-line. If you want hard copies, both are widely available for sale on the internet; the bookstore will not be carrying them.

The principle text is Robert Cooter and Thomas Ulen, *Law and Economics*, 6<sup>th</sup> edition, ISBN 0132540657. This is by far the most widely used text for survey-style courses and generally is very good. You can download a .pdf from <http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1001&context=books> .

Also required: David Friedman’s *Law’s Order*, Princeton University Press, 2000, available at [http://www.daviddfriedman.com/laws\\_order/index.shtml](http://www.daviddfriedman.com/laws_order/index.shtml) . The free electronic version has useful embedded links. We will do a limited amount of reading from Friedman’s book, but I decided to call this required rather than recommended because it is free and a few sections are invaluable. Unlike Cooter & Ulen, it is also fun to read cover-to-cover.

There will be additional readings throughout the term, drawn mainly from the academic literature. We will do some reading of case extracts, although this will not be a major aspect of the course. I will put Richard Posner’s treatise *Economic Analysis of Law* on hard copy reserve at the library and may suggest readings from it.

## Minimum Background

Economics 2110 (Microeconomic Principles) is the pre-requisite for this course and we will be using microeconomic principles throughout. I will be providing some review as we go along. Intermediate Microeconomics is helpful but is not required.

The course involves writing, and invariably the clarity and organization of your writing will be important. The Seattle University Writing Center is located in Lemieux Library. If you are concerned about the organization and clarity of your writing, I encourage you visit them and see what they have to offer and how they can help.

## Topics Covered

The topics covered will correspond to the common law topics of an American first year law program, but the logic of the common law applies in many other contexts. We will see that the lines between the economic analyses of these areas is often blurred:

Property  
Contracts  
Torts  
Criminal law

As time permits, we will touch on aspects of legal procedure and economic analysis of the institutions of the criminal justice system:

The judicial process  
Criminal and civil procedure  
Police incentives and behavior

We will tend not to cover topics in law that have arisen as explicit reactions to economic concerns, in part because other Albers School offerings encompass them:

- Economic analysis of competition law (antitrust) is addressed in Market Power and Response.
- Economic analysis of taxes is addressed in Government Finance.
- Securities and disclosure laws are addressed in Finance and Accounting courses.
- The Environmental and Natural Resource Economics course provides the economic thought relevant to those areas of law.
- The business law courses cover the analysis of corporate forms and business regulation.
- The economics of regulation are discussed in courses across the curriculum. We will briefly address the fascinating question of the proper boundary between regulation and case law.

## Assignments and Grading

You will determine your grade based upon your efforts in the following (OK, I will be the proximate cause of your grade, but your actions will be the ultimate cause):

1. 30% of overall grade. There will be 6 homework assignments, a combination of short essay and problem solving. To some extent, you will present solutions in class. Some of these assignments will be demanding.
2. 15% of overall grade. You will either choose and review an academic article from an economics or law journal, or identify and summarize an active case before a U.S. federal or state court that involves a law-and-economics issue. Details will follow. This will be due near the end of the course, likely in early March.
3. 25% of the grade: the disputation. You and a partner will engage in a two-part disputation with another team on a topic chosen from a list that I will prepare. For example, the question may be: “Should the U.S. move to a ‘loser pays all legal costs’ system in civil litigation?” The disputations will be done in front of the class and will constitute a significant part of our course time starting in the 5<sup>th</sup> week. You will have some choice as to which topic you address, but not which side of the issue you take. The point will be to analyze the *economic* aspects of the question. Both members of a disputation team will receive the same grade.
4. 5% of the grade: participation. Because of the disputation structure and the fact that class time will cover topics not otherwise presented, I am requiring attendance. You can have two unexcused absences. Otherwise, contact me in advance of the absence if you must be away for good reason. If you have a contagious illness, do not come to class, but e-mail me from your hospital bed. Also, I will call on people if discussions flag and this could factor into the grading, so come to class prepared.
5. 25% of the grade: final exam. This will be in-class, open note.

The grading scale is shown below. If warranted by general class outcomes, I might relax the grading scale by a point or two, so that a 93, for example, might be a full A. This is not a guarantee, so if you wish to monitor your grade, please use the scale below. The usual rounding rules apply.

A	93 – 100	A-	90 – 92.99		
B+	87 – 89.99	B	83 – 86.99	B-	80 – 82.99
C+	77 – 79.99	C	73 – 76.99	C-	70 – 72.99
Below 70: No way. Right?					

I am separately posting draft reading and topic schedules. See you soon!

### **Academic Resources**

- Library and Learning Commons (<http://www.seattleu.edu/learningcommons/>) (This includes: Learning Assistance Programs, Research [Library] Services, Writing Center, Math Lab)
- Academic Integrity Tutorial (found on Canvas and SU Online)

### **Academic Policies on Registrar website** (<https://www.seattleu.edu/redhawk-axis/academic-policies/>)

- Academic Integrity Policy
- Academic Grading Grievance Policy
- Professional Conduct Policy (only for those professional programs to which it applies)

### **Notice for students concerning Disabilities**

If you have, or think you may have, a disability (including an ‘invisible disability’ such as a learning disability, a chronic health problem, or a mental health condition) that interferes with your performance as a student in this class, you are encouraged to arrange support services and/or accommodations through Disabilities Services staff located in **Loyola 100, (206) 296-5740**. Disability-based adjustments to course expectations can be arranged only through this process.

### **Notice Regarding Religious Accommodations**

It is the policy of Seattle University to reasonably accommodate students who, due to the observance of religious holidays, expect to be absent or endure a significant hardship during certain days of their academic course or program. Please see, *Policy on Religious Accommodations for Students* (<https://www.seattleu.edu/media/policies/Policy-on-Religious-Accommodations-for-Students---FINAL.PDF>).”

### **Office of Institutional Equity**

Title IX of the Education Amendments of 1972 (Title IX) prohibits discrimination based on sex in educational programs or activities that receive Federal financial assistance. This prohibition includes sexual misconduct, which encompasses sexual harassment and sexual violence. Seattle U remains committed to providing a safe and equitable learning, living, and working environment. Seattle U offers emergency, medical, and other support resources, as well as assistance with safety and support measures, to community members who have experienced or been impacted by sexual misconduct.

Seattle U requires all faculty and staff to notify the University’s Title IX Coordinator if they become aware of any incident of sexual misconduct experienced by a student.

For more information, please visit <https://www.seattleu.edu/equity/>. If you have any questions or concerns, you may also directly contact the Title IX Coordinator in the Office of Institutional Equity (**email:** [oiie@seattleu.edu](mailto:oiie@seattleu.edu); **phone:** 206.296.2824) University Resources and Policies

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